

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 17, 1993 to July 14, 1993

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
61st Legislative Day
Tuesday, June 1, 1993

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

Prayer by Reverend Calvin O. Dame, Unitarian Universalist Community Church, Augusta.

National Anthem by the Greely High School Brass Ensemble, Cumberland Center.

The Journal of Friday, May 28, 1993, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

May 28, 1993

Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today adhered to its previous action whereby it accepted the Majority Ought Not To Pass Report on the Bill "An Act to Regulate the Use of Aircraft for Surveillance Purposes by Law Enforcement Agencies" (H.P. 889) (L.D. 1203).

Sincerely,

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

Was read and ordered placed on file.

Non-Concurrent Matter

An Act to Amend the Occupational Disease Law (S.P. 216) (L.D. 687) (C. "A" S-92 and H. "A" H-365) which was passed to be enacted in the House on May 25, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-92) as amended by Senate Amendment "B" (S-240) thereto and House Amendment "A" (H-365) in non-concurrence.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I know some members on the committee have a concern about the bill. I believe they are AT a confirmation hearing right now. I wonder if some member of the House could table this matter until they are here to discuss that?

On motion of Representative Paradis of Augusta, tabled pending further consideration and later today

assigned.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bill was received and, upon the recommendation of the Committee on Reference of Bills, was referred to the following Committee, Ordered Printed and Sent up for Concurrence:

Judiciary

Bill "An Act to Clarify the Laws Governing HIV Testing of Sexual Offenders" (H.P. 1143) (L.D. 1543) (Presented by Representative TOWNSEND of Eastport) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

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

ORDERS

On motion of Representative SKOGLUND of St. George, the following Joint Resolution: (H.P. 1144) (Cosponsored by Senator PINGREE of Knox and Representatives: ADAMS of Portland, GWADOSKY of Fairfield, KILKELLY of Wiscasset, LIBBY of Kennebunk, LOOK of Jonesboro, PARADIS of Augusta, PENDLETON of Scarborough, TOWNSEND of Eastport, TOWNSEND of Canaan, Senator: BEGLEY of Lincoln) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE
UNITED STATES POSTAL SERVICE TO ADDRESS
THE CLOSURE OF THE UNITED STATES POST
OFFICE IN THE VILLAGE OF ST. GEORGE**

WE, your Memorialists, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the United States Postal Service, as follows:

WHEREAS, the people of the Village of St. George, Maine, had enjoyed the convenience of a post office for more than 160 years; and

WHEREAS, the people of the Village of St. George had been assured by authorities of the United States Postal Service that the post office would not be closed before a public hearing was held and serious consideration given to the sentiments and needs of the people; and

WHEREAS, authorities of the United States Postal Service made the decision to close the St. George Post Office and, feigning an emergency, did indeed shut the door of that office without a public hearing and with less than a week's notice to postal customers; and

WHEREAS, any opinions of the people, expressed at a hearing that may occur after the decision has already been made and the closing accomplished, are rendered ineffective; and

WHEREAS, such an arbitrary and irregular act on the part of the Postal Service puts the creditability and integrity of the United States Government into disrepute; and

WHEREAS, such abuse of authority by one level of government is imputed, in the public mind, to all levels of government, thus eroding respect for all governing bodies and public officials; and

WHEREAS, people of the Village of St. George have no recourse save through the collective voice of the people's representatives here assembled; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge that any act by a governmental body be carried out according to procedures established to ensure that the voices of the people be heard and their wishes respected; and be it further

RESOLVED: That We further remonstrate against the arbitrary action of the United States Postal Service in closing the door of the St. George Post Office without considering the opinions and needs of the people of that place; and be it further

RESOLVED: That We further urge the responsible authorities to rectify this injustice; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the United States Postal Authorities in Maine, the Postmaster General of the United States and to each Member of the Maine Congressional Delegation.

Was read and adopted 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:

(H.P. 1089) (L.D. 1468) Bill "An Act to Place Appropriate Citations to Various Boards and Commissions within the Maine Revised Statutes, Title 5, Sections 12004-A to 12004-L" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-481)

On motion of Representative Joseph of Waterville, was removed from Consent Calendar, First day.

Report was read and accepted, the Bill read once. Committee Amendment "A" (H-481) was read by the Clerk and adopted and the bill assigned for second

reading Wednesday, June 2, 1993.

(H.P. 1050) (L.D. 1402) Bill "An Act to Establish the Penobscot County Budget Advisory Committee" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-482)

(H.P. 810) (L.D. 1096) Bill "An Act Repealing Advisory Boards on State and Local Government Matters" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-483)

(H.P. 822) (L.D. 1108) Bill "An Act to Amend the Child Labor Laws" Committee on Labor Reporting "Ought to Pass" as amended by Committee Amendment "A" (H-484)

(H.P. 934) (L.D. 1257) Bill "An Act to Clarify the Laws Pertaining to Mortgages and the Laws Pertaining to Taxation of Real Estate Transfers" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-485)

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

ORDERS OF THE DAY

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 28, 1993, 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 Regarding Lobbying (S.P. 295) (L.D. 881) (H. "A" H-423 to C. "A" S-183) TABLED - May 28, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield. 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:

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (H-432) - Minority (2) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of the Attorney General (H.P. 960) (L.D. 1291) TABLED - May 28, 1993 (Till Later Today) by

Representative GWADOSKY of Fairfield.
PENDING - Motion of Representative JOSEPH of Waterville to accept the Majority "Ought to Pass" as amended Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" as amended Report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-433) - Minority (5) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of the Treasurer of State (H.P. 961) (L.D. 1292)
TABLED - May 28, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Motion of Representative JOSEPH of Waterville to accept the Minority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Joseph of Waterville that the House accept the Minority "Ought Not to Pass" Report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-434) - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Popular Election of the Secretary of State (H.P. 965) (L.D. 1296)
TABLED - May 28, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Motion of Representative JOSEPH of Waterville to accept the Minority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Joseph of Waterville that the House accept the Minority "Ought Not to Pass" Report and later today assigned.

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

Bill "An Act to Centralize Licensing for Retail Businesses" (H.P. 399) (L.D. 512) (H. "A" H-408 to C. "A" H-367)
TABLED - May 28, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Engrossed.

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

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

An Act to Reform and Reestablish the Commission on Governmental Ethics and Election Practices (S.P. 225) (L.D. 696) (C. "A" S-168)
TABLED - May 28, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
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 seventh item of Unfinished Business:

An Act Regarding County Contingent Account Limits (S.P. 286) (L.D. 856) (C. "A" S-116)
TABLED - May 28, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
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 eighth item of Unfinished Business:

8. An Act to Enhance Voters' Rights in Budget Approval of School Districts (EMERGENCY) (MANDATE) (S.P. 252) (L.D. 771) (H. "A" H-407 and H. "B" H-416 to C. "A" S-163)
TABLED - May 28, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Mitchell of Vassalboro, under suspension of the rules, the House reconsidered its action whereby L.D. 771 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-163) as amended by House Amendment "A" (H-407) and House Amendment "B" (H-146) thereto was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-407) to Committee Amendment "A" (S-163) was adopted.

On motion of the same Representative, House Amendment "A" (H-407) was indefinitely postponed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "B" (H-416) to Committee Amendment "A" (S-163) was adopted.

On motion of the same Representative, House Amendment "B" (H-416) was indefinitely postponed.

On further motion of the same Representative, Committee Amendment "A" (S-163) was indefinitely postponed.

The same Representative offered House Amendment "A" (H-489) and moved its adoption.

House Amendment "A" (H-489) was read by the Clerk.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I think you have just witnessed an example of why it is better to do things right in the first place. It is an extraordinarily complicated thing to back a piece of legislation up.

Our committee met and discussed the many objections and concerns that were raised in this body concerning the voting processes in School Administrative Districts. Because there was such difficulty in explaining the various things that we were trying to accomplish, the committee thought it was the better part of valor and wisdom to move forward only with this most minor of changes planning to revisit the whole issue next session. So, I offer you a House Amendment which simply has an emergency on it so that it will be effective for those school districts who will be working on their budgets after we adjourn.

As you recall, the interest we had there was to make sure the absentee ballots were 14 days as was the warrant so that that would expedite the process a bit because budget numbers from the state are late coming out. We also agreed in the second part of this at the special budget meeting that the voters of the districts could authorize the directors to expend additional funds from the districts' undesignated fund balance, that was a clarification and that is all the amendment does at this time.

I would urge the House to adopt this amendment.

Subsequently, House Amendment "A" (H-489) was adopted.

On motion of Representative Carroll of Gray, tabled pending passage to be engrossed and later today assigned.

TABLED AND TODAY ASSIGNED

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

Bill "An Act to Minimize Electric Rates" (S.P. 307) (L.D. 940)

- In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-159) on May 25, 1993.

TABLED - May 28, 1993 by Representative KONTOS of Windham.

PENDING - Adoption of Committee Amendment "A" (S-159) as amended by House Amendment "A" (H-468) thereto.

On motion of Representative Clark of Millinocket, retabled pending adoption of Committee Amendment "A" (S-159) as amended by House Amendment "A" (H-468) thereto and specially assigned for Wednesday, June 2, 1993.

BILL HELD

Bill "An Act to Modify the Fuel Clause for Electric Utilities" (H.P. 603) (L.D. 818) (C. "A" H-472)

- In House, Passed to be Engrossed.

HELD at the Request of Representative TAYLOR of Cumberland.

On motion of Representative Taylor of Cumberland, the House reconsidered its action whereby L.D. 818 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-472) was adopted.

The same Representative offered House Amendment "B" (H-496) to Committee Amendment "A" (H-472) and moved its adoption.

House Amendment "B" (H-496) to Committee Amendment "A" (H-472) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Mr. Speaker, Men and Women of the House: House Amendment "A" was distributed earlier in the session and is in error. It had a line that needed to be deleted. House Amendment "B" is what I would like to talk about.

L.D. 818 is a good bill, it received solid support from the Joint Committee on Utilities. The Majority "Ought to Pass" Report carried an eleven to two vote, I was one of the majority. I am now requesting that you approve an amendment to this bill as presented.

Fuel adjustment clauses were a necessity in the 1970's and 1980's when the price of oil jumped up or down every time the Arab oil producers met. That condition no longer exists. However, fuel clause also includes the cost of purchased power, cost of power from qualified facilities, co-generation plants under contract and from Maine Yankee and are passed through the fuel clause. There is still the real possibility of fairly wide swings above or below the cost estimated at the time of a formal rate proceeding. This means that some form of adjustment is still required, in fact, often beneficial to the ratepayer. After the Utilities Committee had worked on the bill and reported it out as "Ought to Pass" several members of the committee, including myself, became concerned about the perception of the bond market to L.D. 818. A motion to reconsider was rejected by the committee and the bill before you was on its way to being enacted.

I have proposed House Amendment "B" to L.D. 818 which would disallow intermediate rate adjustments for fuel costs but would continue to track purchase power and it increases and decreases as appropriate. While the utilities might wish to avoid all the implications of L.D. 818, it would be retained but allow for adjustments of purchased power only.

The amendment before you would, for instance, allow an adjustment if Maine Yankee went down for more than 30 days and Bangor Hydro had to purchase more extensive power elsewhere.

On the other hand, if a high-priced qualified facility should go off line, it would allow the power company to purchase cheaper power from the wholesale market. Amendment "B" would permit the adjustment to the benefit of the ratepayers.

The main concern here is the perception the bond market has for the ability of the power company to service their debt. There is no question the intent

is for the power company to recover its costs.

L.D. 818 with House Amendment "B" would send a clear signal to the bond rating agencies that Maine power companies continue to be a safe investment. This should have a long-term impact on their rates in that they will be able to borrow at a more advantageous rate.

I would urge your consideration favorably to House Amendment "B."

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

Representative CLARK: Mr. Speaker, Men and Women of the House: Representative Taylor gave you an excellent profile on what took place in the committee, it was an 11 to 2 report.

I hope when you vote tonight, you don't accept Amendment "B" as was offered by Representative Taylor because if you look at Amendment "B", on the Statement of Fact, the April 1, 1993 deadline more or less strikes the bill itself. This bill has been around here since I came down here in 1980. I have offered this bill on behalf of the PUC for the last 13 years and we have been trying to get it out of committee. We finally got it out of committee, the PUC is very much in favor of this bill.

You want to remember the old prices are not \$100 a barrel any more, they are around \$20 some odd a barrel. The bill itself is a very good bill. It is probably the second best bill that we put out of the committee this year. The first best one is waiting to be heard later on, once we get it taken care of.

When you do vote today, I hope you vote not to accept the amendment.

Mr. Speaker, I request a Division.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I commend Representative Taylor for offering this amendment and also Representative Clark for continuously putting this bill in. Although they seem at odds right now, they are not.

I think that we agree that oil is not as volatile as it once was. What the amendment addresses is what we have come to know as QF's or qualifying facilities or these other facilities that are buying wood, chopping it up, burning it, making electricity, these sorts of things.

What this does, it will allow it to be an immediate pass-through, to continue on the current basis until we have at least some indication from the bonding houses how they will react to this. If we do it all the way, the volatility when we have two utilities right now near the bottom of the bond rating, CMP is a triple B+, Bangor Hydro is a triple B, the next step would be a junk bond, which makes it very expensive for them to borrow money to build things that generate electricity that our constituents buy, thus raising the electric rate.

I think we can move ahead with this whole bill and this amendment without much problem. If we don't have this, I could see a stormy future for the bill.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: We have had several utility issues come up in the last week. Last week, I had somebody comment to me that the utility issues are very complex and hard to understand in discussion on the floor, so with that in mind, I will try to keep

this as simple as I can.

Everybody here should remember the oil crisis in the mid-1970's when oil prices doubled. Forty percent of our electricity generated and sold by electric utilities was generated by oil. In response to that in 1975, the fuel adjustment clause was enacted in this state to help the utilities recover those ever fluctuating costs and to help stabilize the rates for the ratepayers.

Since that time, as recent as 1991, our dependency on oil-fired generating facilities has gone down to less than 10 percent of the energy we buy today. The mandatory fuel adjustment clause that we are discussing today essentially guarantees that the utility will be able to recover the cost for fuel and power purchased contracts on a dollar for dollar basis. Knowing that, the risk of course is on the ratepayers and not on the shareholders. Therefore, the bonding houses would of course be more comfortable if they are guaranteed that there is going to be a dollar for dollar pass-through and that the only people at risk are the ratepayers. I personally feel I am here to represent the ratepayers though and not the shareholders.

We talked about this bill for a long period of time in committee. It went out with the 11 to 2 report. After that, it was brought to our attention by the utilities that this would jeopardize their bond rating by doing that. Of course, this was never part of the discussion through the public hearing or through the many work sessions this was never an issue until after the 11 to 2 vote went through and then it was an issue. So, we offered to reconsider it in committee and to do that we simply asked the electric utilities if they would please provide us with the information that they had received from the bond houses that said this would jeopardize their bond rating, which was already as Representative Donnelly pointed out, very low. That is not because of the fuel adjustment clause. They never did come up with this evidence. Therefore, the committee decided to stick with its Committee Report and I would urge you today to vote for the bill but to please vote against House Amendment "B" because I don't think Amendment "B" serves the purpose of the bill.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: Welcome, once again, to the wonderful world of utilities and all its complexities.

I, too, rise to point out that the report is 11 to 2, was 11 to 2 out of the committee and remains 11 to 2 today and to also ask you to please to reject House Amendment "B" for the following reasons. The fuel clause, just so that you will know, is a clause entered into our Maine state law back in the 1970's, the days of the OPEC oil embargo, the days of the energy crisis and the days when the price of oil, especially among all fuels, was rising so quickly it was impossible to run a regular rate case to keep it under the supervision of the Public Utilities Commission. Hence, the law was passed that allows those costs of purchasing the fuel passed on directly to you and I, you and I the ratepayers, not stockholders, you and I the ratepayers, directly.

Well, the energy crisis is gone but the fuel clause remains. It shimmers there quietly on our bills every year, every day, and we pay for it. We pay for it in real bucks and in big bucks, which is

why it is time, I believe, to step back, now that the crisis is gone, and to look at it and see how we can make it work better for you and I, because, after all, it is you and I that pay all those bills. You must not think it doesn't have an effect upon your wallet. In 1990, Central Maine Power Company alone passed on \$56 million in fuel clause adjustments directly to your wallet and mine. In 1991, they passed on \$66 million. In 1992, they passed on \$38 million. Presently there is a case where they are looking to pass on \$17 million more.

This is big bucks and because it is our bucks, I say it is time to do something about it and that is what the 11 to 2 report from the committee decided to do. It strikes a good compromise for the very small utilities, the small electric utilities are exempted, they still will be able to pass that on. For the very large electrical utilities, it gives the Public Utilities Commission the option to stop things in their tracks, look at the evidence and decide whether they are going to run a rate case or let it be passed on, a pretty conservative compromise, I thought, and a pretty good idea. And, because we are dealing with such huge bucks these days seems to be a good way to put the brakes on all those bucks and decide how we are going to treat them when it comes down to your wallet and mine.

I would feel a heck of a lot better about Representative Taylor's good Amendment "B" if simultaneously looking to kill this bill or to gut it, the utilities hadn't also introduced a bill, L.D. 1007, which would allow them to be exempted from all manner of supervision from the Public Utilities Commission and allow them to set up subsidiary companies to do all kinds of consulting and to make all kinds of investments, many of them risky, with no supervision at all. It seems to me that you can't have it both ways. It is not good to be able to put the ratepayers' pockets at risk without supervision on one side and to maintain the supervision on another, it just doesn't work.

I encourage you to vote down House Amendment "B" (the one before us now) and stick to the 11 to 2 Committee Report and I think you can go home and say that you indeed did the right thing for the ratepayers' wallet.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "B" (H-496). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

25 having voted in the affirmative and 65 in the negative, House Amendment "B" (H-496) was not adopted.

Subsequently, Committee Amendment "A" (H-472) was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-472) and sent up for concurrence.

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

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative COTE from the Committee on Judiciary on Bill "An Act to Amend the Sexual

Assault Laws" (H.P. 823) (L.D. 1109) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-486)

Report was read and accepted, the bill read once.

Committee Amendment "A" (H-486) 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-486) and sent up for concurrence.

Ought to Pass as Amended

Representative ERWIN from the Committee on Audit and Program Review on Bill "An Act to Increase the Revenues of the Board of Examiners of Podiatrists" (EMERGENCY) (H.P. 1125) (L.D. 1524) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-490)

Report was read and accepted, the bill read once.

Committee Amendment "A" (H-490) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read the second time and passed to be engrossed as amended by Committee Amendment "A" (H-490) 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:

(H.P. 589) (L.D. 793) Bill "An Act to Improve Local Control over Liquor Licensing" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-487)

(H.P. 851) (L.D. 1156) Bill "An Act to Create the Maine Criminal Justice Information System" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-488)

(H.P. 1075) (L.D. 1441) Bill "An Act to Amend the Laws Governing the Knox County Budget Committee" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-492)

(H.P. 1088) (L.D. 1467) Bill "An Act to Promote Long-term Economic Growth" Committee on Housing and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-494)

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

By unanimous consent, all matters having been

acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

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

ENACTOR

Bond Issue

Later Today Assigned

An Act to Authorize Department of Transportation Bond Issues in the Amount of \$39,500,000 to Match Available Federal Funds for Improvements to Highways, State and Local Bridges, Airports, Cargo Ports and the Ferry Service (S.P. 505) (L.D. 1529) (Governor's Bill) (C. "A" S-212)

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Enhance the Role of the State Board of Education (S.P. 209) (L.D. 680) (C. "A" S-205)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Emergency Measure

Later Today Assigned

An Act to Allow the Sale of Surplus Lands from the State Nursery (S.P. 89) (L.D. 243) (C. "A" S-235)

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

On motion of Representative Paradis of Augusta, table pending passage to be enacted and later today assigned.

PASSED TO BE ENACTED

Emergency Measure

An Act to Facilitate Oil Spill Cleanup Operations

(S.P. 470) (L.D. 1462) (C. "A" S-236)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Make Additional Appropriations and Allocations and to Make Technical Corrections to the Laws for the Fiscal Years Ending June 30, 1993 and June 30, 1994 (S.P. 497) (L.D. 1517) (Governor's Bill) (S. "A" S-229)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 106 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Prevent the State from Discharging People from State Institutions without Adequate Provision for Alternative Services (H.P. 370) (L.D. 473) (C. "A" H-446)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Concerning Amendments to the Laws Affecting the Finance Authority of Maine (H.P. 716) (L.D. 967) (C. "A" H-457)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED

Emergency Measure

Resolve, to Require a Study of Adult Inmate Education and Training in the Correctional System (H.P. 478) (L.D. 615) (C. "A" H-445)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

FINALLY PASSED

Emergency Measure

Resolve, to Direct the Economic Development and Business Assistance Coordinating Council to Develop a Statement of Principles and Standards for Sustainable Development (H.P. 616) (L.D. 831) (C. "A" H-470)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

FINALLY PASSED

Emergency Measure

Resolve, Regarding the Release of Certain Ballots to the Municipal Officers of the City of Rockland (H.P. 1124) (L.D. 1523) (C. "A" H-448)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 106 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency

Mandate

An Act to Amend the Charter of the Oxford Water District (H.P. 1127) (L.D. 1526) (C. "A" H-471)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of same and 12 against, and accordingly the Mandate was passed to be

enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act Concerning School Construction (S.P. 192) (L.D. 628) (C. "A" S-206)

An Act to Amend the Maine Human Rights Act to Include Provisions Concerning Employment Discrimination (S.P. 214) (L.D. 685) (C. "A" S-215)

An Act to Ensure Small Boarding Homes Sufficient Funds to Remain Economically Viable (S.P. 238) (L.D. 731) (C. "A" S-221)

An Act to Ensure Compliance with Existing Energy Efficiency Building Standards (S.P. 241) (L.D. 734) (S. "A" S-223 to C. "A" S-102)

An Act to Amend the Laws Governing the Effect of a Tender in Foreclosure Actions (S.P. 291) (L.D. 861) (C. "A" S-216)

An Act to Clarify Mandatory Waiver Authority Concerning Construction Requirements (S.P. 292) (L.D. 862) (C. "A" S-217)

An Act to Allow the Use of Polystyrene Containers by Public Institutions under Certain Circumstances (S.P. 353) (L.D. 1067) (C. "A" S-211)

Were reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Tabled and Assigned

An Act to Amend the Maine Civil Rights Act Regarding Violations of Constitutional Rights (S.P. 425) (L.D. 1334) (C. "A" S-218)

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

On motion of Representative Marshall of Eliot, tabled pending passage to be enacted and specially assigned for Wednesday, June 2, 1993.

PASSED TO BE ENACTED

An Act to Enable Parents of Children with Mental Illness to Care for Their Children at Home (H.P. 268) (L.D. 346) (C. "A" H-426)

An Act to Encourage Participation in Primary Elections (H.P. 815) (L.D. 1101) (C. "A" H-429)

An Act to Develop and Expand Markets for Recycled Materials (S.P. 229) (L.D. 700) (C. "A" S-226)

An Act to Update and Clarify Certain Provisions of Fish and Wildlife Laws (S.P. 243) (L.D. 736) (C.

"A" S-239)

An Act to Improve the Unemployment Collection Process for Employer Contributions (S.P. 264) (L.D. 802) (H. "B" H-439 to C. "A" S-156)

An Act Establishing Weapons License Reciprocity (S.P. 388) (L.D. 1183) (C. "A" S-209)

An Act to Clarify the Extent of Insurable Interests (S.P. 448) (L.D. 1415) (C. "A" S-234)

An Act to Amend Certain Corporate Laws (S.P. 455) (L.D. 1422) (S. "A" S-200)

An Act Concerning Registration Requirements for Small Quantity Generators of Hazardous Waste (H.P. 33) (L.D. 36) (C. "A" H-461)

An Act to Establish Minimum Sentence Enhancements for Repeated Convictions for Gross Sexual Assault (H.P. 48) (L.D. 64) (C. "A" H-441)

An Act to Facilitate Municipal Road Construction (H.P. 144) (L.D. 189) (C. "A" H-299)

An Act to Provide a Deterrent to Child Sexual Abuse (H.P. 224) (L.D. 292) (C. "A" H-443)

An Act to Grandfather Property under Certain Environmental Laws (H.P. 307) (L.D. 395) (C. "A" H-460)

An Act Regarding Community Health Centers (H.P. 341) (L.D. 444) (C. "A" H-447)

An Act Regarding the Future of the State's Mental Retardation Services System (H.P. 479) (L.D. 616) (C. "A" H-436)

An Act to Amend the Definition of "Parcel" for Purposes of Property Taxes (H.P. 504) (L.D. 662) (C. "A" H-459)

An Act to Restrict Self-referral by Health Care Practitioners (H.P. 585) (L.D. 789) (C. "A" H-467)

An Act to Ensure Integrity in Maine Government by Prohibiting Involvement of Constitutional Officers and the State Auditor in Political Action Committees (H.P. 613) (L.D. 828) (H. "A" H-476 to C. "A" H-242)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Later Today Assigned

An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke (H.P. 666) (L.D. 904) (S. "B" S-232 to C. "A" H-358)

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

On motion of Representative Hale of Sanford,

tabled pending passage to be enacted and later today assigned.

PASSED TO BE ENACTED

An Act to Amend and Clarify the Solid Waste Management Laws (H.P. 756) (L.D. 1023) (H. "A" H-452 to C. "A" H-298)

An Act to Authorize Maine Financial Institutions and Credit Unions to Sell Annuities (H.P. 778) (L.D. 1051) (S. "A" S-227 and S. "B" S-231 to C. "A" H-399)

An Act Repealing Advisory Boards on Housing and Economic Development Matters (H.P. 806) (L.D. 1092) (C. "A" H-473)

An Act Related to Suppliers of Compressed Air for Breathing (H.P. 816) (L.D. 1102) (C. "A" H-466)

An Act Regarding the Department of Environmental Protection Rulemaking (H.P. 861) (L.D. 1170) (S. "A" S-233 to C. "A" H-317)

An Act to Establish a State Trauma Care System (H.P. 875) (L.D. 1189) (C. "A" H-386 and H. "A" H-438)

An Act to Provide Support to Maine Small Businesses (H.P. 929) (L.D. 1252) (C. "A" H-456)

An Act to Amend the Bill of Rights for Persons with Mental Retardation (H.P. 955) (L.D. 1284) (C. "A" H-437)

An Act Concerning Duplicate Fees Required by the Department of Environmental Protection (H.P. 1023) (L.D. 1375) (S. "A" S-230 to C. "A" H-411)

An Act Concerning the Operation of Aircraft under the Influence of Intoxicating Liquor or Drugs (H.P. 1084) (L.D. 1450) (C. "A" H-400 and S. "A" S-222)

An Act to Establish a Risk-sharing Mechanism for Small Group Health Insurance Plans (H.P. 1092) (L.D. 1470) (C. "A" H-464)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED

Resolve, Authorizing the Conveyance of Certain Public Lands in Newcastle (S.P. 502) (L.D. 1525) (Governor's Bill) (C. "A" S-210)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, finally passed, signed by the Speaker and sent to the Senate.

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

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

SENATE PAPER

The following Joint Order: (S.P. 522)

Ordered, the House concurring, that the Joint Standing Committee on Housing and Economic Development report out a bill entitled "An Act to Implement Certain Recommendations of the Economic Growth Council."

Came from the Senate, read and passed.

Was read and passed in concurrence.

UNASSIGNED TABLE

JOINT ORDER - Relative to amending the Joint Rules by adding a new Joint Rule 12-D (H.P. 256) Read in House February 4, 1993.
TABLED - February 25, 1993 by Representative GWADOSKY of Fairfield.
PENDING - Passage. (2/3 Vote Required)

On motion of Representative Gwadosky of Fairfield, the following was removed from the Tabled and Unassigned matters:

JOINT ORDER - Relative to amending the Joint Rules by adding a new Joint Rule 12-D (H.P. 256) Read in House February 4, 1993.
TABLED - February 25, 1993 by Representative GWADOSKY of Fairfield.
PENDING - Passage. (2/3 Vote Required)

On motion of the Representative Gwadosky of Fairfield, was referred to the Joint Select Committee on Rules. Sent up for concurrence.

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

(Off Record Remarks)

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

CONSENT CALENDAR

First Day

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

(S.P. 402) (L.D. 1233) Bill "An Act to Facilitate the Assessment and Collection of Municipal Property Taxes" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-242)

(S.P. 312) (L.D. 945) Bill "An Act Regarding Appeal Periods in District Court Civil Cases" (EMERGENCY) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-244)

(H.P. 1101) (L.D. 1488) Bill "An Act to Clarify the Process for a Direct Initiative of Legislation and to Simplify Questions Presented to the Voters at a Referendum" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-497)

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

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

SENATE PAPER

Ought to Pass as Amended

Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-243) on Bill "An Act Concerning the Operation of Agency Liquor Stores" (EMERGENCY) (S.P. 157) (L.D. 488) (Governor's Bill)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-243).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-243) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time and passed to be engrossed as amended by Committee Amendment "A" (S-243) in concurrence.

The following items appearing on Supplement No. 7 were taken up out of order by unanimous consent:

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Require that the Clerk-of-the-works on State Construction Projects be Employed by the Owner, not the Architect" (H.P. 219) (L.D. 287) which was passed to be engrossed as amended by Committee Amendment "A" (H-382) in the House on May 24, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-382) as amended by Senate Amendment "C" (S-241) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Protect State Parks (H.P. 176) (L.D. 228) which was passed to be engrossed as amended by Committee Amendment "A" (H-92) as amended by House Amendment "C" (H-454) thereto in the House on May 26, 1993.

Came from the Senate with that Body having insisted on its former action whereby the Resolution was passed to be engrossed as amended by Committee Amendment "A" (H-92) as amended by Senate Amendment "A" (S-185) thereto in non-concurrence.

The House voted to Insist and ask for a Committee of Conference.

Non-Concurrent Matter

An Act to Authorize Special Property Tax Districts (H.P. 708) (L.D. 959) (C. "A" H-309) which was passed to be enacted in the House on May 27, 1993.

Came from the Senate with the Bill and accompanying papers recommitted to the Committee on Taxation in non-concurrence.

The House voted to recede and concur.

The Chair laid before the House the following matter: An Act Regarding Lobbying (S.P. 295) (L.D. 881) (H. "A" H-423 to C. "A" S-183) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby L.D. 881 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-183) as amended by House Amendment "A" (H-423) thereto was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-423) to Committee Amendment "A" (S-183) was adopted.

On motion of the same Representative, House Amendment "A" (H-423) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-498) to Committee Amendment "A" (S-183) and moved its adoption.

House Amendment "B" (H-498) to Committee Amendment "A" (S-183) was read by the Clerk.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: This is a technical amendment that I have put on at the request of the Counsel for the House. It deals with insuring that there is an application clause on this particular amendment. You may remember that the original bill would have applied the ban on prohibition to

legislators. We offered a House amendment that this House accepted to extend that to employees within the Executive Branch as well.

The concern of the Counsel for the House was that not putting an application clause may be putting us into a legal situation where a former legislator or a former Executive Branch employee that now lobbies could suddenly be found in violation of a law that is being passed.

This particular amendment says quite clearly that this Act applies to legislators or employees terminating after the effective date of this Act presumably 90 days after the legislature adjourns since this is not an emergency measure.

I hope that is clear. I didn't see the need for it originally but I understand the rationale as it has been explained to me and I think it probably enhances the bill.

Subsequently, House Amendment "B" (H-498) to Committee Amendment "A" (S-183) was adopted.

Committee Amendment "A" (S-183) as amended by House Amendment "B" (H-498) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-183) as amended by House Amendment "B" (H-498) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act Regarding County Contingent Account Limits (S.P. 286) (L.D. 856) (C. "A" S-116) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Joseph of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 856 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-116) was adopted.

The same Representative offered House Amendment "A" (H-500) to Committee Amendment "A" (S-116) and moved its adoption.

House Amendment "A" (H-500) to Committee Amendment "A" (S-116) was read by the Clerk and adopted.

Committee Amendment "A" (S-116) as amended by House Amendment "A" (H-500) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-116) as amended by House Amendment "A" (H-500) thereto in non-concurrence and sent up for concurrence.

By unanimous consent, L.D. 881 and L.D. 856 were ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

SENATE PAPER

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Increase Fees Charged by Municipal Clerks for Services" (S.P. 398) (L.D. 1229)

Signed:

Senators: BERUBE of Androscoggin
ESTY of Cumberland

Representatives: JOSEPH of Waterville
GRAY of Sedgwick
BENNETT of Norway
YOUNG of Limestone
DUTREMBLE of Biddeford

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

Signed:

Senator: BUTLAND of Cumberland

Representatives: WALKER of Blue Hill
LOOK of Jonesboro
ROWE of Portland
AHEARNE of Madawaska
KILKELLY of Wiscasset

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

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I really didn't have any prepared remarks about this bill but I felt an obligation to stand up because I feel strongly about the bill. If you haven't looked at it, I would ask you to.

What L.D. 1229 does is it increases the fees charged for certain services and documents provided by municipal clerks. Just to give you an example, it doubles the fees. At first blush, you may think that is a large increase, but I would ask you to look at the current fees, they are minimal. For example, administration of an oath, \$1, it would raise that to \$2. The release of an attachment is \$2, it would raise it to \$4. In fact, the highest fee would be on recording a marriage intention and issuing a marriage license which is currently \$10 and that would go to \$20. That is the highest increase in terms of absolute dollars.

The reason I support this bill is, when I ran for election, I ran on the platform of property tax relief. I come from a city where our property taxes are very high and I think these particular services, the individuals who receive these services should pay for the services and not the property owners of the cities and towns. I think that applies to all 490 something cities and towns around the State of Maine.

I ask you to consider this. I certainly don't see this as being anti-anything. I don't think any of these fees are exorbitant. In fact, they are quite reasonable, they were very low before, they

have not been adjusted for years and I think it is time we made the adjustment.

I would ask you not to support the pending motion. Mr. Speaker, when the vote is taken, I ask for a Division.

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

Representative LOOK: Mr. Speaker, Men and Women of the House: Representative Rowe has given you a good explanation of what this is. I just want to elaborate a little bit on the reason why the marriage license is \$20. If the participants in marriage come from the same town, the rate would be the \$10 fee because it is one town. If they come from different towns, then it is \$10 for each town. That explains the \$20 fee.

Remember, in the marriage license application, there is a considerable amount of detailed work, particularly if the individuals have divorce records.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: Representative Rowe did mention a few of the fees. I guess I have to tell you that I didn't find in the committee any compelling reason that we should increase these fees. It was discussed and some clerks apparently get their income from charging these fees, others do not. Many clerks around the state get paid a flat salary, others depend on these fees as part of or perhaps in whole, for their pay. I empathize with those people's concerns but I do not believe that the purpose of these fees is to pay for municipal clerk services. I think the purpose of these fees is to charge a reasonable rate of money for the administrative costs of undertaking some of the record keeping involved with this. Why it costs \$5 to get a copy of a document out of a file cabinet and photocopy it and give it to somebody is beyond me. Why it should cost \$10 to get a copy of a marriage certificate or license baffles me. I didn't have my concerns answered properly in committee.

There are some things in life that are necessities. I think we would list them as birth, marriage and death. Some people have said that death and taxes are inevitable — well, here we are linking them inexorably and permanently together by raising the fee on death to \$4 for a burial permit up from \$2, \$10 for a birth, marriage or death certificate up from \$5. I just really don't understand any reason for this. If clerks should be compensated better, then perhaps we should find a better way of doing it rather than taxing these basic elemental parts of a persons life that they really can't avoid.

I encourage you to accept the Majority, bipartisan, "Ought Not to Pass" Report and give this bill the reception it deserves.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: The previous speaker said that there ought to be a better way to pay for these services. I can't imagine a better way to pay for these services than for the people that are using the services to in fact pay for them. Of course it doesn't cost \$5 to get up and walk over to a file cabinet, pick up something and photocopy it. However, it does cost \$5 when you figure that the person has to be sitting in that office for a certain

number of hours per week in order to be available, that there needs to be an office and lights and a telephone and a file cabinet and the various papers in the copy machine, so all those costs added together, \$5 is not an unreasonable cost for a copy.

I think it is interesting to note that a couple of years ago we in fact doubled all the fees for these same pieces of information from state government. We did that because we took a look at the budget and said we are obviously not paying for these services through the budget so why don't we double the fees? So, we doubled them in the state budget because we acknowledged that there was a problem at the state level, that we were not charging enough for these services. Therefore, isn't it reasonable that we would do the same thing for municipalities? The municipalities are dependent upon either the property taxes or fees for services. This is a better way to spread the cost out over the people that are using the service and also property taxpayers as opposed to putting most of it on property taxes and a very small nominal fee on the people that are using the services.

I think this is a very good way to pay for these services and I would urge you to reject the current motion so we can go on and accept this report.

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

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: I would like to disagree with my colleague from Wiscasset and ask that you vote to accept the Majority "Ought Not to Pass" Report. Briefly, let me explain why I maintain that position.

In committee, no significant cost estimating data was presented which would lead one to believe that there is a relationship between proposed costs for these services and the extent to which the municipal employees or the municipalities actually encumbered themselves in providing the service. One would expect if the point of these costs were to cover the service, there would be some kind of cost assessment data. Instead, I think the case is that these costs are meant as nominal fees to dissuade people from trivial repetitive kinds of requests, not to cover the costs of the services.

The second argument that I make is that this doubling of these costs, in many cases, affect those people who can least afford those kinds of costs, young people seeking marriage, people needing birth certificates and so forth. For those reasons, I would ask that you support the pending motion.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I speak to you today as a municipal clerk and one who does not, I repeat, does not receive a fee. The fees that we receive go into the General Fund and my deputies and I are paid out of that General Fund.

I think what this issue is all about is not so much the concern of those municipalities who don't get the fees, it is those small towns where the clerks go in at hours when you and I wouldn't want to go in there. I have been called in at times to do copies — as the good gentleman from Norway, Representative Bennett would say, just running to the safe to get a copy of a death certificate is nothing. That is true, but how many of you people realize that we are called in during off hours for

\$5? In my case, it makes no difference because I don't get those fees but there are a lot of towns out there that do these marriage licenses in the off hours or they are called in some afternoon for a half hour just to take care of these little situations and they do not get very much money. I don't think that this request is outrageous.

Representative Kilkelly is right, a couple of years ago, we did it for the state. We talk about a level playing field, let's do for the towns what we have done for the state.

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

Representative JOSEPH: Mr. Speaker, Colleagues of the House: When we discussed this piece of legislation, the bill, what seemed to be coming into my mind was that this is a family values issue, when in fact, for all of the licenses and documents that those persons that you have already heard can least afford to pay, those prices will be doubled. These are all of our constituents. If we were talking about replenishing the city coffers with large sums of money, perhaps there would be a legitimate discussion here, but for the amounts of money that we are talking about which will cost those persons to be married, to have copies of birth certificates and death certificates, it really does not meet the standard that you just heard from the Representative from Corinth. Most city clerks are paid a salary, some (few) are paid with a small pittance as well as the fees for the services. Part of their job description is to go in on a Saturday afternoon or anytime to provide those services for the people that we represent.

The people that did appear at the hearing were four or five city clerks who came with the sponsor of the bill and they truly offered no compelling reason to simply double these fees.

I would urge you to vote the Majority Report, "Ought Not to Pass."

I also want to call to your attention that even the least significant of these, the administration of an oath from \$1 to \$2, doesn't sound like a great deal, but those persons who would be appointed and need to take an oath, would now be paying \$2. It just seems somewhat burdensome and almost annoying to the public that you and I both serve.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: Representative Kilkelly suggested that the state, a couple of years back, had increased these fees so why shouldn't we let the towns do the same? I would just submit to you that just because we are charging too much for these services at the state level, (and I think we probably are) why should we necessitate that the people who are getting those documents from their local clerks have to pay that outrageous fee as well?

Mr. Speaker, I request the yeas and nays.

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

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

To any member of the committee — can you tell me if this bill makes this fee increase mandatory or is it to leave it at the option of the individual municipality?

The SPEAKER: Representative Cameron of Rumford has posed a question through the Chair to any member

who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Mr. Speaker, Men and Women of the House: It would make the fees mandatory on the part of the towns and cities.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Joseph of Waterville 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. 152

YEA - Adams, Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Beam, Bennett, Birney, Bowers, Carleton, Clark, Clukey, Coles, Cote, Donnelly, Dore, Dutremble, L.; Erwin, Foss, Gamache, Gray, Greenlaw, Gwadosky, Hale, Hatch, Heeschen, Jacques, Joseph, Kerr, Ketterer, Kneeland, Kontos, Kutasi, Lemke, Libby James, Lindahl, Lipman, MacBride, Marsh, Martin, H.; Michael, Nadeau, Nickerson, Norton, Ott, Paradis, P.; Pendexter, Pendleton, Pinette, Plowman, Pouliot, Reed, G.; Ricker, Robichaud, Ruhlin, Rydell, Simoneau, Tardy, Thompson, Tracy, Tufts, Vigue, Whitcomb, Young, Zirkilton.

NAY - Ahearne, Bailey, H.; Brennan, Bruno, Cameron, Carr, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Cloutier, Constantine, Cross, Daggett, Dexter, DiPietro, Driscoll, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Gould, R. A.; Heino, Hichborn, Hogle, Holt, Hussey, Johnson, Joy, Kilkelly, Larrivee, Lemont, Libby Jack, Look, Lord, Marshall, Melendy, Mitchell, E.; Morrison, Murphy, Nash, O'Gara, Oliver, Pfeiffer, Plourde, Poulin, Rand, Reed, W.; Richardson, Rotondi, Rowe, Saint Onge, Saxl, Simonds, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Taylor, Townsend, E.; Townsend, G.; Townsend, L.; Treat, Walker, Wentworth, Winn.

ABSENT - Campbell, Caron, Coffman, Gean, Hillock, Jalbert, Michaud, Mitchell, J.; Pineau, True, The Speaker.

Yes, 67; No, 73; Absent, 11; Paired, 0; Excused, 0.

67 having voted in the affirmative and 73 in the negative with 11 absent, the motion did not prevail.

Subsequently, the Minority "Ought to Pass" Report was accepted, the bill read once and assigned for second reading Wednesday, June 2, 1993.

The following items appearing on Supplement No. 8 were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following

items appeared on the Consent Calendar for the First Day:

(S.P. 469) (L.D. 1461) Bill "An Act to Establish a Capital Access Program" Committee on **Housing and Economic Development** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-245)

(S.P. 357) (L.D. 1071) Bill "An Act to Establish the Regional Revolving Loan Fund" Committee on **Housing and Economic Development** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-246)

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

The following items appearing on Supplement No. 9 were taken up out of order by unanimous consent:

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on **Energy and Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-249) on Resolve, Authorizing the Conveyance of Certain Public Lands in Gray (S.P. 496) (L.D. 1516) (Governor's Bill)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-249).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-249) 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-249) in 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. 457) (L.D. 1424) Bill "An Act to Ensure Prompt and Equitable Payment for Construction Services" Committee on **Business Legislation** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-253)

Under suspension of the rules, Consent Calendar Second Day notification was given, the Senate Paper was passed to be engrossed as amended by Committee Amendment "A" (S-253) in concurrence.

The Chair laid before the House the following matter: An Act to Amend the Occupational Disease Law

(S.P. 216) (L.D. 687) (C. "A" S-92 and H. "A" H-365) which was passed to be enacted in the House on May 25, 1993; Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-92) as amended by Senate Amendment "B" (S-240) thereto and House Amendment "A" (H-365) in non-concurrence which was tabled earlier in the day and later today assigned pending further consideration.

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

Representative RUHLIN: Mr. Speaker, I move that the House recede and concur.

Mr. Speaker, Ladies and Gentlemen of the House: By way of explanation, this particular amendment that was added in the other body attempts to clarify beyond any doubt what the intention of this particular piece of legislation is, the principle of which has received the majority support in both bodies.

Just to remind you, because you have had a lot of other bills to deal with, the principle of this legislation is to provide "medical only" payments that were in existence for the most part before the Supreme Court decision of October, 1992, often called the Manzo decision. The intention of the legislation was to provide "medical only" payments wordsmithing by itself is an art, we felt as a committee, and it stood the examination of both bodies, that we had the right wording. However, a couple of people felt that it could be misinterpreted to do what we call piggybacking where you add your medical benefits to another benefit but that was not the intention of the committee nor was it the intention of the majority. The intention of the majority was to continue that balance and have "medical only", so we went back to our wordsmithing to allay those fears. We feel with this amendment that it is another way of saying "medical only" and that we feel is now in a position for enactment at some point.

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

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: What we have before us today is Senate Amendment 240 and it is the third attempt to address "medical benefits only." Can we be sure that this drafting does not affect any other section of benefits? I don't think we can.

I still believe that this is a substantive change in the Workers' Compensation law and I realize that medical benefits are important but I also realize that most of us down on the Labor Committee have taken a firm stand not to do any substantive changes to the Workers' Compensation laws and I feel that this is a substantive change. I feel that the Workers' Compensation System needs more time to stable, maybe another time, but not now.

Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, Men and Women of the House: There has been, I believe, a little bit of confusion on this particular issue and I just want to make sure I had a chance to clarify it before we take a vote on this.

It was discussed a couple of weeks ago in this body that the Maine Employers Mutual Insurance Company that we have put together did not come to the Labor Committee and discuss their concerns on L.D. 687 and I just want to make sure that I clarify that

they did come. In fact, I hold in my right hand Chris Howard's written discussion, his position and the Board's position on L.D. 687. Within this written description contains a sentence, "however, there will clearly be an increase in cost and a resulting increase in rates."

I also hold in my left hand the verbal testimony of Steve Abbott, Counsel to Maine Employers Mutual Insurance Company, regarding L.D. 687, "An Act to Amend the Occupational Disease Law" and in that verbal testimony he stated that "it would change existing law by stating that the claimant is entitled to medical benefits even though not incapacitated by occupational disease. Currently, an employee must be incapacitated in order to recover medical benefits." Again, this is a substantive change in the law.

Finally, I have a document from the Bureau of Insurance that was sent to Senator Begley. Within this document it says, "If the law changed resulting in a 10 percent increase in 'medical only' claims, Workers' Compensation costs would increase approximately by \$1.5 million."

Now, if that is not enough evidence for you that this bill is going to hurt small business, I don't know what else we need. So, I hope that you will support me and vote against the recede and concur motion.

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I was rather hoping that we could have one last good debate on this particular piece of legislation at enactment but any time is a good time I guess for a debate.

Also, I think any time is a good time to clear the air and I think it is probably well that we, as a chamber, should understand two basic terms. We have the Board of the Workers' Comp, a board that was nominated by the Governor, confirmed by the legislature who sits in judgment, hopefully, to replace in major policy areas the tinkering of the past of this legislature and its involvement in Workers' Comp. That is the board, that is a new policymaking decision says the legislature in the State of Maine. That is the board that did not take a stand, and I think it is very important that you understand that, that is the board that did not take a position either for nor against this legislation.

The comments you just heard from the good gentleman from Buxton about MEMIC, the Maine Employers Mutual Insurance Company, I emphasize insurance company, it may have been formed by the employers of this state, it is however and hopefully will remain, an insurance company. It has an advocacy role to play. The advocacy role it has to play is to keep down the cost of the people that it represents, its own stockholders. One of the ways to keep down the costs is to lower benefits whenever and however you can and keep the difference. Over 20 years, the insurance companies in this state lowered benefits one way or another and pocketed the difference after they charged employers the premiums.

Those of you who have been around long enough, let me take you back a few short years ago to 1987 where the benefits to the workers of this state were reduced 40 percent. The premiums to the employers were increased 60 percent — where did the rest of it go? It went right into the pockets of the insurance companies, that's where it went. So, don't you ever forget the difference between the board and the

insurance company, MEMIC. The letter and the information that you just heard is the insurance company taking an advocacy role in this particular piece of legislation. The policymaking board you were told, and I will tell you again and I will show you the minutes of their report, have taken no position on this particular piece of legislation.

The second point I want to clarify, once and for all hopefully, is that the rates presently charged in the State of Maine for Workers' Comp were determined in the time period of September, 1991 to September 1, 1992, well before the so-called Manzo decision, which was given October 24, 1992. Now how you are going to take and read into for information a Supreme Court decision, which hasn't even come down yet into your rate case, I can't see how you do that. Perhaps the good gentleman from Buxton can find a way of doing that but I can find no way of doing that, you must have that decision. That decision did not come down until after the rates were established so I assure you this piece of legislation has no role, no effect on the prevailing rates. If there is a reduction in benefits, that reduction will be a reduction in those employee benefits that goes in the pockets of all the insurance companies, including MEMIC.

Now, one thing that you can be assured of though, if you want to look into the future and costs, is the increase in cost to the Workers' Compensation System in the State of Maine, whether it be in the self-insurance market or the private insurance market or the Maine Employers Mutual. What will happen and any first year lawyer can tell you exactly how to do it — if you have a new court decision that says that you are not going to get your medical payments until you are incapacitated, guess what they are going to tell you? Don't go to work today. What is the most expensive part of Workers' Comp payments in the State of Maine? It is the disability portion. Medical portions equals around 20 percent, a great deal of the balance is in the disability portion, so how do you get your medical payments? Your private insurance company is not going to pay for it, I can assure you of that, both policies say, "will not pay if it is work-related." Therefore, you don't want to pay for it out of your pocket, so what do you do? You want to get your medical payments so you stay home, your lawyer will tell you that, stay home, don't go to work, so what do you do? You get, not only your medical payments, but you get your disability.

If you really want to look at the system and have a system that is fair without legislative tinkering, have a long-ranged basis for success and make Maine business competitive in the nation, let's start off here, let's look at our long-ranged costs and the fairness issue. The fairness issue is, if it is work-related, it should have medical benefits paid. If it is not work-related, let the individual carry their own health insurance or let the company provide it; however, leave that a personal matter. If it is work-related, let's stay with the law that has been on the books for 80 years in the State of Maine and every other state. Let's not go diverging. Let us stay with that fairness issue, let's look at the long-ranged costs to the state and recognize that the cheapest way is the fairest way.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, I would like to pose a question, please.

My question is, would a motion to Insist be in order or appropriate here?

The SPEAKER: The Chair would answer in the negative.

Representative LIBBY: Thank you, Mr. Speaker.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Brewer, Representative Ruhlin, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 153

YEA - Adams, Ahearne, Aliberti, Bailey, H.; Beam, Bowers, Brennan, Cameron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lemont, Martin, H.; Melendy, Michael, Mitchell, E.; Morrison, Nadeau, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pinette, Plourde, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, Young, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Birney, Bruno, Carleton, Carr, Clukey, Cross, Dexter, Donnelly, Dutremble, L.; Farnum, Farren, Foss, Gray, Greenlaw, Heino, Joy, Kneeland, Kutasi, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Norton, Ott, Plowman, Poulin, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Tardy, Taylor, Thompson, Tufts, Vigue, Whitcomb, Zirkilton.

ABSENT - Campbell, Caron, Coffman, Hillock, Jalbert, Michaud, Mitchell, J.; Pendexter, Pineau, True.

Yes, 87; No, 54; Absent, 10; Paired, 0; Excused, 0.

87 having voted in the affirmative and 54 in the negative with 10 being absent, the motion to recede and concur did prevail.

The Chair laid before the House the following matter: An Act to Authorize Department of Transportation Bond Issues in the Amount of \$39,500,000 to Match Available Federal Funds for Improvements to Highways, State and Local Bridges, Airports, Cargo Ports and the Ferry Service (S.P. 505) (L.D. 1529) (Governor's Bill) (C. "A" S-212) (Bond Issue) which was tabled earlier in the day and later today assigned pending passage to be enacted.

In accordance with the provisions of Section 14

of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 125 voted in favor of same and 9 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke (H.P. 666) (L.D. 904) (S. "B" S-232 to C. "A" H-358) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Men and Women of the House: Before we pass this piece of legislation, I would like to remind you of the impact on business. The impact has been removed by some of the amendments but we are affecting bowling alleys and pool halls, but above all, we are affecting AA and Al-Anon meetings, laundromats, beauty parlors and barber shops to name but a few. Remember, these are businesses where the people are capable of running their own business but evidently through legislation we do not feel that they are capable of making the "right" business decisions to run those businesses, even though they may have been carrying on for years.

I ask you to give it a second thought before we pass 904.

Mr. Speaker, I ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Clinton, Representative Clement.

Representative CLEMENT: Mr. Speaker, Ladies and Gentlemen of the House: I have gotten a lot of phone calls from businesses, from bowling alleys that don't have bar in the bowling alley, from radio controlled racetracks that are inside. What is going to happen if this bill passes is they are going to move to an outside track in the summertime and it is going to put this gentleman out of business. There is a concern about the bowling alleys in my area, I am a member of a bowling team and I talked with him, he doesn't smoke, his wife doesn't smoke, he's got ventilation that takes care of the smoke in the building and he says that if this bill is passed, the people will go to a bowling alley that has a bar. I mean, this is not a fair piece of legislation for the small businesses in my district.

I am concerned about this being a fair bill. It is not a fair bill and I move that this bill and all its accompanying papers be indefinitely postponed.

I am real concerned about this. The radio controlled sport is something that is relatively new in this state, they have them in Portland, they have them in Winslow and the owners of these businesses wonder why we pass laws that put them out of work. They can put a sign on the door if they choose to have non-smoking areas or a non-smoking facility, it is up to them, so let's leave it up to them. Let's not hurt small business more than we have already.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: The buzz phrase seems to be "a level playing field," let everybody be on the same level. This bill does exactly that, this bill does not discriminate against small businesses, large

businesses, bowling alleys, pool/billiard halls, whatever. This would encompass everybody so one restaurant would not be at a disadvantage versus another, they would both be operating under the same policy.

Quite ironically, and Representative Simonds and I have chatted about this briefly, I am very excited because I introduced this very legislation 8 years ago. I don't know if I was before my time or if I was a little late in bringing the bill before us but I think it is extremely appropriate that we do have such a bill in front of us and a bill that will actually (and it has been proven many, many times) improve the health and the costs related to health prevention all the way through.

I would urge you to vote against this motion which is on the floor and I think we can all do something positive for the people of Maine.

The SPEAKER: The Chair recognizes the Representative from Clinton, Representative Clement.

Representative CLEMENT: Mr. Speaker, I would like to withdraw my motion to indefinitely postpone the bill and its papers.

I would like to speak on the issue though.

Mr. Speaker, Ladies and Gentlemen of the House: This is an important issue to small businesses in my district, as I mentioned earlier. I feel, being a first time legislator, I was kind of hasty on making that motion and I am going to vote against this bill. It is just not a fair piece of legislation to all the businesses in the State of Maine and it is going to hurt the small businesses in the State of Maine.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I want to encourage you to stick by your previous votes on this bill. It is a good bill. This House has defeated every other bill dealing with smoking this session. This is the one bill that is out there and it is a very good bill.

What it does is it says that public spaces should be non-smoking unless there is an enclosed smoking area set aside for smoking.

We already had a lot of testimony, even from Representatives here on the floor, about their experiences trying to take their children, whether to a bowling alley, Civic Center, the Malls, children with asthma — that's just what you see right now in terms of the effects of tobacco smoke. What you don't see is the fact that tobacco smoking has been classified as a Class A carcinogen which puts it in the same category as coke oven emissions, as benzene, as other highly toxic chemicals.

This bill is a first step, there are some exemptions in it, they are exemptions that were put in partly to appease persons who are opposed to this bill, for example, smokeshops. That seems to be a sensible thing to do but, in essence, the broad impact of the bill does treat different businesses the same. It gets rid of the difference between small business and large, treating all the same. Right now, large businesses must ban smoking, small businesses do not. It treats all small businesses the same, there are very few exceptions in this. Restaurants are treated completely separate under the other legislation as you know.

I hope that you will stick by your vote, it was a good vote, please vote in favor of enactment of this bill so we can go on to join Vermont and a number of

other states in forward looking, healthful legislation.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to please oppose the enactment of this bill. I agree with Representative Clement that this is not a good piece of legislation.

What it does is it specifically selects certain businesses that are allowed to continue certain acts of smoking and others it prevents them from smoking so we are not talking about a level playing field. If you want to say everybody is going to stop smoking, fine, but this is not going to do that.

This particular business that Representative Clement referred to is in my district and I would ask you, please, to oppose the enactment of this piece of legislation.

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 Cape Elizabeth, Representative Simonds.

Representative SIMONDS: Mr. Speaker, Ladies and Gentlemen of the House: I do want to comment briefly on the bill with the questions that have been raised. There is a distinction between the groups of places listed in the yellow handout which you have seen and which was distributed by the Representative from Sanford. Those in the first category clearly are those where one does not expect to find, generally speaking, families and kids. Those in the second category are those where one is more apt to find kids and that is what this bill is aimed at, a public health measure aimed at protecting children.

AA and A1-Anon may be private, some may be private, some may be public, but I think most are private and, therefore, not covered by the Act.

Finally, on the question of fairness, given the experience that we have had with the businesses over 4,000 square feet, it has been largely a self-enforcing law. We have made great progress there, we expect the same thing to happen with the businesses under 4,000 square feet and I think this introduces an element of real fairness between all businesses. On the question of fairness, it is fair for children who are vulnerable to smoke and the 85,000 people in the State of Maine who have lung problems and can't enter the public places.

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

ROLL CALL NO. 154

YEA - Adams, Ault, Bailey, R.; Barth, Beam, Bennett, Bowers, Brennan, Bruno, Carleton, Carroll, Cathcart, Chase, Coles, Constantine, Dexter, Donnelly, Driscoll, Faircloth, Farnsworth, Fitzpatrick, Foss, Gwadosky, Heeschen, Heino, Hoglund, Holt, Johnson, Ketterer, Kontos, Larrivee, Lemke, Lemont, Lindahl, Lipman, Lord, MacBride,

Marsh, Melendy, Mitchell, E.; Morrison, Nadeau, Norton, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Plowman, Rand, Richardson, Rowe, Ruhlin, Rydell, Small, Spear, Stevens, K.; Sullivan, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Whitcomb, Zirkilton.

NAY - Ahearne, Aikman, Aliberti, Anderson, Bailey, H.; Birney, Cameron, Carr, Cashman, Chonko, Clark, Clement, Cloutier, Clukey, Cote, Cross, Daggett, DiPietro, Dore, Dutremble, L.; Erwin, Farnum, Farren, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Hichborn, Hussey, Jacques, Joseph, Joy, Kerr, Kilkelly, Kneeland, Kutasi, Libby Jack, Libby James, Look, Marshall, Martin, H.; Michael, Murphy, Nash, Nickerson, O'Gara, Pendleton, Pineau, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Stevens, A.; Strout, Swazey, Tardy, Thompson, Townsend, G.; Tufts, Vigue, Winn, Young.

ABSENT - Campbell, Caron, Coffman, Hillock, Jalbert, Michaud, Mitchell, J.; True, The Speaker.

Yes, 68; No, 74; Absent, 9; Paired, 0; Excused, 0.

68 having voted in the affirmative and 74 in the negative with 9 being absent, L.D. 904 failed of enactment. Sent up for concurrence.

Representative Simonds of Cape Elizabeth moved that the House reconsider its action whereby L.D. 904 failed of enactment.

The same Representative moved that L.D. 904 be tabled one legislative day pending his motion that the House reconsider.

Representative Strout of Corinth requested a roll call vote on tabling.

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 Cape Elizabeth, Representative Simonds, that L.D. 904 be tabled for one legislative day. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 155

YEA - Adams, Aikman, Ault, Bailey, R.; Barth, Beam, Bennett, Birney, Bowers, Brennan, Bruno, Carleton, Carroll, Cashman, Cathcart, Chase, Cloutier, Coles, Constantine, Daggett, Dexter, Donnelly, Driscoll, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gwadosky, Heeschen, Heino, Hichborn, Hoglund, Holt, Jacques, Johnson, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lemke, Lemont, Lindahl, Lord, MacBride, Marsh, Melendy, Mitchell, E.; Morrison, Nadeau, Norton, Oliver, Ott, Paradis, P.; Pendexter, Pineau, Pinette, Plowman, Pouliot, Rand, Reed, G.; Richardson, Rowe, Ruhlin, Rydell, Saint Onge, Simonds, Simoneau, Small, Spear, Stevens, K.; Sullivan, Swazey, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Whitcomb, Zirkilton, The Speaker.

NAY - Ahearne, Anderson, Cameron, Carr, Chonko, Clark, Clement, Clukey, Cote, Cross, DiPietro, Dore,

Dutremble, L.; Erwin, Farnum, Farren, Foss, Gamache, Gray, Greenlaw, Hale, Hatch, Hussey, Joseph, Joy, Kneeland, Libby Jack, Libby James, Lipman, Look, Marshall, Martin, H.; Michael, Murphy, Nash, Nickerson, O'Gara, Pendleton, Plourde, Poulin, Reed, W.; Ricker, Robichaud, Rotondi, Saxl, Skoglund, Stevens, A.; Strout, Tardy, Thompson, Townsend, G.; Tufts, Vigue, Winn, Young.

ABSENT - Aliberti, Bailey, H.; Campbell, Caron, Coffman, Hillock, Jalbert, Michaud, Mitchell, J.; Pfeiffer, True.

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

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

Subsequently, the Bill was tabled pending the motion of Representative Simonds of Cape Elizabeth to reconsider whereby the Bill failed of passage to be enacted and specially assigned for Wednesday, June 2, 1993.

The Chair laid before the House the following matter: An Act to Allow the Sale of Surplus Lands from the State Nursery (S.P. 89) (L.D. 243) (C. "A" S-235) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Jacques of Waterville, the House reconsidered its action whereby L.D. 243 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-520) and moved its adoption.

House Amendment "A" (H-520) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-235) and House Amendment "A" (H-520) in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Hichborn of Howland, Adjourned at 6:50 p.m. until Wednesday, June 2, 1993, at twelve o'clock noon.
