

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
SECOND REGULAR SESSION
19th Legislative Day
Thursday, February 23, 2012

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

Prayer by Reverend Alice Anderman, Winthrop Congregational (UCC) Church; Protestant Chaplain, Colby College, Waterville.

National Anthem by Mark Tipton, Portland.

Pledge of Allegiance.

Doctor of the day, Emily Trask-Eaton, D.O., Waldoboro.

The Journal of yesterday was read and approved.

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

SENATE PAPERS

Bill "An Act To Protect Public Safety in the Operation of Casinos" (EMERGENCY)

(S.P. 632) (L.D. 1828)

Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** suggested and ordered printed.

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

REFERRED to the Committee on **VETERANS AND LEGAL AFFAIRS** in concurrence.

COMMUNICATIONS

The Following Communication: (H.C. 315)

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

February 23, 2012

The Honorable Robert W. Nutting

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Nutting:

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

Appropriations and Financial Affairs

L.D. 1657 An Act To Amend the Laws Governing Health Insurance for Certain State Employees (EMERGENCY)

Energy, Utilities and Technology

L.D. 1676 An Act To Increase Energy Options

Inland Fisheries and Wildlife

L.D. 1327 Resolve, To Study the Organization of the Fisheries Management Activities of the Department of Inland Fisheries and Wildlife and Make Recommendations To Improve Efficiency and Effectiveness

The sponsors and cosponsors have been notified of the Committee's action.

Sincerely,

S/Heather J.R. Priest

Clerk of House

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

The Following Communication: (S.C. 717)

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

February 22, 2012

The Honorable Robert W. Nutting

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Nutting:

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

Upon the recommendation of the Committee on Appropriations and Financial Affairs, the nomination of Brian H. Noyes of South Freeport for appointment to the Maine Public Employees Retirement System Board of Trustees.

Upon the recommendation of the Committee on Criminal Justice and Public Safety, the nomination of the Honorable Vinton E. Cassidy of Calais for appointment to the State Board of Corrections.

Sincerely,

S/David R. Madore

Assistant Secretary of the Senate

READ and **ORDERED PLACED ON FILE.**

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Allow Forfeiture of Maine Public Employees Retirement System Benefits for Persons Convicted of Certain Crimes"

(H.P. 1351) (L.D. 1831)

Sponsored by Representative FOSSEL of Alna.

Cosponsored by Senator KATZ of Kennebec and Representatives: BENNETT of Kennebunk, BURNS of Whiting, COTTA of China, CURTIS of Madison, ESPLING of New Gloucester, GILLWAY of Searsport, GUERIN of Glenburn, HARVELL of Farmington, KESCHL of Belgrade, MALABY of Hancock, O'CONNOR of Berwick, OLSEN of Phippsburg, PARRY of Arundel, PICCHIOTTI of Fairfield, RIOUX of Winterport, SANDERSON of Chelsea, SARTY of Denmark, SIROCKI of Scarborough.

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

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

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Sent for concurrence.

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

ORDERS

On motion of Representative HAMPER of Oxford, the following House Order: (H.O. 39)

ORDERED, that Representative Kenneth Wade Fredette of Newport be excused February 14 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Stephen J. Wood of Sabattus be excused February 16 for personal reasons.

READ and PASSED.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Resolve

Representative PRESCOTT for the **Joint Standing Committee on Labor, Commerce, Research and Economic Development** on Bill "An Act To Increase the Amount of Time an Employer May Employ an Employee without Being Charged for Unemployment Benefits"

(H.P. 1352) (L.D. 1832)

Reporting **Ought to Pass** pursuant to Resolve 2011, chapter 85, section 1.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE** and was assigned for **SECOND READING** Tuesday, February 28, 2012.

Divided Report

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act To Remove a Barrier to Response by Emergency Medical Personnel"

(S.P. 531) (L.D. 1621)

Signed:

Senator:

THOMAS of Somerset

Representatives:

CEBRA of Naples

GILLWAY of Searsport

PARRY of Arundel

RIOUX of Winterport

ROSEN of Bucksport

WILLETTE of Mapleton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-386)** on same Bill.

Signed:

Senators:

COLLINS of York

DIAMOND of Cumberland

Representatives:

HOGAN of Old Orchard Beach

MAZUREK of Rockland

PEOPLES of Westbrook

THERIAULT of Madawaska

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

READ.

Representative CEBRA of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-711)** on Bill "An Act To Change

Document Filing Fees for County Registries of Deeds" (EMERGENCY)

(H.P. 1137) (L.D. 1550)

Signed:

Senator:

SULLIVAN of York

Representatives:

COTTA of China

BOLAND of Sanford

BOLDUC of Auburn

CASAVANT of Biddeford

GRAHAM of North Yarmouth

HARVELL of Farmington

KAENRATH of South Portland

MOULTON of York

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

Signed:

Senators:

THOMAS of Somerset

COLLINS of York

Representative:

TURNER of Burlington

READ.

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

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

CONSENT CALENDAR

First Day

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

(S.P. 580) (L.D. 1681) Bill "An Act To Amend the Charter of the Lucerne-in-Maine Village Corporation" (EMERGENCY) Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-384)**

(H.P. 1285) (L.D. 1743) Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 1217) (L.D. 1608) Bill "An Act To Clarify the Laws Governing Pharmacy Interns" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-715)**

(H.P. 1306) (L.D. 1775) Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, Parts I and II, a Major Substantive Rule of the Department of Education and the State Board of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-713)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 597) (L.D. 1740) Bill "An Act To Remove the Repeal Date for Outcome-based Forestry" (EMERGENCY)

(H.P. 1327) (L.D. 1800) Bill "An Act To Conform Maine Apprenticeship Program Standards with Federal Apprenticeship Regulations"

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was **PASSED TO BE ENGROSSED** in concurrence and the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

BILLS IN THE SECOND READING

Senate

Resolve, To Extend the Reporting Deadline of the Working Group on an All-payor Claims Database System

(S.P. 628) (L.D. 1818)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED** in concurrence.

ENACTORS

Acts

An Act To Create Fair and Open Competition in Line Extension Construction

(H.P. 695) (L.D. 935)
(C. "A" H-695)

An Act To Modify the Alternative Organizational Structure Budget Approval Process

(H.P. 1248) (L.D. 1696)

An Act To Enforce Prompt Payment to Career and Technical Education Regions

(H.P. 1304) (L.D. 1772)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Resolves

Resolve, To Review Laws and Policies Related to Discontinued and Abandoned Roads

(S.P. 522) (L.D. 1596)
(C. "A" S-377)

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

The Speaker resumed the Chair.
The House was called to order by the Speaker.

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

SENATE PAPERS

The following Joint Order: (S.P. 634)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 28, 2012, at 10:00 in the morning.

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

READ and **PASSED** in concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Create an Income Tax Return Checkoff To Fund Cancer Screening, Detection and Prevention"

(H.P. 916) (L.D. 1225)

Signed:

Senators:

HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
BICKFORD of Auburn
BRYANT of Windham
BURNS of Alfred
HARMON of Palermo
PILON of Saco
WATERHOUSE of Bridgton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-712)** on same Bill.

Signed:

Representative:

BERRY of Bowdoinham

READ.

Representative KNIGHT of Livermore Falls moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative STRANG BURGESS of Cumberland **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: 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. 232

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

NAY - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Crockett, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Herbig, Hinck, Innes Walsh, Kaenrath, Kent, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Monaghan-Derrig, Morrison, O'Brien, Peoples, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess,

Stuckey, Theriault, Treat, Tuttle, Valentino, Webster, Welsh, Willette A, Willette M, Wood.

ABSENT - Celli, Hayes, Hunt, Kruger, Parker, Peterson, Volk, Wagner R.

Yes, 73; No, 69; Absent, 8; Vacant, 1; Excused, 0.

73 having voted in the affirmative and 69 voted in the negative, 1 vacancy with 8 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

CONSENT CALENDAR

First Day

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

(H.P. 1321) (L.D. 1795) Bill "An Act Regarding the Oversight and Safety of Certain Commercial Vessels Operating in Maine Waters" Committee on **TRANSPORTATION** reporting **Ought to Pass**

(H.P. 1241) (L.D. 1689) Resolve, To Exempt Maple Sugarhouses from the 1,000-foot Setback Requirement of the Maine Land Use Regulation Commission Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-716)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

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

SENATE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-386)** - Committee on **TRANSPORTATION** on Bill "An Act To Remove a Barrier to Response by Emergency Medical Personnel"

(S.P. 531) (L.D. 1621)

Which was **TABLED** by Representative CEBRA of Naples pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

UNFINISHED BUSINESS

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

HOUSE REPORT - **Refer to the Committee on HEALTH AND HUMAN SERVICES pursuant to Joint Order 2011, H.P. 1328** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Photographic Identification for Prescriptions for Certain Controlled Substances"

(H.P. 1349) (L.D. 1829)

TABLED - February 22, 2012 (Till Later Today) by Speaker NUTTING of Oakland.

PENDING - ACCEPTANCE OF COMMITTEE REPORT.

Subsequently, the Committee Report was **ACCEPTED** and the Bill was **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

Sent for concurrence.

Bill "An Act To Amend the Labor Laws Relating to Certain Agricultural Employees"

(H.P. 898) (L.D. 1207)

(C. "B" H-691)

TABLED - February 22, 2012 (Till Later Today) by Representative CURTIS of Madison.

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

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

Representative **TUTTLE**: Thank you, Mr. Speaker. As I said yesterday, I would ask that we would vote against the pending motion. Factory farm workers, such as those in Turner, do some of the most difficult and dangerous and dirty work in the state. Why should the Legislature be repealing the right to form a union? Repealing these workers' collective bargaining rights will not create a single job or do a single thing to improve Maine's economy or working conditions. Rights are rights. Some have argued that because workers in Turner have not formed a union, their right to do so should be revoked. In my opinion, this logic does not make sense and would set a dangerous precedent. Rights by nature do not have an expiration date. And finally, these plants in question are industrial factory farming, not the small-scale...

The **SPEAKER**: Will the Representative defer? The House is in order. The Representative may continue.

Representative **TUTTLE**: Thank you, Mr. Speaker. As I said before, these are not small-scale agriculture. Like many of us realize, my family history is in farming as others do here, so it's a complete difference in what we are talking about. As I said before, they are more akin to a factory setting and therefore should be covered by workplace standards and rules that are appropriate for that type of large setting. Thank you, Mr. Speaker.

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

Representative **DILL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'd like to speak to this issue. My first 25 years on the job at the University of Maine, I spent many hours, unfortunately, walking in the pits of these large houses looking for maggots, to see the population. While I was doing that I had the fortunate opportunity to wear hip boots, protective clothing. Meanwhile, there were many workers aside of me in those pits collecting birds that did not wear that same clothing, and at the same time, because of fly control, rodent control and that type of thing, pesticides were used quite heavily. Again, workers were not protected from this. I am hoping now that things are better, but certainly from my experience over the last 25 years, up until the last two or three years where I haven't had to go out there, the conditions were deplorable. We talked yesterday, or the last time we talked about this, about the many different agricultural businesses in the State of Maine and how they all have workers, and I agree. I get the opportunity to experience many of these. But I'll tell you, working in a chicken house has got to be one of the worst and most deplorable conditions that any agricultural worker must face. Thank you.

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

Representative **STUCKEY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. It's been stated that this bill is about repealing state statute, that it's punitive and unfriendly to business. I respectfully disagree. This bill seeks to repeal statute enacted nearly two decades ago to protect mistreated and abused Maine workers. Twenty years ago, I was awed – and I still am – by this company's insensitivity and arrogance, and I would suggest that the protections that existing statutes provide need to remain in place. If the current statute is a deal breaker for the prospective buyer and future employer, I think they may not understand our way of life here in Maine and what our expectations are of the workplace. Mr. Speaker, this bill removes the basic rights to organize and protect themselves for those at the very bottom of our workforce ladder. Why would we want to do that? Thank you.

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

Representative **PRESCOTT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a simple bill. This is not about workers. It's not about working conditions. We have heard so many stories about the horrible, terrible conditions at chicken farms. Here is what the bill does and this is the only thing it does. Those agricultural farms – blueberries, apples, dairy, potatoes, and egg farms – all, in current law passed by this House, do not have the right to organize. But if you have over 300,000 chickens – that would be one business in the State of Maine that has to go by a separate law – we're just changing that, we're just updating it. So I ask you, we either give the right to all agricultural farms and that's a whole other argument, not this bill, but we change it and make it equitable and fair for this one business who is being punished by having to go by a different set of laws. The conditions are not the issue of this bill. It is about the right to organize. It's plain, it's simple. They should not be set to one standard and everyone else to the other. Please keep that in mind as you cast your vote today. Thank you.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Gilbert.

Representative **GILBERT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In recent floor debates on this bill, it has been stated that Maine and one county in California are the only jurisdictions which have collective bargaining rights for agricultural employees. That is completely false and incorrect. According to a GAO report from 2002, nine states have collective bargaining rights for agricultural workers. The states are: Arizona, California, Hawaii, Kansas, Maine, New Jersey, Oregon, and Wisconsin. It is worth noting that California, the world's seventh largest economy, has a statewide agricultural collective bargaining rights statute for all agricultural employees. This, ladies and gentlemen, is a bill that would take away the rights of workers.

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

Representative **HINCK**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to convince the honorable members of this body to reverse course and vote down LD 1207. We are not living in an era of union overreach. Instead, this is an era that is characterized by a large and growing wealth and income gap. We should resist efforts that undermine the freedom to assemble and the right to join a union. But certainly that is true when the ordinary working person has been losing bargaining power and giving up workplace protections we have long taken for granted. Particularly troubling here is the singling out of poultry workers for the stripping of rights. As we know, the labor force in the poultry business often

toils under harsh working conditions with low pay. Of course, the very egg farm at issue, formerly owned by DeCoster, has been a habitual offender of wage and hour, health and safety and environmental laws.

I took note too when the Representative from Lisbon Falls said that no other farm workers apart from those in Maine and one county in California have the right to unionize. As has been pointed out, that's not entirely accurate. We do know that farm workers have faced challenges trying to be organized. They are often the labor force that has to be constantly on the move and often, as a result, face some of the worst working conditions imaginable.

I think in addition to the list that was mentioned by the good Representative, Washington State and North Carolina have also had unionized workers and maybe that's occurred more recently, but I found this from a Swanton Berry Farm in Davenport, California. The owner of that farm writes the existence of a union contract formalizes our commitment to the human side of the farming equation. It provides us with an operating framework which goes beyond the informal goodwill of an employer. From the Magna Carta forward, ordinary people have come to require certain standards of conduct which protect rights. A union contract serves that function. Moreover, the union contract has an important psychological effect on farm workers which begin to feel empowered to have some level of control over their work environment. That was the owner of a farm that is unionized.

It is true; we may not get that sentiment in the poultry industry. Most of the nation's poultry business does not operate in that manner. Instead it is under the control of giant agribusinesses like Tyson, Purdue, Foster Farms, and ConAgra. They are certainly stridently antiunion. According to OSHA, however, the poultry industry's illness and injury rate is more than twice the national average. People working with birds and poorly managed and inadequately ventilated poultry housing often suffer from respiratory ailments, from elevated levels of agricultural dust, from toxic gases, urine and fecal matter. These conditions put worker health at risk. These poultry workers, the particular poultry workers that are known as catchers, have an even more difficult course. They are vulnerable to cuts, infections, as well as the respiratory ailments. All poultry workers are susceptible to infectious diseases that are common to fowl and man. Many immigrants are ill prepared to assert their legal rights and are commonly exploited. Yes, the industry has fought relentlessly to resist unionization. Is that the industry that should be able to avoid paying minimum wage? Is that the industry that we want to relieve of paying overtime, that should be shielded from collective bargaining? Maine should be proud to have modern, well-run egg farms. These should be safe and healthy workplaces. The existence of a union contract would formalize the commitment to the workers side, the people side of the farming equation. There is no reason why under those circumstances we need to strip workers of the right to organize. This bill is simply unneeded. We should reject it. Thank you.

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

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have heard that this bill is a simple bill and that it is just about people's right to organize. So let me explain to you why those, yet again, why those rights currently exist. Those rights exist, in part, because four legislators, at the time, had the good sense to go visit this facility and see themselves and not judge based on speculation. Well, let me give you some very specific stuff that comes back from that era for consideration, because I want people to understand explicitly what they are voting for and what rights they

are voting to strip and why those rights were put in place in the first place. At the time, the federal Labor Secretary Robert Reich said, "The conditions in this migrant farm site are as dangerous and oppressive as any sweat shop we have seen. Fear and intimidation kept these workers in this unsafe, unhealthy atmosphere and living in totally unsanitary conditions."

Let me recount for you what those unsafe conditions were, not from my own recollection, but specifically as cited by OSHA and as reported in the news. The unsafe living conditions: up to 17 workers living in a 10 by 60 foot trailer. Unsanitary conditions, including backed up toilets and eight inches of raw sewage in one of the bathtubs. Coliform bacteria in the drinking water. Enjoy your bottled beverages. On one occasion, according to testimony, a supervisor threatened a social worker telling her "If you come back, we will take you out." Many of these workers are Hispanic and many of them practiced Catholicism. They were denied the right to practice their own religion because, if people came in from outside, they might question what was happening.

The unsafe working conditions cited included: the exits were locked, so if there was a fire, there was no way out; workers were handling dead chickens and chicken manure without gloves; there was non potable water; there was unhealthy air quality; there was exposed live electrical wiring and switches, which made the likelihood of fire all the more great; and finally, machines without protective guards. Carlos Cordova lost three fingers as a direct result. A 1996 news report articulates his story. "Cordova said he was screaming and bleeding after the tops of three fingers were ripped off. He held up his hand for help, but it took another worker a half hour to get to a phone and an ambulance finally came." "My wife took a shoelace that was covered with chicken feces and wrapped it around my hand to try to stop the bleeding." It was that incident that led OSHA to start inspecting this property. So if you choose to take the rights away from workers who had shoelaces covered with chicken feces wrapped around their hand as their fingers bled, by all means, you can choose to support the recidivism of these rights. But I want you to be very clear about what you are voting for. Thank you, Mr. Speaker.

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

Representative **HARVELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Workers of the world unite. I sat here last week and listened to the fact that in 1935, the real issue behind the National Labor Relations Act was racism because a minority was representing the agricultural world. Simply untrue. Forty percent of all labor in the state at that time was in fact agricultural and overwhelmingly the reason that they were not included was because agricultural laws do not apply. If you got hay to put in, eight hour days don't work. If you're going to have to harvest potatoes, eight hour days don't work. But more important than that, there is something going back to the Magna Carta and English Common Law called a bill of attainder, okay? You cannot – and our founding fathers stated it – punish people with legislation, and, in fact, this is what this bill does because it can only possibly apply to one person. It doesn't remotely come near passing a straight face for something that goes back for almost 1,000 years in English Common Law. So if you have any respect for the Constitution and for those people that suffered under tyranny for 1,000 years, then stand up for it today.

The SPEAKER: The Chair recognizes the Representative from Alna, Representative Fossel.

Representative **FOSSEL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This may seem a little unusual to you, but I've known Bob Reich for 51 years now

and so I stand up to defend what he did 20 years ago. But the situation has changed remarkably since then and I cannot imagine, even though we vary enormously in our political opinions, that he would support what's being said about that operation today because it's simply not true and at least the guy tells the truth. Thank you very much.

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

Representative **DRISCOLL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As Representative Stuckey from Portland had mentioned previously, this is not and has not been a deal breaker for Moark. Moark actually took the lease on as the law currently stands today, so they knew when they took on the lease what the provisions in place were. Another point is I believe Jack DeCoster still owns this company. This is being leased by Moark. DeCoster still owns the company.

I think back during the public hearing. I remember watching the employees sitting in the front row. Most, if not all, of them were Hispanic in origin. None of them spoke or understood English. They had to have an interpreter there. I just look at them and kind of put myself in their place, where at times when I have somebody come through my emergency room that doesn't speak English and put somebody or myself in their place, and think of how they felt around the deliberation that was happening in the public hearing and think about what they really understood as to what was going on.

We had a work session. During the work session there was nobody, there were no employees there from the farm. That concerned me and I questioned the Department of Labor that was there as to whether these folks, who don't speak English and probably don't understand English well and probably don't read English, if they were somehow informed that there was a work session and there would be some finality brought to this bill in our committee. I had questions. There was nobody there to answer the questions because the Department of Labor had called the company, the company made no effort to inform these non-speaking employees that there was a work session, nor did the Department of Labor make any attempt to allow these people who don't speak or understand English, that there was further deliberation going on with this bill. That's concerning to me. Maybe it doesn't have to happen, but to me, it's whether it should have happened or not. It speaks to transparency and what we're doing down here. It speaks to fairness with respect to how we hold our hearings and inform people as to when the hearings are.

It was brought out by a member that the number of employees at this farm are 75 percent, roughly here or there, Hispanic. So I also wonder, if there are that many Hispanics working on this farm, my concern is why wouldn't they have the same rights that we have as workers? Why don't they have the same rights as those who live in the community that they live in have? You know, they're just trying to provide for themselves and their families, and they're trying to live the American dream, just like we are. How can we prevent them from obtaining that? Thank you very much, Mr. Speaker.

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

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Yesterday I stood to say that based on my experience in the poultry industry, there is an important difference between a farm and a factory farm. But I stand today to offer a potential compromise. It seems to me that if we are concerned that we should not draw a line or distinction between a farm and a factory farm, that perhaps we could in fact move forward and not backward as this law would do. I would be

more than happy to support a tabling motion, Mr. Speaker, so that we could work together on an amendment that would allow all farm workers to organize. Thank you, Mr. Speaker.

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

Representative **EDGECOMB**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. When there is a complaint lodged at this facility, the last complaint that came in, it was investigated by our state veterinarian, Dr. Hoenig, and he reported back to our committee – Agriculture, Conservation and Forestry – and he suggested a few minor corrections needed that he thought would be helpful if they made, but he had absolutely no concern about the operation when he investigated those complaints. Thank you very much, Mr. Speaker.

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

Representative **PRESCOTT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just a quick reminder that all agricultural legislation existing today was passed by a Democrat controlled House, and yet this law comes down to whether you own 300,000 chickens or more. Anything less, you are well within the rights of all the existing agricultural legislation, including egg farmers. But if you have 300,000 chickens, you are segregated. There is no language that addresses anything else in this bill, period. It's just being held to a different set of rules and a different set of standards, and it is up to us, Ladies and Gentlemen of the House, to pass this legislation fairly and equitably. Thank you.

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

Representative **TIMBERLAKE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I call this very simple. Every one of you got farmers within your community and I can't think of a farmer in the State of Maine that would ask you not to support this bill. The Farm Bureau has asked us to support this bill and the farmers of the State of Maine have asked you to support this bill. This is one step towards all farmers being included. What stops them next year from taking anybody raising 500 cows or more – they can do it – or raising 10,000 apple trees, or 200 pigs? This is just the wrong way to go. This is the wrong message we're sending. We need to stay on course. We need to vote with me on this bill and let's get this done. Thank you.

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

ROLL CALL NO. 233

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

NAY - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Herbig, Hinck, Hogan,

Innes Walsh, Kaenrath, Kent, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Monaghan-Derrig, Morrison, Nelson, O'Brien, Peoples, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Treat, Tuttle, Valentino, Webster, Welsh.

ABSENT - Celli, Hanley, Hayes, Hunt, Kruger, Parker, Peterson, Theriault, Volk, Wagner R, Wood.

Yes, 73; No, 66; Absent, 11; Vacant, 1; Excused, 0.

73 having voted in the affirmative and 66 voted in the negative, 1 vacancy with 11 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (H-691)** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-694)** - Minority (4) **Ought Not to Pass** - Committee on **TAXATION** on Bill "An Act To Dedicate a Percentage of the Sales and Use Tax on Motor Vehicles and Motor Vehicle Parts to the Highway Fund"

(H.P. 45) (L.D. 52)

TABLED - February 14, 2012 (Till Later Today) by Representative KNIGHT of Livermore Falls.

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

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-694)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, February 28, 2012.

On motion of Representative CRAFTS of Lisbon, the House adjourned at 11:31 a.m., until 10:00 a.m., Tuesday, February 28, 2012 pursuant to the Joint Order (S.P. 634).