

MAINE STATE LEGISLATURE

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

Daily Edition

First Regular Session
beginning December 5, 2018

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ONE HUNDRED TWENTY-NINTH LEGISLATURE
FIRST REGULAR SESSION
51st Legislative Day
Monday, June 10, 2019

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

Prayer by Reverend Susan Davenport, Surry Methodist Church.

National Anthem by Roxane Althouse, Woolwich.

Pledge of Allegiance.

Doctor of the day, Laura Caron, M.D., Augusta.

The Journal of Friday, June 7, 2019 was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 622)

JOINT RESOLUTION TO SUPPORT THE DEVELOPMENT OF MUTUALLY BENEFICIAL SOLUTIONS TO THE CONFLICTS ARISING FROM THE INTERPRETATION OF AN ACT TO IMPLEMENT THE MAINE INDIAN CLAIMS SETTLEMENT AND THE FEDERAL MAINE INDIAN CLAIMS SETTLEMENT ACT OF 1980

WHEREAS, the ancestors of the members of the federally recognized Indian tribes located in what is now the State have inhabited these lands since time immemorial; and

WHEREAS, the United States of America adopted its Constitution in 1789 and the people of the State adopted their Constitution in 1819; and

WHEREAS, Indian tribes and their members have a legal political status recognized by the United States Constitution, including in Article I, Section 8, by the Constitution of Maine, including in Article X, Section 5, and pursuant to various treaties entered into by the tribes and what is now the State; and

WHEREAS, in 1972, the Passamaquoddy Tribe initiated a claim against the United States Government alleging that the transfer of a significant amount of tribal lands to the Commonwealth of Massachusetts, including the District of Maine, was legally invalid because such transfers were not approved by the United States Government, as required by the federal Indian Nonintercourse Act; and

WHEREAS, in 1975, the United States Court of Appeals for the First Circuit in *Joint Tribal Council of the Passamaquoddy Tribe v. Morton* affirmed that a trust relationship similar to that between the United States Government and other tribes exists between the Maine tribes and the United States Government that would require the approval by the United States Government of such land transfers and that the claims of the Maine tribes could proceed; and

WHEREAS, other Maine tribes alleged similar claims; and

WHEREAS, recognizing that protracted litigation would result in substantial economic and social hardship for large numbers of landowners, citizens and communities within the State, the Maine tribes decided it was more prudent to negotiate a settlement of the land claims and other claims rather than continue litigation; and

WHEREAS, the Maine tribes and Federal Government negotiated terms of settlement that were encompassed in the February 10, 1978 memorandum of understanding; and

WHEREAS, the Maine tribes were asked by the Maine Congressional Delegation to negotiate terms related to jurisdictional matters as a part of an overall settlement; and

WHEREAS, negotiations between the Maine tribes and State led to the enactment of An Act to Implement the Maine Indian Claims Settlement in April 1980 by the Legislature, but that Act was not effective until the United States Congress enacted the Maine Indian Claims Settlement Act of 1980 that October; and

WHEREAS, the language of these laws has resulted in disagreements with respect to sustenance and jurisdictional rights of the Maine tribes, and such disagreements have caused protracted and long-standing litigation between the State, Maine tribes and Federal Government; and

WHEREAS, these disagreements have also resulted in the diminishment of rights, privileges, powers and immunities of the Maine tribes compared to those generally enjoyed by other federally recognized Indian tribes within the United States; and

WHEREAS, this diminishment of rights, privileges, powers and immunities of the Maine tribes has caused disenfranchisement, undue hardship and suffering of individual members of the tribes and tribal communities that have resulted in a loss of health, education and general welfare compared to the overall population of the State and the United States; and

WHEREAS, significant time and taxpayer resources have been spent litigating with the Maine tribes rather than focusing on efforts to develop mutually beneficial solutions that allow all of the State's citizenry, including its tribal citizenry, to prosper and progress; and

WHEREAS, the State does not prosper when a specific portion of its citizenry suffers, and the State's resources are better spent on developing jobs, strengthening infrastructure and improving the health, education and safety of all its citizens; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-ninth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to recognize that the Maine tribes should enjoy the same rights, privileges, powers and immunities as other federally recognized Indian tribes within the United States; and be it further

RESOLVED: That the Legislature supports a collaborative process to develop amendments to An Act to Implement the Maine Indian Claims Settlement and the federal Maine Indian Claims Settlement Act of 1980 that would clarify that the Maine tribes enjoy the same rights, privileges, powers and immunities as other federally recognized Indian tribes within the United States.

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

Non-Concurrent Matter

Bill "An Act To Provide for Municipalities To Allow Grocery Stores up to 10,000 Square Feet To Open on Thanksgiving, Easter and Christmas" (EMERGENCY)

(H.P. 16) (L.D. 15)

Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-463)** in the House on June 6, 2019.

Came from the Senate with the Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Speaker GIDEON of Freeport moved that the House **RECEDE AND CONCUR**.

Representative KINNEY of Knox **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

Representative **STEWART**: Thank you, Madam Speaker. Just to be clear here on exactly what we're voting on; so, essentially, if we were to recede and concur with the Senate, the bill would die because in the Senate, well, which I can't do, but this would in effect kill the bill, just so that our Members are clear, which is why I would ask that you would follow my light. Thank you.

The **SPEAKER**: The Chair would answer in the affirmative. The other body and the House are currently in nonconcurrency. The motion to Recede and Concur is a motion to agree with the other body's Ought Not to Pass.

The Chair recognizes the Representative from Knox, Representative Kinney.

Representative **KINNEY**: Thank you, Madam Speaker. Last week we had a couple different votes on this particular bill and I just ask that people stay where they were and insist on this motion. Thank you.

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

ROLL CALL NO. 214

YEA - Alley, Arata, Austin B, Babbidge, Babine, Beebe-Center, Berry, Blume, Bradstreet, Brennan, Bryant, Caiazzo, Cardone, Carney, Collings, Craven, Cuddy, Daughtry, Denk, Dodge, Doore, Doudera, Dunphy, Evangelos, Farnsworth, Fecteau R, Gattine, Gramlich, Grohoski, Handy, Hickman, Hobbs, Hubbell, Hymanson, Ingwersen, Jorgensen, Kornfield, Landry, Martin J, Martin R, Matlack, Maxmin, McCreight, McDonald, McLean, Melaragno, Meyer, Moonen, Morales, O'Neil, Paulhus, Pebworth, Peoples, Roberts-Lovell, Rykerson, Schneck, Sharpe, Sheats, Stanley, Sylvester, Tepler, Terry, Tipping, Tucker, Warren, White B, Zeigler, Madam Speaker.

NAY - Ackley, Andrews, Austin S, Bailey, Bickford, Blier, Campbell, Cebra, Cloutier, Cooper, Corey, Costain, Crockett, Curtis, Dillingham, Dolloff, Drinkwater, Fay, Fecteau J, Foley, Foster, Griffin, Haggan, Hall, Hanington, Hanley, Harnett, Harrington, Head, Higgins, Hutchins, Javner, Johansen, Keschl, Kessler, Kinney, Kryzak, Lockman, Lyford, Madigan C, Marean, Martin T, Mason, Mastraccio, Millett, Morris, Nadeau, O'Connor, Ordway, Perkins, Perry A, Perry J, Pickett, Pierce T, Pluecker, Prescott, Reckitt, Reed, Riley, Riseman, Rudnicki, Sampson, Skolfield, Stearns, Stetkis, Stewart, Stover, Swallow, Theriault, Tuell, Wadsworth, White D.

ABSENT - DeVeau, Faulkingham, Grignon, Hepler, McCrea, Strom, Talbot Ross, Verow.

Yes, 68; No, 72; Absent, 8; Excused, 2.

68 having voted in the affirmative and 72 voted in the negative, with 8 being absent and 2 excused, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

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

Non-Concurrent Matter

An Act Regarding Utility Reorganizations (EMERGENCY)
(S.P. 495) (L.D. 1560)
(C. "A" S-192)

PASSED TO BE ENACTED in the House on June 6, 2019.

Came from the Senate **FAILING** of **PASSAGE TO BE ENACTED** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

COMMUNICATIONS

The Following Communication: (H.C. 199)

STATE OF MAINE

CLERK'S OFFICE

2 STATE HOUSE STATION

AUGUSTA, MAINE 04333-0002

June 10, 2019

Honorable Sara Gideon

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Gideon:

Pursuant to Joint Rule 310, the following Joint Standing Committee has voted unanimously to report the following bills out "Ought Not to Pass:"

Criminal Justice and Public Safety

L.D. 128

An Act To Reopen the Downeast Correctional Facility

L.D. 810

An Act To Require Background Checks for All Private Firearm Sales or Transfers Except between Family Members

L.D. 1569

An Act To Prohibit Untraceable and Undetectable Firearms

Sincerely,

S/Robert B. Hunt

Clerk of House

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

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

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:

(H.P. 50) (L.D. 49) Bill "An Act Regarding the Designation of Traumatic Brain Injury on Driver's Licenses and Nondriver Identification Cards" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-519)**

(H.P. 1191) (L.D. 1655) Bill "An Act To Improve and Modernize Home-based Care" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-524)**

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.

ENACTORS

Emergency Measure

An Act To Promote Major Food Processing and Manufacturing Facility Expansion and To Create Jobs in Maine
(S.P. 505) (L.D. 1586)
(C. "A" S-228)

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

Emergency Measure

Resolve, Establishing a Task Force To Study the Creation of a Comprehensive Career and Technical Education System and Increased Crosswalks for Academic Credit between Secondary Schools and Career and Technical Education Programs
(H.P. 766) (L.D. 1036)
(C. "A" H-506)

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. 129 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Allow for the Sale of Nonprescription Drugs through Vending Machines
(H.P. 38) (L.D. 37)
(C. "A" H-466)

An Act To Reduce Property Taxes for Maine Residents
(S.P. 51) (L.D. 164)
(C. "A" S-231)

An Act Regarding Presumptive Eligibility and Homelessness under the General Assistance Laws
(S.P. 137) (L.D. 459)
(C. "A" S-215)

An Act To Increase the Minimum Grant Amount under the Maine State Grant Program
(H.P. 366) (L.D. 509)
(C. "A" H-468)

An Act To Establish a Student Loan Bill of Rights To License and Regulate Student Loan Servicers
(S.P. 285) (L.D. 995)
(C. "A" S-225)

An Act To Provide Stable Funding and Support for Child Care Providers
(S.P. 291) (L.D. 1012)
(C. "A" S-211)

An Act To Increase the Maximum Pension Deduction for State Income Tax
(S.P. 298) (L.D. 1019)
(C. "A" S-230)

An Act Regarding Electric Bicycles
(H.P. 882) (L.D. 1222)
(C. "A" H-511)

An Act To Establish the Maine Workforce, Research, Development and Student Achievement Institute
(H.P. 970) (L.D. 1342)
(C. "A" H-467)

An Act To Create Tax Equity among Renewable Energy Investments
(H.P. 1040) (L.D. 1430)
(C. "A" H-507)

An Act To Align the Laws Governing Dental Therapy with Standards Established by the American Dental Association Commission on Dental Accreditation
(H.P. 1053) (L.D. 1441)
(C. "A" H-503)

An Act To Amend the Marijuana Laws To Correct Inconsistencies in Recently Enacted Laws
(H.P. 1097) (L.D. 1505)
(C. "A" H-513)

An Act Concerning the Establishment of Benefit Corporations
(S.P. 468) (L.D. 1519)

An Act To Increase the Supplement for Certain National Board for Professional Teaching Standards Certified Teachers in Maine
(S.P. 486) (L.D. 1549)
(C. "A" S-216)

An Act To Attract, Build and Retain an Early Childhood Education Workforce through Increased Training, Education and Career Pathways
(H.P. 1146) (L.D. 1584)
(C. "A" H-464)

An Act To Create the Drug Donation and Redispensing Program
(S.P. 538) (L.D. 1661)
(C. "A" S-227)

An Act To Make Various Changes to the Motor Vehicle Laws
(H.P. 1256) (L.D. 1769)
(C. "A" H-515)

An Act To Clarify Bonding Authority for School Management and Leadership Centers
(H.P. 1260) (L.D. 1773)
(C. "A" H-505)

An Act To Amend the Motorcycle Rider Education and Driver Education Laws
(H.P. 1267) (L.D. 1782)
(C. "A" H-510)

An Act To Clarify Requirements for Assisted Living Programs Regarding Fire Safety Inspections
(S.P. 608) (L.D. 1795)

An Act To Update the Laws Regarding Death and Marriage Records
(H.P. 1284) (L.D. 1803)

An Act To Amend Certain Laws Related to Members of the Military and the Maine National Guard
(H.P. 1287) (L.D. 1807)

An Act To Ensure the Safety and Well-being of Infants Affected by Substance Exposure
(H.P. 1293) (L.D. 1816)

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 Commissioner of Professional and Financial Regulation To Conduct a Sunrise Review Regarding the Proposal To License Operators of Cranes

(H.P. 668) (L.D. 904)
(C. "A" H-465)

Resolve To Study Consolidation of Payment of Cost-of-living Tax Credits

(H.P. 1093) (L.D. 1491)
(C. "A" H-509)

Resolve, To Modify the Deed for a Parcel of Property in the Town of Carrabassett Valley

(H.P. 1162) (L.D. 1610)
(C. "A" H-434)

Resolve, To Determine Compliance with Federal and State Mental Health Parity Laws

(S.P. 559) (L.D. 1694)
(C. "A" S-226)

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

An Act To Limit the Influence of Lobbyists by Expanding the Prohibition on Accepting Political Contributions

(S.P. 18) (L.D. 54)
(C. "A" S-132)

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

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

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

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

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

ROLL CALL NO. 215

YEA - Ackley, Alley, Austin B, Babbidge, Babine, Bailey, Beebe-Center, Berry, Blume, Brennan, Bryant, Caiazzo, Cardone, Carney, Cloutier, Collings, Cooper, Craven, Crockett, Cuddy, Daughtry, Denk, Dodge, Doore, Doudera, Dunphy, Evangelos, Farnsworth, Fay, Fecteau R, Foley, Gattine, Gramlich, Grohoski, Handy, Harnett, Hickman, Higgins, Hobbs, Hubbell, Hymanson, Ingwersen, Jorgensen, Kessler, Kornfield, Landry, Madigan C, Marean, Martin J, Martin R, Martin T, Mastraccio, Matlack, Maxmin, McCreight, McDonald, McLean, Melaragno, Meyer, Moonen, Morales, Nadeau, O'Neil, Pebworth, Peoples, Perry J, Pierce T, Pluecker, Reckitt, Riley, Riseman, Roberts-Lovell, Rykerson, Schneck, Sharpe, Sheats, Stearns, Stover, Sylvester, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, White B, Zeigler, Madam Speaker.

NAY - Andrews, Arata, Austin S, Bickford, Blier, Bradstreet, Campbell, Cebra, Corey, Costain, Curtis, Dillingham, Dolloff, Drinkwater, Faulkingham, Fecteau J, Foster, Griffin, Haggan, Hall, Hanington, Hanley, Harrington, Head, Hutchins, Javner, Johansen, Keschl, Kinney, Kryzak, Lockman, Lyford, Mason, Millett, Morris, O'Connor, Ordway, Perkins, Perry A, Pickett, Prescott, Reed, Rudnicki, Sampson, Skolfield, Stanley, Stetkis, Stewart, Swallow, Theriault, Tuell, Wadsworth, White D.

ABSENT - DeVeau, Grignon, Hepler, McCrea, Paulhus, Strom, Verow.

Yes, 88; No, 53; Absent, 7; Excused, 2.

88 having voted in the affirmative and 53 voted in the negative, with 7 being absent and 2 excused, and accordingly the Bill was **PASSAGE TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act Regarding the Collection of the Sales and Use Tax by Marketplace Facilitators

(H.P. 1064) (L.D. 1452)
(C. "A" H-508)

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

On motion of Representative TIPPING of Orono, was **SET ASIDE**.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-508)**.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-508)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-521) to Committee Amendment "A" (H-508)**, which was **READ** by the Clerk.

The SPEAKER: The Representative may proceed.

Representative **TIPPING**: Thank you, Madam Speaker. Madam Speaker, People of the House. This is a small technical amendment. It addresses this bill. We actually amended another section of law with a different bill out of committee and this just puts the two bills working in concert with each other instead of creating an error for us to fix later. Thank you.

Subsequently, **House Amendment "A" (H-521) to Committee Amendment "A" (H-508)** was **ADOPTED**.

Committee Amendment "A" (H-508) as Amended by House Amendment "A" (H-521) thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-508) as Amended by House Amendment "A" (H-521)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

The SPEAKER: The Chair recognizes the Representative from Hollis, Representative Marean.

Representative **MAREAN**: Thank you, Madam Speaker. May I have permission to speak on the record?

The SPEAKER: The Representative from Hollis, Representative Marean, has requested unanimous consent to speak on the record. Seeing no objection, the Representative may proceed on the record.

Representative **MAREAN**: Thank you, Madam Speaker, for giving me the priority in addressing this short subject this morning.

In the gallery with us today is the Bonny Eagle High School Robotics team, also known as BERT. They received a

sentiment in the other chamber this morning; they're down here now to receive congratulations from us. I hope you will join me in congratulating them.

This group of 25 students have had an amazing and exciting year. The team has earned national recognition this year, attending the World Championships in Detroit in April, where they secured a sixth place finish out of 438 teams, an amazing feat for a team considering that they are a self-sustaining team, relying on fundraising and sponsorships to participate in the first robotics program. The team has had many event wins and many recognitions for engineering and design, community involvement and student contributions to the first ideals. Bonny Eagle Robotics offers students a hands-on experience in STEM, business and marketing, providing them with skills that they will carry forward that they will be able to use throughout their lives.

Prior to their participation in the World Championships, the team has a long list of accomplishments, far too many to list today, but I can tell you the awards exceed 25 of various types in the life of BERT since 1996. BERT, which is the machine that the folks have, is down at the Hall of Flags, will be there until around noontime or so, they'd like you to come down and see a demonstration. Thank you very much, Madam Speaker, and I appreciate the priority.

ORDERS

On motion of Representative BAILEY of Saco, the following Joint Resolution: (H.P. 1311) (Cosponsored by Senator HERBIG of Waldo and Representatives: FAY of Raymond, TUELL of East Machias, Senator: DAVIS of Piscataquis)

JOINT RESOLUTION RECOGNIZING JUNE 2019 AS ELDER ABUSE AWARENESS MONTH

WHEREAS, throughout the United States, 10,000 people a day are turning 65 years of age; and

WHEREAS, one in 10 Americans 60 years of age and older experiences abuse each year; and

WHEREAS, at least \$2,900,000,000 is taken from older adults each year due to financial abuse and exploitation; and

WHEREAS, abuse, neglect and exploitation of older adults in the United States are often unidentified and unreported because of an inability to report or a fear of reporting; and

WHEREAS, older adults who are abused are 3 times more likely to die earlier than older adults of the same age who are not abused; and

WHEREAS, Maine's seniors are valued members of society, and it is our collective responsibility to ensure that they live safe lives; and

WHEREAS, seniors should be treated with respect and dignity to enable them to continue to serve as leaders, mentors, volunteers and active members of society; and

WHEREAS, combating abuse and empowering the elderly will help improve the quality of life and independence of all seniors across the State; and

WHEREAS, we are all responsible for building safer communities for Maine's seniors by reporting elder abuse and neglect when we suspect it; and

WHEREAS, the welfare of seniors is in the best interest of all citizens and adds to the well-being of all our communities; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-ninth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take

this opportunity to recognize June 2019 as Elder Abuse Awareness Month and the importance of raising awareness of elder abuse and the promotion of better understanding of the cultural, social, economic and demographic issues that may contribute to the growing incidence of elder abuse.

READ and ADOPTED.

Sent for concurrence.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment, Friday, June 7, 2019, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Expression of Legislative Sentiment Recognizing David Stackpole, of Trenton

(HLS 447)

TABLED - May 30, 2019 (Till Later Today) by Representative GROHOSKI of Ellsworth.

PENDING - PASSAGE.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Grohoski.

Representative **GROHOSKI**: Thank you, Madam Speaker and Women and Men of the House. I am pleased today to stand to honor my sixth-grade Social Studies and Math teacher, David Stackpole, for his 45 years of teaching in the Ellsworth school department.

Dave actually taught sixth grade in the middle school for his entire career and, according to his wife, Jane, there was never anywhere else he wanted to be. I guess middle school was maybe a bit less awkward for Dave than for me.

He also coached girls basketball for 32 years, a feat in and of itself. I'll admit that he never did convince me to play basketball, though, as you can see by my stature, it was probably for the best. And that's okay with him because his wife, Jane, could also not convince me to cheerlead, so everything was fair. I'll also admit to you that I got my very worst test grade on a geometry test in Mr. Stackpole's class. I was pretty shocked, but I remember Mr. Stackpole sitting down with me and explaining to me what I had misunderstood. I didn't have any more problems after that and went on to minor in Math at Middlebury College, which was, incidentally, where Dave's grandfather also went to school. Needless to say, that test grade was but a hiccup that Mr. Stackpole helped me work through. It fits well with his favorite quote; kids don't care how much you know until they know how much you care.

Dave is known not only for his dedication, but for his sense of humor. As he reminded *The Ellsworth American*; old teachers don't retire, they just lose their class. He also noted that while some things have changed in middle school, such as access to technology, other things have not. There are apparently still lines of boys and girls standing across from each other at school dances, sending emissaries from one side to the other. Like I said, awkward.

Thank you all for joining me today in honoring David Stackpole and his years of service to thousands of our children as a teacher and as a coach. Have a great retirement, Dave, and good luck organizing your 200 boxes of Sox memorabilia and perhaps traveling to Fenway now that you'll have some time.

Subsequently, this Expression of Legislative Sentiment was **PASSED** and sent for concurrence.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Rule

Report of the **Joint Standing Committee on Health and Human Services** on Resolve, To Provide Sustainable Funding for Assisted Living Facilities (EMERGENCY)

(S.P. 623) (L.D. 1839)

Reporting **Ought to Pass** pursuant to Joint Rule 353.

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

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

The Resolve was **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** in concurrence.

Divided Reports

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-222)** on Bill "An Act To Revise the Laws Regarding the Public Trust in Intertidal Lands"

(S.P. 411) (L.D. 1323)

Signed:

Senators:

DILL of Penobscot

BLACK of Franklin

Representatives:

HICKMAN of Winthrop

HALL of Wilton

KRYZAK of Acton

MAXMIN of Nobleboro

McCREA of Fort Fairfield

O'NEIL of Saco

PLUECKER of Warren

ROBERTS-LOVELL of South Berwick

SKOLFIELD of Weld

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

Signed:

Representative:

KINNEY of Knox

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

READ.

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

Representative KINNEY of Knox **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 Knox, Representative Kinney.

Representative **KINNEY**: Thank you, Madam Speaker, Men and Women of the House. I rise in opposition to the pending motion.

In committee, this bill became about the rockweed that is in the intertidal zone and a recent court decision was in favor of landowners on the intertidal zone, which is the oceanfront property, because the rockweed was deemed as personal property. Concerns that landowners all over Maine do not have property rights to the deer that may be on their property, unless a landowner expressly prohibits hunting on their property by posting it, but this was a similar idea, that the rockweed was not belonging to the landowner just like deer are not belonging to the landowner. But any licensed hunter may hunt on our land. The major difference here is hunting the deer is for personal use whereas the harvesting of the rockweed has been for commercial use. This is an unconstitutional taking and I urge you to vote in opposition to the pending motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Beals, Representative Alley.

Representative **ALLEY**: Madam Speaker, Ladies and Gentlemen of the House, I don't normally get up and speak but in this case today we are taking up a bill which I am very worried about, and I have been a life-long resident of Washington County and commercial fisherman for over 50 years. That bill, LD 1323, is a bad bill for our area, the overall health of our fisheries and for our property rights. It is opposed by many different groups, from the Maine Association of Realtors to the Rockweed Coalition, and ought to be voted down. I have fished off of Beals Island for 50 years and I have scalloped, dug clams, hauled traps and spent a good part of my life on the water.

Trying to help our fisheries stay strong for the next generation, the rockweed is vital habitat for all of these fisheries and many landowners rightfully want to do their part to preserve it. Passing this bill would stop them from having their say and put over 60 different marine species at risk. I know this because I have been on boats where baby clams, lobsters, and marine life we all depend upon for our livelihood, are accidentally swept up as bycatch in harvested rockweed. Dr. Beal of the Downeast Institute and I have counted over 60 species of marine life in one sample of rockweed, so you can't tell me rockweed harvesting doesn't have an impact on our coastal way of life. I know some will say this bill is good for fishermen, but I have heard from plenty in my area that would disagree. I know groups like Cobscook Bay Fishermen's Association would also disagree and I know many of the folks I represent would also disagree. Madam Speaker, please join me in voting no on this pending motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from East Machias, Representative Tuell.

Representative **TUELL**: Thank you, Madam Speaker. I rise today in opposition to the motion before us and I do so for several reasons.

The Representative from Calais and I have provided you a lot of background on why this legislation is dangerous and ill-advised, so I would encourage you to look that over as we progress through the debate today. I oppose the pending motion because the law was settled in *Ross v. Acadian Seaplants* before the Maine Supreme Law Court two and a half months ago. It was settled, Madam Speaker, with the unanimous verdict; not a four to three split, not a five to two split, but a unanimous verdict in favor of the plaintiffs and their claim that rockweed on their property belongs to them, not the State of Maine.

Now, I confess, I was a bit skeptical of the plaintiff's claim when I first heard of their legal challenge four years ago. I believed those who said they didn't have much of a case and that it would get overturned in court. When the Attorney General's office and the Department of Marine Resources assure you certain things and that it's not so cut and dry, you respect their opinion and you give them the benefit of the doubt. Yet, the plaintiffs won a district court case which was appealed, more assurances were given, and said case ultimately wound up before Chief Justice Saufley and her colleagues. So, when the verdict came down and it came down so unequivocally, I found myself in the uncomfortable position of having to admit I was wrong, and I was wrong. And that maybe, just maybe, the people who were saying all along that this was a property rights issue, that they, not the State government, have a right to say who can, if anyone, harvests their rockweed were in the right. I stand here today to do that, to say that if we were truly going to respect our courts and the men and women who all adjudicate these cases, we ought to be willing to consider the fact that the information we have been given in our time here might not be as we had thought, that there is another perspective that we hadn't considered, or worse, dismissed without careful consideration. In a nutshell, we are not jurists and we shouldn't pretend to be. I believe opponents when they say this bill is an end-run around the law court, that it is a takings bill, that it will cost the State tens of millions of dollars should we push our claim, and that it will ultimately wind up before the United States Supreme Court.

Madam Speaker, we have been years trying to get out from under River View. Do we now want to run the risk of getting back into HOC? And to prove what? That landowners in Washington County are wrong? That they shouldn't have a say over their property? That Augusta knows better and therefore, we ought to stitch together a law in a few months that the courts took four years to figure out? Madam Speaker, were it just the courts and a few upset landowners, one could be forgiven even now for passing a bill with only one dissenting vote. But, alas, it is not. It is communities like Lubec, the Pleasant Point Passamaquoddies. It's fishermen like my old herring-choker buddy, the Representative from Beals who has just told you his story and who's fished Washington County waters for over 50 years and seen firsthand the impact of rockweed harvesting on our environment. It's the 60-some-odd scallopers, lobstermen and fishing families who have been part of the Cobscook Bay Fishermen's Association. It's Maine realtors who are spurring economic development and investment in our State, who see our attempts to revise established jurisprudence as the ultimate slippery slope. And it's the Rockweed Coalition which has raised grave concerns about the sustainability of rockweed harvesting along Maine waters, concerns which many expressed during one of the longest and most contentious hearings of the session in the Agriculture, Conservation and Forestry Committee.

Madam Speaker, I oppose this motion because there is a simple solution. If you want to harvest rockweed in Maine, you get permission from the landowner. And here's something else for you to consider, Madam Speaker, landowners Downeast are already being approached by rockweed harvesters for the rights to harvest. Boats are in the water. If there was no interest in harvesting rockweed, if this was about shutting down rockweed harvesting completely, why would boats still be in the water? They wouldn't be getting permission. Somebody must be giving them permission to harvest. I don't profess to know much about fishing. I have never hauled a trap in my life, dug clams, dragged for scallops, or harvested rockweed, and I

never will. But I have heard the stories from many fishermen who have lived in our area for nine or ten different generations who are willing to take this fight all the way up the food chain, if need be.

Madam Speaker, please listen to us from Washington County. We may come at things from different points of view, but we are united in our love for and commitment to the people we serve. And we know an end-run when we see it. Today, Madam Speaker, Washington County takes center stage. Many will be watching what we do and say here, and I pray that we will turn this bill aside despite the lopsided committee report.

Before I close, Madam Speaker, I would like to thank the Representative from Knox for giving us the opportunity to debate this legislation today. Her caution, concern, and outright objection to this bill, gives us an opportunity to plead our case before you, which many Downeasters are very thankful for and appreciative of. Lastly, Madam Speaker, I urge you to vote down the pending motion and send this bill to the other body in concurrence. Thank you.

The SPEAKER: The Chair recognizes the Representative from Friendship, Representative Evangelos.

Representative **EVANGELOS**: Thank you, Madam Speaker, and Men and Women of the House. The intertidal zone debate is a difficult legal issue, one that pre-dates the establishment of the State of Maine, but I want to be clear about a few things. We have something called separation of powers in this country. This isn't an end-run against anything. This is what happens when courts make an erroneous decision and folks look to the Legislature to correct that decision.

This all started in the late-1980s when nearly 200 years of precedent allowing the public unfettered access onto the intertidal zone was overturned in what are referred to as the Moody Beach or Bell decisions. The court voted in a narrow four to three decision siding with the private property owners. So, I want everybody in this room to know that most of Maine's beaches that are on private property, you're breaking the law when you sunbathe. The current public trust doctrine allows for somebody to go onto the intertidal zone with a shotgun and blast away at will but it does not allow a grandmother to take a walk with her granddaughter. That is against the law under the current arrangement. And that is why the Attorney General's office has intervened on behalf of this bill. And I quote from the amendment; the Attorney General has a right to intervene in any lawsuit that may affect the public's trust right to the intertidal zone. Furthermore, in an opinion written to the Agricultural Committee, and I quote; the office of Attorney General cannot overstate the importance of LD 1323. Reiterating its understanding that the public trust rights to use the intertidal zone is and always has been more about fishing, fowling and navigation only. At a minimum, it must also include the public's right to walk unfettered upon the wet sand of Maine's beaches.

The recent Ross decision that's been referenced wasn't exactly a seven to nothing vote. It was a four vote with a three in a concurrent opinion. I urge any of you who are curious about this to reference the Ross decision, it's Ross v. Acadian, where Justice Saufley strongly urged action to correct bad law. And I want to quote her opinion from the Ross decision, from the Bell decision. She included that argument in remarks 2019 in the Ross. The 1989 Bell decision erroneously limited the public's reasonable and nonabusive use of the intertidal zone, that you should include the right to walk upon wet sand of Maine's beaches and to peacefully enjoy one of the greatest gifts the State of Maine offers to the world. And this is Judge

Saufley speaking to the Legislature, folks. There is a separation of powers. The courts can't change everything. What happens when you have bad law? You look for a remedy, and that's why it landed here. Simply put, we would overrule Bell-2 once and for all. We would adopt the original Justice Wathen analysis and allow the common law of public access and use of the intertidal zone to continue to develop as it has over the centuries. The public deserves our correction.

This is no end-run, Madam Speaker. This is what a Legislature does. Look at our history; 1896 we had *Plessy v. Ferguson*; it allowed for segregation. Many states passed laws saying we're not going to abide by a Supreme Court decision that's bad law, we're going to take action and fix it. That didn't happen in court rooms, it happened at the floor of Legislatures across the country. Not until 1954 did that get overturned in the federal court.

So, I want everybody to understand, there's a huge amount at stake for the public's right to use this zone. There's a huge amount at stake for our tourism industry. There's a huge amount at stake for our working waterfront. There's a huge amount at stake for our fishing community. This is not a bad proposal. The Attorney General's office has stated in the amendment the right to intervene on the behalf of the public. The Attorney General has a right to intervene in any lawsuit that may affect the public's right to the intertidal zone. Well, why is that? Because in the last 40 years since the Bell decision, what's happened is prior to that during the Industrial Revolution we had a lot of wealthy families move up here; the Rockefellers, the Wyeths. They looked out their back window and they said let's get a paintbrush. There's somebody clamming, there's somebody sunbathing, let's get a paintbrush. But in the last 40 years, new money has moved in, big money, and they look out the back window and they say get off my land.

You know, let me read to you what is currently illegal in Maine under the current arrangement and, folks, you'll understand why we brought this bill forward. Currently illegal in Maine, under the current public trust arrangement are the following dangerous activities; sitting, walking, running, reading, sunbathing, picnicking, throwing balls and playing with toys. Oh, yeah, this is a dangerous proposal we brought forward. I understand how dangerous it is. What this is is monied interests against the working people of Maine and our tourism industry. We cannot litigate access to 3500 miles of coastline one lawsuit at a time, and the Attorney General's office came to understand that point during these hearings. That's why they brought forth arguments that said no longer is a small individual in Maine going to be up against Daddy Warbucks in these lawsuits; we're going to defend the public's interest.

So, I want to turn back the arguments you've heard today. This is a great bill. It will ensure the public's right to access and, as Justice Saufley has argued, for 200 years the public's right to the beaches and to our shoreline has evolved over time. My opponents on this like to talk about the British rule, the Colonial Ordinance, something from the 1600s. But, folks, the Stamp Act, the Tea Act, they all went home in 1787 with the British. We don't abide by British law. And I want everyone to know the Indiana Supreme Court just last year in a unanimous decision, joining the other 47 states who see it this way, ruled that the shoreline of Lake Michigan belongs to the people of Indiana and not to the private interests. And 48 other states see it that way. And you've got this archaic colonial provision hamstringing Massachusetts and Maine, and as Justice Saufley has argued, it's bad law, it needs to be

addressed, and that's what she said in her concurrent opinion in March in the Ross opinion. She said this needs to be fixed, it needs a remedy and that's what Legislatures do. Thank you, Madam Speaker.

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

Representative STEWART: Thank you very much, Madam Speaker, Ladies and Gentlemen of the House. So, when I was a freshman in college, so I would've been 19 at the time, I sort of had an epiphany, as young men sometimes do, I guess, and I realized that if I was to sort of follow a very simple rule, it's going to be all right. And that rule is; dad's always right. Let me tell you why.

So, a couple years ago there was a case that, and it's been alluded to a number of times this morning, went to the Superior Court and it just so happens that the Superior Court judge for Aroostook County also handles Washington County. That happens to be my dad. I didn't really know much about rockweed at the time but I found myself sort of fascinated by this case because there's a lot of parallels to what you could equate to property that exists elsewhere in the State, including up in my neck of the woods in Northern Maine. Now, if you were to walk onto my property in Presque Isle and you were to chop down a tree, haul it off, and then profit from it without getting either permission or compensating me for taking my property, that would be illegal. I think everybody in this chamber probably would agree that that's not right, because I paid for that property. I own it, I own it outright, it's mine. The same principle holds in this case, where you have a parcel of land that is owned by someone who paid for that property with the full understanding that that property extends to the low water mark with three exceptions, which you've heard today, for fishing, fowling and navigation. If we were to change this, Madam Speaker, this precedent, which this body may find appropriate to do, however, we should do so with the full expectation that property owners pay for that. That folks have engaged in a transaction that is lawful and authorized by the State of Maine in order to engage in and there has been some sort of monetary transfer in most cases. If we were to undo that, there should be just compensation on the part of the State of Maine.

Now, I'm no expert at exactly how much coastline there is that would be affected by this, but I have to suspect that seeing as how the coast of Maine is about as long as the coast of California if you were to include all of the islands and, you know, thoroughfares and all this other sort of coastline, that would equate, in my sort of rough estimates, in the amount of hundreds of millions of dollars that we would now owe to the people that own those properties because we just took land from them. Now, in some cases, that might be necessary, and that's fine, but in this case, it's not. In this case, if folks want to harvest rockweed, they can, but they need to be getting permission from the landowner first. Because for the same reason that you can't go on to their property and take their natural resource away from them, it's the same principle to why you can't come on to my property in Presque Isle, chop down a tree, and then profit from it without my permission.

So, with that, I would concur with many of the comments that have been made here this morning and I would request that you would follow my light, because dad's always right. Thank you.

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

Representative **HOBBS**: Thank you, Madam Speaker, Men and Women of the House. I rise today in opposition to the pending motion.

My constituents care deeply about Wells Beach. It is a critical part of our economy and our identity and I believe one of my key duties in this body is to stand up for my constituents and the ecosystem that they love. I'm concerned that this measure will have two very harmful impacts. First, it will make it harder for conservation areas to be preserved and protected by opening the intertidal zones to widespread recreation. This could have a significant effect on endangered species. Wells is home to the second largest saltmarsh in our State. This fragile ecosystem is a critical breeding ground for piping plovers and is a wintering habitat for endangered harlequin ducks. I'm extremely concerned about this legislation's impact on these fragile species.

Additionally, I have heard from constituents that are worried about how this legislation will impact their property rights. Many coastal residents of Wells have deeds that have been transferred dating back to the 1600s that clearly show their ownership of land between high and low tide marks. I am deeply concerned that this legislation will infringe upon their rights as landowners, and will create a headache if an owner decides to sell or transfer their property. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Stonington, Representative McDonald.

Representative **McDONALD**: Thank you, Madam Speaker. The decision before us today is not whether or not to allow the harvest of rockweed. Rockweed harvesting is an ongoing activity licensed and regulated by the Department of Marine Resources. The question is; who owns the rockweed? In my opinion, rockweed is a marine resource and should be managed as such, the same as clams, mussels, and other marine species commercially harvested in the intertidal under the definition of fishing, fowling and navigation.

The other question before us is whether we should support the expansion of Maine's public trust doctrine beyond fishing and fowling and navigation, to include recreational activities. In the face of gentrification and our loss of access to the shoreline, I want to assure the people of Maine retain access to our beaches; to collect sea glass, to walk with their children, to read a book. Our beaches should not only be accessible to those who can afford to own them. Thank you.

The SPEAKER: The Chair recognizes the Representative from Chester, Representative Javner.

Representative **JAVNER**: Thank you, Madam Speaker, Men and Women of the House. I stand in opposition of the pending motion.

This is a clear infringement of the rights of the landowners and this bill, LD 1323, is strongly opposed by the taxpayers of my district. Thank you.

The SPEAKER: The Chair recognizes the Representative from Camden, Representative Doudera.

Representative **DOUDERA**: Thank you, Madam Speaker. Fee simple ownership of property is one of the most important rights that we have as Maine citizens. I'm putting on my real estate hat today. This bill makes a major change in property laws and it raises issues of taking without compensation.

Our Maine courts have addressed this issue repeatedly and they've reaffirmed time and time again that the owner of the upland parcel generally owns to the mean low water mark. Now, the courts are slowly changing this on a case by case basis and there are perhaps other ways that this idea of

increased public access could be explored, but a blanket change like this by this body, to me, is not the correct approach and I will be voting no. Thank you.

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

Representative **BICKFORD**: Thank you, Madam Speaker. Madam Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may proceed.

Representative **BICKFORD**: I believe it may have just been answered, but I have relatives that do have a property on a public beach and, with that, we go down every summer to visit and we have no problem walking the beach for a mile each way. So my question is; is this already answered in the deeds that people have whether they own to the low water mark or high water mark? How are deeds written? I'm sure there are people here that are in real estate that can answer this question.

The SPEAKER: The Representative from Auburn has posed a question if there is anyone in the body who is able and willing to answer.

The Chair recognizes the Representative from Friendship, Representative Evangelos.

Representative **EVANGELOS**: Thank you, Madam Speaker. The deeds vary depending upon who wrote them, but I want to remind people that what's written on the deeds is somewhat irrelevant for two reasons. I called over a dozen coastal communities in approach of this debate and not one town that I contacted is taxing the intertidal zone. In other words, you know, for 12 hours it's ten feet under water, so there is no property tax being levied. The second thing I want to remind people about deeds is in the late 1970s even though everyone in this State north of Belfast had a deed saying they own their property, the court saw it differently and our Native American tribes were told they owned everything. So, you know, the deeds are only good enough for the paper they're written on. So, I don't think the deeds, the status of the deeds, is a relevant argument.

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

Representative **HICKMAN**: Thank you, Madam Speaker. Madam Speaker, Women and Men of the House, I will read just briefly from the legislative findings section that's amended in LD 1323 as before us today, and I encourage Members of the body to read the amendment if they haven't.

The Legislature further finds and declares that the protection of the public uses referred to in this chapter is of great public interest and grave concern to the State, and these evolving public uses of intertidal land confer both economic and general welfare benefits to the citizens of the State. In a global economy, the economic value in the tourist-oriented state of recreational uses on intertidal beach areas cannot be overstated, nor can the growing commercial uses and values of renewable marine resources such as seaweed harvesting, the commercial and social importance of this State's working waterfronts or the need to maintain sustainable fisheries be overstated. All are of increasing importance to the social wealth and economic wellbeing of the people of the State, especially in rural communities. The maintenance of sustainable fisheries is particularly important given the State's policy and commitment to greater food self-sufficiency as set forth in Title 7, Section 211. The Legislature further finds and declares that the protection of present and future benefits derived from our intertidal lands and the marine organisms that populate these soils and waters is a legislative duty and

essential to the long-term well-being of Maine people. Evolving uses and benefits can be made secure, regulated, and legislatively adjusted as necessary. Whether the State is seen to be acting to discharge its public trust duties with respect to intertidal land, expanding common law uses on such land, or exercising the State's police power, a power that applies to both publicly-held and privately-held property interests, is a matter of indifference. All fall within the legislative prerogative.

Madam Speaker, Women and Men of the House, I'm honored to be chair of the committee that heard this legislation and, as such, I heard every side of the issue, considered every angle of all the related court cases, and read every piece of testimony. As a student of the law, real estate, and life, and someone who owns waterfront property, I began completely opposed to this legislation. But after reading the Ross case, both Bell cases, and speaking with others, I changed my mind. All I could see was conflict. I could write 20 pages on the conflicts I saw, but we don't have time for that today.

In short, I worked with the Office of the Attorney General and other well-respected legal minds that supported this legislation to amend it, in order to reset the table for another look at case law and put the statute in a posture where it could be successfully defended in our courts, a position the Office of the Attorney General told the committee on the record. I spoke with realtors on the issue, coastal property owners, advocates on both sides, seaweed harvesters, the chief counsel to the Chief Executives, lawyers in the Ross case, three department commissioners, members of the Marine Resources Committee, members of the Judiciary Committee and members of both chambers and both parties. I fundamentally disagree with the courts on this issue and in my role as a Member of the Legislature, a branch of government that can and should check the courts, I hoped we would have the political will to exercise our authority, our plenary power as set forth in Maine's Constitution, to amend statutory law and thereby ask a court to reconsider its errors. After several work sessions and very long, contentious public hearings, the committee agreed to that approach with an 11-1 Ought to Pass as Amended vote as before us today.

As the Good Representative from Friendship said, Chief Justice Saufley made it clear that the court erred in Bell-2 and invited the Legislature to amend the statutes to give the court another opportunity to look at their previous rulings and overturn it. Therefore, it was the Office of the Attorney General that encouraged the passage of this amended bill for all the reasons above and others not addressed here. The Office of the Attorney General did not put a fiscal note on this bill because it does not consider this amendment a taking. Why? Because one of the most compelling arguments against the court's recent ruling centers around the fact that in current Maine statute, rockweed harvesting is, in fact, fishing, a permitted public use under common law, that the law court simply did not acknowledge. LD 1323, as amended in committee, reaffirms this fact. The Department of Marine Resources has a rockweed fishery and management plan. Notwithstanding current statute, that rockweed is defined as a plant, the plant has now been given to the upland owner.

As a farmer, I know that a plant naturally takes up its nutrients from the soil. Rockweed is therefore, not a plant, it is algae, a marine organism which is nourished by the sea, not the soil. The State, according to current statute, owns all marine organisms in the intertidal zone including seaweed and controls their harvest by regulation as we have already heard. In my opinion, the law court apparently ignored statutory law,

marine biology, the public trust doctrine and initiated a reverse taking. By declaring rockweed private property, the law court took a natural resource owned by the State and gave it to private property owners with no just compensation to the people of the State.

Think about that Madam Speaker. Rockweed is a marine resource that the law declares owned by the people of the State, but the court said it belongs to the upland owner and we got no compensation for it. What's good for the goose is good for the gander. I do believe that this ownership of the intertidal zones all over the country will at some point end up in front of the Supreme Court of the land. I look forward to that argument and that debate. In the meantime, I ask the Legislature, this body, in particular, to support the pending motion so that the court has an opportunity to reconsider its ruling. Thank you, Madam Speaker.

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

Representative PERRY: Thank you, Madam Speaker. I am rising in opposition.

I was originally going to read the full legal opinion about the fact that this is a taking. It is a position that came to actually the Office of Fiscal and Program Review from Verrill Dana, the attorney is Gordon Smith; not the Gordon Smith we know on that one. But I do want to sort of point out, if rockweed is the issue, this bill goes too far. We could redefine what rockweed is and it can fit in the rules that are already there. My concern is the total opening up of recreational use, which leaves to the possibility of really affecting the flora and fauna that are a part of our heritage, as well. And one thing that they say in this is that this, plus the rockweed if it is not defined as fishing, really is a taking of private property rights and the State must pay compensation. And this is according to the U.S. Constitution Amendment 5: Nor shall private property be taken for public use, without just compensation. And from the Maine Constitution, Article 1, Paragraph 21: Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it.

I am looking at the expansion from rockweed and, to me, this is public taking. We have families who have coastal property on islands and the coast in Washington County who have owned this property for years. They aren't the wealthy who have bought the property, they are the people who are working the working waterfront, they are the people who are surviving on the land, and I regard this as a taking and the State has a responsibility to view it that way and compensate. So I am voting against this.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Thank you, Madam Speaker, Members of the House. I, too, rise in opposition to this. Part of it because it is a taking, I don't think there's much question about that, but also, on the rockweed part of it, we listened to the Good Representative from Beals who probably has forgotten more about fishing than most of us will ever know, and he raises a very important point about the life that grows under this. There is a regulation that people that harvest this are supposed to leave 16 inches and I think Representative Alley, the Representative from Beals, I'm sorry, believes that they've cut the end of their ruler off because there isn't much left in what he has been seeing and in the case of that, it does a lot of damage to what is growing on bottom.

So, I think the fact that people may have to ask for permission from the landowners may slow down the process on how this is harvested, it won't stop it, but it might possibly

make them more careful because they're going to be more accountable to more people and the 16 inches or if, at some point in time we determine that more or less needs to be left to help protect the bottom and the fish, we'll be able to do that. But I do ask that you vote against this particular proposal. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Winter Harbor, Representative Faulkingham.

Representative **FAULKINGHAM**: Thank you, Madam Speaker. I rise in support of the pending motion.

The Good Representative from Friendship and the Good Representative from Winthrop, they said it all when they said it. I simply wanted to make my position known that the public rights to the intertidal zone must be protected and I say that as a shoreland owner myself. And this bill does not infringe on the upland owner's rights such as wharfing out and whatnot, but this bill reaffirms, I would say, the rights of the public to the intertidal zone, so I support the motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Weld, Representative Skolfield.

Representative **SKOLFIELD**: Thank you, Madam Speaker. Thank you, Ladies and Gentlemen of the House. I stand today in support of the motion.

I just got to point that, you know, us Europeans have been here for roughly 400 years. For the last 200 years we've been a state and for the last 30 years or so we have been told that we can't walk up and down the coast of this State, that the people who own the upland land own all the way to the low water mark. This never was the case except for the last 30 years. So, for 370 years or more, we've been able to traverse the intertidal zone. I think this case will be well-presented to the court and I support what the Representative from Friendship and the Representative from Winthrop both said. They articulated the case very well.

But I just want to remind folks that it was our right as colonials and it has been our right since then, except for the last 30 years or so, to use the coastline to move about. And I support this motion and I hope that you will, as well. Thank you very much.

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

Representative **REED**: Thank you, Madam Speaker. May I ask a few questions?

The **SPEAKER**: The Representative may proceed with his questions.

Representative **REED**: Sitting here listening to this, I'm just wondering; are lake coastlines the same as shoreline coastlines? That's one. And is the Pacific coastline accessible to anyone who wants to walk along its shores? And are the taxes paid to the lower tide water mark or to the higher?

The **SPEAKER**: The Representative from Carmel, Representative Reed, has posed a number of questions if there is anyone who is able to answer.

The Chair recognizes the Representative from Winthrop, Representative Hickman.

Representative **HICKMAN**: Thank you, Madam Speaker. I rise to answer at least part of the Good Representative's question.

If you look at the amendment, in Section 1 under 2A, it says the State declares that it owns and controls the harvesting of living resources of the seas adjoining the coastline. The amendment clarifies that the coastline includes the intertidal zone as defined in Title 12 and the living

resources that the State owns are included in the intertidal zone as defined in Title 12.

I will also say that in Title 12, the definition of fish as a verb says to take any marine organism by any means and marine organism is defined in Title 12 as any animal or plant or any other thing that lives above the high water mark. So, that's not exactly what the Representative asked, but I just wanted to point out that coastline in this case includes the intertidal zone and all marine resources therein.

The **SPEAKER**: The Chair recognizes the Representative from East Machias, Representative Tuell.

Representative **TUELL**: Thank you, Madam Speaker. I actually rise to answer and ask questions.

So, in response to the question by the Representative from Carmel, I would say it's rather ironic that here we are on June 10th, nine days before statutory adjournment, trying to figure out complicated legal issues when it took a court system four years to figure them out. And my point there being is we really don't know what we really don't know and, at the very least, if this does proceed, it ought to be sent back to committee.

To the question that I would have, and I've heard folks say on both sides of the debate that this seems like it's going to go back to court. Well, if that is the case, I guess my question is why, at what amount of money do we expect Appropriations to fund that legal challenge or defending our interests in that? Thank you, Madam Speaker.

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

Representative **BABBIDGE**: Thank you, Madam Speaker. With regard to the Pacific coast, there is public access. I looked this up a while back, but there was public access in every state that I saw except for Maine and Massachusetts.

I do want to mention that when the 1980s case in Moody Beach in Wells kind of brought this to a head and the Maine law court gave property owners a big kiss and since that time, the takings claim has had much more, what's the word I'm looking for? Much more reliability, because the court gave them some ammunition to make that claim. But prior to that there was not that case for a taking.

I just want to mention the relationship between the chambers, and the other thing about the deeds, it was the law court that decided to use the colonial ordinance as a precedent, regardless if your deed was to the high water mark or to the low water mark or if it was silent. But the Attorney General's office is an independent office but it is an office that serves this chamber. And in the 1980s when this case really was first brought to this momentous decision, the Attorney General of the people of Maine fought for public access on behalf of Maine's citizens. Today, the Attorney General has signed on to this bill as being in the interests of public citizens. And, so, I'm saying I'm willing to take my lawyer's advice on this one and I do think it's in the public interest. Thank you, Madam Speaker.

The **SPEAKER**: The Representative from East Machias had posed a question, though not a formal question, through the Chair and a Member has informed me they would like to answer that question.

The Chair recognizes the Representative from Winthrop, Representative Hickman.

Representative **HICKMAN**: Thank you, Madam Speaker. The Office of the Attorney General feels confident that they can defend this within existing resources and that is why there is no fiscal note. 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. 216

YEA - Ackley, Austin B, Babbidge, Babine, Bailey, Beebe-Center, Berry, Blume, Brennan, Bryant, Caiazzo, Cloutier, Collings, Cooper, Corey, Craven, Crockett, Cuddy, Denk, Dodge, Doore, Drinkwater, Dunphy, Evangelos, Farnsworth, Faulkingham, Fecteau J, Fecteau R, Foley, Gattine, Gramlich, Grohoski, Haggan, Handy, Harnett, Hepler, Hickman, Hubbell, Hymanson, Ingwersen, Johansen, Jorgensen, Kessler, Lockman, Madigan C, Marean, Matlack, Maxmin, McDonald, McLean, Melaragno, Moonen, Morales, Nadeau, O'Neil, Paulhus, Pluecker, Reckitt, Riley, Riseman, Roberts-Lovell, Rykerson, Schneck, Sharpe, Sheats, Skolfield, Sylvester, Talbot Ross, Terry, Tipping, Warren, Madam Speaker.

NAY - Alley, Andrews, Arata, Austin S, Bickford, Blier, Bradstreet, Campbell, Cardone, Carney, Cebra, Costain, Curtis, Daughtry, Dillingham, Dolloff, Doudera, Fay, Foster, Griffin, Hall, Hanington, Hanley, Harrington, Head, Higgins, Hobbs, Hutchins, Javner, Keschl, Kinney, Kornfield, Kryzak, Landry, Lyford, Martin J, Martin R, Martin T, Mason, Mastraccio, McCreight, Meyer, Millett, Morris, O'Connor, Ordway, Pebworth, Peoples, Perkins, Perry A, Perry J, Pickett, Pierce T, Prescott, Reed, Rudnicki, Sampson, Stanley, Stearns, Stetkis, Stewart, Stover, Swallow, Tepler, Tucker, Tuell, Wadsworth, White B, White D, Zeigler.

ABSENT - DeVeau, Grignon, McCrea, Strom, Theriault, Verow.

Yes, 72; No, 70; Absent, 6; Excused, 2.

72 having voted in the affirmative and 70 voted in the negative, with 6 being absent and 2 excused, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-222)** 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-222)** in **NON-CONCURRENCE** 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" (S-236)** on Bill "An Act To Require Law Enforcement Officers To Wear Body Cameras"

(S.P. 198) (L.D. 636)

Signed:
Senators:

DESCHAMBAULT of York
CARPENTER of Aroostook
ROSEN of Hancock

Representatives:

WARREN of Hallowell
BEEBE-CENTER of Rockland
COOPER of Yarmouth
COREY of Windham
COSTAIN of Plymouth

MORALES of South Portland
PICKETT of Dixfield
RECKITT of South Portland
SHARPE of Durham

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

Signed:

Representative:

JOHANSEN of Monticello

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-236)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-236)** 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-236)** in concurrence.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-235)** on Bill "An Act To Amend the Maine Uniform Building and Energy Code" (S.P. 480) (L.D. 1543)

Signed:

Senators:

DESCHAMBAULT of York
CARPENTER of Aroostook

Representatives:

WARREN of Hallowell
BEEBE-CENTER of Rockland
COOPER of Yarmouth
MORALES of South Portland
RECKITT of South Portland
SHARPE of Durham

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

Signed:

Senator:

ROSEN of Hancock

Representatives:

COREY of Windham
COSTAIN of Plymouth
JOHANSEN of Monticello
PICKETT of Dixfield

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-235)**.

READ.

On motion of Representative WARREN of Hallowell, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Pursuant to House Rule 401, Section 12, Representative BROOKS of Lewiston informed the Speaker and Clerk of her return and would no longer be excused from House deliberations and roll calls.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-234)** on Bill "An Act To Amend the Maine Emergency Medical Services Act of 1982 and Related Provisions"

(S.P. 573) (L.D. 1724)

Signed:

Senators:

DESCHAMBAULT of York
CARPENTER of Aroostook
ROSEN of Hancock

Representatives:

WARREN of Hallowell
BEEBE-CENTER of Rockland
COOPER of Yarmouth
COREY of Windham
COSTAIN of Plymouth
MORALES of South Portland
PICKETT of Dixfield
RECKITT of South Portland
SHARPE of Durham

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

Signed:

Representative:

JOHANSEN of Monticello

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-234)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-234)** 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-234)** in concurrence.

Majority Report of the Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-232)** on Bill "An Act To Prohibit Payment per Signature on Petitions for Direct Initiatives and People's Veto Referendums"

(S.P. 164) (L.D. 499)

Signed:

Senators:

LUCHINI of Hancock
CYRWAY of Kennebec
HERBIG of Waldo

Representatives:

SCHNECK of Bangor
ACKLEY of Monmouth
COOPER of Yarmouth
DOLLOFF of Rumford
HANINGTON of Lincoln
HICKMAN of Winthrop
HUBBELL of Bar Harbor
McCREIGHT of Harpswell
STROM of Pittsfield

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

Signed:

Representative:

ANDREWS of Paris

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-232)**.

READ.

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

The **SPEAKER**: The Chair recognizes the Representative from Oxford, Representative Dillingham.

Representative **DILLINGHAM**: Thank you. It's my understanding that the title no longer actually reflects what we're voting on, so could somebody tell me what the committee amendment does? Thank you.

The **SPEAKER**: The Representative from Oxford, Representative Dillingham, has posed a question to the Members.

The Chair recognizes the Representative from Bangor, Representative Schneck.

Representative **SCHNECK**: Thank you, Madam Speaker. In response to the question, the committee changed the title of the bill. It is now An Act to Collect Data Regarding How Payment is Made for Collection of Signatures for Direct Initiatives and People's Veto Referendums.

This bill, as it was originally proposed, had been challenged by the courts in several instances so the committee decided to; one of the things that the court said is that they had no information to fall back on, they needed data. So, what we're going to do is we're going to collect data on how people are paid that are circulating signatures, so they will have to tell us if they are getting paid by signature. We'll have the data available if the court is ever in a position where we'll be able to offer that information. Thank you.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-232)** 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-232)** in concurrence.

Program within the Department of Health and Human Services"

(H.P. 965) (L.D. 1337)

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-522)** on Bill "An Act To Establish Computer Science Courses and Content in Kindergarten to Grade 12 Schools"

(H.P. 1003) (L.D. 1382)

Signed:
Senators:

MILLETT of Cumberland
CARSON of Cumberland

Representatives:

KORNFELD of Bangor
BRENNAN of Portland
DODGE of Belfast
FARNSWORTH of Portland
INGWERSEN of Arundel
McCREA of Fort Fairfield

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

Signed:
Senator:

POULIOT of Kennebec

Representatives:

DRINKWATER of Milford
FECTEAU of Augusta
RUDNICKI of Fairfield
SAMPSON of Alfred

READ.

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

The Bill was **READ ONCE. Committee Amendment "A" (H-522)** 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-522)** and sent for concurrence.

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment, Friday, June 7, 2019, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-429)** - Minority (3) **Ought Not to Pass** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Save Lives by Establishing a Homeless Opioid Users Service Engagement

TABLED - June 4, 2019 (Till Later Today) by Representative HYMANSON of York.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

Subsequently, on motion of Representative HYMANSON of York, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE. Committee Amendment "A" (H-429)** 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-429)** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass** - Committee on **TRANSPORTATION** on Bill "An Act To Increase Railroad Freight Safety"

(H.P. 521) (L.D. 716)

TABLED - June 7, 2019 (Till Later Today) by Representative MOONEN of Portland.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

Subsequently, on motion of Representative McLEAN of Gorham, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

Representative **COLLINGS**: You moved the report before I could ask for a roll call.

The SPEAKER: The Chair would advise the Representative that we already passed under the hammer the Majority Ought Not to Pass Report and then the Chair noted that the Representative had put their light on after that. The Majority Ought Not to Pass Report has already gone under the hammer, there is not an opportunity for a roll call at this moment.

The Chair will advise Members for the future if you feel I am about to move through something and have not noted or you think your light is on and maybe it is not on, because I know that happens sometimes, you may please feel welcome to stand up and call my attention. It is not my intention to move past people who want to speak on an item.

Representative BERRY of Bowdoinham moved that the House **RECONSIDER** its action whereby the House voted to **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative STEWART of Presque Isle **REQUESTED** a roll call on the motion to **RECONSIDER** whereby the House voted to **ACCEPT** the Majority **Ought Not to Pass** Report on Bill "An Act To Increase Railroad Freight Safety"

(H.P. 521) (L.D. 716)

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 Reconsideration

whereby the House voted to Accept the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 217

YEA - Ackley, Austin B, Babbidge, Babine, Bailey, Beebe-Center, Berry, Blume, Brennan, Brooks, Bryant, Caiazzo, Cardone, Carney, Collings, Cooper, Craven, Crockett, Cuddy, Daughtry, Denk, Dodge, Doore, Doudera, Dunphy, Evangelos, Farnsworth, Fay, Fecteau R, Foley, Gattine, Gramlich, Grohoski, Handy, Harnett, Hepler, Hickman, Hobbs, Hubbell, Hymanson, Ingwersen, Jorgensen, Kessler, Kornfield, Landry, Madigan C, Martin J, Martin R, Mastraccio, Matlack, Maxmin, McCreight, McDonald, McLean, Melaragno, Meyer, Moonen, Morales, Nadeau, O'Neil, Paulhus, Pebworth, Peoples, Perry A, Perry J, Pierce T, Pluecker, Reckitt, Riley, Riseman, Roberts-Lovell, Rykerson, Schneck, Sharpe, Stanley, Stover, Sylvester, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, White B, Zeigler, Madam Speaker.

NAY - Alley, Andrews, Arata, Austin S, Bickford, Blier, Bradstreet, Campbell, Cebra, Cloutier, Corey, Costain, Curtis, Dillingham, Dolloff, Drinkwater, Fecteau J, Foster, Griffin, Haggan, Hall, Hanington, Hanley, Harrington, Head, Higgins, Hutchins, Javner, Johansen, Keschl, Kinney, Kryzak, Lockman, Lyford, Marean, Martin T, Mason, Millett, Morris, O'Connor, Ordway, Perkins, Pickett, Prescott, Reed, Rudnicki, Sampson, Sheats, Skolfield, Stearns, Stetkis, Stewart, Swallow, Tuell, Wadsworth, White D.

ABSENT - DeVeau, Faulkingham, Grignon, McCrea, Strom, Theriault, Verow.

Yes, 86; No, 56; Absent, 7; Excused, 1.

86 having voted in the affirmative and 56 voted in the negative, with 7 being absent and 1 excused, and accordingly the House **RECONSIDERED** its action whereby the Majority **Ought Not to Pass Report was ACCEPTED.**

Subsequently, Representative COLLINGS 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 Portland.

Representative **COLLINGS:** Thank you, Madam Speaker, Ladies and Gentlemen of the House. I rise in support of the Minority Ought to Pass Report.

So this issue is dealing with rail safety. In several states, they have laws that allow the states to mandate the size of crews on trains and, you know, they'll have a conductor and an engineer. And that's what we want to do in Maine. There was a recent ruling by the Federal Rail Authority that sought to undermine the right of states to do that. That is going to be challenged. The minority of us in the committee that were for the bill believe that states should have the right to enforce safety on rails, this is for freight only and specifically carrying the types of content on some of these trains and how hazardous and dangerous they are, we would like to have that right.

After the train crash in Quebec, the nation of Canada went ahead and made a law to mandate two people on all trains, a two-person crew, and I believe that we should err on the side of safety and do that here. Sometimes humans can be wrong and cause errors, as is in the case when they're on trains. Sometimes technology can be at fault as well, so it's good to have both of them hand in hand. But if you reduce the number of crews, you take away the right for humans to intervene when you have a technological error. So, I would

urge the Members of this body to err on the side of caution and safety and for the sovereignty of our State to enforce rules and would ask you to vote for the Minority Report. Thank you.

Representative PERKINS of Oakland **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 Kittery, Representative Rykerson.

Representative **RYKERSON:** Thank you, Madam Speaker. Once again, we're being threatened by lawyers from large corporations. Do we represent them or do we represent the people of Maine and their safety? I move that you vote for the Minority Report.

The **SPEAKER:** The Chair will advise the Representative that that is pretty close to questioning the motives of others' votes. So the Representative will please be more careful and thoughtful before speaking in the future.

The Chair recognizes the Representative from Oakland, Representative Perkins.

Representative **PERKINS:** Thank you, Madam Speaker. Thanks for turning it on, too.

Madam Speaker, I rise today in support of the Majority Report. In committee we talked about this and we talked about how it was brought up that the incident in Canada was made because there was one man on the crew, and that was not because there was only one person on the crew. It was brought to us by the people from Canada. It was also brought to us that many of our trains are already running with two crewmembers now.

I don't believe in the State of Maine that we should be telling people how to run their business. I said it in the committee that we should maybe start telling every police cruiser we should have two people on it or every school bus we should have two people on. As we know, in our day and age, ma'am, it is so very hard to recruit and get good people to work. I don't believe we should be taking and ordering or mandating the crews of the railroads to have two people on. Thank you, Madam Speaker, for the time.

The **SPEAKER:** The pending question is acceptance of the Majority Ought Not to Pass Report. A roll call is in order.

The Chair recognizes the Representative from Greene, Representative Martin.

Representative **MARTIN:** Thank you, Madam Speaker. I rise today in support of the motion to Accept Ought Not to Pass.

One important point that hasn't been brought up is we are part of the New England states that are preempted from the federal laws that kind of oversee this jurisdiction and it would put us in direct conflict with the federal law, instantly putting us into a lawsuit against the federal government for preemption status, which is obviously going to cost thousands of dollars, probably hundreds of thousands. And we had the Attorney General come into our committee and tell us that the ruling just came out as little as a week and a half ago, that reaffirmed our preemption status. Thank you.

The **SPEAKER:** The Chair recognizes the Representative from Waterville, Representative White.

Representative **WHITE:** Thank you, Madam Speaker. I would urge Members to, well, I would urge Members to; I'm not sure what my role is, I mean, if I can say that; not to vote for the pending motion and it's more of a safety issue.

Many of these conductors on freight rail trains go long hours, many over 12 hours and fatigue sets in, so it is very much a safety issue in our mind. And, in fact, the railroads at this point have two people in the rail so they must find it fairly

important and we just want to keep that in place. Thank you, Madam 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. 218

YEA - Alley, Andrews, Arata, Austin S, Bickford, Blier, Bradstreet, Brennan, Campbell, Cardone, Carney, Cebra, Cloutier, Corey, Costain, Craven, Crockett, Curtis, Denk, Dillingham, Dolloff, Drinkwater, Dunphy, Farnsworth, Faulkingham, Fay, Fecteau J, Foley, Foster, Gattine, Griffin, Grohoski, Haggan, Hall, Hanington, Hanley, Harrington, Head, Higgins, Hubbell, Hutchins, Hymanson, Ingwersen, Javner, Johansen, Jorgensen, Keschl, Kinney, Kornfield, Kryzak, Lockman, Lyford, Marean, Martin R, Martin T, Mason, Mastraccio, Maxmin, McLean, Millett, Moonen, Morris, O'Connor, Ordway, Pebworth, Peoples, Perkins, Perry A, Pickett, Pierce T, Pluecker, Prescott, Reed, Riley, Rudnicki, Sampson, Schneck, Sheats, Skolfield, Stearns, Stetkis, Stewart, Stover, Swallow, Terry, Tuell, Wadsworth, Warren, White D.

NAY - Ackley, Austin B, Babbidge, Babine, Bailey, Beebe-Center, Berry, Blume, Brooks, Bryant, Caiazzo, Collings, Cooper, Cuddy, Daughtry, Dodge, Doore, Doudera, Evangelos, Fecteau R, Gramlich, Handy, Harnett, Hepler, Hickman, Hobbs, Kessler, Landry, Madigan C, Martin J, Matlack, McCreight, McDonald, Melaragno, Meyer, Morales, Nadeau, O'Neil, Paulhus, Perry J, Reckitt, Riseman, Roberts-Lovell, Rykerson, Sharpe, Stanley, Sylvester, Talbot Ross, Tepler, Tipping, Tucker, White B, Zeigler, Madam Speaker.

ABSENT - DeVeau, Grignon, McCrea, Strom, Theriault, Verow.

Yes, 89; No, 54; Absent, 6; Excused, 1.

89 having voted in the affirmative and 54 voted in the negative, with 6 being absent and 1 excused, 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**.

CONSENT CALENDAR

First Day

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

(S.P. 472) (L.D. 1523) Bill "An Act To Ensure the Quality of and Increase Access to Recovery Residences" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-240)**

(S.P. 567) (L.D. 1718) Bill "An Act To Exempt Purchases by Pet Food Pantries from Sales Tax" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-241)**

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.

COMMUNICATIONS

The Following Communication: (H.C. 197)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES**

**SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

June 10, 2019

The Honorable Robert B. Hunt
Clerk of the House
2 State House Station
Augusta, Maine 04333

Dear Clerk Hunt:

Pursuant to my authority under House Rule 201.1 (I) (a), I have rescinded the temporary appointment of Representative Scott Landry of Farmington to the Joint Standing Committee on Health Coverage, Insurance and Financial Services and I have reappointed Representative Heidi Brooks of Lewiston to the Joint Standing Committee on Health Coverage, Insurance and Financial Services, effective immediately.

Please do not hesitate to contact me should you have any questions.

Sincerely,
S/Sara Gideon
Speaker of the House

READ and ORDERED PLACED ON FILE.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Limit the Amount of Money That May Be Retained on Construction Contracts"

(H.P. 636) (L.D. 862)

Minority (3) **OUGHT TO PASS** Report of the Committee on **INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on June 7, 2019.

Came from the Senate with the Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS READ** and **ACCEPTED** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

Bill "An Act To Restore the Laws Governing the Reunification of Parents and Children"

(H.P. 150) (L.D. 187)

Minority (2) **OUGHT TO PASS** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on June 6, 2019.

Came from the Senate with the Majority (11) **OUGHT NOT TO PASS** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

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

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-237)** on Bill "An Act To Address Violent Behavior in the Classroom"

(S.P. 425) (L.D. 1370)

Signed:

Senators:

MILLETT of Cumberland
CARSON of Cumberland
POULIOT of Kennebec

Representatives:

KORNFIELD of Bangor
BRENNAN of Portland
DODGE of Belfast
DRINKWATER of Milford
FARNSWORTH of Portland
FECTEAU of Augusta
INGWERSEN of Arundel
McCREA of Fort Fairfield
SAMPSON of Alfred

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

Signed:

Representative:

RUDNICKI of Fairfield

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-237)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-237)** 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-237)** 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. 204) (L.D. 642) Bill "An Act Regarding Kindergarten Readiness for Children Who Are Deaf and Hard of Hearing" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-243)**

(S.P. 293) (L.D. 1014) Bill "An Act To Attract and Retain Firefighters" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-242)**

(H.P. 1247) (L.D. 1752) Bill "An Act To Amend the Charter of the Boothbay Harbor Sewer District" Committee on

ENERGY, UTILITIES AND TECHNOLOGY reporting **Ought to Pass as Amended by Committee Amendment "A" (H-528)**

(H.P. 1254) (L.D. 1765) Bill "An Act To Expand and Clarify the Prohibition of Hazing at Elementary Schools, Secondary Schools and Postsecondary Institutions" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-529)**

(H.P. 1255) (L.D. 1768) Bill "An Act To Amend the Barbering and Cosmetology Licensing Laws" Committee on **INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-533)**

(H.P. 1286) (L.D. 1806) Bill "An Act To Amend the Laws Governing Veterans' Services" Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-532)**

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.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought Not to Pass** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Ensure That Voting Rights Belong Only to Citizens in Municipal or Other Local Elections

(H.P. 993) (L.D. 1372)

Signed:

Senator:

LUCHINI of Hancock

Representatives:

SCHNECK of Bangor
ACKLEY of Monmouth
COOPER of Yarmouth
HICKMAN of Winthrop
HUBBELL of Bar Harbor
McCREIGHT of Harpswell

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-530)** on same RESOLUTION.

Signed:

Senators:

CYRWAY of Kennebec
HERBIG of Waldo

Representatives:

ANDREWS of Paris
DOLLOFF of Rumford
HANINGTON of Lincoln
STROM of Pittsfield

READ.

Representative SCHNECK of Bangor moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative STEWART of Presque Isle **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 PRO TEM: The Chair recognizes the Representative from Hiram, Representative Wadsworth.

Representative **WADSWORTH**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House. You know, I put this bill in previously because then-Attorney General Janet Mills had stated our laws are silent to noncitizens' ability to vote in our local elections. I disagree with the recent position of our Mayor of Portland asking to allow noncitizens to vote in those elections, and it's flat wrong. Maine Municipal also opposed this bill stating that it's a matter of local control. Here's a quote from their testimony; quote, the association respectfully requests that the State continue to respect the right of each community to retain within its purview decisions the appropriate qualifications of electors for municipal elections, end-quote.

Mr. Speaker, I would hope citizen status would be the number one qualification of being able to cast a vote in Maine elections.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Cooper.

Representative **COOPER**: Thank you, Mr. Speaker. There is already a law on the books, a statute which states clearly that only citizens in the State of Maine can vote. In the testimony that we heard on this bill and a related bill, none of the proponents ever cited this statute, which leads me to believe that they were unaware of it, which is not surprising considering the advice they got. But this is the law, there's no need to pass these additional requirements. Thank you.

The SPEAKER PRO TEM: 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. 219

YEA - Ackley, Austin B, Babbidge, Babine, Bailey, Beebe-Center, Berry, Brennan, Brooks, Bryant, Caiazzo, Cardone, Carney, Cloutier, Collings, Cooper, Crockett, Cuddy, Daughtry, Denk, Dodge, Doudera, Dunphy, Evangelos, Farnsworth, Fecteau R, Foley, Gattine, Gramlich, Grohoski, Handy, Harnett, Hepler, Hubbell, Jorgensen, Kessler, Kornfield, Madigan C, Marean, Martin J, Martin R, Mastraccio, Matlack, Maxmin, McCreight, McDonald, McLean, Melaragno, Meyer, Moonen, Morales, Nadeau, O'Neil, Paulhus, Pebworth, Peoples, Perry A, Pierce T, Pluecker, Reckitt, Riley, Riseman, Roberts-Lovell, Rykerson, Schneck, Sharpe, Sheats, Stanley, Stover, Sylvester, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, White B, Zeigler, Madam Speaker.

NAY - Alley, Andrews, Arata, Austin S, Bickford, Blier, Bradstreet, Cebra, Corey, Costain, Dillingham, Dolloff, Drinkwater, Faulkingham, Fay, Fecteau J, Foster, Griffin, Hall, Hanington, Hanley, Harrington, Head, Higgins, Hobbs, Hutchins, Ingwersen, Javner, Johansen, Keschl, Kinney, Kryzak, Lockman, Lyford, Mason, Millett, Morris, O'Connor, Ordway, Perkins, Pickett, Prescott, Reed, Rudnicki, Sampson, Skolfield, Stearns, Stetkis, Stewart, Swallow, Tuell, Wadsworth, White D.

ABSENT - Blume, Campbell, Craven, Curtis, DeVeau, Doore, Grignon, Haggan, Hickman, Hymanson, Landry, Martin T, McCrea, Perry J, Strom, Theriault, Verow.

Yes, 79; No, 53; Absent, 17; Excused, 1.

79 having voted in the affirmative and 53 voted in the negative, with 17 being absent and 1 excused, 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** with the exception of matters being held.

Majority Report of the Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought Not to Pass** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Specify the Qualifications of Electors (H.P. 149) (L.D. 186)

Signed:

Senator:

LUCHINI of Hancock

Representatives:

SCHNECK of Bangor
ACKLEY of Monmouth
COOPER of Yarmouth
HICKMAN of Winthrop
HUBBELL of Bar Harbor
McCREIGHT of Harpswell

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-531)** on same RESOLUTION.

Signed:

Senators:

CYRWAY of Kennebec
HERBIG of Waldo

Representatives:

ANDREWS of Paris
DOLLOFF of Rumford
HANINGTON of Lincoln
STROM of Pittsfield

READ.

Representative SCHNECK of Bangor moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative DILLINGHAM of Oxford **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 PRO TEM: The Chair recognizes the Representative from Winter Harbor, Representative Faulkingham.

Representative **FAULKINGHAM**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House, I will keep this speech brief due to how straightforward the content is. LD 186 simply states that only a citizen of the United States may vote in a state, county, or municipal or other election. This bill adds one sentence to the Constitution of Maine; only a citizen of the United States may vote in a state, county, municipal or other election.

This amendment simply sets in stone what the framers of the Constitution already implied and intended all along. The citizens of Maine overwhelmingly support this bill. I have heard Members say that this is already a law and it's nothing to worry about, and surely we all hear and know the difference between a law and a constitutional amendment and the significance of that. This needs to be set in stone and it's our job to do that. I urge the Members to vote no on the pending motion.

The SPEAKER PRO TEM: 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. 220

YEA - Ackley, Alley, Austin B, Babbidge, Babine, Bailey, Beebe-Center, Berry, Brennan, Brooks, Bryant, Caiazzo, Cardone, Carney, Cloutier, Collings, Cooper, Crockett, Cuddy, Daughtry, Denk, Dodge, Doudera, Dunphy, Evangelos, Farnsworth, Fecteau R, Foley, Gattine, Gramlich, Grohoski, Handy, Harnett, Hepler, Hubbell, Jorgensen, Kessler, Kornfield, Madigan C, Marean, Martin J, Martin R, Mastraccio, Matlack, Maxmin, McCreight, McDonald, McLean, Melaragno, Meyer, Moonen, Morales, Nadeau, O'Neil, Paulhus, Pebworth, Peoples, Perry A, Pierce T, Pluecker, Reckitt, Riley, Riseman, Roberts-Lovell, Rykerson, Schneck, Sharpe, Sheats, Stanley, Stover, Sylvester, Talbot Ross, Tepler, Terry, Tipping, Tucker, Warren, White B, Zeigler, Madam Speaker.

NAY - Andrews, Arata, Austin S, Bickford, Blier, Bradstreet, Cebra, Corey, Costain, Dillingham, Dolloff, Drinkwater, Faulkingham, Fay, Fecteau J, Foster, Griffin, Hall, Hanington, Hanley, Harrington, Head, Higgins, Hobbs, Hutchins, Ingwersen, Javner, Johansen, Keschl, Kinney, Kryzak, Lockman, Lyford, Mason, Millett, Morris, O'Connor, Ordway, Perkins, Pickett, Prescott, Reed, Rudnicki, Sampson, Skolfield, Stearns, Stetkis, Stewart, Swallow, Tuell, Wadsworth, White D.

ABSENT - Blume, Campbell, Craven, Curtis, DeVeau, Doore, Grignon, Haggan, Hickman, Hymanson, Landry, Martin T, McCrea, Perry J, Strom, Theriault, Verow.

Yes, 80; No, 52; Absent, 17; Excused, 1.

80 having voted in the affirmative and 52 voted in the negative, with 17 being absent and 1 excused, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass** on Bill "An Act Regarding Criminal Procedure with Respect to Allowable Defenses"

(H.P. 1175) (L.D. 1632)

Signed:

Senators:

DESCHAMBAULT of York
CARPENTER of Aroostook
ROSEN of Hancock

Representatives:

WARREN of Hallowell
BEEBE-CENTER of Rockland
COOPER of Yarmouth
COREY of Windham
COSTAIN of Plymouth
MORALES of South Portland
PICKETT of Dixfield
RECKITT of South Portland
SHARPE of Durham

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

Signed:

Representative:

JOHANSEN of Monticello

READ.

Representative WARREN of Hallowell moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass** Report.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hallowell, Representative Warren.

Representative **WARREN**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House, this bill prohibits the use of what is referred to as the gay and trans panic defense.

The gay and trans panic defense is a legal strategy which asks a jury to find that a victim's sexual orientation or gender identity is to blame for the defendant's violent reaction, including murder. It is not a freestanding defense to criminal liability, but rather a legal tactic which is used to bolster other defenses. When this defense is employed, the perpetrator claims that the victim's sexual orientation or gender identity not only explains, but excuses their loss of self-control and subsequent assault.

Right now in the State of Maine, you can use this as a defense. States across the country are aiming to do what we are aiming to do here under direction of the American Bar Association. I ask you to join me in voting yes on this bill. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Presque Isle, Representative Stewart.

Representative **STEWART**: Thank you very much, Mr. Speaker. I rise to concur with the remarks from the Representative from Hallowell, as I think that she has articulated well the merits of this argument here, and would ask that my colleagues follow my light on this even though we have not had a long caucus discussion about this, that I think is the appropriate move to make at this point. Thank you.

Representative PICKETT of Dixfield **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

ROLL CALL NO. 221

YEA - Ackley, Alley, Andrews, Arata, Austin B, Austin S, Babbidge, Babine, Bailey, Beebe-Center, Berry, Bickford, Blier, Bradstreet, Brennan, Brooks, Bryant, Caiazzo, Cardone, Carney, Cebra, Cloutier, Collings, Cooper, Corey, Costain, Crockett, Cuddy, Daughtry, Denk, Dillingham, Dodge, Dolloff, Doudera, Drinkwater, Dunphy, Evangelos, Farnsworth, Faulkingham, Fay, Fecteau J, Fecteau R, Foley, Foster, Gattine, Gramlich, Griffin, Grohoski, Hall, Handy, Hanington, Hanley, Harnett, Harrington, Head, Hepler, Hickman, Higgins, Hobbs, Hubbell, Hutchins, Ingwersen, Javner, Jorgensen, Keschl, Kessler, Kinney, Kornfield, Kryzak, Lockman, Lyford, Madigan C, Marean, Martin J, Martin R, Mason, Mastraccio, Matlack, Maxmin, McCreight, McDonald, McLean, Melaragno, Meyer, Millett, Moonen, Morales, Morris, Nadeau, O'Connor, O'Neil, Ordway, Paulhus, Pebworth, Peoples, Perkins, Perry A, Pickett, Pierce T, Pluecker, Prescott, Reckitt, Reed, Riley, Riseman, Roberts-Lovell, Rudnicki, Rykerson, Sampson, Schneck, Sharpe, Sheats, Skolfield, Stanley, Stearns, Stetkis, Stewart, Stover, Swallow, Sylvester, Talbot Ross, Tepler, Terry, Tipping, Tucker, Tuell, Wadsworth, Warren, White B, White D, Zeigler, Madam Speaker.

NAY - Johansen.

ABSENT - Blume, Campbell, Craven, Curtis, DeVeau, Doore, Grignon, Haggan, Hymanson, Landry, Martin T, McCrea, Perry J, Strom, Theriault, Verow.

Yes, 132; No, 1; Absent, 16; Excused, 1.

132 having voted in the affirmative and 1 voted in the negative, with 16 being absent and 1 excused, and accordingly the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE**.

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

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Presque Isle, Representative Stewart.

Representative **STEWART**: Thank you, Mr. Speaker. Just a brief inquiry. What is being held?

The SPEAKER PRO TEM: The Chair would answer that LD 187 is being held.

On motion of Representative BRADSTREET of Vassalboro, the House adjourned at 4:48 p.m., until 10:00 a.m., Tuesday, June 11, 2019.