

MAINE STATE LEGISLATURE

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



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

House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume II

First Special Session

May 16, 1997 - June 20, 1997

Second Regular Session

January 7, 1998 - March 18, 1998

Senators: RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

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-260).

Was read.

On motion of Representative TRIPP of Topsham the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-260) 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-260) in concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-263) on Bill "An Act to Amend the Law Governing Municipal Zoning with Respect to Community Living Arrangements" (S.P. 292) (L.D. 943)

Signed:

Senators: NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives: AHEARNE of Madawaska
BUMPS of China
BAGLEY of Machias
GERRY of Auburn
LEMKE of Westbrook
GIERINGER of Portland
SANBORN of Alton
DUTREMBLE of Biddeford

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

Signed:

Representatives: KASPRZAK of Newport
FISK of Falmouth

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-263).

Was read.

On motion of Representative AHEARNE of Madawaska the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-263) 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-263) in concurrence.

Divided Report

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-245) on Bill "An Act to Remove the Large Lot Exemption from the Definition of 'Subdivision' within the Laws Administered by the Maine Land Use Regulation Commission" (S.P. 356) (L.D. 1175)

Signed:

Senators: KILKELLY of Lincoln
PARADIS of Aroostook

Representatives: BUNKER of Kossuth Township
SAMSON of Jay
VOLENIK of Brooklin
SHIAH of Bowdoinham
GOOLEY of Farmington
BAKER of Dixfield
McKEE of Wayne
CROSS of Dover-Foxcroft

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

Signed:

Senator: CASSIDY of Washington
Representatives: LANE of Enfield
DEXTER of Kingfield

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-245).

Was read.

Representative BUNKER of Kossuth Township 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 specially assigned for Wednesday, May 21, 1997.

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

SENATE PAPERS

Divided Report

Majority Report of the Committee on **Criminal Justice** reporting "**Ought Not to Pass**" on Bill "An Act to Reinstate the Death Penalty" (S.P. 492) (L.D. 1524)

Signed:

Senators: MURRAY of Penobscot
MITCHELL of Penobscot
O'GARA of Cumberland

Representatives: POVICH of Ellsworth
BUNKER of Kossuth Township
FRECHETTE of Biddeford
JONES of Greenville
MUSE of South Portland
McALEVEY of Waterboro
PEAVEY of Woolwich
O'BRIEN of Augusta

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-252) on same Bill.

Signed:

Representatives: WHEELER of Bridgewater
TOBIN of Dexter

Came from the Senate with the Bill and accompanying papers indefinitely postponed.

Representative POVICH of Ellsworth moved that the House accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. Before you have the many arguments against the death penalty, frankly, I think this should be an option for the judges of the State of Maine. There are just some things

that are so heinous that punishment fits the crime and this would be the punishment that fits some of those crimes. Do I think it is a deterrent? No. Do I think it is cost savings? No. Do I think it is a punishment? Yes. Do I think we should have it as a sentencing option? Yes. Have you ever heard, in for a penny, in for a pound? That is some of the ideology or line of thinking that you are going to find in some of our prisons. I dare say that in for a penny, in for a pound was the thinking behind the people who beat to death the child molester at Thomaston a few years ago. If you are in for one murder and they can't do anything else to you, you might as well not worry about having to stop. Life without parole. That is great. Can you guarantee me life without escape? How dangerous are people who escape who are convicted murders? I, for one, don't like to play Russian Roulette. How many children do you want to give a bad guy a shot at? We are talking bad guys. We are not talking people who had a bad childhood and grew up not able to do anything else, but murder, rape and molest children. We are talking about really, really bad people. When a judge looks at them and sees absolutely no redeeming value, their crimes were raised to such a heinous level that they are qualified. I want that option to be there. What does that make me? I think it makes me a mom that is worried to death about what is on the streets of the State of Maine. I think it makes me a vengeful person who says, it is a punishment. I don't care if it deters. I dare say recidivism is very low once you have put someone to death. They are not likely to be a repeat offender. Madam Speaker, I ask for the yeas and nays.

Representative PLOWMAN of Hampden 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 Ellsworth, Representative Povich.

Representative POVICH: Madam Speaker, Men and Women of the House. The Criminal Justice Committee received long and arduous testimony concerning restoration of the death penalty. I have a folder that is two inches thick on my desk. The prime sponsor in the other body determined to withdraw his support and asked us, ultimately made a motion to Indefinitely Postpone this bill. The prime sponsor had come to the realization that this current LD that we are looking at and that is what we are talking about, was arbitrary, unconstitutional and seriously flawed. This LD, again, considered the current LD arbitrary, unconstitutional and seriously flawed. This LD doesn't do the job. If we determine we want this, this is not the vehicle.

Maine is a great state. It is a compassionate state. Maine is a stern state. We have a serious penalty for heinous homicides. That is a natural life. In Maine, we gave up parole 20 years ago. When a sentence of natural life is imposed, we mean it. That murderer will never get out. Escape, I suppose that is always a possibility, but we are treating our prisoners inside the facility. The only way that they will escape is if they are being sent to AMHI for treatment. We are determined not to do that in our mental health stabilization unit. This murderer will never get out and will remain in a 42 foot square foot cell his entire natural life. I urge you to please support the pending motion. Thank you very much.

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

Representative O'BRIEN: Madam Speaker, Colleagues of the House. As the previous speaker said, the Criminal Justice Committee heard some extremely compelling and emotional testimony. I would like to talk to you a little bit about some of that testimony. One was an extremely articulate man who spoke

about, he had befriended John Jubert. He had spoke about the death of John Jubert. For those of you who don't remember, John Jubert was a young man from Maine who killed, I believe, three young boys and was ultimately sentenced to death in Nebraska. This man who spoke to us, as I said, was extremely emotional. He was extremely articulate. He went on for three pages worth of testimony telling us what a wonderful really inner person John Jubert was. He talked about the band directors that John Jubert had, his teachers. What a really nice boy he was. The guys at the prison were very surprised to find out that he really wasn't the monster that they thought he would be. This person who gave the testimony, talked about finally, ultimately seeing John Jubert die in the electric chair. He gave graphic testimony what he looked like. He talked about the words that John Jubert uttered. I love you to all his friends and relatives that were there watching the execution. He talked about the hardest call he had to make was calling John Jubert's grandmother and telling her that yes, John had died.

I was shaking. I was so upset about this testimony. It was extremely emotional, as I said. All I could think of and I said to this man, with all due respect, what about those victims? What about those little boys? They didn't get a chance to say I love you to their mother. Their mother doesn't even know what their last words were. I was just so upset with this. As you can see, I am on the Majority "Ought Not to Pass" Report. Let me tell you why. There are several reasons that other people may stand up and say that they are against it. I am not convinced that many innocent people are put to death wrongly. I am not convinced of that. I am not convinced that there is a cost savings. I am not convinced that there is disparity with the minorities and poor. I am not convinced of that.

There are some basic issues why I am opposed to it. We heard some other compelling testimony from another young woman whose aunt was recently murdered. She was the victim of a man who killed two women. He has yet to be sentenced. She gave very, very emotional testimony. I asked her at the end of this if you could honestly tell us that if this man were put to death that it would ease your heartache. She said, if I searched my soul, I would say no. I think I would feel safer, but would I feel better? No.

I want to close by telling you one story that is very close to me. A friend of mine and some of you in this chamber I have told this story to. A friend of mine, within the last few years suffered the worst tragedy that I can ever imagine. Her son, she had four children, her nine year old son was killed by her ex-husband, the boy's father. You may have heard about this situation. He had kicked the child in the stomach. It took two days for the child to die. During that two days of intense suffering, he also hit him with a baseball bat. As tragic as that is, it is even more tragic to know that the father set up the brother, the 11 year old, to find the dead body and ultimately blame the 11 year old for the death. This man, who is now serving time in Thomaston, was convicted and put away for a very long time, but he left three children. I ask you, would those three children, would that help them if their father, besides their brother were killed? I don't think so. The 11 year old is suffering greatly. He feels intense guilt because he testified against his father on behalf of his dead brother. The guilt he feels is immense. If he also knew that his father was also put to death because of him, I can't imagine a deeper tragedy.

Representative McAlevy is not in the chamber now, but he said something very compelling in our discussions and I would like to repeat that because he is not here. He said that he cannot condone this because he could not do it himself. I ask you to search your soul. We need to be tough on crime. These people, for atrocious crimes, should be put away, as they are,

with no possibility for parole. I ask you, could you pull that lever or inject that needle? If you couldn't do it, how in good conscience could you ask the Department of Corrections to do it? Thank you.

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

Representative PEAVEY: Madam Speaker, Men and Women of the House. I rise to urge you to consider all the aspects of the death penalty and then I urge you to consider supporting the Majority "Ought Not to Pass." When any of us hear the details of horrendous, cruel and outrageous crimes, our first instinctive reaction is a gut feeling, an emotion that is just down deep and instinctive. Right then you can consider that perhaps the death penalty is a possible solution. Our committee listened to hours of testimony against and for the death penalty. Questions were asked and answered. Is the death penalty a deterrent? The answer is no. In the average murder rate in states that have abolished the death penalty, it is actually lower than states that have the death penalty. Are innocent people ever convicted and sentenced to death? The answer is yes. In 20 years, 58 people have been released from death row and set free. Several had been sitting there for 14 years. They were found to be innocent with substantial and strong evidence. I am not talking about small technical trial related evidence. This is real evidence that found them to be innocent. Since the turn of the century, 23 people have been put to death and later proven innocent.

If, as a Legislature, we direct the Department of Corrections to pull that switch and we direct that one innocent person is killed, has justice been served? Another question that was asked was, do we save money with the death penalty or does it cost more? The answer is, the death penalty costs far more than imprisoning someone for life. Remember in Maine, life means life. There is no parole. The average time spent on the appeals process during the time of the appeals process too, a prisoner has to be in a separate facility called death row, which we don't have one of. The average time spent in death row is 12 years. Several studies have been done around the country. In North Carolina, a study of actual death penalty cases found that the average cost per case is \$2.3 million. In New Jersey, the public advocate estimated that it will cost \$7.3 million to sentence someone to death. In Kentucky, a study of two specific capital cases found that they would cost \$2.5 million and \$7 million each, as opposed to the \$700,000 or \$800,000 that it would cost to imprison those people for life.

Maine has an excellent appeals system and many very competent and thorough defense attorneys and prosecuting attorneys. The testimony that we heard that I found very compelling was by a lawyer who had tried some death penalty cases in Pennsylvania. He described the massive amounts of resources and manpower that it took to actually put together a case and take it to court. It took weeks and weeks set aside to just pick the jury. Months and months with several lawyers working to prepare the case. Please remember that most of these cases are done pro-bono, which means for free. That sets all the costs of those cases and all through the appeals, 12 years worth, on the taxpayer. In the end when you look at all those factors, we are left with that gut feeling. That is just terrible and we feel awful about it. It is not a deterrent. Innocent people can be put to death and we would be responsible. The cost is enormous. One more question, which Representative O'Brien mentioned and I thought was very, very telling. When she asked that young woman whose aunt had been raped and murdered and she had been very, very close to her aunt and was sobbing and very emotional through her testimony, we said, will you feel

better? Through her sobs, she said no. There you have it. I urge you to vote "Ought Not to Pass" on this bill.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I apologize for rising again, but I feel compelled. This morning the *Lewiston Sun Journal* carried a story about a 21 month old child who was killed in her mother's bed by her mother's boyfriend. If you could stomach the details of that, you could probably continue on through the article. As the mother of an 18 month old daughter, I couldn't. Could I push that button for my daughter? Yes, I could. Would it make me feel better? Would it ease my heartache at losing my daughter? Absolutely not. It is punishment. It is vengeance. It is expensive. It is an option. Attorney General Reno decided just last week to ask for the death penalty in a major case. It was available to her.

When I first moved to the Bangor area, a young man chased another young man to Arcadia National Park and shot him in cold blood. Because that happened on federal property, the death penalty was available and considered. When I worked for the US Attorney's Office we prosecuted a woman who beat her child to death at the Air Force Base in Limestone. The death penalty was available because it happened on federal property. Men and women of Maine should know that the death penalty is available if the crime is committed on the right piece of soil. That is the only difference. The only difference in the State of Maine, you can ask for the death penalty for your loved ones or a particularly heinous crime if it happens on federal soil. I saw a woman abusing her child in the federal building. We were able to get help for that child a whole lot quicker because it happened on federal property.

The federal government recognizes that some of the crimes rise to the level they have provided for. They provided for it in places in Maine. Should your loved one be killed on state property, public property or private property, you don't have the same access. When I first came here, I was not for the death penalty. I have seen a lot since I have come here. I had my eight year old dog put down. He was going to die and he was in horrible pain. When I made the decision and they had put my dog down and he drew his last breath, I wanted to take it back because I didn't feel that I could make this decision. I was using that as a rational for not being able to make a decision at this level. Then, I thought it through. My dog was loyal. He never hurt me. He never hurt anybody. He didn't deserve to be in pain. He didn't deserve for me to punish him as long as his life would be a sense of pain. Once I separated that part out, I had no problem deciding that there are people who should not walk the face of the earth any longer than they do. Yes, that makes me hard.

Gerry Conley used to say that I was one of the hardest people he had ever met. I am sorry if I think that people, like that man who killed that young girl in her mother's bed after violating her brutally and tying her up with a boy scout belt. I can't see why, I or you, would think that the guy deserves to live any longer than the judge or the jury can take into consideration. Mind you, if he had killed that baby in his mother's bed at the Air Force base, this would be a whole different story. I ask you, please, to go on. I would be willing between the bodies to work toward some sort of compromise on some of the language that has been talked about earlier. It is not a mandate. It is an option. It is not for every case. It is for some cases. Maine doesn't have that many murders. It is not going to happen that often that this will be and I daresay that the Maine Bar is not the kind of bar that does really sloppy defense work, having worked for many, many attorneys in the State of Maine. There are very few cases

overturned on incompetent council. Maine is a different state. Unfortunately we can't close our borders to some of the people who come here to prey on our children, our elderly and our men and women.

I lived in Portland when John Jubert's victim was found. I was horrified. I drove by there that morning. I didn't see the body, but that is how I went to work. I was just appalled that this could happen in Portland, Maine in the early 80s. He did the same thing in another state and in that state, they could put them to death for the same thing he did in the State of Maine that we can't. Asking for the death penalty, you are not asking for anything special or different. You are asking for it to apply to every inch of soil in the State of Maine instead of just federal property. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Madam Speaker, Men and Women of the House. Earlier this legislative session, many of us, myself included, had to think long and hard about some difficult decisions having to do with the sanctity of life. I am sure as I look around the room today most of us who came down on one side of that argument will come down on the same side today. By sanctimony of life, you apply an inherent goodness and holiness to life. As such, I have a difficult time really finding any person, no matter how heinous their actions, as a bad person. That being said, I am going to follow my beliefs and vote against taking anybody's life. Thank you.

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

Representative BOUFFARD: Madam Speaker, Men and Women of the House. One life taken away by being put to death and finding out that person is innocent is one life too many. Having graduated from the same Catholic high school as Representative Plowman has, I do know that two wrongs don't make a right. Defeat this. Thank you.

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

Representative MUSE: Madam Speaker, Men and Women of the House. I would like to address some of the comments that Representative Plowman made, if I may. The comment was made that this would be vengeful. Yes it would. Laws are not made and laws are not passed for revenge. This is the purpose behind laws. Revenge disappeared a long time ago in the philosophy of our legal system. I respect Representative Plowman's feelings when she said, could I throw the switch if it were my daughter that was killed? So could I. I have worked in a jail for over 20 years. I have sat with, I have eaten with, I have played basketball with some of the most heinous criminals that the State of Maine has had to offer in the legal system. Could I throw the switch on some of them? Maybe, but that is me. It is not the State of Maine. There is a big difference, a very big difference.

I had people come and talk to us and testify at this hearing, defense attorneys as well as prosecuting attorneys who said, Maine, simply put, is not ready for this for a number of reasons, cost reasons, the fact that we don't have a death row. We would need to build a death row. We need to build a separate facility for these individuals. We would need to hire a staff to work there. The cost for that alone, we don't even want to look at. The cost for training attorneys, we don't want to deal with. If you can't for those reasons alone, vote "Ought Not to Pass" on this piece of legislation. The simple fact that the major sponsor of this bill, a judge, has agreed that this piece of legislation is unconstitutional, that ought to be enough. If you want to proceed with a death penalty bill, go to the drawing board during the off season, draw up a piece of legislation. There are some people

in this body who are supportive of a death penalty bill. Collectively get together and draw up a piece of legislation that is at least legal and constitutional. I will be there to fight it. I would like to think that the majority of people, members of this body, will be there with me to fight it. We can have enough of a compelling argument to kill it later. Right now for the simple reason that it is simply put, an unconstitutional piece of legislation ought to be enough. I would strongly urge everyone to recognize that and vote "Ought Not to Pass."

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I would ask you to support the Majority "Ought Not to Pass" Report. In doing so, I would call your attention to something this body did, I believe, in a unanimous vote. This body voted on a recent bill to award money to someone who everyone in this chamber felt was improperly prosecuted and persecuted by the State of Maine. Can the State of Maine make mistakes? We voted they did. Can you then say we are going to take the same office and have them prosecute death penalty cases and feel comfortable and be able to go to sleep at night saying that I know they won't make mistakes? Do you have that much faith in government? Isn't it ironic, do you have that much faith in the state government that they won't make mistakes?

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. The justice system is not supposed to be set up for vengeance, I agree with that. It starts out as the penile system to punish. When I testified on this bill in the committee, I knew all the arguments against it. I knew all the arguments for it. It basically came down, and I justified that it is not an issue of deterrence and not an issue of cost and not an issue of discriminatory practices or all the rest of it. It is going to come down to the members, I think. I thought at the time of one philosophy and that is, do you believe that people who commit these heinous crimes deserve the ultimate punishment? Not vengeance, the ultimate punishment that 39 other states have on the books or do you think life in jail is sufficient for the crime, these heinous crimes that they do? Certainly you and I would think that life in jail was something worth living, but folks, there are people who believe that.

We have a person here who has worked in corrections for a number of years and I have known corrections guards. I have known people who have served time in prison. It is a whole different community. It is a whole different lifestyle. I heard people testifying about John Jubert being put to death and getting emotional about that. I get very emotional when I think of those little kids, those little kids they found with teeth marks. I can tell you folks that I will listen to all the testimony in the world from that guy's family, but it won't bring one tear to my eyes. I served on the Criminal Justice Committee in the 117th Legislature. I have had occasion to listen to a mother come before us and tell about her little daughter who was run down by a car, knocked off her bike, kidnapped her and then raped her, say he wasn't going to hurt her and then slice her throat and leave her for dead. We all, I think, have heard about that tape. That very same person, by the way, that little girl had the forethought to hold her throat so she wouldn't bleed to death and run for help. That nice fella, I am sure his family and his friends from the past would say, gee, he was a quiet person. He kept to himself. He was found to have killed another woman they found in the gravel pit, through DNA.

My good friend and Criminal Justice Committee colleague from the 117th, mentioned another incident that happened where

a girl was kidnapped, raped and left for dead. She was buried in a shallow grave where a car ran over her. She wasn't dead. She tried to crawl her way out of that shallow grave and the whole side of her face was burnt off from the hot muffler system on the car. I just read in the newspaper just recently where we have a case now where somebody is accused of strapping a 21 month old baby to a bed, raping the baby and suffocating the baby. These are the little darlings that we don't want to put to death. We want to put them in life so they can hang around with the rest of their buddies in jail and have three squares, exercise equipment, get an education or whatever. It certainly isn't vengeance. I don't know if you call that justice. We got DNA and forensics. You wouldn't believe.

When you think about this, think about those people that we are shutting up for life. You and I certainly wouldn't enjoy it, for sure, but would they? The point was made by another speaker earlier, some people are on the other side of another issue in the sanctity of life. How could somebody support that issue and not support this because this is life too? Well, I tell you, an innocent child deserves a lot more protection from me, and I would hope from society, then a mass murderer or somebody who strapped a little baby to a bed so he could rape her and suffocate her. That is called discernment folks. If we can't make that discernment and distinction between an innocent life and these cretins, then we are in trouble as a society. I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Jones.

Representative JONES: Madam Speaker, Ladies and Gentlemen of the House. I am not going to belabor this because this is serious and we have heard enough debate, but death is death. I also want to follow up on Representative Bouffard's comment. I agree with him 100 percent. It doesn't matter what soil you are on, death is death. I walked out of this capitol that night with a woman who had a daughter that had been murdered. They have never found this murderer. We asked her during testimony, whether she felt that if the person was caught and convicted that he or she should be sentenced to death? She said, no. As I walked out with this frail, elderly lady, I asked her again. I said, how can you feel like this? She said, one death does not make another death correct. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I had to stand to say a few words concerning the pending motion and how I feel about this. I will not vote for the death penalty. I will tell you, when I listen to what happened in the recent past concerning late term abortions and I hear all this compassion for people that have committed all these crimes, I wonder where we are going that we have no compassion for late term abortions for innocent babies and now we are defending the rights of criminals. Ladies and gentlemen, I think we probably should get some new thinking and rethink our positions. I will not vote for the death penalty, but I will tell you what, I think we have some problems here.

The SPEAKER: The Chair recognizes the Representative from Dexter, Representative Tobin.

Representative TOBIN: Madam Speaker, Ladies and Gentlemen of the House. I hadn't planned to speak on the issue, but we have had a lot of debate on the floor. I think it is only right that I explain why I voted the way I did. A lot of the reasons why I voted the way I did have already been spoken. There are a couple of reasons that haven't been mentioned that I would like to mention. The first one is that we did hear a lot of testimony. There are 38 states, out of 50 in the United States of America, who have the death penalty. I asked the question, how many of

those states have repealed the death penalty in the 20th Century? Zero, none. If this is such a bad idea in the last 20th Century and 38 other states, not one of those states have repealed the death penalty.

I also had a neighbor who was stabbed 56 times, a killer that wouldn't be eligible for this penalty. In the last four months serving here in the Legislature, visiting all of the correctional facilities that the state has, also had a tremendous influence in my decision. We visited Thomaston. I talked to several murderers. We visited the Super Max and had urine thrown at us out through the bars by the prisoners. The stories of a prison guard being stabbed with a toothbrush and thank God the toothbrush was made of plastic. It hit his sternum and broke. I shook the hands of the other guard who saved that guard's life. I heard stories of the prisoners bragging about the most severe punishment at the Super Max is that they put them in a chair with a straight jacket and handcuff them to a chair. They were bragging. I was there for seven hours and 53 minutes. They were bragging about the most severe punishment that the state has in the State of Maine. There is a tremendous lack of respect for the law within the system and there is a tremendous lack of respect out here in the public with the system. That is why I voted the way I did, even though this law may not be the best law. Thank you very much Madam Speaker.

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

Representative MCALEVEY: Madam Speaker, Ladies and Gentlemen of the House. I won't belabor the point. I know a number of people who would qualify for this death penalty. Their crimes were so heinous that they certainly are infamous. They are right where they belong. I would recommend that everybody make an arrangement and take a tour of Thomaston and the Super Max. It is not a pleasant place. Life is life. We have over 400 prisoners in Thomaston doing time. Almost 200 of them are there for the rest of their life. They go through that door and I have been with them when I walked with them through that door. When that door shuts behind them, it is a pretty solid sound. The only way they leave is dead. They have to die or to kill themselves. For the most part, prisoners who kill children or commit heinous, heinous crimes against children spend their life in a cell that is seven feet long and four and a half feet wide. They are segregated or they are in protective custody. Yes, they get up every day, but they are told what to eat, when to eat, what to wear, when they can and can't go to the bathroom. Their whole lives are controlled. We have a number of corrections officers, men and women, who are doing life on the installment plan, eight hours at a time. They are the people who keep us safe. They are the people who keep these monsters right where they belong. In jail.

You can only watch so much Oprah. You can only do so much in your daily life, but you can't walk through that door and go home. Everyday they get up and realize there is their effort. They are where they belong. There is a lot of issues why we shouldn't have a death penalty, whether it is financial or whatever. The issue is this, we are handling our murderers in an appropriate manner. We are being protected from them. I agree that the death penalty would stop recidivism, but in the State of Maine, they go to prison for life. That is where they belong. It is not a very pleasant existence, but I would encourage all of you to take a tour of the Max and of Thomaston. Thomaston is where most of the murderers are and see for yourself. I wouldn't keep my dog in one of those cells for a weekend in a kennel. They are right where they belong. We feed them. We protect them, care, custody and control. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. To anyone who may answer, if a convicted murderer murders again in prison, what more can the State of Maine do to punish a murderer who murders in prison?

The SPEAKER: The Representative from Hampden, Representative Plowman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Men and Women of the House. In response to the good Representative, our job in society in law enforcement and corrections officers is to protect and serve. That is exactly what these men and women do. They protect society from people who don't deserve to be in society any more. That is our task in this state. That is how we remove people from the streets that have caused these heinous crimes. We remove them so that they don't return to the streets again in a life sentence. The question asked by the Representative is what happens inside that community? How many of you really care what happens inside that little community that this person now belongs to for the rest of their lives? You may and you may not by listening to some of your discussions here today. I want you to know that they live inside of maybe Thomaston and that is their whole world within that small community. When they error inside that small community, they pay dearly for it amongst the members of that small community, then they get transferred to Super Max and get put in a box that is four feet wide by seven feet long and they live the rest of their life in a room by themselves. There is plenty that can be done within that community and I think that our job to protect and serve is being well founded in the State of Maine.

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. 242

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Madore, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stedman, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Usher, Vedral, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Bragdon, Buck, Campbell, Clark, Foster, Gagne, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, MacDougall, Mack, Marvin, McElroy, Nass, Pieh, Pinkham RG, Pinkham WD, Plowman, Snowe-Mello, Tobin, Treadwell, Tuttle, Underwood, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bodwell, Dexter, Fisk, Gagnon, Gamache, Joyner. Yes, 111; No, 34; Absent, 6; Excused, 0.

111 having voted in the affirmative and 34 voted in the negative, with 6 being absent, the Majority "Ought Not to Pass" Report was accepted in concurrence.

Non-Concurrent Matter

Bill "An Act Concerning Fuel Taxes for Carriers Operating School Buses under Contract" (H.P. 1249) (L.D. 1768) on which the Minority "Ought to Pass" as amended Report of the Committee on Taxation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-533) in the House on May 19, 1997.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Taxation read and accepted in non-concurrence.

On motion of Representative TRIPP of Topsham, the House voted to Insist and ask for a Committee of Conference. Sent up for concurrence.

Non-Concurrent Matter

Bill "An Act to Promote Wildlife Rehabilitation Centers" (H.P. 551) (L.D. 742) on which the Minority "Ought to Pass" as amended Report of the Committee on Taxation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-535) in the House on May 19, 1997.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Taxation read and accepted in non-concurrence.

On motion of Representative TRIPP of Topsham, the House voted to Insist and ask for a Committee of Conference. Sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

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

An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike (H.P. 41) (L.D. 66) which was tabled by Representative KONTOS of Windham pending reconsideration.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. Again, this will be the last time I speak on the strikebreaker legislation this session. As everyone knows the Chief Executive has vetoed this legislation. Although I respect the man very much, I disagree with his decision. You have to realize and I wish I had a poll to show you, but approximately 70 percent of the people in this country believe that when a worker is on strike and the strike ends that the worker that has been on strike should return to his or her job. Strikes are going to happen again in the State of Maine. There hasn't been one for a long time because workers were permanently replaced and that strike lasted a long, long time because of that reason. Instead of bargaining for improvements in wages and benefits, they were bargaining over their very jobs.

I do ask you that before you vote this evening, I want you to ask yourself this question. When a strike is over, either because there was an agreement with management because there was an unconditional return to work, who should have the job? Should it be a worker that has been there for 10, 20, 30 or 40