

MAINE STATE LEGISLATURE

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

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
26th Legislative Day
Monday, March 16, 1992

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

Prayer by Reverend Linda Campbell-Marshall, United Methodist Church, Brunswick.

Pledge of Allegiance.

The Journal of Thursday, March 12, 1992, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

March 12, 1992

The Honorable John L. Martin
Speaker of the House
115th Legislature
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Energy and Natural Resources, the Honorable Orland McPherson of Eliot for appointment to the Low-Level Radioactive Waste Authority.

The Honorable Orland McPherson is replacing Dan Callahan.

Sincerely,

S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act Regarding Industrial Electrical Rates" (EMERGENCY) (S.P. 936) (L.D. 2395)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed as amended by Senate Amendment "B" (S-621).

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

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

Senate Amendment "B" (S-621) was read by the Clerk and adopted.

Under further suspension of the rules, the bill was read a second time and passed to be engrossed as amended in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Establish a Public Solid Waste Facilities Loan and Grant Program" (S.P. 641) (L.D. 1689)

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

Non-Concurrent Matter

Bill "An Act to Clarify the Definition of Certain Vehicles for Insurance Purposes" (H.P. 1644) (L.D. 2307) which was passed to be engrossed as amended by Committee Amendment "A" (H-1070) as amended by House Amendment "A" (H-1088) thereto in the House on March 11, 1992.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-1070) as amended by House Amendment "A" (H-1088) and Senate Amendment "A" (S-623) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Concerning Tribal Courts" (H.P. 1494) (L.D. 2106) which was passed to be engrossed as amended by Committee Amendment "A" (H-1065) in the House on March 10, 1992.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-1065) as amended by Senate Amendment "A" (S-622) thereto in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication:

DEPARTMENT OF LABOR
Bureau of Labor Standards
State House Station #45
Augusta, Maine 04333

March 11, 1992

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

Dear Speaker Martin:

I am pleased to submit the third annual report on substance abuse testing in Maine, in accordance with 26 M.R.S.A. Section 690.

The report covers the calendar year 1991 which was the second full year under the law.

This report was prepared by the Department of Labor, with the assistance of Philip Haines, Ph.D., Director, Health and Environmental Testing Laboratory, Department of Human Services and Thomas Hughes, Employee Assistance Program Coordinator, Office of Substance Abuse. The Cooperative efforts of both Dr. Haines, Mr. Hughes and William Peabody, Deputy Director, Bureau of Labor Standards, goes a long way in explaining the process to-date in the successful implementation of the law.

If you have any questions or comments about this report, please do not hesitate to contact me at 624-6400.

Sincerely,

s/James H. McGowan
Director

Was read and with accompanying report ordered placed on file.

The following Communication:

DEPARTMENT OF LABOR
Bureau of Labor Standards
State House Station #45
Augusta, Maine 04333

March 13, 1992

The Hon. John L. Martin
Speaker of the House
State House Station #2
Augusta, Maine 04333

The Hon. Charles P. Pray
President of the Senate
State House Station #3
Augusta, Maine 04333

Dear Speaker Martin and President Pray:

I am pleased to submit, in accordance with M.R.S.A. Title 26, Section 1724, the annual report of the Maine Chemical Substance Identification Program.

The 1991 program year was most active. Program staff are to be commended on their efforts in maintaining a high standard of response to evolving needs.

Please do not hesitate to contact me directly with any questions or comments regarding this program or the report.

Sincerely,

s/James H. McGowan
Director

Was read and with accompanying report ordered placed on file.

The following Communication: (S.P. 952)

115TH MAINE LEGISLATURE

March 12, 1992

Senator N. Paul Gauvreau
Rep. Patrick E. Paradis
Chairpersons
Joint Standing Committee on Judiciary
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Paul L. Rudman of Bangor for appointment as Justice of the Maine Supreme Judicial Court.

Pursuant to the Constitution, Article V, Part I, Section 8, this nomination is currently pending before the Joint Standing Committee on Judiciary.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

The following Communication: (S.P. 953)

115TH MAINE LEGISLATURE

March 12, 1992

Senator N. Paul Gauvreau
Rep. Patrick E. Paradis
Chairpersons
Joint Standing Committee on Judiciary
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Paul L. Rudman of Bangor for appointment as Justice of the Maine Supreme Judicial Court.

Pursuant to the Constitution, Article V, Part I, Section 8, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

ORDERS

On motion of Representative HICHBORN of Howland, the following Order:

ORDERED, that Representative Rodney V. Bowers of Sherman be excused February 27 for the duration of his illness.

AND BE IT FURTHER ORDERED, that Representative Joseph G. Carleton, Jr., of Wells be excused March 9 for health reasons.

AND BE IT FURTHER ORDERED, that Representative B. Carolyn T. Mahany of Easton be excused March 9 for health reasons.

AND BE IT FURTHER ORDERED, that Representative George A. Townsend of Eastport be excused March 9 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Susan D. Duplessis of Old Town be excused March 9 and 10 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Carol A. Kontos of Windham be excused March 9 and 10 for legislative business.

AND BE IT FURTHER ORDERED, that Representative James O. Donnelly of Presque Isle be excused March 11 for health reasons.

AND BE IT FURTHER ORDERED, that Representative George J. Kerr of Old Orchard Beach be excused March 11 and 12 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Edward L. Pineau of Jay be excused March 11 and 19 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Richard P. Ruhlin of Brewer be excused March 16 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative MANNING from the Committee on Human Resources on Bill "An Act to Consolidate the 10 Existing Committees Dealing with Children and Families into the Maine Commission for Children and Families" (H.P. 1628) (L.D. 2291) reporting "Ought Not to Pass"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Amend the Maine Indian

Claims Settlement Laws to Clarify Land Use in Indian Territory" (H.P. 1061) (L.D. 1550) reporting "Ought Not to Pass"

Representative PARADIS from the Committee on Judiciary on Bill "An Act Regarding Parental Rights" (H.P. 1596) (L.D. 2258) reporting "Ought Not to Pass"

Representative OLIVER from the Committee on Education on Bill "An Act to Amend the School Finance Laws" (H.P. 754) (L.D. 1088) reporting "Ought Not to Pass"

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

Ought to Pass as Amended

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Amend the Laws Regarding Licensing of Gravel Pits" (H.P. 1459) (L.D. 2071) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1115)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-1115) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1115) and sent up for concurrence.

Ought to Pass as Amended

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Ensure That Funds Collected from Restitution and Fines Are Deposited in Interest-bearing Accounts" (H.P. 1536) (L.D. 2169) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1112)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-1112) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1112) and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 942) (L.D. 2405) Bill "An Act Authorizing the Town of Rockport to Refinance Certain Temporary Bond Anticipation Notes Issued for Its Wastewater Project" (EMERGENCY) Committee on State and Local Government reporting "Ought to Pass"

(H.P. 1706) (L.D. 2387) Bill "An Act to Encourage Expansion of Certain Residency Programs Related to Primary Care Physicians" Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1109)

(H.P. 1633) (L.D. 2297) Resolve, to Ensure Protection and Family Support for Maine's Children (EMERGENCY) Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1110)

(H.P. 1627) (L.D. 2290) Bill "An Act to Open State Government to Public View" Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1111)

(H.P. 1574) (L.D. 2221) Bill "An Act to Limit to the District Court the Authority to Issue Orders in Domestic Abuse Cases" (EMERGENCY) Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1113)

(H.P. 1556) (L.D. 2194) Bill "An Act to Clarify the Law Regarding the Power of Sale Foreclosure Laws" Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1114)

(H.P. 1416) (L.D. 2028) Bill "An Act to Clarify Municipal Approval of Payments of Public School Funds" Committee on **Education** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1116)

(H.P. 1537) (L.D. 2170) Bill "An Act to Clarify and Improve the Procedures of the Maine Health Care Finance Commission" Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1117)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Paper was passed to be engrossed in concurrence and the House Papers were passed to be engrossed as amended and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Ensure the Long-term Stability of Sheltered Group Homes in Maine" (EMERGENCY) (H.P. 1666) (L.D. 2342) (C. "A" H-1084)

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

ENACTOR

Later Today Assigned

An Act to Clarify Maine's Rent-to-own Laws (H.P. 1594) (L.D. 2248) (C. "A" H-1033)

Was reported by the Committee on **Engrossed**

Bills as truly and strictly engrossed.

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

PASSED TO BE ENACTED

An Act to Enforce Registration of Motor Vehicles (H.P. 1690) (L.D. 2370) (C. "A" H-1028)

Was 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

Later Today Assigned

An Act to Broaden Reporting of Persons Operating Vehicles under the Influence of Intoxicating Liquor or Drugs (H.P. 1691) (L.D. 2371)

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

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

ORDERS OF THE DAY

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, March 12, 1992 have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

An Act to Implement the Jobs Creation Bond Package (EMERGENCY) (H.P. 1708) (L.D. 2389) (S. "C" S-595)

TABLED - March 12, 1992 (Till Later Today) by Representative MAYO of Thomaston.
PENDING - Passage to be Enacted.

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

The Chair laid before the House the second item of Unfinished Business:

An Act Requiring the Provision of Information to Victims of Gross Sexual Assault (H.P. 359) (L.D. 513) (C. "A" H-963)

TABLED - March 12, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

Representative Anthony of South Portland requested a Division on enactment.

The SPEAKER: The Chair will order a vote. The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

90 having voted in the affirmative and 14 in the negative, the bill was passed to be enacted, signed by the Speaker, and sent to the Senate.

The Chair laid before the House the third item of Unfinished Business:

SENATE DIVIDED REPORT - Majority (12) "Ought to Pass" as amended by Committee Amendment "A" (S-614) - Minority (1) "Ought Not to Pass" - Committee on Human Resources on Bill "An Act Concerning Long-term Care Recipients" (S.P. 793) (L.D. 1992)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-614)

TABLED - March 12, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Either Report.

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

Committee Amendment "A" (S-614) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-614) in concurrence.

The Chair laid before the House the fourth item of Unfinished Business:

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-1106) - Minority (5) "Ought to Pass" as amended by Committee Amendment "B" (H-1107) - Committee on State and Local Government on Bill "An Act Concerning the Bureau of Intergovernmental Drug Enforcement" (EMERGENCY) (H.P. 1629) (L.D. 2292)

TABLED - March 12, 1992 (Till Later Today) by Representative JOSEPH of Waterville.

PENDING - Motion of same Representative to accept Majority "Ought to Pass" as amended by Committee Amendment "A" (H-1106) Report.

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

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: Today we will be talking about a piece of legislation that is truly a compromise. It is a compromise between the proponents, the opponents and the sponsors of the bill. That means that the Department of Public Safety, the Maine Police Chiefs Association, the Maine Sheriffs Association, the State Troopers Association, along with the sponsors to this piece of legislation, met for two full days to resolve their

differences on the interpretation of what this piece of legislation will do.

Today I believe we should frame this debate on the bill and what the bill does and the differences between the Majority and Minority Reports. This is not the time for BIDE bashing, this is not the time for horror stories but in fact dealing with drug enforcement. This is the time to give the people of the State of Maine a responsible, professional, and accountable drug enforcement agency. The perception of the people of Maine is that the current drug enforcement agency does not live up to those standards. Therefore, in this piece of legislation that was carefully crafted, in this piece of legislation that presents to you a very sensitive compromise, first of all, the Bureau of Intergovernmental Drug Enforcement will now become the Maine Drug Enforcement Agency. The policy board will now be an advisory board and the director of the Maine Drug Enforcement Agency will be confirmed by the legislature as is now true for the Chief of the Maine State Police.

We believe that this bill reflects what the legislative process is all about, bringing people together in a lengthy hearing, listening to their pleas for understanding about their points of view, asking those people to meet with one another and to come forward with a compromise that will enhance the accountability of drug enforcement in our state. That was our goal, we accomplished that goal and I ask you to support the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Men and Women of the House: I rise to give my version of what has transpired with the BIDE bill. It was before the State and Local Government Committee, it was a very interesting hearing and a very prominent hearing whereby there were many members from the police departments all over the state present for some to express their support, others to express their opposition to this bill.

From this hearing, those involved were asked to reach a compromise on the position so that this could come out with a very good piece of legislation, holding BIDE in place. The compromise was made with representations from all of the police levels of government. However, just before this was presented to the State and Local Government Committee, it broke down, because it was not a true compromise.

In order to explain this to you, I would like to go back a little bit in the history of BIDE and look at what the original bill asked. In L.D. 2292, on Page 5 under the Director, it says that this was a change in the present law. The agency which this is going to be called, there is no argument over renaming the agency. It says, "The agency is managed by a director who shall report directly to the Chief of the State Police." It goes on to say "The Director must be an experienced law officer at a rank of Major or Captain in the State Police. The level of experience of the director must be in accordance with rules adopted by the Chief of the State Police in accordance with Section 2956. The director must be appointed by the Chief of the State Police with the approval of the board." Therein ladies and gentlemen lies the problem which brought the local police agencies to the committee at this hearing. They objected very much to this direction that BIDE

was now taking or trying to take.

BIDE is composed of, as I told you, many levels of government. It is an interlocal organization whose purpose is to enforce laws, the smuggling laws, and to prevent illegal drugs within the State of Maine.

The persons who were against this type of measure to have this placed under the full direction of the State Police were the Sheriffs' Departments and your Chiefs of Police statewide. So when this came back from the so-called compromise, it had been changed and you have before you Committee Amendment "A" and on Page 4 it says, "The Director is appointed by the Commissioner subject to review by the Joint Standing Committee of the legislature having jurisdiction over the State and Local Government matters and to confirmation by the legislature for a term of three years unless removed for cause."

What happened with the compromise was the issue of legislative confirmation that was imposed in this amendment. Therefore, the committee came out with a Divided Report and a Majority Report, which is Committee Amendment "A" and a Minority Report, which is Committee Amendment "B" and you can look at that and see the difference.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as a cosponsor and strong advocate for the passage of L.D. 2292, Committee Amendment "A", the Majority Report from the State and Local Government Committee for "An Act Concerning the Bureau of Intergovernmental Drug Enforcement" commonly referred to as BIDE.

My concern for the drug enforcement agency go much deeper than that of a concerned legislator. To understand my concerns, it is important that I give you a thumbnail sketch of my law enforcement career which began in March of 1966 and culminated in February of 1986. The last nine years of my career in law enforcement was dedicated to drug enforcement in the State of Maine. Over that nine year period, I was responsible for supervising a small group of people primarily devoted to interdiction of drugs being brought into the offshore islands and coastal ports of the state. During that nine year period, my unit was responsible for the arrest of approximately 600 drug violators including major organized crime figures from both traditional and non-traditional organized crime families. The seizure of well over 100 tons of marijuana and asset forfeitures into the millions. The success of the Federal/State Anti-drug Smuggling Task Force were in fact the statistics used by U.S. Attorney Richard Cohen to establish what is now known and referred to as BIDE.

No one in the law enforcement community will dispute the fact that the BIDE concept is a great concept because it is. My unit, the Federal/State Anti-drug Smuggling Task Force was the unit over a period of nine years that developed that concept, even though U.S. Attorney Richard Cohen used that concept, put that concept in writing to justify BIDE. My unit worked the nine years in coastal interdiction, worked with every single agency in the state along the Maine coast, worked with all other state agencies and the federal agencies and we developed a working relationship with the drug enforcement administration, U.S. Customs, the U.S. Coast Guard and that is necessary in drug enforcement

today because drug enforcement isn't a state problem, it is an interstate and national problem. In order to be effective, you have got to have that working relationship. It saddened me to find out or to learn that, within a very few months after the inception of BIDE, my unit that had been working for nine years, was disbanded and all of the expertise in that unit were sent back to the respective troops. In its place, the Director, under the supervision of the Commissioner, was allowed to bring on all the retired Cumberland County law enforcement people that he felt comfortable with. Unfortunately, those law enforcement people that made up the administrative component of BIDE didn't have the expertise in drug enforcement that was necessary to spearhead that unit into what could have been, I feel, the premiere drug enforcement agency in the country. Instead, the relationship with the drug enforcement administration was dissolved and the BIDE unit, even though it has a good investigative component, didn't have the proper supervision and has consistently gone downhill since its inception.

I personally feel that L.D. 2292 would have put BIDE underneath the direction of the State Police where it belongs. In doing that, it would have given that agency the accountability that is so urgently needed in that agency. Instead, there was a compromise. I agree that there was a compromise and it left BIDE out doing its own thing. I strongly believe, without being under the State Police, that that unit needs the accountability of legislative confirmation for the director's position. For that reason, I would urge all of you to strongly support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Heino.

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: I attended part of the long session of the hearing on this bill. I sat there for several hours listening to many people testify on behalf or in opposition of this bill. As I sat there, I constantly heard two things, one, there was a common threat among those who were speaking that the concept of BIDE was a good concept. Two, that the BIDE administration was lacking of and was in need of accountability. Now, accountability means a number of things but basically it means to be answerable. If this unit needs to have accountability, then it should be answerable to the legislature.

Each of us who serve in this House know what accountability is. Our constituents is our base of accountability and the BIDE administration needs to have accountability in order to do its job in a better fashion. When you are accountable, it has a tendency to keep your feet on the ground and your head out of the clouds. Now I ask you, what better way is there than to have the governmental agency on drugs to be accountable than to have the director confirmed by this legislative body?

I urge you to support the Majority Report and let's make something that is good a whole lot better.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Men and Women of the House: I would like to point out some other facts concerning this particular issue that haven't been brought up at this time.

The very existence of BIDE is quite dependent on funding and funds are being made available and have

been for several years from the federal government. These funds are made available to all levels of police work in the state. When BIDE was instituted, it was understood and agreed to that the funds that would be allocated to the local level and to the county level would be part of the overall funds coming to the full state under this interlocal agreement.

At the time of the hearing, it was made very evident to the committee that if this organization did not recognize all of these interlocal levels, that those funds would not be coming directly to the state. The various towns and cities who had organizations and the counties would be seeking those funds individually for their own operations. Ladies and gentlemen, if we are going to have an effective organization in this state, it should be one organization and the comradery of these people who are involved in it must be there. The type of work that they are in, they have to be secure in relying on each other for their own survival. I say that this is one of the prime reasons why we should have a firm agreement among them.

It is, as I said, the selection of the director and the confirmation at the legislative level that is the concern. I would urge you to reject the Majority Report that you may legally in this House look at the Minority Report.

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

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

What kind of oversight or restrictions will there be under this legislation dealing with the use of helicopters? Several law-abiding people in my district complained to me about activities that have terrorized families in ways that seemed to them and to me to be unwarranted and perhaps the extension of power might not be in the best interests of all of our people.

The SPEAKER: The Representative from Bath, Representative Holt, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: The issues of helicopters was discussed during the public hearings. It seemed that no one would approve the tree top flights of helicopters for surveillance and determination of where marijuana plants were being harvested. However, we do believe that in the change in both reports, in the Majority and Minority Reports, dealing with the form of policy board of BIDE and now the advisory board to the Maine Drug Enforcement Agency whereas those decisions that were then made in secret by a board that was determining policy versus now a board that would in fact advise professional law enforcement officers — those kinds of decisions would be made out in the public. If the public objected, then it seems to me that the public then can ask those questions.

Currently, because of the secretiveness and the inability to impact any decisions made by BIDE, currently because the director of BIDE is not confirmed in the checks and balances of a legislative confirmation process as is the Chief of the Maine State Police, that kind of accountability cannot occur. So, we believe that the criteria set in both the Majority Report and the Minority Report, which

talks about those personnel in this drug enforcement agency, would be professional law enforcement officers. These people will be well trained and they will be accountable.

However, can you envision that the Governor currently, as the Governor should, will appoint the Commissioner of Public Safety? The Commissioner of Public Safety then appoints the director. There is no checks and balances in that scheme. However, in the scheme that says that the commissioner will name the director, the director will then be confirmed, as was eloquently stated by Representative Bailey, by the legislature for accountability as this State and Local Government Committee just recently dealt with the reappointment of the Maine Chief of the State Police. That will add accountability to this drug enforcement agency. It will take away the secretiveness, it will take away the inaccessibility of any minutes of a policy board meeting or any of the public's right-to-know what their drug enforcement agency is doing. Of course, the same kind of accountability will occur that currently occurs in any law enforcement group. That kind of confidentiality about the investigation, about those who are the offenders, about the victims, that currently occurs in state law will occur but as far as the policy that will be set, it will be set in the daylight so that all persons in the State of Maine can have confidence in their drug enforcement agency.

Representative Look of Jonesboro 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 the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 347

YEA - Adams, Aliberti, Anderson, Anthony, Bailey, H.; Bailey, R.; Bell, Boutillier, Cahill, M.; Carroll, D.; Carroll, J.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichborn, Hichens, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lemke, Libby, Luther, Macomber, Mahany, Manning, Marsano, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Norton, Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Reed, W.; Richardson, Ricker, Rotondi, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Vigue, Wentworth, The Speaker.

NAY - Aikman, Ault, Barth, Bennett, Butland,

Carleton, Donnelly, Duplessis, Farren, Foss, Garland, Hanley, Hastings, Hepburn, Lebowitz, Lipman, Look, Lord, MacBride, Merrill, Nash, O'Gara, Pendexter, Pendleton, Pines, Reed, G.; Richards, Salisbury, Savage, Small, Waterman, Whitcomb.

ABSENT - Bowers, Ketover, Marsh, Ott, Ruhlin, Tupper.

Yes, 113; No, 32; Absent, 6; Paired, 0; Excused, 0.

113 having voted in the affirmative and 32 in the negative with 6 being absent, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-1106) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1106) and sent up for concurrence.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Implement Constitutional Provisions Restricting the Imposition of Unfunded State Mandates" (S.P. 767) (L.D. 1963)

- In Senate, Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

TABLED - March 12, 1992 by Representative JOSEPH of Waterville.

PENDING - Acceptance of Either Report.

On motion of Representative Joseph of Waterville, retabled pending acceptance of either report and specially assigned for Tuesday, March 17, 1992.

The Chair laid before the House the second tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-1083) - Committee on Utilities on Bill "An Act to Require a Total Least-cost Energy Plan and to Establish a Moratorium on Fossil-fuel Fired Electric Generation Facilities in This State" (EMERGENCY) (H.P. 1625) (L.D. 2288)

TABLED - March 12, 1992 by Representative CLARK of Millinocket.

PENDING - Acceptance of Either Report.

On motion of Representative Clark of Millinocket, retabled pending acceptance of either report and later today assigned.

The Chair laid before the House the third tabled and today assigned matter:

Bill "An Act Relating to Unredeemed Deposits" (H.P. 1519) (L.D. 2131) (C. "A" H-1034)

TABLED - March 12, 1992 by Representative KILKELLY of

Wiscasset.

PENDING - Passage to be Engrossed as amended by Committee Amendment "A" (H-1034).

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed as amended by Committee Amendment "A" (H-1034) and later today assigned.

The Chair laid before the House the fourth tabled and today assigned matter:

SENATE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (S-596) - Committee on Legal Affairs on Bill "An Act to Develop a Statewide Voter Registration File" (S.P. 811) (L.D. 2010)

- In Senate, Minority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-596).

TABLED - March 12, 1992 by Representative JALBERT of Lisbon.

PENDING - Acceptance of Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: Now that we are on the Majority "Ought Not to Pass" Report, not a tabling motion, I would like to encourage you to vote against the Majority "Ought Not to Pass" motion.

This is a bill that would simply allow a study by the Secretary of State of setting up a cost-cutting way of looking at a possibility of a statewide voter registration file. It won't cost the state any money to do this one-time look, it won't change the voter registration in this state at all, it will simply allow us to look at whether or not there are savings for a statewide voter registration file.

I would appreciate your support in voting against this "Ought Not to Pass" motion.

Representative Stevens of Sabattus 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 Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I would just like to remind you of this issue which we talked about last week.

When this bill first came to us with the title "An Act to Develop a Statewide Voter Registration File" I would just like to let you know that it had a price tag of about \$2 to \$3 million dollars for the implementation. That, of course, didn't speak to what the estimated annual operating cost would be of approximately \$350,000.

I hope you will join the Majority "Ought Not to

Pass" and vote in favor of this motion. The reason that I did not support even this study which has been presented to you as being a "no cost" study, I don't believe that there is no cost to a study. I believe in fact that a study could take place by the interest groups who are involved in this bill but, for me, it is a question of priorities. If you believe that a statewide voter registration file should take priority over funding to education, if you believe developing a statewide voter registration file should take a priority over restoring general revenue sharing monies, then I suggest that you vote against this. But, if you feel that this is not a priority in these fiscally austere times, I would urge you to vote with the majority on this report.

The SPEAKER: The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 348

YEA - Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Boutillier, Butland, Carroll, J.; Clark, M.; Daggett, DiPietro, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Graham, Greenlaw, Hanley, Heino, Hepburn, Hichens, Jalbert, Kerr, Kilkelly, Kutasi, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Marsano, Martin, H.; Merrill, Murphy, Nash, Norton, O'Gara, Parent, Pendexter, Pendleton, Pines, Plourde, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Strout, Vigue, Waterman, Whitcomb.

NAY - Adams, Aliberti, Anthony, Bell, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Coles, Constantine, Cote, Crowley, Dore, Duffy, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Joseph, Ketover, Ketterer, Kontos, Larrivee, Lawrence, Lemke, Luther, Mahany, Manning, Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Powers, Rand, Richardson, Rotondi, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Wentworth, The Speaker.

ABSENT - Bailey, H.; Bowers, Carleton, Hastings, Lipman, Marsh, Ott, Poulin, Ruhlin, Tupper.

Yes, 62; No, 79; Absent, 10; Paired, 0; Excused, 0.

62 having voted in the affirmative and 79 in the negative with 10 being absent, the Majority "Ought Not to Pass" Report did not prevail.

Subsequently, the Minority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (S-596) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-596) in concurrence.

The Chair laid before the House the fifth tabled and today assigned matter:

An Act Relating to Legislative Confirmation Hearings" (S.P. 894) (L.D. 2299)
 TABLED - March 12, 1992 by Representative PARADIS of Augusta.
 PENDING - Passage to be Enacted.

On motion of Representative Paradis of Augusta, retabled pending passage to be enacted and specially assigned for Tuesday, March 17, 1992.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act Relating to Medicare Assignment" (H.P. 1580) (L.D. 2230)

Signed:

Senators: MATTHEWS of Kennebec
 RICH of Cumberland
 BALDACCI of Penobscot

Representatives: STEVENS of Sabattus
 KUTASI of Bridgton
 BAILEY of Township 27
 LIBBY of Kennebunk
 REED of Dexter
 VIGUE of Winslow

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1108) on same Bill.

Signed:

Representatives: CONSTANTINE of Bar Harbor
 SHELTRA of Biddeford
 GURNEY of Portland
 GRAHAM of Houlton

Reports were read.

Representative Sheltra of Biddeford moved that the House accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: L.D. 2230 is "An Act Relating to Medicare Assignment." This bill would require that physicians accept 100 percent of all Medicare eligible patients or lose their license to practice in the State of Maine. I believe that is a little bit severe and I don't think we really need this bill. I would like to make a motion that we not vote for the "Ought to Pass" Report and go on and accept the "Ought Not to Pass" Report.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Last summer, I was fortunate to be on the committee that dealt with the residency programs in this state. How do we expand the

residency programs in this state? In learning how the residency programs of this state and throughout the whole country are funded, I realized that they are funded by the Medicare program. About 60 to 70 percent of all residency programs in this country are funded by Medicare. However, there are doctors in this state and in this country who, after getting the federal government to pay for their education in the residency program, who get the federal government to pay for part of their education through many of the loans, who get educated at the medical schools of this country with federal funds going to those medical schools, decided when they come out that they don't want to take Medicare. This bill simply says that all doctors in this state must take Medicare.

We are hearing more and more complaints of our elderly citizens having a difficult time finding a doctor who will accept a Medicare assignment. It seems only right that the citizens of this country who fund these residency programs, who help fund these medical schools, who help fund many aspects of residency and of doctors' education, ought to be able to walk in and get a doctor and have him accept Medicare.

I know that this is severe but I think it is time that we started looking at those individual doctors who take Medicare and how much are they taking on more than their colleagues? We hear more and more that that individual doctor who takes Medicare gets inundated with Medicare because other colleagues will not take it. Is that right? I don't think so.

This bill would simply allow you to make a decision if you came to practice in this state, to either accept Medicare or you don't practice here. I don't think doctors are going to be turned away because of that. I think we need to take a hard look now at how we are going to get our elderly population, which we know is growing at a faster clip than any other portion of our population, into doctors' offices, into chiropractors' offices and have them accept the Medicare assignment. If they don't, then they would not be allowed to practice in this state.

Don't forget, they wouldn't be where they are today if it wasn't for the citizens of this state and this country contributing through their tax dollars and through their Medicare monies to be educated and to get where they are today. It is not fair and we will hear more and more of it as time goes on if this bill isn't passed. You will find that the doctor who does take Medicare and the individual who needs to see a doctor will have to wait that much longer to see that doctor because that doctor is the only one (maybe) in the whole area who is taking Medicare.

I think this is an important bill for the elderly of this state because the elderly of this state need to be able to get into a doctor's office on a fairly quick basis and not wait for that individual doctor who does take Medicare and the one next to him does not.

I would hope that you would go along with the Minority "Ought to Pass" Report.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 2230 does not help to do what is intended. Doctors already accept 90 percent of all Medicare assignments. It went from a rate of 72 percent in 1982 to 82 percent in 1988 and in 1990 it was 90 percent of all Medicare assignments.

What this bill would do is it would require all doctors to accept all Medicare assignments as full payment for their services or lose their right to practice. Right now, they are accepting 90 percent. If a person is a millionaire, I don't think doctors should be required to accept an assignment. If they can afford to pay the fee, then they should pay the fee that the doctor requires. If public money is used, I would suggest that it be used for the more needy in our population, not the wealthy.

I urge you to support the Majority "Ought Not to Pass" Report.

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

Representative PENDEXTER: Mr. Speaker, Ladies and Gentlemen of the House: Licensure of Maine's professionals should depend wholly upon their training, their experience and their competence. Economics should not be tied to licensure. What if we were to require all licensed electricians as a condition of licensure to provide their service at 60 percent of their usual fee, if the customer were over the age of 65? Would this seem strange to you, particularly if we insisted that it be done, no matter whether the customer can afford it or not? If we passed such a law, do you suppose its effect would be to shift cost onto those who could ill afford an increase in their charges?

Maine continues to be the last in the nation in the percentage of our college graduates we send on to medical school. We continue to experience serious shortages of, not only primary care physicians, but specialists as well. Passage of this legislation will make Maine a singularly unattractive place for recruitment of health professionals.

I find it ironic that the Representative from Portland is presenting this bill to try to attract physicians in the state and, in the end, what he is going to do is actually make it unattractive for physicians to come to this state.

I ask you to oppose the "Ought to Pass" motion and Mr. Speaker, when the vote is taken, I request a roll call.

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

Representative GRAHAM: Mr. Speaker, Men and Women of the House: I think it is fairly obvious from the report on this bill what is going to happen to it. However, I think it is also important for us to make a point publicly that, if you wish to feed at the trough, that you have an obligation further down the road.

What convinced me to sign out on the "Ought to Pass" Report was my discussions with several doctors who called me who were concerned about the bill. They expressed their dissatisfaction with their fellow doctors for their practice of not accepting Medicare patients. It is a deplorable thing that they would refuse to take them after they have had their schooling paid for, after they have initially started their practice up by taking Medicare assignments until they got their regular practice built up to the point where they could then say, we don't need them anymore. Perhaps this is not the right vehicle to use, perhaps the measure is too draconian, but the point is well worth making that the medical profession needs to take a little bit closer look at its ethical practices so vote your conscience, don't expect the world to fall apart one

way or the other, but I do think that it is well worth having the bill in front of us and I thank Representative Manning for bringing it. I hope all of you will give this some thought after you leave here, regardless of how you vote.

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

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

In testimony in the hearings, was there any testimony to the effect of any other state having such legislation?

The SPEAKER: The Representative from Lewiston, Representative Aliberti, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: The answer is no.

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

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to add a little different twist to this particular piece of legislation.

I want to remind you that Medicare is a federal program and the state should not amend the terms of physicians participating in the program, particularly when the state cannot control the amount of reimbursement paid by Medicare. Federal law strictly regulates balanced billing. As the AARP noted in its testimony at the public hearing on L.D. 2230, if Congress doesn't change its mind on the subject, balanced billing will be illegal throughout our nation within a very few years. In this case, there is no reason for Maine to lead the way. The AARP recommends against making compliance a condition of licensure and recommended against mandatory treatment. Both of these positions remain in the bill making this proposal the most stringent of all proposals.

I am not sure about other states but I did have something that I read about regarding other states. There was a question posed through the Chair affecting other states. Excuse me but I can't find it.

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

Representative MANNING: Mr. Speaker, Men and Women of the House: If I had had to depend on AARP in the last couple of years in this legislature, I don't think we would be where we are today. Quite frankly, the AARP has only come out of the woodwork in the last couple of years. What we really ought to be doing is putting back the Maine Committee on Aging, which would have been sitting here supporting this piece of legislation. They are the only ones who have got the guts to do it. AARP certainly hasn't had the guts to do anything, not in front of my committee, not in front of the Appropriations Committee and not in front of any other committee because when it comes to tough decisions, they go hide.

The problem is not funding, the problem is service. If you are in a rural area and you can't get a doctor because that doctor refuses to take you because you are a Medicare person, what do you do? We have given and given over the years to the medical profession — don't you think it is only right that

they give a little back? They could actually walk out of the residency program in this state and not accept one red penny from the federal government.

In my district or area, if I had a constituent who could not get a doctor, they would have to wait but probably could get a doctor. But, I would be willing to bet that there are other areas of this state that are more rural where your constituents are having a tough time finding doctors because they refuse to take Medicare. The elderly should not have to wait to get a doctor who will accept Medicare. That doctor refuses to take them after he gets 65 to 75 percent of his residency program paid for by Medicare. How much money flows into those medical schools throughout the country from the federal government to help those medical schools? I think it is only right, as the good gentleman from Houlton said, if they are going to take the federal dollars to get educated, they ought to take the federal dollars to service the elderly of this state where the population is growing and growing. I know it is a difficult decision to make because everybody has to deal with their doctor once a year. They have to go and look at him straight in the eye but how did the doctors get where they are today if the federal government didn't help them? They wouldn't be where they are today, they might not even be practicing because they might not have been able to afford to get where they are today unless the federal government stepped in and helped them. Let's help the elderly of this state, let's help them to get into doctors' offices quicker.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: If the federal government gives the dollars, let the federal government make the rules about the physicians accepting that assistance. We have a problem with access to medical care in this state now and I think qualification of medical professionals is a very important part of our licensure and I hope you will not support the Minority Report.

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 Eliot, Representative Hichens.

Representative HICHENS: Mr. Speaker, Men and Women of the House: I must take issue with the good Representative from Portland, Representative Manning, on his statements regarding the AARP. Mr. Manning states that the AARP was very inconspicuous on these different bills before his committee and other committees and I have to take issue with that because I was the Chairman of the Legislative Committee AARP before I became a Representative and I appeared before his committee and I appeared before other committees many times on issues the AARP were interested in. I think you should respect their ideas on this, they are not always right as I have to agree as we are not always right but in this issue, I hope you will accept the Majority Report.

The SPEAKER: The pending question before the

House is the motion of the Representative from Biddeford, Representative Sheltra, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 349

YEA - Adams, Cashman, Chonko, Constantine, Duffy, Erwin, Farnsworth, Gean, Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hoglund, Holt, Jalbert, Joseph, Ketover, Larrivee, Lemke, Mahany, Manning, Mayo, McKeen, Melendy, Michael, Mitchell, J.; Oliver, Parent, Pfeiffer, Pouliot, Powers, Rand, Richardson, Rotondi, Rydell, Sheltra, Simpson, Skoglund, Treat, Wentworth.

NAY - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Cathcart, Clark, H.; Clark, M.; Coles, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Goodridge, Gould, R. A.; Greenlaw, Hanley, Heino, Hepburn, Hichens, Hussey, Jacques, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Lawrence, Lebowitz, Libby, Look, Lord, Luther, MacBride, Macomber, Marsano, Martin, H.; McHenry, Merrill, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Ott, Paradis, J.; Paradis, P.; Paul, Pendexter, Pendleton, Pines, Plourde, Poulin, Reed, G.; Reed, W.; Richards, Ricker, Saint Onge, Salisbury, Savage, Simonds, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Vigue, Waterman, Whitcomb.

ABSENT - Bowers, Carleton, Hastings, Lipman, Marsh, Pineau, Ruhlin, Tupper, The Speaker.

Yes, 44; No, 98; Absent, 9; Paired, 0; Excused, 0.

44 having voted in the affirmative and 98 in the negative with 9 being absent, the Minority "Ought to Pass" Report did not prevail.

Subsequently, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence except those held were ordered sent forthwith to the Senate.

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

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

March 12, 1992

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

Dear Clerk Pert:

Please be advised that the Senate today Insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Encourage Private Sector Investment in Tourism" (S.P. 911) (L.D. 2331).

The President appointed on the part of the Senate the following:

Senator MATTHEWS of Kennebec
Senator CLARK of Cumberland
Senator HOLLOWAY of Lincoln

Sincerely,

S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Reference is made to (S.P. 911) (L.D. 2331) Bill "An Act to Encourage Private Sector Investment in Tourism"

In reference to the action of the House on Thursday, March 12, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative MELENDY of Rockland
Representative GRAHAM of Houlton
Representative LORD of Waterboro

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

REPORTS OF COMMITTEES

Refer to the Committee on Transportation - pursuant to Joint Order (H.P. 1665)

Representative MACOMBER from the Committee on Transportation on Bill "An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1993" (H.P. 1730) (L.D. 2421) reporting that it be referred to the Committee on Transportation - pursuant to Joint Order (H.P. 1665)

Report was read and accepted and the bill referred to the Committee on Transportation and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Permit Washington County to Establish a Budget Committee" (H.P. 1727) (L.D. 2418) which was passed to be engrossed in the House on March 12, 1992.

Came from the Senate passed to be engrossed as amended by Senate Amendment "B" (S-628) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Motorcycle Driver Education Study Committee" (EMERGENCY) (H.P. 1723) (L.D. 2412) which was passed to be engrossed in the House on March 12, 1992.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-630) in non-concurrence.

The House voted to recede and concur.

At this point, the Speaker appointed the Representative from East Millinocket, Representative Michaud, to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-1083) - Committee on Utilities on Bill "An Act to Require a Total Least-cost Energy Plan and to Establish a Moratorium on Fossil-fuel Fired Electric Generation Facilities in This State" (EMERGENCY) (H.P. 1625) (L.D. 2288) which was tabled earlier in the day and later today assigned pending acceptance of either report.

Representative Clark of Millinocket moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sedgwick, Representative Gray.

Representative GRAY: Mr. Speaker, Ladies and Gentlemen of the House: I brought L.D. 2288 to this legislature because of the actions I saw dealing with applied energy services and how they abused it and because of the personal cost that were laid upon the people of Bucksport. AES proposed a 180 megawatt coal facility for the coastal area of Bucksport. I saw manipulation, I saw misrepresentation and because of those factions, not having a long-term energy plan in this state, I brought this issue before you.

I have noticed another thing being here for the last two years, if there is an issue that a majority of certain crowds don't want to get passed, it is

either too complex or it is too expensive. I think they have labeled mine both.

The amendment and the amendment forthcoming if you pass this would set two things in place, it would set least-cost energy planning and a moratorium on coal-fired facilities for 18 months within the State of Maine. Both parts are absolutely related and necessary components of one goal and that is to control what is going on in our state through energy costs and acquire the least expensive energy base for the State of Maine. This process would include an environmental and economic impact. I no longer think that these costs can be ignored. I believe they are reasonable considerations.

I find it amazing and somewhat neglectful (after watching the process over the last two years) of what the town of Bucksport has been put through and that these considerations are not being met at this level.

I have before me an article from the Wallstreet Journal about understanding federal subsidies. This says and I quote: "No wonder utilities are still investing about a dollar a household per day to build power plants they don't need and they can't afford. These subsidies almost equal their investments. That is not just a free lunch, it is a lunch that the Treasury pays them to eat." It goes on to say, "If in fact we can't control the costs and desubsidize at the federal level, we must control the cost at the local level. That means all costs."

I heard nothing before that committee from any member, Democrat or Republican, that makes me sway from what I believe. No one gave me a reason why this shouldn't be done. Every facility built in the State of Maine has an impact that carries cost and environmental problems to the residents of Maine. Cogeneration is now the number one reason for rate increases. We can no longer afford to have expensive cogeneration facility contracts that are front-loaded, meaning that the costs are put upfront and we pay. We can no longer support a system that pays facilities not to produce electricity and we can no longer support a system that displaces and discourages sustainable sources. I believe we can no longer allow PUC to renegotiate contracts for the advantage of facilities and not for the ratepayers. I believe we can no longer put up with subsidizing power producers to resell their energy back. We are now paying somewhere around 13 to 17 cents or purchasing on the grid from qualifying facilities at somewhere around that rate. They can turn around and buy that back from 3 to 5 cents. I think we can no longer support that.

I definitely cannot support a system that allows our ratepayers to be abused the way we are allowing it to be done and it is us. I am hearing totally that economic packages, the bond issues, everything that comes before this body lately has been on economic reasons — let me tell you that the number one economic reason that is hurting the people of this state is uncontrolled energy costs.

I hope you will consider this bill and I am sure you are going to hear a lot on the AES project itself and I hope you will vote against the pending motion.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: The reason this bill has bipartisan sponsorship is because it is of great interest to those of us living on the coast in Waldo,

Hancock and Washington County.

There was a recent report, December 18, 1991, by the Commission on Comprehensive Energy Planning and evidently the Public Utilities Commission hasn't read it. I will just give you some quotes from it. "Today Maine faces no imminent energy crisis. No fuel problems are expected. The region appears to have sufficient electrical supplies at least through the end of the decade. Today's energy challenges arise from how we use this period of relative calm to find a proper balance between frequently competing goals and objectives." I am sorry that the committee didn't go along with the total bill so that we could take a look at the total cost energy plan.

But addressing what is left on the plan, the Public Utilities Commission evidently doesn't see this as their responsibility. They convinced most of the committee on Utilities to kill the first part of the bill and they were hoping to kill the whole thing. I wish they had taken the challenge of the original bill. At least a minority of the committee feel that the moratorium on developing a 1500 ton per day coal burner on the banks of the beautiful Penobscot River in Bucksport is in the state's best interest and we know that it will be extremely harmful. I wouldn't even want to put this monstrous coal burner of 1500 tons per day in Millinocket or along the Androscoggin River in Lewiston or in the Kennebec River in Augusta. Even the U.S. Congress and the President of the United States passed a Clean Air Act recently to protect, not only the United States, but the world from further pollution of the atmosphere.

This AES firm from Alexandria, Virginia offered the people of Bucksport a \$7 million bribe to put this coal plant through, to pass it. Imagine, this is a fact, they offered them \$7 million if they would go along with this. They had a vote in the town of Bucksport on whether or not to build this coal burner and the vote came out 1200 and something to 900 and something against having it, even with a promise of \$7 million dollars. They also promised to build some plants and trees in Guatemala, I think that's beautiful, but I would much rather take care of the Acadia National Park and all the things we have here.

Incidentally, this whole package is being financed by the Fuki Bank of Japan. I think this whole thing is terrible and I hope you will help us get this bill through.

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

Representative AIKMAN: Mr. Speaker, Men and Women of the House: I hope you will support the Majority "Ought Not to Pass" Report. All the electric generating facilities must undergo significant scrutiny by the federal, state and local entities as to their environmental impact. All these permitting processes having expensive statutory and regulatory requirements are established to ensure that the projects meet all the state's standards of air, water and other natural resource use. To use the legislative process to circumvent the established permitting process is to place very little faith in the environmental protection process, which this legislature has determined best manages the state's natural resources. Please support the Majority "Ought Not to Pass" Report.

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

Representative LUTHER: Mr. Speaker, Ladies and

Gentlemen of the House: This bill is not really about local control, although it is certainly a cry for help from the citizens of Bucksport. It is not about air pollution, although CO₂, which we will get from burning coal, will increase the hole in the ozone layer and CO₂ will increase the number of children on the ground who have asthma.

This bill is about big money, lots of it, and the easy way to make it. It is a profit-insured bill that the federal government will make sure that people who have money make more money. Right now, CMP and all the other utilities are allowed to make cost plus, which is 12.5 percent on your equity.

I don't know if you have turned over any CD's lately but you are lucky to get 4.3 percent on them. You can get 5.2 percent if you promise never, ever, ever to take the money out as long as you live. But, if you put your money into power plants which we do not need, you will get a 12.5 percent equity rate of return. That is Maine the way life ought to be. It is about promises and broken promises and ridiculous promises.

Years ago, there was a very expensive perfume out called Arpege and their slogan was "Promise her anything but give her Arpege." Arpege is what we are getting here.

Two hundred and fifty thousand dollars a year as a gift to the town of Bucksport if they will let AES build this plant — where would the money come from? It would certainly have to come from selling electricity that we do not need and we do not want. Right now, AES has promised to sell this electricity to Boston Edison and we better hope they can do it because if they don't do it, the Maine Utilities will have to buy it and we will have to pay for it. You have had four rate increases this year and most of it is because we buy electricity that we do not need.

It's about jobs, supposedly about jobs, construction jobs for people in the State of Maine. When we first heard about it, it was about 400 jobs and then it was about 600 jobs. Two days ago on your desks, you got a report that it was about 1,000 jobs — if we could hold this off until October, it might be about 5,000 jobs and then we wouldn't have to pass any bond issues. The truth of the matter is, very few construction jobs go to people in the State of Maine. This is going to come out in time, I hope, so that the local restaurants can change their menus and they can feature "hush puppies and grits" for breakfast because the residents in the State of Maine that will have these jobs like their breakfast that way. It takes one day to become a resident of the State of Maine. You go get an apartment and you go register to vote and you give the registrar your address and you are then a resident of the State of Maine. There is no way to prove these jobs are going to come to Maine people and most likely they will not come to Maine people.

What is at stake here? Well, where do you live? If this is a good deal for the people in Bucksport to build, what is wrong with building 6 or 7 of them in the State of Maine? Do you live near a place where there is a port where they can bring in coal for you? Do you live near a major highway? You could bring in coal on the 18-wheelers, it would cost more, but so what, it's cost plus. Do you live near a railroad? If you live near a railroad, that's super, that is every bit as good as living near a port.

We don't need this electricity, it is not for us. The Japanese bankers will make the money.

Boston Edison, we hope, will buy the electricity and Maine will get the air pollution. "Ask not for whom the bell tolls" on this one. The bell is attached to a cash register and it is going to ring just as well from your town as it does from Bucksport.

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

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: Though I am actually somewhat uncomfortable with a piecemeal energy policy, I don't really think we have a choice at this time. None of us should be surprised to see bills like this as long as we do not do overall energy planning that includes an analysis of all costs. If we would incorporate those so-called environmental externalities in the planning process, we wouldn't have this bill because we would know that the total cost, societal and environmental as well as the initial cost and operating costs, have been considered in the decision making process.

Utilities have been reluctant to even suggest that we should deal with externalities because they are afraid it is going to delay the process but without externalities in the process, it is clear that we will have delays. I don't think we have any choice, we've got to do this, because we do not have the planning process. There is a real lack of trust in the system and a potential for more delay without a total of these cost planning systems.

It has been noted by several speakers that we don't need this power. Neither Bangor-Hydro nor Central Maine Power have evidenced any interest in purchasing this power. AES says that southern New England will need it. At a workshop that I attended last Fall in Massachusetts, a number of southern New England legislators were discussing with me similar proposals for plants in Rhode Island and Connecticut where the promoters acknowledged that they weren't able to sell the power to the local areas power companies but they said they need this power up north. The southern New England legislators and I looked at each other and said, well, where is this power going? I think it is clear it is just being built to build something.

I urge you to oppose the "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sedgwick, Representative Gray.

Representative GRAY: Mr. Speaker, Ladies and Gentlemen of the House: I have to answer Representative Aikman's statements. She sits on Utilities and she should be aware that in fact any utility qualifier or PTI that goes on line and falls within an avoided cost range will be put on line and we will be paying for those costs.

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

Representative HOLT: Mr. Speaker, Ladies and Gentlemen of the House: A coal burning plant for Maine, a new business for Maine, we need new businesses, that's true, but let's think about Maine businesses in a time of transition. I sent out a questionnaire in my district and asked people to tell me what they thought and what came to mind as being desirable for businesses, new jobs for Maine in the future. The overwhelming response I got from nearly 300 people was recycling, marketing recyclables, more farming, more big market gardens, jobs with lasting value, non-polluting small manufacturing and assembly, a diversity of jobs based on fishing,

aquaculture, merchant shipbuilding, shipping, tourism, jobs caring for people who need care, jobs with work of pride and above all, environmental compatibility ran throughout the comments.

As far as the energy-producing business goes, I want you to know that I am a member of the Maine Long-range Energy Planning Commission, along with other legislators and agency heads. We have heard from Maine people up and down this state since the early winter that the kind of electric energy production people want is clean, renewable, safer, homegrown where the profits stay in Maine as much as possible and efficiency. Not one person came forward for anymore fossil fuel plants, let alone a coal plant, a coal plant at that that has an engineer design that is already out of date.

We are still trying to sell our precious state to tourists and business as Maine realizes it ought to be. Well, the people know that we suffered unhealthy smog levels eleven days last July and now with this bill comes the good Representative Gray from Sedgwick who represents beautiful coastal areas which have suffered some of the highest smog levels ever recorded in the northeast. With her bill to help us, we can put the brakes on before we slide into giving a boost to more pollution. We need to do that, we need a little more time to help each other and to join the people in that area in question today to plan for Maine's future prosperity and good health. We don't need anymore power here. Any new power now will be sold to places away where they haven't even begun to deal with efficiency.

Central Maine Power says they won't need a new baseload capacity until 2003 even without efficiency improvements that we can certainly pursue. Bangor-Hydro Electric has forecasted peak and baseloads adequate and only a possibility of 1.4 percent growth over the next 30 years so you see we have time so why are we rushing here? Those companies who want to build coal plants are getting into gear as fast as they can, hurrying to get a foot in the door where they think that door is easiest to pry open before the end of this era of polluting energy sources. If we are going to have new electric generating plants, and we will have some in the future, surely we will and we have an abundance of power source possibilities in this beautiful water state, if we are going to have new plants, then we would like to please have those that don't require any permits to pollute. Our permitting process came on line after years and years and years of building dirty plants. We know that we can't do that anymore. This is a fine, sensible bill for sensible Maine people to vote on strongly.

I urge that you vote not to accept the "Ought Not to Pass" Report and when the vote is taken Mr. Speaker, I request a roll call.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: This argument against this coal-fired plant in Bucksport brought back a lot of memories. We had a number of proposals that came to Eastport and they ranged from Quoddy Dam to Pittston Oil Company to a giant coal-fired plant. The latest was the coal-fired plant, six or seven years ago, and was to be built by a Mr. Harris from Anson, Maine. Bangor-Hydro didn't want the power and CMP didn't want the power. He wouldn't tell us who he represented, it took three unanimous votes by the

city council to finally send him on his way. He said that was okay, they would go down the coast and find another spot and we said, fine.

Let me take it a step further. I don't have anything against these particular plants if they are done right but the size does bother me. However, I need to relate our experience in Eastport. For fifty years or more, the economy down there was stagnant, you couldn't get a job and if you did, it was a slave job where there was just no escape from it, you were trapped. For fifty years, we looked to the West for help to save us. We had businessman after businessman, I have seen more \$1500 dollar pinstripe suits in front of Eastport City Council than you will ever want to see, they come and they go, Pittston, the dam and this coal-fired plant and they all were going to save us. They all were going to make us rich, all our worries were going to be taken care of. Well, our economy did turn around about ten years ago and it is one of the few economies right now that is still growing in the State of Maine. We had a 17 percent growth in retail sales last year, that is not counting the hotels and restaurants, that's the stores and Mom and Pop places. Why is this solid growth taking place? Not a great growth, a little bit each year. It was because we stopped looking to the West, we started looking within. We promoted aquaculture, we promoted port development, we promoted cottage businesses, we promoted people in our town that had the brains to bring themselves up by the bootstraps, it is growing, it is continuing to grow. That is not to say that somebody from the West might come and might not have a good idea, they might very well, I still keep an open mind about that but let's give the attention where the attention is deserved, let's give it to our own people. We can take advantage of our own economy. The people of Bucksport said no to this, that's good enough for me.

The SPEAKER PRO TEM: 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.

Representative Clark of Millinocket requested that the Clerk read the Committee Report.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Adams.

Representative ADAMS: Mr. Speaker, Men and Women of the House: It is not frequent, of course, that we have Divided Reports from the Utilities Committee, that is partially a result of the complexity of the regulatory issues involved and partially due to the hard work done by our Chairs and the committee members in trying to factor out these complex items of public policy before they have to come to such a point as this where they must be discussed upon the floor without the benefit of having all the body having heard all the evidence that was set before us.

I come rushing in from the phones and tried to grab the microphone at this point, not to convince you why I believe others who voted in the Majority in our committee were wrong, but the evidence that went into my thinking to indicate the position I took in the Minority was the right one. I wish you could

have had the opportunity to hear from the citizens of Bucksport and all the surrounding municipalities who came here to Augusta to speak about this issue. I wish you could have had the opportunity to see the evidence they set forward that day. I wish you could have had the opportunity to hear the frustration in their voices and the frustration they feel with the situation where they are facing one single, very large out-of-state outfit with very deep pockets and a great determination to do something to their part of the world that I can parallel only to the speech which I heard a bit of upon the amplifiers as presented by the good Representative from Eastport, Representative Townsend, who faced a similar situation recently.

The Minority Report that is before you, as has been said, is pared down from the original bill. In essence, the original bill came to us because of the lack of a single state energy policy. What we ended up doing was taking a large quilt, which is a group of many pieces put together to one covering, and taking a few clips out that quilt even further and finally all the way down to just a few patches which stand in the document before you now. It would put a 15 month moratorium upon the building of any coal-fired generating plant in the State of Maine. Permits may continue to be applied for, permits may in fact even be granted, it is just the building itself cannot start.

AES is an out-of-state firm centered in Virginia who wishes to build, as you have been told, a coal-fired generating plant in the town of Bucksport at a place called Harriman Cove. The same company, AES, has attempted to build the same kind of coal-burning plant in other states, Rhode Island for example, which told them after lengthy and prolonged litigation and difficulty to "take a hike." The state of Florida, which at first, like we have, invited them in and then finally asked them to leave. In fact, they are now demanding that they do so.

It might be interesting for you to know why we, having taken all of that in and looked at another state, still find us in the position we are in this state. Maine's own energy mix and a little dose of figures, it won't be long. Maine's own energy mix, according to the State Planning Office as of today, stands roughly this way, we get most of our energy in this fashion, about 16 percent of it in Maine comes from hydro, just about 16 percent of it comes from nuclear, just about 16 percent of it comes from gasoline and just about 16 percent of it comes from heavy industrial oil. Home heating oil counts for about another 10 percent and wood is about another 14 percent — you can see that the pie is cut into pieces of just about the same size all the way around that pie. The two smallest pieces of that pie are natural gas at .08 percent and coal itself at 1.4 percent. Coal has not played a very large part of Maine's energy picture since the 1930's and for a very good reason. It is dirty, it is expensive, you have to carry it a long way to get here. These are all the things that you would have to do to get any of that coal up to, of all places, Bucksport, Maine. Fifteen hundred tons of coal a day, every day, 365 days a year for every single day over the next 30 years of the useful life of that plant with all the risks attendant to that, every load, every day for 365 days for 30 years. Given all of those reasons and all of the things that you must think about when

you are speaking of such prodigious quantities of coal and the prodigious results you have of that when it is burned over a period of years, the Town Council of Bucksport, the Planning Board, the Zoning Board of Appeals all have voted not to have the plant built. Just last year, the citizens themselves of Bucksport voted at about 1200 to 900 not to have that plant built there also. The vote totals may not sound terribly impressive and at first they perhaps did not to the Utilities Committee either until in fact we found out that just ten days before the election, AES, the company from Virginia wanting to build the plant, which had promised at the onset not to pursue the permit process, not to push the question and to leave if they were not wanted, despite having made those promises, less than ten days before the election, promised the town of Bucksport, over the next 30 years of the plant, \$7.5 million dollars absolutely free. A quarter of a million dollars a year, an absolute gift to the town of Bucksport if they would approve in public referendum the building of that plant. You may characterize that offer of \$7.5 million however you choose but there have been some pointed characterizations made of it even in the press of Bucksport and surrounding areas. The citizens, despite an outright offer, a gift, whatever you wish to call it, ten days before the election rejected the opportunity to build that plant. Given all of those refusals, given all of those rejections, the plant is still determined to continue in the process and in fact determined to have itself built, despite the promise they made long back not to go where they were not wanted.

I do not know how much more clearly the citizens of Bucksport and the surrounding towns could say you are not wanted. I do not know how much more deaf an out-of-state company can be.

I found these compelling in listening to the human testimony and the scientific testimony can be summed up even more briefly. No one in the State of Maine wants to buy the power that should be generated by this 180 megawatt, 1500 ton coal-burning plant of every day. Bangor-Hydro Electric Company has refused the opportunity to buy the electricity that's generated. Central Maine Power Company has refused to buy the electricity that's generated. When the plant is up and generating this electricity, that will all be sold down to Boston. I repeat that again, the only place that the electricity can be sold going to the power network can be transferred and sold in Boston upon the backs of Maine people who breathe the air as a result of the coal. 1500 tons a day, 365 days a year for 30 years will be carted up to be burned in Bucksport, Maine to make power for the city of Boston. The end result of all the construction work, when done, according to AES's own figures and own specifications in their own reports, will be a net of about 56 jobs, maybe, not all of which can be filled by local Maine people because of the skill and the nature of the job. 56 jobs, maybe. In their own reports they say that this is not going to have any significant impact upon the employment picture of the town of Bucksport. They will, AES, be selling the steam, however, generated from that plant. The steam only from the boiling of water, not the electricity to the Champion Mill next door at which the United Paperworker's International Union, Local #1188, the largest union at the mill, has in fact voted not to support the building of the AES plant.

Why then do we come to this place in an argument before the legislature about a bill that was presented to a committee by a group of Mainers who are extraordinarily angry and frustrated? I think we do so because we, once again, as the Representative from Eastport, Representative Townsend has illustrated in his own case, faced what is fundamentally an implacable foe thinking he is going to a place like Maine where people are easily pushed over given enough big money, given enough determination, given enough big lobbying firms and given enough pressure, that Mainers don't mean it when they say no. I would disagree and I would hope that this legislature would agree with me and cast your vote in disagreement with that kind of policy. It is what made those of us in the bipartisan minority on the Committee Report take that point of view for, again, those "little folks" which means all of us who could, tomorrow, for want of an energy policy be faced with the same dilemma in our own hometowns, for the same firm or a similar one, with the same things at risk, your life and mine.

You may have read today an item placed upon your desks, an editorial from the Bangor Daily News. I would like to read to you a few words from a newspaper editorial about that. "Bullying tactics adhering stink. AES should consider gas or leave." "It was typical of the bullying tactics used by AES, the out-of-state company that is insistent upon shoveling a polluting coal-fired plant down our already irritated throats. We are all sympathetic to the need for jobs, especially in a recession but the jobs that will last at most two years can't be measured against pollution that will dirty our air and our rivers for decades to come. If government cannot help local people to protect themselves from outsiders more interested in a buck than in a community's future, then government has failed." That quote does not come from a Maine newspaper, that comes from the Florida Times Union about the AES plant now trying to be forced down the throats of the city of Jacksonville, Florida, whose own mayor and city council voted 19 to 0 not to have the AES plant built there. AES is still progressing and still pushing with such editorials as this resulting. This is from the Florida Times Union of March 13, 1992.

I conclude by reading an editorial from our own Bangor Daily News, however, which appeared this morning, Monday, March 16, 1992. If you feel there is no union between the people of Maine and the people of Florida, please listen to this. "Before the people of Bucksport in a non-binding referendum rejected the AES 180 megawatt coal-fired power plant and the City Council voted to oppose its construction, AES officials magnanimously promised to build the plant only if Bucksport welcomed the idea. Strategy for AES officials now seems to be if the residents of Bucksport don't want the plant, they'll shove it down the community's throat anyway. The suit proves that AES isn't to be taken at its word and that its promises don't mean much. This should worry Maine union officials, who cling to a vague agreement that says AES will hire "a suitable number" of Maine union members for construction of the plant. For AES in Florida, the suitable number of Floridian workers in unions was zero. The reasons for Bucksport rejecting the plant are compelling: The amount of pollution generated by the burning of coal and the danger posed to the surrounding area were unacceptable; the town's long-term plans call

for light industry, and prohibits the type of large, loud plant envisioned by AES; and the state doesn't need more electrical power in the short-term and has cleaner options for the long-run."

If you doubt that it could happen in your town tomorrow, hear those words from Jacksonville, Florida and compare them to those words from Bangor, Maine. Compare them, indeed, to the plant being proposed for Bucksport, Maine, one of the smallest and most unlikely places you could probably pick in this world for a 1500 ton of coal a day, coal-fired generating plant to be built. That is the option that is before you in the vote that you are about to take.

I specify again that voting for the Minority Report, that is rejecting the Majority "Ought Not to Pass" Report, will simply put in place a 15 month moratorium on building of coal-fired generating plants, not upon the permitting process which will continue, not upon the granting of permits which may continue, but it will be a vote for (again) the small guy. That could be your community next year with a similar kind of plant. I would, therefore, urge you to vote against the Majority "Ought Not to Pass" Report so that we may go on for those reasons that I have stated and others at our hearing stated far more eloquently that I and adopt the Minority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Morrison.

Representative MORRISON: Mr. Speaker, Men and Women of the House: I am speaking today as one of those people who voted for the Majority "Ought Not to Pass" Report. My concern, simply put, is that this bill actively discriminates against a particular business.

This bill establishes a moratorium on new coal-fired facilities, obviously geared to stopping the AES plant which you have heard plenty of today. The only justification that I heard from those supporting the moratorium is that AES is bad and that we need to stop them because we think they are bad. In essence, the bill says to AES that we are going to punish you because of popular sentiment even if you meet all the requirements, jump through all of the hoops that we have set up for doing business in this state.

Here we have a facility that uses coal, an American resource produced by American workers, not Saudi Arabians, and uses a pollution controlled technology which is state of the art, yet we are saying that this is not enough. This is a facility which will set national standards for SO2 emissions for new coal facilities, yet we are saying this is not enough. This is a plant which former PUC Commissioner David Moscovitz testified will actually reduce air emissions in the region because AES's facilities will replace older, dirtier facilities in the neap hole grid; yet we are saying this is not enough.

In the coming days, we may be considering whether or not to put a bond to spend taxpayers money to create jobs because our economy is so desperate and here we are saying no to a business which will generate temporary and permanent jobs. If adopted, this bill will send a strong negative message far beyond AES to those businesses thinking of entering the state telling them that, even if you can meet our standards and even if you are willing to spend the money, we may still decide to change the rules if we want to and we don't need a reason.

Among those who understood the damaging nature of this message was the Public Advocate's Office who testified against the moratorium provision of this bill because of what it says to businesses and in particular to independent power producers. As Steve Ward of the Public Advocate's Office pointed out, we may have a glut of electricity now but this bill sends out a significant message to independent power producers which essentially shuts the door for future independent power production in Maine. This is a bridge that we may not be able to afford to burn. Opponents of this project will paint a very different picture of the AES and its proposed facility; however, it should be pointed out that almost every project has problems and almost every project has opposition. This is why we have the permitting process we have at DEP because that is the decision that the regulators should make after carefully considering all the information presented. These processes should emphasize science, not merely emotions.

During the Planning Board process for AES, there were literally weeks of hearings where both sides presented their testimony. Many more weeks of hearings will occur at the state and federal level. Our legislative public hearing process and work sessions do not allow us to give the kind of detailed consideration to those individual facts of a project that is as complicated as AES. We heard from opponents for a few hours at most and even less from AES and its supporters. We heard nothing, I repeat nothing, from the DEP or other national experts that would justify this moratorium.

We do not have the time or the expertise to make decisions as to the environmental impact to this project. That is for state and federal regulators to do. It is not our role when an opponent fears that regulators may make a decision in favor of a project to second-guess that decision and prohibit them from making it in advance. Not a single official from Bucksport, an elected official or an appointed official, the manager, town council or the planning board testified in favor of a moratorium nor did the DEP come forward and testify in favor of a moratorium. If we adopt this legislation, especially when none of our state and local agencies have supported the moratorium and no one has presented a scientific justification for it, we are rendering the regulatory process meaningless.

The AES project has a lot of regulatory hurdles yet to jump through. If they are successful however, they should be able to build and operate their project. To do otherwise, not only sends a bad message to those who might be interested in developing anything in Maine, but it puts little faith in the environmental permitting process that this body, this body, has seen fit to establish to protect our environment.

The city of Bucksport and AES are currently pursuing this issue in the courts. The legislature should stay out of this debate. This bill is unnecessary, unjustified, unfair and unsound.

I hope you will join me in supporting the Majority Report that this bill ought not to pass.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues: I rise very reluctantly on this bill. I know very little about it and I haven't supported it one way or another but I have got to make a statement.

We have been told by DEP and the Board of Environmental Protection, the EPA in Washington, that we have a pollution problem in southern Maine. That means that seven counties in southern Maine will be going through an air emission process where all cars down that way will have to be tested. No question, a lot of cars will have to be worked on. Now, the question I ask myself is, what will happen to air emission and to the pollution in this part of the state? Will that mean that there is going to be enough pollution up in the further part of the state that extra counties are going to have to come in on this process and go through the process that we are having to do down in the southern part of the state? If it is, I don't think we want it at all but I think this is something that we must consider. We don't know how well this system is going to work, we don't even know if the bill is going to get passed but it is going to mean a lot of work and it means that there is going to be a lot of expense to a lot of people. I just can't help but wonder — do we want to be adding to air pollution through something like this? I don't think it will hurt to wait 15 months to see what is going to happen and I think it would be well to reject the Majority "Ought Not to Pass Report and pass the "Ought to Pass" Report.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I am sorry that this is carrying on so long, we should have taken care of it three days ago when we had a chance.

In response to the question of Representative Lord, when we had the bill in our committee, not once did we hear anything from DEP. I myself haven't heard anything from DEP. It seems like everybody is trying to say that they are going to come in here tomorrow and build this facility without going through the process. Well, I think we all have another thought coming. There is a lot of people out there who are against it and a lot of people are for it.

I think we are sending the wrong message to the people out there in the State of Maine. I myself have not heard from DEP, I have not heard from the town fathers, I haven't heard from any legislators in the area and a lot of things out there are happening that we haven't heard about. Let the process go through.

I have a lot of problems with it myself. I could be on the other side very easily but I think we are sending the wrong message to the wrong people at this time. That is one reason I am on the Majority Report.

I hope when you vote today, you will vote with the Majority "Ought Not to Pass" Report and let the towns take care of their problems.

There is one message I want to send to AES if they are in the audience upstairs — if you did make a commitment to the town of Bucksport, I hope you live up to it. You said, if you don't want us, we won't be here. I hope if you made that statement, you will live up to it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Ellsworth, Representative Salisbury.

Representative SALISBURY: Mr. Speaker, Ladies and Gentlemen of the House: I think I would qualify as one of those near neighbors that you have heard about today in reference to AES, living within 20 miles of Bucksport. I am on Record as probably the

only Representative in Hancock County who is not opposed to AES. I have said from the beginning if, and there are a lot of ifs, the project is needed, if it is wanted by the community, if it meets state permits, if it meets federal permits, who are we to say no? However, having listened here today to various speakers, in particular to my seatmate who gave a very impassioned, humorous plea, also having spoken earlier with the Representative from Presque Isle, I think I am doing something that I don't do too often, I am ready to say that I can see no real harm, I have been looking over the amendments and the amendment does allow the process to continue and it only prohibits actual construction. So, I think I am convinced, at least at the moment, that the moratorium for a year and a half would do no great damage, although basically I think I am a AES yes person but I don't think it would hurt to wait because from what I have heard here today, I question the need, I question Bucksport even wanting it. So, I urge you to reject the Majority "Ought Not to Pass" Report.

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

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

To anyone in the House and in particular to someone on the Utilities Committee, if they know the answer, does AES have an application before the DEP for their permit which has been accepted by the DEP as a completed application?

The SPEAKER PRO TEM: The Representative from Fryeburg, Representative Hastings, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Ladies and Gentlemen of the House: The answer is no.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of the Representative from Millinocket, Representative Clark, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 350

YEA - Aikman, Anderson, Cashman, Cathcart, Clark, H.; Dore, Duplessis, Gould, R. A.; Gurney, Ketterer, Lebowitz, Lipman, Macomber, Merrill, Morrison, Pines, Poulin, Tammaro, Tardy.

NAY - Adams, Aliberti, Anthony, Ault, Bailey, H.; Bailey, R.; Bell, Bennett, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Chonko, Clark, M.; Coles, Constantine, Crowley, Daggett, DiPietro, Donnelly, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Garland, Gean, Goodridge, Graham, Gray, Greenlaw, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Heino, Hepburn, Hichborn, Hichens, Hوجلund, Holt, Hussey, Jacques, Joseph, Kerr, Ketover, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lemke, Libby, Look, Lord, Luther, MacBride, Mahany, Manning, Marsano, Martin, H.; Mayo, McHenry, McKeen, Michael, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Pineau, Plourde, Pouliot, Powers, Rand, Reed, G.; Reed, W.; Richards, Richardson, Ricker,

Rotondi, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, Whitcomb.

ABSENT - Barth, Bowers, Cote, Jalbert, Marsh, Melendy, Ruhlin, Tupper, The Speaker.

Yes, 19; No, 123; Absent, 9; Paired, 0; Excused, 0.

19 having voted in the affirmative and 123 in the negative with 9 being absent, the motion to accept the Majority "Ought Not to Pass" Report did not prevail.

Subsequently, the Minority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-1083) was read by the Clerk.

Representative Gray of Sedgwick offered House Amendment "A" (H-1127) to Committee Amendment "A" (H-1083) and moved its adoption.

House Amendment "A" (H-1127) to Committee Amendment "A" (H-1083) was read by the Clerk.

Representative Donnelly of Presque Isle requested a Division on adoption of House Amendment "A" (H-1127) to Committee Amendment "A" (H-1083).

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

Representative LUTHER: Mr. Speaker, I request the good Representative from Sedgwick, Representative Gray, to read her amendment, please. I don't understand what the amendment is.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sedgwick, Representative Gray.

Representative GRAY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment puts in effect least-cost energy planning. It expands on the energy policy and it implements rules through the PUC to in fact implement least-cost energy planning. Again, there is a fiscal note on this bill of \$212,800. As I said earlier, when they want to dispose of something, they add big notes.

The way that I understand the funding of the PUC and how the regulation process works is that this would come out of the monies they collect. In fact, I believe that the DEP told me, a Dennis Keschil in the Air Bureau, that in fact to date we have spent \$20,000. He suggested that the cost to implement this whole entire project would in fact be offset.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Morrison.

Representative MORRISON: Mr. Speaker, Ladies and Gentlemen of the House: This amendment changes the whole ball game. You are no longer playing with a moratorium. Now you are playing with major changes in the energy policy of this state. Total least-cost energy planning has some very untouchable things associated with it. Now you are asking the PUC to make determinations about health hazards and what the cost to the health hazard is. You are asking them to make determinations of the storing of high-level radio activity, radio active waste from Maine Yankee. You are asking them to make some judgments about some costs that we have no concept of how those costs will come down.

I suggest that you think very seriously before you adopt House Amendment "A" to Committee Amendment "A" and I would move that House Amendment "A" be indefinitely postponed.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: The reason we amended the original bill and took this out of the original bill is because we felt that in the short session it was just too much to put on the plate.

What we were responding to was a cry from Bucksport, not to let this happen to them. Now we are going to put onto the town of Bucksport this amendment which is going to be killed I believed in the other body and we will leave them high and dry. I cannot support the amendment and I do not support this amendment.

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

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: I was on the Minority Report of this bill and I was in support of the concept of a moratorium as we explored exactly what this coal-fired plant would do to our communities along the coast as well as the tourism and the other aspects of downeast life.

This amendment goes far beyond what we were first asked to do as we voted earlier today. As Representative Morrison has already stated, this is a major change in our energy policy and it is one that shouldn't be taken so quickly or so lightly. It is one that needs full exploration and we now have extended the long-range energy planning commission to study a subject such as this and I would much rather, and I think it would be a better policy position for this legislature to take, to allow that group to complete its study and come out with a report, rather than jump willy-nilly into making a policy which can affect greatly every ratepayer in this state. If you think you have heard screams about what electricity rates cost now, you haven't seen anything yet.

I hope you would vote with Representative Morrison on his motion to indefinitely postpone House Amendment "A."

The SPEAKER PRO TEM: The Chair recognizes the Representative from Ellsworth, Representative Salisbury.

Representative SALISBURY: Mr. Speaker, Ladies and Gentlemen of the House: I have to agree wholeheartedly with the Representative from Bangor. This is too much, too soon. I am willing to go one step but I am not walking two. Please indefinitely postpone.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: A lot has been said on this amendment and I think it is going a little too far. I think the committee looked at it closely and I think we are biting off a little bit more than we can handle and that is why we elected to take it out of the bill.

A lot of you are getting phone calls from your constituents and business on the rates. You pass this bill and you think you've got phone calls now, you will get a lot more phone calls on light bills than you can imagine.

I hope when you do vote, you vote to kill this amendment.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sedgwick, Representative Gray.

Representative GRAY: Mr. Speaker, Ladies and Gentlemen of the House: I can definitely understand your reservations on this since you know very little

about it. I would like to explain some of it and I will be very brief.

The 114th Legislature unanimously voted out L.D. 2029. That bill put in motion or direction that the PUC would come back to this legislature with a report with mechanisms to do least-cost energy planning. They brought back an 89 page report, no legislation for us do anything with, so again we are waiting another two years. They brought back an 89 page report that said that this was too complex for us, we are not going to do it. They brought back no legislation. I read both reports, the Minority Report and the Majority Report. The Minority Report said flatly that they weren't going to do it and they didn't.

One thing that is important for me, and I don't expect to get two votes out of this House, is for me to tell you that, unlike what has been said here today, the Public Advocate totally supported my concept of least-cost energy planning. I found him to be the only one that has a commitment to the reduced rates in this state. This bill is about control. Until we are accountable to the ratepayers of controlling the facilities being built, we are just playing games here. This is my attempt to at least get a base from which to weigh one alternative against another, not the environment against the economy.

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

Representative HOLT: Mr. Speaker, Ladies and Gentlemen of the House: I was a member of the Utilities Committee when that action took place. The present Public Utilities Commission is not fond of the idea of factoring in environmental harm in energy planning for the future. This wouldn't shut down any plants, not even Maine Yankee, I am sorry to say.

The executive summary of the National Association of Public Utilities Commissioners or is the National Association of Regulatory Utilities Commission Energy Conservation staff's subcommittee and the Lawrence Berkeley Laboratory conducted a survey to identify the extent and range of public utility commissions approaches to this issue. We should be aware of these days indeed of the environmental consequences of electricity production and they have led many utility commissions to consider these and that is what we are asking you to do here. Public policy — we should request the PUC, we should tell them they must do this for the sake of future generations. When we are planning for our energy future, we should take environmental harm into account. If we had this in line, there would be much less concern about pollution in the future from electricity sources. There are 17 PUC's that have adopted explicit rules directing that these things be incorporated.

It is important for me to put this on the Record and say it clearly because so many people do not know what it is all about, as the good Representative from Sedgwick has said. Externalities of those environmental effects of electric production sources and other sources of energy do indeed harm us and cost millions a year in every state in health costs to begin with and the destruction of forests, acid rain, acid fog makes our trees' immune systems weak and they are more likely to become pest ridden. It is a very complex subject and I will not speak long on it but just for the Record, I want you to understand that there are three ways to do this and these have been taken into account and are in place

in other states. One is during the planning process, you give priority to clean power. Number two, you use a percentage adder that increases the cost of dirty power and decreases the cost of efficiency. We don't need to build anything over a long period of time at all if we are using efficiency because that neither pollutes nor does it cost to build. Number three, we can directly quantify the cost of the environmental harm in the bidding process, which is done. You just arbitrarily assign a cost, 5 cents, a half a cent per kilowatt hour for certain sources that are polluting. It isn't difficult to do, it is the powers to be that don't want to do it.

So, go ahead and vote against it, but just know what you are voting against. We don't want to kill the other part of the bill for sure. But, you should know what this is about and you should know that, in the future, we are going to held accountable for not doing these things in a timely fashion.

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

Representative MAHANY: Mr. Speaker, I would like to pose a question through the Chair for those who oppose the amendment. Certainly I don't understand all the intricacies involved here but I would like to comprehend a little more clearly and explicitly why the implementation of this amendment would increase energy costs? I understood that to be part of the argument of those who are against this particular amendment. If you could clarify that a little bit, I would appreciate it.

The SPEAKER PRO TEM: The Representative from Easton, Representative Mahany, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Bangor, Representative Morrison.

Representative MORRISON: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, I think you will find that the good Representative from Bath, Representative Holt, has already told you that there are millions of dollars, millions of dollars of costs involved in that. If those millions of dollars become factored into your costs in electricity, a dollar a kilowatt is probably not too much to consider.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: I am a member of the Long-range Energy Planning Commission and I am here to tell you that we have in fact appointed a Task Force to investigate this very complex issue. Last week I was at a conference among PUC regulators and environmental regulators from throughout New England. Only two of those states are currently using least-cost planning to determine their energy rates. Both are struggling a bit with them.

I support the concept wholeheartedly and the good Representative from Sedgwick knows that. My problem with her amendment is that it only gets at utilities least-cost energy planning which does not get at the issue which I think is pressing down on us of regulating those non-utility generating plants. So for that reason, I will not be supporting this amendment, though I want to go on Record for all of you and particularly for my good friend, that I do support the concept that we do have a mechanism in place through the Energy Commission to deal with it and that I think we will come up with a mechanism

that will get the issue that she and I are both very much concerned about.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of the Representative from Bangor, Representative Morrison, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed.

Representative Aikman of Poland requested a roll call.

Subsequently, Representative Aikman withdrew her motion.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of the Representative from Bangor, Representative Morrison, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

61 having voted in the affirmative and 23 in the negative, the motion to indefinitely postpone House Amendment "A" to Committee Amendment "A" did prevail.

Subsequently, Committee Amendment "A" (H-1083) was adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1083) and sent up for concurrence.

At this point, the Speaker resumed the Chair.

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act Relating to Unredeemed Deposits" (H.P. 1519) (L.D. 2131) (C. "A" H-1034) which was tabled earlier in the day and later today assigned pending Passage to be Engrossed as amended by Committee Amendment "A" (H-1034).

On motion of Representative Michaud of East Millinocket, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-1034) was adopted.

The same Representative offered House Amendment "A" (H-1123) to Committee Amendment "A" (H-1034) and moved its adoption.

House Amendment "A" (H-1123) to Committee Amendment "A" (H-1034) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: Basically what House Amendment "A" to Committee Amendment "A" does is it requires those depositors have refillable containers, have a reporting system and it also protects and enforces what the court ruling was the other day as far as the unclaimed deposits.

I did talk to the sponsor of the bill, Representative Hoglund and the Chair of the Committee and they all are in agreement with this amendment so I hope you will adopt it.

Subsequently, House Amendment "A" (H-1123) to

Committee Amendment "A" (H-1034) was adopted.

Committee Amendment "A" (H-1034) as amended by House Amendment "A" (H-1123) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-1034) as amended by House Amendment "A" (H-1123) thereto in non-concurrence and sent up for concurrence.

The following items appearing on Supplement No. 5 were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Clarify the Maine Juvenile Code" (S.P. 937) (L.D. 2396)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed as amended by Senate Amendment "B" (S-634).

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

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

Senate Amendment "B" (S-634) was read by the Clerk and adopted.

Under further suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Senate Amendment "B" (S-634) in concurrence.

Non-Concurrent Matter

Bill "An Act Relating to Gambling" (EMERGENCY) (H.P. 1685) (L.D. 2365) which was passed to be engrossed as amended by Committee Amendment "A" (H-1056) in the House on March 9, 1992.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-1056) as amended by Senate Amendment "A" (S-620) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 4 were taken up out of order by unanimous consent:

SENATE PAPERS

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act Regarding County Contingent Account Limits" (S.P. 884) (L.D. 2256)

Signed:

Senators: BUSTIN of Kennebec
BERUBE of Androscoggin

Representatives: NASH of Camden
 JOSEPH of Waterville
 WATERMAN of Buxton
 SAVAGE of Union
 LOOK of Jonesboro
 KERR of Old Orchard Beach

Minority Report of the same Committee reporting
 "Ought to Pass" on same Bill.

Signed:

Senator: EMERSON of Penobscot

Representatives: GRAY of Sedgwick
 KILKELLY of Wiscasset
 LARRIVEE of Gorham
 HEESCHEN of Wilton

Came from the Senate with the Minority "Ought to
 Pass" Report read and accepted and the Bill passed
 to be engrossed.

Reports were read.

The SPEAKER: The Chair recognizes the
 Representative from Waterville, Representative Joseph.
 Representative JOSEPH: Mr. Speaker, Men and
 Women of the House: I move that the House accept the
 Majority "Ought Not to Pass" Report.

This piece of legislation says that all counties
 may expand their contingency fund from \$50,000 to
 \$100,000. We all must think about this and remember
 that counties are supported by assessments to our
 communities and by the property taxpayers in our
 communities. This may not seem like a great deal of
 money but it certainly is at a time when we continue
 to say to the property taxpayers in our communities
 that I will do all I can not to increase your
 property taxes.

If only one county came in and said to us that in
 fact it would be important to them to have only their
 county have an extended contingency fund, perhaps the
 majority of the committee would have thought that
 this might be a good idea. However, this would be
 all counties within this state.

It seems to all of the majority of this committee
 that counties have different methods of developing
 county budgets, some have budget committees and
 others do not. Some go to the legislative delegation
 and others do not. However, we believe if proper
 budgeting does occur, then a \$50,000 contingency fund
 should be adequate.

You perhaps will hear that if the balance of the
 \$50,000 is not used or if a \$100,000 were not used,
 then the county would only be required to replenish
 that remainder balance. However, it is still
 property taxes from your property taxpayers in your
 communities and in your municipalities.

I urge you to accept the Majority "Ought Not to
 Pass" Report.

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

Representative COLES: Mr. Speaker, Ladies and
 Gentlemen of the House: This bill was put in by the
 Sagadahoc County legislative delegation and I am
 Chair of that delegation. We put it in at the
 request of our commissioners and I put it in with the
 unanimous support of the delegation, which was split
 3/3 between the parties. We felt that it was

important to county government, particularly in this
 day and age when they have so much in the way of
 state prisoners to work with and the prison expenses
 are so unpredictable to be able to have a reasonable
 amount of money in a contingency account for
 unanticipated, unforeseen expenses. Right now by
 law, they are limited to \$50,000. This means if
 something happens and they need more than \$50,000,
 they are out of luck. It might make sense in fact to
 save some percentage of that budget but we didn't
 think of it at the time, we put it in at \$100,000
 because that is what our commissioner said would be
 adequate for them.

Sagadahoc County is one of the smallest counties
 and its budget is one of the smallest budgets and
 this is still going to amount to less than 5 percent
 of that budget. More importantly, this is a
 permissive bill, no county will be required to raise
 that money, they can still set whatever contingent
 amount they want below that. The other thing is that
 most counties now have budget advisory committees or
 budget committees which in fact have veto power over
 the county budget.

The commissioners are also elected officials in
 charge with the responsibility of spending this
 money, setting this budget and raising it through the
 towns. They are now in fact very closely watched by
 the town officials so we are not opening the door, in
 my view, to wild spending by county commissioners or
 county officials. We are opening the door to
 allowing them to manage budgets in a wise fashion.

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

Representative HEESCHEN: Mr. Speaker, Men and
 Women of the House: I urge you to defeat the pending
 motion so that we may go on to accept the Minority
 "Ought to Pass" Report. The cap on contingency
 reports was set at \$50,000 some years ago. I don't
 have the date handy here but it was quite some time
 ago. County budgets as well as all budgets for that
 matter have increased since then but the allowable
 contingency amount has not.

I think it is important to note that different
 counties have different needs. The \$50,000 figure is
 certainly an across-the-board, across the whole state
 kind of restriction but to say that we shouldn't do
 anything unless each county comes in with specific
 requests and then we grant it for that particular
 county, I think is missing the point. Times change,
 we have to change along with it. We did receive a
 letter from Aroostook County supporting this. It was
 an unsolicited letter as far as I could tell.

I think we should give the counties the option of
 going up to \$100,000 in their contingency account.

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

Representative SMALL: Mr. Speaker, Ladies and
 Gentlemen of the House: This bill which raises the
 \$50,000 maximum contingencies to \$100,000 is
 permissive legislation. Representative Joseph said
 that this money will come directly from the property
 taxpayers. In my county at least, I think what it
 will do is come directly from the other county
 departments where right now the County Commissioners
 are having to budget at maybe a higher level than
 they feel was justified but with only a \$50,000
 contingency, they don't dare budget too
 conservatively because if there is a shortfall, they
 are not going to have enough to make that up.

Right now, at least in our county and I think

everyone else is the same, we have kind of an odd setup where the county commissioners are responsible for the budgets but they are not responsible for the day to day operations of many of the departments that they are budgeting for. If you have a sheriff's department that has — at least in our county it is the major part of the cost — and you try to pin down exactly what the cost is, then the sheriff says that it is going to be a little higher than what the commissioners feel, they have a very tough question of whether or not they are going to fund it at what they consider to be adequate levels or what the sheriff considers to be adequate levels. There might be a vast discrepancy there. So, in order to protect themselves and the county, they may fund it at a higher level than what they feel is adequate but they know that they don't have the contingency to make it up. I feel that if they did have this \$100,000, they would be more conservative with the tax dollars and that money, if it is not budgeted for that department, they would then have to justify their increased expenditures. I see this as a tax savings and not a tax costing measure. Otherwise, I would not be supporting it so I hope you will reject the Majority "Ought Not to Pass" Report so you can go on to accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Dutremble.

Representative DUTREMBLE: Mr. Speaker, Men and Women of the House: When I was County Commissioner in 1959, the contingency fund was \$50,000. You've got to remember, we are also allowed an overlay on our budget which is a great amount.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: \$50,000 has been the contingency amount for some years but I feel that it is the responsibility of the county officials to put out a viable budget and they must look at all the issues before they do so. If you have a \$100,000 in there and they know that it is there, many times they are going to underbudget deliberately and say, we will just take it out of the contingency fund. This is putting out false information to the general public and that is why I disapprove of increasing this. They should be putting out a budget that is more of a true picture at the time they develop it. A contingency is there for just exactly that, the unexpected. It does mean that you are going to constantly plan to take out of contingency.

The SPEAKER: The Chair will order vote. The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, 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.

Representative Coles of Harpswell 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 Lewiston, Representative Handy.

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

I noticed that the four sponsors of this legislation all hail from Sagadahoc County and I would like to pose a question to the Representative from Harpswell, Representative Coles, if thhe had considered a bill that would be applicable only to Sagadahoc County as I certainly would not want this for Androscoggin County?

The SPEAKER: The Representative from Lewiston, Representative Handy, has posed a question through the Chair to Representative Coles of Harpswell who may respond if he so desires.

The Chair recognizes that Representative.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: We put the bill in as drafted by the County Commissioners and we would be happy to consider such an amendment.

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: You know wonders will never cease if you are around this body long enough. I just heard a little while ago that if you allow someone to have \$50,000 more of your money to play with, it is not a tax increase. I heard it from a member of the party that is always accusing us as Democrats of going for tax increases.

I've got to tell you, my experience with contingency accounts in my county, which is really the only one I care about, has been, the more you give them, the more they waste. They have used every harebrained scheme that ever came across the board when it came down to using that \$50,000.

We had a public hearing in the city of Waterville dealing with the state budget and one of the things that was made very clear to us is that people are real concerned about county government because it comes right from property taxes. You have all campaigned on property tax relief, you have waved that flag so much it is worn out and here you are, you are going to pass a bill or you want to pass a bill to allow people to take another \$50,000 right from property tax to be used as a cushion if they screw up doing their job.

I guess if you have been around here long enough, you can hear just about anything. I just couldn't let this one get by. No way am I voting for this. It makes absolutely no sense at all, it will be just, as Representative Look said, another chance for them to pass off the buck right out of property taxpayers pockets. Let's call it just like it is and, in my county, I don't want to give them that authority, I like to keep them right as close to the bone as we can and this is just going to be adding another \$50,000 of meat.

I would urge you to vote with the "Ought Not to Pass" Report if you really want to do something about property tax relief.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct two inconsistencies in the former speaker's statement, one, I don't think I have ever gotten up here and made a partisan remark that he accused me of before. I always pride myself that I try to stick to the

facts of the issue and that is what I am doing here.

If you deny the county commissioners a \$100,000 or any sort of contingency fund, at least in my county, they are forced to fund at a higher level than what they believe is adequate for that county.

If you turn it over to another department, how many times at the end of the year in a county budget do you see those departments turn it back over and say we didn't need all this money in our accounts, we didn't spend it so we didn't need it. That happens very seldom in our county.

What this does is allow them to be more conservative in what they give to the other departments and then if, in the case of the sheriff's department there is a higher number of prisoners that year or the cost of maintaining the prisoners is higher, then they have that money to fall back on. \$50,000 is not a lot of money when you are talking about support of prisoners. If you have a murder case in your area and you have to do a lot of transporting of prisoners, at least in a small county like ours, it can run up the bills very quickly. So, all we are doing is allowing them to be more conservative in their estimates for the different departments and then, if that money is not used, it is turned back over. I think there is more of a chance that the money will be turned back over the next year if it is within the Commissioners hands than if it is within the departments hands.

On motion of Representative Coles of Harpswell, tabled pending the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Tuesday, March 17, 1992.

Non-Concurrent Matter

An Act Concerning the Authority of Podiatrists (EMERGENCY) (H.P. 1682) (L.D. 2362) (C. "A" H-1059) which was passed to be enacted in the House on March 12, 1992.

Came from the Senate failing of passage to be enacted in non-concurrence.

The House voted to Insist.

(Off Record Remarks)

On motion of Representative Michael of Auburn, Adjourned at 6:23 p.m. until Tuesday, March 17, 1992, at ten o'clock in the morning.
