

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-Fifth Legislature
State of Maine

Daily Edition

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ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
FIRST REGULAR SESSION
57th Legislative Day
Tuesday, June 7, 2011

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

Prayer by the Honorable Susan E. Morissette, Winslow.
National Anthem by Emilia Dahlin, Portland.
Pledge of Allegiance.

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

Representative HINCK: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I am so pleased that Emilia Dahlin was able to sing here today. I have heard that one writer calls her raw, rootsy folk and dynamic jazz vocals in the Portland music scene. She plays all around the State of Maine and you should be able to catch her there. A year ago she was traveling the world and serving as an ambassador from Maine, all around the world. Today she confesses it is her first trip to Maine's State House and we're glad to have her here. Thank you.

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

Doctor of the day, Charles Pattavina, M.D., FACEP, Winterport.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Order: (S.P. 516)

ORDERED, the House concurring, that Bill, "An Act To Amend the Laws Governing the Maine Turnpike Authority and To Implement Certain Recommendations of the Government Oversight Committee in the Office of Program Evaluation and Government Accountability Report Concerning the Maine Turnpike Authority," H.P. 1130, L.D. 1538, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate, **READ** and **PASSED**.
READ and **PASSED** in concurrence.

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for the Popular Election of the Secretary of State, Attorney General, Treasurer of State and State Auditor

(S.P. 504) (L.D. 1572)

Majority (11) **OUGHT NOT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT** **READ** and **ACCEPTED** in the House on June 1, 2011.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (2) **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT** was **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-153)** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

Bill "An Act To Employ the Unemployed" (EMERGENCY)

(H.P. 404) (L.D. 521)

Minority (5) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-478)** in the House on June 6, 2011.

Came from the Senate with the Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION** **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Protect the Privacy of Persons Involved in Reportable Motor Vehicle Accidents"

(H.P. 865) (L.D. 1167)

Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TRANSPORTATION** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-405)** in the House on June 2, 2011.

Came from the Senate with the Minority (5) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TRANSPORTATION** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-406)** in **NON-CONCURRENCE**.

The House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

COMMUNICATIONS

The Following Communication: (S.C. 428)

**MAINE SENATE
125TH LEGISLATURE
OFFICE OF THE SECRETARY**

June 3, 2011

The Honorable Robert W. Nutting

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Nutting:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 125th Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Veterans and Legal Affairs, the nomination of Lawrence J. Davis of Hallowell for appointment to the State Liquor and Lottery Commission.

Upon the recommendation of the Committee on Labor, Commerce, Research and Economic Development, the nomination of George C. Gervais of Hampden for appointment as the Commissioner of the Department of Economic and Community Development.

Upon the recommendation of the Committee on Labor, Commerce, Research and Economic Development, the nomination of the Honorable Robert J. Winglass of Bath for appointment as the Commissioner of the Department of Labor.

Upon the recommendation of the Committee on Labor, Commerce, Research and Economic Development, the

nomination of Gary M. Koocher of Portland for appointment to the Workers' Compensation Board.

Upon the recommendation of the Committee on Labor, Commerce, Research and Economic Development, the nomination of Glenn W. Burroughs of Lewiston for reappointment to the Workers' Compensation Board.

Sincerely,

S/Joseph G. Carleton, Jr.

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Provide Oversight in Certain Negotiations"

(H.P. 1168) (L.D. 1583)

Sponsored by Representative RICHARDSON of Warren.

(GOVERNOR'S BILL)

Cosponsored by Senator: WHITTEMORE of Somerset.

Committee on **INSURANCE AND FINANCIAL SERVICES** suggested and ordered printed.

REFERRED to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

Sent for concurrence.

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

ORDERS

On motion of Representative COTTA of China, the following Joint Order: (H.P. 1166)

ORDERED, the Senate concurring, that Bill, "An Act To Limit Interest Assessed against Municipalities," H.P. 984, L.D. 1343, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.

Sent for concurrence.

On motion of Representative STRANG BURGESS of Cumberland, the following Joint Order: (H.P. 1167)

ORDERED, the Senate concurring, that Bill, "An Act To Amend the Laws Concerning the Child Care Advisory Council and the Maine Children's Growth Council," H.P. 1093, L.D. 1486, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ.

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

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to give you a little background here that this bill is actually coming back to this body for a small technical change, which you will be hearing about later, and I look forward to explaining more about that at that time. Thank you.

Subsequently, the Joint Order was **PASSED.**

Sent for concurrence.

On motion of Representative STRANG BURGESS of Cumberland, the following Joint Order: (H.P. 1169)

ORDERED, the Senate concurring, that Bill, "An Act To Establish the Maine Wild Mushroom Harvesting Certification

Program," S.P. 436, L.D. 1407, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.

Sent for concurrence.

On motion of Representative PRESCOTT of Topsham, the following Joint Order: (H.P. 1170)

ORDERED, the Senate concurring, that Bill, "An Act To Provide a Temporary License To Operate a Public Dance Establishment," H.P. 645, L.D. 878, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Sandra L. Ritchie, of Smithfield, who is the recipient of the 2011 Award of Meritorious Service from the Maine Chapter of The Wildlife Society. This award is given to those who have made outstanding contributions to wildlife conservation and the wildlife profession, and have demonstrated a commitment to wildlife resources and the wildlife profession that exceeds normal expectations of performance and responsibility in their position. Ms. Ritchie is a 1980 graduate from the University of Maine with a degree in wildlife management. She began her career with the Maine Department of Inland Fisheries and Wildlife in Bangor in the Wildlife Resources Assessment Section and is now a Senior Policy Analyst focusing on habitat conservation. We send our appreciation to Ms. Ritchie on her commitment to her profession and to the State of Maine and send her our congratulations on her receiving this well-deserved award;

(HLS 489)

Presented by Representative EBERLE of South Portland.

Cosponsored by Senator MARTIN of Kennebec, Representative BRIGGS of Mexico, Representative CLARK of Millinocket, Representative CRAFTS of Lisbon, Representative DAVIS of Sangerville, Representative ESPLING of New Gloucester, Representative GUERIN of Glenburn, Senator PATRICK of Oxford, Representative SARTY of Denmark, Representative SHAW of Standish, Senator TRAHAN of Lincoln, Representative WOOD of Sabattus, Senator SAVIELLO of Franklin, Representative PICCHIOTTI of Fairfield.

On **OBJECTION** of Representative EBERLE of South Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **EBERLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I am very proud to stand here today and honor Sandra Ritchie for her work to protect Maine's wildlife resources. She is an outstanding resource herself to the things that make Maine what Maine is. I would say that the wildlife resources of the State of Maine are the heart and soul of our state and Sandy's work in protecting them has been outstanding.

In the Maine Chapter of The Wildlife Society's Service Award that Sandy has received, they say that throughout her career Sandy has demonstrated an ability to facilitate understanding and to work cooperatively to forge realistic solutions to conservation problems. Sandy's current talent is to work with an array of stakeholders on rebuilding white-tailed deer populations in

eastern and northern Maine. Dealing with such critical issues often means the road gets bumpy. I think we might say that that's an understatement, if anything, but Sandy is known for her open and calm demeanor at such times. Her thoughtful approach, especially her willingness to listen and find workable solutions, together with her varied experiences has earned trust and respect from many corridors and ultimately results in the success of many of her efforts. So it is with honor that we recognize Sandy today and she and our guests have risen in the gallery, but I just wanted to add those comments to the Sentiment. Thank you, Mr. Speaker.

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

Representative DAVIS: Thank you, Mr. Speaker. I would simply like to echo the words of my good friend from South Portland and I want to congratulate Sandy on her achievement. The State of Maine is very fortunate to have her, to say the least. I spoke briefly this morning with Commissioner Woodcock and his comment was that she was one of the best experienced professionals and we're very lucky to have her. We are also very lucky that she has been and that she is going to continue to work on the deer project. As many people know, our deer herd is in bad shape, but I think in a few years we'll be very fortunate and realize even more so her efforts in how profitable they were for the whole state.

I would also like to say just one other thing, a comment that was given to me this morning. The IF and W Department is not entirely, but it certainly has a bit of a male dominance to it and I was told this morning that Sandy can hold her own with the guys and then some. Thank you. Congratulations.

Subsequently, the Sentiment was PASSED and sent for concurrence.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order

Representative RICHARDSON for the **Joint Standing Committee on Insurance and Financial Services** on Resolve, Creating the Advisory Committee on Maine's Health Insurance Exchange (EMERGENCY)

(H.P. 1165) (L.D. 1582)

Reporting **Ought to Pass** pursuant to Joint Order, H.P. 1162.

Report was **READ** and **ACCEPTED**. The Resolve **READ ONCE**.

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

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

Divided Reports

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-207)** on Bill "An Act Regarding Offenses against an Unborn Child"

(S.P. 454) (L.D. 1463)

Signed:

Senators:

MASON of Androscoggin

WHITTEMORE of Somerset

Representatives:

BURNS of Whiting

HANLEY of Gardiner

LONG of Sherman
MORISSETTE of Winslow
SANDERSON of Chelsea

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

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

PLUMMER of Windham

BLODGETT of Augusta

CLARKE of Bath

HASKELL of Portland

LAJOIE of Lewiston

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

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

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Protect the Rights of Property Owners"

(S.P. 344) (L.D. 1135)

Signed:

Senators:

HASTINGS of Oxford

BARTLETT of Cumberland

WOODBURY of Cumberland

Representatives:

NASS of Acton

BEAULIEU of Auburn

SARTY of Denmark

MOULTON of York

FOSTER of Augusta

PRIEST of Brunswick

DILL of Cape Elizabeth

MALONEY of Augusta

ROCHELO of Biddeford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-241)** on same Bill.

Signed:

Representative:

WATERHOUSE of Bridgton

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

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

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A"**

(S-249) on Bill "An Act To Require Criminal History Record Information for Licensure of Nurses"

(S.P. 111) (L.D. 398)

Signed:

Senators:

RECTOR of Knox
MARTIN of Kennebec

Representatives:

PRESCOTT of Topsham
DOW of Waldoboro
DRISCOLL of Westbrook
GILBERT of Jay
HERBIG of Belfast
HUNT of Buxton
NEWENDYKE of Litchfield
TUTTLE of Sanford
VOLK of Scarborough

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

Signed:

Senator:

JACKSON of Aroostook

Representative:

WINTLE of Garland

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-249)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-249)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-249)** in concurrence.

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Resolve, To Establish a Consistent Workers' Compensation Classification for Pharmacies

(S.P. 270) (L.D. 866)

Signed:

Senators:

RECTOR of Knox
MARTIN of Kennebec

Representatives:

PRESCOTT of Topsham
DOW of Waldoboro
HERBIG of Belfast
NEWENDYKE of Litchfield
TUTTLE of Sanford
WINTLE of Garland

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

Signed:

Senator:

JACKSON of Aroostook

Representatives:

DRISCOLL of Westbrook
GILBERT of Jay
HUNT of Buxton
VOLK of Scarborough

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

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

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-528)** on Bill "An Act To Find Cost Savings and Efficiencies in the Fingerprinting System for Criminal History Background Checks"

(H.P. 240) (L.D. 296)

Signed:

Senators:

MASON of Androscoggin
GERZOFKY of Cumberland
WHITTEMORE of Somerset

Representatives:

BLODGETT of Augusta
BURNS of Whiting
CLARKE of Bath
HASKELL of Portland
LAJOIE of Lewiston
SANDERSON of Chelsea

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-529)** on same Bill.

Signed:

Representatives:

PLUMMER of Windham
HANLEY of Gardiner
LONG of Sherman
MORISSETTE of Winslow

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-528)** 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-528)** and sent for concurrence.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-530)** on Bill "An Act Relating to Locations where Concealed Weapons May Be Carried"

(H.P. 988) (L.D. 1347)

Signed:

Senators:

MASON of Androscoggin
WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham
BURNS of Whiting
HANLEY of Gardiner
LONG of Sherman
MORISSETTE of Winslow
SANDERSON of Chelsea

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

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

BLODGETT of Augusta
CLARKE of Bath
HASKELL of Portland
LAJOIE of Lewiston

READ.

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

Representative CAIN of Orono **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 Haskell.

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would ask you to reject the Majority Report so we can move along to Accept the Ought Not to Pass. This is a bill which would allow folks with concealed weapons permits to carry them into state parks and historic sites and we have not allowed that, it hasn't been allowed in the State of Maine for a long time. I don't believe that there is a necessity to do that and the members of the committee who voted on the opposite side of this bill agree with me that this is not the time to be allowing folks to be carrying weapons into state parks and historic sites here in this state. Thank you.

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. 127

YEA - Ayotte, Beaulieu, Beck, Bennett, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark H, Clark T, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Duchesne, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Hunt, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, Martin, McCabe, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Strang Burgess, Theriault, Tilton, Timberlake, Turner, Tuttle,

Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clarke, Dill J, Dion, Driscoll, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Kaenrath, Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Mazurek, Morrison, Nelson, O'Brien, Peoples, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Stevens, Stuckey, Treat, Valentino, Wagner R, Webster, Welsh.

ABSENT - Bickford, Innes Walsh, Wintle.

Yes, 88; No, 59; Absent, 3; Vacant, 1; Excused, 0.

88 having voted in the affirmative and 59 voted in the negative, 1 vacancy with 3 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-530) 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-530)** and sent for concurrence.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Legalize and Tax Marijuana"

(H.P. 1067) (L.D. 1453)

Signed:

Senators:

MASON of Androscoggin
WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham
BURNS of Whiting
CLARKE of Bath
HANLEY of Gardiner
LAJOIE of Lewiston
LONG of Sherman
MORISSETTE of Winslow
SANDERSON of Chelsea

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-527)** on same Bill.

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

BLODGETT of Augusta
HASKELL of Portland

READ.

Representative PLUMMER of Windham moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-548)** on Bill "An Act To Eliminate the Penalty for Schools That Did Not Reorganize" (H.P. 121) (L.D. 139)

Signed:

Senators:

LANGLEY of Hancock
ALFOND of Cumberland
MASON of Androscoggin

Representatives:

RICHARDSON of Carmel
EDGECOMB of Caribou
LOVEJOY of Portland
MAKER of Calais
McCLELLAN of Raymond
McFADDEN of Dennysville
NELSON of Falmouth
RANKIN of Hiram
WAGNER of Lewiston

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-549)** on same Bill.

Signed:

Representative:

JOHNSON of Greenville

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-548)** Report.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-548)** 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-548)** and sent for concurrence.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Create a Unified Board of Higher Education" (H.P. 726) (L.D. 982)

Signed:

Senators:

LANGLEY of Hancock
ALFOND of Cumberland
MASON of Androscoggin

Representatives:

RICHARDSON of Carmel
EDGECOMB of Caribou
JOHNSON of Greenville
LOVEJOY of Portland
MAKER of Calais
McCLELLAN of Raymond
McFADDEN of Dennysville

RANKIN of Hiram

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-550)** on same Bill.

Signed:

Representatives:

NELSON of Falmouth
WAGNER of Lewiston

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not to Pass** Report.

READ.

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

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act To Amend the Law Relating to Training Dogs during Bear Hunting Season" (H.P. 732) (L.D. 996)

Signed:

Senators:

MARTIN of Kennebec
PATRICK of Oxford
TRAHAN of Lincoln

Representatives:

BRIGGS of Mexico
CLARK of Millinocket
EBERLE of South Portland
ESPLING of New Gloucester
SARTY of Denmark
SHAW of Standish
WOOD of Sabattus

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

Signed:

Representatives:

DAVIS of Sangerville
CRAFTS of Lisbon
GUERIN of Glenburn

READ.

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

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Resolve, To Create a Mitigation Fund for Damage Caused by Unauthorized All-terrain Vehicle Use on Private Land (H.P. 793) (L.D. 1058)

Signed:

Senators:

MARTIN of Kennebec
PATRICK of Oxford
TRAHAN of Lincoln

Representatives:

DAVIS of Sangerville
 BRIGGS of Mexico
 CLARK of Millinocket
 CRAFTS of Lisbon
 EBERLE of South Portland
 ESPLING of New Gloucester
 GUERIN of Glenburn
 SARTY of Denmark
 WOOD of Sabattus

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-523)** on same Resolve.

Signed:

Representative:

SHAW of Standish

READ.

Representative DAVIS of Sangerville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **SHAW**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I know we all enjoyed talking about ATVs so I figured I might as well get up and speak on this one. This bill just creates an All-Terrain Vehicle Mitigation Fund to help landowners mitigate damage caused to their property by improper ATV use. A lot of landowners allow ATV trails to go over their property and sometimes ATVs will stray and maybe go down a gravel road during mud season, create some damage or there is other damages too to people's private properties. But this bill would simply take anyone convicted of an ATV offense, add 10 percent to their fine and put the 10 percent into the mitigation fund. It allows the commissioner of Inland Fisheries and Wildlife to use the fund to help property owners mitigate damage to their lands.

It's really a simple bill. I don't know why it was 12-1. Maybe it was late in the afternoon or something like that. But really, anyone who is convicted of the ATV offense, they get 10 percent added to their fine. That money goes into the fund. It seems right to help the private property owners who allow ATVs to be used or not allow to get their property fixed. A lot of times it would just take a grader going up a gravel path, up through a field or what not, and this fund would be a good bill to support if you support landowner relations.

I will have to add the Farm Bureau, Small Woodlot Owners, various groups that own the vast majority of land in the state and who allow access through woods, will support the bill. So the original bill had some other provisions in it that this original bill was actually just a resolve and there was another bill that had a similar idea that used a different funding source. But I think this is appropriate people that are convicted of ATV offenses pay for property damage that probably they caused in the first place. So thank you very much, Mr. Speaker.

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

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to recognize the leadership of Representative Shaw on this issue. I had a similar bill in this session with much more of a radical approach. It was radical in the sense that I was encouraging us to raise fees on ATVs, but that's not the bill before us. I just would like to applaud Representative Shaw for this bill and for bringing this forward. I

think if we really want to be serious about expanding ATV opportunities in the State of Maine, then we also need to deal with this issue of damage. One of the other hats I wear is I actually manage 320 acres and we're actually constantly dealing with ATV issues and there is no recourse for fixing damages caused by ATVs, even if you do catch them in some cases. I think this was the right approach and I hope as we move forward that we might be able to revisit this issue in the future. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Briggs.

Representative **BRIGGS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. With all due respect, I rise in opposition of this motion with respect to my good friend, Representative Shaw. We discussed in committee how the funding for this would be distributed to landowners. We find that it would be very difficult to disperse the funds. What happens when the fund runs out of money and other landowners' properties have not been restored?

Also, ATV Maine and the local ATV clubs, especially the local ATV clubs, have been working with land owners when damage has happened on their property. The local ATV clubs, 95 percent of the time, are there and they restore the damage to the property owner. It is very difficult also to figure out who the owner is, who did the damage with the ATV, because they're long gone by the time the owner discovers about the property being damaged. So it's real difficult to determine that.

With all due respect, with this funding, I think it's a great idea but to implement the program the committee really felt that it would be difficult to implement it because of all the different equations that come into play. Thank you, Mr. Speaker.

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

Representative **DAVIS**: Thank you, Mr. Speaker. I would echo what my friend from Mexico just said. It was in the late day that we voted on this, to answer the question from my friend from Standish. The bill was completely vetted. We talked about it and came out with a 12-1 Report of the reasons that the good Representative Briggs said, the impossibility of being able to do this. Thank you, Mr. Speaker.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

A vote of the House was taken. 112 voted in favor of the same and 17 against, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act To Require a Boating Safety Course for New Boat Registrants"

(H.P. 1014) (L.D. 1375)

Signed:

Senators:

MARTIN of Kennebec
 TRAHAN of Lincoln

Representatives:

DAVIS of Sangerville
 CLARK of Millinocket
 CRAFTS of Lisbon
 ESPLING of New Gloucester
 GUERIN of Glenburn
 WOOD of Sabattus

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-551)** on same Bill.

Signed:

Senator:

PATRICK of Oxford

Representatives:

BRIGGS of Mexico

EBERLE of South Portland

SARTY of Denmark

SHAW of Standish

READ.

Representative DAVIS of Sangerville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

Representative **MacDONALD**: Mr. Speaker, I thank you for the opportunity to speak. Men and Women of the House, this bill as amended, I think, is a good bill that had actually a bipartisan support, even though in the minority as it turned out. I was pleased and happy to see that the department itself came and spoke neither in opposition nor for the bill, but expressed strong interest in the idea and said that it was moving towards the implementation of a boating safety system, such as the one envisioned in this bill. So it has departmental support in that sense and I'd just like to say a couple of things about this bill to you.

This bill was brought to me by the operator of the Southport Bridge between the mainland of Boothbay Harbor and Southport. It did not come from any organized interest, but from a citizen in Southport who said I've been here 35 years. I have seen so many crazy things that go on underneath this bridge which spans the towns and gut between Boothbay Harbor and Southport. He said it's just a miracle that no more accidents or deaths have occurred. We ought to do something about this. And based on that, I said I would put the bill in.

This bill would exempt everyone from taking a boating safety course unless they were born after December 31, 2011, and would not take effect until January 2014, so none of us here in this room, none of your friends, unless they are 11-year-olds or under, would be required to take a boating safety course under this bill. So it's a modest approach, it doesn't take effect until 2014. It would give the department plenty of time to implement rules relating to how these courses would be managed and it would exempt guides, it would exempt motor boats under 10 horsepower, and all that people would have to do would be to complete and pass a course on boating safety in order to get a certificate that would enable them to operate a motor boat in the State of Maine, we would hope in a safer manner than has been the case in the past.

The Coast Guard, in the latest statistics that we have nationally from 2009, noted something on order of 4,700 accidents involving motor boats and only 14 percent of those accidents happened in a boat where the operator had taken a safety course. I think that's at least a proxy to the idea that taking a safety course probably means that you're operating a boat in a safer manner than if you hadn't. I can guarantee you that if you haven't taken a boating safety course, unless you've got long experience, especially on the coast of Maine, you can very easily

get confused about what the meaning of buoys are, what the rules for passing and re-passing are in an increasingly crowded seacoast and lake system in the State of Maine.

So, Mr. Speaker, I would urge members to consider voting against the Majority Ought Not to Pass and allowing us to move on to a much, I think, improved and reasonable idea for bringing our young people in the future on to the water in motor boats, in recreational motor boats only, in a safer manner. Thank you, Mr. Speaker.

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

Representative **SHAW**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. The title of the bill actually is a little bit misleading at this point because that part of the bill is actually gone. You won't have to take the boating course to register your boat; you would have to take it to operate your boat, except for the fact that we exempted every single person in the entire state from that regulation, unless you are under the age of 12. So every single person in this building other than maybe some of the pages would be exempt from taking the boating course to operate your boat.

Currently you can operate a boat at the age of 12, so we've had instances in the past. We had an incident near my district up on Long Lake where it wasn't particularly a young person operating the motor boat. But there are accidents out there and this is one way to help educate people in how to safely operate a boat. There are boats – I'm from Standish, we have Sebago Lake. There are many boats on Sebago with horsepower in excess of 500 horsepower. These boats go 100 miles per hour or more.

Thirty-five other states require a boating safety course. Most of them actually do it online now, so what we envisioned for the State of Maine was you could go to a class if you wanted to or you could take your class right online and take the test online, and if you passed, you'd get your certificate. Once again, though, we exempted every single operator of a motor boat in the entire State of Maine, so you and any of your friends would not have to. You would be exempted from this. But gradually, over time, everyone would end up taking the motor boat safety course.

There are companies that offer the courses over the internet presently and the state could contract with one of them. We put in the bill that they weren't going to require any fees for the internet course and the Coast Guard does send the state money for inland waters. That money actually is in jeopardy. We could lose the federal money from the Coast Guard for boater education if we don't require it at some point in the future.

Also, people were concerned about being able to rent a boat, people from out of state that are visiting, coming into the state and renting a boat. All rental boat agencies were exempted, so not only was every single person over the age of 12 exempted but rental boat businesses were exempted also. This is very reasonable, folks. Over time, it would require a boating safety course, but it would only be required for basically people that were born after the year 2000. Thank you very much, Mr. Speaker.

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

Representative **DAVIS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House of Representatives. I would first off like to point out, as my friend from Boothbay pointed out in the Minority Report, that the Majority Report is also bipartisan. This is a good idea, Mr. Speaker. The bill was well vetted, well talked over. The resources of the department are lacking. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Briggs.

Representative **BRIGGS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I, too, rise in opposition of the pending motion and would like to move on to the Minority Report as well. I would just like to echo a couple of things of what was stated here this morning already.

What this does, the Minority Report guts out everything from the Majority Report. So pretty much it's all been taken away. All that we're doing is, the Minority Report reads, "This amendment is the minority report of the committee. It makes the motorboat safety education requirement effective January 1, 2014" – that's three years out – "and makes the requirement apply only to those born after December 31, 2000." That's it. So we're kind of starting from ground zero for safety education with boating. I know there was quite a bit of opposition with the entire bill. We've had a lot of opposition through the years for boater safety. I feel this is a good starting point with the youth of today, and it doesn't take effect until January 1, 2014. So I really feel that this is a valuable tool for our youth today and would appreciate your support in voting down this motion and supporting the Minority Report. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Kent.

Representative **KENT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I live on the Kennebec. I swim all summer long with my family, with my friends, with neighbors. Over the last 10 years boat traffic has gotten more and more populous. There are a lot of people who are driving boats today that should be taking this test. They pass within 50 feet of shore without slowing down. If there are swimmers in the water, they don't slow down. They will pass at full speed 30 feet from a swimmer. I've called the various entities that patrol the water. There aren't enough of them to get by there at times when boats are passing. One day somebody is going to get run over right in my front yard and this bill is not even asking that many of those boaters, all of those boaters who should be taking this test, who should know that you don't power the boat 200 feet from shore so that it leaves a wake. It's not asking them to take the test. It's asking future boaters to take a test. Realize too that a lot of these people driving these boats that go by at full speed in front of my house when I'm in the water and my kids are in the water are 12 years old, or 13 or 14, and they are not paying attention. A lot of the adults aren't paying attention. A lot of them are drinking. I watch it. I am voting against this motion and I suggest you follow my light and vote red. Thank you.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I apologize for rising again. I just wanted to raise a question related to the comments from the good Representative from Sangerville regarding the fact that IF and W lacks the resources to police, I guess, or to maintain this bill and to police this system. Of course the system would be policed by a whole combination of Coast Guard, IF and W, and DMR resources. But I guess if IF and W really lacks the resources, I'm puzzled as to why they might have been before the committee saying that they in fact, they as a department, plan to bring forward a plan for boating safety courses for motor boat registrants next year. If they don't have the resources, then I am puzzled as to why they might have been saying that when they testified in front of the committee.

One thing I failed to mention in my remarks earlier was that having taken a boating safety course myself this past year, after having been on the water many years and just being curious

about what they were all about, I am certainly glad that I took it if for no other reason that at the end of the course, with my certificate in hand, I was also informed that my insurance company is probably, when I register my boat as soon as we get finished this session, should we ever do that, I plan to get my boat out of the boatyard and on the water and go out fishing. I have a certificate which my insurance company, I don't know how much money I am going to save, but my insurance company is going to reduce my rates for insurance because I took my boating safety course. I think that's another aspect that members might well consider to go forward. It has that kind of potential benefit as well. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Timberlake.

Representative **TIMBERLAKE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand before you today confused why we need to create more laws. If you think sitting home, pushing a few buttons on your computer, taking a test on how to drive a boat or boater safety is going to make it better, safer on the ponds, I don't agree. We've created enough laws in this state. It ain't going to stop drinking by taking the test and passing it. We just need to stop making all these laws and move forward and follow my light and follow the Majority Report of Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to thank the Representative from Boothbay, Representative MacDonald, for talking about this important issue. I'm sorry that I have to disagree about having too many laws. I think we have to have the right laws, the right rules. I've been through that cut at the bridge in Southport on my boat. I've had other boats not know how to do it. But you can read about it and maybe learn a little bit about current and about what a green can or a red nun means, or what a red and white can means, or what a red over green means, or a green over red. Every one of those symbols is not unlike the signs that we expect people to understand and be able to read when they get behind the wheel of a car. But out on the water you don't need to know what those signs are to get started. You just need to know what they are in order to keep yourself, the people in your boat and others safe.

I've seen large boats go past small boats and then seeing the people in the large boats look back in surprise as they swamp the small boat with their wake and I've fortunately seen them turn around and go back to help them. But I've also seen others that were completely oblivious and continue on having swamped a boat and then not look back and those people have to deal with the peril they've been put in by someone who doesn't know how to handle their boat or the consequences of the speed and the wake that they make.

Some of you may know where Small Point is. You go around Small Point and head towards the Kennebec River you can get into some pretty rough water if you don't know what you're doing. One afternoon my wife and I were on our sailboat inching our way in around Small Point when we came across someone who was lost. They were in about a 17-foot fiberglass power boat, a man with his 8-year old son, and they were lost. They didn't have a chart, they didn't have lifejackets, and they didn't know where they were. We pointed them up the river back the way they came from, but advised them that maybe they might want to follow us so we could get them at least to the first couple of cans and then try to explain to them what the navigational devices meant. He zoomed off into the fog. Lord knows what happened. I didn't read about it in the paper the next day, so I assume that he and

his son probably survived.

There are a lot of people on the water who don't know what the rules of the road are and although I would prefer that someone take a class, I certainly have taken a number of them, Advanced Navigation, and I was actually, before I agreed to run for this Legislature, I had the hours necessary to get my captain's license and was studying, but I had to forgo that because of this commitment. I've certainly thought it was important and I also have gotten the insurance discount.

So just as we have rules for people on our highways, not only to keep them safe but to keep us safe, there are rules on the waters in the state, the inland rules, and on the coastal and outside the coastal. I would encourage us to think very seriously about what we can do in joining many other states and many other nations in requiring that people have some simple knowledge to be able to understand what they see and what they don't see, to understand what a green can or a red nun, or a red and white, or a green over red, or a red over green, or an orange, or a white buoy with a blue circle at the waterline. Every one of those things tells you something to keep you safe and to keep others safe. I don't think there is anything wrong with us providing not too many rules but the right rules to insure the safety that's part of the preamble of our Constitution. Thank you.

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

Representative **CLARK**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'm on the Majority Report and I want to tell you why. Basically when we had the hearing some of the stuff that was left out, the Department of Fish and Wildlife already has now a volunteer plan that goes out through the State of Maine educating our youth on how to do boat safety. They have hundreds of kids that sign up for this every year. They are going to crank it up because I asked them in the hearing if they'd do more to get out around. It's not a mandate. It's volunteer.

I can tell you when I was a young kid growing up on the Ambajejus Lake outside of Millinocket overlooking Mount Katahdin, my father, my grandfather, my uncle, taught me how to use a boat on that body of water. I taught my son, I taught my grandson how to use that boat on that body of water. Ninety percent of the places of where I go there are no buoys. You've got to know where you are. Up where I live we have a lot of fluctuation of water. One minute you have high water, the next minute you have low water.

Maybe if this was to use for the ocean I might have something different to say, that's a different body of water all together. But inland, let's leave it up to mom and dad, grandpa, grandma. Let them decide and let them learn their kids and let the kids learn their kids instead of having something mandated again. I could see it if we needed it. I don't think we need it. The department is doing a good job of it for what they have for resources.

It was mentioned earlier, law enforcement. The Warden Service has been cut so bad, one warden in my neck of the woods covers hundreds and hundreds of miles, and if you expect to see a warden show up on your doorstep the minute you call them, I think you may have another thought coming. So leave it up to mom and dad and your grandparents or whatever it is to teach you how to use these boats, teach you how to use the motors. No matter what you do you're still going to have a person out there that is going to be racing up and down the shoreline, running over this, running over that. Another thing is get the law enforcement there to make sure that they're doing the right thing, but leave it up to your parents to take care of the kids. With that, Mr. Speaker, I hope you'll follow my light.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **McKANE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I've been scribbling notes here as this debate has gone on, but first I'd like to respond to the good Representative from Boothbay about the IF and W coming forward with their own plan. Lack of resources has never stopped a state department from going forward with a new plan, so I just wanted to make that clear. That doesn't mean they have the money. In fact, I know for a fact that IF and W does not have the money.

But over the last few years there have been some boating fatalities, but it is unlikely that any of the fatalities that occurred in the past few years would have been prevented if these folks had taken this course. First of all, half of them occurred in boats that didn't need to be registered. They were in canoes or kayaks or small rowboats. A good number of them, a large number of them were under the influence of alcohol, and the rest simply didn't use common sense. I would submit to you that instead of mandating this course, of simply informing new registrants of three things: Check the weather, don't drink too much, use common sense. Those three things will pretty much take care of it. The department and the taxpayers can't afford this new bureaucracy. If you must make it voluntary, make it fun but don't mandate it. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Deer Isle, Representative Kumiega.

Representative **KUMIEGA**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would respectfully suggest that no member represents more boaters than I do. Most of them are trained professionals that make their living on the water and this would have no effect on them. The high school that my children attend has a boating safety course. Almost all of the fishermen in my district have a story about helping or saving a new boater, an untrained boater who has been in some degree of trouble due to their lack of knowledge about the water. We can pass this bill, vote red on the pending motion and take a small step and increase knowledge and save somebody's life. Thank you.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Guerin.

Representative **GUERIN**: Thank you, Mr. Speaker. I would like to ask the House to remember that boating is a part of our Maine outdoor heritage. Getting government regulation or bureaucracy involved in our summer recreation is just not necessary. I urge you to vote green and support my committee's Majority Report so we can all head out of Augusta and enjoy a day on a Maine inland body of water and get out of the business of unnecessary government regulation.

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

Representative **SHAW**: Thank you very much, Mr. Speaker, and I do apologize for rising again on this bill. This bill is not about government regulation or common sense or new laws. This is about just having people have the knowledge to operate their boat safely on inland waters of the state. If they did an online course, it's not about taking the test. You can learn from these online courses. You would normally, if you thought you could pass the test, you don't have to take the course. You can just go straight to the test. Or you can take the online course or the department also offers plenty of boating courses over weekends and evening and things like that, so you could really make your choice. But once again, this bill exempts everybody in the entire state from taking the course. So it requires people born after the year 2000 to start taking a course or passing a test.

During the committee process I actually went online and found another free course and test from the state of Maryland and I took the test. I skipped the course and I took the test. I was confident that I would pass because I am a licensed captain and in fact I did pass the test. It took me about a half hour to work through their whole test. It was free. We could do the same thing. It's a good idea. It has nothing to do about common sense, new laws, government regulation. It's about having people have the knowledge to know what a buoy means or the different laws regarding how fast you can go when you're in close proximity to the shore or other boats. So it's a good starting point. It takes many years to catch everybody in the testing requirements.

As far as the money, Maine will be in jeopardy of losing its federal money. We get money from the Coast Guard to do these things now. If we don't do it in the future, we are in jeopardy of losing the money that we get now. So I'd appreciate if you follow my light, reject this motion and we'll move on the Minority Report. Thank you, Mr. Speaker.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. I'd just like to remind the House that some remarks have been made about canoes and kayaks. This is not about canoes and kayaks. If you look at the Coast Guard's statistics on recreational water vehicle accidents, the top type in the year 2009, the last year that they had statistics, open motor boats, which involved drowning and other types of death. Second was personal water craft, third was cabin motor boats, fourth was canoes and kayaks, and fifth was pontoon boats. We're not talking about canoes and kayaks though. We're only talking about motor boats and the operation of motor boats. So I think we can dismiss those comments.

With regard to alcohol in the operation of boats, that is a sad fact that it is true, but the Coast Guard statistics show that alcohol was involved in 16 percent of those accidents which caused death. So 84 percent of accidents which caused death in motor boats did not involve alcohol. So I don't think we can say, well, if people just didn't drink and drive on the water we'd be okay. I think there are other factors that are involved in these safety courses and I think we ought to consider those.

With respect to whether or not the department has the resources to carry this out, if you look at the fiscal note on this bill, the fiscal note on this bill is \$32,000 for a part-time recreational boating instruction coordinator. The department is not going to be giving these courses. The department is not going to be enforcing having a license out on the water. That's done by other agencies in a routine way. The fiscal note is \$32,000 for a part-time coordinator, Mr. Speaker, in '12 and '13, and in '14 and '15 it doubles to \$64,000 for a part-time coordinator. So the resources are there under a very small fiscal note if we pass this bill. Again, I urge you please reject the Majority Ought Not to Pass Report and let us move on to a very reasonable Minority Report. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Mr. Speaker. I rise a second time and will be brief. I couldn't agree more with my good colleague who said check the weather – he forgot check the chart – don't drink and drive, and use common sense. I agree completely with that. But what is common sense? Have you ever seen someone in the woods who has never been in the woods before not use common sense because they really don't

know what to do, where not to go? The first time I went to North Carolina I started to walk into the woods and my wife said, you know, look out for rattlesnakes. That wasn't common sense for me.

People who haven't had the great opportunity of having a grandfather or a father or brother or a mother or a sister to bring them up in a power boat or a canoe or a kayak or a sailboat, if they haven't had the good fortune of having been raised that way, then they don't have the common sense that we assume that people should have.

So if you want to make it easier for those who patrol the inland waterways and have to rescue people and deal with people who are injured or get run over by another boat, if you want to make it easier for Marine Patrol who have to go out and rescue people, if you want to make it easier for the Coast Guard who put their lives at risk for us, if you want to make it easier for the police and sheriffs who have to go out on the waterways and deal with people, if you really want to make it easier for those people who keep us safe and who maintain the rules and help to maintain that safety we're committed to doing in the Constitution, then you will support aiding those who don't have the good fortune of having been raised to have common sense to be able to go somewhere and get that common sense. I think that's just common sense. Thank you.

The SPEAKER: The Chair recognizes the Representative from Veazie, Representative Parker.

Representative **PARKER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There is a lot of misconception or ideas being spread around this morning that really don't make a lot of sense. I have a master's captain's license. I run a charter service. I'm a commercial lobster fisherman and have been my whole life. The fiscal note on here, I think, is way out of touch because at least 95 percent of the commercial fishermen on the coast of Maine have never taken a course of any kind in operating their vessel. Maybe a few of them are going to be exempt because some of them document the boats, they don't register them. But when they register them somebody has got to be available to train them and somebody has got to pay for doing that. So I think you have to take a real look at the impact of what something like this does and to see if Marine Resources and the Department of Fish and Wildlife have the opportunity to do this.

Now when I took my captain's course and this was several years ago, I had people in my class who could pass the course, but I wouldn't go to sea with them on a bet because they could read the book, they could pass the test, but they didn't know which way to push the throttle on the boat. They had no practical experience. So if you really want to train people to operate a boat you should train them to operate a boat, not pass a test. Thank you.

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

ROLL CALL NO. 128

YEA - Ayotte, Beaulieu, Beavers, Bennett, Bickford, Black, Bolduc, Burns DC, Burns DR, Celli, Chase, Clark H, Clark T, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dion, Dow, Duchesne, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Foster, Fredette, Gifford, Gillway, Goode, Guerin, Hamper, Hanley, Harmon, Harvell, Hayes, Herbig, Hinck, Hogan, Hunt, Johnson D, Johnson P, Kaenrath, Knapp, Knight, Libby, Long, Luchini, Maker, Malaby, Maloney, Martin, McCabe, McClellan, McFadden, McKane, Moulton, Nass, Newendyke, O'Brien, O'Connor, Olsen,

Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Rankin, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Sanderson, Sarty, Sirocki, Stevens, Strang Burgess, Theriault, Tilton, Timberlake, Turner, Tuttle, Valentino, Waterhouse, Weaver, Welsh, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beck, Beliveau, Berry, Blodgett, Boland, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clarke, Driscoll, Eberle, Eves, Gilbert, Graham, Harlow, Haskell, Kent, Keschl, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, MacDonald, Mazurek, Morrison, Nelson, Priest, Rotundo, Russell, Sanborn, Shaw, Stuckey, Treat, Volk, Wagner R, Webster.

ABSENT - Cebra, Innes Walsh, Morissette, Wintle.

Yes, 104; No, 42; Absent, 4; Vacant, 1; Excused, 0.

104 having voted in the affirmative and 42 voted in the negative, 1 vacancy with 4 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Prohibit Enforcement of Federal Laws in Violation of the Constitution of the United States" (H.P. 870) (L.D. 1172)

Signed:

Senators:

HASTINGS of Oxford
BARTLETT of Cumberland
WOODBURY of Cumberland

Representatives:

BEAULIEU of Auburn
MOULTON of York
MALONEY of Augusta
PRIEST of Brunswick
DILL of Cape Elizabeth
ROCHELO of Biddeford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-516)** on same Bill.

Signed:

Representatives:

NASS of Acton
FOSTER of Augusta
SARTY of Denmark
WATERHOUSE of Bridgton

READ.

Representative NASS of Acton moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Litchfield, Representative Newendyke.

Representative **NEWENDYKE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to encourage you to support the Minority Report on LD 1172 as amended. This is a bill that does not allow the enforcement or attempted enforcement of federal law that regulates or attempts to regulate goods grown, manufactured or made in this State or services performed in this State when those goods or services

are sold, maintained, retrained or performed exclusively within the State of Maine.

The impetus for this bill came from a small farmer in my district who has been concerned with the Federal Government's continual assault on America's small farmers and businesses through regulation, excessive recordkeeping, and intimidation. Recently a federal law S 510 was enacted. It is the FDA Food Safety Modernization Act. This legislation expands the powers of the Food and Drug Administration and related agencies to "fortify the food safety framework." These powers include but are not limited to: setting forth requirements of mandatory testing, conduct more frequent inspections, order mandatory recalls, shut down facilities, require more tracking and data collection records, establish standards and regulations and rulemaking, help state, local and tribal governments to handle agricultural and food emergencies.

The FDA Food Safety Modernization Act is of course only one example of the many federal laws which the U.S. Constitution does not authorize the Federal Government to implement. The Constitution grants limited power to Congress. This power is expressed in detail in the U.S. Constitution Article I, Section 8. All other laws and regulations are left to the individual states.

As indicated, this bill would apply only to intrastate commerce. The principal areas of applicability would include but not be limited to farm stands, farmers' markets, crafts made and then sold at local flea markets, products made and sold at the place of manufacture. Whenever a product or a service crosses a state line or provincial border, interstate commerce is involved and LD 1172 would not apply.

The Tenth Amendment to the Constitution of the United States clearly declares "The power not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." This is very clear and concise with no ambiguity whatsoever.

In notes taken in the House of Representatives in their debate for a Bill of Rights in the year 1789, James Madison states: "The exceptions here or elsewhere in the Constitution, made in favor of particular rights, shall not be so construed as to diminish the just importance of other rights retained by the people, or as to enlarge the powers delegated by the Constitution; but either as actual limitations of such powers, or as inserted merely for greater caution." Madison also said, "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the state governments are numerous and indefinite."

To further aid in the interpretation of the Tenth Amendment I offer this quote from Thomas Jefferson from the Kentucky Resolutions of 1798: "...the several states composing the United States of America, are not united on the principle of unlimited submission to their general government; but that by compact, under the style and title of a Constitution for the United States, and of the amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving, each state to itself the residuary mass of right to their own self-government; and that whensoever the general government assumes un-delegated powers, its acts are not authorized, void, and of no force..."

In an era of government lacking in respect for the rights of the people and the states, LD 1172 is a legitimate and necessary tool to exercise and force compliance with the rights of our state, and to respect the terms and conditions to which each state agreed when we entered into the compact of the Constitution of the United States.

In Article I, Section 8 of the Constitution is where the government is given power to regulate trade between the states,

and with foreign governments. Regulating trade inside the state in not mentioned, therefore it is not authorized.

Regarding the Supremacy Clause, which states "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." In other words, only laws and regulations for things that the Federal Government has been authorized to do, under other areas of the Constitution, are supreme.

In conclusion, the Tenth Amendment and the Supremacy Clause clarify that whatever is not delegated to the Federal Government is therefore retained for the states or the people. I ask you to follow my red light and vote against this motion. Thank you, Mr. Speaker.

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

Representative LIBBY: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition of this motion. Article I, Section 8, Clause III of the U.S. Constitution clearly states: to regulate commerce among several states. Clearly "among several states" does not include interstate commerce. With the Necessary and Proper Clause Patrick Henry stated this clause would only lead to limitless federal power that would inevitably menace civil liberties.

This similar legislation was passed in Arizona and was signed by the Governor in April of this year. The interstate commerce covers many different grounds including agriculture and is one of the reasons why I rise today. The Agriculture Adjustment Act of 1938 told farmers how much wheat they could grow and one farmer brought this right to the U.S. Supreme Court in the court case *Wickard vs. Filburn* of 1942. The one huge thing about this was that the farmer wasn't even selling the wheat, actually it was for his own consumption. But yet the Federal Government, the Supreme Court, still ruled that the interstate commerce could tell him how much wheat he could grow for his own consumption. I mean where are we going to draw the line?

One of the reasons why this legislation has been put in several other states as well is the idea of S 510, the Food Safety Modernization Act. This is going to regulate every aspect of agriculture and every aspect of even gardening in your home, your seeds, what you buy, what you carry over for seeds, all in the false premise of safety, terrorism, antiterrorism. It violates the Fourth Amendment because any truck that carries food produce can actually be stopped and seized, searched and seized with no warrants just because there is food in the truck. To me, this is egregious when you think about this, what you look at raw milk, raw cider, all these aspects. The Federal Government does not have the constitutional authority to oversee these aspects of our life; this is left to the states.

The states should rule this and the states should regulate this. Naturalnews.com clearly said, when they said S 510 is a betrayal of food freedom. The Natural Solutions Foundation stated that S 510 will only grow the size and power of the FDA. We need to rise up against this. This is a great way of showing the Federal Government that we are watching what they do. I urge you to follow my light and at this time I would like to request a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative O'Connor.

Representative O'CONNOR: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is one of the most constitutionally minded bills that I've seen this session.

Giving the government (Congress) the power to regulate commerce is incompatible with a free market economy and antithetical to the purpose of the Constitution which was written, and I quote, "to form a more perfect union, establish justice, insure domestic tranquility, promote the general welfare and secure the blessings of liberty to ourselves and our posterity."

If the intent of the Commerce Clause was to give government absolute control of the free market it would simply have said that government (Congress) has the power to regulate commerce in the United States and with foreign nations, which, obviously, would have given Congress absolute control over each citizen's means of survival and would have been diametrically opposed to the purpose and also the intent of the Constitution. Furthermore, it would have been in direct contrast to a free market and a free society.

The key word in the Commerce Clause is "among" which by definition means; joint action of each with the other; between one another. Therefore, if the Commerce Clause is interpreted in context with the purpose of the Constitution, common sense dictates that said clause was to insure that there would be no tariffs imposed between the states. There is no reference that I can find to intrastate commerce in the Constitution or anything that implies that the Congress has the power to regulate intrastate commerce. Human progress has resulted not only without aid of government, but in the face of its bitter and constant opposition. Thank you.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Timberlake.

Representative TIMBERLAKE: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise before you today to vote against the Ought Not to Pass Report because if you want to know why, in the Agriculture Committee this year we had things before us like raw milk, home cooking to be able to sell, and we couldn't pass it because of this. The Federal Government is regulating us. We need to get them out of our pockets, out of our house and let us control what happens in our state, not the Federal Government. It's our job, not theirs, so follow my light and we'll get this one.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Crafts.

Representative CRAFTS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I personally am tired of the heavy hand of the Federal Government. I think it's time to take our sovereignty back. It's time for us to decide locally what we want to do. It seems that we just continue to trample the Constitution and the direction I see this country going in, I don't think it's been a good thing. I oppose this motion. I ask you to follow my red light. Thank you.

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

Representative PRIEST: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. When this bill was originally before the Judiciary Committee, it proposed to jail federal officials who tried to enforce federal law. The Committee Amendment is somewhat softer but still tries to regulate state officers and courts to say that they cannot enforce federal law, which is against the Constitution, whatever that means.

I would remind this House that there is a Supremacy Clause to the United States Constitution, Article VI, Clause 2, which says "...This Constitution, and the Laws of the United States...shall be

the supreme Law of the Land... any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

For a minute listening to this debate I thought I was in the south in the 1950s talking about desegregation. The ultimate decision on whether federal law applies or not is going to be made in federal court and we all ought to abide by that. We fought a civil war over that issue and we still should follow that provision. So I urge you to vote for this Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Maloney.

Representative **MALONEY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm also on the Judiciary Committee so I sat in on the public hearing on this bill. While I appreciate that there are many people here who disagree with the Supreme Court's decisions on the Commerce Clause, it is the decision of the Supreme Court of the United States. To go against the Supreme Court of the United States is essentially saying that we no longer want to be part of the Union. There is a lot of things that I disagree with that the Federal Government does, but I'm not ready to say that I'm no longer going to be a part of this great country. This bill is simply unconstitutional and I hope that you'll be voting green. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In response to my good friend, Representative Priest, the Civil War was fought over a great many things and we won't go into those, but nullification was in fact resorted to more often by northern states than southern states. From 1798 through the second half of the 19th century they were used in support of free speech, free trade against the fugitive slave laws, unconstitutional searches and seizures, the prospect of military conscription among other examples. Nullification was supported not in support of slavery but against it.

As far as the supreme Supremacy Clause goes, what the Supremacy Clause actually says is "...This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;... shall be the supreme Law of the Land..." The standard law school response deletes the most significant words of the whole clause. Thomas Jefferson was not unaware of and did not deny the Supremacy Clause. His point was that only the Constitution and the laws which shall be made in pursuance thereof, shall be the supreme law of the land.

Citing the Supremacy Clause merely begs the question. A nullifying state maintains that a given law is not in pursuance thereof, and therefore the Supremacy Clause does not apply in the first place. The interesting thing is if you look at what happened this morning on the floor of the House, we had a bill that was Tabled, LD 1453, "An Act To Legalize and Tax Marijuana." That is a de jure or de facto nullification of federal law.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Crafts.

Representative **CRAFTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Part of the problem of this land and the trampling of the Constitution is the Supreme Court. We've had justices that have lost their way in respecting the most important document of this land, and so I don't always just agree because we have a Supreme Court decision that it's the right decision. Thank you.

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

Representative **CROCKETT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is rare that I

disagree with the good Representative from Lisbon, but this is one of those occasions. I can appreciate the discussion we're having, but we really need to take a step back and think about what we're about to vote on. We're putting the state where we're going to determine what the United States Constitution says or doesn't say. The fact of the matter is the Constitution needs to be interpreted by somebody, and since the days of *Marbury v. Madison*, the United States Supreme Court is best suited to handle that position and to interpret the document.

I appreciate the conversation here. I think there is a lot of great points that are coming out and the fact that the Constitution is going through a revitalization in terms of people paying attention to it and reviewing it and actually questioning it and questioning authority, I respect that portion. But I think that when we veer this far away from precedent, we're really going down a path we might regret. So I would urge you to support the pending motion, but by all means please carry on the debate.

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

Representative **CAREY**: Thank you, Mr. Speaker. It's ironic that we've lost sight, I think, in this country of what the Constitution is for. It's not for my argument or yours or this debate or that. It's a document that has developed a democracy and a republic that is stronger than any other in the history of the world, in my opinion. Because of the strength of the document and the institutions that it sets forth, this is a resilient country, it's a strong country, and our democracy is strong, our polity is strong, and yes our economy is strong.

I'm lost a little bit in the debate. I guess I fall on the side of the Representative from Bethel, Representative Crockett. It's not clear to me whether the quarrel is with Congress or with the Supreme Court. I quarrel with both at times, but I don't want to undermine the country that we have and the document on which it's founded and the institutions that keep us strong. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Palermo, Representative Harmon.

Representative **HARMON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to thank Representative Newendyke for bringing this bill to the Legislature and I oppose the Ought Not to Pass motion. Every now and then it's very important that people rise on either side of the aisle, no matter what our political beliefs are, to oppose things that our government does and to look at the constitutional rights that we believe in. We may have differing aspects on those constitutional rights, but this is something I fully support. It helps our individual freedoms, our economic freedoms, and our liberties.

I want to leave one quote with you, if nothing else, because what this bill has to do is with the word "liberty" and I want to leave you with a quote that James Madison said. "Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it." James Madison said that when he formed the Constitution. Thank you, Mr. Speaker.

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

Representative **HARVELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The reality is at the forming of the Constitution the debate didn't stop. It didn't stop with Marshall versus Marbury. It didn't even stop with the Civil War, but when the Civil War ended, the legal issue of secession was never decided. Jefferson Davis was in a jail and they were going to try him. But when they were going to try him they were going to have to legally ask the question if he even had the right to do what he did. Deciding that they didn't necessarily

have the right and he had a pretty strong case, it merely went away. So the only issue that the Civil War decided was 600,000 dead said the Civil War that federal supremacy reigned.

The debate continued. It continued prior to the Civil War in *Dred Scott*. It continued after the Civil War in *Plessy v. Ferguson*. These decisions by the Supreme Court are not oracles from on high. They never have been and they never should be. And the founding fathers, and all those that have walked for over 200 years before us, expect us to debate the limits of federal power and its relation to the states every day. This debate continues and it's a good one to have. As the good Representative from Bridgton says, we're going to have another bill that comes here before this body that is a de facto nullification of federal law. We challenge it all the time. Let's have at it.

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

Representative TUTTLE: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I talked to Thomas Jefferson and James Madison last night. They have changed their mind. They are supporting the Majority Ought Not to Pass Report. They also say that if we keep on talking we will be here until the Fourth of July. Thank you, Mr. Speaker.

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

ROLL CALL NO. 129

YEA - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Crockett, Curtis, Cushing, Dill J, Dion, Driscoll, Duchesne, Eberle, Edgecomb, Eves, Fitts, Flemings, Fossel, Gilbert, Gillway, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Kruger, Kumiega, Lajoie, Long, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, McFadden, Morrison, Nass, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Richardson D, Richardson W, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Tilton, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh, Mr. Speaker.

NAY - Ayotte, Bennett, Black, Burns DC, Burns DR, Cebra, Chase, Clark T, Crafts, Cray, Damon, Davis, Dow, Dunphy, Esping, Fitzpatrick, Flood, Foster, Fredette, Gifford, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Maker, Malaby, McClellan, McKane, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood.

ABSENT - Celli, Cotta, Innes Walsh, Morissette, Moulton, Wintle.

Yes, 86; No, 58; Absent, 6; Vacant, 1; Excused, 0.

86 having voted in the affirmative and 58 voted in the negative, 1 vacancy with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Restore the Historical Town Boundary between Harpswell and Brunswick"

(H.P. 57) (L.D. 69)

Signed:

Senators:

THOMAS of Somerset
COLLINS of York

Representatives:

COTTA of China
BOLDUC of Auburn
CASAVANT of Biddeford
CELLI of Brewer
GRAHAM of North Yarmouth
HARVELL of Farmington
KAENRATH of South Portland
MOULTON of York
TURNER of Burlington

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-552)** on same Bill.

Signed:

Senator:

SULLIVAN of York

Representative:

BOLAND of Sanford

READ.

Representative CURTIS of Madison moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative OLSEN: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I was asked by the Town of Harpswell to bring this bill before the Legislature to help resolve an issue between Harpswell and Brunswick: to restore a historical boundary. This bill contains new evidence that will correct the record and right the wrong of past judgments, placing the boundary between Harpswell and Brunswick back to its original historical location.

In an effort to see the town boundary corrected, the Town of Harpswell spent countless hours searching the archives and other historical sources for documentation to back up their position. They also went above and beyond all expectation to offer an amendment granting full rights of all the disputed clam flats to Brunswick, so that no digger would be displaced from what they had come to rely on. This was an act of neighborly kindness and respect that I was honored to witness. Harpswell simply wants their historical boundary to be returned to them. This has always been an issue of history, never clams.

I know the odds and Committee Report are against me, but I am standing here today to support returning some of Harpswell's history to them. Thank you, Mr. Speaker.

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

Representative PRIEST: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I regret to bring an issue of boundary disputes between two towns to you. I would ask you to support the Majority Report.

This was very carefully looked at by the committee. This issue has been before the Legislature before in 1998. It was thought to have been resolved then by an act of the Legislature which resulted in a dismissal of a lawsuit, which was between the towns. Everybody thought that this issue had been resolved.

The new evidence that Harpswell has said that it has brought together is in dispute and in fact there is a great deal of evidence that that material was known in 1998 and before. As a result the

overwhelming majority of the committee felt that this issue should not be brought up again, but that the 1998 settlement should be left intact. I urge you to follow that overwhelming Majority Report. Thank you.

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

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

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

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just to clarify on this issue, the question before us was to settle the boundary. You'll see that the overwhelming majority of the committee went in one direction and Senator Sullivan and I went in another direction. The reason I voted the way I did, I just wanted to explain to you, is that the property description was very clear and easy to follow. For that reason, I, being a title examiner from some time back, said, well there's a description and it's pretty clear. So that was what I supported because the question before us was to settle a boundary. What it really turned out being is more of a question about who gets to run the clam flats in the area and that was considered a legitimate issue.

To me, as has been relayed to you, there was an agreement that was come to in rather an odd way because it was rather rushed. There aren't really much records to rely on from it. It appeared to me that the people of Harpswell had not had very professional representation by their attorneys and had not had much opportunity for input on that settlement.

But that's what it is. There was a settlement. It didn't look like it was handled very well, very fairly. There also is a deed description that's pretty clear and so there's where we come down as far as trying to decide on this matter. I just wanted to clarify that for you because I thought it probably wasn't as clear as it might be. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from North Yarmouth, Representative Graham.

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wanted to rise to thank the good Representative from Harpswell who brought forth this bill. As the good Representative from Brunswick pointed out, we worked hard and long on this. This was heard. We had an initial hearing and we actually sent the two parties off to try to work things out and I think that deliberation was extensive. We had a similar bill regarding Peaks Island.

So I just wanted to point out that the good Representative from Harpswell brought forth this in good faith and we, I think all of us, have a difficult time when we talk about boundaries and towns and who owns what and so on. So I just want you to – I applaud her again and I would go with the Majority Report. This was not an easy decision for any of us and we worked hard on it. Thank you, Mr. Speaker.

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

ROLL CALL NO. 130

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Blodgett, Bolduc, Bryant, Cain, Carey, Casavant, Celli, Chapman, Clarke, Cornell du Houx, Curtis, Dill J, Dow, Driscoll, Duchesne, Eberle, Edgcomb, Espling, Eves, Fitzpatrick, Flemings, Fossel, Foster, Gilbert, Goode, Graham, Hanley, Harlow, Harvell, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Keschl, Knight, Kruger, Kumiega, Lajoie,

Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Moulton, Nelson, O'Brien, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Priest, Rankin, Richardson D, Richardson W, Rochelo, Rotundo, Russell, Sanborn, Sanderson, Shaw, Stevens, Strang Burgess, Stuckey, Theriault, Treat, Valentino, Wagner R, Weaver, Webster, Welsh, Mr. Speaker.

NAY - Bennett, Bickford, Black, Boland, Burns DC, Burns DR, Ceбра, Chase, Chipman, Clark H, Clark T, Crafts, Cray, Crockett, Cushing, Damon, Davis, Dunphy, Fitts, Flood, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Johnson D, Johnson P, Knapp, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Nass, Newendyke, O'Connor, Olsen, Parker, Prescott, Rioux, Rosen, Sarty, Sirocki, Tilton, Timberlake, Turner, Tuttle, Volk, Waterhouse, Willette A, Willette M, Winsor, Wood.

ABSENT - Briggs, Cotta, Dion, Innes Walsh, Morissette, Wintle.

Yes, 88; No, 56; Absent, 6; Vacant, 1; Excused, 0.

88 having voted in the affirmative and 56 voted in the negative, 1 vacancy with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-553)** on Bill "An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code"

(H.P. 1042) (L.D. 1416)

Signed:

Senators:

THOMAS of Somerset

COLLINS of York

SULLIVAN of York

Representatives:

COTTA of China

BOLAND of Sanford

CELLI of Brewer

HARVELL of Farmington

KAENRATH of South Portland

MOULTON of York

TURNER of Burlington

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

Signed:

Representatives:

BOLDUC of Auburn

CASAVANT of Biddeford

GRAHAM of North Yarmouth

READ.

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

Representative CAIN of Orono **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 Sanford, Representative Boland.

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

correct, not exactly to correct, the record but to let you know that I appear on the Majority Report on this, and both Senator Sullivan and I do, and essentially we've both changed our votes on this, understanding it later. This came to us at the very last minute. We voted on it the last day of our committee meetings and it really didn't belong, it didn't seem, in our committee because Labor and Business had spent so much time on this particular issue.

It came along and the questions that I asked the analyst, she really couldn't answer, and I need to make a decision which was more permissive. At that point, having learned more afterwards, I just wanted to let you know that I think that this really should not pass because it really takes away all the work that the LCRED Committee has done so much on this particular issue and it would essentially undo that. So I just wanted to explain that to you folks. Thank you.

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

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It's too bad that some of these bills went to multiple committees because the House already passed a really good bill to address the tweaks in the building energy codes that people were actually bringing to our attention.

You know the concern I have, I'm actually rising in opposition to this motion because this bill would jeopardize our current energy grants. Maine has done a very good job on earning a significant number of grants from the Federal Government and the former Executive signed a letter agreeing not to make major changes to or repealing our building energy code as part of that. So if we actually pass this, we could be putting our current energy grants in jeopardy, and along the same lines, it could actually jeopardize our ability to secure future federal grants for weatherization and energy efficiency.

The other piece to this, you know when we talk about energy policy, a lot of the businesses, we always talk about the cost of energy and with energy efficiency, it's the cheapest form of energy – the cheapest form of energy – and our businesses are taking advantage of energy efficiency grants to streamline their energy costs and make sure that they're actually reducing them. But more importantly, they're creating predictable energy prices for themselves and energy costs.

What we're doing if we were to pass this bill is to actually create, we would interject, a bad signal in the market. We would be telling the efficiency market, one, that we're not open for business, so efficiency professionals who are slowly responsibly growing their companies and hiring new people, we would be telling them that they should not be doing that, that we're not quite sure what we want to do. The other side of that is that business owners who want to invest in energy efficiency, we're telling them that we're not going to be consistent, that we're not going to be predictable going forward in our energy incentives.

So what we're trying to do or we have been trying to do is to create predictability, which is precisely what our businesses have been asking for. One, they're asking for lower costs, which energy efficiency gives, but two, they're asking for predictability in the market. They want to know that the rules are not going to change the second they start down a particular path, and that's precisely what this bill does. It changes the rules of the game.

There were real tweaks, there were real concerns that people brought to the attention of the Legislature. Those have been addressed by a very good bill already. So I'm asking folks to actually consider the amount of money that we currently have available to us from federal grants for energy upgrades and energy efficiency and not put those in jeopardy, and to also

consider the future grants that we could be getting and to not put future grants in jeopardy as well. Let's make sure that we're sending the right message to the market and that we're making sure that both our energy efficiency professionals and our businesses know that we're truly open for business and we understand what they're looking for in their energy market. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Prescott.

Representative **PRESCOTT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand in opposition to the Majority Ought to Pass motion before us and I do so with recognition of the Labor, Commerce, Research and Economic Development Committee's outstanding efforts on the other bill that has already passed. Building and energy codes have been a source of much confusion and have now been rectified, and I have a lot of confidence that going forward now, we have something in place. I believe that the pending motion and the bill before us, 1416, would muddy the waters, and I ask that you let the other bill go forward and let's see if the problems that we had in the past are now not problems in the future. Thank you.

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

Representative **DAMON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today, for me, in a strange predicament. As a Realtor I object to the business of government muddying the waters and how we provide housing to the people of Maine. I believe that the market should drive all of that. However, we do have a need for good building codes and 1416, as it originally was drafted, does that.

However, my objection this morning is to the amendment that allows cities with less than 4,000 people to opt out of the inspection process because, to make it work, we have to have inspectors, and about I think as many as 600 third-party inspectors have been trained, are ready to go to work and do this, and if we pass this as we have it up here with the amendment, they will be effectively out of business because the towns and cities will have their own code officers do the inspections, issue the certificate of occupancy, and drive the TPIs out of business. We have to have inspectors. The amendment is the only thing I object to. So I will be voting against it and hopefully we can get back to the original bill and vote for that. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **McKANE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is my bill and it was changed substantially from the original bill. I would have preferred that all municipalities have an opt-in. This simply changes from what is in the existing code, which is municipalities under 2,000, it just brings that up to municipalities with populations of 4,000 and under will be allowed to opt-in if they desire, and if they choose to opt-in, it shall be the Maine Uniform Building and Energy Code. The bottom line is the current code stays in place.

The other bill that was mentioned by the Representative from Topsham can still go forward. All aspects of the code remain the same, but it is important to remember that not everybody likes this code. Small contractors in my district, in particular, I don't know about yours, have been, as they find out about what's involved in this, are not happy with it at all. I think homeowners, homebuilders and others who are in our depressed housing market, when they find out and learn about the costs associated with this, the costs that this will put on new homes, they are going

to be very upset. I think this is a good compromise. I hope you'll go with the Majority Report. 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, too, rise in opposition to the pending motion and I do so because the words of my father and foreman on the job when I was young still ring in my ears whenever I build something. Measure twice, cut once. It's an old carpenter's saying and it's a reminder that when we do build something, it's better to get it right the first time and not to have to go back and rebuild it later, because it's much more costly to do so. And also, frankly, because you want your client to be satisfied with the product that you're selling.

When we buy a car we assume that it will meet certain minimum standards of safety and performance and our Attorney General's office is charged with prosecuting any incidents of selling lemons. This is the best that we have right now and it's a minimum standard to protect homebuyers.

I concur with the good Representative and Realtor from Bangor in his assessment that there does need to be some minimal standard on the books. I just want to point out too that if we were to lift the threshold from communities of 2,000 to 4,000, while it would certainly give greater freedom to all of the towns that I represent, they don't want that, they don't need it, and they're very happy to help make sure that the citizens of our town are protected and do have a home that they can live in, that they can afford to heat, and that they can be safe in.

Finally, Mr. Speaker, I just would note that the same change in threshold would leave only 90 communities in the State of Maine subject to the building code, the statewide code. Only 90 of 535 would be left where you could actually count on the home that you were purchasing. Thank you, Mr. Speaker.

On motion of Representative CUSHING of Hampden, TABLED pending the motion of Representative CURTIS of Madison to ACCEPT the Majority Ought to Pass as Amended Report and later today assigned. (Roll Call Ordered)

Majority Report of the Committee on VETERANS AND LEGAL AFFAIRS reporting Ought to Pass as Amended by Committee Amendment "A" (H-554) on Bill "An Act To Improve Ballot Access for Gubernatorial Candidates"

(H.P. 428) (L.D. 545)

Signed:

Representatives:

BEAULIEU of Auburn
CHIPMAN of Portland
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
LONGSTAFF of Waterville
RUSSELL of Portland
VALENTINO of Saco
WILLETTE of Presque Isle

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

Signed:

Senators:

FARNHAM of Penobscot
PATRICK of Oxford
PLOWMAN of Penobscot

Representative:

CAREY of Lewiston

Representative MITCHELL of the Penobscot Nation - of the House - supports the Majority Ought to Pass as Amended by Committee Amendment "A" (H-554) Report.

READ.

On motion of Representative BEAULIEU of Auburn, the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-554) 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-554) and sent for concurrence.

Majority Report of the Committee on VETERANS AND LEGAL AFFAIRS reporting Ought Not to Pass on Bill "An Act To Require That the Governor Be Elected by the Ranked-choice Voting Method"

(H.P. 838) (L.D. 1126)

Signed:

Senators:

FARNHAM of Penobscot
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
WILLETTE of Presque Isle

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "A" (H-515) on same Bill.

Signed:

Senator:

PATRICK of Oxford

Representatives:

CAREY of Lewiston
CHIPMAN of Portland
LONGSTAFF of Waterville
RUSSELL of Portland
VALENTINO of Saco

Representative MITCHELL of the Penobscot Nation - of the House - supports the Minority Ought to Pass as Amended by Committee Amendment "A" (H-515) Report.

READ.

Representative BEAULIEU of Auburn moved that the House ACCEPT the Majority Ought Not to Pass Report.

On motion of Representative CURTIS of Madison, TABLED pending the motion of Representative BEAULIEU of Auburn to ACCEPT the Majority Ought Not to Pass Report and later today assigned.

Majority Report of the Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Fund Commuter and Passenger Rail Transportation in Maine" (H.P. 985) (L.D. 1344)

Signed:

Senators:

FARNHAM of Penobscot
PATRICK of Oxford
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn
CAREY of Lewiston
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
LONGSTAFF of Waterville
VALENTINO of Saco
WILLETTE of Presque Isle

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-555) on same Bill.

Signed:

Representatives:

CHIPMAN of Portland
RUSSELL of Portland

READ.

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

Ten Members of the Committee on **VETERANS AND LEGAL AFFAIRS** report in Report "A" **Ought Not to Pass** on Bill "An Act To Revise the Maine Clean Election Act Regarding Legislative Leadership Positions"

(H.P. 789) (L.D. 1054)

Signed:

Senators:

FARNHAM of Penobscot
PATRICK of Oxford
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn
CAREY of Lewiston
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
LONGSTAFF of Waterville
WILLETTE of Presque Isle

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "A"** (H-513) on same Bill.

Signed:

Representatives:

CHIPMAN of Portland
VALENTINO of Saco

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "B"** (H-514) on same Bill.

Signed:

Representative:

RUSSELL of Portland

Representative MITCHELL of the Penobscot Nation - of the House - supports Report "A" **Ought Not to Pass**.

READ.

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

On motion of Representative CURTIS of Madison, **TABLED** pending the motion of Representative BEAULIEU of Auburn to **ACCEPT** Report "A" **Ought Not to Pass** and later today assigned.

CONSENT CALENDAR

First Day

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

(S.P. 160) (L.D. 568) Bill "An Act To Create a Unified Early Childhood Education System in Maine" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-259)

(S.P. 365) (L.D. 1244) Bill "An Act To Clarify Usual and Customary Charges under the Workers' Compensation Laws" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-250)

(S.P. 371) (L.D. 1250) Bill "An Act To Improve Oil Storage Facility Operator Training" Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-257)

(S.P. 442) (L.D. 1428) Bill "An Act To Amend the Laws Governing Self-service Storage in the State" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-248)

(S.P. 480) (L.D. 1519) Bill "An Act To Allow the Board of Dental Examiners To Issue Dental School Faculty Licenses" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-247)

(S.P. 491) (L.D. 1541) Bill "An Act To Amend the Campaign Finance Laws" (EMERGENCY) Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-263)

(H.P. 321) (L.D. 403) Bill "An Act To Require That School Administrative Units Establish a Mission Statement for Each of the Public Schools Operated by the School Administrative Unit" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-538)

(H.P. 426) (L.D. 543) Bill "An Act To Protect Legislative Intent in Rulemaking" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-546)

(H.P. 473) (L.D. 643) Bill "An Act To Protect Public Safety in the Operation of the Oxford County Casino" Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-547)

(H.P. 533) (L.D. 703) Bill "An Act To Amend the Laws Governing Licensure Compliance Methods for Camping Areas, Recreational Camps, Youth Camps and Eating Establishments" Committee on **HEALTH AND HUMAN SERVICES** reporting

Ought to Pass as Amended by Committee Amendment "A" (H-539)

(H.P. 698) (L.D. 938) Bill "An Act To Permit Public School Online Learning Programs To Accept Nonresident Tuition Students" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-537)**

(H.P. 773) (L.D. 1039) Resolve, To Create a Working Group To Make Recommendations To Improve the Efficiency, Accountability and Proper Administration of Municipal General Assistance Programs Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-540)**

(H.P. 774) (L.D. 1040) Bill "An Act To Amend the Maine Juvenile Code" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-532)**

(H.P. 857) (L.D. 1159) Bill "An Act To Amend the Identification Requirements under the Maine Medical Use of Marijuana Act" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-541)**

(H.P. 986) (L.D. 1345) Bill "An Act To Align Maine Special Education Statutes with Federal Requirements" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-536)**

(H.P. 993) (L.D. 1352) Bill "An Act To Implement the Requirements of the Federal Nonadmitted and Reinsurance Reform Act of 2010" (EMERGENCY) Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-543)**

(H.P. 1029) (L.D. 1400) Bill "An Act To Address Certain Aspects of Bail" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-534)**

(H.P. 1045) (L.D. 1419) Bill "An Act To Improve the Coordination of State and County Correctional Services" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-531)**

(H.P. 1058) (L.D. 1444) Resolve, To Enhance Agriculture and Farming Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-533)**

(H.P. 1096) (L.D. 1491) Bill "An Act To Strengthen the Laws against Driving under the Influence of Drugs" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-535)**

(H.P. 1102) (L.D. 1501) Bill "An Act To Reduce Opioid Overprescription, Overuse and Abuse" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-542)**

(H.P. 1109) (L.D. 1507) Bill "An Act Regarding Service Contracts" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-544)**

(H.P. 1128) (L.D. 1536) Bill "An Act To Protect Heating Oil Consumers" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-526)**

(H.P. 1140) (L.D. 1554) Bill "An Act To Implement the Requirements of the Federal Patient Protection and Affordable Care Act" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-545)**

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.

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

ENACTORS

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Use a Portion of the Sales and Use Tax for the Protection of Maine's Fish and Wildlife

(S.P. 155) (L.D. 563)
(S. "B" S-237 to C. "A" S-154)

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

Representative DUCHESNE of Hudson **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 Hudson, Representative Duchesne.

Representative **DUCHESNE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I am proud to live in a state where you can buy bait from the dairy case. This is the Maine I love, and frankly, we're losing it a little bit every day. This is so core to who we are that it deserves to be in the Constitution next to all the other things that define who we are. I'd like to say that this is so important to Maine's economy, that we are unique in putting this into our Constitution, but we're not. Arkansas, Missouri, Minnesota, they're way ahead of us.

Some of us who are working on the regulatory reform spent a lot of time investigating whether permitting was unusually slow in this state and it turns out that often the Department of Environmental Protection is getting blamed for delays caused by others, often the Army Corps of Engineers. Sometimes the Department of Inland Fisheries and Wildlife because it just doesn't have enough resources. It hasn't for years. It's not just about our sporting and wildlife economy that's getting hurt; it's actually the chronic underfunding hurting the rest of our economy and job creation.

We're even undertaking a new initiative that will be on the calendar later today to restore the deer herd in parts of Maine, and yet we only have one deer biologist. We used to have a moose biologist. They used to have clerical support. Now one guy does it all. This has gotten ridiculous. The department has been starved down for so long that some of the remedies on the books are decades old and those have been ignored.

Back in the King administration the Legislature declared its intent to cover 18 percent of the department budget that wasn't already paid for by sportsmen. We didn't finish the job, we didn't even start it. Sportsmen are carrying the whole burden for something we all care about.

In my tenure in this body we have tried everything. New fees, new outdoor access cards, kayaking/canoe stickers, expanded lotteries. Nothing passes and nothing has been done. We all know it's a problem. It's gotten so bad we're now looking at drastic action as a preference to inaction. This is like buying a gym membership after the holidays because you know you've got to do something.

The 12-1 Majority Report out of committee was one vote short of being tripartisan. The other body achieved a two-thirds vote with votes to spare. The voters will approve it. It is now squarely up to us. 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 voted in favor of this amendment in committee and I did so for exactly the reasons that were just laid out by my friend and colleague from Old Town.

Since then, in thinking about it a little more, I've realized that as much as I care about the causes that would be funded, about the programs that would be funded and services that would be funded through this set-aside, it essentially does put our state budget on autopilot.

I think all of us could think of many things, incredibly worthy programs – research and development, funding for rail, home visitation for young children, programs for seniors – whatever it is for what you personally care most about, what gets you up in the morning and brings you here every day to this chamber because you know you want to protect it.

We could all think of things that we would like to see \$24 million per biennium set aside for in our Constitution so we could stay home, so we could not come here to do the people's work and pass a budget through a democratic process that yes, is messy, and yes, it doesn't always give each of us what we want.

But at the end of the day, it's the best system there is. It's the best system that civilization has ever come up with. I would dearly love to see more money made available for these purposes. Some of the other things I just mentioned I would also dearly love to see money set aside for.

But even though I voted for this in committee, I've since realized that that really was against my better judgment and that I need to get up in the morning and come here and do it the democratic way. So I will be voting against the pending motion, against passage of this constitutional amendment. Thank you, Mr. Speaker.

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

Representative **EBERLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Earlier today we congratulated the state's deer biologist on her work and I mentioned to you that I think that the resources that our wildlife represent are the heart and soul of Maine and what makes it the most beautiful state and unique from any other state in our country.

Our wildlife resources are responsible for billions of dollars of revenue for this state and this initiative has come from a long body of work that explored the opinions of the public in Maine through a survey and found that a large percentage of the people in the State of Maine think that funding for protection of our wildlife resources should come from people like me. I don't hunt or fish or trap, so I don't buy licenses or permits. But I still take advantage of these beautiful resources. I kayak, I hike, I go bird watching, and I would like to have some mechanism to help protect those things that are very, very dear and important to me. The Warden Service, Search and Rescue, all of these things is what is funded by these very scarce dollars. The public is very much in favor of this concept, wanting to help contribute to this resource that is incomparable, and I hope that you will support the pending motion. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Denmark, Representative Sarty.

Representative **SARTY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. For 45 to 50

years, that I can remember, we've talked about this. The Maine Department of Inland Fisheries and Wildlife exists primarily through dedicated revenue and the Legislature has been pretty satisfied to leave it that way. But during those same 35 to 45 years, the Legislature had no problem adding and adding and adding to the responsibilities and duties of this agency with insufficient funding. The sportsmen and the consumptive uses in the State of Maine have been paying the bill for years.

Many who are in recreational activities similar to what Representative Eberle has just mentioned have been asking "How can we contribute?" The State Legislature has promised many times to fund the Fish and Wildlife Department a certain percentage of what is represented in their dedicated revenue from the state General Fund in order to pay for the services and so on for non-consumptive uses, such as Search and Rescue and many other areas of services offered by IF and W to people who do not contribute through the dedicated revenue stream.

We've argued about this, it's been promised and taken back. The most recent promise was 18 percent of whatever the IF and W Department takes in as dedicated revenue would be matched through General Fund contribution. Even when it was partially given, because of all of the supplemental budgets that many of us know we've had to go through here since the 123rd session, the money is often taken back. The agency is an engine that generates revenue for this state – \$1.5 to \$2.4 billion come into Maine as a result of what this agency's oversight, administration, and protection offer the resources of Maine.

The Representative from Bowdoinham mentioned other programs. Sure there are other programs, and we wouldn't have as difficult a problem paying for those other programs if we would support the quality of our natural resources that bring revenue into the State of Maine and can make our economy so much better than it has been.

I think we've argued this issue here in the Legislature long before I got here, long before probably even Representative Martin came. I saw a letter from a commissioner to the Chief Executive that was dated in the late 1800s that talked about this same thing. We put a lot of demands on the Maine Department of Inland Fisheries and Wildlife. It does the best job it can and more for what operating expenses it has. It needs another source of revenue if we're going to still continue to ask them to offer the level of quality services that they offer to the people of this state and to the natural resources of Maine. I strongly suggest we consider this bill as maybe a way to finally end the confusion and offer this agency the revenue stream it needs to function adequately. Thank you.

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

Representative **CELLI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have to agree with everything that's been said here so far concerning this bill and let me say immediately that I love the fish and wildlife of this state, I love the outdoors of this state, but I cannot vote for this constitutional amendment. Why? Well, the real heart and soul of this state is our people. What the people have also said they want in this state is for us to fully fund education. Money has been promised, money has been taken back. An educated populace will bring money into this state, will drive our economy. So until times get better and until we fulfill our top priorities first, I cannot be in favor of this. Thank you.

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

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I agree with my nearby seatmate here. While I am a consumer, and I think most of you

know that, of a number of the services and I have a tremendous respect for the work that's being done at Inland Fisheries and Wildlife, and in full disclosure my husband has just retired from 20 years with them in his, I think, third career – he has two or three more left – worked with the Department of Inland Fisheries and Wildlife. However, I believe that this is poor fiscal policy.

The arguments that are made are absolutely correct, but these arguments need to be made down in Room 228, when we are parsing out the scarce resources that this state has. This is not one where you ought to say look at how nice the deer and the natural resources are in our state and don't we want to support it. Of course we do. But if we start making percentage cuts out of our budget and say that percent belongs here and this percent here and that percent there, we're going to be left with a bigger hole than you can imagine.

This argument needs to be made in concert with all of the other needs that this state has and I continue to believe that the discipline and the arguments need to happen here in the committee of jurisdiction, in the full Legislature, on the floor and in Room 228, and not in a constitutional amendment. So I will not be supporting this. Thank you.

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

Representative **ROTUNDO**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I've worked hard while I've been here the past nine years to make sure that adequate resources are directed to protecting the natural resources of our beautiful state. They are critical. They are critical to all of us. I'm very concerned, however, about going down a road of dedicating a portion of the sales tax to any particular area, and I'm concerned about that because it's not clear where that road will lead us to eventually.

Today we're talking about a percentage being dedicated to IF and W. In the next session we could be talking about two percent of the sales tax being dedicated to roads, the year after, one percent to higher education. It just goes on and on, and we need the flexibility as a Legislature to be able to address priorities, our new priorities, and other pressing needs that we might face, and if we lock ourselves into the dedication of funds to certain areas, we remove that flexibility and it's much harder for us to be able to govern. So I would encourage you to vote against the enactment of the bill that's before us. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. This is an issue which frankly has been around a long time, trying to find sufficient resources for the Department of Inland Fisheries and Wildlife. A number of years ago I was involved in an effort to try to do kayaks and canoes and the very people who use them are more than willing to assist us in getting money through that source, but guess what? We couldn't get it through the Legislature. The study was completed which basically illustrates that this Legislature and past Legislatures constantly asked the department to do more, to protect wildlife that is seen by people who don't have a hunting license or a fishing license, for people who get lost, and we constantly make an effort to find them, and then, of course, we can't even bill them for it.

This amendment before us is not my preference, but I've reached the end of the rope and I will support this amendment today because I don't know of any other way where we'll ever be able to convince the Legislature that it ought to pay for what it wants. Constantly, constantly we make demands on the Department of Inland Fisheries and Wildlife. We go find people who get lost who have nothing to do with hunting and fishing,

who don't have a license. In my own area, for example, they climb Deboullie Mountain, get lost and we're after them night and day looking for them.

I just think that even though I don't like this approach, I don't know of any other way that we can put money there. If there were, I'd be happy to see it. But every time that we in the Appropriations Committee have reached that point that we know we have to put in 10 to 15 percent or 18 percent, someone comes up with a program that they believe is more needy, and guess what? It doesn't get funded. So I know the odds here, but if you believe that it is time for the state to meet its responsibility, this is the only way in which you're going to accomplish that and I don't like doing it this way. But it's been 25 years where I've seen year after year after year taking money that should have gone for programs in the department and being taken away for other departments in this state. So I will be voting for the first time in my career to amend the Constitution to finally divert money to the Department of Inland Fisheries and Wildlife.

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

Representative **DAVIS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House of Representatives. I agree with my friend from Eagle Lake. This isn't the approach I would want either. I would much rather see 18 percent of their revenues put in from the General Fund, but that didn't happen. It was put forth and then it was all taken out.

I joined the Maine State Police 40 years ago in September. The Inland Fisheries and Wildlife Department – at that time it was known as Inland Fisheries and Game – had 118 game wardens. Today they've got 86. Forty years, that's what's happened to that department. I attended a class, I guess you could call it, on the fisheries and the fish hatcheries in this department in this state and I learned that we grow about a third of the fish that we should actually be growing. We don't have any money.

This morning we debated a bill on boat safety. Some good ideas they are, but we don't have the \$100,000 or so that's needed. It's just not there. This amendment would give the department .0125 percent of 1 percent of the sales tax and it would make things possible that aren't possible today and I would almost be willing to guarantee, having gone to Lake Ontario and other places, that the \$1.5 to \$2.4 billion that is now raised through our natural resources would increase considerably. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Deer Isle, Representative Kumiega.

Representative **KUMIEGA**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to point out another woefully underfunded and until now forgotten department, the Department of Marine Resources. This amendment would give 10 percent of the money raised to the department and while I think that is a great idea, I think this amendment is terrible fiscal policy. Tying the hands of the Legislature and the Appropriations Committee is not a good idea, although I recognize that both Inland Fisheries and Marine Resources do need more funding. Thank you.

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

Representative **BERRY**: Thank you, Mr. Speaker. I rise to correct an earlier statement. It was said a moment ago that the bill would dedicate, I believe it was .025 percent of the sales tax. It is 1.25 percent and I think if you look at the subsequent amendments you'll see that. The estimate from the fiscal office is that it would cost \$24 million in the next biennium.

I should also mention that our committee worked on another bill that is in both the Minority and the Majority Budget Reports

that would help with the effort, both around the diadromous fisheries and the inland fisheries. It's a new credit for investment in infrastructure and I'm fairly confident that we'll be able to go forward with that, so I think it will help with this effort.

Again, I'm very much in favor of moving forward. I sponsored legislation that helped to establish the fact that yes, the fisheries are an economic engine for the state. It was a great study that I worked on with the Sportsman's Alliance of Maine last year. But I believe that if the facts are so clear, we should be able to make the case in Room 228 and not in our Constitution in a way that we cannot reverse very easily later on. Thank you, Mr. Speaker.

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

Representative **SHAW**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. A statement that may have just been made talking about fiscal notes, if you take a look at the fiscal note, the only cost in this is the cost of putting it out to the people of the State of Maine. There is no \$24 million fiscal note because it's not a cost to the state. It's a directing of the money to the Department of Inland, Fisheries and Wildlife through the Maine Constitution.

But another number that is very important here is \$2.4 billion, folks. There is not many departments in this state that actually can say that they make money for the state, but Inland Fisheries and Wildlife is one of them, but they don't directly make \$2.4 billion for us to come and spend. That is the economic activity generated by the Department of Inland Fisheries and Wildlife.

Another number out there: Tourism, \$12 billion. Folks, \$12 billion. So if you add the \$12 and the \$2.4 you're somewhere around the vicinity of just shy of \$15 billion. Most people that come to Maine for tourism are coming here for lakes and rivers and lighthouses, all the things that the department manages. So I would highly recommend that we pass this bill, send it on to the people and let them decide. Thank you, Mr. Speaker.

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

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the pending motion. A lot of discussion around numbers today, so I'd figure I'd just throw out four numbers or just say the number 4. That's the number of licenses I will buy this year. I will buy probably two guide's licenses and then I will buy a hunting and fishing license, and I'm happy to do that; I'd love to support the department.

Then we talked about some of the roles of the department and the money that they bring in and that's really clear, but there's other things the department does. I was thinking recently when I talked with my local warden and the things that he's been working on. He responded to a brush fire up in Madison recently. It doesn't seem like something a game warden would do, but it's a brush fire, it was suspicious, so he had to respond.

There were two recent search and rescues in central Maine. Both of them were for elderly folks and these were elderly folks that weren't recreating, they were just wandering away from home. So I think we need to be realistic about what these people do and the resources that they need, and I hope that you'll follow my light and support them today. Thank you, Mr. Speaker.

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

Representative **CELLI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for getting up to speak a second time, but I keep hearing what appears to me to be individuals thinking that this money is simply going to appear and go to Fish and Wildlife and everything is going to be hunky-dory. No. There is a loss to the General Fund

of \$1.18 million. This money is being spent on other programs right now and so to take it away from them, it's going to be taking away from all of these programs. So this is not just found money or new money. Thank you.

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Because a lot of numbers have been flying around and it is a little difficult to understand the fiscal note, I just want to read you an excerpt from the legislative analyst for the Taxation Committee. This bill would dedicate between \$11 million and \$12 million per year to the Department of Inland Fisheries and Wildlife, and the cost that the good Representative from Brewer just spoke to is the cost of printing the ballot. Thank you, Mr. Speaker.

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 a Constitutional Amendment, and a two-thirds vote of the House being necessary, a total was taken.

ROLL CALL NO. 131

YEA - Ayotte, Beaudoin, Beavers, Beck, Bennett, Black, Blodgett, Boland, Bolduc, Bryant, Burns DC, Burns DR, Cain, Cebra, Clark H, Clark T, Clarke, Cornell du Houx, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dill J, Dion, Dow, Duchesne, Eberle, Edgcomb, Espling, Fitts, Flemings, Flood, Fossel, Fredette, Gifford, Gilbert, Gillway, Graham, Guerin, Hanley, Harmon, Harvell, Herbig, Hunt, Johnson D, Johnson P, Kaenrath, Kent, Keschl, Knight, Lajoie, Long, Luchini, Maker, Maloney, Martin, McCabe, McFadden, Morissette, Moulton, Nass, Newendyke, O'Brien, Olsen, Parry, Peterson, Picchiotti, Plummer, Prescott, Richardson D, Rioux, Rosen, Sanderson, Sarty, Shaw, Stevens, Strang Burgess, Theriault, Tilton, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Welsh, Willette A, Willette M, Wood, Mr. Speaker.

NAY - Beaulieu, Beliveau, Berry, Bickford, Carey, Casavant, Celli, Chapman, Chase, Chipman, Damon, Driscoll, Dunphy, Eves, Fitzpatrick, Foster, Goode, Hamper, Harlow, Haskell, Hayes, Hinck, Hogan, Knapp, Kruger, Kumiega, Libby, Longstaff, Lovejoy, MacDonald, Malaby, Mazurek, McClellan, McKane, Morrison, Nelson, O'Connor, Parker, Peoples, Pilon, Priest, Rankin, Richardson W, Rochelo, Rotundo, Russell, Sanborn, Sirocki, Stuckey, Treat, Valentino, Wagner R, Webster, Winsor.

ABSENT - Briggs, Cotta, Innes Walsh, Wintle.

Yes, 92; No, 54; Absent, 4; Vacant, 1; Excused, 0.

92 having voted in the affirmative and 54 voted in the negative, 1 vacancy with 4 being absent, and accordingly the **RESOLUTION FAILED FINAL PASSAGE** and was sent to the Senate.

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

Representative **CELLI**: Thank you, Mr. Speaker. On the record, if I had been present on item 6-14 on our calendar, LD 1172, I would have voted yea.

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

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require Approval by a 2/3 Vote of Each Branch of the Legislature in Order To Raise a Tax or Impose a New Tax

(S.P. 183) (L.D. 603)

(C. "A" S-230)

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

Representative **CAIN** of Orono **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 Bowdoinham, Representative **BERRY**.

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the passage of this constitutional amendment and I do so for many of the same reasons that led me to rise in opposition to one earlier today.

Our Constitution is not a document that we should tinker with lightly and the principle of majority rule is also something that we should not tinker with lightly, especially when it comes to our budgeting decisions, which do define the economic and moral foundation of this state every two years.

The minority in this body might be interested in putting forward amendments to the Constitution that protect revenue sharing, that protect public safety, that protect Maine Residents Property Tax program or Business Equipment Tax Reimbursement program. There are many ways in which the dollars that we spend here actually reduce the property tax burden that our residents endure, and that's not covered, it's not protected in this resolution.

So the unintended consequence of an amendment of this kind will be, because it has been the experience of other states that have gone down this road, an increase, a significant increase, in the property tax.

I urge the members of this body to vote against this amendment and for the democratic principle of majority rule, which our towns operate on, without exception, and which we have operated on in the past. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Palermo, Representative **HARMON**.

Representative **HARMON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in favor of this constitutional amendment. Why is this bill here? I can tell you why from listening to my constituents, that taxes are continuing to rise. It doesn't matter if they're property taxes, it doesn't matter if they're income taxes, it doesn't matter if they're sales taxes. People are upset. This bill wouldn't be here if that wasn't happening, and it continues and continues and continues. An unintended consequence is what this bill is.

Another intention, I would take it a step further. I would even impose a moratorium on raising any sort of property tax. Things need to get under control and that's why this bill is here. I recommend that the House pass it. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Bridgton, Representative **Waterhouse**.

Representative **WATERHOUSE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I find the phrase my good friend Representative **Berry** made, "tyranny of the minority," what does that mean, tyranny of the minority? It's a new expression. I think it means the majority doesn't want to hear what the minority has to say. It's a rhetorical hyperbole. Is a two-thirds requirement for a budget a tyranny of the minority? Is the 17 other items and the Maine Constitution that requires a two-thirds a tyranny of the minority?

This is a policy issue. Do we want to require logic consensus in a simple majority, regardless of who the majority is, to raise the tax burden on the citizens of the State of Maine? That's all this question is about. If the good Representative wants to put in other constitutional amendment that he fancies that we need, he's welcome to do so. Right now, we have one that will require two-thirds to raise taxes. It's a policy issue. Let's refer it to the genius of the people to decide whether they want to do it or not.

The **SPEAKER**: The Chair recognizes the Representative from Thomaston, Representative **Kruger**.

Representative **KRUGER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. When I was pondering my service in the 125th, I thought about a couple of things and one of them was I didn't want to introduce a lot of bills, but I wanted to try to find a bill that was important, that had not been addressed. I did some research on that and I came up here over the summer and I did some research and I discovered that the bill that I really wanted to introduce had in fact been debated in this House many, many times and had been the subject of a referendum vote. That made me decide, okay, I'm not going to introduce it. The people have spoken.

Well, Mr. Speaker, the people have spoken on this more than once, more than twice perhaps, I will hold it to twice, and it's called **TABOR**. People have spoken, whether I like it, whether you like it, whether we don't like it, the people have voted on this and I say that's that. Thank you, Mr. Speaker.

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

Representative **BICKFORD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of this motion. You heard a short time ago from my good friend, Representative **Berry**, about what about property taxes, what's going to happen with those if we give this out to the voters and they approve it? Well, I just want to remind us all here that municipalities can do the same thing we're doing here. Municipalities can enact in their charter that they need to have a supermajority in order to raise property taxes. So bearing that in mind, I urge you to follow my light.

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 merely to correct my good friend, the Representative from Bridgton. I did not invoke the phrase "tyranny of the minority," but that is in fact a common concern that we heard from the framers and then we heard many times in history when supermajority measures like this one have been put forward. It does give a greater power to a minority when a supermajority vote is required for any action. Thank you, Mr. Speaker.

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 a Constitutional Amendment, and a two-thirds vote of the House being necessary, a total was taken.

ROLL CALL NO. 132

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Damon, Davis, Dow, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Welsh.

ABSENT - Briggs, Cushing, Fredette, Innes Walsh, Webster, Wintle.

Yes, 75; No, 69; Absent, 6; Vacant, 1; Excused, 0.

75 having voted in the affirmative and 69 voted in the negative, 1 vacancy with 6 being absent, and accordingly the **RESOLUTION FAILED FINAL PASSAGE** and was sent to the Senate.

Emergency Measure

An Act Regarding the Saltwater Recreational Fishing Registry
(S.P. 60) (L.D. 210)
(S. "B" S-147 to C. "A" S-136)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Improve the Circuitbreaker Program
(H.P. 367) (L.D. 474)
(C. "A" H-475)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Amend the Motor Vehicle Laws
(S.P. 410) (L.D. 1313)
(S. "A" S-218 to C. "A" S-192)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and

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

Acts

An Act To Implement the Recommendations Regarding the Legislative Review of the Allocation of Slot Machine Revenue
(H.P. 319) (L.D. 393)
(C. "A" H-482)

An Act To Reform Telecommunications Taxation
(H.P. 334) (L.D. 441)
(C. "A" H-477)

An Act To Specify Qualifications for the Director of the Office of Adult Mental Health Services within the Department of Health and Human Services
(H.P. 414) (L.D. 531)

An Act To Amend the Occupational Disease Reporting Laws
(H.P. 484) (L.D. 654)

An Act To Enhance Long-term Care Services for Maine Citizens
(H.P. 510) (L.D. 683)
(C. "A" H-502)

An Act To Amend the Definition of "Service Animal" To Conform with Federal Law
(H.P. 551) (L.D. 744)
(C. "A" H-506)

An Act To Clarify the Collection Process for the Commercial Forestry Excise Tax
(H.P. 681) (L.D. 921)
(C. "A" H-484)

An Act To Improve Transparency in Political Campaigns by Providing Quicker Access to Reports
(S.P. 309) (L.D. 989)
(C. "A" S-232)

An Act To Provide Limited Reciprocity for Nonresidents Operating Snowmobiles in This State
(H.P. 729) (L.D. 993)
(H. "A" H-426 to C. "A" H-364)

An Act To Amend the Laws Governing the Sex Offender Registry
(S.P. 313) (L.D. 1025)
(S. "A" S-242 to C. "A" S-180)

An Act To Provide a Property Tax Exemption for Family Burying Grounds
(H.P. 816) (L.D. 1081)
(C. "A" H-476)

An Act To Increase Transparency in Funding of Campaign Advertisements
(S.P. 333) (L.D. 1100)
(C. "A" S-234)

An Act To Improve Preventive Dental Health Care and Reduce Future Avoidable Costs
(H.P. 826) (L.D. 1114)
(C. "A" H-501)

An Act To Repeal Inactive Boards and Commissions
(H.P. 850) (L.D. 1144)
(C. "A" H-472)

An Act To Allow the Unclaimed Remains of a Veteran To Have Proper Burial
(S.P. 386) (L.D. 1265)
(C. "A" S-231)

An Act Regarding Permits To Carry Concealed Firearms
(H.P. 1070) (L.D. 1439)
(C. "A" H-485)

An Act To Remove Obstacles to the Use of Technological Advances for Heating in Multifamily Structures
(H.P. 1107) (L.D. 1506)
(C. "A" H-493)

An Act To Clarify the Maine State Lottery Agent Licensing Process
(H.P. 1116) (L.D. 1513)
(C. "A" H-481)

An Act To Amend the Election Laws and Other Related Laws
(H.P. 1122) (L.D. 1528)
(C. "A" H-474)

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 Study the Feasibility of Transferring Administration of the Liquor Laws to the Bureau of Alcoholic Beverages and Lottery Operations
(H.P. 617) (L.D. 821)
(C. "A" H-483)

Resolve, To Require the Department of Education To Submit a Plan for the Implementation of Standards-based Education
(S.P. 295) (L.D. 949)
(C. "A" S-236)

Resolve, To Study Oral Health Care in Maine and Make Recommendations Regarding How To Address Maine's Oral Health Care Needs
(S.P. 338) (L.D. 1105)
(C. "A" S-238)

Resolve, Directing the Executive Director of the Commission on Governmental Ethics and Election Practices To Review the Law Governing Push Polling
(S.P. 375) (L.D. 1254)
(C. "A" S-233)

Resolve, To Develop and Implement a Farm and Fish to School Pilot Program
(H.P. 1060) (L.D. 1446)
(C. "A" H-488)

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located in Rockwood and Sinclair in the Unorganized Territory and To Extend the Dates To Sell Real Property in Bangor, Augusta, Skowhegan, Frenchville and Hallowell
(H.P. 1139) (L.D. 1552)
(C. "A" H-473)

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

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

SENATE PAPERS

The following Joint Resolution: (S.P. 517)
**JOINT RESOLUTION RECOGNIZING THE DEDICATION AND
RESOLVE OF MEDICAL CARE PROFESSIONALS IN
HOSPITALS**

WHEREAS, emergency medical care providers and medical care professionals in hospitals are committed to providing treatment to any injured or ill person, regardless of the circumstance; and

WHEREAS, studies show an increasing number of assaults against hospital medical care workers resulting in bodily harm; and

WHEREAS, the federal Centers for Disease Control and Prevention issued a 2002 publication entitled Violence: Occupational Hazards in Hospitals explaining that violence in hospitals is often different from violence in other workplaces because it results from patients and families who may feel frustrated, vulnerable and out of control; and

WHEREAS, hospital medical care professionals are particularly vulnerable to workplace assaults because of several unique risk factors such as the open, welcoming environment of hospitals and the resulting continuous stream of patients and visitors, the increase in the number of patients with substance abuse issues and the presence of distraught family members; and

WHEREAS, recent studies report that workplace violence is a significant and widespread public health concern among health care workers, and not only among those workers in emergency or psychiatric departments, and the health care sector in general continues to lead all other industry sectors in the incidence of nonfatal workplace assaults; and

WHEREAS, the United States Bureau of Labor Statistics reported that, in 2000, almost half of all nonfatal injuries from violent acts against workers occurred in the health care sector; and

WHEREAS, a recent survey found that 20% of a hospital's staff reported a physical assault in the last 5 shifts worked and one Florida study reported that 100% of emergency department nurses had experienced verbal threats and 82% had been physically assaulted; and

WHEREAS, although staff in other hospital units also reported unacceptably high levels of verbal threats and physical violence, emergency department staff experienced the highest volume of reported assaults; and

WHEREAS, violence against medical care professionals occurs regardless of the size or location of the hospital or community; and

WHEREAS, the safety of Maine's medical care professionals working in hospitals is essential for Maine's health care system to function properly to provide the best care for residents of the State; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fifth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to send our deep appreciation to medical care professionals, who work in hospitals under conditions that are not only stressful but may be high-risk, for their dedication and resolve; and be it further

RESOLVED: That We, the Members of the One Hundred and Twenty-fifth Legislature, recognize the serious nature and unacceptably high number of violent acts committed against medical care professionals in hospitals and the need to better ensure a safe working environment for those workers and we express support for exploring future measures designed specifically to enhance safety for medical care professionals in hospitals and in the medical field; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Emergency Nurses Association, the Maine Hospital Association, the Maine Prosecutors Association, the Maine Sheriffs' Association and the Maine Chiefs of Police Association.

Came from the Senate, **READ and ADOPTED**.
READ and ADOPTED in concurrence.

CONSENT CALENDAR
First Day

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

(S.P. 142) (L.D. 509) Bill "An Act To Establish Host Homes in Maine as Alternative Emergency Shelters for Homeless Youth" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-255)**

(S.P. 212) (L.D. 723) Bill "An Act To End Homelessness for Veterans in Maine" Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-251)**

(S.P. 414) (L.D. 1337) Bill "An Act To Ensure Patient Privacy and Control with Regard to Health Information Exchanges" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-261)**

(S.P. 502) (L.D. 1569) Bill "An Act To Restore the White-tailed Deer Population and Improve Maine's Wildlife Economy and Heritage" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-256)**

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.

ORDERS

On motion of Representative PRESCOTT of Topsham, the following Joint Order: (H.P. 1171)

ORDERED, the Senate concurring, that Bill, "An Act To Amend the Laws Governing Comprehensive Planning To Encourage the Development of Affordable Housing," H.P. 743, L.D. 1007, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.
Sent for concurrence.

ENACTORS

Emergency Measure

An Act To Amend Certain Provisions of Maine Fish and Wildlife Laws

(S.P. 317) (L.D. 1084)
(C. "A" S-245)

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. 126 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, Directing the Commissioner of Education To Adopt a Policy Regarding Management of Head Injuries in Youth Sports
(H.P. 84) (L.D. 98)
(C. "A" H-519)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and

0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, To Establish the Blue Ribbon Commission on Affordable Housing

(H.P. 638) (L.D. 841)
(C. "A" H-511)

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

Representative MARTIN of Eagle Lake **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. 133

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beliveau, Berry, Bickford, Boland, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Cray, Crockett, Dill J, Dion, Driscoll, Duchesne, Eberle, Edgecomb, Eves, Flemings, Gilbert, Goode, Graham, Hamper, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kent, Keschl, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Maloney, Martin, Mazurek, McCabe, Morrison, Moulton, Nass, Nelson, O'Brien, Peoples, Peterson, Pilon, Prescott, Priest, Rankin, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Theriault, Treat, Tuttle, Valentino, Volk, Wagner R, Weaver, Webster, Welsh, Willette A, Willette M.

NAY - Bennett, Black, Burns DC, Burns DR, Cebra, Chase, Crafts, Curtis, Damon, Davis, Dow, Dunphy, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gillway, Guerin, Harmon, Harvell, Johnson D, Johnson P, Kaenrath, Knapp, Knight, Libby, Long, Malaby, McClellan, McFadden, McKane, Morissette, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Richardson D, Richardson W, Rioux, Sanderson, Sarty, Sirocki, Tilton, Timberlake, Turner, Waterhouse, Winsor, Wood, Mr. Speaker.

ABSENT - Beck, Blodgett, Bolduc, Briggs, Celli, Cushing, Innes Walsh, Wintle.

Yes, 86; No, 56; Absent, 8; Vacant, 1; Excused, 0.

86 having voted in the affirmative and 56 voted in the negative, 1 vacancy with 8 being absent, and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate.

Acts

An Act To Amend the Gift Card Laws

(H.P. 200) (L.D. 247)
(C. "A" H-442)

An Act To Require Certain Changes to Sales and Use Tax Policy Application or Practice

(H.P. 448) (L.D. 590)
(H. "A" H-496 to C. "A" H-434)

An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2012

(H.P. 573) (L.D. 766)
(C. "A" H-383)

An Act To Improve the Protection of Animals
(S.P. 253) (L.D. 850)
(C. "A" S-243)

An Act To Promote Visual and Digital Media Productions,
Tourism and Job Creation in the State
(H.P. 804) (L.D. 1069)
(C. "A" H-517)

An Act To Improve the Energy Efficiency of Public Buildings
and Create Jobs
(S.P. 385) (L.D. 1264)
(C. "A" S-244)

An Act Concerning Sex Offender Registry Information
(H.P. 963) (L.D. 1317)
(H. "A" H-497 to C. "A" H-466)

An Act To Amend the Maine Condominium Act
(H.P. 978) (L.D. 1332)
(C. "B" H-454)

An Act To Provide Tax Relief to Residents Deployed for
Military Duty or Stationed outside of Maine
(H.P. 1018) (L.D. 1385)
(C. "A" H-510)

An Act To Amend the Beano Laws
(H.P. 1083) (L.D. 1474)
(C. "A" H-509)

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, Directing the Secretary of State To Examine
Centralization of the Petition Signature Verification Process
(H.P. 736) (L.D. 1000)
(C. "A" H-507)

Resolve, To Review Oversight and Advisory Responsibilities
Related to Services for Adults with Intellectual Disabilities or
Autism Spectrum Disorders
(H.P. 827) (L.D. 1115)
(C. "A" H-520)

Resolve, To Study Allocations of the Fund for a Healthy
Maine
(H.P. 1144) (L.D. 1558)
(C. "A" H-417)

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

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as
Amended by Committee Amendment "A" (H-420)** - Minority (5)
Ought Not to Pass - Committee on **CRIMINAL JUSTICE AND
PUBLIC SAFETY** on Bill "An Act To Allow Concealed Weapons
in the State House"

(H.P. 692) (L.D. 932)

TABLED - June 2, 2011 (Till Later Today) by Representative
PLUMMER of Windham.

PENDING - ACCEPTANCE OF EITHER REPORT.

Representative CRAFTS of Lisbon moved that the House
INDEFINITELY POSTPONE the Bill and all accompanying
papers.

The SPEAKER: The Chair recognizes the Representative
from Lisbon, Representative Crafts.

Representative CRAFTS: Thank you, Mr. Speaker. Mr.
Speaker, Ladies and Gentlemen of the House. The original
reason why I put this bill in is, number one, I do believe in the
Second Amendment right. I do believe that the Maine
Constitution talks about that we have the right to bear arms and
shall never be questioned.

The second part is I believe in personal responsibility. I even
believe in personal responsibility, just like when I get into my
truck I put the seatbelt on. I feel that that's a way to protect
myself. Or when I used to ride my motorcycle, the day that I had
my accident, I had a helmet on that saved my life because that
was personal responsibility. If I feel endangered where I live, I
lock the door and take precautions because I believe in personal
responsibility. I think that every one of us here believes in some
sort of personal responsibility.

When I used to come to the chamber or come into the capitol
and watch the people come and go with nobody being checked, I
thought to myself, anybody could come to this building carrying
multiple weapons if they wanted to, including myself, and I felt
that I had a personal responsibility to protect myself, protect my
colleagues and protect my family. I believe that that's the right
that I bear in this country.

But leadership, I believe that leadership realized the
unsecured building, the danger that we all face each day coming
in here, especially this chamber. To me, it's just like a fish bowl.
Somebody could come in through the doors; there is no place to
go. They took the responsibility to come through with a security
plan that I agree with and I want to commend leadership for the
good job that they have done. So I wanted you to understand
that my bill was a personal responsibility that we protect
ourselves. Now that we have accomplished that or are in the
process of accomplishing that, I'm satisfied. So thank you, Mr.
Speaker, and Ladies and Gentlemen of the House.

Subsequently, the Bill and all accompanying papers were
INDEFINITELY POSTPONED and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as
Amended by Committee Amendment "A" (H-422)** - Minority (6)
Ought Not to Pass - Committee on **CRIMINAL JUSTICE AND
PUBLIC SAFETY** on Bill "An Act Relating to Concealed Firearms
Locked in Vehicles"

(H.P. 28) (L.D. 35)

TABLED - June 2, 2011 (Till Later Today) by Representative
PLUMMER of Windham.

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

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

Representative PLUMMER: Thank you, Mr. Speaker. Mr.
Speaker, Men and Women of the House. LD 35 is a bill that
would allow a person who has been issued a concealed firearms
permit to legally carry their firearm when they leave their house to
go to work, whether it's in the morning or whether it's in the
middle of the night, and when they get to work securely leave that
firearm still concealed and locked in their vehicle.

The majority of the members of the Criminal Justice and
Public Safety Committee deemed that this was a reasonable
thing to do. We are told that it's probably what people are

already doing and nobody asks, kind of the don't ask, don't tell. The majority of our committee felt that the Second Amendment which allows people to possess firearms, combined with the fact that people with a concealed carry permit have been vetted, have demonstrated proficiency with a firearm, should be able to exercise that right.

There was some question whether this pitted the Second Amendment against the Fourth Amendment and people's right to private property. Those of us who voted in favor of LD 35 felt that it was in fact not infringing upon the owner of the company or the business property, that the inside of your vehicle is an extension of your personal property, and in fact you should be able to carry, only if you're issued a concealed firearms permit, you should be able to carry that firearm with you on your way to work. It does not say that you can carry it in the building. It doesn't even say that you can get out of your vehicle and step on the parking lot. It only says that in the confines of your personal property, your vehicle, that you may carry.

We spent a great deal of time in committee discussing this. I've had a lot of contact from people, some from businesses, who do feel that the personal property rights should trump your Second Amendment right. But I maintain that both the United States Constitution and the Maine Constitution give you rights to own and bear firearms. People with a concealed carry permit have been vetted and I believe they should be allowed, when they leave their home, to take the firearm with them. In fact they are not allowed to do that, we are requiring them to leave the firearm at home or find another place to park their vehicle. I would urge you to support the Second Amendment of the Constitution. Thank you, Mr. Speaker.

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

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'd like to clarify my understanding of what this bill does for folks. Currently employers are allowed to have a policy regarding their own property and that property is their building and their parking lot. They are allowed to have that policy. They are not required to have it, but they are allowed to have it. If this bill passes, we are taking that right away from those employers to have a policy in their parking lots. I just want to be clear about what it is that the bill does, and then I'd like to talk a little bit about the many folks who have come to me and who came to the committee as well, indicating that they feel it's important from their perspective to be able to have that right in their own parking lot to make that decision.

I've passed out a flyer and it gives you a list of folks who are strongly opposed to LD 35, and just to make sure, that if bright orange is too hard to read here in the bright lights, I'm going to read to you the list of those organizations which oppose LD 35. The Maine State Chamber of Commerce, the Maine Association of Broadcasters, the Maine Youth Camp Association, the Androscoggin Chamber of Commerce, the Maine Merchants Association, Bangor Regional Chamber of Commerce, the Maine Tourism Association, the Maine Medical Association, the Maine Hospital Association, the Portland Regional Chamber of Commerce, Maine Automobile Dealers Association, the American Society for Industrial Security, the Maine Grocers Association, the Maine Restaurant Association, the Maine Hospital Association, and the Maine Medical Association. If you think about those groups and think about the types of businesses that they represent, I think you can understand why they have an interest in being able to provide some level of policy at their own businesses, in their property, in their own parking lots.

I've received some communication which I'd like to share with you, just so you'll understand how these folks feel about this issue of being able to have their own policy. This one comes from Wright Express. This is an employer of 570 employees in Maine, who says, in part, this bill intrudes on our business and will undoubtedly result in potential liability and increased insurance costs. Moreover, the bill does not protect employers from liability to third-parties who might be injured or killed as a result of an employee using a weapon on our premise. These are companies that have thought this out. This is not a knee-jerk reaction.

The Vice President of Governmental Affairs at Unum says, in part, the Second Amendment does not provide a right to carry a gun onto someone else's private property and we do not believe that the State Government has the authority to intrude on the private property rights of Maine employers by mandating that employers cannot prohibit firearms on their property. That's an employer of 3,100 employees here in the State of Maine.

In addition, the public affairs department of National Semiconductor says here in a note to me, in addition to diminishing our private property rights, this bill raises workplace safety concerns. There is nothing more important than the safety of our employees. We believe this bill is in potential conflict with our federal duties owed to employees under the Occupational Health and Safety Act to provide a safe workplace. These are not people who are looking to stomp on anybody's Second Amendment rights. These are people whose responsibility it is to look out for the safety and security of their employees. If we pass this bill, we deny them that opportunity to have that kind of a policy in place. I urge you to reject this motion so that we can accept the Ought Not to Pass motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Chelsea, Representative Sanderson.

Representative **SANDERSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand today in support of LD 35, "An Act Relating to Concealed Firearms Locked in Vehicles." The biggest question in regard to this legislation is, where does an employer's personal property begin and an employee's personal property end?

As to an employer's personal property, I fully support an employer's right to ban concealed carry firearms within the buildings of their place of business or to be carried on an employee's person in their parking lots. I fully support an employer's right to ban concealed carry in a company vehicle. But these are not the questions before us.

The questions before us are: can a person who has lawfully obtained a concealed firearm permit keep a firearm locked in their vehicle which is parked in an employer's parking lot? If an employer bans a permit holder from keeping their firearm properly locked and concealed in their vehicle, is the employer extending the boundaries of their personal property rights by requiring a permit holder to leave their firearm at home?

Many people who have permits in Maine drive great distances at all hours of the day and night to and from their place of employment. Are we going to require a law-abiding people who have gone through the effort of taking a concealed permit holders class, have had background checks and been determined by either the State Police of Maine or their local issuing authorities to be of "good moral character" to choose between either leaving their protection at home or become out of compliance with some law or rule which infringes on their constitutional rights?

Laws like these banning concealed carry in certain areas only ban people who carry responsibly. Those who are going to violate the law will do so, regardless of whether they have a concealed permit holder or not.

Article I, Section 16 of our Maine State Constitution states, "Every citizen has a right to keep and bear arms and this right shall never be questioned." In our oath of office, we swore to uphold both the United States and the Maine State Constitutions.

Yes, an employer has rights to determine employee behavior on or in their personal property, but the inside – the inside – of a person's vehicle has been determined to be an extension of that person's personal property and the United States Court of Appeals has upheld that ruling as constitutional.

The requirement that employers permit employees to exercise state-protected rights on business property, a property which has invited both the public and employees to enter in the course of their business day, does not amount to an unconstitutional infringement of employers' property rights under the Taking Clause in our Fifth Amendment. There is nothing to suggest that preventing employers from prohibiting this sort of activity will unreasonably impair the value or use of their property. This doesn't propose a change in how the employer's property can be used at all.

LD 35 is a careful balance between employers' personal property rights and a concealed weapon permit holder's Fourth and Second Amendment rights. The permit holder must keep their firearm in a properly concealed place within their locked vehicle. Again, it doesn't allow them to carry it on their person in the parking lot or inside the work place or inside a company vehicle, unless an employer allows such behavior.

Now on any given day any of us will encounter at least one person who has a firearm on their person or in their purse and you would never know it. Concealed permit holders are usually the last people to go around brandishing a firearm recklessly. They don't go around looking for trouble. In fact, they hope they never encounter trouble. They only want to be prepared and able to protect themselves, their family or others around if in the event that trouble finds them. I hope you will support LD 35 and protect our Second Amendment rights. This bill works together with business property owners and concealed firearms permit holders. Thank you.

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

Representative FITTS: Thank you, Mr. Speaker. Mr. Speaker, I'd like permission to ask a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative FITTS: Thank you, Mr. Speaker. To anyone who may be able to answer, does this bill allow for a company to have conditions of employment that would include a zero tolerance policy? I've worked for several companies, large utilities typically, but companies like General Electric, when you enter their property you have to pretty much give up your rights to privacy. They have a right to search. If you're going to enter that property you have to agree to that. In this case, it would appear that as a condition of employment you couldn't apply that, and for companies that have locked parking lots and locked gates, I don't see an exception here and I see an opening for problem. If anybody could help me answer that or understand that that would be helpful.

The SPEAKER: The Representative from Pittsfield, Representative Fitts, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Eberle.

Representative EBERLE: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. If you are a business who is considering coming to Maine and you understand that you will not be able to protect your employees to the extent that you wish to, what will your decision be about coming to the State of Maine? Worse than that and even more reckless with this kind of

legislation is the threat to the employees, to the people who work in these companies and in these places, who will lose their ability, who will lose their protections, and this is a reckless bad bill for businesses, but more than that for the employees of the State of Maine. Thank you, Mr. Speaker.

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

Representative BURNS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'd like to respond to that last comment that was made by the good Representative. We vetted this bill very carefully and I can't for the life of me see anything reckless about this bill. I'm trying to be candid with you. This bill does not do anything to harm business. It is not going to increase the number of people that carry weapons, choose to carry weapons in a concealed manner. People have been vetted. It's only going to allow them the opportunity to do it without having to face some type of repercussion if for some reason somebody where they work determines that they do have that concealed weapon and decides to hold them accountable to something that I think they shouldn't be holding them accountable for.

As has already been said, this is not going to put anybody in jeopardy. It is not going to be allowing people to take the weapon into the workplace. It is simply going to allow the person who has already been vetted to carry a weapon in their vehicle, go to their place of work and then return home. It will be concealed in the vehicle, just as it is now today, and it will be just as safe tomorrow when the bill is passed as it is today.

I understand the issue about private property rights. I understand it fully. But there is a difference and we have to recognize that difference. When you invite people onto your property, especially when it's a condition of employment, you have to go there to work, there is going to have to be some middle ground. Employers don't tell you what vehicle to bring to work if you're not going to be using it in your work. They don't tell you not to bring your mace and keep that in your car. Why should they be able to tell you that you can't keep your own concealed firearm in your vehicle if it's secured?

The most dealings that I've had to do with the Fourth Amendment in my history in my career are having to do with the part that protects you in your person, your property, your papers, and your homes, and you don't give up that right for somebody else to intrude on that for unreasonable searches. That's the Fourth Amendment that I've dealt with and what business is it of anybody else's that you have a concealed weapon in your vehicle, that you have chosen to do for a matter of safety, and I think that's what most everybody who goes to this extent does it for. They do it for a matter of safety.

I listened very carefully and read the handout that the good Representative from Portland gave us and one particular business that stood out to me was the Hospital Association, and that makes me think about all the nurses that come and go day and night to their jobs as nurses to these hospitals, especially in my rural community and in the rural communities that many of you support. They do so alone, they do so on rural roads, they have breakdowns, they have accidents. Sometimes, unfortunately, they may even have passengers that they don't want.

I think of the news just this week. It looks like we have another missing co-ed. I don't know what the latest is on that but over and over and over again I've seen these situations happen. People have a right to provide protection for themselves, that's what the Second Amendment is all about. We have to balance that right with the other rights that we're talking about here, the right for a business to prevent you from taking that step, that

measure – not an unreasonable measure, that reasonable measure – to protect yourself.

As we've said over and over again, we don't have enough law enforcement to be with everybody. We don't have areas that are well enough protected so that everybody can depend on somebody else to protect them, so we have to revert back to this personal responsibility that we heard about earlier today. I know if it were my daughter or wife or if it was my friend that had to go to work in some of these places, I would fully understand and support their need to have that personal protection. There is a reasonable limit to where that starts, I understand, and that, we're saying, this bill addresses. That would mean that you drive to your place of work, you leave your weapon in your car, secured, locked, just as you did yesterday. Nobody has any business knowing one way or the other that you do or you don't have that and you go in and you do your job. That's not going to interfere with business. What we're talking about is businesses being concerned about liability, not about their employees' safety. If I were an employer, that would be my first concern, my employees' safety. I hope you'll support this motion. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Blodgett.

Representative **BLODGETT**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. Everybody has a different perspective on safety. I know when I entered Aetna this weekend, a big sign on Aetna if you enter the parking lot is "Private Property." We are on their private property. This is an antibusiness bill. They do not want this. Everybody has conditions of employment, as they should have, and this is one of those conditions that they want. If this is good balance, protect their private property as well. Thank you.

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

Representative **DOW**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the Chamber. I'm a business owner, you all know that. I may choose to allow concealed weapons on my property and then again I may not. I'm more likely to say I don't want them on my property.

We seem to talk a lot about rights and we always uphold the Constitution to talk about those rights and sometimes, well many times, I think we forget about the responsibility that goes with those rights, responsibility that's not always written into the Constitution because it's a limited document. But I believe that the framers of the Constitution considered other documents when they wrote that Constitution and had other things in mind. So I wonder where our rights and our responsibilities begin and end.

Apostle Paul in Corinthians was talking about responsibilities to his church in Corinth, the only church that was located in Corinth, because many of the people had come out of the heathen institutions that existed there and they asked the question, why can't we go up to the local clubs and celebrate and drink the wine and the meat that's been sacrificed for the gods. After all, we know and you've taught us there are no other gods, so why can't we go up with our friends, and Paul replies everything that is permissible is not always prudent. Everything is permissible, but it isn't always responsible. It isn't prudent. It isn't beneficial.

When I look at my Constitution and my rights I have to judge those rights by another set of principles. There was a curious, a very curious statement in the Gospel, very difficult saying. It says for a righteous man, no one will die. For a good man, someone will die. I always looked at that statement and wondered what the heck does that mean, for a righteous man, no one will die. It's because I finally realized that a person can be very, very bad

in always being right and being righteous. So I use other principles to gauge my rights that I consider highly and I think the Constitution of the United States is the greatest manmade instrument of freedom in the world. But I think its freedom is based on principles much more basic than that. There are times in my life where I have had to reflect on these freedoms that we have and I've come to many conclusions, but it's always the same, because when I've had problems in life or difficulties or difficult decisions, sometimes I just have to go sit at the foot of that cross and figure out just exactly what it cost God to give us all of the freedoms that we have, all the freedoms in this country, the freedoms that our Constitution represents, and the freedoms of responsibility.

I had a student in class one time, years ago, back in the '70s when I was teaching, had long hair, seemed to be pretty good, pretty happy. I got talking to him about his long hair; after all, I was losing mine. I wanted to know about his freedom. I wanted to know why he had long hair. I expected him to say because I'm free; I'm allowed to do anything I want to. But he told me he had long hair to prove he was free. Well, let me tell you something. Anybody who's got to prove that, free is not free. He was in bondage as much as any slave because he didn't have the freedom to do one or the other. He didn't have the freedom to say yes or no. He didn't have the freedom to have personal responsibility. So I'm going to oppose this bill because I think I have the right as a business owner to be able to say no. But I also believe that people who have rights also, sometimes we all need to sit back and think what's right and what is responsible. Thank you, Ladies and Gentlemen of the Chamber.

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

Representative **LOVEJOY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm not anti firearms. I own several. I keep them safely locked away. I'm not afraid that the majority of people with a concealed weapons permit are a huge risk, however I do believe an employer has the right to set the terms of what goes on on his property.

The University of Maine System has a firearms policy. You cannot bring a firearm on to the campus, even if it's locked in your trunk. This bill only deals with those with a concealed weapons permit, but let me ask you, they've been vetted, yes, but if someone were to go and want to get a hunting license they have to take a safety course, just as they did for a concealed weapons permit. Different firearms, but nonetheless they have to go through that. Does that mean that anyone who has a hunting license should be able to put a rifle or a shotgun in their trunk and take it along to work with them? Some people would argue yes. My feeling is the employer has the right to say no firearms on our property. As long as that's acknowledged up front, you have a right to not take that job. But this is not going to be very friendly to businesses.

How far can businesses go? If you remember the Exxon Valdez, the captain that was in charge of that ship was drunk. After that, Exxon instituted a policy that you could not bring alcohol on to their property, period, even in your car, even in your trunk. You could be dismissed for that and that was part of their policy. It's still there today or at least it was two years ago. That's alcohol, that's legal. My shotgun or my rifle is legal. Does that mean that the employer doesn't have a right to bar those? I don't think so. We need to let the businesses – we keep talking about business friendly, let's let the businesses set the policy for their own property. Thank you.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Cebra.

Representative **CEBRA**: Thank you, Mr. Speaker. I rise in support of the Majority Ought to Pass as Amended on this bill. I just would like to clarify a couple of things.

First of all, this has nothing to do with shotguns or rifles. This has to do with a concealed carry permit holder's lawfully possessed handgun that they would carry as a concealed carry permit holder, being able to lock that in their vehicle, so it has nothing to do with a shotgun or an illegal weapon. We're talking about those people who have gone through the state mandated legal process of education or proof of education through their DD-214, which is a military document that you've been trained with a weapon in the military. They've done that. They've gone through the State Police or their municipality, had the background check, filled out the proper forms. The state has then granted them the legal permission to have a card that says that they are able to carry a concealed firearm in the State of Maine. So when I look at things like this orange sheet that was passed around and I see how some people still don't get the idea that a lawful, legally possessed firearm by someone who has been licensed by the state would somehow create or threaten an employer's ability to provide a safe work environment, it just gives me pause to question that logic.

I look at this legislation. This legislation does not require anyone to accommodate a firearm on their property that they don't want because in this legislation we do not require property owners to provide a parking space in the first place. If the property owner chooses to allow automobiles on his or her property, he or she would have to accept that a small indiscernible fraction of the employees who are legally permitted by the state may contain a lawfully possessed firearm locked out of sight. How this would disrupt or hinder a business or threaten an employer's ability to provide a safe work environment simply is not obvious and not explained.

When rights are intentioned – I've heard people talk about the difference between rights – when rights are intentioned the state has the authority, the responsibility to mediate and establish public policy. To the degree that property rights could be considered intention with the right to have the means to protect one's self under the terms of this bill, all the Legislature would be doing is making a determination that the slight imposition on property right here is less than what the imposition would otherwise be on the right of citizens to defend themselves as they go about in their daily lives. A business would not suffer an unconstitutional infringement of their property rights, but rather be required, by the amended version of this bill, to recognize a state-protected right of their employees.

This bill creates ability for those employees to exercise their most fundamental rights because they have legally gone through the process of possessing that firearm. These are not criminals. These are not people who would create some sort of a threat to an employer's ability to provide safe work environments. It's a matter of effectively – to not pass this bill would be in the matter to effectively disarm a lawful citizen from their home to their work, from their work back to their home, and a vote against this pending motion mandates that those people would be defenseless, even what they're not at the workplace. So I would encourage you to Accept the Majority Ought to Pass as Amended Report. Thank you, Mr. Speaker.

Representative **CUSHING** of Hampden **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 Boothbay, Representative MacDONALD.

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This debate is focused on private property rights and Second Amendment rights, but as a practical person I look at one piece of this argument that really hasn't been talked about and that is the security of a locked vehicle. I think there's an assumption abroad here that a locked vehicle is in fact a secure place to keep a firearm and I don't want to talk at all about the privacy rights or the Second Amendment rights. I do want to question the assumption that a locked car is a safe place to keep anything.

If you look on the web you'll see videos of people breaking into cars in anywhere from two to five seconds with simple devices, like coat hangers and shoelaces. The fact is, and I've seen when I've locked my key in my car and had to call a garage to come, it's taken the guy five seconds with a piece of metal that he sticks down beside the window. So bottom line, I think there's an unexamined assumption here that keeping your firearm in a locked car is a safe place. I have no question but that people who have concealed firearm permits are law abiding citizens who have a right to keep their arms, but I deeply question the assumption that keeping a firearm in a locked vehicle in fact constitutes a safe practice. I would urge you to vote against this motion. Thank you, Mr. Speaker.

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

Representative **HASKELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'd just like to correct one statement that I think I heard on the floor and that this bill would essentially ban the carry of concealed weapons. That is not so. What this bill would do would be to ban employers from making that decision. It does not mean that all employers must have a policy or that all employers must restrict concealed carry permit holders from having firearms in their vehicle. What this bill does is it bans those companies from making that decision. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from York, Representative Weaver.

Representative **WEAVER**: Thank you, Mr. Speaker. I want to remind my good friend from Boothbay that last night I just wanted to run a test about how long it took to get your keys out of the car that is locked, your keys are locked inside. It takes about four minutes. It doesn't take two seconds. But I just wanted to check it out last night to make sure I had the information for the day.

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. 134

YEA - Ayotte, Beck, Black, Burns DC, Cain, Cebra, Chase, Clark H, Clark T, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Duchesne, Edgecomb, Espling, Flood, Fossel, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Long, Maker, Martin, McCabe, McFadden, Morissette, Nass, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Plummer, Prescott, Richardson W, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Theriault, Timberlake, Turner, Tuttle, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beavers, Beliveau, Bennett, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Bryant, Burns DR, Carey, Casavant, Celli, Chapman, Chipman, Clarke, Cornell du Houx, Cotta, Dill J, Dion, Dow, Driscoll, Dunphy, Eberle, Eves, Fitts, Fitzpatrick, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt,

Kaenrath, Kent, Knapp, Knight, Kruger, Kumiega, Lajoie, Libby, Longstaff, Luchini, MacDonald, Malaby, Maloney, Mazurek, McClellan, McKane, Morrison, Moulton, Nelson, Peoples, Pilon, Priest, Rankin, Richardson D, Rochelo, Rotundo, Russell, Sanborn, Stevens, Strang Burgess, Stuckey, Tilton, Treat, Valentino, Volk, Wagner R, Webster, Welsh.

ABSENT - Innes Walsh, Lovejoy, Wintle.

Yes, 68; No, 79; Absent, 3; Vacant, 1; Excused, 0.

68 having voted in the affirmative and 79 voted in the negative, 1 vacancy with 3 being absent, and accordingly the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Representative NUTTING of Oakland moved that the House **ACCEPT** the Minority **Ought Not to Pass Report.**

Representative CAIN of Orono **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass Report.**

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

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

ROLL CALL NO. 135

YEA - Beaudoin, Beaulieu, Beavers, Beliveau, Bennett, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Carey, Casavant, Chapman, Chipman, Clarke, Cornell du Houx, Dill J, Dion, Dow, Driscoll, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Knight, Kruger, Kumiega, Lajoie, Libby, Longstaff, Luchini, MacDonald, Maloney, Mazurek, McKane, Morrison, Moulton, Nelson, Peoples, Pilon, Priest, Rankin, Richardson D, Rochelo, Rotundo, Russell, Sanborn, Stevens, Strang Burgess, Stuckey, Treat, Valentino, Volk, Wagner R, Webster, Welsh.

NAY - Ayotte, Beck, Bickford, Black, Burns DC, Burns DR, Cain, Cebra, Celli, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Duchesne, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Long, Maker, Malaby, Martin, McCabe, McClellan, McFadden, Morissette, Nass, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Plummer, Prescott, Richardson W, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Theriault, Tilton, Timberlake, Turner, Tuttle, Waterhouse, Weaver, Willette A, Willette M, Wood, Mr. Speaker.

ABSENT - Innes Walsh, Lovejoy, Winsor, Wintle.

Yes, 69; No, 77; Absent, 4; Vacant, 1; Excused, 0.

69 having voted in the affirmative and 77 voted in the negative, 1 vacancy with 4 being absent, and accordingly the Minority **Ought Not to Pass Report was NOT ACCEPTED.**

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

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

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

SENATE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (S-207)** - Minority (6) **Ought Not to Pass** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Regarding Offenses against an Unborn Child"

(S.P. 454) (L.D. 1463)

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

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

Representative **HARVELL:** Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to this bill because I find an affront on three levels. An affront to my knowledge as a biblical scholar, a student of history and a rational man. I realize that there are those members that have suggested that if we don't agree we should be silent. To them that are issuing these papal edicts, I suggest that my answer is like Martin Luther's at the Diet of Worms in 1521. "Here I stand. I can do no other."

People have wrestled with where human life begins for centuries. In fact, you can go back to what they carved out in sandstone in Mesopotamia to look for the answers. The Levitical law written in Exodus brings a case forth not unlike that which is being asked today, and it suggested two men are struggling and a pregnant woman gets involved and she loses the child. The charge of the loss of the child is a fine, if the wife is lost it is a charge eye for eye, tooth for tooth, life for life, murder. It laid down that principle and they struggled with this 3,000 and 4,000 years ago, and we struggle with it today. One can look at English common law, American law, Roman law, and the Code Napoleon and find naught with those that are unborn are lives in the sense that they are being charged with murder. When abortion was illegal in this country the offense was not murder.

And then we come to the trouble with the bill, the real problem, which is that a woman who is carrying a child is not defined as a person under this new law. We're going to create a new category of personages and take away one. How you can jump this intellectual chasm is beyond me. René Descartes said, 300 years ago, "I think, therefore I am." Follow his logic and my light.

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

Representative **PLUMMER:** Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Some members of the Criminal Justice and Public Safety Committee were upset at the prospect that I would introduce the Minority Report of six members, the report I was on, instead of the Majority Report of seven members. Maybe nobody noticed that I didn't introduce the report, but that's why Representative Curtis introduced the Majority Report. Please do not think that I feel any less passionately about this bill. I am very much opposed to a bill that will define or deem a fetus as an unborn child. I have had second thoughts since my vote in committee and I ask the Lord, as I do every day, to help me with these decisions, and I have specifically have asked every day for help on this decision. I believe I've made the right decision.

One member of this body told me that he would support this bill because it only applies when the fetus could survive outside the woman's body. I pointed out to that member that the bill states that the fetus may be continued indefinitely outside the womb by natural or artificial life support systems until birth. This wording does make a difference. I believe this wording makes all of the difference.

It was also stated, during the public hearing and the work session, this bill exempts the woman or the medical provider with being charged with murder as a result of an abortion. I cannot understand how once you define the fetus as a child that someone else can be charged with murder, but we can overlook the fact that the same fetus we've defined as a child was destroyed by the woman or by her doctor.

If you believe that the fetus is a child at the moment of conception, then I can understand why you would vote for this bill. However, this proposal is only a short, short step from making all women who choose to have an abortion guilty of murder. I will not ask you to follow my light, but I will ask you to vote for what you believe is right. Thank you.

Representative CAIN of Orono **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 Chelsea, Representative Sanderson.

Representative SANDERSON: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand today in support of 1463, "An Act Regarding Offenses against an Unborn Child."

Now because laws can have implications which sometimes extend beyond their stated intent, in considering support of this legislation I spent quite a bit of time researching the issue from both the proponent and the opponent point of view.

Opponents say this legislation erodes into a woman's right to choose and is the first step toward overturning *Roe v. Wade*. They argue that it could infringe upon a woman's right to choose by establishing a fetus's personhood.

In spite of these arguments our Federal Government and 36 other states in our Nation have passed laws concerning crimes against an unborn child. There is case after case concerning this debate, but such claims against this legislation have been found to be patently false time and time again. Prominent legal scholars who strongly support *Roe v. Wade*, such as Professor Walter Dellinger of Duke University Law School, Richard Parker of Harvard, and Sherry Colb of Rutgers Law School have all written that fetal homicide laws do not conflict with *Roe v. Wade*.

Walter Dellinger, who is also a former solicitor general with the Clinton administration, says that although he is a strong abortion advocate, he sees no problem with fetal homicide laws. "I don't think they undermine *Roe v. Wade*," he said. "The legislatures can decide that fetuses are deserving of protection without having to make any judgment that the entity being protected has any freestanding constitutional rights."

In the wake of *Roe*, courts have been willing to tailor the constitutional right to choice and to permit governments to make certain value judgments on the personhood status of fetuses which have been upheld time after time. The signature case in this regard is *Webster v. Reproductive Health Services*. The State of Missouri passed a law which in its preamble stated that "the life of each human being begins at conception." It also says "unborn children have protectable interests in life, health, and well-being." In *Webster*, the Supreme Court reviewed the constitutionality of the preamble and upheld it on the grounds that "the preamble does not by its terms regulate abortion." Neither does this bill. *Webster* made it clear that a woman's constitutional right to choose does not preclude the government from defining the fetus in her womb as a person. It has no impact.

Maternal liberty is a very important word and it's clearly protected under these laws and has been affirmed on numerous occasions in the past 38 years with "safe harbor" provisions in fetal homicide laws protecting women.

LD 1463 is very clear in its exemptions and definitions of what "person" means for the purposes of this law. In spite of what others may say about a woman either being elevated to a different level, not even defined as a person under this law, the reason is she is exempted from prosecution under this law. So

there can be no mistake that there is no erosion into a woman's right to choose. That's why a woman has been exempt, a pregnant woman, under the person of this law. In 1463, the person, the definition is "does not include the pregnant woman whose unborn child is killed or injured." The woman is exempt for purposes of this law. It's also very clear in its protections for a woman's right to choose. In every section, it clearly states "This section does not apply to: Acts that cause the death of an unborn child if those acts are committed during an abortion, lawful or unlawful, to which the pregnant woman consents." During the work session on this bill, testimony by Deputy Attorney General Bill Stokes of Augusta was of vital importance in ensuring that the careful language upheld protections for women in Maine. He assured the committee that it did.

When opponents speak of this type of legislation eroding into a woman's right to choose, also known as maternal liberty, they are usually referring to a woman's right to choose to terminate her pregnancy, but there is another very important choice that women can make. Maternal liberty also means she can choose to carry her child to term. LD 1463 addresses when a woman's right to choose to carry her child is denied by an egregious act of violence perpetrated by another individual, a violent attack which results in either the death of the child a woman may be carrying, or both mother and child.

Right now, under federal law, The Unborn Victims of Violence Act, if a woman is a victim of violence in Acadia National Park or in our federal courthouse, resulting in the loss of her life and/or that of her child, both lives are counted as victims. LD 1463 will make it consistent across our state. It mirrors federal regulation.

We can debate all we want over the status of personhood, but it won't change the fact that to the families and the woman whose child is taken by an act of violence, what a woman carries in her womb is much more than just a fetus. It's a child, their child, their grandchild. Yes, unborn, but a child nonetheless.

I hope you will join me in supporting this legislation. It has withstood constitutional scrutiny in 36 other states across our Nation. This bill is as pro-choice as it gets. It protects a woman's right to choose by providing "safe harbor" provisions and exemptions. But it also acknowledges the loss families suffer when a woman's right to choose to bear her child is violently taken away. It reaffirms maternal liberty on all levels and gives value to a life which would have brought such joy into a family on the day of its birth. Thank you.

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

Representative HASKELL: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I have circulated for you our current law. I wanted you to have an opportunity to see it in its entirety. It's as you would have picked it off if you'd gone onto Maine.gov and looked at this statute. It's nobody else's description of what our current law is or what the penalty is for an assault which results in the termination of a pregnancy. It's very clear here. This is a matter which has been debated here in the State of Maine a number of different times.

In 2005, which is the date of this statute, as you can see, there was some carefully crafted language which did just exactly the number of things that other folks have spoken about today, and that has protected the rights of the woman or making sure that we had the opportunity to provide a penalty for those folks who might have by their actions created a situation which resulted in the termination of a pregnancy as a result of an assault. The penalty for this is a Class A crime. We do not have a Class A+ crime. You can't pick one up and say it's more than another one. A Class A is the top of the line and that's what this current state law provides for. This is adequate. We don't need

another way to go around this. What we have is appropriate and adequate. Thank you.

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

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. LD 1463 very simply is an Act that would allow prosecution of someone other than the mother or her physician that harms or murders an unborn child. An "unborn child" means: "an individual of human species from state of fetal development when the life of the fetus may be continued indefinitely outside the womb by natural or artificial life supportive systems" – in other words, a human that can survive outside of the mother's womb on his or her own, nothing else.

This act is not an anti abortion bill, Mr. Speaker, as the opponents have tried to portray it and will continue to portray it here today – anyone subject to this charge must commit this act both knowingly and intentionally. It excludes both lawful and unlawful abortions to which the mother consents – or during medical practice or diagnostic testing and therapeutic testing.

In fact, this bill should be considered as the ultimate pro-choice protection, because it prevents someone from harming or taking the life of a child that that mother has chosen to take to term to give birth to. Let me repeat that, it's that important. This is the ultimate pro-choice bill because it makes it illegal to take away the rights of a woman that has decided to give birth, take to term that child she is carrying.

During the committee hearing the MCLU testified that one of their core goals is to preserve civil liberties under the Constitution. That happens to be one of my goals too, and that's to give to the unborn "humans" and the mothers that have chosen to give birth to them those same civil liberties.

We also heard testimony from groups like Family Planning, Coalition to End Domestic Violence, and Coalition for Maine Women, all claiming that they support women's rights to be able to choose to give birth to a child or have an abortion. Their positions and arguments were all about abortion, not about this bill and certainly not about preventing a person from taking away from a woman their choice to have a child. But I am not arguing about the woman's right to choose today. We're talking about this bill, 1463.

One physician, speaking against this bill, claimed this is a "political" and "religious" bill and it "impedes a doctor's ability to provide care." These are absurd accusations and there is nothing whatsoever in this bill, as it is written, that impedes a physician from caring for their patient. Nothing.

Another doctor actually said that forcing a pregnant woman to believe a fetus is human was "akin to forcing her to look at gristly photos of a product of conception or ultrasounds of fully formed fetuses." Can any one in this chamber tell me what is wrong with a woman seeing an ultrasound of their unborn child? What is it that we're afraid of here? Why has the rhetoric become so unreasonable? Are we really protecting women's rights, or is it now just a biased philosophy that can no longer be supported by science and reason?

This bill, if passed, would make Maine the 27th in the nation to do so in a similar bill. Twenty-six other states have already passed similar laws that hold offenders responsible for harming or hurting the unborn. Ten other states provide partial coverage for harming an unborn child, so that totals 36 states. We would be number 37. Several very prominent Democratic Senators and Congressmen have said that it is time for us to bring our state statutes into line with federal law. As many of you know, the first law passage resulted from the Laci and Connor Peterson murder in 2002, where Scott Peterson was responsible for the death of

his wife Laci and their unborn child, Connor.

Here in Maine, in 2004, Roscoe Sergeant brutally stabbed his pregnant wife Heather over 30 times while she was carrying her unborn child Jonah. There was no mechanism to charge Roscoe for causing Jonah's death, only his mother Heather. In fact Jonah's life and death could not even be allowed as evidence in the trial. Roscoe also killed the four cats in the home. The killing of each of these cats brings a sentence of up to a year. Where are our protections? Where is our morality?

In 2003, a national poll of 900 registered voters was taken asking "if a violent physical attack on a pregnant woman leads to the death of her unborn child, do you think prosecutors should be able to charge the attacker with murder for killing the fetus?" Seventy-nine percent, the majority of whom were pro-choice, said "yes." Eighty-four percent also thought that Scott Peterson should be charged with the death of both Laci and Connor after that tragic murder.

Here now in the Maine Legislature we are being asked to join the other 36 states and finally recognize that violence against a viable human entity should result in holding the guilty person responsible for that act, not just to elevate the crime that was perpetuated on the mother trying to carry that child. There are clearly two sets of circumstances and lives to be considered here. What if this act of violence kills a mother's 8-month-old baby but not the mother? It means that the state has only the offense against the mother to bring to trial, and the mother isn't going to be mourning the termination of a pregnancy. She's going to be mourning the loss of that child and there is not going to be any remedy for justice for the loss, taking away that child from her.

The Roman Catholic Diocese of Portland went on record as supporting this bill to the extent that the law must provide protection for that viable child in the womb. Their position is that the bill does not in fact go far enough.

I believe, and I think most Mainers agree with me, that we must hold people accountable for inflicting violence on a viable human life no matter where it is. To me it is unconscionable that we prosecute somebody for murdering a baby 30 seconds after it is born, but we ignore that same baby's life 30 seconds before it is born. I ask you today to support me and this bill and its passage, so that we will grant the protection to both the mothers and their baby's life 30 seconds before it is born. I ask you to support this bill today so that it will grant the protection to both mothers and their babies that common sense and science demands. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Guerin.

Representative **GUERIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I went to a baby shower Saturday and there were two young mothers there who had decided to carry their babies to term. They were there celebrating the pending birth of their babies with the grandmothers and aunts, cousins and friends. One of the expectant mother's baby was actually due Saturday.

Knowing that this bill would be before us today, it was much on my mind. I pondered the thought that if this young woman was tragically murdered on her short walk home, that the baby would not even be considered a victim. The grandmothers and aunts, husbands and fathers, would certainly have lost in the baby's death a family member that was loved and planned for. In such a grievous case, certainly the murderer should be held accountable by the law. Please join me and 36 other states in supporting the concept of the Laci Peterson law and voting green on LD 1463.

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

Representative **CROCKETT**: Thank you, Mr. Speaker. Mr. Speaker, Distinguished Members of the House. The United States Supreme Court has interpreted a woman's privacy rights, the right to have an abortion. It is case law, it is well established, and it is beyond the scope and purview of this body to challenge it. But this is not an abortion bill, this is a criminal law. Now you've heard that elevated aggravated assault has remedied this situation. It hasn't, and the reason it hasn't is if a baby is inside a womb and someone were to attack the baby or the mother and the baby dies, the criminal would get sentenced for elevated aggravated assault and not murder. They are both Class A crimes, but the sentencing between murder and elevated aggravated assault are a little different. They are not sentenced as harshly. It's something that you really want to grasp here. This is not an abortion bill.

My wife is pregnant and I am adamant that if someone was to attack her on federal property and the baby was to die, I would want to go after that murderer of that child. It is without question. But that same, across the street, once you get on state land you have no recourse, it's only elevated aggravated assault? This makes absolutely no sense. Thirty-six states have adopted this. It's federal law. We're not acting outside the scope of normal.

I've heard critics in the hallways mention this and harp on it as a woman's choice. I am a constitutionalist. I believe in what the Supreme Court has established. The law is as it is for a woman's right to choose, there is nothing we can do about it in this body. But that is not what this bill is. This is a criminal law and there should be a much harsher penalty for killing a child in a mother's womb. So I would urge you to support the Majority Ought to Pass motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Caswell, Representative Ayotte.

Representative **AYOTTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, I wonder if I can have your permission to speak on all four of these bills at once, instead of just concentrating on this one bill.

The SPEAKER: The Chair would respond that we need to address our concerns to LD 1463.

Representative **AYOTTE**: Okay. Ladies and Gentlemen of the House, I had the opportunity, of course in college, to take embryology prior to the 1973 decision, and in reference to this bill, I can tell you that the child which the mother is carrying is a result of an egg cell from a mother and a sperm cell from a father that unite to form a complete and separate entity. That is and can only be a human being that is dependent upon the mother, not only then but for many months after the child is born.

To place the following in perspective, the length of a human pregnancy is approximately 278 days. Incidentally, I tell you a human being that has a heartbeat that begins between the 18th and the 25th day, the nervous system that is laid down by the 20th day, a complete skeleton by the 42nd day with reflexes that are present, electrical brainwaves as early as 43 days after conception, a brain and all 10 body systems that are present by eight weeks, and if we touch the baby's nose, he or she will flex his or her head backwards away from the stimulus. After nine to 10 weeks, the baby squints, swallows, moves his or her tongue, and if you touch his or her palm, he or she will make a fist. At 11 to 12 weeks, the child will suck on his or her thumb vigorously and breathe his or her amniotic fluid to develop the organs of respiration. Fingernails are present by 11 to 12 weeks, eyelashes by 16 weeks, and all the body systems are functioning by 12 weeks.

Ladies and gentlemen, this is only the first trimester. I tell you

this because it is important that society understand that this is not just tissue, but rather an actual complete and complex human being, a separate individual developing and will continue to develop and grow long after it is born. I will continue my testimony, Mr. Speaker, after or when the other three bills are brought forward. Thank you.

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

Representative **McCLELLAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I also stand to support LD 1463 and I want to say that I also respect the Bible lesson that Representative Harvell stated early in this discussion. At that time in history, the Bible gave us a lot of rules. There was another rule about mold. If there was mold in your house, basically get out because it wasn't good for you. But if you are a believer like me, you know that the covenant that was brought by Jesus Christ trumps all of that, that we're at a different time now.

I want to say that I really didn't desire to be a State Representative, with all apologies. It wasn't really what I wanted to do, but I felt called by God to come up here and it's kind of how it's played out. What a joy when I got up here and I found out how many other people like myself were up here, who are guided by biblical principles. Now speaking for myself I feel, like I said, that I was called here and I was called for many reasons, and I think a big importance to me is the idea of protecting the least. You know we talk about people on welfare, low-income, and we debate those kinds of things, but I think this is at a different level, this discussion, when we talk about the least. To me, the so-called fetus is a child, you know, and we can and we're going to disagree on that fact in this discussion today, but that's how I see it. So I wouldn't be doing my job if I didn't stand up to support this bill, to support the child.

What a joy I found during this discussion and actually in the last discussion to hear people using their bibles and citing Bible principles. So I will close with a couple that send chills to me when I think about them, and I'm paraphrasing these, these are not direct quotes. But there is a Bible verse, I believe it's in Luke, that talks about God knew the hairs on your head before you were born. And I will leave you with the last one, and again it's a paraphrase and I'm not quite sure where this is from, but I know my pastor has told me this, that God, at times, will assess leaders and teachers at a higher level than other people. So thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Palermo, Representative Harmon.

Representative **HARMON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think, therefore I am. In order to think and in order to know that you are, what have you been produced, you are life. To even make that statement you need to have a life. That is one of the most intimate statements made in history by René Descartes. You have to have a life to conceptualize everything that you see, hear and do.

I was reminded of a quote when this bill came up by Pope John Paul II. "Human life must be absolutely respected and protected from the moment of conception." It was in large part due to some of that quote. Nothing can be conceptualized by any of us unless we have life. Nothing matters. Everything else is moot. This building is moot, we're not here. That's a scientific point of view, not a religious point of view.

To go on, when Pope John Paul II said, "Thus the fruit of human generation, from the first moment of its existence, that is to say from the moment the zygote has formed, demands the unconditional respect that is morally due to the human being in his bodily and spiritual totality. The human being is to be

respected and treated as a person from the moment of conception; and therefore from that same moment his rights or her rights as a person must be recognized, among which in the first place is the inviolable right of every innocent human being to life." Nothing else matters when you talk about liberty. We can talk about tax cuts. We can talk about tax increases. Nothing matters if we cease to exist. When we start going down this road about judging of what this life matters or that life doesn't matter, or we make a determination I can't live with this or that, it does not matter. We are degrading our value of life. Life is important, scientifically speaking, morally speaking, and religiously speaking if you believe in a form of religion at all.

The doctrinal reminder provides the fundamental criterion for the solution of various problems posed by the development of biomedical sciences in this field: since the embryo must be treated as a person, it must also be defended in its integrity, tended and cared for, to the extent possible, in the same way as any other human being as far as medical assistance is concerned, period. I know this is a touchy issue. For many people it might be about a mother's right or an unborn fetus's right. But please remember, without life we would not be here, nor would our ancestors. No matter how it started, if you believe that Yahweh had started life or that we developed out of the Big Bang Theory or scientifically we just started, life is essential and life must go on. Any degradation to life, we're doomed for failure at some point. I leave that with you for food for thought. One of my role models that I remember growing up as a kid was Mother Teresa and this quote has always touched me. "We must remember that life begins at home...we must also remember that the future of humanity passes through the family." Thank you, Mr. Speaker.

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

Representative DAVIS: Thank you, Mr. Speaker. Mr. Speaker, I wasn't going to speak on this but sitting here listening, like you, I've been here for awhile. Unlike you, my hair is gray. I remember this bill in the 122nd Legislature. I was a member of the other body and I remember the debate, I remember it very well. A young woman in Bangor had been murdered, stabbed numerous times. She was left to lay for eight hours before her body was discovered and the doctors said at the time, had they been there within three or four hours, they could have saved the child. She was eight months pregnant. It just baffles me, Mr. Speaker, to think in the little town I live in, on the post office grounds this is a crime, and across the street where I own a piece of land it could happen and it's not a crime against the unborn.

I remember in 1995 my granddaughter was born and I, being a little old-fashioned, didn't go into the delivery room with my daughter. My wife did and her husband did, but like I said, I couldn't see how I could be of any help and I chose to stay out in the waiting room. Before long, I heard a baby crying and I became a grandfather and I've got to say that my four granddaughters are the most wonderful things that God ever created. There she was crying. The nurse said to my daughter, she said, "Talk to her. She knows your voice, speak to her." My daughter Heidi did and the baby calmed down. I was so struck by that, that moments before that little baby had no protection and moments later it did.

A long time ago, about 25 years ago, a real good old friend of mine came down with a rare disease. The disease was called Guillain Barre, and I know, Mr. Speaker, you probably know what it is, but a lot of people don't and what happens is a person loses movement but they don't lose feeling. So if a fly lands on your nose, you can feel the fly walk across your nose but you can't

move and brush him off. In those days I was a state trooper in a very rural area and this friend of mine couldn't sleep at night, so I used to stop by his home, his family would be asleep but he'd be sitting up, and I used to take his hands and I used to move them for him and I used to move his feet. It doesn't sound much like the duties of a state trooper, does it, but that's what I did to make life better for him. Now years went by and when I came here to the Maine Legislature in 1999 I went and visited with him, and he told me, he gave me a little instruction. He said whatever you do down here, when there is any question, do what's right. Thank you, Mr. Speaker.

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

Representative CELLI: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. First off, I'm pro-life. I do believe though that the government has wasted 35 years on this issue because it's actually personal choice. I've also heard throughout the day, yesterday, that this is the first step to outlawing abortion. I really don't buy that. You know when cars first came out, when they set speed limits, that wasn't the first step to taking my car away from me. If you believe in women's choice, you must vote for this bill because we're talking about a woman who is choosing to have her baby and that baby being murdered, not by her choice, by someone else's choice. So if you're in favor of women's choice, you must vote for this bill. Thank you.

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

Representative PRIEST: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would remind everybody of what I think Representative Haskell has already told you, that we have on the books now an elevated aggravated assault on a pregnant person, which says that a person is guilty of elevated aggravated assault on a pregnant person if that person intentionally or knowingly causes serious bodily injury to a person the person knows or has reason to know is pregnant.

For the purpose of the subsection, serious bodily injury includes bodily injury that results in the termination of a pregnancy. What is the penalty for that? The penalty of elevated aggravated assault on a pregnant person is a Class A crime. That's 40 years, plus \$50,000.

The bill before you has a Class A crime penalty for 40 years or \$50,000. I would suggest that if your concern is the assault against a pregnant woman which results in the termination of a pregnancy, the law that you've got on the books now is perfectly adequate.

On the other hand, if this is really about abortion and not about the termination of a pregnancy, then I suggest that you ought to take a look at *Roe v. Wade*, which says essentially that an unborn fetus is not a person under the Fourteenth Amendment. You may disagree with that and I understand that many of you do in good faith, but that's the law of the land. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Morissette.

Representative MORISSETTE: Thank you very much, Mr. Speaker. I actually was choosing not to speak on this. However I think that I bring another perspective and not as a lawmaker from Winslow, but as a mother of four children who chose to have those children, who sang to her belly so that those children would know my voice, who avoided microwaves and stayed away from diet soda, which I absolutely love, to protect those children while they were in my womb. But the thing that really bothers me that, as a mother of twins, if on the way to the hospital to give birth to those twins, one of them had died because someone chose to

take that baby from me, then now, 10 years later, I would be looking at the surviving twin, saying your sibling was an aggravated assault. Thank you.

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

Representative **CELLI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Once again, I want to apologize for speaking twice on this issue, but I understand and have a copy of the aggravated assault criminal code, but the difference is it states that if they cause serious bodily injury to a person, that the person knows or has reason to know is pregnant. So in other words, if you attacked a woman that you don't know is pregnant, you don't even know her, she's a complete stranger and you, per chance, kill the fetus, then you can't be charged with this aggravated assault.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Curtis.

Representative **CURTIS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As I read the title of this bill, the last two words have been batted around and it raises the age old question of when does life begin. The last two words of this bill is against an unborn child.

I just want to share a story of what actually happened here a couple of weeks ago when the young cadets were in here as pages. There were two young ladies that sat right here in front of us and did their work, and as I watched them, I began to realize how much they looked alike. So when it was over I asked the girl to my left "Are you girls twins?" She said, "Yes." So I asked the next question which automatically comes to our mind, I said, "Which one of you is the oldest?" The one to my left said, "Well, I came out first." But the one to my right chimed right in and said, "Well, we're both the same age, you see, because God chose to split the egg." So the age old question of when does life begin, we can bat it around from day to day, from debate to debate, but the real issue is in these young ladies' minds, probably 14, 15, 16 years old. They knew the exact answer to when life began.

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

Representative **ROCHELO**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. You have heard today that this bill provides specific protections for the pregnant woman from prosecution. It's been said that there is specific language in this proposal to ensure that a woman isn't prosecuted. But these same arguments were used to support passage of similar laws throughout this country, laws that, regardless of their explicit exceptions for pregnant women and legal abortions, have been used to go after the very women that they claimed to protect.

For example, in South Carolina, this law has been in place for quite a number of years, I believe over 20 years. There has been only one man convicted under this specific law. There have been between 50 and 100 women convicted under this specific law. These laws have also been used to justify doctors violating pregnant women's confidential doctor/patient relationships and used to report them to police. I stand in opposition to this bill and encourage others.

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. 136

YEA - Ayotte, Bennett, Black, Burns DC, Burns DR, Cebra, Celli, Clark H, Clark T, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgecomb, Espling, Fitzpatrick, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley,

Harmon, Johnson D, Johnson P, Knapp, Knight, Long, Maker, Malaby, Martin, McClellan, McFadden, McKane, Morissette, Nass, Newendyke, O'Connor, Olsen, Parker, Peterson, Picchiotti, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Theriault, Tilton, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Willette A, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chase, Chipman, Clarke, Cornell du Houx, Cotta, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Fitts, Flemings, Flood, Fossel, Gilbert, Goode, Graham, Harlow, Harvell, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Keschl, Kruger, Kumiega, Lajoie, Libby, Longstaff, Luchini, MacDonald, Maloney, Mazurek, McCabe, Morrison, Moulton, Nelson, O'Brien, Parry, Peoples, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Treat, Valentino, Wagner R, Webster, Welsh, Willette M.

ABSENT - Innes Walsh, Lovejoy, Wintle.

Yes, 66; No, 81; Absent, 3; Vacant, 1; Excused, 0.

66 having voted in the affirmative and 81 voted in the negative, 1 vacancy with 3 being absent, and accordingly the Majority Ought to Pass as Amended Report was **NOT ACCEPTED**.

Subsequently, the Minority Ought Not to Pass Report was **ACCEPTED** in concurrence.

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

CONSENT CALENDAR

First Day

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

(S.P. 215) (L.D. 726) Resolve, To Reduce Funding to Maine Clean Election Act Candidates Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-253)**

(S.P. 501) (L.D. 1570) Bill "An Act To Reduce Energy Prices for Maine Consumers" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-272)**

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.

REPORTS OF COMMITTEE

Ought to Pass as Amended

Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Protect Consumer Information at the Efficiency Maine Trust"

(S.P. 478) (L.D. 1516)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (S-198)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-198) AS AMENDED BY SENATE AMENDMENT "A" (S-267)** thereto.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**.

Committee Amendment "A" (S-198) was **READ** by the Clerk. **Senate Amendment "A" (S-267)** to **Committee Amendment "A" (S-198)** was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-198) as Amended by Senate Amendment "A" (S-267) thereto ADOPTED.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-198) as Amended by Senate Amendment "A" (S-267)** thereto in concurrence.

UNFINISHED BUSINESS

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

Expression of Legislative Sentiment in Memory of Barbara Jean "Bobbie" Jordan, of Freeport

(HLS 54)

TABLED - January 25, 2011 (Till Later Today) by Representative WEBSTER of Freeport.

PENDING - **ADOPTION.**

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

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

HOUSE DIVIDED REPORT - Majority (11) Ought Not to Pass - Minority (2) Ought to Pass as Amended by Committee Amendment "A" (H-174) - Committee on VETERANS AND LEGAL AFFAIRS on Bill "An Act To Repeal the Maine Clean Election Laws"

(H.P. 489) (L.D. 659)

TABLED - May 10, 2011 (Till Later Today) by Representative CURTIS of Madison.

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

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

Representative **LIBBY:** Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. When we look at all the budget problems that we have and we look at what we're trying to cut and you get all the emails, don't cut this, don't touch this, make sure you increase this, and here we have, in 2010, \$6 million of taxpayers' money was spent for welfare for politicians. If we can't cut this, then I ask you, what can you cut? I request a roll call. Thank you.

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

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

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

Representative **CAREY:** Thank you, Mr. Speaker. This bill that's before us here would kill the Clean Elections program, as you all know. Eighty percent of us, and historically that's been the case recently, have used this program, and has allowed many of us who didn't have connections that would have allowed us to raise the 3, 4, 5, \$7,000 to run for office to be able to run for office and serve our communities, that's the policy argument. That's the policy argument that the people of Maine made. This was a citizen initiated bill that was passed by the voters. If the voters feel that it's time to kill the bill, it should come from them.

It's inappropriate for us to say that it's time to do that. Thank you, Mr. Speaker.

The **SPEAKER:** The Chair recognizes the Representative from Palermo, Representative Harmon.

Representative **HARMON:** Thank you, Mr. Speaker. I, too, rise in opposition to the current motion. This is nothing but welfare for politicians. Nothing more, nothing less. If we want to get elected, we go out and we do the work for it. We raise our own money. That may be hard, it may be time consuming. That's what it should entail. What right do we have to say to give ourselves more money for our campaigns when we are struggling to help fund the Circuit-Breaker program, other Health and Human Services issues, tax cuts to help middle-income people and lower-income people? We need to think about what we're doing. Welfare for us politicians. Nothing more, nothing less. Thank you, Mr. Speaker.

The **SPEAKER:** The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE:** Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. To address the comments of one of the previous speakers about not being able to afford to run for the House of Representatives if you didn't have this money from the taxpayers, he doesn't have contacts. I've run traditional campaigns ever since this was passed. The most money I've ever spent on my campaign was about \$2,000. I've raised it in \$25, \$50, and \$100 contributions from my neighbors, and this is welfare for politicians. It doesn't take a lot of money to run for the State House. It takes a lot of legwork.

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 rise just to address the shorthand reference to Maine Clean Elections as welfare for politicians. Maine Clean Elections, as we should know, does provide money that is used by politicians to run for office. If used correctly, it buys campaign signs, allows postage for reaching out to voters. I don't see how that equates with welfare. If we're going to start throwing around little titles, little handles to characterize that money as welfare for politicians, then what it's replacing is payoffs for politicians, money that comes from private sources who are interested in an outcome here on this floor that helps them. That's the reason why campaign contributions are generally given, to buy influence. I think it's better when the taxpayer provides some money in a well-run program, when that money is used appropriately by people here, which I'm sure is the only way that we would use it. Do we agree on that? Thank you, Mr. Speaker.

The **SPEAKER:** The Chair recognizes the Representative from North Yarmouth, Representative Graham.

Representative **GRAHAM:** Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have to say that I would definitely absolutely categorically not be here if not for Clean Elections. Many of you know I've tried to get this job three times and finally got it by 36 votes. But when I ran this last time, I didn't have a job, and when I applied for jobs such as University of Maine, health care organizations, I was honest with them I was running for the State Legislature. Guess what? They would not hire me. They would not hire me because I was running for the State Legislature. That's a little tough when you've got two kids in college and a husband who is a substitute teacher and a soccer coach. So I take great umbrage that you call this welfare for politicians. I'm a public servant and I would rather run with Clean Elections funds than to have a lobbyist contribute money to my campaign in hopes that I will do their bidding. So Mr. Speaker, and Ladies and Gentlemen of the House, I encourage

you to vote Ought Not to Pass on this bill.

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. Believe it or not, I don't support the Clean Elections and I'll tell you why. It doesn't work. Look out in the hallways. Look over the last few days. Think about all the money that's been spent. It doesn't work and I'll tell you something else. It's politically correct in a way because it sounds so good, Clean Elections, but there is no direct payoff, per se. That's not the way it works. Lobbyists work by appealing to ego, by being pleasant, by saying "Nice job, great speech." They're all nice people, they're sociable, but that's what they're paid to do and if you're not vigilant you get sucked into that trap pretty quickly. So I don't think it's working. In fact, I've been told that the numbers since Clean Elections have actually gone up, there's more of them. Think about how they're always willing to help you draft the bill or in State and Local Government we were complaining this past session about how when we're not here, how they're there in the office of the Executive or somewhere else changing the rules of what we thought we had passed when we left. You tell me that they've lost power? I don't think so. So maybe on this side of the aisle I'm an aberration, but for the last two elections I've run dirty mainly because I thought that in terms of investment, it was a poor investment for politicians to be taking that money that could be served elsewhere, and also I believe that I have the integrity of being able to keep my distance between those that give me money and the votes that I do. I can tell you something honestly. With my vote yesterday, with the racino, I voted against people who gave me money that supported it. Thank you very much.

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

Representative **CROCKETT**: Thank you yet again, Mr. Speaker. I'm sorry to rise on yet another issue. Before we go too far into this debate, just something to think about, obviously that when the committee contemplated this and it's an overwhelming report that I'm going to ask to be read in a moment, it was passed by the people. So that's one of the deferences we gave was that if it gets repealed, it either has to be done by the people or inversely by the court. There is a pending court case. There is going to be a lot of changes, depending on how that court case goes, to Clean Elections. To continue on with the debate when we know that we're going to be back here again next session, either cleaning the Clean Elections portion up because we had a number of carryover bills in committee to deal with this, we may want to limit the debate and hold over all those good ideas until next session. But that's just a thought, and my last request, Mr. Speaker, is may the Clerk read the Report.

Representative **CROCKETT** of Bethel **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 Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was just going to very briefly address a comment made by the good Representative from Portland, Representative Hinck, about buying influence. One of the things that I made sure when I ran traditional campaigns was not to take outside money from my district and not to take PAC money, and if you can be corrupted with the amount of money we raise to run for these seats, especially raising money in \$25, \$50, and \$100 contributions, I would suggest you don't have a money problem, you have a character problem.

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. Just a little bit of history on the Maine Clean Elections.

In 1995, this went to a citizen referendum and at that time the question was "Do you want Maine to adopt new campaign finance laws and give public funding to candidates for state office who agree to spending limits?" One year later, in 1996, 56 percent of the voters approved the new law. The victory was statewide. In 15 of 16 counties, the counties voted overwhelmingly to approve this law. It has now been used in 16 different election cycles, with several hundred candidates participating in each of those cycles, a total of over 1,600 Clean Elections candidate campaigns in general elections.

I also want to mention that over 40,000 people in 2010 made contributions to the Maine Clean Election Act and thousands more contributed on their income tax. There is an income tax check off for that and people give the \$5 checks. Over 40,000 people continued to give to Clean Election funds and hundreds of thousands more on their Maine income taxes. The Legislature, I feel, has traditionally been very reluctant to alter or do away with what the citizens had put into place through a referendum process.

As has been stated before, I think that if the citizens of the State of Maine do not like Clean Elections and they feel they are not working, then they can get a citizen petition to repeal it just as they did to put it in, because this was truly done by the citizens of the State of Maine. This was not done through one corporation that put a million dollars into a referendum campaign and basically bought all the air time and ads. Eleven hundred volunteers went out and collected signatures for this, Maine people that wanted it.

As mentioned also by one of my committee mates, that we do have a separate bill that we have carried over for next year, that if we need to deal with this issue, one of the things that I would also say is that I think that there are some problems with the Maine Clean Election system and I think those are the problems that we have to address. Those are the loopholes we have to address on that. I hope you listen to that because there is another bill coming up, my bill, to address one of those loopholes. But I would say let's close the loopholes for the Maine Clean Elections, but let's not throw out the Maine Clean Elections. Please support the Majority Ought Not to Pass Report. Thank you.

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

Representative **MOULTON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In drawing upon the comments from the Representative from Biddeford, I have to agree much of this so-called Clean Election funding is now rendered meaningless. It was a little over a year ago when the U.S. Supreme Court opened up the floodgates to allow outside organizations to spend almost unlimited amounts on campaigns. So what happens? The money that is spent on so-called clean candidates has now become sort of priming the pump, where in outside organizations can spend almost endless amounts, either for the clean candidate or against the opponent, clean or traditional. In the process, if you've got two clean candidates running against one another, now you've got the bootstrap effect whereby literally tens of thousands of dollars are spent on these candidates and a lot of it is coming from public funding, because those little spurts of money spent by outside organizations suddenly prime the pump and now the matching funds come from the State of Maine.

Now I'm funded traditionally. That means I go out and get money from people. If you look at my campaign report, you see money coming from "outside the state." Usually it's people I've worked for or other connections. There are even reports showing money spent on my behalf from outside organizations, and as I said, it renders the process meaningless because it has boosted the amount spent and where is the accountability in all of this. Regardless of that, I will still vote in favor of the motion Ought Not to Pass, but it is with some reluctance because our system has become flawed, not so much because of the system itself, but what outsiders have been able to do to it. So, as I said, I'm reluctant to vote in favor of this. I think it needs reform and I think it needs reform soon. Thank you very much, Mr. Speaker.

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

Representative CUSHING: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I've certainly enjoyed much of the debate this afternoon, but the mind can only absorb what the end can endure. I would like to move that we Table this until later in today's session.

On motion of Representative CUSHING of Hampden, TABLED pending the motion of Representative BEAULIEU of Auburn to ACCEPT the Majority Ought Not to Pass Report and later today assigned. (Roll Call Ordered)

The House recessed until 7:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-467)** - Committee on JUDICIARY on Bill "An Act To Educate Women on the Medical Risks Associated with Abortion"

(H.P. 684) (L.D. 924)

TABLED - June 3, 2011 (Till Later Today) by Representative NASS of Acton.

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

Representative CAIN of Orono **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

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

Representative PRIEST: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill, the Minority Report, not only requires a 24-hour waiting period for a woman who is seeking an abortion, but also specifies what an attending physician must tell a woman seeking an abortion and also requires that there be a government-written brochure which is

handed to her. Now current Maine law covers a lot of this already and this is sort of going to be the theme of a lot of these bills.

Let me read you what a physician under current Maine law, this is since 1993, must tell a woman who is seeking an abortion. "A physician may not perform an abortion unless, prior to the performance, the attending physician certifies in writing that the woman gave her informed written consent, freely and without coercion. To ensure that the consent for an abortion is truly informed consent, the attending physician shall inform the woman, in a manner that in the physician's professional judgment is not misleading and that will be understood by the patient, of at least the following: According to the physician's best judgment she is pregnant; The number of weeks elapsed from the probable time of the conception; The particular risks associated with her own pregnancy and the abortion technique to be performed; and At the woman's request, alternatives to abortion such as childbirth and adoption and information concerning public and private agencies that will provide the woman with economic and other assistance to carry the fetus to term, including, if the woman so requests, a list of these agencies and the services available from each." That is a fairly wide-ranging and good compromise on this issue.

This bill doesn't add much to that current law, except to say that the doctor has to talk about "the availability of medical benefits" and "the father's liability for support." These questions are probably better left to a social worker rather than to a doctor. As well, in the case of rape or incest, the father's liability for support may be a moot point. As well, the so-called brochure concerning fetal development which the government is supposed to prepare is really unnecessary. These types of brochures in other states have been found to be scientifically inaccurate, containing out of date data and references to studies which are no longer accurate in the medical field. Sometimes these brochures connect abortion with increased risk of breast cancer, mental illness and infertility, none of which has been shown in the medical literature to be true. This bill unfortunately interferes with a woman's right to have an abortion and it interferes with a patient/doctor relationship. It goes far beyond the compromise which is necessary and represents a governmental intrusion into a relationship which should be between a woman and her doctor. It is unnecessary and therefore I urge you to vote against the current minority motion and vote ultimately Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from New Gloucester, Representative Espling.

Representative ESPLING: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I come to you today to ask for your support for LD 924, support for the current motion. I am very aware that this is a controversial issue and an emotional issue. Whenever this issue is addressed, it results in a great amount of debate on both sides. I know that many of you are already decided on this bill. I know that this is not a party issue. It comes down to conscience and though I disagree with some of my good colleagues in this area I still respect you all the same. It is in that spirit that I come to you today in hopes that you will at least listen to my words.

I understand that our focus this year in the Legislature has been on our economy. We have enacted health insurance reform, worked on regulatory reform, and have had other proposals put forth. This has all been an attempt at making Maine a more business-friendly state. However, many of the fine legislators in this body have proposed other pieces of legislation pertaining to consumer protection, the environment, hunting and fishing, and I could go on. We are all here to represent the

people that we serve and we are their avenue for change to laws that they see are needed. And yes, that means the social issues too.

Early on after winning the election in my district, I was approached by a young woman from one of the towns in my district that I now represent who had concerns around our current abortion laws or lack thereof. This legislation protects women who are not always provided with clear information in regards to her options in the case of an unexpected pregnancy. It ensures that she is well informed with unbiased information and is given time to think about it. I have heard argued that this information would be "government propaganda" since the bill does ask the Department of Health and Human Services to provide the facts concerning the risks of the abortion procedure and the risks of childbirth, scientifically accurate information about the fetus, the availability of medical benefits, and the father's liability for support.

It is my hope that with this piece of legislation women can truly make an informed choice when it comes to their health and well being. DHHS and the Maine CDC put out publications all the time on an array of topics. I went to DHHS. There were posters on the wall put out by them. One said Don't Text and Drive. One was a Suicide Prevention Hotline poster for that hotline. I asked them for copies of all the information that they put out in their various offices and they said, are you sure, because we could bury you in paperwork. Now if we're asking DHHS to put out a piece of literature and we're calling it government propaganda, then we might as well call all of it government propaganda.

The purpose of having DHHS develop the brochure is to avoid any advocacy on behalf of religious groups or the very abortion clinics who make money off of performing the abortions. This bill makes certain that the information a woman is given regarding her options is consistent and that she has the information without having to ask for it. This bill makes certain that she has the information and has time to think about her choice as well, as does legislation already in place in other states. There are 31 states that maintain informed consent laws requiring that women be given certain information before an abortion. Twenty-four of these states require that the information be given one day, usually 24 hours before the abortion procedure.

Testimony by woman after woman was given before the Judiciary Committee, women who made the choice to have an abortion and women who didn't. We heard over and over again about women saying they were not given enough information by the abortion provider and women who felt rushed into making an abortion decision.

We also heard from the abortion clinics. They stated that it is a rare instance when women are given a same-day abortion. That does not seem to be their standard practice. After all, how often do we go to the doctor for a diagnosis and have surgery the very same day but for an emergency? As all laws should be, this bill protects women in those situations where this is not the standard practice. Any physician can perform an abortion in Maine but not all of them do, but they can. This is a protection in the law so that women are not taken advantage of or exploited for financial gain, rushed into a decision or not given information. My heart goes out to women in the situation of an unexpected pregnancy. It pains me to see woman after woman feel so stuck, whether by socioeconomic circumstances, by age, whatever the reason may be that abortion seems to be their only choice. It pains me to see the regret on the face of a woman who has an abortion. It pains me so much more when she looks back and says if I had only known the risks, the size of the fetus or the availability of help. It pains me to see how alone a woman feels

in her decision. Some would argue that this legislation is not necessary; after all, what other medical procedure would require someone to wait or have this type of information. Well, I ask you to search your heart and deep down inside, ask yourself if abortion is truly just another medical procedure. Consider the motion on the floor with compassion and understanding for the women in your lives. Remember, this does not take away the choice to have an abortion. It is my hope that with this piece of legislation, women can truly make an informed choice when it comes to their health and well being.

The following is a quote by a Supreme Court Justice in one of the numerous upheld informed consent and waiting period court decisions. I quote, "It is self-evident that a mother who comes to regret her choice to abort must struggle with grief more anguished and sorrow more profound when she learns, only after the event, what she once did not know..." Women have a choice, this does not change that, but women also have a right to know and a right to have time to think about it. Thank you, Mr. Speaker.

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

Representative VOLK: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. Whether you are pro-life or pro-choice, I think we can all agree that abortion, if it happens at all, should be safe and rare. I think we can also agree that education is never a bad thing and informed consent is expected for any medical procedure. I urge you to read the excerpts of testimony on this matter circulated by the Representative from Raymond, Representative McClellan. In the words of one woman, "Why is an abortion the only procedure that falls outside the rules?"

A 2009 study found that abortion increases the risk of pre-term birth in a subsequent pregnancy by 37 percent, with two or more abortions increasing the risk by a staggering 93 percent. Another 2009 study found similar rates of pre-term births among mothers who had had previous induced abortions. That study further found that not only is she much more likely to give birth prematurely, but she is twice as likely to have a very premature baby at less than 34 weeks gestation. As a woman I find these statistics stunning. This seems like a well kept secret when you consider that, in 2006, the Centers for Disease Control announced that premature birth is the leading cause of infant mortality and a risk factor for many disabilities. All women deserve to know these risks, but women or girls about to make a choice that could not affect their own health in the short-term, but that could affect their long-term health and even the health of their future children, deserve the right to know these facts.

In a 5-4 plurality decision on *Planned Parenthood v. Casey*, the Supreme Court agreed, upholding a challenge to Pennsylvania's informed consent mandate for abortion. They stated, "As with any medical procedure, the State may enact regulations to further the health or safety of a woman seeking an abortion." They went on to say that any delays or burdens associated with a 24-hour reflection period or informed consent is not "...unreasonable, particularly where the statute directs that information become a part of the background of the decision."

In my committee I became known for asking the question, what do other states do? In fact, 31 states maintain informed consent laws requiring that women be given specific information before undergoing an abortion. Twenty-four states require that the information be given at least 24 hours in advance of the surgery. Just six other states do not provide a reflection period for a woman to review and consider the risk information before going through with her decision. Given the severity of some of the potential long-term complications associated with ending a

pregnancy, it seems medically unethical not to allow a time of reflection and reconsideration before consenting to such a potentially life changing medical procedure. LD 924 respects women by giving them accurate information about their fetus, the abortion procedure, its potential long and short-term complications, as well as information on the risks of childbirth and 24 hours to weigh it all. The choice of whether or not to have a child is a major decision with lifelong consequences, shouldn't it be an informed one? Thank you, Mr. Speaker.

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

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Informed consent is necessary for all surgical procedures, from removing an age spot to an ingrown toenail, to an appendectomy or a face transplant.

Mandating that physicians obtain informed consent before performing an abortion would be passing unnecessary legislation, a waste of taxpayer dollars.

We know, of course, that this is not what this bill is about. We also know that it is not about dispensing accurate medical information or what this bill refers to as education.

What is the accurate medical information that should be disclosed before an abortion is performed? According to the American College of Obstetrics and Gynecology, risks and complications of abortions relate to how long a woman has been pregnant. The earlier a woman has an abortion, the safer it is. Although an abortion is a low-risk procedure, some abortions are a form of surgery. As with any surgery problems, even death, may occur. I have to smile a little bit when I say that because I feel like one of those commercials for one of the medications on TV that always lists death at the end.

However, in most cases, the risks from an abortion, especially early in pregnancy, are less than the risks of giving birth to a baby. Most women who have an abortion can get pregnant in the future. Having an abortion does not increase a woman's risk of cancer.

Here are more of the facts: Eighty-eight percent of women who obtain abortions are less than 13 weeks pregnant. Of those, 97 percent report no complications at all, fewer than 3 percent minor complications that can be handled at the medical office or abortion facility, and less than .3 percent has more serious complications that require some additional surgical procedure or hospitalization. Death occurs in literally one in a million early abortions or those performed before eight weeks. In later abortions, the death rate increases because of risks from anesthesia, infection or uncontrollable bleeding. But still, the risk of death is 3 in 100,000 abortions up to 20 weeks gestation, and in comparison, a woman's risk of death during pregnancy and childbirth in the U.S. is over 13 per 100,000, a considerably increased risk for a normal pregnancy and delivery.

You may have heard much about the physiological trauma of abortion. Depression from abortion is much less common than postpartum depression after childbirth. Some women regret their abortion, many others do not. A recent study in the Journal of the American Medical Association clearly shows that fear mongering about postpartum depression and the psychological trauma has no basis in medical fact.

I think we can agree that there are a number of facts that need to be shared for adequate informed consent, but I also feel that we must remember that each person who presents with an unplanned pregnancy needs to be individually assessed. As you might expect, the risks are not identical for everyone. One has to take into account a woman's age, health status, past history, family history, mental health status, family situation and so on.

Medicine is not only a science. There is also an art to it, which makes legislating health care practice a risky endeavor. This is not a time to read a "script" to a woman without taking her emotional status into account. This is a time to listen and understand her questions, concerns, and feelings. There is no easy decision for anyone in this situation. No decision that won't have to be lived with for a lifetime, no painless decision.

What is most upsetting to me about this legislation is that it is designed to falsely scare women. This is the ultimate "fear tactic." Many years ago, I saw a young woman with an unplanned pregnancy that had called a hotline number in the newspaper and went to so-called "counseling." She was forced to watch a video showing a procedure of a late-term abortion. She came to me traumatized, agitated and in tears, not knowing where to turn. No matter how you feel about choice in a woman's life, surely you cannot support using shame, fear, and abuse as a way to influence that woman's choice.

Please take the advice of the Judiciary Committee on this, the majority of the Judiciary Committee, and other legislation that intrudes on private health care decisions and support the Majority Ought Not to Pass recommendation. 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 don't rise often to speak, but this is an issue that I feel very strongly about. I am almost 65 years old. I remember back in the days that this would never ever have been a conversation we had because abortion was not legal. That's not what we're debating in this chamber tonight. What we're debating is a woman's access to a legal procedure.

One of the things that this bill will do, unfortunately, is it will make it more difficult for women with limited transportation or who live a great distance from places where there are clinics to receive an abortion. No woman makes this decision lightly. Most of the women who come into an abortion clinic, there are very few places in this state that actually perform them because we have very few, but she's probably had several appointments with her own personal physician, so I don't think another 24 hours is going to make a whole lot of difference.

It's a very difficult time in a woman's life. It's a horrible choice to have to make and I am incredibly grateful that I've never been faced with it and nor have my daughters, but if you put another barrier up, it just makes a traumatic period in that woman's life that much harder. We have informed consent, we have doctors who are well trained and qualified to counsel and we have women who, if they aren't mature enough when they start out, become mature enough very, very quickly to make this decision. So I ask you to defeat this bill and let's not fix something that's not broken. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Caswell, Representative Ayotte.

Representative **AYOTTE**: Thank you, Mr. Speaker. In the interest of time, Mr. Speaker, I will address or refer to the three bills by rising only once. Of course, Mr. Speaker, I sincerely thank the Representatives, Representative Tyler Clark, Representative Ellie Espling, and Representative Dale Crafts, who had the foresight and wisdom to submit these bills. I sincerely thank them. However, I look forward to a time when bills such as these that refer to abortion will no longer be necessary. I believe that a day will come, although I may not be around to see it, abortion will no longer be necessary. I look forward to a day when this egregious and barbaric act will no longer be part of our culture. I look forward to a day when our society and our culture will set aside its Victorian attitude and will

no longer look at an untimely pregnancy as a stigma on a young girl. It is my sincere hope that a time will come when the burden of an untimely pregnancy will not be looked upon as an inconvenience or shame, so that the mother will feel obliged to abort the child, that a time will come when the care for the pregnant mother and her child will be done without bitterness, without ridicule or without reluctance, when society will understand that a mother is carrying a human being with the same worth as all of us and it is developing in her womb.

Ladies and gentlemen, I can tell you that as long as humans and human nature and the human condition exist, there will be untimely pregnancies. I look forward to a day when a mother will no longer feel the need to abort her child, when the mother will no longer have to carry the burden of guilt for a lifetime because we as a society cause her to feel shame. We as compassionate humans can and must do better. Ladies and gentlemen, it is essential laws such as these that discourage abortion be implemented and laws that support adoption and foster parenting be encouraged and promoted. I ask you to remember and realize that the father of all of us was a foster child and grew to manhood with a foster father.

Again, I look forward to a day when the scourge of abortion will no longer exist, but rather be a shameful part of our history like slavery, child labor, or a time when women were not allowed to vote. When the Blessed Virgin appears in a small village called Medjugorje in Yugoslavia, she always mentions to the visionary how this pains her. I therefore look forward to a day when abortion will no longer darken the conscience of our society, but rather that Americans will remain, as always, the beacon of enlightenment and an example to the whole world. So that to quote the words of an old movie based on the book by Margaret Mitchell, "You will hear about them only in storybook and song for now they are gone with the wind."

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Guerin.

Representative GUERIN: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. When my grandmother Hattie Smith turned 21 women were not allowed to vote. The lawmakers and decision makers of her day did not deem women competent enough to study the issues, reflect and make a good decision. Well, we've come a long way, baby. Women now need to step up in making their own informed decisions in the doctors' offices. We deserve to have factual information compiled by DHHS and a 24-hour period to ponder our options before making a life-changing decision, no pressure from the for-profit abortion provider or the boyfriend. There is no danger in factual information or 24 hours to ponder the facts and make a decision. Honor women and join me in voting green.

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

Representative FLEMINGS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today in opposition to the pending motion and in opposition to LD 924. Several folks have spoken about this issue already and I would like to focus on a part of this bill that requires a woman to wait at least 24 hours before they may obtain an abortion. They must wait this 24 hours because of the requirement that the provision in the bill that says that the doctor must read this particular script, and we've heard many reasons why this is not appropriate, and then a woman must wait 24 hours before they may obtain the abortion. Waiting periods increase the medical, emotional and financial cost of an abortion.

My district includes several island communities, including communities that are remote and unbridged, meaning a person must take a boat, often a scheduled ferry, to get to and from the

mainland. When it comes to health care, and in particular abortion care, a woman would have to wait, would have to travel a great distance including taking a scheduled ferry and traveling a great distance to access that difficult care. For the women I represent, a 24-hour waiting period is a very real barrier for a woman attempting to access her constitutional right to an abortion. Furthermore, in order to meet the demands of LD 924, women and their families would need to make arrangements for two days off from work, two days of childcare, two trips to the provider or an overnight stay in the provider's town. This is prohibitively expensive for many women of lower incomes and many women living in rural areas such as mine. Additionally, mandated waiting periods are unnecessary because women already have to wait for an appointment due to the very limited number of abortion providers in Maine. This is a bill searching for a problem that does not exist in Maine and certainly not in the district I represent and many others here represent.

As a woman born after *Roe v. Wade*, I and my peers are lucky to have grown up in a time when we did not have to worry about accessing confidential health care and when we could seek a safe and legal abortion, should one ever need to. Mandated delays are an infringement on our basic rights and I shudder to think of the harmful impacts this bill can have for my constituents and others. As others have said before me, I implore you to consider this bill with compassion and with an open heart for many women, past, present and future, who face the extremely difficult situation of which we're talking. These decisions are never easy and providing increased barriers and increased shame and humiliation will only harm these women and deny them the privacy and respect they deserve to make the private decisions in their lives. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from New Gloucester, Representative Espling.

Representative ESPLING: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to rise and in hearing some of the debate correct a few misconceptions about this bill. I do have an amendment that we will be talking about, perhaps later, that changes it, to the attending physician, to a physician or a physician's designee.

The SPEAKER: The Chair would remind the Representative that we're not able to talk about an amendment that is not before the body.

The Chair reminded Representative ESPLING of New Gloucester to confine her debate to the question before the House.

Representative ESPLING: Thank you, Mr. Speaker. The issue with traveling and having to wait 24 hours and having to go to the clinic and then wait 24 hours and having people have to pay and all this financial expense, that issue should be taken care of. As far as a doctor reading a script, this brochure that I'm suggesting in the bill would just kind of be a guide for the doctor to use. It is not a word for word script that the doctor has to read. It is just something that the doctor has there as a resource. A doctor could give the patient even more information than is suggested in the brochure. It is not a word for word verbatim script that a doctor has to read.

In the bill, it suggests giving the information orally and in written form, and I don't know if any of you have ever been given a life-changing diagnosis. I was diagnosed with cancer at 29 and when you're in that office and they're telling you something that's life changing like that, and they're trying to tell you orally what your options are, you don't process that very well and you leave that office and you might not even remember what they said. This kind of reminds me of that and I just felt that it is very important that the doctor can go over things orally with the patient

and be able to give the patient something that they can read on their own later when they have questions in the privacy of their own home, when they have time to process the information. Time to process the information and having the information is very key here, that's the purpose of this bill. Thank you.

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

Representative **McCLELLAN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Thank you for listening at this late hour. I'm honored to serve with Representative Espling and so I rise to support this bill that she's worked so hard on. Mr. Speaker, earlier one of the Representatives kind of insinuated that Representative Espling had ulterior motives with her bill, had an agenda, and I don't believe so. In fact, I would say it might be the opposite, that there's an agenda to defeat this bill. Many, many years ago when I was younger I was deathly afraid of needles and as I got older and got into college, it struck me that it was kind of a silly thing so I started to give blood and I'm proud to say I've given blood for probably 30 some odd years. If you are like me and you go to the Red Cross and give blood regularly, you know it takes about 45 minutes to read the packet. It is a pain in the neck, but I think it is very valuable and I've watched people read that information and leave because they had a temperature or they didn't feel good or for whatever reason, so I believe this is kind of what she's asking.

Now a few minutes ago, I'm actually, sadly, I'm originally from New York and I kind of follow the news in New York and a few minutes ago I was kind of looking back about six months ago. I heard really an alarming statistic, that in New York City, in the African American population, the abortion rate is over 60 percent and in fact I mean there is a fear that the African American population is going to disappear. As I said, Mr. Speaker, I went on the computer just to see if I could find that statistic and I ran into an ad for an abortion clinic and it was a very happy ad. It really made it like a very pleasant experience and I don't think anybody here thinks that's what the case is, but if you looked at the ad I just looked at, you'd think it was a walk in the park.

Also, about six months ago, Mr. Speaker, there was a series of films. There was an undercover exposé that cameras went into some abortion clinics. Now I don't believe it was in Maine, I'm pretty sure it wasn't, but it was around the country, and we watched as abortion clinic staff were talking with people they thought were 14 years old and telling them how to get abortions and how to get around their parents. So that was concerning to me and it makes me just think that can we really ever have too much information. So I would just ask people, too much information is not a problem and I would just say to please support this bill that Representative Espling has put before us. 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. I am not standing here questioning anyone's motives; I believe that everyone is trying to do what they think is right. However, to say that women need to be protected and given information is an insult to both women and their doctors. It says that women are not capable of asking for the information they want or need and the doctors need to be mandated to give information about that procedure. Thank you.

The SPEAKER: The Chair recognizes the Representative from Denmark, Representative Sarty.

Representative **SARTY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was on the Judiciary Committee when we heard these bills and the testimony

was quite moving. Many of the women who did testify as to their experience in this issue decades later still showed clearly some emotional regret about the decisions that they had made, and many stated that they just wish they had had a chance to be more informed as to what they were doing. Certainly you pick up on that type of testimony.

We also had the administrators of three of the family planning clinics that are in our state come before the committee and describe the procedure. One of them was the consultation prior to the actual procedure, and like many have said in testimony, there are difficulties having to make two trips and in some cases great distances. But it was a little disheartening to see that many consultations were nothing more than the phone call from the prospective patient inquiring as to the procedure and they were just told to come in and at that point they did go through the procedure.

One of the administrators of one of the clinics of the state, as they left the room I walked out and was talking in the hallway with her and I said, gee, I wish we had more data on what the true statistics are on this issue in the State of Maine, and she said, oh, I have that right here, and she gave me a sheet of paper. It showed, in 2010, that the clinics in the State of Maine performed roughly 2,700 abortions. What was disconcerting to me as I looked at this because it was broken down by age category, single, married and so on, was how many had repeat procedures, up to three or more, and the number was just under 300 for 2010. When I looked at that, I said to the administrator it would almost seem to me with this repeat procedure for specific patients that it's a method of birth control rather than responsible efforts to not become pregnant, and she did not challenge that at all. The very fact that all of us are sitting in this room today and 40 years ago this same subject was being debated in this Legislature, throughout the country and Washington, D.C., and we are still talking about it, to me, indicates we haven't got it right yet. Thank you.

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

ROLL CALL NO. 137

YEA - Ayotte, Black, Burns DC, Cebra, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgcomb, Espling, Fitzpatrick, Foster, Fredette, Gifford, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Knight, Long, Maker, Martin, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Richardson W, Rioux, Sanderson, Sarty, Sirocki, Theriault, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Willette A, Winsor.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Bryant, Burns DR, Cain, Carey, Casavant, Chapman, Chase, Chipman, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Fitts, Flemings, Flood, Fossel, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Keschl, Knapp, Kruger, Kumiega, Lajoie, Libby, Longstaff, Luchini, MacDonald, Malaby, Maloney, Mazurek, McCabe, Morrison, Nelson, O'Brien, Parry, Peoples, Peterson, Picchiotti, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Tilton, Treat, Valentino, Wagner R, Webster, Welsh, Willette M, Wood, Mr. Speaker.

ABSENT - Celli, Gillway, Innes Walsh, Lovejoy, Wintle.

Yes, 57; No, 88; Absent, 5; Vacant, 1; Excused, 0.

57 having voted in the affirmative and 88 voted in the negative, 1 vacancy with 5 being absent, and accordingly the **Minority Ought to Pass as Amended Report was NOT ACCEPTED.**

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

HOUSE DIVIDED REPORT - Majority (9) Ought Not to Pass - Minority (4) Ought to Pass as Amended by Committee Amendment "A" (H-469) - Committee on JUDICIARY on Bill "An Act To Require a 24-hour Waiting Period prior to an Abortion"

(H.P. 98) (L.D. 116)

TABLED - June 3, 2011 (Till Later Today) by Representative NASS of Acton.

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

The **SPEAKER:** The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like your attention for two minutes. As a teacher I'm used to asking that. You know in life we have many times that we do overs. I did overs this morning getting dressed deciding what to wear. I made a choice for lunch and decided it was a bad choice and I'm never going to order that sandwich again, but I can make another choice the next time I go to that particular place. I play solitaire and I do over and do over until I can say, yes Joanie, you're a winner, because I can keep doing it until I can make it come out, because I know how to cheat on that computer by doing it over and making do, and I know how to do that because I know the decision-making process. We all learned that, that we define our problem and that we consider all the alternatives. We define our alternatives, we consider them, we weight them and they we say, choose one, do it, and then evaluate it.

Unfortunately, death you can't do over, and all I ask is that with this amendment that people have a chance to think 24 hours. When I go to the doctor's and hear something I need to register that for 24 hours. A young person that I've taught in school, when they are in the situation of having turned the stick blue, they want instant gratification and a do over quickly. They don't think about the consequences that that decision they make may mean, whether or not they ever have children again, because every child is precious. They just need to think about it. I'm not judging you because I don't know what's in your heart and you don't know what's in mine. We don't walk in each other's shoes. I honestly think that I wore black today in my decision-making process because to me it was very sad that we are in this House discussing something like this, when it should be between you and your God. Thank you.

The **SPEAKER:** The Chair recognizes the Representative from Easton, Representative Clark.

Representative CLARK: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is my bill. I didn't put this in because I have an agenda. I didn't put it in because I want to end abortions. It's not what this is about. I put this in because a really good friend of mine was 18, she was pregnant and she went to a clinic, and when she was there she told them that she was pregnant, she told them that she was going to college, and the nurse tried to talk her into having an abortion. She said that the nurse told my friend that she would ruin her life if she had that child, she could still go to school if only she would have an abortion, it's an easy process, we can take care of you. That's the reason why I put this in. This isn't trying to say that women don't think about having an abortion. I know

the vast majority of them do and the only argument that has been presented against this is that it already takes place.

There is already a waiting period because they get referrals. It is common practice for these clinics not to give abortions within 24 hours, but it is not against the law. Any doctor in the State of Maine can give an abortion and it is very possible that they might think that it's in that woman's best interest if she has an abortion, and if I let her go home, she might change her mind. So they could influence her and a doctor is someone of a position of power and someone young and scared and just found out that day that she was pregnant, it could influence her decision, and that decision should be made by the woman. It's their choice, not the doctor's, not anyone else's. It's their's. And because it's already common practice to wait at least 24 hours before abortion takes place, I don't think it's irresponsible for us to put this in law and I believe it's a consumer protection because it will prevent situations, like what happened to my friend, from happening in the future. That's the reason I put it in. I have no intention of stopping abortions because it's not within our power, and I think this will help people in the future and that's why I thank you for your time.

The **SPEAKER:** The Chair recognizes the Representative from Gorham, Representative Sanborn.

Representative SANBORN: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. One serious consequence of this bill would be to increase the number of second and third trimester abortions, which I doubt is what this bill's sponsor is intending. We know this because in Mississippi, who passed a mandatory 24-hour delay law in 1992, an analysis of abortion data from the state demonstrated that the proportion of second-trimester procedures increased by 53 percent, from 7.5 percent to 11.5 percent of those abortions performed.

Realize that in practice, women do not go to the doctor's office to get an abortion on the same day unless there is a serious emergency. Women will first go to their primary care provider or OBGYN for a consult, confirmation and dating of her pregnancy, and be counseled about her options. If she so chooses, she may be referred to an abortion provider. In Maine, there are only three public abortion providers. All of these providers offer abortion only once a week. Requiring a second visit with the abortion provider means a third doctor consult, another day off work, another day arranging child care, and possibly another overnight stay in the provider's town. If an abortion becomes delayed into the second or third trimester, a patient will likely have to travel to Boston. This is all cost prohibitive for poor and rural women, further increasing health care disparities.

Despite what some will tell you and we're already discussed it here today, having a first trimester abortion is lower risk than carrying a term pregnancy. The medical complications do increase, however, by 20 to 30 percent after the 8th week of pregnancy. The better alternative is to support current Maine law, support Planned Parenthood, family planning clinics, school health clinics, and sex education in our schools and work toward universal health care. It is critical to make sure that contraceptive information is readily available to all women and their partners. This is a surer way and a safer way to reduce abortions, a goal we all believe in. Thank you.

Representative MALONEY of Augusta **REQUESTED** a roll call on the motion to **ACCEPT** the **Minority Ought to Pass as Amended Report.**

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

The **SPEAKER:** The Chair recognizes the Representative from Augusta, Representative Maloney.

Representative **MALONEY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be voting to have government less involved in people's lives, not more involved, and I'm going to be voting for less government regulation and no more government regulation.

A 24-hour waiting period, as we've heard, is unnecessary. There are three public entities that provide abortion: Planned Parenthood in Portland, Family Planning Association in South Portland and Augusta, and the Mabel Wadsworth Women's Health Center in Bangor. Each of these is open one day a week. We heard at the work session in Judiciary that Family Planning Association has only performed abortions on the same day twice, that in one case the woman in question was accompanied by her husband and her mother. She thought was scheduled at Planned Parenthood but she had the wrong day. Planned Parenthood was closed so she called Family Planning and they were able to accommodate her. In the second case, the woman was suffering from extreme hyperemesis, the symptoms of which are uncontrollable vomiting. Her doctor recommended an immediate abortion.

The point is that we don't have a problem here in Maine, that women are putting in the time and thinking about this beforehand. But under this bill, women would have to do two trips to the doctor, even if that means a five hour drive one way. We learned from the experience in other states that show that a 24-hour waiting period does not decrease the number of abortions and this was particularly important to me. Instead what it does is it increases the number of second and third trimester abortions, which are far more dangerous. So women are thinking long and hard about this and whether or not I agree with a woman's decision, I cannot vote to make that decision for her. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Crafts.

Representative **CRAFTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. How many times have each one of us in this room come to a decision in our lives, on a major decision that we were trying to make and we slept on it, and then the next day we made a different decision? I would be surprised if it hasn't happened multiple times to every one of us here. What's wrong with giving her some time to think about it, maybe to talk to somebody? I don't understand. This is very reasonable legislation. I ask that you support it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Foster.

Representative **FOSTER**: Thank you, Mr. Speaker. Mr. Speaker, Fellow Colleagues of the House. I seldom rise, but I feel this is a very important issue and I certainly do not sit in judgment of anybody here. I know you know what's in your heart and I certainly know what is in mine. I am a mother of four children and a grandmother of nine. Why wouldn't one day, 24 hours, be as important or even more so to a young woman making a life-altering decision, one for her life and the life of her unborn child? There isn't any question that this is a painful journey for many women and perhaps the outcome will not change, but the time of awareness may reveal a personal revelation eliminating any regrets which could loom perilously throughout her life. As a society we're willing to protect vernal pools to keep viable frogs and salamander eggs safe. We rescue endangered species. Progress stops at the sight of a spotted owl on her nest. We champion the cause for dogs and cats that have been neglected and abused. There are campaigns to save the dolphins and the whales. And we should, we should do these things. They are a vital part of our ever evolving ecosystem and we do this because we care. That's what we do as human beings, but what about our own? Let's not fail in our

responsibility to the unborn and the young women who need our support and protection by offering them a real choice. This shouldn't be political. This is reasonable. A day, 24 hours, that could make a big difference. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Thank you, Mr. Speaker. When I rose before, I guess I was thinking from my heart rather than my brain when I failed to mention why I put in the amendment, and the fact is my good colleague, committee member, mentioned that there are many people that cannot go to clinics and it would take days to get there. The purpose of this bill was so that someone could go to their family doctor and get facts. You know, as I said before, young people want instant gratification. If you're not wanting that pregnancy, you want it over, you're not wanting to hear all of the facts, you need to just have a moment to think about it and by going to the doctor first you're not going to have the travel problem. I keep hearing about statistics in Mississippi. I have yet to hear the statistics in Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from New Gloucester, Representative Espling.

Representative **ESPLING**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just rose because I heard some information coming about second and third trimester abortions. I find it interesting that we're worried about having a 24-hour wait when you have to call to make an appointment and sometimes you can't get your appointment for a week, and we're worried for a 24-hour wait pushing someone into a second or third trimester? If you're making an appointment and your appointment is for a few days later, aren't we making that same risk of jumping into a second or third trimester? So I kind of find that interesting because you do have to make those appointments and as the good Representative said, I'm not sure which one, but that many times as there were only two cases where women got the abortion the same day, this is a protection in the law for when this doesn't happen like it should, and that it what it is. Thank you.

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

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. A number of us in this debate have talked about the natural human need to think twice before we act. I think in decisions of this sort that we're talking about here tonight, that would be eminently responsible and reasonable. But the difference is that here tonight we're not talking about the human need to think twice before we act. We're talking about the government telling a person, a pregnant woman, that she must think 24 hours before she acts. I would suggest there is a world of difference between us taking it on as a matter on reason and thoughtfulness, personally to take responsibility and think twice, but to interject the government into that equation, to say that government is telling you to think twice before you act, I think there is a world of difference. It's not the same thing at all. For that reason alone I hope that you will reject the Ought to Pass Motion that's on the floor. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Treat.

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just wanted to say that I am opposed to the pending motion, I am opposed to the bill, and I listened to a number of people here tonight say how we don't want to go back to the Victorian days and that these bills, this one we're talking about right now is to move to this new day, and frankly, I find it to be quite the opposite. This bill seems, to

me, to be exactly coming out of the Victorian period. I'm not aware of any other medical procedure, certainly no medical procedure that a man has to make a decision about whether or not to undergo, where there is a government-mandated waiting period so that that man can cool off and think things through. I'm sure that the legislator from Augusta, Representative Foster, didn't mean it that way, but to compare women to our protective attitude towards kittens again, it just speaks to me of something that is treating women differently.

These are very difficult decisions to make, they are not taken lightly, and as others have stated, others who represent districts in this state that are much further away from medical services than mine, these are medical decisions that are not actually logistically very easy and a 24-hour waiting period for some people will in fact turn into a waiting period of much longer length. This is truly unnecessary legislation.

We heard from the Representative from Brunswick, Representative Priest, who read out Maine's law. Maine has very comprehensive laws which we have had in place for many years. We're tweaked them here or there. They do work. We are not in New York City. It's true we are not Mississippi, but we're actually a lot more like Mississippi in terms of being a rural place than we are like New York City. I think that the majority of the Judiciary Committee did the right thing when they voted Ought Not to Pass on this bill. I urge you to vote against the pending motion so that we can go on to adopt the Majority Report in this bill.

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

Representative BURNS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I find this to be really tough stuff because it's serious stuff. It's life and death issues. I was just thinking about this 24-hour waiting period listening to everybody. I have two daughters. I don't have an 18-year-old daughter, I wished I did, but I have two wonderful daughters that are grown. But I remember the days well when they were 18 and if I had a daughter right now that was 18 and she came to me and she said, dad, I just saw a car I want today, my first car, I know my counsel would be to her that's great, you think about it tonight. That would be my advice and I'll go with you tomorrow and take a look at it. I guess I would ask to just indulge me and take a moment and think about your young daughter, if you have one, if you're blessed to have one, 18 years old, and came to ask you, your counsel, about getting an abortion because she has an untimely pregnancy. Would you suggest to her that she wait a day and think about it, think about the options, try to have a clear head? I don't know what your answer is. I know what my answer is.

I wonder, I really do wonder why it is that we are so entrenched, so entrenched on our positions on this issue that we're not willing to try to come together and find something that's better than what every one of us wants, and I've heard almost everyone that I've talked to about this say abortion is not a good thing, but it is necessary, it is the law of the land, sometimes it has to happen apparently. Why can't we come together and find something that works better for women? Why do we have to be so entrenched in our individual positions so that there's no movement? Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Palermo, Representative Harmon.

Representative HARMON: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to say thank you to Representative Sanborn from Gorham for releasing that information. It's some information I didn't know about. This issue is hard for me. Many people know I'm a big believer in the free market. As I was a student looking at those

things, I always said what are the times you need to rein in on the free market, when do you have to pull the reins back? When I think about when you think of organizations, whether it be government or nonprofit organizations or profit organizations, what is the best way for them to survive, to always offer more services? When it comes to organizations like Planned Parenthood, what do they have to do to operate, to offer more services and expand? That's how they get more income. Taking that argument a step further, abortions, if they can expand abortions, it's a constant thing. That's how organizations survive. That's what capitalism is.

In this case, as I've told you in my speech before, life needs to trump everything and when you have a free market it also means expansion of an organization, when they're so able to, and offer more abortions, they can get more income and more services. We need to think about that. I think, by requiring a 24-hour period, that makes people stop and think and wait, especially for the individual. Perhaps maybe someone at an abortion clinic may have a change of heart one day, so that's the struggle I'm at and it's a moral struggle and I just think it's something that we need to think about. But, in this case, will the free market belong?

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

Representative McCLELLAN: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is the third time on the three bills that I've risen and I guess I want to apologize first. This is really difficult and I know my soul has ached for a week, Mr. Speaker, thinking about today and having to do all this, and so if I've been accusatory to anybody I do apologize. As I look around the room I see, I just wrote my wife on an email how quiet it is in here, and the quiet is loud. This is very difficult and I appreciate that on all sides and for each person, and I think we're doing a great job of this discussion tonight.

Mr. Speaker, I had an interesting experience last night. I left here, I got in my truck, I started heading south on the Turnpike and a couple miles down the road I saw flashing light, a police car behind me. There was actually a car between us so I realized pretty soon that, plus I had legislative plates so I probably was alright, and I watched the police car and this car come towards me from behind and then slowly pass me. Of course, I slowed down. I got down to about 60 and I watched this old car and this police car just kind of slowly pass me and then kind of get in front of me and then keep going. They were going faster than I was, but again, because of the police car it slowed down, so they got kind of ahead of me. At some point I kind of got back in their vision and all of the sudden I realized it was three police cars following this car. I get off in Auburn to go home to Raymond and when I came to Auburn, if you go down that way, right now there's a lot of work going on, there's kind of a tunnel, you've got to go through some cones, and I could see another police car coming off the Auburn exit to get into the pack, and at that point, I lost it, I headed home, I told my wife about it. No idea what happened.

This morning on the news I read a story, I think, out of Winthrop that a young man, a 32-year-old man, shot his wife and killed her and actually did it in front of their two young children, and then hopped in his car and took off and headed down the highway, and just the way fate had it, I happened to be in the way, they went by me, and apparently at the end of this time, whatever happened, the young man shot himself and killed himself. It's a horrible story and I don't know if that's all the facts. I mean I'm putting together what I saw and what I read in the newspaper, but it just strikes me now knowing all the pain that

that family is going through, I bet if they just had a little more time to process and kind of talk through whatever happened, and I have no idea what happened, if they just had a little more time that they would be really appreciative.

You know I see we as a government, we do mandate limits sometimes. We do. We tell people how much they can drink. We tell them how much they can drug or they can't drug. We tell them how fast they can drive. We do put limits at times and so again, I wonder, why the rush? I've heard a few people say, well, if you had this 24-hour limit, then you've got to wait a week, and all of a sudden, it's way down the highway. I'll be honest. My hope in this bill is that if somebody leaves for 24 hours, they're not going to come back, and that's what my prayer is and so I offer that to you. Again, I thank everybody here for the respect we're offering each other and I definitely acknowledge how hard this is. So thank you, Mr. Speaker.

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

Representative **PILON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wasn't going to speak on this topic, however the good Representative from Palermo is portraying the Planned Parenthood organization as an abortion clinic, and that is totally a misconception. Planned Parenthood, he would be surprised to learn, is an organization that offers many services to a very diverse group of people. It offers, it is the first line of public services, first for it offers people that don't have the ability to pay services like examinations, a wide variety of examinations that they would not otherwise have the ability to have available to them. It also provides services to men.

Planned Parenthood is available throughout the State of Maine and they charge, if you have the ability to pay, if you have insurance, that's great. If you can pay, pay what you can. If you can't pay, pay what you can. But they also have people that have made donations to the organization and those organizations, those monies that have been set aside will pay for the people that are not able to pay their bills. So it is a very charitable organization. It pays for male and female and it is, in most cases, the first line of medical treatment for both male and female. So I don't want people to feel that it is purely an abortion clinic. Thank you, Mr. Speaker.

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

Representative **HAMPER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My daughter is 30. She's brought to me my grandson, who is almost six now. My son is 22 and another grandson on the way. I would not have this family if their mothers had chosen an abortion, for we adopted. Just like the Representative from Raymond, my wish, my prayer on this is that a 24-hour waiting period would delay it and that other families can be completed and grown through the adoption process. A 24-hour waiting period before you kill another human being, I think, is a very reasonable request. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Prescott.

Representative **PRESCOTT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm going to read a couple of words to you. The word "suggest" versus the word "require." The word "recommend" versus the word "mandate." The word "ponder" versus the word "must."

It was asked, what would I do? Does anyone in this House have an 18-year-old daughter or a 19-year-old daughter? I do. I have a 19 and a half-year-old daughter and I have a 16-year-old daughter. So what would I do if my daughter were in that

situation? I would suggest a waiting period or more than a waiting period. I would offer to help. I would offer advice, whether it's my daughter, whether it's a close friend, a neighbor, or even an acquaintance that happened to come my way so that they're informed and that they're sure of this very, very difficult decision.

But the fact that government is the one who is making this mandate, they're taking away that right to choose no matter how long it takes a woman to decide what is best for her, the fact that government is the one making this choice is something that I cannot support. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Palermo, Representative Harmon.

Representative **HARMON**: Thank you, Mr. Speaker. I guess I could answer one question of why government would be involved in that situation and the situation is that the child has no one to speak for it sometimes. There are many, many people out there waiting for adoption. That's what government is there for. Government is there to protect life, to protect liberty, to protect private property, and some would say, the pursuit of happiness. That's what it's there for, life. Please contemplate on that. Thank you.

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

ROLL CALL NO. 138

YEA - Ayotte, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgcomb, Espling, Fitzpatrick, Foster, Fredette, Gifford, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knight, Lajoie, Long, Maker, Malaby, Martin, McClellan, McFadden, McKane, Morissette, Nass, Newendyke, O'Connor, Olsen, Parker, Picchiotti, Richardson W, Rioux, Sanderson, Sarty, Sirocki, Theriault, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Willette A, Winsor.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Fitts, Flemings, Flood, Fossil, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Kruger, Kumiega, Libby, Longstaff, Luchini, MacDonald, Maloney, Mazurek, McCabe, Morrison, Moulton, Nelson, O'Brien, Parry, Peoples, Peterson, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Tilton, Treat, Valentino, Wagner R, Webster, Welsh, Willette M, Wood, Mr. Speaker.

ABSENT - Celli, Gillway, Hanley, Innes Walsh, Lovejoy, Wintle.

Yes, 63; No, 81; Absent, 6; Vacant, 1; Excused, 0.

63 having voted in the affirmative and 81 voted in the negative, 1 vacancy with 6 being absent, and accordingly the Minority Ought to Pass as Amended Report was **NOT ACCEPTED**.

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

HOUSE DIVIDED REPORT - Majority (9) Ought Not to Pass - Minority (4) Ought to Pass as Amended by Committee Amendment "A" (H-468) - Committee on JUDICIARY on Bill "An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons"

(H.P. 1072) (L.D. 1457)

TABLED - June 3, 2011 (Till Later Today) by Representative NASS of Acton.

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

Representative CAIN of Orono **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

The **SPEAKER**: The Chair recognizes the Representative from Lisbon, Representative Crafts.

Representative **CRAFTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have a bunch of talking points, but I don't really want to read them. I want to just share my heart. Maybe I will read them later.

You know I am a very, very, very blessed man. I want to tell you why. Back in 1983, May 6, 1983, I was a young man with a young wife, a young daughter, two and a half years old. I came over a rise in the road, an elderly man pulled out in front of me, drove me off the road. I woke up with a neighbor taking my helmet off to realize I was paralyzed from the chest down. Sometimes we think in life when things like that happen that it is a tragedy and I can tell you, with God, and you turn to him, there is no tragedies.

I was in the hospital for three and a half months in rehab. Thank God that I had parents that raised me and loved me, brothers and sisters that loved me, friends and family and a pastor that loved me. Because of that love, I got out of the hospital and realized I had a great opportunity ahead of me in a wheelchair. The doctors at the time had told me you can't have children, you can never have children. They didn't tell me once, they told me twice. I grew up as a kid, one thing I always wanted was a big family. I prayed to God that I have only one daughter that I really don't want to raise alone. I learned something, that God will give you the desires of your heart, and he has.

I got out of the hospital, not to keep this story long, but five more children later – five more children. And you know, I was so blown away by God's grace and mercy and love, so appreciated the family that my heart desired, I said I am going to raise them right. I'm not just going to say do this and I not do it, I wanted to live by example, and I do. I can tell you today my kids thank the Lord, love their dad and respect him and come to me openly about every issue. They ask me for wisdom, they ask me for guidance. They hug me, they love me, I love them back. I can't even imagine.

I had three daughters and three sons. I have three adult daughters, one with three grandsons and another one on the way. The second daughter, I have a granddaughter that is three and half, and a 21-year-old daughter. She is just living a wonderful life and a great example. And I'm proud of them, I'm proud of them all.

I can't imagine that this body right here would not allow me to love on my daughter when she came home to say "Dad, I made a mistake. Dad, I'm sorry." You know what I'd do? I'd wrap my arms around her and I'd say "You know something, honey? This is an opportunity. You have three choices, honey, and I love you, I'll support you and I'll love you. You can raise that kid, I'll help. You can give that child up to adoption to somebody that is praying and begging God for a child. Or you can take the decision and terminate it. But you know something, honey? I will always love you. I will always back you up."

I can't imagine. I really cannot imagine. I have such a struggle with this bill, that you wouldn't give me the right as a loving, caring father to have that conversation. And I've heard

the stories. Well, if you raise them right, they'll come to you. Now let me tell you something. My kids love me, they respect me. But you know something? When their boyfriend is their ear and says "You know I know you don't want to tell your dad because he will be disappointed. You know we can go get this taken care of." And that poor girl that is full of emotions, that looks up to her boyfriend and is emotionally attached to him now, is going to be convinced, in many cases, of that young man to convince her to go off and have an abortion and not come to her mom and her dad to have the conversation of love.

Please don't disenfranchise the guy that loves his children and take away the opportunity to love their children and to give them the advice. I am 52 years old. I go to my mom and dad today, and often, to say "Dad, I need your wisdom. I need your experience. That white hair of wisdom, please help me." But we think that we can take a 14 to 15 to 16-year-old daughter and think that she has the capability to get advice from a stranger. Come on, now. I can't believe that this body doesn't understand that. This is simply the most fundamental right of a parent, the basics. Yes we have children that have parents that don't care and we ought to have a process, and this bill has a process for every situation. Would you please give the dads and the moms out there every opportunity to raise their child and give their child advice? Would you please today, I beg you, tonight, to vote in favor of LD 1457. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Biddeford, Representative Rochelo.

Representative **ROCHELO**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The bill before us seeks to make significant changes to the current law regarding consent for minors. My opposition to this bill is that the current law is working. Maine has an adult involvement law which encourages young people to talk to their parents to obtain consent. If young people can't talk to a parent for whatever reason, under Maine's adult involvement law, a young person can obtain consent from a trusted family member, a judge or have additional counseling from an approved counselor. This counseling is in addition to the counseling that is required under Maine's informed consent law. So a minor who chooses an approved counselor will end up having two counselors involved in her decision.

Strangely, LD 1457 eliminated the requirement for counseling for minors and it requires notarized parental consent, so not only will the parents be involved but a public notary is now involved in this very private and personal medical decision. This also violates the doctor/patient confidentiality. Teens would have an option of judicial bypass but the process is burdensome, with a very high standard for teens to meet in order to be granted a waiver of the parental consent requirement. Under this bill, teens must prove by clear and convincing evidence that the notification of a parent or guardian is not in the best interest of the petitioner. The consent requirement would also apply to adults under legal guardianship. Doctors exhibiting reckless disregard for these requirements would be committing a Class D crime, so doctors would be required to establish that any adult woman seeking an abortion is not under legal guardianship and thus not subject to a consent requirement. It is not clear how doctors would meet this obligation. The bill also creates a new definition of abortion specifically for this new section. Current law defines abortion, for all purposes, as the intentional interruption of a pregnancy by application of external agents, whether chemical or physical or by the induction of chemical agents with an intention other than to produce a live birth or to remove a dead fetus.

LD 1457 would create a different definition, solely for the purposes of parental consent. Notarized parental consent

violates the doctor/patient privacy and for those young people whose parents tragically are not good parents, this bill puts those young people in danger. Please reject LD 1457.

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

Representative **HARVELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm 48 years old and I still don't want to talk to my parents about sex. That said I'm a father of an 11-year-old daughter. I will say that again. I'm a father of an 11-year-old daughter. Last week I had to sign a form for her to go on a field trip. Last week. They can't give her aspirin at school without asking me. Now if she shows up as a teenager and I pray to God she doesn't and expresses that she's become pregnant, the only wrath she will incur from me is my displeasure and maybe my own guilt. But the idea that she could go through this kind of medical procedure without me as her father or my wife as her mother, it's beyond me that you could make this kind of policy decision. Everybody here has some kids and you can think about what they have to do and yet we can pass a law that says this. The parent is one of the most sacred rights any society has and it belongs first to them. I respectfully ask you to vote for the motion.

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

Representative **KRUGER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. As a parent and a grandparent I would always want my child or grandchild to seek my counsel on such a life-changing event. I think everyone here would make that statement. Sadly, though, and I know everybody is aware of this, there are minors who are victims of abuse who could not possibly benefit from such an intervention. Finally, I'll just make another point that it is entirely inappropriate for this body or for anyone to insert a third party into the relationship of a young woman and her doctor. Thank you.

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

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to read the testimony of Judith Chamberlain, MD, who testified in front of the Judicial Committee on this bill. Judy and I were both part of the Bowden Medical Group at one time, and I doubt she minds me using her work.

Maine's adult involvement law was passed in 1989. Any young woman age 17 or under who seeks abortion must receive: parental consent; or consent from another adult family member; or consent from a judge; and/or counseling from an approved counselor (psychiatrist, psychologist, social worker, ordained clergy member, physician, physician assistant, nurse practitioner, guidance counselor, registered nurse, or licensed practical nurse.)

The counselor must discuss with the minor the possibility of involving her parents or an adult family member. The counselor must also discuss a full range of alternatives to abortion including adoption and parenting, and must inform the minor that the information given is not intended to persuade the minor to choose one option over another. The counselor must provide information about birth control. The counselor must make it clear that the minor may change her mind at any time, and must give the young woman the opportunity to ask any questions and to receive answers to any question asked. Following counseling, the counselor must provide a form signed and dated by the minor that confirms that the counselor has taken all of these steps to fully inform and counsel the patient.

The physician then has the responsibility of ensuring that the minor has given informed, written consent, and received the

information and counseling required by law. Any physician who performs an abortion in violation of this section of law commits a Class D crime, punishable by jail time. Physicians want their minor patients to be informed and supported and have both ethical and legal incentives to ensure that minors are fully informed and fully consent to the abortion. There is no need to add to the current statute.

LD 1457 requires parental consent for abortion with a judicial bypass. Most teens do involve their parents in the decision to have an abortion. In practice, a physician would far prefer parental involvement than not. Parental consent reduces a practice's liability and makes the experience a more positive one for the young person in most circumstances. Unfortunately, not all parents are created equal, and we all know young people whose parents are not capable of providing the love and support that their children need. For these young women, a parental consent law is potentially dangerous. Judicial bypass is not a viable option for most minors. Going to court is both expensive and intimidating, and in my experience, it is very difficult in rural areas to keep a court appearance confidential. Moreover, court proceedings generally take a very long time and will inevitably delay the date upon which a minor can receive an abortion. Like 924, the most practical impact of this law is that Maine will experience an increase in second-trimester or third-trimester abortions. Maine's current adult involvement law is working exactly as it should. Most teens are involving a parent. Some involve another adult family member. And a small number of minors involve a statutorily approved counselor who, under the law, encourages the young person to involve her parents.

Also, recent review of 29 studies of the impact of state parental involvement laws found that the clearest documented impact of the laws is an increase in the number of minors traveling outside of their home states to obtain abortions in states that do not mandate parental involvement. I think the bills have good intentions, but they generally are not doing what they were hoping we would do and I would ask you to support the Majority Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Briggs.

Representative **BRIGGS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Listening to the good Representative from Lisbon Falls, Representative Dale Crafts, this has been very difficult for me. I understand he has been very blessed to have the faith and the relationships that he's had in his family, and for me I've had just the opposite and I'd like to share a little bit with you. And I will be brief.

Maine law already requires adult involvement in a minor's decision. No young person is making this decision alone, but some young people don't have supportive parents. For those young people, this bill is really dangerous. If a young person can't go to her parents and in many cases, a single parent, such as mine, she should be able to consult with a trusted adult like a grandparent or an aunt. Or if she can't go to anyone in her family because of abuse, she should be able to go to a trusted adult like a counselor. Under the current Maine law, this can't be the same counselor as the counselor at the abortion clinic who provides counseling. There is an independent person there to support the young woman and be with her for the entire process so that she's never alone.

I was asked to support someone one time that also endured this process. Through the entire experience I was very impressed by the professionalism, care, and support shown throughout the process. As some of you may recall, my very first floor speech back in 2008, I was totally caught off guard by the subject matter very similar to this where I was compelled to share

my story. Back in the '60s and the '70s, these subject matters were hidden in the closet, the family secrets. Youth need the outreach programs that are already in place today. It's working. Clinics are mandated reporters of abuse, so if a young woman goes in for an abortion and she is a victim of abuse, that clinic can work with her and the trusted adult in her life to report the abuse to the proper authorities.

Current Maine law is the best way to protect young people who are victims of abuse, whether it be sexual abuse or molestation. LD 1457 would allow parents who are complicit in abuse to cover that up. With all due respect to the parents who want more involvement in the process, of course this window of opportunity is always there and this is the way it should be. These young women need protection today and every day. They need a place where they can turn to, a place of trust, and it's not always in the home. More times than not, that's where they need the protection from. For me, I couldn't even get my mother to discuss the matter, let alone to think if she needed to engage much more deeply. Some parents can't deal with this emotional trauma. I never had the outreach of opportunity of trust to reach out. Today there are current laws in place to support the young with these issues.

Also, my first instinct from another side of the spectrum, as I am also a notary public, are they going to come to me to ask me to notarize this document, giving final approval to allow a minor to have an abortion? I'd hate to be that notary every time I notarized that document. This is a very private and very personal decision-making process and not to be entered into lightly. They need to feel safe enough to reach out for support and guidance.

I'd like to share with you what my mother said to me after graduation. Later on, a few months later, I became pregnant. I went to my mother and I told her I was pregnant. Do you know what she said to me? "Well, I expected that a long time ago." Again, I never had the love, openness, the sharing that other families do have, and they are very fortunate and very blessed to have that. When I sat down after I gave my floor speech back in 2008, I knew why I was here, why God had put me here. I am one of those people who used to say "Why me, God? Why me?"

As I've shared before, a lot of things have happened in my life as well. Pretty much been there, done that. But today I am very grateful and very blessed to have my faith and being able to turn to God and know that there is a God, a forgiving God, a loving God, and I'm very blessed today and today I know why, why me. I am sharing this with you to hopefully, hopefully help the youth of today and continue to give them the tools that they need to deal with every day's life issues. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cain.

Representative **CAIN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to this bill and urge us to defeat the motion before us.

There is a quote about women's health care that goes like this: "There aren't 'women who have abortions' and 'women who have babies.' Those are the same women at different points in their lives." I've been pondering those words all day today and they ring clear and true for me on all of the bills we have debated here tonight.

I'm lucky. I have parents who taught me at a young age to be in charge of my own space and my own body. My mother educated me about menstrual cycles and about how babies are made. She taught me from a young age that I was in charge of my body and no one could do anything to it without my permission. My father taught me that all boys are bad and all they think about is sex and the key word is "no." My parents taught me to trust them and to trust myself, and I'm lucky,

because if I had had an unplanned pregnancy in my life I feel confident that I could have had my parents' support and involvement at a level that would have been best for my health. But that's not the case for everyone and that's why I cannot support this bill.

As you've heard, current Maine law provides for adult involvement in the decision for a minor to have an abortion. Consent by a parent, trusted adult family member, judge or approved counselor is required. That is appropriate, that is safe, and it allows for lucky people like me to involve our parents and for those who are not as lucky to have parents as supportive as mine to have an adult involved during that difficult time.

I talk to my dad every single day, at least once or twice, and tomorrow morning when I talk to him on my drive to the State House we will talk about this bill and all of the debate that has gone on here this evening, and I will remind him how lucky I am. And I look forward to telling him that the Maine House did the right thing tonight for young women in Maine by defeating this bill and letting current law to continue to work. Please join me in opposing the motion. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Strang Burgess.

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There has been some great respectful conversation here tonight and I want to echo the words of the Speaker in that it's been very respectful and quiet in here, and I think it's moments like this where we all learn a little bit more about each other. Like the story goes that everybody has a story and some people have been around long enough to have all kinds of interesting stories.

I rise in opposition to the pending motion. You already heard a lot of the great points that I was going to make and I guess the only thing I could add would be that I also, like Representative Cain, am very lucky. I had great parents. I wish I could call my dad. I haven't figured out how to get the phone to make that special connection yet. But I had the opportunity to have a mom that was a working mom, which in the '40s, '50s, '60s, was a little bit more unusual. It's funny we've been talking about all of these different gun issues and all of that and I've actually been telling stories about my mother.

My mother is still with us, she is 91 years old, and she actually has been following these bills and wanted to be sure that I stood up for the young women of Maine. She graduated from the University of Maine at Orono in 1941. She went to work for the State of Maine. She worked for the Department of Human Services until she was in her '70s. She was one of the first child custody protective workers covering York, Waldo, and Sagadahoc Counties.

I remember growing up as a little girl in the car we would go down to, I'm not actually sure, we went to Saco or something, and we would get the home for little wanderers, whatever. Young women were giving up their babies and we had foster parents in the Midcoast area, and I used to sit in the front seat and hold the baby. It was long before seatbelts and car seats. She had a bunch of different foster families around, some on farms and all over, and I had a chance to see a side of life, of Maine, that's right there, it's before our eyes if you want to see it, and those young women that are from all sorts of different backgrounds don't have the parents that we and so many people tonight have talked about. This bill and these bills tonight really aren't about us. It's about options for other people who aren't as lucky to have those kinds of parental support.

Most teens voluntarily involve their parents in their abortion decision. You've already heard about the details of this bill and what it would actually do. Most teens that don't involve their

parents have a pretty good reason for not doing so. We know that the more questions and hurdles we put there, these teens and young women make their decisions later into their pregnancy and have other issues that come along, and the spiral starts from there. These issues are so complicated, they are so personal, they are so difficult, and I guess it's just so hard to think that if we wanted our daughter, our child, what we would want them to do.

Well, ladies and gentlemen, you people are all smart involved parents. Not everybody and not every child is that lucky and this certainly isn't a bill to say that they don't have to tell you and that's up to you all as parents. But we know that when we put more hurdles in the way for folks to make these decisions, they tend to not get made. They don't get made timely, they don't get made well, they don't get made smartly and safely.

So I rise tonight on behalf of my mom who is 91 years old, she's going to hate me now, and to say that I did speak up for young women and I hope people will remember there is other ways to do things and that everybody has to have a safe path. I urge you to vote against the pending motion tonight. Thank you.

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

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise and first want to start by just echoing some of the comments in regards to sort of the mood in the chamber. It's very quiet, it seems very respectful, and I appreciate that.

I also rise to recognize the Representative from Lisbon, Representative Crafts, and the Representative from Farmington, Representative Harvell, for speaking on their experiences as a parent. I think for me, I am a parent of two young children, and it's helpful for me to see behavior and strength like that modeled and I appreciate that. You know I look at that whenever I see parents with older children, in just talking about their experiences, I think there's a lot that can be learned from that.

So I'm a father and it's sort of my plan or my hope that when my daughter is old enough and a teenager that she will continue to involve me the way that she involves me today in her life, and that she may involve me in those health care decisions that may arise. I want to believe that all young women will discuss these important decisions with their family. I think there are times and situations where teens just can't talk to their parents, and I know that even though we try, we just can't mandate perfect parenting. That's clear. I'm concerned that we work for this one-size-fits-all government mandate and I feel tonight that that would not not keep my daughter safe.

You know I'm hopeful that my relationship is really the insurance that I need to keep that relationship growing and to keep her safe, but there are many young women, they don't have their parents involved, and that's a real concern and that's a concern about safety and good decisions. I have to say as a dad I support the current law. This adult involvement law encourages family involvement in decisions, providing every young woman with guidance and the support necessary to consider and evaluate options that are available.

I think I'm fortunate enough. I come from a family. I don't talk to my parents every day. I actually get Facebook messages when they read my name in the paper or often they listen in to the chamber and hear debates, and I'm fortunate. I also come from a bigger family and in that bigger family not everyone had the same parents that I did. In some cases, my grandmother was that parent, and I think of those family members tonight. So I encourage people to vote against the pending motion, please. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Crafts.

Representative **CRAFTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just a couple of things that I wanted to clarify a little bit.

This particular legislation is very similar in 24 other states and the results of it is that 15, 16 and 17-year-olds, that there was a decrease in abortions of upwards of 19 percent, and I do believe it is because that conversation does get to have a chance to happen with their parents and it makes the difference.

Current law in Maine, the alternate adult family member may consent to her abortion could be the person that impregnated the teenager. The attending physician, which is the abortion provider, may secure the informed written consent of the minor and determine that she is mentally and physically competent to give consent. I think this is a conflict of interest. The probate court or a district court may issue an ordering in granting a minor's right to consent or directly consenting to the minor's abortion.

LD 1457 would require a minor in the State of Maine to obtain a parental consent before an abortion, with exceptions. The bill provides that unless the requirement for certain exceptions are met, if a pregnant woman is a minor or an incapacitated person, a physician may not perform an abortion upon her unless, in the case of a minor, the physician performing the abortion must obtain the notarized written consent of the minor and one of her parents or legal guardian.

You know there are situations where illegal or adult men impregnate these underage girls that want to pretend to be the parent or the guardian. In the situations where somebody is very desperate or could have the chance of going to jail, don't think for one minute that this doesn't happen. That's why in this bill, it has the notary part of it.

This bill, 1457, complies with the requirements dilated of the United States Supreme Court constitutional requirement seeking an abortion, to obtain the consent of a parent or guardian provided that there is adequate judicial bypass procedure. This bill does that for the unfortunate family situations.

LD 1457 ensures parents or legal guardians can exercise their fundamental right to be involved in the minor's, the child's, decision regarding an abortion, discussing their daughter's medical history, abortion provided procedures and potential risks and follow-up care essential to the physician's exercise of his or her best medical judgment. This bill is very similar to the existing law except that it tightens up some areas and it allows the parents to be notified. This bill is an improvement of what we have.

LD 1457 prohibits the parents or guardian or other persons from coercing a minor or an incapacitated person to obtain an abortion. Further, a minor or incapacitated person denied financial support by her parents or guardian because of her refusal to have an abortion is deemed incapacitated for that purpose, is eligible for public assistance and benefits.

This bill provides a way for every situation and it also allows an opportunity for the mom and dad – mom and dad – to be involved. I had to give my son Dale written permission to go snowboarding this past winter. You have to have an adult in with your teenage daughter in a dentist's office, has to be accompanied. You have to get permission to give your children Tylenol at school. Thank you for your time again.

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

Representative **BICKFORD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Representative Crafts has it all right. For any of my four children, to get their driver's license they needed my signature. For any of them to play sports they needed a parent or guardian signature. They

needed a parent or guardian to sign off on their report card, to go on any field trip that they went on. Even when my 14-year-old son broke a neighbor's fence, I needed to be there when the police came to my house to talk to me and let me know what my son did. But yet, I don't have the right as a parent to know if my 14-year-old daughter needs an abortion. It doesn't make sense. We are penalizing 98 to 99 percent of the adults, the parents, to protect a small portion of the young people that this bill protects. Thank you.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Maloney.

Representative **MALONEY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to rise to make a couple of quick points. First, if an adult did impregnate a minor, of course under current law that would be a crime, and if that person were to forge the signature of a parent or guardian to give consent for an abortion, that would also be a crime. So we've already criminalized these actions and I don't see that we need to make a change to try to stop something that is already a crime in current law.

I'm an attorney and I have to point out that the standard by which a minor has to prove that she doesn't need to talk to her parents is clear and convincing evidence, and that is really the phrase that is most problematic for me with this bill. Clear and convincing evidence is an incredibly high standard in the law. It is a standard that we reserve for deciding whether or not to permanently remove children, to permanently terminate parental rights in the State of Maine. That decision is made by clear and convincing evidence and to hold a minor to that standard, to have to prove that she should be able to make her decision on her own, it's just an incredibly high standard and that's one that I don't believe is workable.

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

Representative **PRIEST**: Thank you, Mr. Speaker. I think it's important to put some of this in perspective as far as the number of abortions that are performed for minors in Maine. Recall that the consent law for minors was enacted in 1989. Our teen abortion rate from ages 15 to 18 went from 30 per 1,000 teens in 1988, down to 12 per 1,000 in 2005. The national rate was 19 per 1,000. So our abortion rate for minors is low.

In 2008, we had only 168 minors who got abortions in Maine. That's out of 1.3 million people. That is an extremely low rate. All three abortion service providers report that more than half of minor parents have involved their parents in their decision. Obviously there are bypasses and those bypasses have been used, but sparingly.

The abortion rate in Maine for minors is low. The parental consent law that we have now is adequate and it's working. There is not a significant problem here and I respectfully suggest that we keep our present law, which was carefully crafted in 1989, and that we vote the present motion down and vote this Ought Not to Pass. Thank you.

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

ROLL CALL NO. 139

YEA - Ayotte, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgecomb, Espling, Foster, Fredette, Gifford, Gilbert, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Knight, Lajoie, Libby, Long, Maker, Malaby, Martin, McClellan, McFadden, Morissette, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti,

Richardson W, Rioux, Sarty, Sirocki, Theriault, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Willette A, Winsor, Wood.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Fitts, Fitzpatrick, Flemings, Flood, Fossil, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Keschl, Knapp, Kruger, Kumiega, Longstaff, Luchini, MacDonald, Maloney, Mazurek, McCabe, McKane, Morrison, Moulton, Nelson, O'Brien, Peoples, Peterson, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Tilton, Treat, Valentino, Wagner R, Webster, Welsh, Willette M, Mr. Speaker.

ABSENT - Celli, Gillway, Hanley, Innes Walsh, Lovejoy, Sanderson, Wintle.

Yes, 63; No, 80; Absent, 7; Vacant, 1; Excused, 0.

63 having voted in the affirmative and 80 voted in the negative, 1 vacancy with 7 being absent, and accordingly the **Minority Ought to Pass as Amended Report was NOT ACCEPTED.**

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

CONSENT CALENDAR

First Day

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

(H.P. 436) (L.D. 553) Bill "An Act To Reduce Maine's Dependence on Oil" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-572)**

(H.P. 513) (L.D. 685) Bill "An Act To Require Vegetable Gardens at State Prisons" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-569)**

(H.P. 888) (L.D. 1197) Bill "An Act To Amend Standards for Participation in Certain Public School Services by Students Who Are Homeschooled" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-571)**

(H.P. 889) (L.D. 1198) Bill "An Act To Reduce Regulations for Residential Rental Property Owners" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-575)**

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

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

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-452)** - Committee on **JUDICIARY** on

Bill "An Act To Amend the Application of the Maine Human Rights Act Regarding Public Accommodations"

(H.P. 781) (L.D. 1046)

TABLED - June 2, 2011 (Till Later Today) by Representative CURTIS of Madison.

PENDING - Motion of Representative NASS of Acton to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Ordered)

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

Representative **PRIEST**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Let me just say first that this bill does not do what many people think that it does. It does not prohibit transgender people from using the bathroom with the sex that they identify with. If that's the bill you want, this is not that bill.

Let's be clear what transgender people are. They are people who from early childhood identify with a sex other than the one they were born into. This is a small percentage of the population, probably under one percent. It's a worldwide phenomena and this goes throughout all of history.

Let's also be clear that when the Maine voters approved the Human Rights Act on sexual orientation at the last election, when this was voted on five years ago, one of the issues was protection for transgender people, and the voters approved that protection.

Let's also be clear that in the five years since that protection went into effect, there have been only two cases involving transgender people before the Human Rights Act. One of those cases is still in litigation and will probably go to the law court, so this is not a huge problem in the State of Maine.

So what does the bill as amended by the Committees Amendment do? Well, it talks about a presumption if a case goes to the Human Rights Commission. I will read it out to you briefly. It says it's not unlawful public accommodations discrimination, in violation of this Act, for a public or private entity to restrict access to a rest room, locker room, shower facility or bathroom in a way that takes into account the legitimate privacy concerns of all members of a biological sex regardless of sexual orientation. Well, now no one knows what legitimate privacy concerns are. It is clear, however, that the one thing that this does do is that it tries to remove protections for transgender persons from the Human Rights Act. That is contrary to the voters' decision.

Now most of the email that I've gotten and I'm sure that most of you have gotten is frankly based on a fear, a fundamental fear that somehow transgender people will prey on straight people. There was no evidence of this brought to us at the hearing. In fact, this is contrary to what most transgender people want. They want to identify with the sex that they want to identify with. They don't want to stand out. They don't want to be known. They want to be accepted as part of the sex they identify with. This bill, frankly, responds to an unjustified fear and that fear, frankly, is one of predation.

Let me tell you a little story about my childhood, which was in the 1950s in Virginia. In the seventh grade we had a dance class and, of course because we were segregated, it was an all white dance class. All of the sudden, the courts ruled that schools were going to be integrated, and guess what? The dances stopped and they stopped because there was fear on the part of many white parents that black boys were going to prey on white girls. Now that didn't happen. That didn't happen, but it was a fear. It was an unjustified fear and the only way that was going to be cured is by education and experience. In fact, anyone who said that now would be laughed at. I will predict that in the future

this is going to be the same situation, that after people get educated on this and after time goes on this will not be an issue. In any case, this bill does make it somewhat of an issue. It is a beginning of an unraveling of the Human Rights Act. I ask you not to do that. I ask you to vote against the Minority Report. Thank you.

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

Representative **FREDETTE**: Thank you, Mr. Speaker, and I want to thank the Judiciary Committee for their hard work on this bill. This is not an easy bill. There are many complex issues involved in this bill. Quite frankly, there's a lot of emotion with this bill. But I have tried to create a consensus on this bill.

I was appointed by a prior Democratic Chief Executive to the Maine Human Rights Commission and I served on the Maine Human Rights Commission for three years, so this is not an issue that's foreign to me. I've heard many cases before the Maine Human Rights Commission and these were issues that I became quite familiar with, and while I served on the Maine Human Rights Commission there were two cases, in particular, that involved transgenders that came before the Maine Human Rights Commission, in which the commission found in favor of the transgenders. My opinion in that process is there was virtually a rubber stamp process. If a transgender comes to the Human Rights Commission, there will be a rubber stamp and they will be found to get discrimination, they get to take their finding and they get to take it to court, the Superior Court, and suing the school board or suing the business owner.

In addition, while I served on the Maine Human Rights Commission, some of you may remember that the Maine Human Rights Commission wanted to propose guidelines, guidelines to schools and colleges in regards to transgenders, which were directly related to these two cases. I have the opinion that nobody in America has absolute rights on everything. We do not have an absolute right to free speech. We do not have an absolute right to carry a weapon. You can't do everything you want to do and the process that has been working so far gives absolute rights to the transgenders and it gives no rights to the non-transgenders. I have worked hard to create a consensus around a very difficult issue and with that consensus process in mind, you should actually have on your desk or on your computer access to an amendment that I have proposed to this bill, and that amendment to this bill removes the word "bathroom" and it removes the word "restroom."

Representative **PRIEST**: Point of Order, Mr. Speaker. We're not discussing the amendment.

On **POINT OF ORDER**, Representative **PRIEST** of Brunswick asked the Chair if the remarks of Representative **FREDETTE** of Newport were germane to the pending question.

The SPEAKER: The Chair would remind members that we mustn't discuss an amendment that is not yet before us.

The Chair reminded Representative **FREDETTE** of Newport to stay as close as possible to the pending question.

Representative **FREDETTE**: Thank you, Mr. Speaker, and I appreciate the Point of Order as well. Thank you. But my request is that there is an amendment and if the bill is passed we will then deal with the amended language which is proposed. So we can pass this bill so that we can deal with the amended language or simply defeat the bill and it will go to the other body. That's the posture of this at this time.

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

Representative **CAREY**: Thank you, Mr. Speaker. Outside this building I'm a student at the Maine School of Law and the Friday before this bill was to be heard a classmate of mine sent

me an email and a couple of others that he knew. Max and his wife have just built a house in Whitefield and they often commute together to school. In addition to being a full-time student and on the Law Review, kind of the honors society there, which I'm not, he works part-time in Augusta and we built our friendship trying to coordinate rides to get between here and there. Max's email, I didn't know what to think. He said that he would have to use the women's bathroom.

To tell you that I didn't have any idea that Max was born a girl would be misstating the issue. There was absolutely no basis on which to make that suspicion, if I had to guess, and I don't usually do this. But if I had to guess, Max shaves more often than I do. He doesn't have a woman's body or a woman's voice. Before the email from Max I didn't know someone who was transgender, but that's the thing. I had no idea that I knew somebody that was transgender.

Now let's imagine that this bill passes. Who has to decide, whose job is it to decide whether or not Max can use the bathroom of his choosing or the bathroom of his birth? It would be all of our jobs, and that's not my job, it's not the job of a dean at the law school or restaurant owner. It's not our job and it's not our right. So I guess that's my question, Mr. Speaker, is who would decide if this bill passes?

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

Representative ROCHELO: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. All Mainers should be able to use the bathroom in comfort and safety. There are some laws that are unavoidable and I believe this is one of them. At some point, we all have to use the bathroom. Now under current law, if you live your life as a woman, you use the women's bathroom, and if you live your life as a man, you use the men's room. More than 100 cities and 13 states across America have passed non-discrimination laws similar to ours that protect people who are transgender from discrimination, and all of them have been implemented successfully, just like ours. None of these cities and states have experienced any of the terrible things that some of the supporters of this bill have said would occur and neither have we.

In listening to all the testimony at the public hearing, reading hundreds and hundreds of emails, and having personal conversations with many courageous people who would be impacted by this bill, it became extremely clear that this bill finds support that is based on fear, misunderstanding, and unfortunately in some cases, hatred.

In the six years since the current Human Rights Act was passed by the Legislature and upheld by the voters of Maine through our referendum process, there have been no reports of transgender Mainers behaving inappropriately in public restrooms.

But, if anyone, transgender or not, behaves inappropriately in a bathroom or a shower, they get no protection from the Human Rights Act. The Maine Human Rights Act does not allow people to misbehave in the bathroom. It doesn't allow people to sneak into bathrooms to harass people or threaten people. We have volumes of criminal law to prevent harassment in bathrooms and to protect people and the Human Rights Act has no effect on that. Let me say that again. The Maine Human Rights Act doesn't protect anyone's access to a bathroom that doesn't match their gender identity and doesn't protect them or anyone in conducting inappropriate behavior in a bathroom.

I want to say one more thing about safety. The Maine Coalition Against Sexual Assault testified against this bill. A number of transgender women who testified in opposition to this bill and who have called and written us could be at serious risk of

harassment or worse if they were told they had to use the men's room. None of us here want to make harassment like that more likely and I am concerned about what could happen if this bill were to pass. Please vote no on the Minority Ought to Pass motion.

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 just urge everyone to take a good close look at the language of the bill. It's been read once, but it's worth examining again. It is not unlawful public accommodations discrimination, in violation of this Act – that's the Maine Human Rights Act – for a public or private entity to restrict access to a rest room, locker room, or shower facility or bathroom in a way that takes into account the legitimate privacy concerns of all members of a biological sex regardless of sexual orientation. If you read it closely, it makes less and less sense. We can't put this into law. Arguably we could work on it, but I would ask, why? I think we learned here tonight if we didn't know already that the reason for the bill, the good Representative from Newport was straightforward in that, was a response to the Maine Human Rights Commission's findings in favor of two transgenders.

It seems to be a concern that people who are transgender will have some advantage that others don't have. I ask for compassion. The fact is transgender people, in toilets and in elsewhere, are far more likely to be victims of assault than perpetrators. They are far more likely to face expulsion, humiliation, even violence. That's a near everyday fact for people that are in that circumstance, people who find themselves there. We don't need to sit and meet as a Legislature to try and make laws to address advantages that people who are transgender might or might not have. We just need a little compassion and it doesn't take government action for that. It starts with voting this measure down and moving on. Thank you.

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

Representative KRUGER: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I oppose this motion because I believe it's a bad idea for Maine people to unravel the Maine Human Rights Act, and that's what this bill does. Thank you.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cain.

Representative CAIN: Thank you, Mr. Speaker. Mr. Speaker, I rise to oppose the pending motion and to speak briefly. The proposition in this bill related to unlawful public accommodations and legitimate privacy concerns is not about bathrooms nor locker rooms, to me. It is not about pulling threads and an unraveling of the Human Rights Act, and it is not an abstract concept about transgender people or transgender person. But it is, for me, about Cam and for Nicole and others like them.

Cam is a transgender person, a constituent, who wrote to me and said, "As a transgender person our lives are already so difficult, with so many challenges to overcome every aspect of living. Being challenged on something this personal as which bathroom to use is one stressor that we do not need. We have to deal with not being accepted by families, friends, classmates, teachers, and random people walking down the street. We do not need the government that's supposed to protect us questioning our identities. Please do not send the message to Maine's transgender youth that they are not equal citizens worth protecting."

And then there's Nicole. Nicole grew up in Orono. She has a

twin brother. Her case is well known to the Human Rights Commission in Maine and her story was told eloquently by her father in front of the Judiciary Committee at the hearing on this bill. I've had the privilege of getting to know Nicole and her family for years as they worked in the community of Orono to educate the community and to make sure that when their daughter went to school every day, she could do so like any other kid. Nicole and her family have had to leave Orono and they now live in a different part of the state, where Nicole goes to school every day like any other kid, absolutely afraid that someone might find out that she's transgender, because Nicole is stealth. That's the term that this kid had to learn in order to go to school every day to feel normal. In sitting with Nicole just a few weeks ago here at the State House, you might have seen her in the hallway and you wouldn't have known that Nicole is stealth or that she is a transgender person.

I've been lucky to get to know the story of Nicole and her family and learn about how open Nicole is to talking to you or anyone else about her experience and about how this type of backwards step with the Maine Human Rights Act puts in jeopardy her ability to go to school every day and learn, her ability to go to the mall and shop like any other kid, her ability to go with her parents to a show or to the movies and to simply use the bathroom. This bill is unnecessary and I believe will cause more problems than we even know now.

I've also been a member of the GLBT Allies Council at the University of Maine for the past six years. Through this experience I've had the awesome privilege of getting to understand and be a part of a team of people that works to make sure that any person, regardless of sexual orientation, can show up at the University of Maine and focus on what's really important, which is going to school, which is research, which is growing up and having the college experiences just like anybody else. It's because of that experience about a community being a tolerant community, being a community that is welcoming and safe for everyone, that I cannot support this bill. We do not need a consensus approach to human rights and at the end of the day, passing this bill in any form, whether in its original form, the committee amended form or any other form, would be a step backwards for Maine and would put an obstacle in front of many people across the State of Maine who are simply trying to go to work, go to school, and participate like everyone else in our communities. Thank you, Mr. Speaker.

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

Representative **MOULTON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Like the other members of the Judiciary Committee I have received hundreds of emails on this subject, and except for the time that I had to testify in another committee on another bill, I sat through a portion of the five or six hours that this committee sat to hear this bill and I've heard some of this debate tonight and I rise to speak to a couple of the points.

Long ago in the far, far away in another occupation, I used to enforce public nudity laws as a police officer in the Town of Ogunquit, and many of those laws are still in effect, so if one exposes certain parts of one's anatomy you can be arrested. Please don't try this in public. Now I sort of make light of that because here is where we get to the crux of our dilemma, because our society in general still accepts the notion that we be clothed, and generally in those situations, such as a locker room or the common shower in the high schools where you have young people cleaning up after gym class or other athletic events and that sort of thing where they need to get cleaned up, it's a requirement. You run into those situations as we have here

where I don't think it's a matter of predation – and I certainly didn't hear that while I was awake and listening in committee – rather it's the case of the normal expectations of common decency and that's where the rub is because how do you legislate that sort of thing?

So, in part, I disagree with some of the comments from our colleagues tonight, but in some respects I do have to stand up and reiterate that there are valid concerns expressed by parents of school-aged children, in particular, that I would love for us and/or the Human Rights Commission to be able to address. But I respectfully disagree with the bill's sponsor's proposed solution and in committee I reluctantly voted against it. So I stand before the body tonight saying that I will put on my red light since I'm very used to doing that from a prior experience. But also to sort of caution the body that this is a problem that won't go away. I think that there are feelings on both sides that need to be addressed and I did ask some of the opponents about this at committee and was just totally blown off. So I think that you know the sensitivity needs to be addressed on both sides, and, in the meantime, I hope that we can eventually have a bill or some solution to a problem that does exist. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Maloney.

Representative **MALONEY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I am concerned about the effect this bill will have on businesses. I have been contacted by businesses on Water Street in Augusta who tell me they are not sure what they are supposed to do if this bill becomes a law.

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

Representative **FREDETTE**: Thank you, Mr. Speaker. Quite frankly, I'm disappointed that the good Representative from Orono doesn't think that we ought to look at this issue as a matter of consensus because I think in this body we need to work towards consensus on a lot of issues, and if we simply wring our hands of working towards consensus, then we truly aren't doing the people's business.

I agree with the good Representative from Orono and I too am compassionate with the individuals of which are affected by this bill. But let's be specific because, in the Orono case, it was a transgender student who demanded that they be able to use the bathroom of the sex that they identified with. Now that's a complicated issue. How does a principal, how does a school board work through that issue? Quite frankly, I don't know. It's complicated. In the case in Orono the transgender student was offered a separate bathroom, which I believe was a teacher's bathroom, and they did not accept that option, and so the principal was left with one simple option: You have to have them go to the bathroom of which they are a biological sex or you have to have them go to a biological sex of which they identify with. That's a terrible position for a school board or a school principal to be in. I don't know what the answer is.

My bill simply says that the transgender cannot sue the school, take them before the Maine Human Rights Commission, like the Orono case that came before me when I was sitting on the commission, and have the Maine Human Rights Commission find that the Orono School Board, the Orono principal discriminated against the transgender. That puts all the power, absolute power, in the hands of the individual who's a transgender. It does not provide for an opportunity for the parents to talk and for everybody to talk about what their rights are and what their concerns are. That's what the Orono case was about. And yes I'm compassionate, but this bill simply tries to deal with the legal issue and have to reach, I believe, a consensus on the legal issue going forward. Thank you.

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

Representative **McCABE**: Thank you, Mr. Speaker. I wanted to ask if this was an appropriate time. I'm a little confused what this bill actually does. I've read it a couple of times and am curious if we could hear the Committee Report at this time.

Representative **McCABE** of Skowhegan **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 Brunswick, Representative Priest.

Representative **PRIEST**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. There has been some discussion of the Orono case. Recall again that there have been only two cases before the Human Rights Commission in five years. That's not a lot of time for development of procedures and the Human Rights Commission was in the process of developing guidelines, which are asked for by businesses and schools, when this bill came up and things have sort of stopped.

Let's talk a little bit about the Orono case because that's the case that's now in litigation. It probably will go to the law court, has not yet been decided. There's been a preliminary decision by the judge that the case can go forward on some issues and not on others. We heard from Nicole who is the one involved in the case and let me tell you a little bit about what her story was. Her story was that she was doing fine. She identifies as a girl, she was accepted from the first grade on up, and there was no problem. She was using the girls' bathroom and none of the girls had a difficulty with it. What happened was that a grandfather of a child who went to school, a male child, found out about this and sent his child into the girls' room saying "If Nicole can go, then my son can go." His son was not any way a transgender person. That caused a problem. That caused a stink.

All of the sudden, the newspapers were involved and the superintendent got involved and there was an attempt to have Nicole go to a neutral bathroom. Well, that sounds good, except Nicole said, wait a minute, the way it works in general is if you're friends with the girls you go into the girls' bathroom. There are a lot of things that go on there besides just going to the bathroom. You also talk, you comb your hair, you are part of a group, and to have the principal say to you "Hey you, you can't go in there, go to this one bathroom that we have set aside for you and none of your other friends" is a terrible situation to put a young girl into, and that was her objection and the objection before the Human Rights Commission.

Now how the case is going to come out, we do not know yet. But there have only been two cases and one is still in litigation. It's far too early to say what the ultimate outcome is going to be. So again, this is not a huge problem. It's not something that we have to be tremendously concerned with outside of the Orono case, and I suggest that we vote this bill down and move on the Ought Not to Pass Report. Thank you.

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

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I've read this bill a couple of times. I've listened to the debate, and it is still unclear to me how one would interpret this law. I'm looking at it from the perspective of somebody who manages public accommodations and trying to figure out what this means for a situation like that or even a business. So there just haven't been too many answers to those questions and I can't support this motion at this time. Thank you.

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 wasn't planning on speaking on this issue, but I feel compelled to. The good Representative from Buckfield, Representative Hayes, who is not here this evening, but she has put a list out of books that we should all perhaps read over the summer, and I've suggested several books that ought to be included on that list that I've read. There is one that I didn't put on the list that I would like to put forth to all of you this evening and the book is entitled *She's Not There*. The author is Jennifer Finney Boylan. It is an extraordinarily edifying book. It is an extraordinarily sad book. It is an extraordinarily tragic story. But it's one that I think everyone in this chamber should read.

I have spent, well, I've had several communications with Ms. Boylan. I've had phone conversations, swapped emails, and as a result of that I will be pushing a red light on this proposal before us tonight. I have been voting with the Minority Report all evening, but at this time I believe we should move the other way. Please read the story. Thank you, Mr. Speaker.

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

ROLL CALL NO. 140

YEA - Ayotte, Black, Burns DC, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dunphy, Edgecomb, Espling, Fitzpatrick, Foster, Fredette, Gifford, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knapp, Libby, Long, Martin, McClellan, McFadden, McKane, Morissette, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Tilton, Timberlake, Turner, Waterhouse, Weaver, Willette A, Willette M, Winsor, Mr. Speaker.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Bryant, Burns DR, Cain, Carey, Casavant, Chapman, Chipman, Clarke, Cornell du Houx, Dill J, Dion, Dow, Driscoll, Duchesne, Eberle, Eves, Fitts, Flemings, Flood, Fossil, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knight, Kruger, Kumiega, Lajoie, Longstaff, Luchini, MacDonald, Maker, Malaby, Maloney, Mazurek, McCabe, Morrison, Moulton, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Richardson D, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Treat, Valentino, Volk, Wagner R, Webster, Welsh, Wood.

ABSENT - Celli, Gillway, Hanley, Innes Walsh, Lovejoy, Theriault, Tuttle, Wintle.

Yes, 61; No, 81; Absent, 8; Vacant, 1; Excused, 0.

61 having voted in the affirmative and 81 voted in the negative, 1 vacancy with 8 being absent, and accordingly the Minority **Ought to Pass as Amended Report was NOT ACCEPTED.**

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

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

On motion of Representative **MAKER** of Calais, the House adjourned at 10:32 p.m., until 9:00 a.m., Wednesday, June 8, 2011.