

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 20, 1991 to July 10, 1991

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
52nd Legislative Day
Wednesday, May 22, 1991

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

Prayer by Father Gilbert Patenaude (Retired) of Augusta.

The Journal of Monday, May 20, 1991, was read and approved.

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on **Banking and Insurance** reporting "**Ought Not to Pass**" on Bill "An Act to Reduce the Health Care Cost Burden on Maine Consumers and Taxpayers" (S.P. 666) (L.D. 1752)

Report of the Committee on **Business Legislation** reporting "**Ought Not to Pass**" on Bill "An Act to Guarantee Repairs under Service Contracts" (S.P. 589) (L.D. 1561)

Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on Bill "An Act Concerning Children in Need of Social Services" (S.P. 635) (L.D. 1683)

Report of the Committee on **Transportation** reporting "**Ought Not to Pass**" on Bill "An Act Concerning Responsibility of Motor Vehicle Owners for Registration" (S.P. 619) (L.D. 1623)

Report of the Committee on **Transportation** reporting "**Ought Not to Pass**" on Bill "An Act to Amend the Motor Vehicle Laws" (S.P. 633) (L.D. 1681)

Report of the Committee on **Transportation** reporting "**Ought Not to Pass**" on Bill "An Act Requiring Notice by the Secretary of State before Suspension or Expiration of a Motor Vehicle Registration" (S.P. 657) (L.D. 1733)

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

Unanimous Leave to Withdraw

Report of the Committee on **Transportation** reporting "**Leave to Withdraw**" on Bill "An Act Concerning Work-restricted Licenses" (S.P. 532) (L.D. 1415)

Report of the Committee on **Transportation** reporting "**Leave to Withdraw**" on Bill "An Act Concerning Radar Devices" (S.P. 582) (L.D. 1535)

Report of the Committee on **State and Local Government** reporting "**Leave to Withdraw**" on Bill "An Act to Amend the Laws Concerning Transit District Services" (EMERGENCY) (S.P. 690) (L.D. 1836)

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

Ought to Pass as Amended

Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as Amended by Committee Amendment "A" (S-155) on Bill "An Act to Amend the Unclaimed Property Act" (S.P. 117) (L.D. 216)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-155).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-155) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 23, 1991.

Ought to Pass as Amended

Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as Amended by Committee Amendment "A" (S-157) on Bill "An Act to Provide Confidentiality for the Records of Individuals Who Receive Funds from a Community Development Program Created Pursuant to the Maine Revised Statutes, Title 30-A, Chapter 205" (S.P. 527) (L.D. 1405)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-157).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-157) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 23, 1991.

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-159) on Bill "An Act to Amend the Severance Pay Laws" (EMERGENCY) (S.P. 84) (L.D. 157)

Signed:

Senators: ESTY of Cumberland
CONLEY of Cumberland

Representatives: RAND of Portland
McKEEN of Windham
PINEAU of Jay
ST. ONGE of Greene
McHENRY of Madawaska
RUHLIN of Brewer

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

Signed:

Senator: CARPENTER of York
 Representatives: LIPMAN of Augusta
 HASTINGS of Fryeburg
 AIKMAN of Poland

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-159)

Reports were read.

Representative McHenry of Madawaska moved that the House accept the Majority "Ought to Pass" Report.

Representative Whitcomb of Waldo 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 Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill that is not necessary and I believe it is a bill that we don't want. We have a severance law on the books and what this bill with the amendment attempts to take away the emergency provision, and with the amendment we make a perspective. However, this bill amending our severance law (as it does) is going to hurt labor as well as management.

Let me share with you if I could an example of where we are and what is going to happen if this bill becomes law. If you have a corporation, we will call it Dirt, Gravel and Sand, and that corporation is in a lot of trouble, the corporation can go bankrupt. Then the bankruptcy court can decide whether or not the corporation will have to pay under our current severance law. However, if the corporation has a potential buyer out there so that it doesn't go bankrupt and the employees don't lose their jobs, that potential buyer cannot buy that company without assuming the liability that that company has for its past severance pay. In other words, if that corporation, which is in trouble and may have to go bankrupt, owes its employees under the severance law \$1 million, a prospective buyer isn't going to buy that company because it has that potential liability. The result is, the company closes down. We lose a prospective buyer. This isn't good for labor, not good for the state, and we don't want to have this type of legislation.

I want to indicate that our current severance law is working. Under our current severance law — I received notification today that the Attorney General's Office had settled the case for \$400,000. Even if we were to pass this law with the idea that perhaps the Governor would veto it and then we could look at what would happen as a result of the veto.

This is not the message we want to send out. I urge you to vote against passing this bill.

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I will make it quite clear and quite simple to you, this particular piece of legislation was introduced to the Labor Committee because of some question in the Judicial system as to the legislative intent of a law that was passed back in 1975. There has been, on two different occasions, a court ruling favoring that law, that upheld that law, and made that law very workable and effective in protecting the employees of the state.

In July of 1990, there was a decision rendered (I am not going to get into the specific court) but it was in the Superior Court system that brought into question the legislative intent of that severance pay law.

This particular piece of legislation was introduced to clarify, once and for all, that legislative intent. It boils down to, without getting into a lot of technical details, the three year provision. An employee must have worked for the employer for three years under our severance pay laws. If a transfer of ownership comes about, the new company takes on the obligations as well as the assets of the company bought out and that includes the three year law. The court brought that into question. This bill attempts to clarify that and strengthen the law through that clarification.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief, I know the hour is late and we have put in a full day already.

I have to speak to the comments of the good Representative from Augusta on how this will make it harder for businesses to come into Maine. It actually won't. One of the purchase prices being negotiated is whether who has the severance pay liability that is now on the books and all that means is that this will be addressed. In order for severance pay not to be an issue in a company buy-out, all the employer has to do is negotiate with the employees and set up a different compromise in what state law now asks and that is already in the bill. So, all this does is provide clarity to what was meant in the legislative intent when this law first went through.

The SPEAKER: The pending question before the House is the motion of Representative McHenry of Madawaska that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 74

YEA - Adams, Aliberti, Anthony, Bailey, H.; Bell, Boutilier, Carroll, D.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Ryddell, Saint Onge, Sheltra, Simonds, Skoglund, Stevens, P.; Swazey, Tamaro, Tardy, Townsend, Tracy,

Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsh, Merrill, Morrison, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Spear, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Cahill, M.; Cashman, Donnelly, Hichens, Kutasi, Marsano, Melendy, Simpson, Small, Strout.

Yes, 94; No, 47; Absent, 10; Paired, 0; Excused, 0.

94 having voted in the affirmative and 47 in the negative with 10 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (S-159) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 23, 1991.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

Divided Report

Later Today Assigned

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-160) on Bill "An Act Concerning the Sales and Use Tax on Aircraft Parts" (S.P. 375) (L.D. 1009)

Signed:

Senators: BOST of Penobscot
COLLINS of Aroostook

Representatives: CASHMAN of Old Town
MAHANY of Easton
TARDY of Palmyra
MURPHY of Berwick
HEPBURN of Skowhegan
DIPIETRO of South Portland
DUFFY of Bangor
BUTLAND of Cumberland

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

Signed:

Senator: ESTY of Cumberland

Representatives: DORE of Auburn
NADEAU of Saco

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-160)

Reports were read.

On motion of Representative Gwadosky of Fairfield, tabled pending acceptance of either report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Amend the Law Concerning Family Medical Leave" (H.P. 75) (L.D. 103) which was passed to be engrossed as amended by Committee Amendment "A" (H-254) in the House on May 13, 1991.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-254) as amended by Senate Amendment "A" (S-166) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Establish the Homestead Property Tax Relief Program" (H.P. 1298) (L.D. 1878) which was referred to the Committee on Taxation in the House on May 20, 1991.

Came from the Senate indefinitely postponed in non-concurrence.

On motion of Representative McHenry of Madawaska, the House voted to Insist.

Non-Concurrent Matter

Resolve, to Override a Departmental Rule Imposing Certain ASHRAE Standards on Local School Districts (EMERGENCY) (H.P. 1305) (L.D. 1887) which was referred to the Committee on State and Local Government in the House on May 20, 1991.

Came from the Senate referred to the Committee on Education in non-concurrence.

Representative Crowley of Stockton Springs moved that the House Adhere.

Representative Foss of Yarmouth moved the House recede and concur.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: The reason I moved to adhere on this bill is that this bill involves more the business on State and Local Government. They are more familiar with the ASHRAE standards and they deal frequently with the Bureau of Public Improvement so we thought they would be best able to handle this bill. I wish you would vote against this and allow us to adhere.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Yarmouth, Representative Foss, that the House recede and concur.

Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 38 having voted in the affirmative and 75 in the negative, the motion to recede and concur did not prevail.

Subsequently, the House voted to Adhere.

COMMUNICATIONS

The following Communication:

115TH MAINE LEGISLATURE

May 16, 1991

Honorable Edwin H. Pert
Clerk of the House
State House
Augusta, ME 04333

Dear Clerk Pert:

Pursuant to our authority under Chapter 139 of the Public Laws of 1991 we have appointed Roger Hare of W. Buxton, David Flanagan of Freeport, Charlene Kinnelly of Gardiner, James Howaniec of Lewiston, and Ed Laverty of Orono to the Special Commission on Governmental Restructuring.

Please let one of us know if you have questions about these appointments.

Sincerely,

S/Charles P. Pray S/John L. Martin
President of the Senate Speaker of the House

Was read and ordered placed on file.

The following Communication:

115th MAINE LEGISLATURE

May 17, 1991

Hon. Edwin H. Pert
Clerk of the House
State House Station #2
Augusta, Maine 04333

Dear Clerk Pert:

Pursuant to our authority under Chapter 139 of the Public Laws of 1991 we have appointed Donald Nicoll of Portland and Merton Henry of Portland as Co-Chairs of the Special Commission on Governmental Restructuring.

Please let one of us know if you have any questions about these appointments.

Sincerely,

S/John R. McKernan
Governor

S/Charles P. Pray S/John L. Martin

President of the Senate Speaker of the House

Was read and ordered placed on file.

The following Communication:

MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333

May 15, 1991

Honorable John L. Martin
Speaker of the House
115th Maine State Legislature
State House Station #2
Augusta, Maine 04333

Dear Speaker Martin:

The State Compensation Commission is required by Title 3, section 2-A of the Maine Revised Statutes to submit two interim reports to the Legislature. The purpose of these reports is to provide the Legislature with a description of the Commission's activities and to make any recommendations requiring the Legislature's immediate attention. The first interim report is due by May 1st of every odd numbered year of the Commission. The Commission is submitting this letter in fulfillment of that requirement.

The 115th State Compensation Commission members have been appointed. The new Commission has not yet been convened to elect a fifth member to the position of Chair. It is anticipated that the Commission will schedule a meeting later in this session or in early summer to lay out the scope and schedule for completing its statutory review. The Commission is charged by law to review the compensation and make recommendations to the Legislature on the following: the Governor, justices and judges, constitutional officers, legislators, Clerk and Assistant Clerk of the House of Representatives, Secretary and Assistant Secretary of the Senate, and representatives of Indian tribes elected to the Legislature. The Commission is also authorized by Title 3, section 2-A of the Maine Revised Statutes to make "...other recommendations". No recommendations are being made at this time.

Please do not hesitate to contact me if you have any questions or require additional information.

Sincerely,

S/Stephen R. Crockett
Immediate Past Chair
State Compensation

Commission

Was read and ordered placed on file.

The following Communication:

DEPARTMENT OF PUBLIC SAFETY
STATE HOUSE STATION 42
AUGUSTA, MAINE 04333

15 May 1991

Edwin H. Pert
Clerk of the House
State House Station #2
Augusta, Maine 04330

Dear Clerk Pert:

Please find enclosed a copy of an application submitted to the Bureau of Justice Assistance for the FY 1991 Edward Byrne Memorial State and Local Law Enforcement Assistant Discretionary Grant Program.

The program requires that the application be submitted to the State Legislature or its designated body for review. Unless I receive further instructions, I will consider that the Department of Public Safety has fulfilled its obligation in this area.

Sincerely,

S/John R. Atwood
Commissioner

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, ME 04333

May 21, 1991

Honorable Lorraine N. Chonko
House Chair
Honorable Michael D. Pearson
Senate Chair
Joint Standing Committee on
Appropriations and Financial Affairs
State House
Augusta, Maine 04333

Dear Chairs:

I am pleased to transmit herewith a copy of the application submitted to the Bureau of Justice Assistance for the FY 1991 Edward Byrne Memorial State and Local Law Enforcement Assistant Discretionary Grant Program, pursuant to the Public Laws of Maine, 1987, chapter 816.

Sincerely,

S/Edwin H. Pert
Clerk of the House

Was read and with accompanying papers referred to the Committee on Appropriations and Financial Affairs.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

The following Bills and Resolve 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:

Business Legislation

Bill "An Act Concerning Railroad Personnel" (H.P. 1309) (L.D. 1891) (Presented by Representative HUSSEY of Milo) (Cosponsored by Representative McKEEN of Windham) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Education

Bill "An Act to Encourage the Preservation of Historic Tower Clocks" (H.P. 1312) (L.D. 1898) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Senator CLARK of Cumberland, Representative COTE of Auburn and Senator CLEVELAND of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Establish a Professional Standards Board for Maine Educators" (H.P. 1316) (L.D. 1902) (Presented by Representative HANDY of Lewiston) (Cosponsored by Senator CLARK of Cumberland, Senator ESTES of York and Representative MORRISON of Bangor) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Resolve, to Establish a Commission to Investigate Census Data Irregularities (EMERGENCY) (H.P. 1310) (L.D. 1892) (Presented by Representative MAYO of Thomaston) (Cosponsored by Representative CATHCART of Orono, Representative MacBRIDE of Presque Isle and Senator BOST of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Banking and Insurance

Bill "An Act to Increase the Minimum Amount of Insurance Coverage Required for Limousines to Conform with Federal Law" (H.P. 1313) (L.D. 1899) (Presented by Representative LARRIVEE of Gorham) (Cosponsored by Representative MITCHELL of Vassalboro and Representative MACOMBER of South Portland) (Approved for introduction by a majority of the Legislative

Council pursuant to Joint Rule 27.)

(The Committee on Reference of Bills had suggested reference to the Committee on Transportation)

On motion of Representative Macomber of South Portland, the Bill was referred to the Committee on Banking and Insurance, ordered printed and sent up for concurrence.

Utilities

Bill "An Act to Increase the Borrowing Authority of the Jackman Water District" (H.P. 1311) (L.D. 1897) (Presented by Representative ROTONDI of Athens) (Cosponsored by Senator WEBSTER of Franklin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Create the Plymouth Water District" (EMERGENCY) (H.P. 1314) (L.D. 1900) (Presented by Representative TARDY of Palmyra) (Cosponsored by Senator EMERSON of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Create the Morrill Village Water District" (EMERGENCY) (H.P. 1315) (L.D. 1901) (Presented by Representative WHITCOMB of Waldo) (Cosponsored by Senator BRAWN of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative HASTINGS from the Committee on Banking and Insurance on Bill "An Act to Amend the Laws Concerning Continuity of Individual Health Insurance" (EMERGENCY) (H.P. 1253) (L.D. 1821) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on Banking and Insurance on Bill "An Act Relating to Unfair Trade Practices in the Insurance Industry" (H.P. 1237) (L.D. 1803) reporting "Ought Not to Pass"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Amend the Laws Pertaining to Certification of Law Enforcement Canines" (H.P. 1231) (L.D. 1795) reporting "Ought Not to Pass"

Representative HALE from the Committee on Transportation on Bill "An Act Regarding the Issuance of Special Plates for Rescue Unit Workers and Providers of Emergency Medical Services" (H.P. 1102) (L.D. 1601) reporting "Ought Not to Pass"

Representative STROUT from the Committee on

Transportation on Bill "An Act to Prohibit Emission of Unreasonable Noise from Motor Vehicles" (H.P. 1116) (L.D. 1641) reporting "Ought Not to Pass"

Representative LAPOINTE from the Committee on Aging, Retirement and Veterans on Bill "An Act to Amend the Laws Governing Maine Veterans Small Business Loans to Include Veterans who Served in the Persian Gulf" (H.P. 1289) (L.D. 1864) reporting "Ought Not to Pass"

Representative HOGLUND from the Committee on Energy and Natural Resources on Bill "An Act to Establish a Household Battery Collection Program" (H.P. 887) (L.D. 1278) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on State and Local Government on Bill "An Act to Ensure Impartiality in Local Planning and Appeals Boards" (H.P. 1112) (L.D. 1637) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on State and Local Government on Bill "An Act Concerning Citizen Initiative" (H.P. 1072) (L.D. 1566) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on State and Local Government on Bill "An Act to Amend the Budget Procedure for Cumberland County" (H.P. 1012) (L.D. 1480) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on State and Local Government on Bill "An Act to Modify the Revenue Sharing Formula to Take into Account Individual Needs of Towns" (H.P. 958) (L.D. 1385) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on State and Local Government on Bill "An Act to Review the Prerogatives of the Legislative Council" (H.P. 883) (L.D. 1274) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on State and Local Government on Bill "An Act Regarding the Bidding Process for Municipal Projects" (H.P. 715) (L.D. 1020) reporting "Ought Not to Pass"

Representative CLARK from the Committee on Utilities on Bill "An Act to Require Campuses of the University of Maine System to Obtain the Approval of Local Planning Boards, Sanitary and Sewer Districts and the Public Utilities Commission before Undertaking New Projects" (EMERGENCY) (H.P. 1283) (L.D. 1853) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative KETOVER from the Committee on Banking and Insurance on Bill "An Act to Prohibit Certain Banking Practices" (EMERGENCY) (H.P. 1261) (L.D. 1830) reporting "Leave to Withdraw"

Was placed in the Legislative Files without

further action pursuant to Joint Rule 15 and sent up for concurrence.

Ought to Pass as Amended

Representative PARADIS from the Committee on **Judiciary** on Bill "An Act to Require Convicted Felons to Contribute to the Cost of Rehabilitation Programs" (H.P. 454) (L.D. 644) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-359)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-359) was read by the Clerk and adopted and the bill assigned for second reading Thursday, May 23, 1991.

Ought to Pass as Amended

Representative ERWIN from the Committee on **Audit and Program Review** on Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act" (EMERGENCY) (H.P. 968) (L.D. 1395) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-363)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-363) was read by the Clerk and adopted and the bill assigned for second reading Thursday, May 23, 1991.

Ought to Pass as Amended

Representative FARREN from the Committee on **Marine Resources** on Bill "An Act Regarding Aquaculture" (H.P. 55) (L.D. 76) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-373)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-373) was read by the Clerk and adopted and the bill assigned for second reading Thursday, May 23, 1991.

Ought to Pass as Amended

Representative LAWRENCE from the Committee on **Legal Affairs** on Bill "An Act to Strengthen the Prohibition Against Illegal Transportation of Alcohol by Minors" (H.P. 901) (L.D. 1298) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-381)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-381) was read by the Clerk and adopted and the bill assigned for second reading Thursday, May 23, 1991.

Ought to Pass as Amended

Representative RICKER from the Committee on

Transportation on Bill "An Act Dealing with Abandoned Automobiles in the State" (H.P. 1022) (L.D. 1495) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-383)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-383) was read by the Clerk and adopted and the bill assigned for second reading Thursday, May 23, 1991.

Divided Report

Majority Report of the Committee on **Energy and Natural Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Amend the Spent Fuel and High-level Radioactive Waste Requirements" (H.P. 369) (L.D. 523)

Signed:

Senators: LUDWIG of Aroostook
BALDACCI of Penobscot

Representatives: LORD of Waterboro
ANDERSON of Woodland
JACQUES of Waterville
MITCHELL of Freeport
GOULD of Greenville
HOGLUND of Portland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-343) on same Bill.

Signed:

Senator: TITCOMB of Cumberland

Representatives: SIMPSON of Casco
POWERS of Coplin Plantation
MARSH of West Gardiner
COLES of Harpswell

Reports were read.

Representative Jacques moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative COLES: Mr. Speaker, Men and Women of the House: To understand this bill, it is very important to understand the distinction between high-level waste and low-level waste. High-level radioactive waste is a spent fuel from nuclear power plants. All other waste contaminated with radioactivity is low-level waste.

The federal government has charged the states with the responsibility of dealing with low-level radioactive waste generated within those states. Thank God they said, we the federal government will take care of the high-level waste. They have been saying that for 40 years now, and for 40 years, they haven't been able to do it. Every new newspaper article on it that I read suggests they are blundering every single new effort they make.

To give you an example of the difference between high-level waste and low-level waste, federal law requires low-level waste to be isolated from the environment for a mere 500 years which is more than

twice the lifetime of this country.

High-level waste, on the other hand, must be isolated under federal law, must be isolated from the environment for 10,000 years, which is the length of human recorded history. Some say that is too short a time and it still won't be safe.

Low-level waste is practically mother's milk compared to high-level waste. High-level waste is an extremely poisonous substance.

At the moment in Wiscasset, there is a swimming pool filled with high-level waste, not quite filled, but almost filled. It has been there now for almost 20 years despite the fact that the federal government said it wouldn't be there for more than 15 or so, that it would be stored there only temporarily. In a few more years, this pool is going to be chockablock full, no matter how tightly they repack it. They are going to start taking the waste out of that pool and storing it above ground in the State of Maine. If there is ever an accident — one of the great things about the recent explosion, the silver lining about that explosion at Maine Yankee is that the accident did not crack that pool and drain it because we would have had a serious, serious problem on our hands, a problem of contamination which would mean that the area around Maine Yankee, subject to that contamination, would never be habitable again. I mean that truly, never be habitable again. That means for at least 10,000 years it would be declared off-limits to human beings because of health and safety.

What the Majority Report refuses to recognize is the risk involved in storing this waste at Maine Yankee forever or once this pool is filled. The federal government presumably has tried to preempt the states from taking any action in these matters. The Attorney General (this year) crafted a proposal which the Attorney General believes will call up from the federal exemption a small area in which the people of Maine can try to exert their influence over the future of waste storage at Maine Yankee, high-level storage at Maine Yankee. The Majority Report ignores this proposal and, if we reject the Majority Report, the Minority Report would adopt that proposal.

What the Majority Report does is not recognize and what the Minority Report does is recognize and does say that the PUC shall, by the end of next July or a year from this June, determine when Maine Yankee's temporary storage space will be used up, reserving of course, sufficient space for what they call an emergency core discharge. An emergency core discharge is, if there is a serious accident at the plant and they need to remove the fuel, they must preserve space in this pool of water to put that extra fuel, the active fuel in the plant. If they do not do that and there is a serious accident, the fuel may explode or melt down.

With the Minority Report, if we reject the Majority Report, we will be able to go on to accept a bill which says that the PUC will first determine when the temporary storage capacity at Maine Yankee will be exhausted, the current temporary storage capacity. Then it says that three years before that date, (whatever that date) the PUC makes that determination. Three years before that date, the PUC will then determine whether Maine Yankee has made adequate provision for the permanent disposal of its high-level waste. If it finds that Maine Yankee has not made that adequate provision, then the plant

shall stop operating temporarily, the plants will stop operating until such provision has been made upon which time it could reopen. It then goes on to say that, if in fact the plant stays open, the PUC shall perform a cost-benefit analysis of Maine Yankee Power, once you have incorporated the full disposal cost into the prices. If that cost is no longer the less expensive option for Maine ratepayers, then the PUC can do one of two things, it can order the plant to shut down again or it can order its plant to sell its electricity out-of-state, thus enabling Maine ratepayers to benefit from cheaper electricity.

The key element here, however, is the fact that somewhere between five and eight years, the current temporary storage pool at Maine Yankee will be filled with high-level radioactive waste. If there is no provision for permanent disposal of that waste by that point, that waste will start being removed from the pool and stored above ground in Maine.

What we have, in fact, is a situation which is slowly developing from a temporary storage situation to a permanent storage situation, a situation where we will never be able to rid ourselves of the risk of having that waste.

If we accept the Majority Report, we are saying we aren't even going to try to do something about this situation. If we reject the Majority Report, we are saying we are going to do everything we can to prod the federal government into dealing with this waste responsibly.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I am not a particular fan of Maine Yankee, in fact, I voted to shut them down three times as a private citizen. But, I do think they should be treated fairly and the proposal that is embodied in the Minority Report does not do that.

The Minority Report asks Maine Yankee to do something that is against federal law to take care of its own high-level waste that is reserved for the federal government. If it doesn't do it, it sets up this complicated provision of law that is outlined in this paragraph which says that the Public Utilities Commission will evaluate the cost of it and if they don't find that it meets this provision of the law, then they will shut down or that the waste from electricity from Maine Yankee can only be sold out-of-state. I think that is going to be an interesting position for the people of Maine to be in. If that ever happens, that means we get the waste and Massachusetts, New Hampshire, Vermont, Connecticut and Rhode Island get all the benefit from it.

I think that this bill is clearly an attempt to shut down the Maine Yankee Nuclear Power Plant. In fact in the committee deliberations, I was told that the Attorney General was asked to draft an amendment that would shut down the plant but still comply with the provisions of the Federal Law. The voters of the state have voted three different times not to shut the plant down. I don't think we should second-guess them. I think that the very least we should do is respect the decision that the voters made. After all, they sent us here and I think most of us think they made a wise decision when they did that. When they voted to keep the plant open, I think they probably made a wise decision to do that. I disagree with that decision but I respect it and I am going to comply with it.

A few years ago in our committee, there was a bill that would have shut down Maine Yankee and it got an unfavorable committee report. A spokesperson for the Maine Nuclear Referendum Committee at the time, his name was Alva Morrision, stormed out of the committee and said, "Well, if we can't get it from the legislature, we are going to take our fight to the streets." They took the fight to the streets, they lost there, now they are back at the legislature with this incredible language. I have read it about 20 times and I don't fully understand it. I am not the smartest guy in the world but this is a pretty complicated paragraph here. So, I think the attempt of the people who are supporting this bill clearly just want to shut the plant down. This is just too complicated, it doesn't make any sense, it asks Maine Yankee to do something that they can't do because it is contrary to Federal Law. I know their heart is in the right place but this isn't the way to do it and I urge you to vote for the pending motion.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Jacques of Waterville that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

88 having voted in the affirmative and 16 in the negative, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-349) on Bill "An Act to Extend the Certificate of Need Program to All Major Medical Equipment" (H.P. 1051) (L.D. 1524)

Signed:

Senators: CONLEY of Cumberland
GILL of Cumberland

Representatives: MANNING of Portland
GOODRIDGE of Pittsfield
WENTWORTH of Arundel
TREAT of Gardiner
GEAN of Alfred
SIMONDS of Cape Elizabeth

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

Signed:

Senator: BOST of Penobscot

Representatives: PENDELTON of Scarborough
PENDEXTER of Scarborough
DUPLESSIS of Old Town
CLARK of Brunswick

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.
Representative MANNING: Mr. Speaker, Ladies and

Gentlemen of the House: I move that the House accept the Majority "Ought to Pass" Report.

This piece of legislation, An Act to Extend the Certificate of Need Program to All Major Medical Equipment" — first of all, all major medical equipment would be any equipment that would be of \$1 million or more. Such equipment might be MRI's, Lithotriptors, and ambulatory care centers. Currently, hospitals are under Certificate of Need, this would extend it to any non-hospital based piece of equipment that is major medical equipment of \$1 million. It would have a level playing field for both the hospitals and those outside of hospitals. It has been endorsed as a cost saving measure by such companies as Hannaford who came up and testified in front of the committee. It has also been endorsed by our own carrier, Blue Cross, Blue Shield. I would hope that this House would go along with saving some dollars on our health care cost by going along with the Majority "Ought to Pass" Report.

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

Representative PENDELTON: Mr. Speaker, Men and Women of the House: I respectfully have to disagree with the chair of the committee. I hope that you will vote against the motion "Ought to Pass" for the following reasons.

Certificate of Need was historically enacted to review capital expenditures in hospitals. A historical review of the development of Certificate of Need legislation at both state and federal levels indicate that neither statute was contemplating expansion of Certificate of Need requirements to other than health care facilities. The reason for this is a very simple one, the purpose of Certificate of Need was founded on the reasonable cost reimbursement method which applies to hospitals and did not and does not apply to other health care providers. This reasonable cost reimbursement formula assured that hospitals would be reimbursed for the cost of all capital equipment for facilities and equipment, regardless of use or need.

Under reasonable cost formula, hospitals were reimbursed for all capital cost incidents of those acquisitions whether or not the facilities were ever opened or used or whether or not the equipment was ever used to provide a single service.

These providers have no guarantee that their goals will be met and that the difference in reimbursement alone assures that any non-health care facility purchasing significant major medical equipment will be certain that it is needed in the committee before it is purchased. If they purchase the equipment and the need is not there, they are going to face a financial loss. No one is guaranteeing payment to them.

On the Certificate of Need law is a franchising mechanism that has not proven to be cost-effective even as it relates to hospitals. The trend nationally is in favor of repealing Certificate of Need laws which franchise inefficient providers and inhibits innovative and competitive providers. Eight states, including Arizona, Kansas, Minnesota, Idaho, Utah, New Mexico, Louisiana and California have repealed their Certificate of Need laws as they apply to hospitals. In recent history, no state has extended the requirement to a physician's office.

Care delivered within a hospital is care delivered in the most expensive setting. Federal

government, business and labor groups, as well as private insurers, have all taken active steps to remove the provisions of health care from the hospital setting when this can be done without compromising quality of care.

To require non-institutional providers to go through a Certificate of Need process would put them in a non-competitive position relative to hospitals with respect of the ability to vote the necessary time, money, and personnel to the Certificate of Need process. Time and cost associated with achieving a Certificate of Need can be as much as six months to a year and tens of thousands of dollars with no assurance of success.

In the meantime, necessary medical services may be denied to patients. Unlike hospitals, individual providers cannot automatically recover the costs of completing the CON process. State regulators should not be permitted to restrict equipment, thus preventing its use by any and all patients when the state's share of the cost of the Medicaid Program represents only about 3 percent of health care expenditures in Maine. The physicians' portion of Medicare, for instance, represents less than five percent of the Medicaid budget.

I would hope that you would vote with me and vote against the Majority "Ought to Pass" motion.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: An extension of the Certificate of Need under L.D. 1524 may be a prelude to requiring physicians, dentists and other health professionals to obtain CON before purchasing any equipment, building an office or recruiting an associate.

We have already seen many instances when the Certificate of Need process has been used to actually deter or delay care provided to patients. For example, delaying the services of a much needed ophthalmologist in Dover-Foxcroft, denying payment for the services of an orthopedic surgeon in Houlton, the list goes on and on, but the state's hospital cost containment legislation now in place, the time has come to reconsider the Certificate of Need process even as it applies to hospitals, certainly not to extend it beyond the current structure.

The extension of Certificate of Need to facilities outside of hospitals will be particularly unfair now, given the existence of the Hospital Development Account. This account, the amount of which is determined annually by the Health Care Finance Commission, limits annual capital investment each year. Physicians or other providers fortunate enough to obtain a Certificate of Need for equipment would then have to compete with the state's 42 hospitals for a portion of the limited credits available in the Hospital Development Account. In at least three of the past six years, the development account has not been sufficient to fund even hospital projects that have received CON approval.

Over the past two years, a commission authorized by the legislature has examined the issue of competition and regulation in health care and did not recommend this approach. Neither did the CON study conducted by the Health Resource Committee in 1986. In fact, three study commissions in the past 12 years have rejected this approach. This legislature itself has defeated this same proposal at least four times since 1978.

The playing field for investment in medical equipment has been leveled by action this legislature has taken the past two years in three different areas. By virtue of legislation passed in 1990, hospitals are now permitted to obtain medical equipment for primary out-patient use as long as that equipment is going to be used 80 percent of the time for out-patient services. Therefore, the playing field has been leveled because hospitals do not need to go through the CON process to obtain this equipment. Facilities outside of the hospital providing laboratory, imaging, surgical or cardiac diagnostic services or any other service requiring the purchase of medical equipment costing \$500,000 or more must meet the charity care rules of the Health Care Finance Commission by virtue of legislation enacted last session. These facilities also all take medicare patients. Many facilities outside of hospitals are now required to file data with the Health Care Finance Commission by virtue of L.D. 32 enacted in 1989.

We urge you to reject the approach endorsed by the majority of the committee.

Mr. Speaker, I request a roll call.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind the House that this piece of legislation is dealing with major medical equipment of \$1 million or more. It is not the local doctor trying to set up his own little office.

I would like to address the fact that this piece of legislation (which was told to us by the lobbyist of the Maine Medical Association, Gordon Smith) has been rejected four times around since 1974 and I don't know why we are wasting our time. I think most of us who have talked to our constituents in the last year or so realize that health care costs are a major issue with these constituents of ours and they are very anxious to see some type of cost containment measure put out.

I would like to address one other thing that was talked about and that was the fact that the latest commission that dealt with this voted as a majority. However, there was a pretty good-sized minority who voted in favor of this piece of legislation. Let me explain why the majority voted for it. About three years ago, there was a thing invented in this state which is called the Round Table. The Round Table had taken a vote prior to the commission starting and said they would not endorse Certificate of Need for doctors. With that, hospitals were hoping to get some things, Blue Cross was hoping to get other things and the consumers were hoping to get other things. I think it is time for us to take a hard look at what is going on outside of the hospital institutions and try to put a handle on that because, as Blue Cross has shown, the cost is growing rapidly.

In our committee when we discussed this, a member of the other body had indicated that a federal study put out recently shows that the fastest growing portion of health care costs is not on the hospital side of the issue, but it is on the doctor side of the issue.

I would hope that we would go along with the Majority Report, try to bring some decrease to the increase in health care costs. We all know that there will be an increase in health care costs down the road. What we would like to do is decrease that

increase and this is one of the ways of doing that.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I would just like to remind you of a point that was previously made and that is to remind you of legislation that was passed in 1990 that would move out-patient hospital care outside of CON regulations. We talk a lot about needing to plan for health care, needing to plan for how we are going to be spending our health care dollars. Only one year ago, we laid down some rules for hospitals about how they would operate. If you accept the Majority Report tonight, you will undo the legislation that you passed only one year ago.

I urge you, therefore, to reject the Majority Report.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I rise tonight as a member of the Majority Report and I urge your support of that report tonight.

As you are very well aware, medical costs and the insurance costs associated with paying for health care are spiraling out of control. For the past couple of days, my Subcommittee of Mental Health on the Human Resources Committee has been going over line by line the budget for the mental health institutions among other parts of our budget. It would be no surprise to you as it wasn't to me that the costs for health insurance in that budget are dramatically increased over just two years ago. One of the reasons is that we are seeing a proliferation of equipment by hospitals and by doctors, equipment which is very expensive, equipment which in some cases may be duplicative. The purpose for the Certificate of Need process is to try to take a look at some of these equipment buys and other purchases and see whether they make sense.

I think that more and more doctors are setting up their own off-premise (away from hospitals) offices which do different services that were previously offered in hospitals. That has basically made our Certificate of Need process to be not as inclusive as it once was. We may have the impression that we are regulating these services but in fact we are no longer doing so because so many of them are moving outside of the hospitals where the regulation takes place.

As my chairman pointed out, this measure was very strongly supported by Hannaford Brothers and other companies which do pay these rising health insurance costs. It was also supported by the very broad ranging coalition for affordable health care.

I believe it is a cost saving measure and I must respectfully disagree with the comments of the Representative from Scarborough, Representative Pendexter, saying that this is going to affect associate hires and things like that.

Again, I echo what my chairperson has said, that this is a bill that just addresses expensive equipment and it is the targeted kind of thing that makes a great deal of sense in this area of rising health costs. I would urge you to vote for the Majority Report.

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

Representative PENDLETON: Mr. Speaker, Men and

Women of the House: I wish I could go along with the Majority Report but I simply cannot because I am not convinced that this is going to help us contain the cost of health care.

In public hearing and work session, I asked the Executive Director of MHCFC Organization, "Does this indeed reduce the cost of health care?" I was told, "Not exactly." When I said, "What does this do, does it control what area is going to get what?" He said, "It is regulatory." To me, that is control, it is not cost containment.

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 Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I was on the committee of Human Resources when we dealt with organizing MHCFC. I also remember the times when the hospitals stood there and told us that no, we shouldn't have to regulate the doctors offices and just regulate the hospitals if that is what the bill was going to have to do. Let me tell you, they have made an about-face. They know that they are suffering severely. If we want to do the best for our hospitals and cut down the costs, I urge you to support the Majority Report.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: Before I start, I do want to give a little bit of a disclaimer and tell people what I do for work. Some of you know this, but I work for Sister of Charity Health Systems in Lewiston and one of the things that we do is run St. Mary's Hospital. My job is part of the parent corporation and I manage a number of facilities for the parent and I also run the planning department so I am involved in the creation of new services, expansion of existing services or elimination of existing services and also involved in some properties that physicians work out of and the various facilities that we run including a nursing home and congregate housing and a pharmacy. So, I have some knowledge of those areas as well as having served on the Committee of Human Resources for four years previously.

Having said that, I want to tell you that, if you feel that physicians are impacting hospitals in a negative way by taking services that traditionally have been the hospital setting out of it and putting hospitals at a disadvantage competitively, you would assume that I would therefore be for the Majority Report. I am not and I want to tell you why. To me, the existing Certificate of Need law is disjointed and is bad public policy. I think it is ineffective and I don't think the way to deal with this problem is by taking that issue and spreading it over physician offices who are private individuals, privately licensed, and running their own businesses.

There are some real issues that are very complicated with this and it is tough for many members, including myself having been off the

committee now for one year, to understand all the things that go on in that committee on a regular basis. Human Resources probably gets some of the more complicated issues of any committee in the legislature.

There are three issues that I want people to understand. One is complicated in terms of the million dollar amount that is often mentioned, talking about this deals with million dollar pieces of equipment. Well, actually it doesn't. The way Certificate of Need works in this bill and the way it works for existing hospital services, the million dollars is based on the figure for the third year of operating expenses for that piece of equipment. For instance, if you are going to purchase an MRI, which is a magnetic resonance imaging machine and that piece of equipment costs \$1,100,000, that is not what kicks in and triggers this law. What triggers this law is the cost of that equipment and operating that equipment in the third year of its operating expenses. That is how the hospital equipment is dealt with and that is how this bill will deal with physician offices.

There is another issue that people talk about and that is health care costs and this is going to keep health care costs from skyrocketing. Believe me, if I thought that was going to be the case, I would also be on the bandwagon and say, this is the bill to do it. Well, it is not the bill to do it. Private physicians who get services and bring them to the out-patient setting do them for two reasons, there is a need and it can be done in a way that is okay for the patient, health wise and safety wise. Those services that have gone to the out-patient settings have largely gone there because they can be done safely in an out-patient setting in a physician's office and they can usually be done at less expense and in a shorter time-frame for that patient.

Cardiac and cataract surgery used to be done exclusively in the domain of the hospital. It involved an in-patient stay, was very expensive for the patient and, therefore, very expensive under the insurance coverage. Cataract surgery almost exclusively is done in a doctor's office.

If we had enacted this type of legislation ten or so years ago when we started seeing this increase of out-patient cataract surgery, we wouldn't have cataract surgery in physician offices, you wouldn't be able to do it on an out-patient basis and you wouldn't be able to do that service in a relatively short period of time. You would do it in an in-patient stay and it would be much more costly and much more lengthy for you. The same thing goes for lithotripsy.

Now there are physicians who may be wealthy enough and maybe live in a region of the state with enough population base where they can afford a large piece of equipment that has that kind of expense in the third operating year. But most pool their resources with other physicians. In the case of lithotripsy, which blasts kidney stones, that treatment, five years ago if it was in Maine, would be done exclusively in a hospital setting and would involve an in-patient stay at a great deal of expense to the patient and would involve lost work time. That same procedure can be done in an out-patient setting now, can be done with less work time and less expense to the patient and, therefore, the insurance carrier.

The proponents of this bill would see nothing

more than taking what is a very tedious, laborious and convoluted regulatory structure that we have in the State of Maine dealing with health care policy and spread that over all providers. I disagree with that, I have been very active in the past in trying to put legislation forward that would propose other ways of dealing with that. One that I put forward several years back involved the orderly implementation of medical technology in the state, whereby any time we had a piece of equipment, that piece of equipment would be studied as to how many people could be served by it, what would be the dissemination of the state, how many pieces of that equipment would we need and all providers would be equally treated and the physicians at that time were in favor of that type of legislation.

This legislation spreads over the physicians' offices something which is not working now and will not work in the future and the test is being presented in many states which are now overturning their existing Certificate of Need laws and I think that trend will continue in other states.

One other thing I want to mention about Certificate of Need law in itself and the individual physician and I will try to make it as simple as possible but say, for instance, you were an electrician and you wanted to be the best electrician in the State of Maine and you spent eight years going to electrician school and learning the techniques and were involved with working with a master electrician and got to the point where you thought you were the best in your field and you wanted to do that in Lewiston or Portland — what if you were told that the only way you could do that, the only way you could have your own business, the only way you could practice the field you worked so hard to get there is to go into an existing electrician firm and you could only work out of that firm, you couldn't set up your own shop, you couldn't buy your own equipment, you couldn't get your own patients into your own area and you couldn't compete with those entities already in place? That is a corollary to what we would do if we passed this law. We would tell physicians who spend ten and twelve years trying to get into their practice, establish a specialty or sub-specialty that for you to survive, for you to set up an office that is viable, for you to be able to buy equipment that you might need and feel is very important for your patients, you are going to be at a competitive disadvantage with 43 other hospitals who have to compete for the same pool of monies. In fact, in the past two years, this hasn't even been sufficient to deal with the existing, approved, Certificate of Need that hospitals want to bring. Why do we feel that this the way to go in this state? To me, it is the wrong direction, it is the wrong path to take and I would hope that you would vote against the pending motion and send this back to where it belongs.

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

ROLL CALL NO. 75

YEA - Adams, Anthony, Bell, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Constantine, Crowley, Daggett, Dore, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham,

Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Rydell, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Swazey, Townsend, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Bowers, Butland, Carleton, Carroll, J.; Clark, M.; Cote, DiPietro, Duffy, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Kerr, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsh, Merrill, Morrison, Murphy, Nash, Norton, Ott, Parent, Paul, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Ruhlman, Saint Onge, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tamaro, Tardy, Tracy, Tupper, Whitcomb.

ABSENT - Coles, Donnelly, Hichens, Marsano, Strout.

Yes, 82; No, 64; Absent, 5; Paired, 0; Excused, 0.

82 having voted in the affirmative and 64 in the negative with 5 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-349) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 23, 1991.

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-350) on Bill "An Act to Protect the Public Health by Strengthening Maine's Radiation Protection Program" (H.P. 557) (L.D. 800)

Signed:

Senators: CONLEY of Cumberland
BOST of Penobscot

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

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

Signed:

Senator: GILL of Cumberland

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

Reports were read.

On motion of Representative Manning of Portland, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-350) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 23, 1991.

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-351) on Bill "An Act Regarding Public Exposure to Nonionizing Radiation" (H.P. 509) (L.D. 703)

Signed:

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

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

Signed:

Senators: BOST of Penobscot
GILL of Cumberland
CONLEY of Cumberland

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

Reports were read.

Representative Manning of Portland moved that the House accept the Majority "Ought to Pass" Report.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: L.D. 703 calls for an educational program on EMF by the Maine Department of Health and Human Services to the tune of \$3,000. It also calls for a study of EMF in and around about 20 public schools in Maine costing approximately \$12,000.

This bill calls for a wasteful expenditure of state resources because it duplicates research of services already provided by others. For example, the state's Utilities already distribute information about EMF and provides speakers on the subject to schools, service programs and community organizations. The Joint Standing Committee on Utilities reviewed legislation calling for a Maine-based study of EMF in 1989 as a result of the Public Utilities Commission having established formal procedures to monitor EMF research.

CMP's library is nationally recognized for its publications, EMF-Keep Track, which monitors all EMF research and disseminates summaries to interested parties of the utility industry in government and to the general public. Both CMP and Bangor Hydro

perform on-site EMF measurements upon request to any customer.

This bill will expend \$15,000 in new funds on EMF research in 20 public schools in Maine as well as an education program. This funding would not only duplicate existing research and information, it is woefully inadequate for its stated purpose. For example, in 1991, the children and adults in four Florida elementary schools were monitored for EMF exposure. After three months of recording exposure levels, the program was abandoned because EMF levels at the one school near a power line were no higher than the other three schools which had no lines near them. The Florida study was costing the school board about \$3,000 a month in monitoring costs alone.

Since 1980, the Department of Energy has spent over \$36 million on EMF research. The Department of Energy is expected to expend an additional \$7.5 million on EMF research this year alone. The Electric Power Research Institute spent \$6.5 million on the subject in 1990. It is expected to expend nearly \$8 million on EMF research this year. Similar efforts are going on in Canada, Germany, England, Japan, Italy, France, Norway, Sweden and Finland.

Since 1989, the PUC has diligently monitored EMF research and currently houses an excellent library of resource material in this area. Unless it can be demonstrated that all of this effort that is going on internationally, nationally, and in Maine is somehow lacking, I see no need to add new resources to what appears to be an already well funded and well coordinated program of scientific research.

I urge you to vote against the Majority Report.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Let me first of all say that this piece of legislation will deal with studies among schools, a pilot project to find out if there is a problem with EMF around schools. We, in the committee, heard that there were no studies at all dealing with schools.

The Representative from Scarborough just indicated there was in Florida — that is something new to me. Florida schools, I think, are a little different than Maine schools. I think one of the things that we are concerned about is the possibility of this problem happening while our children are in schools somewhere in the neighborhood of 8 to 9 hours a day.

Second of all, let me explain one other thing. This problem really came to light within the last six to seven months when the Environmental Protection Agency of the federal government looked at this problem and realized that there was a major problem in dealing with EMF. Only because of what happened in the White House was that report squashed. The Environmental Protection Agency was ready to come out with a real negative report on this but because the White House squashed it did they not come out with it.

This report that we are looking for will deal only with schools, we want to know what is going on in the schools. I might add that, both the Health Committee and the Energy Committee of the National Council of State Legislators are taking this project up because they see it as a problem. They voted at their last meeting, jointly, to take this issue up because there are more and more people talking about this.

This is an issue that we ought be getting a

handle on ahead of time, especially dealing with children of this state and not waiting until after the fact.

I hope you will go along with the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Members of the House: I hope you will support the "Ought to Pass" Report. I would like to respond to some of the comments made by the good Representative from Scarborough.

None of the research cited by her directly addresses the task which this legislation sets out for the State Bureau of Health. Neither does the vast amount of information present in the Public Utilities Commission library directly address this area.

What the bill would do would be allow a monitoring for the purpose of gathering a baseline information about typical Magnetic Field levels in our elementary schools. This would be from internal sources as well as external sources. External sources could be power lines, power distribution, lines, transformers, etcetera. Internal sources could also include transformers as well as equipment, computers and the wiring in the schools. We do not know what our children are exposed to, yet convincing research on Electric Magnetic Fields indicates that there is potential risk to the public health. The public is aware and concerned that there is a problem and that the government is not taking a meaningful role.

According to studies linking EMF exposure and childhood leukemia and cancers, children appear to be a group particularly at risk as the body's ability to fight disease is weakened by the stress of exposure.

Electric Magnetic Fields and nonionizing radiation works at the levels of cell membrane, research suggests in cell biology. It also may affect the immune system.

The study cited by the good Representative from Scarborough regarding the monitoring in Florida was discontinued because the monitoring was severely flawed. Some of the teachers who were supposedly wearing this monitoring that was going to give an idea of the general exposure just sat in their offices all day so we are not particularly representative of what the overall school was exposed to.

The intent of this particular bill, L.D. 703, is not to compare to determine that power lines are a problem versus non-power lines but rather to get a baseline on what the magnetic field strength is in our schools.

I could go into excruciating detail about all the points that have been made. I would follow up on Representative Manning's comment about the EPA Report. The staff of the EPA, last spring, was recommending that Electric Magnetic Fields be classified as a B-1 carcinogen, which is to say a probably human carcinogen. That was sat on by the White House's science advisor and the head of the EPA. The Draft Report, as released finally in December, deleted that recommendation.

Earlier this year, EPA sources were noting that a new study on the health effects of electricity indicated that this recent agency report understated the link between electricity and cancer. The staffer's argued that the conclusions had been

watered down.

It is also true that there has been a lot of money spent on EMF research. Once again, this will not address the question which we have now, which is to say what are the children exposed to in schools? The public is aware and this is information that people would like to know.

I would cite certain expenditures made recently by one of our utilities — Central Maine Power expended, and this came about in response to a data request during the recent rate case, Docket 90-076. It was determined that CMP spent \$625,000, one-half of the total amount paid to a particular utility consultant to come out with a report that essentially said, "No problem." In the meantime, the EPA was working on its report, which eventually was going to result in the recommendation that it be classified a probable human carcinogen. CMP also spent \$48,000 two years ago responding mostly in opposition to legislative proposals that would have the PUC step up its literature review. They have also spent upwards of "an undetermined amount," plus \$38,000 in normal duties, plus to the extent that CMP pays dues to EPRI, the Electric Power Research Institute whose dues are in the upper hundreds of thousands of dollars.

Moreover, in the data request, the response from CMP to the Public Utilities Commission, CMP states that they expect costs to increase in several ways. "CMP will be asked to provide increasing support for research on this issue." "CMP will be asked to provide more information to customers including field measurements."

If we are to have any credibility for the research done, this study should be done by an agency not connected with the utilities. I think previous actions by the utilities in terms of going through stages of complete denial that there could be a problem to now wanting to be completely in control of the flow of information, how it is done, when it is done, where it is done and how it is presented — this is a very modest approach to coming up with some information that will have some credibility.

I urge you to support the "Ought to Pass" Report.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I rise this evening as the House Chair on Utilities. A lot of debate was given this evening on this piece of legislation. Two years ago we dealt with this in our committee and I think we dealt with it very extensively to the fact that we had about a three day hearing. A lot of professional people came, particularly scientists and people involved with EMF.

I urge you today when you vote that you vote for the "Ought Not to Pass" mainly because I think if there is a major problem out there, I would be the first one to stand here today and tell you what the health issue or whatever might be. I think the facts have not been proven, there has been some 500 studies that has either been completed or near completion and I think there is room for the work to be done. I understand that there is about a \$15,000 note attached to this that will be paid for by the ratepayers. We had a major hearing on this in the Committee on Utilities a couple of years ago, we spent about three days on it and I am asking you, when you vote this evening, that you vote "Ought Not to Pass."

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

Representative DUPLESSIS: Mr. Speaker, Men and Women of the House: Unless I am not mistaken, I think we are in a budget shortfall (unless my ears aren't working right lately) and I think establishing another study with no clear objectives on what is to be accomplished with such limited resources right now is not fiscal responsibility.

What would the health program require? What would it accomplish, especially given the unknowns that we have been given tonight? What would we tell people to avoid — for example hair dryers and electric blankets can produce high levels of EMF — should we tell people not to use those?

Our environment is full of known hazards to health, smoking and asbestos, just to name a couple and I would rather see the Bureau of Health devote its time and resources to those known dangers.

I also request a roll call.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I would just like to make a couple of points here. I am on the Majority Report and I would like to ask for your support of that report.

First of all, what does this study do and what doesn't the study do? The study does not go into Conrad Heesch's excruciating detail on how people are being affected by EMF. There is a lot of research already being done in other states around the world as other speakers here tonight said. This study is going to look at whether children in schools in Maine are being exposed so that we can take that information, compare it with the information about the actual health effects of EMF and decide whether or not there is a problem in Maine. Obviously, a study in Finland or Sweden is not going to tell us whether children in Maine are being exposed.

Secondly, it will look at how they are being exposed. It will say, okay, if the children are being exposed, is it coming from that power line that goes into the school or is it coming from that transformer or some other source? That is useful information if we are going to deal with the problem. It is a targeted study, it is not a study that has no goal as some have implied tonight.

Third, this is not coming out of the General Fund. I know that we need to be cognizant of costs of all types but it is coming from the Utilities. A \$15,000 cost for this study and for the educational program is not exorbitant. Let me draw your attention to some costs that have been spent already just recently and maybe you will agree with me. For example, in the matter of Mr. Collier leaving CMP, I believe he received \$500,000 or half a million in severance pay, a \$26,000 vacation cruise plus an \$80,000 (we believe) moving costs plus a retirement package, stock options, and they bought his house for some undisclosed cost. Clearly, given the magnitude of those types of cost that are being borne regularly by utilities around this state, \$15,000 to look into whether the health of our children is being affected, is a reasonable cost.

I sensed that some of the comments here tonight by other members of my committee saying basically, "What we don't know won't hurt us." What will these educational booklets say? They will just scare people — well, I think people do need to know about

their hair dryers as well as about electric magnetic fields from other sources and that is what this educational program would do. It would tell people what the story is as far as what we know so far.

It is a very reasonable bill, it makes a lot of sense and I think you should support it and I hope you will.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to respond to my good friend from Millinocket who indicated that his committee took a look at that last year. Last year, the proposal that was in front of that committee called for a price tag of \$100,000. Testimony in front of our committee this year indicated that the Utilities spent \$70,000 last year to kill a \$100,000 study.

Representative Adams presented that proposal to us. He did some research on that because he thought it was kind of strange that there were so many people trying to kill that particular piece of legislation and did a lot of research over the last couple of years. Why would somebody spend \$70,000 to kill a \$100,000 study? There must be a reason. Hopefully, this bill will help in a very small way in order to look at the future of our children in the schools that we are dealing with.

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 Wilton, Representative HEESCHEN.

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: This particular study is not comparable to the bill of two years ago. That was primarily directed at a compilation of literature and research. This bill is aimed at gathering base line information.

The good Representative from Old Town has said, "Well, should we tell people not to use appliances and so forth?" No, I don't think we should tell people to do or not to do something but we do need to tell people what their exposures are. This would get at that. The unknowns were mentioned and that is exactly the point, there is a lot we don't know about this but the more information we get, the better we are able to exercise our own individual prudent avoidance and that is the term the Utilities themselves are promoting very much now as they pass beyond the denial stage.

As the scientific research continues, we will be able to evaluate the levels of exposure that we determine typical in our schools in the light of this research and know what to do. The Bureau of Health, sooner or later, will be involved in EMF research. I think it would be much better if we do it sooner.

The \$15,000 requested comes out to less than one-half cent per typical customer, that is not per kilowatt hour, that is not per month, that is not per anything, it is a one-time shot.

I would also like to mention, once again, the 500 or so studies cited that the PUC has listed. I get this updated bibliography regularly, I recognize a

lot of the items cited are newspaper articles, magazine articles — they are not all scientific studies. Many of them are laboratory studies that address specific data which are useful, particularly if they point out that there is no problem in a certain area. Again, I think this comes back to — who controls the whole process and how credible are the results? The approach of the Utilities reminds somewhat of Humpty-Dumpty's approach to defining words. "When I use a word", Humpty-Dumpty said in a rather scornful tone, "it means just what I choose it to mean, neither more nor less." "The question is", said Alice, "whether you can make words mean so many different things." "The question is", said Humpty-Dumpty, "which is to be master, that's all." A little later, Alice said, "That's a great deal to make one word mean." "When I make a word do a lot of work like that", said Humpty-Dumpty, "I always pay it extra." Well, what we have now are the Utilities determining what the definition of the word and who is master and they always pay their consultants extra.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House. I will not debate the merits of this bill other than the fact that I believe it is nothing more than passing a tax on to the ratepayers or an unfunded mandate. I thought we were more or less in agreement that we wouldn't do that because you and I are going to pay for this. At this time, I just can't see that.

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

ROLL CALL NO. 76

YEA - Adams, Anthony, Bell, Boutilier, Cahill, M.; Cashman, Cathcart, Chonko, Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dore, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Handy, Heeschen, Hichborn, Hogle, Holt, Jacques, Joseph, Kerr, Ketterer, Kilkelly, Larrivee, Lawrence, Lemke, Mahany, Manning, Marsh, Mayo, McHenry, McKeen, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Pineau, Poulin, Pouliot, Powers, Rand, Richardson, Rotondi, Ruhlin, Rydell, Sheltra, Simonds, Simpson, Stevens, P.; Swazey, Tardy, Tracy, Treat, Wentworth, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, D.; Carroll, J.; Clark, H.; DiPietro, Duffy, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Hussey, Jalbert, Kutasi, LaPointe, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Melendy, Merrill, Morrison, Murphy, Nash, Norton, Nutting, Ott, Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Ricker, Saint Onge, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tamaro, Townsend, Tupper, Vigue, Waterman, Whitcomb.

ABSENT - Donnelly, Hale, Hichens, Kontos, Luther, Marsano, Martin, H.; Skoglund, Strout.

Yes, 73; No, 69; Absent, 9; Paired, 0; Excused, 0.

73 having voted in the affirmative and 69 in the negative with 9 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-351) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 23, 1991.

CONSENT CALENDAR

First Day

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

(S.P. 685) (L.D. 1819) Bill "An Act Concerning Federal and Other Special Revenue Funds in Maine State Government" Committee on **Appropriations and Financial Affairs** reporting "Ought to Pass"

On motion of Representative Mitchell of Vassalboro, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the Bill read once and assigned for second read Thursday, May 23, 1991.

(S.P. 15) (L.D. 3) Bill "An Act to Allow Relicensing of an Existing Biomedical Waste Facility" (EMERGENCY) Committee on **Energy and Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-162)

(S.P. 237) (L.D. 628) Bill "An Act to Ensure Community Participation in Substance Abuse Programs and Planning" Committee on **State and Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-154)

(S.P. 396) (L.D. 1072) Bill "An Act Regarding Survivor Benefits in the Event of Divorce and Remarriage" Committee on **Aging, Retirement and Veterans** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-161)

(S.P. 433) (L.D. 1154) Bill "An Act to Clarify the Tax Status of Nonprofit Hospitals, Nursing Homes and Boarding Homes" Committee on **Taxation** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-168)

(S.P. 612) (L.D. 1616) Bill "An Act Relating to the Jail Operations Surcharge Fund" Joint Select Committee on **Corrections** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-163)

(H.P. 1215) (L.D. 1773) Bill "An Act to Require Parental Consent to Adoption before a Probate Judge" Committee on **Judiciary** reporting "Ought to Pass"

(H.P. 989) (L.D. 1434) Bill "An Act to Amend the Law Regarding Assessment of Insurers and License Fees under the Insurance Law" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-352)

(H.P. 934) (L.D. 1354) Bill "An Act Relating to Insurance of Rental Motor Vehicles" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-353)

(H.P. 230) (L.D. 321) Bill "An Act to Require Insurance Coverage for Reconstructive Breast Surgery for Women Who Have Had Mastectomies" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "B" (H-354)

(H.P. 814) (L.D. 1168) Bill "An Act to Clarify the Status of Employee Benefit Excess Insurance" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-355)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 23, 1991, under the listing of Second Day.

(H.P. 908) (L.D. 1305) Bill "An Act Concerning State Education Mandate Waivers" Committee on **Education** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-358)

On motion of Representative Crowley of Stockton Springs, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the Bill read once.

Committee Amendment "A" (H-358) was read and adopted and the bill assigned for second reading Thursday, May 23, 1991.

(H.P. 53) (L.D. 74) Bill "An Act Regarding Liability for Persons Responding to Oil Spills" Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-360)

(H.P. 726) (L.D. 1030) Bill "An Act Relating to Financial Responsibility for Students Not Residing with Parents or Legal Guardians" Committee on **Education** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-361)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 23, 1991, under the listing of Second Day.

(H.P. 818) (L.D. 1172) Bill "An Act to Establish a Fund to Promote Lobster Marketing" Committee on **Marine Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-364)

On motion of Representative Mitchell of Freeport, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the bill read once.

Committee Amendment "A" (H-364) was read by the Clerk and adopted and the bill assigned for second reading Thursday, May 23, 1991.

(H.P. 760) (L.D. 1094) Bill "An Act to Make Allocations from the Maine Nuclear Emergency Planning Fund for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (EMERGENCY) Committee on **Appropriations and Financial Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-365)

(H.P. 1157) (L.D. 1698) Bill "An Act to Promote Participation in Affordable Telephone Service" Committee on **Utilities** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-368)

(H.P. 1092) (L.D. 1592) Bill "An Act to Increase the Annual Public Utilities Commission Regulatory Fund Assessment and Make Certain Other Changes" (EMERGENCY) Committee on **Utilities** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-369)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 23, 1991, under the listing of Second Day.

(H.P. 1225) (L.D. 1783) Bill "An Act to Amend the Waldoboro Sewer District Charter" (EMERGENCY) Committee on **Utilities** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-370)

On motion of Representative Clark of Millinocket, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the bill read once.

Committee Amendment "A" (H-370) was read by the Clerk and adopted and the bill assigned for second reading Thursday, May 23, 1991.

(H.P. 547) (L.D. 784) Bill "An Act to Allow the State Harness Racing Commission to Allocate Dates for a Period of 3 Years" Committee on **Agriculture** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-374)

On motion of Representative Tardy of Palmyra, was removed from the Consent Calendar, First Day.

On motion of the same Representative, the bill and all accompanying papers were recommitted to the Committee on **Agriculture**.

(H.P. 778) (L.D. 1110) Bill "An Act Regarding Passing of School Buses" (EMERGENCY) Committee on **Transportation** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-378)

(H.P. 668) (L.D. 948) Resolve, Authorizing the Bureau of Public Improvements to Conduct a Study of All State Work Places Committee on **State and Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-379)

(H.P. 696) (L.D. 1000) Bill "An Act to Preserve Public Ownership of Historic Fort Gorges in Casco Bay" Committee on **State and Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-380)

(H.P. 586) (L.D. 837) Resolve, to Create a Demonstration Program to Increase Utilization of the Food Stamp Program by the Elderly Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-382)

(H.P. 970) (L.D. 1411) Bill "An Act Concerning the Number of Signatures Required for County Office Elections" Committee on **Legal Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-384)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 23, 1991, under the listing of Second Day.

(H.P. 821) (L.D. 1175) Bill "An Act to Allow State Employees to Donate Funds to a Political Cause Through a Payroll Deduction Program" Committee on **Legal Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-385)

On motion of Representative Lawrence of Kittery, was removed from the Consent Calendar, First Day.

On motion of the same Representative, the bill and all accompanying papers were recommitted to the Committee on **Legal Affairs** and sent up for concurrence.

(H.P. 915) (L.D. 1312) Bill "An Act to Revise Certain Provisions of the Medical Examiner Act and Provide for the Collection and Retention of Records to Identify Certain Missing Persons" Committee on **Legal Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-386)

(H.P. 1121) (L.D. 1646) Bill "An Act Regarding Cable Television" Committee on **Utilities** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-388)

(H.P. 1155) (L.D. 1696) Bill "An Act Concerning the Unlawful Prohibition of Legal Activities as a Condition of Employment" Committee on **Labor** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-389)

(H.P. 755) (L.D. 1089) Bill "An Act to Authorize the Use of Gill Nets by the Penobscot Nation Department of Natural Resources Personnel for Scientific Purposes" (EMERGENCY) Committee on **Fisheries and Wildlife** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-390)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 23, 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. 1255) (L.D. 1823) Bill "An Act to Increase the Debt Limit of the Ogunquit Sewer District" (EMERGENCY)

On motion of Representative Clark of Millinocket, was removed from Consent Calendar, Second Day.

Subsequently, the Committee Report was read and accepted, the Bill read once and assigned for second reading, Thursday, May 23, 1991.

(H.P. 853) (L.D. 1219) Bill "An Act Concerning Witnesses and the Integrity of the Judicial Process" (C. "A" H-334)

(S.P. 444) (L.D. 1188) Bill "An Act Concerning Public Representation on Professional and Occupational Boards or Commissions"

(S.P. 204) (L.D. 531) Bill "An Act Concerning Energy Efficiency Standards for Subsidized Housing" (C. "A" S-151)

(S.P. 388) (L.D. 1065) Bill "An Act Relating to the Finalization of Divorces" (C. "A" S-142)

(S.P. 399) (L.D. 1075) Bill "An Act to Allow the Suspension of Fines in Certain Cases" (C. "A" S-144)

(S.P. 456) (L.D. 1232) Bill "An Act Regarding the Exclusivity of an Authorized Aquaculture Lease Site" (C. "A" S-149)

(S.P. 469) (L.D. 1252) Bill "An Act to Amend and Improve the Laws Relating to Education" (C. "A" S-153)

(S.P. 519) (L.D. 1397) Bill "An Act to Establish a Seasonal Permit for the Sale of Deer Hides" (C. "A" S-146)

(S.P. 535) (L.D. 1424) Bill "An Act to Enhance the Trapping of Beaver" (C. "A" S-145)

(S.P. 540) (L.D. 1438) Bill "An Act to Exempt from Right-to-know Laws Information Contained in the Personnel File of Department of Corrections Employees" (C. "A" S-143)

(H.P. 1246) (L.D. 1813) Bill "An Act Relating to Tax Refund Anticipation Loan Disclosures"

(H.P. 56) (L.D. 77) Bill "An Act to Extend the Commission to Study Maine's Oil Spill Clean-up Preparedness and to Improve Marine Oil Spill Prevention, Planning and Response" (EMERGENCY) (C. "A" H-339)

(H.P. 870) (L.D. 1256) Bill "An Act Concerning

the Packaging of Soymilk" (C. "A" H-341)

(H.P. 800) (L.D. 1146) Bill "An Act to Increase the Collection of Child Support Payments" (C. "A" H-342)

(H.P. 933) (L.D. 1353) Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1991-92" (EMERGENCY) (C. "A" H-344)

(S.P. 583) (L.D. 1536) Bill "An Act to Amend the Laws Regarding the Labeling of Seafood"

(H.P. 764) (L.D. 1098) Bill "An Act to Protect the Rights of Independent Sales Representatives after Termination of Their Contracts" (C. "A" H-347)

(H.P. 1161) (L.D. 1702) Bill "An Act to Clarify the Role of the Maine Youth Center" (C. "A" H-348)

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.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Concerning Tax Anticipation Notes for Fiscal Year 1991-92 and the Maine Rainy Day Fund" (EMERGENCY) (H.P. 1301) (L.D. 1882)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Representative Chonko of Topsham offered House Amendment "A" (H-377) and moved its adoption.

House Amendment "A" (H-377) was read by the Clerk and adopted.

The Bill passed to be engrossed as amended by House Amendment "A" (H-377) and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Protect Retail Sales Employees" (H.P. 352) (L.D. 482) (C. "A" H-325)

Bill "An Act to Foster Marine Research" (S.P. 450) (L.D. 1226) (S. "A" S-164 to C. "A" S-148)

Bill "An Act to Make Revisions in the Marine Resource Laws" (S.P. 510) (L.D. 1359) (S. "A" S-165 to C. "A" S-150)

Bill "An Act to Revise the Laws Concerning Innovative Educational Grants" (S.P. 377) (L.D. 1054) (C. "A" S-152)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate

Papers were Passed to be Engrossed as Amended in concurrence and the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

Bill "An Act to Authorize Financial Institutions and Credit Unions to Sell Annuities" (S.P. 514) (L.D. 1375) (C. "A" S-156)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Representative Rand of Portland moved that the L.D. 1375 and all accompanying papers be indefinitely postponed.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I appreciate your deference to this debate in giving us an opportunity to talk about why it is appropriate for both banks and credit unions to sell annuities.

I would ask you to turn your attention to the bill itself so that you will know that L.D. 1375 (I am sure you are all familiar with the numbers due to the many people and the crowd who wear numbers either for or against 1375) does not permit the sale of all types of insurance, only annuities. Our committee tightened that even further, only annuities underwritten by an insurance company.

As I have sat on the Banking and Insurance Committee for many months and as I have learned a great deal about the financial institutions of this state and about insurance practices, one goal has been very clear to me and that is, I would like to open up things as much as possible, making sure and safe choices for our consumers. I think that is in the best economic and best interest of the people that we are all sent here to represent.

You will hear many arguments why we should keep the status quo. Many of you voted on this bill many, many times, I am sure it is not the first time that many of you have seen it. I would ask you to think about why it is appropriate in 1991 — one of the arguments is, keep banks in banking. Well, ladies and gentlemen, it is indeed a changing world. The bank that is the fourth largest issuer of Mastercard is owned by an insurance company. Credit cards from retailers are issued by Sears and AT&T. You can get a checking account from brokers like Merrill Lynch. Many of you probably financed your cars with an automobile company.

Insurance companies can sell IRA's. The difference is, a bank can also sell an IRA but at the time you want to roll your IRA over and purchase an annuity, you cannot buy it at the bank. You can buy it from your insurance agent but you cannot buy it at the bank. To me, this bill is really very, very simple. It is a matter of choice. Your constituents who wish to purchase annuities should have the opportunity to purchase them either from a Credit Union, a bank or from an insurance agent.

On the federal level, there is always discussion, of course, about banking and insurance. We have had presented to our committee some information from a general accounting office report — let me read very briefly an excerpt because it isn't just this

committee who is looking at this issue, it is the entire country. "Banks selling insurance could potentially benefit consumers through reduced insurance costs and increased convenience. Available evidence does not indicate that coercion is a widespread problem in existing bank sales and insurance." You should know that 37 other states allow this already. It is illegal to coerce people to purchase products from you.

Additional measures such as disclosing that insurance purchases are voluntary or separating insurance sales from credit approval could protect from even further concerns. "Bank sales of insurance underwritten by an unaffiliated insurance company present no risk to bank safety and soundness." I am quoting to you from the GAL Report. The final concern (and frankly, perhaps, that is the bottom line here, so let's address it) is the concern that we are taking business away from local agents and all of us represent them and all of us want them to enjoy a healthy competitive livelihood.

A study that was done of two states that were similar in the amount of insurance written, annuities written, similar in size of population and per capita wealth, Virginia and North Carolina, found that there was no difference. One state let banks sell annuities and in addition to the insurance companies and agents were thriving and policies were going very well in that state. So, as a member of the committee, I am very pleased to be supportive of this legislation.

I would ask that you vote against the motion to indefinitely postpone. Mr. Speaker, I ask for the yeas and nays.

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

Representative RAND: Mr. Speaker, Men and Women of the House: This is not a consumer bill. In fact, to give justice to some of the lobbyists, they have not really considered it a consumers bill. We have, as consumers in the State of Maine, full access to this insurance product, no one is complaining about a lack of availability or a lack of an ability to purchase annuities. There wasn't one consumer at the public hearings saying they were having a problem. This is not a consumer bill.

The banks have told us that increased competition is good, so we should allow them to do this. What they failed to say was whether this product would be less expensive or whether the interest earned would be higher, that little piece of information was just left out of the conversation.

Banks have argued, and not very convincingly, that annuities are not an insurance product. But ask the bankers present here tonight that if this bill passes, as agents, where they would be purchasing this insurance product. It will be Prudential or some other insurance company.

In 1989, the Maine Legislature did pass legislation stating that no director, officer, agent or employee of a financial institution, subject to the laws of this state may engage in for any compensation, direct or indirect, the business of selling or negotiating securities as the agent or salesman of any broker/dealer as defined in Title 32.

Banks cannot act as agents to sell securities, so why should we allow them to act as agents to sell insurance? We are all painfully aware of the multi-billion dollar problem that S&L banks presented to taxpayers, due in large part to deregulation,

mismanagement and imprudent lending practices. Banks, quite honestly, need capital, but instead of trying to create a new bank product or aggressively pursuing what they are allowed to do now, they have chosen to take the first step in siphoning off business from the insurance industry. No new money, just a change of venue.

Under normal circumstances, I really wouldn't object, but these are not business as usual times, not for our nation and certainly not for our state. We must remember that the insurance industry participated in the feeding frenzy of the '80's also. And, as an industry, they did invest heavily in junk bonds and in speculative development. According to information given at a recent congressional hearing, some few, few but large insurance companies are not as financially stable as they had once been.

If what the bankers who testified before the Banking and Insurance Committee, if what they have told us is accurate, that they do intend to, over a period of five years, do about \$50 billion nationwide in annuity business. This is a large movement of money by anybody's standards from one industry to another and I don't believe we should be encouraging this activity until our economy has stabilized.

Maine was first in the nation to allow interstate banking and we all know the consequences of that move. My real concern with that issue lies with the hundreds of lost jobs due to the takeovers, which I will admit, were necessary. Maine would, once again, be in the forefront with L.D. 1375 and I would hope that we would wait to see how this action plays out in other states before we make this move.

The only people in Maine who will really be affected will be the 7,000 independent insurance agents who rely on this business for part of their livelihood. I might add that we rely on those livelihoods for income tax.

The insurance industry itself has remained silent on this issue to this point because the banks have not created new companies, which they will be doing according to the bankers I have spoken with. The industry itself has remained silent because they know that the banks will have to buy the product from them. I guess they are content to leave their agents out in the cold during these particularly hard economic times, but I am not.

Finally, the Banking and Insurance Committee, very reluctantly, but with the interest of the taxpayers in mind, have already whacked the independent agents by allowing the school districts to insure with the State Risk Management Organization, so that takes another piece of their business away.

We as a legislature have to make these difficult decisions because we have to consider the greater good. L.D. 1375 is definitely not for the greater good, it hurts Maine workers, has no positive effect on consumers and, as someone who is equally fond of the insurance industry and the banking industry, I based my thoughts solely on the merits of this bill. I would urge this body to follow my light and indefinitely postpone it.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to defeat the motion before you. Currently, more than half of the states in this country authorize the sale of

insurance products by financial institutions and all 50 states authorize the sale of credit, life, accident and health insurance. There was a survey done of Maine people in 1988 that showed that the citizens of this state believe in competition. The consumer study of insurance sales prepared for the State of Maine Department of Professional and Financial Regulation in January of 1988 asked Maine consumers directly, all things considered, do you think that banks should be able to sell consumer insurance? The results of the survey strongly indicated that the public believes that banks should be allowed to compete in the insurance industry. The study concluded, "The majority of respondents apparently believe in an open market in which they are free to choose with whom they will do business."

We aren't talking about all lines of insurance, we are only talking about annuities.

A significant percentage of the population would like banks to offer them insurance conveniently. To demonstrate how significant this is, surveys have shown that between 60 and 75 percent of all United States households agree that it would be convenient to purchase all financial services from one organization. Recognizing these needs, a growing number of insurance companies have acquired banks and thrift institutions nationwide to integrate their financial service offerings.

I have a 1988 list of insurance companies involved in bank ownership. I will mention a few of them which I believe will be familiar to many of you. Aetna Life and Casualty; Allstate, Sears; E. F. Hutton Life; Family Life Insurance, Merrill Lynch; John Hancock; Mutual Benefit Life; New England Mutual Life; Prudential Insurance; Travelers Insurance and there are many more.

I would also like to read an ad from Prudential which shows that it sells insurance and financial services including having subsidiaries involved in real estate, asset management, property and casualty insurance, banking and securities. The ad reads, "There is a new financial giant in America. For a century, you knew us for life insurance, now there is more, much more. There is home and auto insurance from Prudential, Property and Casualty Insurance Company; brokerage services from Prudential-Bache Securities; health care in select cities throughout the country from Prudential Health Maintenance Organizations; residential real estate mortgages through the Prudential Home Mortgage Program; loans and select account services from the Prudential Bank and Trust Company as well as IRA's, mutual funds and new and innovative forms of life insurance through the Prudential you already know. It is powerful new financial help that is solid as the rock itself, the rock, the Prudential."

I urge you to allow our banks to sell annuities and they will not be able to do it without a licensed insurance agency. In a small town like Rumford, I am sure that my bank is not going to hire an insurance agent to come in and sit in that bank to sell annuities, they will have the insurance agents that are on Congress Street to do just that.

I urge you to defeat this motion.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I own an insurance agency. We deal in the casualty business, commercial casualty. I don't handle annuities and I don't handle life

insurance and I don't really know much about them. But, I do deal with banks just as most of you do. This bill has been around every year since I have been in the legislature and I have voted against it every time it has come up for one reason — the thing that has always bothered me about this bill is, if you have ever gone into a bank for a loan, you will recognize the term, deposit relationship. Do you have a deposit relationship with our bank? If you don't, they show you the door or they give you the loan contingent upon you having a deposit relationship with the bank.

The proponents of this bill have said to you tonight that it will encourage competition. I don't buy that because, if you allow banks to get into the insurance business or the annuity business, whatever you want to call it, they are competing with a captive audience. In a market like we are in right now, any of you who are in business know that the banks have got you. It is very difficult to get any money, it is very difficult to refinance, it is very difficult to get a line of credit. They already require of you to have a deposit relationship with them before they give it to you. I suspect that as we allow them to have new lines like annuities, your annuity will be there too or you won't get a loan. That is what I mean by a captive audience and that is what has always bothered me about this bill.

One other thing that has happened in the last couple of years that bothers me about this bill is, and I say this only half kidding, the banks are having a very difficult job doing the job that we let them do now, I don't know why we want to give them something else to go out of business on.

I hope you will support the pending motion of indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: The previous speakers have spoken eloquently to the technical aspects of this bill and I would not presume to do that since I am not skilled in the technical aspects.

I want to make two points for you to just think about. A day or two ago, we were debating a completely different measure and as I recall one of the handouts that came across our desk said, "Fresh Cukes Five Miles Ahead at Joe's Used Cars." I think that analogy may be appropriate for this measure as well.

I want to leave you with just one final thought and that is, think about the committee that heard this bill, it is called the Joint Standing Committee on Banking and Insurance, not Banking or Insurance. I think there is a message there and we should heed it and support the pending motion.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Banking and Insurance Committee, I was one of the people who supported this particular annuity bill. It took a long time for me to deliberate on this particular bill. I talked to a lot of people and I wanted to find out because I had all the same questions that you have tonight, why should we do this? Is this a pro-consumer bill or is this an anti-consumer bill? Is it pro-choice or not pro-choice? The answer is that it is pro-consumer and it is pro-choice.

You heard someone say tonight that it is an

anti-consumer bill. If you live in the northern part of the state (I have been told) it would be a problem for accessibility because you would have to travel a long time to find somebody to be able to get an annuity. The other thing I have been told about is the cost of an annuity. If you look around, how many people own an annuity, (I would ask you to raise your hands but I know that is not protocol)? With this, it will lower the cost so that everyone could afford an annuity. It would be a freedom of choice to be able to get that in many different places. I always thought that competition was the way to lower the cost of something.

I voted for the interstate banking and I don't think that that was a bad thing for the State of Maine, by the way. It helped bring in new revenue to this state when it actually needed it.

Let's take a look at the industry. When I heard someone say that the banking industry is not in good shape, how about the insurance industry? If you look around, many of them are not doing very well. As a matter of fact, we have had quite a few insolvencies. When they say that the banking is not strong, well, California for example, a \$500 billion agency has been taken over by the federal government, do you call that a very strong insurance company? So, if we are going to look at this we are going to look at it both ways, is the banking industry strong? I think it is now. I think we have done a lot to strengthen that and there will be many more federal regulations that will support this. Examples, the banks by-products from the insurance agency, this allows banks to compete on an equal footing. Insurance companies can sell (right now) checking accounts, mortgages, and CD's. Why should they be able to do that and not the banks?

I also checked with the problem of coercion. We hear this a lot, that this will certainly force people to be in some form of coercion and that they will not be able to get their loans or their mortgages or whatever. Well, there is a thing called Regulation T. I talked with the AG and the attorneys here and they tell me that this will protect consumers by Regulation T.

There continues to be little or no evidence that coercion exists anymore when banks sell insurance. Availability, there will be a lot more availability.

As you heard also, ladies and gentlemen, that there will be no one selling this in a bank that is not a licensed person. So, if that makes you feel uncomfortable for banks to be able to do that, it will certainly make you feel a lot safer knowing that this person has the capabilities and the license to sell it.

Basically, those are the reasons why, as I said, I was probably one of the longest holdouts because I really didn't feel that this was a good thing to do. I voted against it and fought against it for many, many years. For the first time, they have truly convinced me that it is time to change. The economy of this state needs to have a boost and maybe this is another way that we can help boost the banking and the insurance industry. I hope you will vote against the motion to indefinitely postpone.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: I find the use of the word

"choice" intriguing in the context of the discussion. The bill, by its sponsors definition, limits the annuities involved to only insurance companies. Annuities and variable annuities are offered by a variety of investment agencies in our society. They are investments, there are risks involved. Because there are risks involved in those investments, let's look at the perspective on choice. Many people have made reference to the scandal surrounding the S&L process but in particularly the Lincoln Savings crisis in the west part of this country. There are two tragedies and one, of course, is the general burden that will be carried for generations in America because of the mismanagement of funds and the treatment of the FDIC or FSLIC guarantee and protection insurance policy as a carte blanche for wild investment perspectives. That is a burden that will be carried for many generations. There was another little tragedy in that — I recall the lady sitting at the hearing, an elderly lady who went into a bank and expected to buy something that was secure. She made the choice because there was an insignia on the door and because she had a feeling that there was a protection that came with going into that institution. What happened when she went into that institution is she bought some kind of bond that was being offered in that place and that bond (as we all know or if we followed the news) turned out to be worthless later on. It was related to one of Keating's investments. The issue for this woman was choice by what she was trying to do. She depended on predictability, she depended on the notion of a bank being the most secure environment. She was not interested in investments or presumably not interested in investments that had risks. God forbid, she wasn't interested in speculation in which she could lose it all. She was interested in security.

An annuity is an investment. We need to help clarify the issue of choice that is made everyday by Mainers as they approach financial institutions in our society. We need to give them some stability and predictability and, despite all the discussions of who owns what and how those institutions play out in the financial worlds of New York and other environments, for all practical purposes for Mainers when they enter into institutions, they are making a choice about the nature of the investment or how they are going to put their money, their security, to work and what they are going to do about return and risk and those kinds of things. We have to help maintain that kind of security, particularly in an environment where it is very clear that, if we do not maintain that kind of integrity, the situation comes unraveled and we have seen what has happened in the last ten years.

The hour is late, I don't want to go on with a long personal anecdote but the reality is that we must, as a legislative body protecting Mainers who are very much focused on their financial security and make choices, we have to assist them with reliability and stability. I urge you to support the motion to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to oppose the motion to indefinitely postpone this bill and, indeed, join with us in engrossing this bill,

hopefully, momentarily.

I have to admit that I enjoyed hearing the comments of Representative Richardson although some of his comments have been lost on me. They are factual to some extent but they don't deal with the specifics of this bill. I have enjoyed the dynamics of this entire bill. It has been the subject of a great deal of interest. In the halls, for those of you who enjoy the different colored buttons and various attacks by interested parties, I have enjoyed the dynamics. Those people interested in and who may have a close relationship with insurance agents view this as the way to get the insurance agents. Those who have a close relationship with the banks view this as vice versa to some extent. There is another group of people who would like to see this bill amended so it could get both the insurance industry and the banks, somehow, for whatever reason.

My involvement in this legislation, quite frankly, began when I first became a member of this legislature. I was a member of the Joint Standing Committee on Business Legislation and, at that time, we dealt with banking and insurance pieces of legislation. Even at that time, it was a changing world, a changing financial world. In the lines and the clear distinction of what was banking and what was insurance were becoming very, very blurred and, in fact, becoming dissolved. These retailers and these corporate service corporations began offering both insurance and banking products.

One of the items that we are discussing tonight and the bill is fairly straightforward — it is whether or not we believe that banks and credit unions should be in a position to sell annuities to their customers. There has been some discussion this evening as to what annuities are and I think everybody has a basic understanding of what an annuity is. Probably the more difficult thing is whether we believe annuities are insurance products or whether we believe they are financial or banking products. For me, it is very easy, I have always viewed them as banking products or a financial product versus an insurance product. It was just a year or so ago, February 12, 1990, that the Office of the United States Controller of the Currency expanded the authority of national banks to, indeed, offer annuities. According to the Controller at that time, "The brokerage of fixed annuities is a permissible activity under the National Bank Act since financial annuities are properly characterized as financial instruments, not insurance." As you know, consumers use the proceeds from annuities for a variety of purposes, from putting money away for their kids' education to providing for a secure retirement for themselves.

As you may know, the McCarron-Ferguson Act on the federal level delegates the regulation of insurance back to the states. In the existing system, it allows each state to regulate the insurance industry within the borders so each state can tailor its regulation of insurance companies to best address its specific needs and concerns.

One of the arguments that has been brought up here tonight is somehow we are pitting these giant banks against these small independent insurance agents. I firmly believe that insurance companies and banks can compete with each other, just as large insurance companies and small insurance agents have competed against each other for years and years and years. However, what's wrong with a little

competition? Isn't that what free enterprise is all about? Isn't that what free choice is all about? Why are the insurance companies who have asked for less regulation in some areas and increased competition in other areas are now afraid of a little competition in this area? Keep in mind, ladies and gentlemen, that the insurance industry in this state and across the nation is exempted from many provisions of the Federal Anti-trust Law. As a result, insurance companies are able to act in ways that are denied other firms because of these anti-trust laws. To some extent, the insurance companies and the insurance industry is also protected from public scrutiny with regards to certain types of cost information or fees.

While banks and credit unions are required to disclose certain types of information, including fees to the public, insurance companies are not required to a great extent to disclose the same information.

One of the arguments we have heard tonight is, "Why can't banks just do banking?" To some extent, I tend to agree with that. The question is, what is banking and what are bank products? As Representative Mitchell has indicated, you used to go into your bank to get a car loan; now dealerships are doing financing.

It has been suggested that you used to be able to go to a bank and get your IRA; now insurance companies are offering IRA's. You used to go to a bank to get your checking account but now stockbrokers like Merrill Lynch or Charles Swab are offering checking accounts. You used to go to banks to get a VISA card or a Mastercard; now retailers like Sears are providing these to you or phone companies like AT&T are providing these types of services. For better or for worse, ours is a changing world and financial services are becoming more and more of a mixed bag.

As has been mentioned, at the present time, both banks, credit unions and insurance companies, insurance agents, are offering a wide range of very similar investment products. An example tonight that was given is the IRA but there is a difference. When an insurance IRA reaches the point where it has to be drawn out, the insurance agent may offer the customer an annuity as an investment option. However, when a bank IRA matures, the bank is limited in its availability of options to its customers. I would suggest that the same logic that says that an insurance agent ought to be able to offer an IRA to its customers and should be expanded to allow banks to offer annuities to their customers. Thirty-seven states across this country believe that that should be the case. We believe that is the case for Maine.

I understand the concern of many who are concerned about the banking industry and there is no question that the banking industry hasn't been immuned to the economy, they have made some bad judgment calls as have other businesses, as have other states, but that issue is a regulatory issue and hopefully one that is well on its way to being corrected. I hope we wouldn't confuse that issue with the issue of banks selling annuities because I don't perceive the selling of annuities to be a risk-related type of business. Annuities are prepared and filed by insurance companies under the jurisdiction of the Bureau of Insurance and I think the oversight is ample and sufficient.

Finally, this legislation allows banks and credit unions to sell annuities but does not break any new

ground. It does not allow Maine banks increased powers compared to other states because, as you have heard tonight, most other states allow banks to sell annuities.

Much of the opposition to this change is traditional and historic. Insurance agents and many others simply want to continue doing business as business has always been done. I think the choices this evening are very simple. We can choose to do business as business has always been done for the benefit of insurance agents or we can choose increased competition for the benefit of all Maine people. I, for one, would hope that you would choose the latter. I would urge you to oppose the motion to indefinitely postpone so we can then, indeed, engross this bill.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: When I was approached by the sponsor of this legislation, Representative Gwadosky, to be a cosponsor, I was very pleased.

At this time, I would like to address another issue and that is, this legislation would be beneficial to Maine's older population. During our lifetime, we develop a financial relationship with one or more financial institutions. Deciding to put one's savings into an annuity or any investment is a major decision. Throughout most of our lives, financial institutions have played an important role in making financial decisions.

This bill would allow all citizens a choice of continuing their long-standing relationships with their financial institutions.

Today, because of our laws, Maine citizens must go outside their financial institutions to seek advice from persons with whom many have never had either a business or financial relationship. I believe that when you are dealing with a serious decision of financial security that our Maine citizens should be afforded the opportunity to continue to deal with their financial institution.

On a personal note, I would like to mention that the first IRA I purchased, I purchased from an insurance agent. At the end of the year, the \$1,000 IRA was worth approximately \$700. I immediately run to the bank the next year to purchase my IRA and have done so for many, many years. My bank was finally able to purchase that IRA from the insurance company. When I buy an IRA at the bank for a \$1,000 or \$2,000, that is exactly what it is worth, just what I paid for it. So, I am one of those senior citizens that will be facing that decision to turn those IRA's into an annuity or rollover and I would like to be able to do it with the same bank that I have been associated with for so many years.

I urge you to defeat the motion.

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

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: When we heard this bill in Banking and Insurance, there were many of us who clearly had no opinion as to which way to vote when we first read the L.D. but in reviewing it all, the only thing that came down clear and hard in my mind was the fact that we have blurred institutions. We have institutions who are struggling to capture a market, we have institutions which are trying to dig their way out of a hole any way that they can. I find it very hard to change the rules under this

market condition. It may very well be appropriate in the year 2,000 or 2,050, things are going to be totally different in this financial world but as of right now, in 1991, we have industries which have established lines, we have lived with them for years and I don't think Maine should be the incubator. Contrary to the number of states which you say these annuities are being sold in, in fact there are only six states that I could find that actually allow the sale currently of these annuities. The whole issue is under debate in Congress, it is going to be decided on levels much higher than we and I suggest that we hold the status quo and not become the laboratory of these changes, not in these troubled times.

I would ask the Clerk through the Chair if he would read the Committee Report, please?

Subsequently, the Clerk read the Committee Report in its entirety.

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

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: As a signer of the Majority "Ought Not to Pass" Report, I see this as a David and Goliath battle, the big kids against the little kids. We need to ask ourselves prior to voting, what was the last good idea that the banks had? Was it deregulation? Or in our state, was it interstate banking, which was terrific, it was wonderful during the boom years but what about now?

The banks came to the Banking and Insurance Committee and asked permission to have automatic teller machines because we were told at that time that the automatic teller machine would, in fact, be a money saver and a personnel saver. For one year, perhaps, there was no charge but today, if you use your ATM, there are several charges and there are charges for different transactions. There has been no evidence presented to the Banking and Insurance Committee as we deliberated and agonized over this issue that insurance would be less expensive.

To me, this is *deja vu*. In 1982 and 1983, we heard many of the same arguments, when the banks were asking for interstate banking permission. Today, we are only talking about annuities — what about tomorrow? We have two separate industries here and each are regulated by two different bureaus within the Department of Professional Regulation.

We talk about choice — agents help us with those choices. We talk about providing services for elderly — agents have become the trusted friend of the elderly and that is the way it should continue.

One more analogy, years ago, you could go to Tony's Pizza and buy your pizza, you could go to Sam's Pizza down in South Portland and buy a pizza but then, all of a sudden, somebody decided to have this large company called Pizza Hut or Dominoes Pizza — has that made pizza any less expensive? No. Is it any better? No. I urge you to support the motion to indefinitely postpone this bill.

I know that you have heard a lot of technical issues here tonight but I do want to make it clear what annuities are. Annuities are based on actuarial mortality and survivor assumption. Bank investments are not. Annuities operate through the law of large numbers and pooling of risks. Bank investment products do not. Annuities can allow an annuitant to outlive the value of the original investment and payments still continue until death. Banking products do not.

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

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for speaking a second time on this issue but the question has legitimately been asked to me, what does make the banks the bill makes the bank the sales agent, where is the risk? The fact is that some insurance companies and their annuities have gone belly-up and if the real estate recession continues in the United States, a lot more insurance companies and their annuities will go belly-up. My point is that we should not put that kind of investment with any risk in an institution whose primary reputation in the community stems from a symbol on the door that gives an absolute federal guarantee of \$100,000 per deposit. That is why there is risk involved, that is why the issue is important. It is not from the point of view of insurance agents, not from the point of view of bankers, it is from the point of view of the small invested person desiring security.

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 Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Men and Women of the House: We have battered around and you have been battered in the halls along this issue but before you cast your vote today, please think long and hard. Our Maine banks are solid, they have done a good job. When an out-of-state bank went under, its branches in Maine were swooped up real quick by another bank because they knew what kind of management and what kind of institution they were.

Going off on the good Representative from Portland's statements — yes, banks have the reputation of being financially secure. Someone has a good feeling in there and I think that is all the more reason to let these banks do the annuities.

In the Committee Amendment, we did address the fact that if banks do want to get into annuities, they have to have someone, a licensed agent, do it. We made no differences on the test, it is the same test that any agent has to take. The only difference is that we are limiting the banks to the sale of annuities.

You heard about the S&L going under — well, now you are going to hear about insolvencies in the insurance industry also. I don't think we can tie those into what is going on here. I think the point is actually irrelevant.

The Maine banks came to us as did the other banks, they know we can do a good job of it and I know the consumers will have competition out there that they now don't if we allow this to be engrossed.

Please defeat the motion so we can go on to engross the bill.

The SPEAKER: The pending question before the House is the motion of the Representative from Portland, Representative Rand, that L.D. 1375 and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the

Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, under Joint Rule 10 and House Rule 19, I request permission to be excused.

The SPEAKER: Pursuant to Joint Rule 10 and House Rule 19, the Chair will excuse the Representative from Winthrop, Representative Norton, from voting on L.D. 1375.

Pursuant to Joint Rule 10 and House Rule 19, the Chair will excuse himself from voting on this issue.

The pending question before the House is the motion of the Representative from Portland, Representative Rand, that L.D. 1375 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 77

YEA - Adams, Aikman, Anderson, Anthony, Ault, Bailey, R.; Barth, Bell, Bennett, Bowers, Butland, Carleton, Cashman, Cathcart, Chonko, Clark, M.; Cote, Daggett, DiPietro, Duplessis, Dutremble, L.; Farnsworth, Farnum, Farren, Foss, Garland, Gean, Goodridge, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Hepburn, Holt, Hussey, Jacques, Jalbert, Joseph, Kontos, Kutasi, LaPointe, Lawrence, Lebowitz, Lipman, Luther, MacBride, Macomber, Mahany, Manning, Marsh, Martin, H.; McHenry, McKeen, Merrill, Mitchell, J.; Murphy, O'Dea, O'Gara, Paradis, J.; Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Powers, Rand, Reed, G.; Richardson, Salisbury, Simonds, Simpson, Skoglund, Stevens, A.; Stevenson, Tammara, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, Whitcomb.

NAY - Aliberti, Bailey, H.; Boutilier, Cahill, M.; Carroll, D.; Carroll, J.; Clark, H.; Coles, Constantine, Crowley, Dore, Duffy, Erwin, Gray, Heino, Hichborn, Hogle, Kerr, Ketover, Ketterer, Kilkelly, Larrivee, Lemke, Libby, Look, Lord, Mayo, Melendy, Michaud, Mitchell, E.; Morrison, Nadeau, Nash, Nutting, Oliver, Ott, Paradis, P.; Pfeiffer, Pineau, Poulin, Pouliot, Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Savage, Sheltra, Small, Spear, Stevens, P.; Swazey, Tardy, Townsend.

ABSENT - Donnelly, Hichens, Marsano, Strout.

EXCUSED - Norton, The Speaker.

Yes, 89; No, 56; Absent, 4; Paired, 0; Excused, 2.

89 having voted in the affirmative and 56 in the negative with 4 being absent and 2 excused, L.D. 1375 and all its accompanying papers were indefinitely postponed.

Representative Cashman of Old Town, having voted on the prevailing side, moved that the House reconsider its action whereby L.D. 1375 and all its accompanying papers were indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Actually, I hope you vote with the Representative from Old Town, Representative Cashman, because I think he is right, he has seen the error of his ways and he is ready to reconsider this important bill for all Maine people.

For those of you who aren't aware of what is going on, Representative Cashman is about engage in a parliamentary procedure that could be quite successful before the night is out in his attempt to disallow anyone the opportunity to reconsider this

bill at a later time. I think his motion is an appropriate motion; however, the evening is getting late, it is going to get later, and I would more than happy to debate this until the crows come home, if the crows do come home anymore. I was thinking of Old Town crows. I suspect that there are some who don't want to debate this that long so I think this is an important bill, it is a major change and if there is a member of this body who would be willing to table this bill for one legislative day, we can all renew our efforts when we are fresh and I hope somebody would be willing to do that.

Representative Mayo of Thomaston moved that this item be tabled one legislative day.

Representative Garland of Bangor requested a Division.

The SPEAKER: The pending question before the House is the motion of Representative Mayo of Thomaston that this be tabled one legislative day. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Mayo of Thomaston requested a roll call.

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 Mayo of Thomaston that this item be tabled one legislative day pending the motion of Representative Cashman of Old Town that the House reconsider its action whereby L.D. 1375 and all accompanying papers were indefinitely postponed.

Pursuant to House Rule 19 and Joint Rule 10, Representative Norton of Winthrop was excused from voting.

The SPEAKER: The pending question before the House is the motion of Representative Mayo of Thomaston that this item be tabled one legislative day pending the motion of Representative Cashman of Old Town that the House reconsider its action whereby L.D. 1375 and all accompanying papers were indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 78

YEA - Aliberti, Anthony, Bailey, H.; Bennett, Boutilier, Cahill, M.; Carroll, D.; Clark, H.; Coles, Constantine, Crowley, Daggett, Dore, Erwin, Goodridge, Gould, R. A.; Gray, Gurney, Gwadosky, Handy, Hichborn, Hogle, Holt, Hussey, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lord, Mahany, Manning, Mayo, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nutting, Oliver, Ott, Paradis, P.; Pfeiffer, Pineau, Poulin, Pouliot, Powers, Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Simpson, Skoglund, Spear, Stevens, P.; Swazey, Tardy, Townsend.

NAY - Adams, Aikman, Anderson, Ault, Bailey, R.; Barth, Bell, Bowers, Butland, Carleton, Carroll, J.; Cashman, Cathcart, Chonko, Clark, M.; Cote, DiPietro,

Duffy, Duplessis, Dutremble, L.; Farnsworth, Farnum, Farren, Foss, Garland, Gean, Graham, Greenlaw, Hale, Hanley, Hastings, Heeschen, Heino, Hepburn, Jacques, Kutasi, LaPointe, Lebowitz, Libby, Lipman, Look, Luther, MacBride, Macomber, Marsh, Martin, H.; McHenry, McKeen, Merrill, Murphy, Nash, O'Dea, O'Gara, Paradis, J.; Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Rand, Reed, G.; Richardson, Salisbury, Savage, Sheltra, Small, Stevens, A.; Stevenson, Tamaro, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, Whitcomb.

ABSENT - Donnelly, Hichens, Marsano, Strout, The Speaker.

EXCUSED - Norton.

Yes, 68; No, 77; Absent, 5; Paired, 0; Excused, 1.

68 having voted in the affirmative and 77 in the negative with 5 being absent and 1 excused, the motion did not prevail.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Men and Women of the House: I had hoped that we would have had the opportunity to table that. We do table bills for members of this body on a daily basis. I probably table the largest number of bills on behalf of members of my caucus on a regular basis than anyone else and I had hoped that we would have had the courtesy to table that to give us an opportunity to make our case. Obviously, that is not the case and so now we are forced with a do or die vote at this stage as to whether we want to reconsider this bill or not. I would hope that the members would reconsider this bill because, from my perspective, I did not hear any compelling reason for the members of this body not to adopt this change.

This is a trend that we have seen in the financial community and, as I said earlier, for as long as I have been a member of the legislature. There has never been nor will there ever be a clear, precise line as to what is a banking product and what is an insurance product. I know that there is a great fear out there about banks. I know that there is a lot of anger and frustration out there about banks and what banks do and I share that frustration. I shared that frustration recently. My uncle worked for Maine Savings Bank for 28 years and when they merged, he was out of a job in three days. I don't have any special affinity towards banks but I divorced that issue for what I think is an appropriate policy for the State of Maine.

Thirty-seven states in this country allow banks to sell annuities. What is so special about an annuity that only an independent insurance agent can sell it? Some of my best friends are insurance agents, my campaign committee members are insurance agents — I know that it is hot down here, I am just hoping it is hot up there in the gallery as well. My campaign manager works for Metropolitan Life, we have had a lot of discussions as to whether or not annuities are insurance products or are they financial products or are they banking products?

My campaign manager came over to my house and said I want to talk to you and Cheryl about insurance. He came over to the house, sat down at our kitchen table, he had a little mini-computer and we were really settling in for a long night — and if you are like me, I had no interest in meeting with my constituent and my campaign manager at this time but

I did it out of friendship. I sat down with him and he began this pitch, we want to talk about investments. He said I want to talk about financial security. I want to talk about finance options. The first thing he offered me was an annuity. He described it as a financial option, an investment option. Frankly, I think he is right. I have always viewed these annuities as an investment option.

As we said, currently, banks and credit unions and insurance agents can offer a mixed bag of similar products. Banks can offer IRA's, insurance companies can offer IRA's. The distinction is, when you go to an insurance agent and it is time for that IRA to mature, the insurance agent can offer you an annuity. However, when your bank IRA matures, your banks in this state are prohibited from offering you an annuity. What we are talking about is choice. I believe the logic that allows insurance agents to sell IRA's should be expanded so that banks can sell annuities. 37 states in this country think that is fair, I think it is fair for Maine. The choice is yours.

I don't buy the issue that we are asking small independent insurance agents to compete against giant banks because I have heard that issue as a member of the Banking and Insurance Committee for years and years and years. I heard it when large bank issues came in and independent insurance agents told us, don't ask us to compete with the large insurance companies because we are independent agents, we can't possibly do it. Well, they did do it. They competed and things worked out well.

I honestly believe this is fair. I know others have a difference of opinion. If I didn't feel strongly about it, I certainly wouldn't get up after this House clearly made the statement that they don't think it is in the best interest perhaps right now. I certainly wouldn't have gotten up after they refused to table the bill for a day. Very frankly, I feel very good about the bill. I think it does offer consumers a choice and I would certainly hope you would vote to reconsider.

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

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

To Representative Gwadosky, if we vote to reconsider this, what posture would it be for having it tabled later on? Do we have to vote to reconsider it first?

The SPEAKER: Representative Clark of Millinocket has posed a question through the Chair to Representative Gwadosky of Fairfield who may respond if he so desires.

The Chair recognizes that Representative.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: The answer to that is that obviously members of this body would have to vote to reconsider before any tabling motion or any other action could possibly take place.

The SPEAKER: The pending question before the House is the motion of Representative Cashman of Old Town that the House reconsider its action whereby L.D. 1375 and all accompanying papers were indefinitely postponed.

Representative Norton of Winthrop was excused from voting pursuant to Joint Rule 10 and House Rule 19.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of

Representative Cashman of Old Town that the House reconsider its action whereby L.D. 1375 and all accompanying papers were indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

73 having voted in the affirmative and 66 in the negative, the motion to reconsider did prevail.

On motion of Representative Mayo of Thomaston, tabled pending the motion to indefinitely postpone and specially assigned for Thursday, May 23, 1991.

SECOND READER

(Indefinitely Postponed)

Bill "An Act to Require Establishments That Sell Alcohol to Post Health Messages Concerning the Misuse of Alcohol" (S.P. 234) (L.D. 625) (C. "A" S-158)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Simonds.

Representative SIMONDS: Mr. Speaker, Ladies and Gentlemen of the House: I move L.D. 625 and all accompanying papers be indefinitely postponed.

I do this somewhat reluctantly. I have great respect for my Chair and the members who voted with the Majority on this bill. However, in my opinion, it has flaws and I would like to put the problems before you before you vote on this measure.

The first problem I see is one of effectiveness. I rather doubt that signs are going to deter an individual who goes to buy liquor and was motivated to buy the liquor and I don't think the signs are going to make any difference at this point.

It was suggested that this measure is an educational tool when we debated this in committee. If it is an educational tool, I would suggest that the best place for education is in the office of the doctor and other health providers.

The second reason I urge you to vote against the bill is, a case simply has not been made. The relationship between moderate imbibing and fetal damage is very, very tenuous. I saw data submitted by a respected Chief of Medicine in a southern hospital who, according to their own statistics, found that fetal damage occurred in only three out of 100,000 cases. Of those three, it clearly involved mothers with alcoholism. In other words, severe abuse.

In my opinion, we would be equally justified to be posting signs on any number of other substances and foods that do equal damage, perhaps more damage than what is suggested here. Given this very weak and tenuous relationship, I had another concern. I sensed that perhaps we were going overboard in interfering in private lives. Since it was only a sensing and only a feeling, I really couldn't argue that effectively in the committee, but in a matter of days after we had worked the bill, I noticed an article in News Week Magazine entitled "The Pregnancy Police." The article warns us that there is a growing trend to interfere in the private lives of pregnant women and frequently without clear

justification. There is in this case, I think, insufficient justification for this measure.

I urge you to vote for the pending motion and I request a division.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I don't object so much to the health message that this L.D. would offer to the general public, however, I feel that that message is already being conveyed in other ways.

In reference to the danger with pregnancy, I feel that that message certainly can be given in the prenatal care arena. Also, there is a warning in regards to alcohol and pregnancy on the container of alcohol.

In reference to danger in driving, I feel that there is certainly an on-going, very active public awareness campaign already. I feel that that message is being relayed. As far as the warning taken with prescription medication, I feel that already whenever prescriptions are distributed and dispensed at the point of sale that there is always a warning that taken with alcohol there might be a problem. I feel that that area is being addressed.

In regards to the fact that it is unlawful to procure liquor under age 21, the problem is not necessarily people under age 21 are purchasing liquor, the problem is in procurement. I don't think that this will be an effective tool against that particular problem.

Retail stores, grocery stores, and liquor agencies are going to be asked to put a sign over each section where they sell malt liquor, wine and spirits, so that is three signs.

Establishments such as restaurants and lounges will have to put the sign under their liquor license. When you are in a restaurant or in a lounge, I don't think that the liquor license is very visible, so I really don't think that these people buying liquor on the premises are going to see this warning at all because it is going to be located under the liquor license and Lord knows where that is.

My bottom line, I guess, in sort of having a problem with the bill is that I feel the responsibility rests heavily on small businesses, that they will be penalized if the sign is missing. Granted, the first time they will get a warning but subsequent offenses will be a fine no less than \$50, no greater than \$200. I feel that for the small benefits that the public might get from these warnings, that it is a big headache for small businesses.

I ask your support to indefinitely postpone this bill.

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

Representative CLARK: Mr. Speaker, I request that the Clerk read the Committee Report, please?

Subsequently, the Committee Report was read by the Clerk in its entirety.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: As a cosponsor of the Majority "Ought to Pass" Report and also as a cosponsor of this Bill, I stand tonight to urge you to reject the pending motion.

You have heard several reasons why the maker of

the previous motion believes that this is not appropriate legislation. Let me suggest several reasons that it is. Absolutely, we cannot prove that every person who reads the sign will not engage in dangerous behavior. The fact is that we know that as people think about the effects of the misuse of alcohol that they may stop and think about it. That is increasingly true. That is why we are actually able to get drunk drivers off the road. It is because we talk about it, we put signs up, we put notices as you enter our toll ways saying that we have a tough drunk driving law. This bill is just an extension of that kind of warning to people, that to engage in illegal behavior around alcohol, that is buying it when they are too young or to misuse alcohol, in fact may have serious consequences, not only to themselves, but to someone else.

You heard tonight that one of the reasons we shouldn't support this bill is because we might not see the sign. I would suggest to you that the reason some people are opposing this bill is that you probably will see the sign. The bill actually specifies the size of the sign, where it needs to be placed so that we believe that it is of a size and type that people will read it.

Again, does that guarantee that no one will drink who shouldn't drink? Absolutely not. Is it worth it to think about the fact that we might save someone's life or we might keep them from engaging in illegal activity because we remind them of what our laws are and our beliefs are around the use of alcohol? I think not. So, I urge you again to vote against the pending motion.

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

Representative DORE: Mr. Speaker, I would like to pose a question through the Chair. If I could direct this question to Representative Clark — can she tell me of any other state in which this law is in effect?

The SPEAKER: Representative Dore of Auburn has posed a question through the Chair to Representative Clark of Brunswick who may respond if she so desires.

The Chair recognizes that Representative.

Representative CLARK: Mr. Speaker, Men and Women of the House: I do not know whether a law of this type has been passed. This is a prototype of the federal legislation which would require revolving signs whereas this sign has all five messages on it at once.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Simonds of Cape Elizabeth that L.D. 625 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Handy of Lewiston 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 Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I hate to add to this long evening.

Earlier today, the subcommittee on mental health spent a considerable amount of time dealing with the problems of the mentally retarded in this state. I honestly believe and I think members of my subcommittee believe that the budget the Department of Mental Health submitted dealing with the Division of Mental Retardation is probably short in the neighborhood of \$3 to \$5 million and that is just to get by in the next biennium. Now, what does that have to do with this particular piece of legislation? What it does is perhaps save some individuals in future years from being institutionalized either in a ICFMR which we have a cost today of \$65,000 a year or in institutions such as Pineland Institution, the Levinson Center in Bangor and places like that.

I know people have problems with signs but this is a year when we are going to be looking at a lot of different ways to cut down costs, do something that down the road will reduce the deficit that we are experiencing right now and this is one of the ways that that can happen.

You know, for those who haven't had to deal with those individuals who have children who are either mentally retarded or children with special needs, you ought to spend some time with them, then you would understand some of their problems. I am not saying that all those parents who deal with us have gone out and drank during the wife's pregnancy but there are some women out there, ladies and gentlemen, who have done that in the past and, unfortunately, we as society, because of not having legislation like this on the books, have had people who just don't understand the problems between drinking when you are pregnant or what it causes down the road.

Before you vote tonight to indefinitely postpone this bill, I want you to think about — if you have never been to Pineland or if you have never been to those ICFMR's — think about those individuals who are either there now or those individuals who will be there in the future — if we could save just one individual, one individual, who could be healthy, wealthy, and wise and maybe someday be a state legislator instead of being institutionalized for the rest of their life. I think that is what concerns the majority of this committee and that is trying to deal with those individuals who don't realize there is a danger out there and go out and drink while they are pregnant. Consequently, the child is born deformed or mentally retarded. We, as a society in this state, (thank God we do it because we know there are many civilizations that don't do it) take great pride in trying to deal with our mentally retarded and we are having a tough time dealing with it this year. If, down the road, we could save somebody from that real horror, I think it is well worth trying to deal with this.

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

Representative GEAN: Mr. Speaker, Men and Women of the House: I would also like to urge you to oppose this motion based on the fact that in our society signs do work.

The good Representative from Cape Elizabeth has proven that point in his deliberations by pointing out that signs do not work. He quoted to you precisely the article title that he then went on to

talk about. The magazine article title was "Pregnancy Police." Signs in our society abound, they do work. There are signs that indicate the amount of MSG in the food on the menu. There are signs that indicate the amount of salt in all of the food products, the cholesterol, signs that tell you to buckle up, slow down, signs work because signs in our society are merely a reflection of those policies by which our society governs itself. If we say over and over and over and over again a message long enough, eventually people will start to respond to that social policy as witnessed by the decline in smoking in this country which is now down to about 30 percent of the adult population, following some 20 years ago the putting of signs on tobacco products.

The suggestion that all we really need to do about alcoholism in our society is go to our doctor was given up as a farce some twenty years ago when we found out that the incidence of alcoholism in physicians exceeds that of the rest of our population.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: I hadn't expected to speak on this issue except that I think there are some misconceptions out there on the part of some members of the Human Resources Committee. I am going to ask you to support the motion that is before you.

Last summer, unfortunately, my wife and I had the misfortune of her having a miscarriage. The good news is that there is nothing permanently wrong or anything like that so we are free to try again without any unusual methods being brought in. When she figured out that she thought she was pregnant, she immediately stopped any consumption of alcohol and neither of us have ever smoked. When she went to the doctor, he recommended that she not smoke or be around a lot of smoke and that she not drink. He also recommended that she not use certain patent medicines, that she not handle kitty litter and I think there were three or four other precautions that she should have taken too. I don't know as we post any signs near the kitty litter at the IGA.

It seems that we want to make ourselves feel good so we tell stores to put up signs. We already put up a number of signs that this legislature has required us to put up and there are so many of those signs that people don't pay attention to them. I know about these signs because I am a former owner of a convenience store that sells alcohol. My brother still owns that store and we don't need any more stuff sticking up on the walls because people ignore it as it is.

I have an uncle who is an alcoholic. When we got married three years ago, on our way to our honeymoon, we stopped off at the Kelley Wing at Eastern Maine Medical Center to visit with him because he was drying out and getting cured of alcoholism and he couldn't make it to our wedding and reception. He would stand here, if he were here today, sober for three years, and tell you that a sign never would have made a bit of difference to him. If you really want to deal with alcoholism, you do it through a system of education. To my mind, posting a sign in a store is not a system of education. If people really wanted to do something about alcohol consumption in the State of Maine, they would put their money where their mouth is, put a bill in with funding to do more education in the schools and do some outreach.

People are going to drink, they are well aware

already that it is not safe to drink while you are pregnant. They know they are not supposed to drink while they are driving and this is an unnecessary burden upon storeowners to have to maintain this under threat of some penalty if it is not up there.

I urge you to support the motion that is on the floor.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Simonds of Cape Elizabeth that L.D. 625 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 79

YEA - Aikman, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Bennett, Boutilier, Bowers, Butland, Carleton, Carroll, J.; Cashman, Chonko, Clark, H.; Constantine, Cote, Crowley, DiPietro, Dore, Dutremble, L.; Farren, Foss, Garland, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hanley, Hastings, Heesch, Heino, Hepburn, Hichborn, Hognlund, Holt, Hussey, Jacques, Jalbert, Kerr, Ketterer, Ketterer, Kontos, Kutasi, Larrivee, Lebowitz, Libby, Lipman, Look, Lord, Macomber, Mahany, Marsh, Martin, H.; McHenry, Merrill, Michaud, Mitchell, E.; Nadeau, Nash, Norton, O'Dea, O'Gara, Ott, Paradis, P.; Parent, Paul, Pendexter, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Small, Spear, Stevens, A.; Stevenson, Swazey, Tammaro, Tardy, Townsend, Tracy, Vigue, Waterman, Whitcomb.

NAY - Adams, Aliberti, Barth, Cahill, M.; Carroll, D.; Cathcart, Clark, M.; Coles, Daggett, Duffy, Duplessis, Erwin, Farnsworth, Farnum, Gean, Goodridge, Handy, Joseph, Kilkelly, Lawrence, Lemke, Luther, MacBride, Manning, Mayo, Melendy, Mitchell, J.; Morrison, Murphy, Nutting, Oliver, Paradis, J.; Pendleton, Pines, Powers, Richardson, Rydell, Simpson, Skoglund, Stevens, P.; Treat, Tupper, Wentworth.

ABSENT - Bell, Donnelly, Hale, Hichens, LaPointe, Marsano, McKeen, Strout, The Speaker.

Yes, 99; No, 43; Absent, 9; Paired, 0; Excused, 0.

99 having voted in the affirmative and 43 in the negative with 9 being absent, the motion to indefinitely postpone did prevail. Sent up for concurrence.

By unanimous consent, all reference matters requiring Senate concurrence were ordered sent forthwith to the Senate.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Prevent Striking Workers from Being Permanently Replaced by Strikebreakers" (H.P. 615) (L.D. 875) (C. "A" H-324)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Representative Whitcomb of Waldo requested a Division.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against this bill. This bill will disrupt the delicate balance that exists in labor relations. Over the past 60 years, we have operated under a national labor policy which has served labor, management and the economy very well. It has done so because it confers equal economic power on both sides during a labor dispute. Labor withholds its services; management replaces those who do. Through that balance, most labor disputes are resolved without strikes or disruption. This bill will disrupt that balance by giving unions little incentive to avoid a strike. As such, it will encourage strikes and the economic disruption they will entail. This is so because it will make it difficult, if not impossible, for many employers to continue operations during a strike.

Under federal law, employers have every right, recognized by both Congress and the U.S. Supreme Court, to hire temporary or permanent replacements during a strike. That law makes no distinction between hiring replacements or replace strikers on contracting for their services formerly performed by them. There can be little doubt that this proposal is preempted by federal law and, therefore, unconstitutional. Our State Supreme Court, in fact, ruled a similar proposal unconstitutional only two years ago. This bill ignores that federally recognized right and its effects could cripple the ability of a struck company to survive. If a company loses 500 or 1,000 employees during a strike, it simply can't operate without resorting to outside resources. This is particularly true for Maine-based companies with no out-of-state work force to draw upon or borrow during a strike.

In a real sense, this bill forecloses that option, that of necessity and puts management at a severe disadvantage, leaving little choice but to concede to union demands, however unreasonable or risking going out of business. The practical effects of this legislation also can be seen from another perspective. Consider a strike by skilled workers in a remote area of the state, often contracting for those same services on a temporary basis allows an employer to survive until the strike is settled.

If this law is enacted, what option will an employer have? Obviously, skilled workers will not be drawn to apply for work on a temporary replacement basis, uprooting their families with the promise of employment only until the strike is resolved. The employers only choice will be to hire and train permanent replacements and this bill will encourage just that.

Representative Tracy of Rome requested a roll call.

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 passage to be engrossed as amended. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 80

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hوجلund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsh, Merrill, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Donnelly, Hichens, Marsano, Morrison, Strout.

Yes, 97; No, 49; Absent, 5; Paired, 0; Excused, 0.

97 having voted in the affirmative and 49 in the negative with 5 being absent, the bill was passed to be engrossed as amended and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Concerning Unemployment Benefits During Lockouts" (H.P. 649) (L.D. 923) (C. "A" H-326)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Representative Whitcomb of Waldo requested a Division.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against this bill. This bill proposes to amend Section 1193, Subsection 4 of the Employment Security Law to allow payments of benefits to individuals unemployed due to a lockout. If enacted, this bill would disrupt the balance between management and labor and represent a potential drain on the Unemployment Insurance Trust Fund. Allowing payments of benefits during lockouts would remove Maine's unemployment system in its current position of neutrality to a position of favoring labor.

The U.S. Supreme Court ruled as early as 1965

that lockouts are not unfair labor practices. The Court reasoned that if employees can withhold their services in support of bargaining positions, employers could hold employment; in other words, the employees right to strike is balanced by the employers right to lockout.

The Unemployment Fund is supported by all employers in the state to guarantee that a fund exists through economic downturns. Should this bill pass, it changes the position completely because it allows people who are locked out, due to a labor dispute, to collect unemployment. I ask you to think carefully on this before you support this bill because it certainly tilts the table. This does not create a level playing field.

Representative Tracy of Rome requested a roll call.

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 Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: Just for the record, I am not going to get into any great debate tonight because it is not going to change any votes on this issue.

I do think that a couple of things that have been said should be corrected in the Record. First of all, the debate here tonight is not on whether or not it is legal to have a lockout or not have a lockout. The issue itself is fairness, simple justice. The unemployment laws of this state clearly say that, if you have lost your job through no fault of your own and that loss is temporary, you should have the right to unemployment to help you through until you find a job. When you lose your job because somebody has locked you out of that job, I suggest to you that you have lost it through no fault of your own. You did not vote to go on strike but, because they lock that plant down or that industry or whatever it is, you have lost your job through no fault of your own. This bill attempts to address that.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I, too, will not delay us very long but I would just like to point out that lockouts are very rarely in the best interest of employers and it is with great reluctance that they resort to this. Replacing workers is difficult and obviously businesses are in business to keep their operations going, that is the way they make their living.

This bill, if it is passed, will send a very bad message along with many others that this legislature intends to send to those in our state who seek to make a living by providing a living for others. I encourage you to vote against this motion.

The SPEAKER: The pending question before the House is passage to be engrossed as amended. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 81

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Swazey, Tamaro, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; DiPietro, Duplessis, Farren, Foss, Garland, Hanley, Hastings, Heino, Hepburn, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsh, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tardy, Tupper, Whitcomb.

ABSENT - Donnelly, Greenlaw, Hichens, Marsano, Merrill, Strout.

Yes, 97; No, 48; Absent, 6; Paired, 0; Excused, 0.

97 having voted in the affirmative and 48 in the negative with 6 being absent, the bill was passed to be engrossed as amended and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Establish a Harbor Management Fund and Deal with Abandoned Watercraft" (H.P. 441) (L.D. 624) (H. "A" H-372 to C. "A" H-330)

Was reported by the Committee on Bills in the Second Reading, read the second time, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act to Extend the Period of Time to Allow Certain School Secretaries to Elect Not to Be Members of the Maine State Retirement System (S.P. 487) (L.D. 1325)

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. 124 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Emergency Measure

(Reconsidered)

An Act to Amend the Charter of the Gray Water District (H.P. 976) (L.D. 1419) (C. "A" H-260)

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

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby L.D. 1419 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-260) was adopted.

The same Representative offered House Amendment "A" (H-419) to Committee Amendment "A" (H-260) and moved its adoption.

House Amendment "A" (H-419) to Committee Amendment "A" (H-260) was read by the Clerk and adopted.

Committee Amendment "A" (H-260) as amended by House Amendment "A" (H-419) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-260) as amended by House Amendment "A" (H-419) thereto in non-concurrence and sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act to Appropriate Funds for the Save Loring Committee (H.P. 1239) (L.D. 1805)

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. 117 voted in favor of the same and 17 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act Amending the Primary Election Law Requiring a Minimum Number of Votes (S.P. 197) (L.D. 506) (C. "A" S-136)

An Act to Clarify the Legislature's Intent Regarding Quitclaim Deeds (S.P. 223) (L.D. 550) (C. "A" S-133)

An Act to Require the State to Pay Municipal Permit Fees for New Construction or Improvements to State-owned Buildings (S.P. 226) (L.D. 580) (C. "A" S-117)

An Act to Provide Public Access One Weekend a

Month to the Veterans' Memorial Cemetery (S.P. 334) (L.D. 909) (C. "A" S-138)

An Act to Amend the Maine Court Facilities Authority (S.P. 358) (L.D. 960) (C. "A" S-134)

An Act to Provide Funding to Offset Rising Costs and Decreasing Federal Revenues for Public Transportation in the State (S.P. 364) (L.D. 966) (C. "A" S-139)

An Act Regarding the Issuance of Identification Cards (S.P. 452) (L.D. 1228) (H. "A" H-293)

An Act to Clarify Requirements for Disclosure of Confidential Client Information Held by Mental Health Service Providers (S.P. 476) (L.D. 1268) (C. "A" S-135)

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.

ENACTOR

Tabled and Assigned

An Act to Enhance the Filing of Documents in the Registry of Deeds (H.P. 95) (L.D. 136) (H. "A" H-286 to C. "A" H-229)

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

On motion of Representative Joseph of Waterville, tabled pending passage to be enacted and specially assigned for Thursday, May 23, 1991.

ENACTOR

(Reconsidered)

An Act Concerning Overboard Discharge Inspection Fees (H.P. 299) (L.D. 420) (C. "A" H-256)

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

On motion of Representative Jacques of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 420 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-256) was adopted.

The same Representative offered House Amendment "A" (H-418) to Committee Amendment "A" (H-256) and moved its adoption.

House Amendment "A" (H-418) to Committee Amendment "A" (H-256) was read by the Clerk and adopted.

Committee Amendment "A" (H-256) as amended by House Amendment "A" (H-418) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-256) as amended by House

Amendment "A" (H-418) thereto in non-concurrence and sent up for concurrence.

PASSED TO BE ENACTED

An Act to Improve Energy Efficiency in Buildings (H.P. 561) (L.D. 804) (C. "A" H-218)

An Act Making Course Grades Awarded by Teachers Final (H.P. 671) (L.D. 970) (C. "A" H-244)

An Act to Amend the Charter of the Lubec Water and Electric District (H.P. 858) (L.D. 1224) (C. "A" H-250)

An Act to Prohibit the Breaking of Glass Products in Games of Skill (H.P. 880) (L.D. 1271) (H. "A" H-265 to C. "A" H-246)

An Act to Authorize Involvement of the Department of Human Services in Providing School-based Child Care (H.P. 959) (L.D. 1386) (C. "A" H-251)

An Act to Restrict Unsolicited Computer-generated or Automated Telephone Calls (H.P. 972) (L.D. 1413) (C. "A" H-261)

An Act to Require Electric Utilities to Develop Proposals for Affordable Pricing for Low-income Residential Customers and for Financing Conversions from Electric Space Heat (H.P. 983) (L.D. 1428) (C. "A" H-252)

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.

ENACTOR

(Indefinitely Postponed)

Resolve, Authorizing a Payment to Steven P. Smith and Ramona Smith of \$47,908.06 (S.P. 350) (L.D. 952) (C. "A" S-137)

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

Representative Anthony of South Portland moved that L.D. 952 and all accompanying papers be indefinitely postponed.

Representative Stevens of Sabattus requested a roll call.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: Here we go again. I thought we had thrashed this thing to death the other night. I was all worn out, I don't think I have anymore oratorical strength left in me.

Again I repeat, this is nothing but a question of fairness. I know my good colleague from South Portland will scream about the Statute of Limitations. One thing I should remind my good colleague about is, this is not a question of somebody owing some money or the state owes somebody

money. I repeat again, they paid the State of Maine (mistakenly) and later they found out they should have paid the State of New Hampshire. New Hampshire accepted the money, the State of Maine said that was the way to do it. The State of Maine said, we will pay you back the money that you erroneously paid to the State of Maine but we will only pay you the back three years of it. This is a question of having paid somebody twice, this isn't a question of you turning around and you should have collected before now. These people paid twice, they paid to the State of New Hampshire and paid to the State of Maine.

This is like saying that, if someone owes me \$200 and they pay me \$100, I give them a receipt, and the next time they come around, I say, have you got the receipt for the hundred that you claim that you paid me and they say, no, I lost it — well, the fact that you lost it, you can't prove that you paid me, therefore, you pay me again.

This is a question of fairness, double taxation. They paid the State of Maine and they paid the State of New Hampshire and they should be reimbursed.

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

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to journey through this again. The reality was that it was simply three years that they did receive the payments back. The two years beyond that, because of the Statute of Limitations, it can only be overcome in cases of fraud.

I want to talk straight about a couple of dynamics on this, that frankly were not brought out in either preceding debates. C.N. Brown was involved with the Smith family in the error that led to the double taxation and led to an error that went on for five years. It had to do with the licensing of the sales of petroleum products and it did have to do with double taxation. C.N. Brown's involvement in that led to the error. The decision was presumably made, and I don't know this for a fact and can only surmise, but the Smith's came to the State of Maine first for the three years and they got it because there was an error and it was corrected. Then they came back for two more years, the fourth year and the fifth year — but unless there is a case of fraud, Mainers don't go back beyond the three years. Now C.N. Brown made a mistake in their working with this company and the reality will be that if the Smith's don't get money for the fourth and fifth years from the State of Maine — you know where they are going to get it? Get a lawyer presumably, go to court and they are going to get it from C.N. Brown. My presumption is that, unless the Smith's are very generous folks, the problem with the error was the failure to follow the appropriate licensing mechanisms. It was not an issue of fraud, it was an issue of an error. The error was made and somehow that will be worked out in the legal process and that is what will be a part of a lawsuit if the State of Maine doesn't make good on what little people can get, which is refund the fourth and fifth year when there is no case of fraud and there is a case of error.

When I make a mistake, when you make a mistake, and I have done it on my own returns, I can sue myself, it doesn't matter — in this instance, it was a complex error between the Smith's and C.N. Brown and we know how that will be addressed. The State of

Maine cannot get into the business of going beyond three years in every error unless, of course, there is fraud, but there is no fraud here whatsoever. Frankly, I think it is inappropriate for the State of Maine to get in the business of making good of the error that will be appropriately addressed when the Smith's and C.N. Brown, whom I am sure are now good friends and will try to work it out as best they can, will address the problem of what happened in that fourth and fifth year. That was the reality that went on. We can't get into the business (as my good friend from Lisbon has pointed out) of trying to correct all the errors all the time. There was an error here and I think we have a clear choice and that is to maintain the integrity of our tax system and maintain the integrity of what is fairness from the State of Maine and to allow Mr. and Mrs. Smith to bring whatever they need to bring to address the error with the C.N. Brown Company.

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 South Portland, Representative Anthony, that L.D. 952 and all its accompanying papers be indefinitely postponed.

Representative Hastings of Fryeburg was excused from voting pursuant to House Rule 19 and Joint Rule 10.

The SPEAKER: The pending question before the House is the motion of the Representative from South Portland, Representative Anthony, that L.D. 952 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 82

YEA - Adams, Anthony, Ault, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Crowley, Daggett, Dore, Erwin, Farnsworth, Goodridge, Graham, Gray, Gurney, Gwadosky, Hale, Heeschen, Heino, Hoglelund, Holt, Joseph, Kerr, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lebowitz, Lemke, Luther, Manning, Marsh, Mayo, McKeen, Melendy, Merrill, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, O'Dea, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Poulin, Powers, Rand, Richardson, Rotondi, Rydell, Saint Onge, Salisbury, Savage, Simonds, Skoglund, Spear, Stevens, P.; Swazey, Townsend, Tracy, Treat, Vigue, Wentworth.

NAY - Aikman, Aliberti, Anderson, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Bowers, Carroll, J.; Cote, DiPietro, Duffy, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gean, Gould, R. A.; Greenlaw, Handy, Hanley, Hepburn, Hichborn, Hussey, Jacques, Jalbert, Ketover, Ketterer, Kutasi, Libby, Lipman, Look, Lord, MacBride, Macomber, Mahany, Martin, H.; McHenry, Morrison, Norton, Nutting, Ott, Paradis, J.; Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Ruhlin, Sheltra, Simpson, Small, Stevens, A.; Stevenson, Tammaro, Tupper, Waterman,

Whitcomb, The Speaker.

ABSENT - Donnelly, Hichens, Marsano, Strout, Tardy.

EXCUSED - Hastings.

Yes, 77; No, 68; Absent, 5; Paired, 0; Excused, 1.

77 having voted in the affirmative and 68 in the negative with 5 being absent and 1 excused, L.D. 952 and all accompanying papers were indefinitely postponed. Sent up for concurrence.

BILL HELD

An Act to Implement the Recommendations of the Travel Information Advisory Council Concerning Informational Signs (H.P. 86) (L.D. 121) (S. "A" S-58 and H. "F" H-247 to C. "A" H-72)

-In House, Bill and Accompanying Papers Indefinitely Postponed.

HELD at the Request of Representative GWADOSKY of Fairfield.

Representative Gwadosky of Fairfield, having voted on the prevailing side, moved that the House reconsider its action whereby L.D. 121 was indefinitely postponed.

On motion of the same Representative, tabled pending his motion to reconsider and specially assigned for Thursday, May 23, 1991.

(Off Record Remarks)

On motion of Representative Jalbert of Lisbon, Adjourned at 8:47 p.m. until Thursday, May 23, 1991, at three o'clock in the afternoon.