

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fifteenth Legislature
OF THE
State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 5, 1990 to May 16, 1991

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
44th Legislative Day
Wednesday, May 1, 1991

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

Prayer by Father Roland Couture, St. Mary's Catholic Church, Lincoln.

The Journal of Tuesday, April 30, 1991, was read and approved.

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on **Banking and Insurance** reporting "**Ought to Pass**" as Amended by Committee Amendment "A" (S-86) on Bill "An Act Relating to Health Insurance" (S.P. 265) (L.D. 742)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-86) as amended by Senate Amendment "A" (S-109) thereto.

Report was read and accepted, the bill read once. Committee Amendment "A" (S-86) was read by the Clerk.

Senate Amendment "A" (S-109) to Committee Amendment "A" (S-86) was read by the Clerk and adopted.

Committee Amendment "A" (S-86) as amended by Senate Amendment "A" (S-109) thereto was adopted and the Bill assigned for second reading Monday, May 6, 1991.

Non-Concurrent Matter

Bill "An Act Relating to the Maine Criminal Justice Commission" (H.P. 1186) (L.D. 1729) which was referred to the Committee on **Judiciary** in the House on April 29, 1991.

Came from the Senate referred to the **Joint Select Committee on Corrections** in non-concurrence.

On motion of Representative Gwadosky of Fairfield, tabled pending further consideration and later today assigned.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act Relating to the Maine Criminal Justice Commission" (H.P. 1186) (L.D. 1729) which was referred to the Committee on **Judiciary** in the House on April 29, 1991 (Came from the Senate referred to

the **Joint Select Committee on Corrections** in non-concurrence) which was tabled earlier in the day and later today assigned pending further consideration.

Subsequently, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Concerning Ice Fishing" (H.P. 485) (L.D. 679) on which the House insisted on its former action whereby the Minority "**Ought Not to Pass**" Report of the Committee on **Fisheries and Wildlife** was read and accepted and asked for a Committee of Conference in the House on April 29, 1991.

Came from the Senate with that Body having adhered to its former action whereby the Majority "**Ought to Pass**" as amended Report of the Committee on **Fisheries and Wildlife** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-132) in non-concurrence.

Representative Rotondi of Athens moved that the House adhere.

On further motion of the same Representative, tabled pending her motion to adhere and later today assigned.

At this point, a message came from the Senate, borne by Senator CLARK of that Body, proposing a Joint Convention to be held in the Hall of the House at 12:15 p.m. for the purpose of extending to the Honorable Edmund S. Muskie an invitation to attend and to make such communication as he may be pleased to make.

Thereupon, the House voted to concur in the proposal for a Joint Convention to held at 12:15 p.m. and the Speaker appointed Representative GWADOSKY of Fairfield to convey this message to the Senate.

Subsequently, Representative GWADOSKY of Fairfield reported that he had delivered the message with which he was charged.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills, Resolve and Resolution were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Appropriations and Financial Affairs

Resolve, Concerning Reauthorization of the \$16,000,000 Bond Issue for Construction of

Correctional Facilities (H.P. 1201) (L.D. 1757)
 (Presented by Representative CARROLL of Gray)
 (Cosponsored by Senator BUSTIN of Kennebec,
 Representative NORTON of Winthrop and Representative
 REED of Falmouth) (Submitted by the Department of
 Corrections pursuant to Joint Rule 24.)

Ordered Printed.
 Sent up for Concurrence.

Education

Bill "An Act to Amend the Specific Line Budgets
 for School Districts" (H.P. 1203) (L.D. 1759)
 (Presented by Representative MARSANO of Belfast)
 (Cosponsored by Senator BROWN of Knox, Representative
 NASH of Camden and Representative BARTH of Bethel)

Ordered Printed.
 Sent up for Concurrence.

Housing and Economic Development

Bill "An Act to Promote Affordable Housing for
 Persons of Low to Moderate Income" (EMERGENCY) (H.P.
 1208) (L.D. 1764) (Presented by Representative
 LARRIVEE of Gorham) (Cosponsored by Representative
 HOGLUND of Portland, Representative MITCHELL of
 Vassalboro and Representative HEESCHEN of Wilton)

Ordered Printed.
 Sent up for Concurrence.

Human Resources

Bill "An Act to Provide Improved Services for
 People with Autism" (H.P. 1207) (L.D. 1763)
 (Presented by Representative KILKELLY of Wiscasset)
 (Cosponsored by Representative GOODRIDGE of
 Pittsfield, Senator CONLEY of Cumberland and
 Representative PARADIS of Frenchville)

Ordered Printed.
 Sent up for Concurrence.

Judiciary

Bill "An Act to Limit Liability for Participants
 in Recycling Programs" (EMERGENCY) (H.P. 1205) (L.D.
 1761) (Presented by Representative RICHARDSON of
 Portland) (Cosponsored by Representative LORD of
 Waterboro, Senator CLARK of Cumberland and
 Representative PARADIS of Augusta) (Approved for
 introduction by a majority of the Legislative Council
 pursuant to Joint Rule 27.)

Bill "An Act to Increase the Penalties for
 Trafficking in or Furnishing Scheduled Drugs" (H.P.
 1198) (L.D. 1754) (Presented by Representative LEMKE
 of Westbrook)

Ordered Printed.

Sent up for Concurrence.

Marine Resources

Bill "An Act Concerning Marine Research" (H.P.
 1204) (L.D. 1760) (Presented by Representative COLES
 of Harpswell) (Cosponsored by Representative
 CONSTANTINE of Bar Harbor, Representative GRAY of
 Sedgwick and Senator BRANNIGAN of Cumberland)

Ordered Printed.
 Sent up for Concurrence.

Housing and Economic Development

Bill "An Act to Provide Equitable Funding
 Mechanisms for Regional Planning Commissions" (H.P.
 1200) (L.D. 1756) (Presented by Representative
 KILKELLY of Wiscasset) (Cosponsored by Senator
 HOLLOWAY of Lincoln)

(The Committee on Reference of Bills had
 suggested the Committee on State and Local
 Government.)

On motion of Representative Joseph of Waterville,
 was referred to the Committee on Housing and
 Economic Development, ordered printed, and sent up
 for concurrence.

State and Local Government

RESOLUTION, Proposing an Amendment to the
 Constitution of Maine to Provide for the Recall of
 State Elective Officials (H.P. 1202) (L.D. 1758)
 (Presented by Representative LEMKE of Westbrook)

Ordered Printed.
 Sent up for Concurrence.

Taxation

Bill "An Act to Authorize Municipalities to
 Impose a Severance Tax on Gravel" (H.P. 1199) (L.D.
 1755) (Presented by Representative TRACY of Rome)
 (Cosponsored by Senator KANY of Kennebec,
 Representative MAYO of Thomaston and Representative
 HOGLUND of Portland) (Approved for introduction by a
 majority of the Legislative Council pursuant to Joint
 Rule 27.)

Bill "An Act to Require the State to Compensate
 Municipalities for the Loss of Tax Revenue as a
 Result of the State Taking Real Property" (H.P. 1206)
 (L.D. 1762) (Presented by Representative LIPMAN of
 Augusta) (Cosponsored by Representative PENDEXTER of
 Scarborough, Representative DIPIETRO of South
 Portland and Representative DAGGETT of Augusta)

Ordered Printed.
 Sent up for Concurrence.

Transportation

Bill "An Act Amending Certain Motor Vehicle Laws" (H.P. 1209) (L.D. 1765) (Presented by Representative MACOMBER of South Portland) (Cosponsored by Senator TWITCHELL of Oxford, Representative STROUT of Corinth and Representative BAILEY of Farmington)

Ordered Printed.
Sent up for Concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

Recognizing:

Kerri Ann Malinowski, of Pittston, who has been crowned "Miss Maine Teen USA" for 1991 and will represent Maine in the National Miss Teen USA Pageant in August; (HLS 290) by Representative FARNSWORTH of Hallowell. (Cosponsor: Senator McCORMICK of Kennebec)

On motion of Representative Farnsworth of Hallowell, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I appreciate the opportunity to add to the information contained in the Sentiment that was just read because Kerri Ann Malinowski who lives in Pittston, which is one of the three towns in my district, to me is a wonderful example of a teenager and I think that in this day and age it is really important that we honor and recognize teenagers who do have achievements of the sort that she does.

Kerri Ann Malinowski is the kind of teenager that is involved in her student council at school, she is involved in her church as a member of the youth ministry program and also a canter. She is also somebody who has been involved in the community-at-large being an active member of the Adolescent Teen Pregnancy Prevention Coalition. She is also a person who sings the National Anthem at basketball games, plays the piano and, in short, is a very talented, very active, involved person in her community.

I hope that you will join me in wishing her well when she competes for the Miss Teenage U.S.A. competition in August. She will be on television when that happens this summer.

Subsequently, the Order was passed and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CAHILL from the Committee on Education on Bill "An Act to Allow Pupil Evaluation Teams to Waive Graduation Requirements in Appropriate Cases" (H.P. 756) (L.D. 1090) reporting "Ought Not to Pass"

Representative GEAN from the Committee on Human Resources on Bill "An Act to Increase the Personal Needs Allowance for Certain Elderly Persons" (H.P. 954) (L.D. 1381) reporting "Ought Not to Pass"

Representative GOODRIDGE from the Committee on Human Resources on Bill "An Act to Provide Resources for the Division for the Blind and Visually Impaired" (H.P. 647) (L.D. 921) reporting "Ought Not to Pass"

Representative HEPBURN from the Committee on Taxation on Bill "An Act to Assist Municipalities by Amending the Sales Tax Form" (H.P. 885) (L.D. 1276) reporting "Ought Not to Pass"

Representative BUTLAND from the Committee on Taxation on Bill "An Act to Allow Landowners Who Do Not Post Their Property to Receive a Tax Exemption" (H.P. 948) (L.D. 1370) reporting "Ought Not to Pass"

Representative BUTLAND from the Committee on Taxation on Bill "An Act to Increase the State Share of Education to 65%" (H.P. 823) (L.D. 1177) reporting "Ought Not to Pass"

Representative BUTLAND from the Committee on Taxation on Bill "An Act to Prevent Governmental Overvaluation of Property for Property Tax Purposes" (H.P. 1034) (L.D. 1507) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" on Bill "An Act to Provide for Safer Hunting of Deer During the Firearms Season" (H.P. 347) (L.D. 477)

Signed:

Senators: TWITCHELL of Oxford
SUMMERS of Cumberland
MATTHEWS of Kennebec

Representatives: ROTONDI of Athens
PAUL of Sanford
SWAZEY of Bucksport
JACQUES of Waterville
FARREN of Cherryfield
DUFFY of Bangor
CARROLL of Southwest Harbor

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

Signed:

Representatives: CLARK of Millinocket
GREENLAW of Standish
TRACY of Rome

Reports were read.

On motion of Representative Rotondi of Athens, the House accepted the Majority "Ought to Pass" Report, the bill read once and assigned for second reading Monday, May 6, 1991.

Divided Report

Later Today Assigned

Majority Report of the Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-192) on Bill "An Act to Prevent Discrimination against Podiatrists" (H.P. 529) (L.D. 757)

Signed:

Senators: CONLEY of Cumberland
BOST of Penobscot

Representatives: CLARK of Brunswick
GOODRIDGE of Pittsfield
SIMONDS of Cape Elizabeth
TREAT of Gardiner
GEAN of Alfred
WENTWORTH of Arundel

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

Signed:

Senator: GILL of Cumberland

Representatives: MANNING of Portland
PENDLETON of Scarborough
DUPLESSIS of Old Town
PENDEXTER of Scarborough

Was read.

Representative Manning of Portland moved that the House accept the Minority "Ought Not to Pass" Report.

On motion of the same Representative, tabled pending his motion that the House accept the Minority "Ought Not to Pass" Report and later today assigned.

Divided Report

Later Today Assigned

Majority Report of the Committee on **State and Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-195) on Bill "An Act to Codify the Rules of Maine" (H.P. 1) (L.D. 1)

Signed:

Senators: BUSTIN of Kennebec
BERUBE of Androscoggin

Representatives: JOSEPH of Waterville
KERR of Old Orchard Beach
LARRIVEE of Gorham
ST. ONGE of Greene
NASH of Camden
SAVAGE of Union
HEESCHEN of Wilton
GRAY of Sedgwick
WATERMAN of Buxton
LOOK of Jonesboro

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

Signed:

Senator: EMERSON of Penobscot

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought to Pass" Report.

On motion of the same Representative, tabled pending her motion that the House accept the Majority "Ought to Pass" Report and later today assigned.

Divided Report

Later Today Assigned

Majority Report of the Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-197) on Bill "An Act to Establish the State of Maine Credit Card" (H.P. 248) (L.D. 339)

Signed:

Senator: KANY of Kennebec

Representatives: MITCHELL of Vassalboro
ERWIN of Rumford
TRACY of Rome
KETOVER of Portland
RAND of Portland
PINEAU of Jay
HASTINGS of Fryeburg
CARLETON of Wells

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

Signed:

Senators: THERIAULT of Aroostook
BRAWN of Knox

Representatives: GARLAND of Bangor
JOSEPH of Waterville

Reports were read.

Representative Mitchell of Vassalboro moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Garland.
Representative GARLAND: Mr. Speaker, Men and

Women of the House: This bill authorizes a state sponsored credit card program for the raising of revenues for a dedicated fund. I am opposed to this legislation on both philosophical and practical grounds. Philosophically I believe this bill is not a responsible approach to government. This type of fundraising is more appropriate for alumni or fraternal organizations, not for that of government. On practical grounds, I simply do not believe this legislation will work. The State of Maine's credit card laws are strict and have almost eliminated this activity in the state. At present, Maine has only two banks which issue their own cards and, therefore, would be eligible to implement this legislation. Only one of the two eligible banks showed any interest and that institution has stated that it will most likely move its credit card business out-of-state next year, thereby making it ineligible.

All I see in passing this legislation is exactly what the state of Montana got, a state credit affinity card on the books which no bank is willing to service.

I request a Division.

On motion of Representative Gwadosky of Fairfield, tabled pending the motion of Representative Mitchell of Vassalboro that the House accept the Majority "Ought to Pass" Report and later today assigned.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H.P. 518) (L.D. 746) Bill "An Act to Improve the Administration of Municipal Accounts" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-206)

(H.P. 878) (L.D. 1269) Bill "An Act to Notify the Probation Officer and the Probationer When a Motion Is Filed to Terminate Probation at a Time Earlier Than That Provided for in the Sentence" Joint Select Committee on Corrections reporting "Ought to Pass" as amended by Committee Amendment "A" (H-207)

(S.P. 181) (L.D. 490) Bill "An Act to Clarify Certain Laws Affecting the Maine State Archives, Admissibility of Documents and Local Government Records" Committee on State and Local Government reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday May 6, 1991, under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second

Day:

(H.P. 903) (L.D. 1300) Bill "An Act Relating to the Employment of School Board Members"

No objections having been noted at the end of the Second Legislative Day, the House Paper was Passed to be Engrossed and sent up for concurrence.

(H.P. 840) (L.D. 1206) Bill "An Act Relating to the Sale of Business Opportunities"

On motion of Representative Tamaro of Baileyville, was removed from Consent Calendar, Second Day.

Report was read and accepted, the bill read once and assigned for second reading Monday, May 6, 1991.

(H.P. 139) (L.D. 199) Resolve, to Establish the Commission to Study the Use of Professional Strikebreakers (EMERGENCY) (C. "A" H-185)

(H.P. 593) (L.D. 844) Bill "An Act Concerning Taxation of Time-share Condominiums" (C. "A" H-189)

(H.P. 794) (L.D. 1140) Bill "An Act Relating to Name Changes During Divorce Proceedings" (C. "A" H-188)

(H.P. 275) (L.D. 395) Bill "An Act to Clarify Ownership of Public Ways" (C. "A" H-187)

(H.P. 77) (L.D. 105) Bill "An Act to Include the Testator's Birth Date in Statutory Living Wills" (EMERGENCY) (C. "A" H-186)

(H.P. 589) (L.D. 840) Bill "An Act to Provide Greater Public Input into Public Lands Management" (C. "A" H-190)

(H.P. 658) (L.D. 937) Bill "An Act to Encourage Recycling of Waste Oil" (C. "A" H-191)

(H.P. 394) (L.D. 568) Bill "An Act to Appropriate Emergency Funds for the Maine Potato Breeding Program" (EMERGENCY) (C. "A" H-193)

(H.P. 951) (L.D. 1378) Bill "An Act to Change the Geographic Representation of the Maine Potato Board" (C. "A" H-194)

(S.P. 339) (L.D. 929) Bill "An Act to Revise Provisions for a New Birth Certificate after Adoption"

(S.P. 116) (L.D. 211) Bill "An Act to Ban Tree Spiking" (C. "A" S-89)

(S.P. 184) (L.D. 493) Bill "An Act to Improve Consumer Access to Physical Therapy Services" (C. "A" S-93)

(S.P. 310) (L.D. 819) Bill "An Act to Provide an Expedited Process for the Commencement of Paternity Actions" (C. "A" S-87)

(S.P. 333) (L.D. 908) Bill "An Act to Provide Funds to Dental Clinics" (C. "A" S-91)

(S.P. 439) (L.D. 1183) Bill "An Act Regarding the Relaying of Shellfish" (C. "A" S-88)

(H.P. 866) (L.D. 1246) Bill "An Act to Promote Volunteer Emergency Medical Services through Changes to the Unemployment Laws" (C. "A" H-196)

(H.P. 528) (L.D. 756) Bill "An Act to Enhance the Protection of Children Who Have Been Removed from Their Homes" (C. "A" H-202)

(S.P. 230) (L.D. 584) Bill "An Act to Amend the Provisions Regarding Prejudgment Interest"

(S.P. 559) (L.D. 1463) Bill "An Act to Reconcile Dates Barring Claims in the Probate Code"

(S.P. 220) (L.D. 547) Bill "An Act to Require Prompt Payment of Wages Due Upon Discharge for All Employees" (C. "A" S-98)

(S.P. 242) (L.D. 646) Bill "An Act to Provide for the Recovery of Overpayments by the Maine State Retirement System" (C. "A" S-97)

(S.P. 247) (L.D. 656) Bill "An Act to Reduce Duplication at the Department of Human Services" (C. "A" S-103)

(S.P. 361) (L.D. 963) Bill "An Act to Provide for the Payment of Late Fees by School Administrative Units and Participating Local Districts That Are Delinquent in Paying Contributions to the Maine State Retirement System" (C. "A" S-102)

(S.P. 380) (L.D. 1057) Resolve, to Name the Bridge Spanning the Little Madawaska River in Caribou the "B. Morrell Bridge" (C. "A" S-96)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

(S.P. 407) (L.D. 1083) Bill "An Act to Ensure Voter Participation in the Siting of Both Storage and Disposal of Radioactive Waste" (C. "A" S-100)

On motion of Representative Holt of Bath, was removed from Consent Calendar, Second Day.

Report was read and accepted, the bill read once. Committee Amendment "A" (S-100) was read by the Clerk.

Representative Holt of Bath offered House Amendment "A" (H-210) to Committee Amendment "A" (S-100) and moved its adoption.

House Amendment "A" (H-210) to Committee Amendment "A" (S-100) was read by the Clerk.

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

Representative HOLT: Mr. Speaker, Ladies and Gentlemen of the House: I am presenting this

amendment on the floor of this House today on behalf of the many people in Maine who do not want their right to vote on the storage or disposal of nuclear waste abrogated in any way by this legislature.

I want those of you who have not been in this legislature before to understand, as the rest of us here do, that the federal government has reneged in its responsibility for the care of all kinds of nuclear waste. The low-level waste, so-called, which is highly dangerous and has the same dangerous isotopes in it as high-level waste but simply more dispersed, less concentrated, has been given by Federal Law, Public Law #99240 to the states to own and be liable for after 1996 or perhaps as early as 1993.

We have a state authority on low-level radioactive waste and they are trying in good faith to find a place to put this waste which is generated by Maine Yankee and its owners, a private for profit corporation. This is a precedent, unheard of to my mind, in this country. It is a measure of our failure as a government and a society and a large international industry to deal with the most hazardous waste known to man.

The committee has struggled very hard with this issue and they heard many people coming in anxiously speaking for their right to vote. I must tell you, the right to vote on the local level is a precious right when you are dealing with this kind of subject. The people will not learn about the dangers to their health and safety of radioactive waste on the local level where a waste dump may be sited for storage or disposal.

I want to tell you that there is no known way now for long-term disposal, there is only storage and careful care. Communities that may be chosen will not know the details, will not understand the problems if they are not given the right to vote. When they are given the right to vote, people who think nuclear waste is harmless and who don't know what to do with it and need to put it somewhere will come and talk but so will the people who know the dangers and that is what I am arguing for here. I do not blame the Energy Committee for not voting my kind of amendment to this state law on the right to vote. They are trying very hard to be good and do what the federal government tells them to do and help the authority get a waste dump in Maine. There are many of us who feel that we should put this ball back in the hands of the federal government which has failed us for 45 years. One way to do it is to learn more about it and make demands. You cannot demand your federal government to do what is right by you unless you understand the subject. That is the reason for my standing here before you and doing perhaps a fairly unheard of thing and that is committing major plastic surgery on a bill that a very hard working committee has presented to you and an amendment.

I want you to understand that the committee's amendment will allow for a voting on storage only after the year 2001. Maine Yankee has, by federal law, been given permission to store on-site until 1996. Well, if they are in a bad state over there, they may not wish to do that. However, they do have that right by law.

There is no federal law that says they may use storage of waste until 2001. The federal law has to be changed to allow that. However, this legislature did allow storage on-site until 2001.

I ask you ladies and gentlemen if you think it is

right for a little town up in the northern part of Maine to get the distinction of being a storage site, which we may have to do because we don't have a disposal site, after it has been there until 2001 then get the right to vote on it? That is the camel's nose under the tent. That is likely to be, if we have a storage site a fait accompli and it would be there forever.

We, in the Pro-safe Energy Movement urge caution and moving very slowly and carefully in dealing with nuclear waste and putting as much pressure as possible on the federal government to call an international commission unconnected with the industry to deal with this global problem of the build up of both high-level and low-level nuclear waste. Some of that low-level is so dangerous that standing four feet away from it will give you a lethal dose. So, it is not booties and gloves with a few particulates on it.

My amendment replaces the Committee Amendment that required local approval for the siting or continued operation of a low-level radioactive waste storage facility only after January 1, 2001. On-site temporary storage of low-level radioactive waste is permitted by state law, subject to the appropriate licensing of the Nuclear Regulatory Commission only until the year 2001. Current law grants local residents the right to vote, to approve the selection of a low-level nuclear waste disposal site. This amendment extends that right of voter approval to include storage sites by ensuring that residents of a municipality or township located entirely or partially within a ten mile radius of a proposed nuclear wastesite that they have the right to vote to approve the selection of the site. If the ten mile radius around the proposed site is entirely within an unpopulated, unorganized territory, my amendment grants the right of local voter approval to those residents of the nearest populated township or municipality. They would need each municipality to vote 60 percent approval. That is only fair, I believe. This is the only way we will become informed.

When the vote is taken on this amendment, I request a division, Mr. Speaker.

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

Representative MITCHELL: Mr. Speaker, I move that House Amendment "A" (H-210) be indefinitely postponed.

Mr. Speaker, Men and Women of the House: It is with great reluctance that I made that motion but I think the amendment before us is unworkable and creates a very difficult situation for state government.

The federal law, whether it is right or wrong, requires Maine to dispose of its low-level radioactive waste. Over the last few years, we have established a procedure to site a disposal facility in the state. It is the most complex public policy decision the state will ever make. The Low-Level Radioactive Waste Authority has to identify the site using the best geological criteria. The local voters of the town have to approve the site with a 60 percent vote. The Board of Environmental Protection has to issue a license for the facility with the majority of vote with four members of the community sitting on the board, I believe. The legislature has to approve this permit. This is the only environmental permit that we issue that the

legislature would have to approve. Finally, the voters of the state have to approve it in a statewide referendum. That is a very complex procedure to go through to ensure the safety of the people.

Representative Holt's amendment compounds that situation by requiring the local vote to be in all areas, all municipalities that happen to have any portion of the municipality within ten miles of the site. It is very, very complicated.

I know that with the accident at Maine Yankee a couple of days ago that there is a lot of emotion on this issue but as I see it we in this country, sooner or later, have got to pay the price for cheap electricity. We have been living with cheap electricity for a long time and every effort that we have made to cut down the use of electricity has been resisted. Sooner or later society has to pay the price and the price is going to be a low-level radioactive waste site in Maine or in another state. There is nothing we can do to avoid it. We just can't live the high life forever without paying the price. That is what we as a society have been doing for a long, long time. We have to dispose of this low-level waste.

I don't want to discuss the federal law, it may be a wise law, it may not be a wise law. We can't change it, we have to live with it, we have to be responsible and dispose of the waste. If we are going to have a nuclear power plant and cheap electricity, we are going to have radioactive waste and we have a responsibility for the next generation of people who live in this state to take care of it responsibly and not create a system with so many roadblocks that never, never will we ever be able to site a facility.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: It is not often that on a radioactive waste issue that you are going to see the Energy Committee unanimous. You will see in the next week or two as we have several Divided Reports on other aspects of radioactive waste. This bill, L.D. 1083, was motivated out of a concern that a temporary storage site might become a permanent disposal site. The Committee Amendment adopted unanimously by the committee is designed specifically to prevent that from happening by saying that, after a certain period of time, if a storage site is still operating, it may no longer operate without the vote that a disposal site requires. It protects the people in the town who have a temporary storage site from becoming the site of a permanent disposal site without the local vote that everyone else has.

As regards to the other parts of the amendment, the ten mile radius etcetera, the committee discussed this at length and we unanimously decided in this and other bills that that is simply an unworkable requirement, it is just not practical. I hope you vote to support the motion to indefinitely postpone.

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

Representative HOLT: Mr. Speaker, Men and Women of the House: I hope you will defeat the motion on the floor and stay with my amendment for the peoples sake.

If you have a storage site that is not engineered to be safe as a disposal site must be, although I am sure we are just going to have eternal storage, and if you have had a leak or it has gotten into the

ground water, it is a little late to be allowing people to vote on it. My amendment is not the same as the one as far as people in an unorganized, unpopulated territory are concerned who live around such a territory or unorganized township, in that my amendment says that all the people in any municipality that has any land within that ten mile radius of a nuclear waste disposal storage site. That is different, so that is not so hard, three towns, maybe two towns voting, it is not difficult, we do it quite frequently in this country.

I understand both the speakers before me and I understand their attitude and I understand their work. I would refuse that work if I were in their place but that is not their prerogative.

My amendment addresses the need to educate the people and to pressure the federal government. We did not make this waste. When that nuclear power plant came on line, in this legislature there was not one word mentioned of nuclear waste, high or low. They talked about heat into the bay. Sure, some of my friends went swimming because the bay was warm and one of them got multiple myeloma later. You can't prove it was because of that plant, but there is plutonium in the sediment around Maine Yankee that has come from the plant according to a Nuclear Regulatory Scientific paper.

This is not putting stumbling blocks in the way of anyone. Nuclear power is not cheap and it is not safe if you figure in the \$9 billion that comes out of your pocket that the Congress wants to award to the nuclear power industry to pay for processing their fuel which ends up leaking in our backyards and putting curies of radioactive gas into the air around the people I represent. Nobody asked them if they wanted that kind of waste in their neighborhood, they just give it to us, we breathe it in, we eat it in some of our garden vegetables. We don't know what it is doing to us.

No, nuclear power is not cheap and it is not safe and this amendment of mine is a good one. Don't let it die here today, stand up for your rights.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment does not seem very complicated to me. A temporary storage site is just as potentially lethal as the permanent one. I, for one, would like to see my constituents, if something were being put in their vicinity, be notified by having a vote and raising their consciousness. I can't see anything more democratic than that, so I am going to support Representative Holt on this issue and I hope you will too.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Mitchell of Freeport that House Amendment "A" (H-210) to Committee Amendment "A" (S-100) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Mitchell of Freeport requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having

expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: I didn't want to get into a full-fledged discussion of radioactive waste over this small bill but I think maybe we have to. The federal government says that, as of 1996, the State of Maine will own the radioactive waste generated in this state if we have not provided adequate disposal capacity. That means the taxpayers of the State of Maine will be liable for all costs associated with storing that waste, associated with any contamination from that waste, associated with any problem surrounding that waste. I don't believe this is a very good law, the federal law, it is illogical in a variety of ways. The Congress, having passed this law, has made it very clear that they wish to wash their hands of the whole subject. They have managed to stick it to the states on low-level waste, not high-level, keep in mind that is a very important distinction. High-level waste is the fuel rods and the federal government says that they will assume responsibility for that. I am not sure that I believe them but they say that at this point. Low-level waste is the waste that is contaminated with radioactivity but is not the fuel rods. They have said the states are responsible for the waste generated within our borders.

We established a Low-level Radioactive Waste Authority to find a site in Maine for a low-level radioactive waste dump if that is necessary. State policy, as a matter of preference says, our first priority is to find an out-of-state dump to take our waste, but there aren't very many states that are willing to take radioactive waste from another state. So, while we have some prospects, some hopes, of persuading Texas or California to take our waste and thus avoid the need to dispose of it within Maine, we have to be prepared to dispose of it within Maine. We have three times voted to generate this waste to keep Maine Yankee open. Since we have three times voted to generate the waste, the only responsible course of action for us is to make adequate provisions to dispose of it safely.

We have told the Low-Level Radioactive Waste Authority that in trying to site a dump in Maine, they should do the job right, they should not be driven by the 1996 deadline to find a permanent site. They should take their time, do the science, do the education, do the best possible job regardless of federal deadlines. The Authority has told us that if they are going to do the job right, they cannot meet the January 1, 1996 deadline. They need to have the ability to temporarily store waste pending completion and opening of a permanent disposal site.

Last year, we passed a law which said that every generator is required to have sufficient capacity on site to store the waste they generate until the year 2001 — generated between January 1, 1993 which is when we will be shut off from our present access to out of state dumps, to January 1, 2001. However, if those generators do not have that capacity, the state will have to provide it in their place. In order to assure that we have that capacity for temporary storage, we have to give the Authority the ability to provide it. In order to assure that the Authority simply cannot convert temporary storage sites to a permanent storage site, the committee has recommended

the Unanimous "Ought to Pass" Report on 1083 to say that temporary storage, by definition in state law, ends in the year 2001 at the very latest. And, only with local approval can that site ever become a permanent site. So, the rights of people who fear that a temporary storage site might saddle them with a permanent site are fully protected by the Committee Amendment. If we were to do anything beyond that, as proposed by Representative Holt, we will leave the state and its taxpayers in a position of owning and being liable for the radioactive waste generated in this state without any means of protecting the state taxpayers from that liability.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Please remember as you vote that we have the most intense environmental protection on this particular issue of any state for any license in the country. We have 60 percent local voter approval, we have approval by the Board of Environmental Protection, approval by the legislature and an unheard of requirement that it be approved by the voters of the state in a general election. We have to draw the line somewhere and the committee decided to allow citizens of an unorganized territory to vote. You have to draw the line.

Representative Holt's amendment would say a municipality that is within ten miles of your municipality would have the right to vote too. I know that the City of Lewiston was within ten miles of the northwest corner of Freeport and, if we decided to have a facility in our town, I don't think that they should have an election with all their people and be able to out-vote us. We have to draw the line somewhere. We have a very complex and incredibly difficult process and this is just going to make it harder. We don't want to do it, we have to do. If we are going to have cheap electricity and keep Maine Yankee open, which the people of the state have voted three times to do, sooner or later we have got to do this and just not make it so incredibly difficult that we are burdened with this waste forever. Think about your children and your grandchildren when you vote for this because, if you don't take care of this waste, they are going to and that problem is going to be around forever.

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

Representative HOLT: Mr. Speaker, Men and Women of the House: I would just like to make it clear that my amendment requires towns that have any of their land within the ten miles around the site itself, that is the same area that we have for the primary evacuation zone.

I am not any more emotional, by the way, about this issue than I ever have been just because of the accident. We have been expecting to have an accident for God knows how long.

I would like to remind you, however, that when our legislators speak about how Maine people have voted three times to keep making waste and keeping Maine Yankee on line, don't forget half the power goes out-of-state. That's really not quite true, that is kind of a shade of the truth. The truth is that the nuclear power industry outspent the people who are for safe energy and not making this waste, 12 to 1, and they changed the argument from producing waste and needing to store it and take care of it to telling us that we would be cold, elderly people

would not be able to pay their electric bills and that is what power will do. I am telling you today that people power is stronger in the long run. It may take many times to get a safe energy policy in this country but we will do it and it will be with an educated populous only. I do not think there is anything too difficult about my amendment.

I also want you to understand that we do not have to take ownership and liability for that waste unless Maine Yankee asks us to. We should give Maine Yankee a very clear message that they had better not!

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

Representative RAND: Mr. Speaker, I would like to pose a question through the Chair.

Who is liable to make restitution to a community if a temporary storage site contaminates an area?

The SPEAKER: Representative Rand of Portland has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Men and Women of the House: To answer the question, the state would be responsible since the state owns the waste.

I would just like to point out that this is a very controversial issue, compounded by a very complex federal law. My position from the beginning has been to oppose that law, it is a ridiculous law and so, as a member of Energy and Natural Resources Committee, whenever I am faced with a bill dealing with low-level radioactive waste, I try to vote as responsibly as I can and that is to send a message to the federal government that this law doesn't work.

Now, my good friend Representative Mitchell, gets very upset with the idea of the proponents of this amendment and other ideas requiring voter approval that this is somehow a roadblock that is going to end up making us in a worse situation. I disagree with that. I believe that if you give people all the facts and all the information, they will make the best decision. This idea that somehow the federal government can force the individual states to deal with the problem that they have maintained the exclusive responsibility for all the information over safety, for defense purposes — we don't have any nuclear engineers in the State of Maine. We don't have people who have the knowledge to deal with the issue and even if they did, there would be so much information that they just couldn't get hold on it for federal security reasons, so I am caught in a difficult situation.

I voted for this unanimous committee amendment because I wanted to make sure that a temporary storage facility couldn't become a permanent one. At the same time, there are parts of Representative Holt's amendment that I agree with, the ten mile radius and I think those ideas are good. I would ask you to support her amendment and maybe we can work out some type of an amendment later on that will incorporate all the ideas that are being said today.

Reminding people again, two points, voter approval is not a bad thing. It is an educational process that I think is important with this issue. We are taking a lot of time today and I apologize for the time I am taking but I think it is important to be on the Record on this one and on all the issues because, at some point, we are going to have to face that federal law which is a bad law.

I hope for all people that have sat through this debate today you remember that part — the federal law dealing with low-level radioactive waste is just a horrible law and we have to change it.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I will be brief. I really don't care whether you vote for the amendment or not because I have said all along and the committee members will substantiate it that I don't believe that under the system we have that any low-level radioactive waste site will be sited in the State of Maine. Any community that would vote by 60 percent is out of their mind.

Here comes the glitch in the whole thing. I firmly believe that both the federal government and the people that produce the low-level nuclear waste want us to continue in the direction we are going and that is to throw as many roadblocks, throw as many hoops, throw as many problems in the siting as you can because, ultimately, when none are sited they are going to say, "Look, the state acted irresponsibly." The federal government is going to say, "Now it's your baby, take care of it." And, Maine Yankee is going to wash their hands of the whole thing saying the state did not follow the federal guidelines.

If there is anybody in this House that thinks the federal government cares one iota about what we want or don't want in this state, you better wake up and smell the roses. They have written a very bad law, it is a stupid law, it is unworkable, but it is all that we have to work with. We have tried to walk the very fine line of still being responsible and yet not crossing that line of giving the perception that we are not doing the very best we can to deal with our own problem and that is our waste.

Now, who knows what is going to happen when the deadline comes and the federal government decides that they don't want to deal with it and you, the State of Maine, are going to deal with it. We have no site chosen, the voters have voted everything, what are you going to do? Are you going to end up going with eminent domain, taking a piece of land? It may be for the right reasons or the wrong reasons but that is what you are going to end up doing. I firmly believe that both the federal government and the people producing this waste hope we continue down this road because we are playing right into their hands.

I hope they put 50 amendments on that make it so you need 80 percent of the vote. Why stop at ten miles, go to 50, 60, 90, then include all the travel routes that the waste is going to be transported from one facility to the storage site. Include a ten mile corridor on that travel route. I mean, go nuts, go for it, do whatever you want.

I just want you to remember that some day down the line that this little French boy from Waterville told you that you are going to end up owning this and having to deal with it. You can tell people you did the responsible thing today but, as Representative Mitchell pointed out, try to explain to your children and grandchildren why your local armory is going to be full of low-level waste because you had no place else to put it. That is the simple fact of the matter.

I don't care what you do because I firmly believe under the criteria we have now, no site will be

sited. It won't be. A community would have to be out of their mind to vote to approve such a site when the government has already told them the chances are it is going to leak.

One final note, the other morning I saw the movie on television dealing with Chernobyl and what happened to the firemen that went to fight that fire. I used to be a fireman in the City of Waterville and when I saw those firemen laying there with their skin falling off because they were exposed to the vapors and the fumes as they were putting water on this fire and the three inch firehose was turning into steam before it even got to the fire — I mentioned that in committee and that very morning they had a fire at Maine Yankee that could have done the same darn thing. So, these firemen from that area could have gone in there trying to do their responsibility of putting out a fire and ended up dying from all different kinds of horrible things, not even knowing what they were getting into.

When you move the emotions of that aside, I firmly believe we will not site a low-level radioactive site because the clear thinking has gone by. People are scared, they have every reason to be scared and, when people are scared, they are going to vote no. When people are scared, they are going to require their legislators to vote no. When people are scared, DEP is going to be overwhelmed in the public hearing process to vote no. It isn't going to happen, but somewhere down the line, the people in the State of Maine are going to have this in their little hands and what are you going to do with it? I think we are just playing into the hands of the people who have the problem now who want to pass it off to the taxpayers of the State of Maine. I firmly believe that.

I have to admit that Representative Mitchell and Representative Coles have been involved in this a lot longer than I have and probably are as familiar with this whole mess as anybody that serves in this legislature. I have to look to them for guidance and they have guided me in this matter and I think they are correct, that every time you throw another roadblock, it gives the opposition just one more piece of ammunition to pass all the responsibility off to the people of this state. If that is what you want, fine, you make that choice, the choice is up to you.

The SPEAKER: The Chair recognizes the Representative from Woodland, Representative Anderson.

Representative ANDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would just urge you to support Representative Mitchell's motion. Representatives Mitchell and Coles are the two most knowledgeable people on our committee on this issue and I agree with what they have to say.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: Just a few brief comments. I would urge you to oppose the pending motion and to support the amendment of the Representative from Bath, Representative Holt. A couple of comments — the 60 percent vote has been in law for a couple of years, the same arguments were used against that, that would cause the federal government to declare our plan for siting low-level radioactive waste site to be in violation of federal law, that has not happened.

Secondly, I believe it is a matter of semantics to say that we should have one law that applies to a

permanent storage facility and a second law that applies to a temporary storage facility. It doesn't appear to me that the risks are any less with a temporary storage facility. In fact, they may be more because I don't know whether it has to go through the same rigorous siting procedure as this permanent storage facility.

Some of the current thinking around nuclear waste disposal is that we shouldn't have these underground long-term storage disposal facilities but should simply go with a more temporary storage facility until we see what happens in the future. That may well mean that things sited now as temporary storage facilities could be long-term storage facilities. I know the committee has tried to address that concern by having a vote in the year 2001, but when something is in place, that law can be easily amended in the future. I believe that it doesn't make a whole lot of sense making a distinction on that grounds.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I really haven't heard anything here this morning, in my judgment, that justifies disenfranchising those people that would be most directly affected, possibly, by a temporary disposal site or a permanent disposal site. It seems to me with this kind of problem, we are dealing with radiation here, a ten mile radius is little enough to ask for.

Furthermore, I have a great deal of confidence in Representative Holt's judgment, she is extremely knowledgeable about the potential impact of all kinds of radiation. So, I would urge you to oppose this indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I support Representative Holt's amendment for the simple reason that if I had a community of 200 people voting on allowing a waste site — and my community happens to have 100,000 within that ten mile radius, I don't think 200 some odd people should be telling me or my children or my grandchildren that I should live with it. If we believe in the democratic process, we ought to vote for Representative Holt's amendment, which is a democratic process.

On the other hand, if this does not work, we come to a bottleneck, well I might have a little suggestion that the people who voted to keep Maine Yankee open, the greatest percentage of votes that were had in that community, if it is a feasible place for a waste site, we ought to put it there.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I am not satisfied that nobody in their right mind will vote to put this in their towns. As a matter of fact, being in your right mind is not a prerequisite for voting in this state. If the town next to me votes to put this in, my property and my home is worthless. A ten mile buffer zone for radioactive waste is really not enough but it is the best we can do and I certainly am going to support Representative Holt's amendment.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: I appreciate the Representative from

Madawaska's comments about the democratic process. Three times in our democratic process the people of Maine decided to vote to keep Maine Yankee open and generate the waste. Now, if we adopt this amendment, I suggest we go further and we put out another referendum on Maine Yankee which says, if you vote to keep Maine Yankee open, your town will be one of the sites eligible for a low-level dump and see what the vote is then. If you want to do that, I am all for it. I have been voting against Maine Yankee for years. Unless you want to have another statewide referendum to close Maine Yankee down, we are stuck with the waste we have already agreed to generate, three times. Just like any other waste that we generate, we have to deal with it somehow.

The SPEAKER: The pending question before the House is the motion of Representative Mitchell of Freeport that House Amendment "A" (H-210) to Committee Amendment "A" (S-100) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 48

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bowers, Carroll, D.; Carroll, J.; Cashman, Clark, H.; Coles, Daggett, DiPietro, Donnelly, Duffy, Duplessis, Dutremble, L.; Erwin, Farnum, Farren, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hanley, Hastings, Heino, Hichborn, Hichens, Hoglund, Hussey, Jacques, Jalbert, Kerr, Ketover, Lebowitz, Libby, Lipman, MacBride, Macomber, Manning, Marsano, Marsh, Martin, H.; Melendy, Merrill, Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Gara, Ott, Paradis, P.; Parent, Pendleton, Pineau, Pines, Plourde, Poulin, Reed, G.; Reed, W.; Richardson, Ricker, Ruhlin, Salisbury, Savage, Sheltra, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend, Tupper, Vigue, Waterman, Whitcomb.

NAY - Adams, Aliberti, Anthony, Bell, Cahill, M.; Cathcart, Chonko, Clark, M.; Constantine, Cote, Crowley, Dore, Farnsworth, Foss, Gean, Goodridge, Graham, Gray, Hale, Handy, Heeschen, Hepburn, Holt, Joseph, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Look, Luther, Mahany, Mayo, McHenry, McKeen, Michaud, Mitchell, E.; O'Dea, Paradis, J.; Paul, Pfeiffer, Pouliot, Powers, Rand, Richards, Rotondi, Rydell, Saint Onge, Simonds, Simpson, Skoglund, Tracy, Treat, Wentworth, The Speaker.

ABSENT - Bennett, Boutilier, Butland, Carleton, Ketterer, Kutasi, LaPointe, Lord, Oliver, Pendexter, Small.

Yes, 85; No, 55; Absent, 11; Paired, 0; Excused, 0.

85 having voted in the affirmative and 55 in the negative with 11 being absent, the motion did prevail.

Subsequently, Committee Amendment "A" (S-100) was adopted and the Bill assigned for Second Reading, Monday, May 6, 1991.

(S.P. 413) (L.D. 1127) Bill "An Act to Increase the Probationary Period for Police Officers" (C. "A" S-99)

(S.P. 425) (L.D. 1137) Bill "An Act to Repeal Certain Redundant Laws Relating to the Bureau of Air Quality Control" (C. "A" S-94)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed as Amended in concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Amend the Reduction in Toxics in Packaging Laws" (S.P. 572) (L.D. 1526) (S. "A" S-95 and S. "B" S-105)

Was reported by the Committee on Bills in the Second Reading, read the second time and Passed to be Engrossed as Amended in concurrence.

ENACTOR

Emergency Measure

Later Today Assigned

An Act to Improve the Regulatory Operations of the Board of Licensing of Auctioneers (H.P. 440) (L.D. 623) (C. "A" H-146)

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and later today assigned.

PASSED TO BE ENACTED

An Act to Amend the Charter of the Portland Water District (S.P. 254) (L.D. 712) (H. "A" H-161 to C. "A" S-41)

An Act to Clarify the Definition of Resident Trust (S.P. 316) (L.D. 854) (C. "A" S-73)

An Act to Expand Consumer Membership on the Board of Osteopathic Examination and Registration (H.P. 361) (L.D. 515) (C. "A" H-145)

An Act Concerning Reimbursement for Certain Medical Services as Special Education Services (H.P. 382) (L.D. 556) (C. "A" H-147)

An Act to Amend the Composition of the Board of Trustees of the Maine Technical College System (H.P. 395) (L.D. 569) (S. "A" S-75 to C. "A" H-100)

An Act to Amend the Public Drinking Laws (H.P. 405) (L.D. 588) (C. "A" H-148)

An Act to Clarify Provisions Relating to the Bureau of Intergovernmental Drug Enforcement (H.P. 423) (L.D. 606) (C. "A" H-149)

An Act to Clarify the Provisions for Temporary and Conditional Psychologists' Licenses (H.P. 724)

(L.D. 1028)

Were 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.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

SENATE PAPER

Resolve, Authorizing the Extension of the Appointment of the Acting Commissioner of Administration (EMERGENCY) (S.P. 668) (L.D. 1766)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed as amended by Senate Amendment "A" (S-111).

(The Committee on Reference of Bills had suggested reference to the Committee on State and Local Government.)

Under suspension of the rules and without reference to a Committee, the bill was read once.

Senate Amendment "A" (S-111) was read by the Clerk and adopted.

Under further suspension of the rules, the bill was given its second reading and passed to be engrossed as amended in concurrence.

By unanimous consent, was ordered sent forthwith to Engrossing.

The following item appearing on Supplement No. 3 was taken up out of order by unanimous consent.

SENATE PAPER

The following Joint Order: (S.P. 670)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, May 6, 1991, at five o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The Chair laid before the House the following matter: Divided Report: Majority Report (12) of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-195) on Bill "An Act to Codify the Rules of Maine" (H.P. 1) (L.D. 1) and Minority Report (1) of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of

Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" Report and later today assigned.

The Chair laid before the House the following matter: Divided Report: Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-192) on Bill "An Act to Prevent Discrimination against Podiatrists" (H.P. 529) (L.D. 757) and Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Manning of Portland that the House accept the Minority "Ought Not to Pass" Report.

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

Representative MANNING: Mr. Speaker, Men and Women of the House: Let me just say from the beginning that this is a red letter day for me. It is the first day that I think I have actually been on the side of the hospitals in the State of Maine. Most of you who have been here with me for many years realize that I have usually disagreed with the hospitals but, in this case, I firmly believe that it is the right thing to do.

The other thing that I want to tell you is my feet are sore and I don't know where I am going to get my feet taken care of, maybe New Hampshire.

Let me just state that there are many well qualified podiatrists in this state, I am not going against the podiatrists, I am going against the idea of mandating that the hospitals have to accept them. If a qualified podiatrist applies for admission into a hospital, the hospital must take that person. This would place hospital boards in a position of being forced to grant full privileges to all podiatrists who apply regardless of whether the hospital needs a podiatrist or wants a podiatrist to provide treatment of the foot and whether or not the hospital has the capacity to accommodate them. A hospital would have to close its medical staff to prevent this, which is unrealistic and unwise. No other medical profession has what this bill is calling for. For instance, if a cardiologist decided that he wanted to practice at — let's pick a smaller hospital, let's say the Calais hospital — and the hospital board said they don't need a cardiologist, then the board has the privilege of saying no. If a podiatrist decided to practice at the Calais hospital and the board deemed it wasn't necessary, this law would mandate that that individual would have to be accepted, if he is qualified.

When we heard the bill, it seemed to be two areas of the state that were having some real problems, one of the areas is that great city to the south of here called Lewiston and the other area was the great little area of Norway/South Paris. Now, the Norway/South Paris area has accepted a podiatrist. The Lewiston area, at this stage of the game, still has not accepted the podiatrist in either one of the hospitals. There is an ongoing anti-trust investigation by the Attorney General's Office of this state to investigate why those two individual hospitals are refusing to accept podiatrists. I think they ought to be accepting podiatrists. The other area of the state that would not accept a

podiatrist happens to be the Maine Medical Center. Now, one of the podiatrists in the Portland area who called me who happens to be Chief of Podiatry at one of the local hospitals said he had privileges both at the Mercy Hospital and at the Brighton Medical Center. I said, "Your patients have the opportunity to go to two hospitals, why do you want to force the Maine Medical Center into having you be accepted?" He said, "Because it is right."

Now, when you look at what the Maine Medical Center does and the high technologies that they deal with, should we be forcing upon the Maine Medical Center (which at one point in the history of our state was the only place that you could have open heart surgery, now it can be done at the Eastern Maine Medical Center) but forcing them to accept a podiatrist, he could be well qualified, fit the criteria, but then he is competing with other things that they might want to do especially at the medical center because of its high intensity of medical care.

Blue Cross and Blue Shield feel that this bill is not necessary. I don't think because of one community in this state that does not offer podiatry services that we ought to be passing this piece of legislation. I would hope that you would go along with the Minority "Ought Not to Pass" Report.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I hope you will not go along with the Minority "Ought Not to Pass" Report but instead will allow us to go on and accept the Majority "Ought to Pass" Report.

I sponsored this bill for several reasons. For a number of years, I served as a public member on the National Council of Podiatric Medical Education's Board. We reviewed all the podiatric medical education in the country, both the medical schools and the surgical residencies and the continuing education. This bill applies to those podiatrists who have completed surgical residencies and who need hospitals in order to practice that surgery. These are podiatrists who become board certified in surgery. For the most part, they can do a great deal of surgery in their offices but for some surgery they do need to perform that either on an out-patient or in-patient basis in hospitals.

In some parts of our country where podiatrists have been denied access to hospitals across the state, podiatrists have set up their own out-of-hospital surgical centers. I do not want to see that happening in our state. That is not cost effective for our medical system. We are seeing out of hospital ambulatory surgical centers set up in our state for other reasons and it is taking business away from hospitals, away from their out-patient departments and is adding to the cost of medical care.

The amendment to this bill, is designed to permit hospitals to deny an application if the applicant does not have the qualifications, the training, the competency or the ability that the hospital deems necessary. It does not require the hospital to set up podiatry as a new service. If they decide that they are not going to offer that service, then they do not have to review that applicant's application. It does not require that they accept an application or review an application if they have closed their medical staff. That means they could have closed it to podiatry services. The fact is that it is more than just two hospitals or two areas in the state, it

is several areas. It is in the Bangor area, the Belfast area, the Portland area and in Lewiston, as well as some other smaller areas.

It means that patients may have to travel further, they may have to seek another podiatrist other than the one they have been going to if they need surgical services that require hospital facilities.

I do not believe that is cost effective or is it fair for our patients in this state.

Podiatry is a very cost effective medical service. For the most part, the kinds of services that podiatrists do could also be done by certain other surgeons but very often at greater costs. Podiatrists provide competition for these other surgeons and competition between physicians I think is good for our health care. We have well qualified podiatrists in this state who are not surgeons but we also have some very well qualified podiatrists who have studied surgery and who have made surgery a specialty.

It is true that the Attorney General's Office is currently working on a case. But, they are not interested in working on case after case, that is not cost effective. It has also been stated that individual podiatrists could bring anti-trust suits or other kinds of suits against hospitals. That is also not cost effective. The anti-trust investigations are costly and time consuming and they do not address all the situations in which hospitals may act to deny privileges to podiatrists.

Podiatrists who have completed four years of education at podiatric medical schools, who have received training in surgical residency at some of the major hospitals in the United States and who have been licensed by the State of Maine are being denied the opportunity to practice their profession in certain hospitals simply because they are podiatrists. In fact, they can't get their qualifications reviewed at these hospitals. That is what this bill attempts to do, to allow these podiatrists to have their qualifications reviewed at hospitals which do have podiatry services and who do still have open medical staff. The podiatrists are cost effective for the hospitals. Most patients admitted by podiatrists to hospitals stay for no more than a day or two. A number of our hospitals need some short stays to help their bottom line. I don't understand why they have wanted to deny podiatrists privileges except that perhaps it is because their medical staff's are controlled for the most part by allopathic physicians. I think we need to end that kind of discrimination.

I also believe that this will not open up hospitals to applications by other kinds of providers. At the hearing and work session it was stated that perhaps it would be chiropractors, psychologists, other people who would be applying for hospital privileges. The fact is that those other kinds of practitioners do not require operating rooms to practice their profession. Psychologists, yes, they could use a consulting room in a hospital. A chiropractor could also use a consulting room. But, a consulting room is different from a surgical operating room. The podiatrists who are doing surgery require the special kinds of equipment that is only found in the surgical operating room. That is why they need admission to our hospitals. It is not intended to override hospital boards, it is not intended to require hospitals to offer services that

they do not wish to or cannot offer but it is important that our hospitals take a look at the qualified applicants for surgical staff privileges and not discriminate against one classification of applicant simply because that applicant is a podiatrist and not a medical doctor.

I would ask you to please think carefully about the cost effectiveness of this bill and to vote down the pending motion.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Under the amendment, if a hospital decided to shut down because they didn't want to accept a podiatrist, they would also have to shut down any surgery. Any surgeon who is currently on staff would no longer be able to do any surgery on any part of the foot. That is what this amendment will do. If the hospital decides they don't want to do it, then they can't do anything. What would happen is, if the Maine Medical Center decided that they weren't going to do it, then they could shut it down but, if somebody came in there resulting from an accident, under this law, that person would have to be transferred to the Brighton Medical Center or the Mercy Hospital to have some surgery done on his foot.

I don't deny that there are some really dynamic podiatrists out there but should we be telling hospitals such as the Maine Medical Center, (and we are hoping in places like Eastern Maine Medical Center, which happen to be our two largest hospitals in this state and deal with the hardest of all medical procedures) should they have to look at this and put somebody on there because of a state law or should they choose to decide to do it because it is the right thing to do?

I would hope if this bill is defeated, that between now and when we come back, that the hospitals that have decided not to accept them take a second look because I don't think it is right. I honestly believe that this is going to open up the door, there is no doubt in my mind that before October 1st comes about, if this bill goes into effect, in the Second Regular Session somebody will have a bill in that mandates that chiropractors, psychologists, psychiatrists and everybody else will have the right. If it is good for the podiatrists, why wouldn't it be good for the others? I guess that is what they would say.

I would hope that you would take a hard look at this because this is really mandating some things that hospitals choose not to do, those hospitals such as the Maine Medical Center because they can go right down the street to Mercy and have it done or over at the Osteopathic at Brighton Medical. You have got the Brighton Medical Center who changed last November to the Brighton Medical Center because they were at 50 percent occupancy. Shouldn't we have those podiatrists using those hospitals where the Medical Center has a high occupancy?

To address Representative Rydell's problem about podiatrists opening up their own ambulatory care centers, there happens to be a bill in committee today that we will be hearing that will hopefully address that. I know the doctors won't like it but I hope the hospitals will like it because it will make sure that they won't be able to do that very easily and that hospitals will be forced to have podiatrists on their staff.

The SPEAKER: The Chair recognizes the Representative from Alfred, Representative Gean.

Representative GEAN: Mr. Speaker, Men and Women of the House: I would like to urge you to defeat the Minority "Ought Not to Pass" Report and accept the Majority "Ought to Pass" Report.

Representative Manning has stated that this is going to place a lot of mandates on hospitals. I heard no testimony to support the mandates that he has alluded to nor did I hear any testimony that would require a hospital to shut down services or refer patients to other hospitals. The testimony I did hear supported a couple of points, one of them with the passage of this bill, which is "An Act to End Discrimination Against Podiatrists" and would result in lower health care costs. The other thing it would result in is more and greater variety of foot care services available to patients at local hospitals and we heard from the Attorney General's Office that the passage of this bill would in fact save the state lots of money in the Attorney General's Office due to the anti-trust lawsuits that they are bringing against certain hospitals in this state right now. I would urge you to defeat the Minority "Ought Not to Pass" Report and accept the Majority "Ought to Pass" Report.

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

Representative PENDLETON: Mr. Speaker, Men and Women of the House: This is also a red letter day for me because I had the opportunity today to sign on to the same side of the Report as the good gentle chair of my committee.

I would just like to point out a few of the major points that were brought out in the public hearing and the work session. The overlying issue surrounding this L.D. is who is going to decide what services are offered and who is credentialed to provide them in a hospital. Currently, it is the hospital board that makes that decision. It seems to me it would be very unwise of us, as a legislature, to mandate hospital boards to decide who is going to be on their staff and who is going to be credentialed on their staff.

I would also like to point out to you that 80 percent of the Maine hospitals already grant some privileges to podiatrists and many of those who don't have not had inquiries so I hope that you won't drag your feet on this issue. I hope that you will accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I think it is quite unfortunate that a minority of the committee got cold feet on this issue. This is clearly an issue of cost containment and providing better medical services for Maine people.

If you read the Amendment to this bill, you will see that this is not mandating that a hospital who chooses not to provide medical or surgical services dealing with the feet to open up their staff to podiatrists, it merely requires that if a hospital is providing medical or surgical services dealing with the feet, that they do allow podiatrists to be accepted to their staff. What this will create is competition in the operating room and, ultimately, will provide more options and lower cost options for people who need medical or surgical services for

their feet.

I would urge you to defeat the pending motion and adopt the Majority "Ought to Pass" as Amended Report.

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

Representative DUPLESSIS: Mr. Speaker, Men and Women of the House: As a registered nurse working in long-term care facilities, I saw first-hand the invaluable services that podiatrists provided to nursing home residents. I worked closely with three of them in the Bangor area and I regard them as esteemed professionals and as friends. When I spoke to one of them, he of course wanted me to support this bill but did point out that the problem was not in the Bangor area but was in the Lewiston/Auburn area only.

I have a problem that this bill removes the fundamental right of hospital boards to decide what services will be provided based on their community needs. This is the state mandating to local communities even if the need is not there.

I would like to follow up on what the good Representative from Brunswick said about services in hospitals that are provided now. I would think that this bill would open up services for midwives also to perform deliveries in the delivery rooms if the hospital provides that service now. Also to physical therapists to perhaps come in and use their rehabilitation rooms that they have already in their hospitals so I hope that you will see that the ramifications of this bill are widespread and that you will vote for the Minority Report.

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

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I am a cosponsor on this bill and the reason why I signed on is because I felt that it had some useful purpose. I saw it as a consumer oriented piece of legislation that we are considering here today.

There seems to be a lot of fear generated over this bill in what it is going to do and what it is not going to do. As I read the amendment, the things that it will do is that it will say that if you do offer foot surgery in your hospital that you will consider podiatrists in the processing of competent people to perform that particular surgery. It also says that if you have a closure plan in a small hospital that you no longer are going to use podiatrists or do foot surgery is that it is not illegal not to consider podiatrists.

Representative Manning brought up an example — what if Eastern Maine Medical Center decided they weren't going to do foot surgery? Well, is it likely that Maine Medical Center in Portland or Eastern Maine Medical Center in Bangor would really shut down that service? That is very unlikely. In fact, I think they try to increase the breadth of their services on an annual basis to meet the demands of our growing communities.

Another thing that I think Representative Rydell has already stressed but seems it was not heard and I will stress it again and that is the fact that, if you open the door for podiatrists, then you are going to open it up for psychologists, chiropractors, optometrists and now physical therapists and so on down the line. There is a distinct difference and that distinct difference is that osteopaths who can practice, DO's can practice in hospitals, dentists

that can perform oral surgery in hospitals, require surgery. Chiropractors don't do surgery, psychologists don't do surgery, optometrists don't do surgery — podiatrists do, so the distinct difference is that they need access to facilities to perform surgical procedures that they cannot ordinarily do in their office. So again, this is a consumer oriented bill to allow hospitals, that if they provide that service, they cannot carte blanche because you've got initials, not M.D., but something that pertains to podiatrists, they can refuse you. The fact of it is that they should refuse you as being an expert in that particular area and there should not be this collegial bunch that says because you are a podiatrist, you are something less than we, an M.D., so what this does is it opens up the door for podiatrists to be considered to be allowed to be a part of that staff.

I was told out in the hall by one of the lobbyists, "It's no problem in our area and it is no problem in other parts of the state." My question was, "Why are you lobbying so hard to kill this bill?" The answer was, "You are going to open the door to psychiatrists and so forth down the line." That issue has been dealt with by three speakers on the floor including myself today and I think that that is just a falsity.

I would ask that you vote against the Minority Report and support the Majority "Ought to Pass" as Amended Report, (H-192).

I request a roll call, Mr. Speaker.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Manning of Portland that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 49

YEA - Adams, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Bowers, Cahill, M.; Carroll, D.; Carroll, J.; Clark, H.; Coles, Cote, Crowley, DiPietro, Donnelly, Duffy, Duplessis, Farnum, Farren, Foss, Garland, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hanley, Hastings, Heeschen, Heino, Hepburn, Hichborn, Hichens, Hussey, Jacques, Jalbert, Lawrence, Lebowitz, Lemke, Look, Luther, MacBride, Macomber, Manning, Marsh, Mayo, McHenry, Melendy, Merrill, Michaud, Mitchell, J.; Morrison, Murphy, Nash, Norton, Ott, Paradis, J.; Parent, Pendleton, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Reed, G.; Reed, W.; Ricker, Rotondi, Ruhlin, Salisbury, Savage, Sheltra, Simpson, Skoglund, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Tupper, Vigue, Whitcomb.

NAY - Aikman, Anthony, Cathcart, Chonko, Clark, M.; Constantine, Daggett, Dore, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Gray, Hale, Handy, Hogle, Holt, Joseph, Kerr, Ketover, Kilkelly, Kontos, Lipman, Mahany, Martin, H.; Mitchell, E.;

Nadeau, Nutting, O'Dea, O'Gara, Paradis, P.; Paul, Pfeiffer, Rand, Richards, Rydell, Saint Onge, Simonds, Treat, Waterman, Wentworth.

ABSENT - Boutillier, Butland, Carleton, Cashman, Ketterer, Kutasi, LaPointe, Larrivee, Libby, Lord, Marsano, McKeen, Oliver, Pendexter, Richardson, Small, The Speaker.

Yes, 92; No, 42; Absent, 17; Paired, 0; Excused, 0.

92 having voted in the affirmative and 42 in the negative with 17 being absent, the Minority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-197) on Bill "An Act to Establish the State of Maine Credit Card" (H.P. 248) (L.D. 339) and Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of the Representative from Vassalboro, Representative Mitchell, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I would like to take a few brief moments to explain to you what this bill does. I am fully aware in the press of legislative business that we don't always have an opportunity to read the fine points of a bill. This is a very simple proposition and I must tell you that it is probably the only time this session you are going to have an opportunity to possibly raise some money for the state without risk. That is a very precious opportunity, at least from my committee's perspective.

This bill authorized the creation, it is enabling legislation only, for the State of Maine to have a credit card. Let me back that up — we don't need a credit card. This enabling legislation allows the Department of Finance to negotiate with a financial institution for the purpose of establishing a State of Maine credit card. Any benefits realized by the creation of this card, the shared benefits, obviously the financial institution that is the successful bidder, would be allowed to take a portion as negotiated in the contract and any additional proceeds would go into a special fund called, "The Natural Resources Protection Fund."

I would call your attention to Amendment (H-197) because the Amendment has become the bill and it is very important that you know what you are voting on today. If this bill is passed, within 180 days, the Commissioner of Finance shall issue a request for proposals to financial institutions.

Representative Garland raised the question that there may not be any financial institutions interested but the committee thought it was very important to make any financial institution that would participate with the state subject to our consumer credit laws. So indeed, any institution able to participate in this program must not charge excessive interest rates on that credit card. The Amendment also establishes the fund and I think it is

important that you read what the purposes of the fund are. This money does not go, I repeat, does not go to the Department of Environmental Protection. I can't see anybody in this chamber who would be persuaded to change a credit card in order to get funds into that department at this point. This goes to a subject area, a special fund, and in this fund, monies can be used to protect or acquire critical wildlife habitats, acquire public lands, protect threatened or endangered species, restore and protect lakes, wetlands and marine environment and provide public education, a very broad range of natural resource issues but the fund has to be managed.

In Section 2, you will see the Fund Management Committee and you will note that commissioners of various departments who are responsible for environmental issues, from Fisheries and Wildlife to Conservation to the Department of Environmental Protection — all of these commissioners are part of the financial management of the fund. They also have an Advisory Committee which was very important to our own Banking and Insurance Committee that would make recommendations on how this fund be used to establish its purposes. You will notice the makeup of the fund, they are appointments by the President of the Senate, the Speaker of the House and, of course, by the Governor.

The ultimate check this legislative body has on this fund is that all allocations from the fund must be approved by the legislature so it is a fund over which we will have a great deal of input and a lot of control. It may only be expended in accordance with legislative approval.

On the back of this Amendment, you will see a lot of numbers and it is important for you to know that no monies can be expended whatsoever unless the monies come into the fund so this is not an outgo from the General Fund but it is rather anticipated revenues to the fund, should this credit card be a success.

The committee felt that this was an important opportunity to try. There has been expressed interest on the part of some banks in participating and there is certainly some expressed interest on the part of many who are interested in providing additional resources for protecting our environment. We also believe that the credit card market is very saturated. I dare say that almost everyone in this body has a credit card, perhaps more than one, and to get someone to change credit cards, there has to be a reason, an attractive interest rate or maybe some altruism which occurs occasionally. If people who use credit cards, and let's assume that they are a little bit more affluent, certainly have been known in polls to support environmental issues. It is also our hope that maybe some of the people who visit the State of Maine in the summer might like to have a credit card where they can participate in protecting some of those natural resources which we Maine people find so critical.

Frankly, there is no risk, there is nothing to lose and, in fact, we may gain some revenues, needed revenues, to protect our natural resources. I think it is an excellent bill, as did the majority of our committee.

Mr. Speaker, I would request a Division and I would hope that the House supports the passage of this bill in the acceptance of the Majority Report.

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

Representative GARLAND: Mr. Speaker, Ladies and Gentlemen of the House: I spoke earlier on this bill and I won't go through those remarks again.

What I would like to say is that the good Representative, Representative Mitchell, says that some banks are interested in this bill. There is one bank that is interested in this bill and that is Key Bank. They came to us with testimony and they sent me the remarks. The remarks are as follows and this is from the Chairman of the Board of Key Bank of Maine. "The credit card business — Maine protecting its citizens with very good intentions passed legislation to keep credit card fee at \$12 per year and interest rates ceiling at 18 percent. What has happened? Every bank is constantly under pressure to generate overhead economies by combining and consolidating backroom functions. Those that operate in the multiple states logically pick one location and consolidate these operational functions. Every major bank, except Key and Peoples, has now moved operations out-of-state and then export the credit card back into Maine. Why didn't they pick Maine to consolidate in? Too restrictive, no latitude. In 1992, I believe Key will consolidate credit card operations of 10 banks as well, not in Maine, but Utah. Maine, I believe, is dead last on the list of desirable states to do business in because of these excessive restrictions."

I continue to say that this bill I do not believe is going to work. They have passed similar legislation in Montana and they have this legislation on the books in Montana. No bank has seen fit to service that account. I hope you will vote against this motion.

Mr. Speaker, I request the yeas and nays.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: My good colleague, Representative Garland, just mentioned Montana but Iowa, by the way, has done this and has done it very successfully. We were given (and I brought the brochure with me) a beautiful brochure that certainly would entice people into wanting to take this credit card if you live in the State of Maine. You can do it any way you would like it, with deer, boats, beautiful scenery, things like that that would attract.

One of the reasons I supported this bill is because of the revenue shortfall in this state. One of the things that I have been told is that it is dwindling and taxes are going up, fees are going up, and it certainly was in our best interest to keep our revenue in the State of Maine. Right now, a lot of people carry credit cards and they are from out-of-state, Mastercard, Visa, — look at them, where are they coming from? They are not an in-state bank. Wouldn't you prefer to have your money staying in the State of Maine with credit cards that would do something that would go for something very important to the State of Maine? I would and that is why the majority of the committee supported this.

Iowa is brand new. Montana, Hawaii, Maryland, and Georgia are trying to do the same thing because they see the handwriting on the wall, that it is important to keep your own credit card. I would hope that you would endorse this, give it a try, because I think it is in the best interest of the State of Maine.

The SPEAKER: The Chair recognizes the

Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Very briefly, I must address one of the remarks of Representative Garland. The issue of this bill is not Maine's limitation on credit cards. As you know, we limit the annual fee and we limit the interest rates and he has suggested that most of our credit card business has gone out-of-state. We can debate that issue another day. There were credit unions also who were very interested in perhaps bidding on this process.

This is simply enabling legislation. If no bank wants to play by our rules and they don't bid on this project, so it doesn't happen, we have lost nothing.

As we were debating, I will share this with you -- a House member handed me two beautiful pieces of plastic, on one we have a scene of Camden Harbor perhaps and on the other, a lighthouse. They are using the State of Maine's name and they are charging lovely fees to wherever they sent their credit card accounts. This bill simply allows us to try to use the State of Maine's name in a way that is beneficial to the citizens of the State of Maine.

I would urge you to vote for the Majority "Ought to Pass" Report.

I would also remind you that many of the credit cards that were sold out-of-state were not sold because of limitations on interest rates but to have a quick liquidation of cash, to bring cash assets into the banks.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: I rise just to let you know that this was certainly not a partisan issue in our committee. It really is a philosophical issue regarding whether or not the State of Maine should use its name to gain money for the coffers of the state, particularly where you have an outstanding reason to do so.

The banks kept talking about the so-called hook that was needed to entice people to buy a Maine card. The hook, if you will, is the use of the funds by the state for environmentally, advantageous, and sensitive areas. That is why this is really a no risk situation. I don't think we are dealing with something like a huckster who runs down the road with a covered wagon and has tin cans and sells elixir to the public, I think this is a bonafide way for a respectable institution who may be the successful bidder to issue a card and for Maine to reap a benefit from it.

I would urge passage.

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

Representative HøGLUND: Mr. Speaker, Men and Women of the House: All the representatives who spoke in favor of it spoke very eloquently. I would just like to say that another thing on the banks is that there are only two Maine banks left in the State of Maine. All our Visa cards, all our plastic cards are from out-of-state banks. I felt, when I put this bill in, that I would like to see the State of Maine take the interest and use it for something good. I would have liked to have seen it go to the General Fund but, unfortunately, it was only \$125,000 to \$200,000 and we do need money to clean up our rivers, our lakes, and our drinking water and other environmental problems that we have.

The good part about this bill is that the banks will do the marketing, the banks will do the advertising, it is not a risk to see if we can make some money and keep it in the State of Maine and help the State of Maine's problems.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Vassalboro, Representative Mitchell, that the House accept the Majority "Ought to Pass" as Amended Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 50

YEA - Adams, Anderson, Anthony, Cahill, M.; Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gwadosky, Hale, Handy, Hastings, Hepburn, Hichborn, Hichens, Høglund, Holt, Jacques, Jalbert, Kerr, Ketover, Kilkelly, Larrivee, Lawrence, Lemke, Libby, Luther, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Norton, Nutting, O'Dea, O'Gara, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Rand, Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Simpson, Stevens, P.; Swazey, Tamaro, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Aliberti, Ault, Bailey, R.; Bell, Bennett, Bowers, Coles, Farren, Foss, Garland, Greenlaw, Hanley, Heino, Hussey, Joseph, Lebowitz, Look, MacBride, Marsano, Marsh, Merrill, Morrison, Nash, Pendleton, Pines, Reed, G.; Salisbury, Savage, Sheltra, Spear, Stevens, A.; Stevenson, Strout, Tardy, Whitcomb.

ABSENT - Bailey, H.; Barth, Boutilier, Butland, Carleton, Cashman, Gurney, Heesch, Ketterer, Kontos, Kutasi, LaPointe, Lipman, Lord, Macomber, Oliver, Pendexter, Powers, Skoglund, Small.

Yes, 95; No, 36; Absent, 20; Paired, 0; Excused, 0.

95 having voted in the affirmative and 36 in the negative with 20 being absent, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-197) was read by the Clerk and adopted and the bill assigned for second reading Monday, May 6, 1991.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

FINALLY PASSED

Emergency Measure

Resolve, Authorizing the Extension of the Appointment of the Acting Commissioner of Administration (S.P. 668) (L.D. 1766) (S. "A" S-111)

Was 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. 112 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

By unanimous consent, was ordered sent forthwith to the Senate.

Reference is made to (H.P. 256) (L.D. 347) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators and Members of the House of Representatives

In reference to the action of the House on Monday, April 29, 1991, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative MAHANY of Easton
Representative MAYO of Thomaston
Representative ANDERSON of Woodland

At this point, the Senate entered the Hall of the House and a Joint Convention was formed.

In Convention

The President of the Senate, Charles P. Pray, in the Chair.

On motion of Senator CLARK of Cumberland, it was

ORDERED, that a Committee be appointed to wait upon the Honorable Edmund S. Muskie to inform him that the two branches of the Legislature were in Convention assembled ready to receive such communication as pleases him.

The Chairman appointed:

Senators: GAUVREAU of Androscoggin
BERUBE of Androscoggin
HOLLOWAY of Lincoln

Representatives: PARADIS of Augusta
COTE of Auburn
STEVENS of Bangor
ANTHONY of South Portland
FARNSWORTH of Hallowell
CATHCART of Orono
KETTERER of Madison
HANLEY of Paris
RICHARDS of Hampden
OTT of York

Subsequently, Senator GAUVREAU, for the Committee, reported that the Committee had delivered the message with which it was charged and that the Honorable Edmund S. Muskie was pleased to say that he would forthwith attend the Convention.

At this point, the Chair announced the presence of Members of the Maine Supreme Court, Active Retired Justice, Sidney W. Wernick; Maine Superior Court Chief Justice, Thomas E. Delahanty; and Maine District Court Judge Susan W. Calkins, Chief Judge.

At this point, the Honorable Edmund S. Muskie entered the Convention Hall amid the applause of the Convention, the audience rising.

The Honorable Edmund S. Muskie then addressed the Convention as follows:

Mr. President, Mr. Speaker, Members of the House and Senate and those friends who are present: It is a pleasure to be here. I left my house at four-thirty this morning and thanks to the combined efforts of Delta Air Lines, Delta Air Lines Business Express, Northwest Air Lines Business Express, I managed to get here by twelve-thirty. I am going to do better going back. That experience reminds me of what an old philosopher once said, "Time is nature's way of making sure that everything doesn't happen at once." As far as I could see, it was used today to prevent anything from happening.

It is a pleasure to be back. Someone reminded me that it has been ten years since I addressed a Joint Session. I don't know how many Joint Sessions you have during the course of a year but you have been very kind to me over the years, very generous and very patient. Knowing something of the problems you are faced with, the budget problem particularly, and the state of the economy, I had some reservations about coming to speak to you about the subject which I have chosen. I finally decided I should because there is a case for it, a case that ought to get your attention and for such action as in your good judgment you decide it ought to have. I didn't feel that after two years of working on this problem that I should let down the people for whom we were working, the poor people of this state. It was two years ago today, Law Day, when I accepted the Bar Association's challenge to Chair this Commission. A year ago, we submitted a report publicly to the Bar Association and the implementation committee has been working on it since and we have taken this Law Day as the time to present it to you for your consideration.

It's a little different than the first time I addressed a Joint Session. I remember as I took the oath of office from Bob Haskell, President of the Senate, and at that point, the Secretary of State turned to the audience and said, "God Save the State of Maine!" I thought to myself, that is carrying Republicanism a little too far, but they treated me very well and I am sure you will.

We celebrate today as Law Day, not only here in Maine, but throughout the United States.

It was first proclaimed by President Eisenhower

in 1958 and permanently established by Joint Resolution of Congress four years later. Law Day is a time to reflect on the meaning of the founders' promise that ours should be "A Government of Laws," and to consider the status of that promise today.

Why should we so venerate the law? I think as we examine what is going on in Eastern Europe and across the Soviet Union and in other unsettled areas of the world today, we understand more than we usually do, the place that a system of law can play on the lives of people in any society. The answer to the question — why should we so venerate the law is that, in the more than 200 years of our national history, law as administered by the courts has become the medium in which our free enterprise system operates.

We do not live by centralized state plan that charts and monitors our every move as in the Soviet Union until recently, instead, we live under a system of general rules — the law — developed by our legislatures and our courts. Within that system, we have maximum freedom for individual creativity and choice in planning and conducting our own activities. Those rules work, however, because the courts are there to interpret and enforce them when they are broken.

That is why a strong and independent court system is so important to the functioning of our society. And that is why access to that court system through competent and well-trained lawyers is a fundamental social need for all Americans.

The real meaning of "Equal Justice Under Law" is equal access to the law and the courts. If individuals are prevented by poverty from receiving competent legal assistance, they are denied access to the primary means of obtaining the benefits of our democratic society as created by that society.

171 years ago, this principle was recognized in the Maine Constitution. Article I sets forth the Declaration of Rights. Perhaps a few of you have had occasion to read it. It reads: "Every person...shall have remedy by due course of law and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay."

The need to seriously address this right of Maine citizens rests with this body. The simple truth is that Article I of the Constitution means little, if anything, when 180,000 poor Maine people cannot acquire the legal services necessary to obtain the most basic of life necessities...housing, health, income and education.

You are faced, as I know, with hard economic facts. You are being asked to trim government spending, to cut programs that have been created to address the inequities in our society.

Everything that should be going up is going down. State revenues, the number of jobs that pay well, the decent places to live, the good schools for our children.

Everything that should be going down is going up, the cost of food, the cost of clothing, the cost of housing and the cost of health care.

It is clear that our economy is headed in the wrong direction.

You are faced with major revisions in the state budget. It is important that it isn't only the state budget that is revised but our concept of a balanced budget so that it means balancing what is important to buy first against what is not so important to buy at all. To define, "What kind of a people we are."

While access to the courts has been established as a fundamental right of all citizens, that right is being denied to a large segment of our population. Poor people are being left out of the Judicial System. Last year, the Maine Commission on Legal Needs documented the extent to which Maine's poor are denied access to the courts, denied because of their inability to purchase the services of those formally trained in the application of the law, denied because of the formidable task of representing oneself before the governmental bodies charged with administering justice, denied because of the lack of legal service providers for those who cannot afford to purchase legal services.

What then is the responsibility of the government in this regard? Is it to awaken the people of the need to take a fresh look at our spending priorities and social policies? Is it redefining legislative priorities, so that the Judiciary has the resources to make the courts available to all of our citizens and to assist citizens in the use of the courts?

I believe the responsibility of the legislature is to pursue all of those goals by engaging in a serious dialogue regarding Article I of the Maine Constitution, so that future legislatures will be in a position to stand behind the phrase, "Every person shall have remedy by due course of law and right and justice shall be administered freely and without sale."

It is the responsibility of the legislature to establish the policy that enables our citizens to live dignified, meaningful lives. In a society of laws, the legal system pervades the lives of all citizens...and the lives of the poor to an even greater extent as we found. In 1990, the gross budget of the Judiciary was equivalent to only one percent of the total state budget.

As Senator Biden so eloquently put it, "There are moral issues on which we must take a stand because they define the character of our nation. They are the values that answer for us 'what kind of people are we?'"

In a recent address to the National Legislative Educational Foundation, Bill Moyers said, "People believe their government and its policy makers have failed them — that the system no longer produces solutions to the problems that face us." I heard a similar response at each of the public hearings the Commission on Legal Needs held in Maine last year. Poor people were taking their pride in their hands to come to those public meetings to give us their experience. They were talking about the lack of legal assistance to help them with their civil legal problems. Moyers went on to say this, "But beneath the general buzz, you can, by listening intently, hear something else. You can hear people say that it is not just new legislation or more programs that will make the difference. What they want is to be invited into the conversation of democracy."

The Commission on Legal Needs has taken the first step by listening to the legal needs of Maine's poor. 85,000 households in Maine meet the federally established poverty levels. That is approximately 20 percent of our citizens. These persons experienced 80,000 civil legal problems in the study year, only 23 percent of the problems received any legal assistance.

65 percent of the problems involved basic necessities, income maintenance, employment, health, utility service, housing and education.

Poor persons living in one of the seven cities in which a legal services office is located were nearly twice as likely to obtain assistance and six times more likely to have free legal services than those living outside such areas.

Households headed by a single female parent reported significantly more problems than other households with children.

The most basic conclusion of the study is that existing free legal services, and the poor cannot afford anything but free legal services, do not begin to meet the demand.

Individual citizens feel they can no longer have their voices heard on important public issues.

Fifty-one members of our commission listened to the citizen voices. We heard stories about real Maine people — people like the 60 year old woman who had worked at the Bates Mill for 25 years. About the time her husband died, an existing arthritic condition flared up and she became depressed and unable to work. She sought out a private attorney, applied for Social Security Disability and was denied. She learned she was eligible for Pine Tree services and came to Pine Tree for the appeal. She won the appeal and received her benefits. This story is not meant to disparage the private bar, but to point out that poverty law expertise that exists within the legal services community and the need of Maine people to have access to that expertise.

Our report responds to their concerns and contains a number of recommendations directed to government, the private bar, the law school and the Judiciary.

We recognize that state government, like the federal government and local government, businesses and individual citizens faces a difficult economic situation resulting in the need to carefully scrutinize new spending initiatives. We nevertheless urge you to consider the greater public good. Appropriating a modest increase in the funding for legal services is a constructive step in placing meaning in the words, "Every person shall have remedy by due course of law."

This increase will be a start toward assuring the poor....equal access to justice is not meant only for those who can afford lawyers. It will be a start toward addressing the indignities and inadequacies of the current system.

The poor have helped build our state, they have worked the land, they have worked the water, the factories, fought our wars, helped preserve our institutions. We all know that. They should not spend their lives in undignified, impoverished circumstances without access to the legal services which might make it right for them.

Our report is not about statistics, it is about people, people have been unable to obtain justice in our communities, people who have been unable to get the legal representation they deserve.

People like the father in Waldo County who was a self-employed well driller with a wife and three children who has been out of work for several months. The economic recession and the lack of new construction has put him in a situation where he has had no income and been unable to pay his bills. In addition, he has not had the resources to collect the money owed him from past work at his trade. He needed assistance with a disclosure hearing and called the Pine Tree Bangor Office. The only available resource he had for his family of five was

\$700 in the savings bank being saved for food. He was turned down by Pine Tree because he had more assets than the current priorities allow.

Isn't it time to fully develop priorities and policies to give our poor citizens the opportunity to be full participants in our system of justice?

Isn't it time we established such a policy out of a sense of duty, out of a sense of responsibility, out of a sense of compassion?

It means providing sufficient funds for the Judiciary, Pine Tree Legal Services, Legal Services for the Elderly and the Law School Legal Aid Clinic so that there are sufficient attorneys skilled in poverty law. I want to emphasize that point, not all of these big law firms are necessarily skilled in poverty law, nor do they deal with poverty law. It takes a special kind of exposure and experience so that there are accessible legal services in rural Maine. There is really a great disparity, as you will sense as you travel to and fro from your duties here in Augusta back to your home town. Make sure that there are sufficient court personnel to assist citizens, less than legal skills could be helpful to ordinary citizens undertaking to pursue their rights in our court system with court procedures, completing and filing forms. There are a number of ways all spelled out in our report in which relatively minor professional skills can be enormously helpful so that every person shall have remedy by due course of law, promptly and without delay.

There is no good reason for the poor to feel isolated or for us to feel ashamed, providing we show the understanding, respect and willingness to meet the standards which are set forth in the commission's report.

The solution lies in a coordinated, cooperative response from government, the public and the private bar.

We need to prioritize our policy decisions and develop creative solutions that recognize the relationship between the Judicial Branch of Government and the providers of legal services in the lives of the poor.

I will close with this, a gifted black preacher once had this to say. "If justice sleeps in this land, let it not be because we have helped lull it to sleep. Let it not be because we have helped lull it to sleep by our silence and indifference. Let it not be from lack of effort on our part to arouse it from its slumbers."

I close by saying that I enjoyed the two years that I have been privileged to serve in this cause. My firm was delighted to have me do it. They do not do much business in Maine. I enjoyed it, frankly, because I had missed the campaign trail for ten years and I thought traveling around the state and listening to Maine people at these public hearings, talking to them privately, would be a way of renewing the friendships and acquaintances that I had had as a candidate for so many years. It brought me to this chamber, brought me to this podium, brought me to what was then the corner office of the Governor. I never was privileged to serve as Governor in that grand office they now have in the other wing but you know where it is and how to get there from what I read in the papers. Anyway, this is my message, it is not a complicated one but it is a difficult one. I share it with you, not because I think it will be easier for you to deal with than for me, I think it is a common responsibility that we share and I

believe that Maine people's hearts are in the right place, once they see what must be done. You can't do everything, you can do something, and for that I will be grateful to you.

Thank you all very much for delaying your lunches for me. (applause, the audience rising)

The Honorable Edmund S. Muskie withdrew, amid the applause of the Convention, the audience rising.

The purpose for which the Convention was assembled having been accomplished, the Chairman declared the same dissolved.

The Senate then retired to its Chamber, amid applause of the House, the members rising.

In the House

The House was called to order by the Speaker.

On motion of Representative Kilkelly of Wiscasset, Adjourned at 1:41 p.m. until Monday, May 6, 1991, at five o'clock in the afternoon pursuant to Joint Order (S.P. 670).
