

# MAINE STATE LEGISLATURE

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



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

# LEGISLATIVE RECORD

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME V**

**SECOND REGULAR SESSION**

**House of Representatives**  
January 5, 1994 to April 14, 1994

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
29th Legislative Day  
Monday, March 28, 1994

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

Prayer by Honorable Charlene B. Rydell, Brunswick.

Pledge of Allegiance.

The Journal of Friday, March 25, 1994 was read and approved.

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-470) as amended by Senate Amendment "A" (S-525) thereto.

Reports were read.

Representative MITCHELL of Freeport moved that the House accept the Majority **"Ought to Pass"** Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority **"Ought to Pass"** Report and later today assigned.

**SENATE PAPERS**

**Ought to Pass as Amended**

Report of the Committee on **Human Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-488) on Bill "An Act to Amend the Public Smoking Laws" (S.P. 724) (L.D. 1945)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-488).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-488) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

**Divided Report**

Majority Report of the Committee on **Marine Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-470) on Bill "An Act to Prohibit the Use of Gill Nets in the Kennebec and Androscoggin Rivers" (EMERGENCY) (S.P. 710) (L.D. 1918)

Signed:

Senators: VOSE of Washington  
PINGREE of Knox

Representatives: MITCHELL of Freeport  
COLES of Harpswell  
TOWNSEND of Eastport  
CONSTANTINE of Bar Harbor  
SWAZEY of Bucksport  
HEINO of Boothbay  
LOOK of Jonesboro  
LEMONT of Kittery  
SKOGLUND of St. George

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

Signed:

Senator: GOULD of Waldo

Representative: FARREN of Cherryfield

**Non-Concurrent Matter**

Bill "An Act to Reestablish a Mechanism for Review of Disputed Elections" (H.P. 1418) (L.D. 1932) on which the Minority **"Ought Not to Pass"** Report of the Committee on **Legal Affairs** was read and accepted in the House on March 24, 1994.

Came from the Senate with the Majority **"Ought to Pass"** as amended Report of the Committee on **Legal Affairs** read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-885) in non-concurrence.

Representative WHITCOMB of Waldo moved that the House Recede and Concur.

Representative JACQUES of Waterville requested a division on the motion to Recede and Concur.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Whitcomb of Waldo that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative WHITCOMB of Waldo requested a roll call on the motion to Recede and Concur.

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 Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: This is an issue we debated a few nights ago and I sort of waited to see if there was going to be a Resolution as to an alternative proposal for handling disputed elections. It seems to be that there's none forthcoming.

As a body, we are leaving an important question unanswered as to what will happen if any of us or any other candidate is caught in a disputed recount. The burden is on those who reject the majority of the committee to provide us some alternative as a mechanism. It seems to me a pitiful slide backwards to rely upon nothing other than the partisan election committee of the House to handle disputed elections with no mechanism in place for that process.

We emerged, I think, as an institution from last year's scandal with some sense of dignity for

improving the process, although there were certainly differences as to how we do that. We made some strides forward but this is one gaping hole in that process. We have left it completely open because we have thrown out the Ethics Commission's responsibility and we have previously rejected going to any independent entity to look at disputed ballots, we are not talking about recounts, we are talking about disputes or appeals of recounts.

This is the only proposal that I have seen put forward, so I would urge that this body recede and concur on this matter.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: The issue here is actually whether or not we wish to have in a disputed election an appeal go to the Supreme Judicial Court for an opinion before it comes here. I would suggest to you that the bill in front of us does not have any kind of mechanism or process in it.

I am going to read to you the new language that is in the bill. The new language says, "except for elections to the Senate and the House of Representatives" — I would suggest to you that there is no process there, there is no mechanism.

The only difference is that today the appeals would come to the separate bodies. If this were passed, the appeal would first go to the Supreme Judicial Court and then come here.

In fact, one of the problems with the bill is that it strikes out the language which allows the House and the Senate to establish the procedure. I would tell you that the line that says, in current law, "for all elections to the Senate and House of Representatives, each House shall establish procedures for recount appeals" has been stricken in the current bill in front of you.

So, if you feel that we should be able to set a procedure, that language needs to stay in. If you think a phrase "except for elections to the Senate and House of Representatives" establishes a process, then perhaps you are in favor of this.

The only thing this bill does is send an appeal first to the court before it comes here and it eliminates our authority to establish a procedure. I hope you will join with me in opposing the motion on the floor.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Colleagues of the House: Good morning. I must rise again to clarify the intent of this bill.

The intent of this bill is to put appeals or disputed elections for the House and Senate under the same process that we all endorsed last year for every other elective race in this state. This bill creates an equal playing field with regard to procedure, whether it be Governor, whether it be municipal officials or whether it be a member of the House of Representatives or the Senate.

Another point I must clarify is that the procedure that was in place prior to last year's changes involved disputed election appeals going to the Commission on Governmental Ethics and Election Practices. That is no more the case. Instead, for every other race except House and Senate last year, we said that that appeal process went to the Supreme Judicial Court. The reason there is an exception for House and Senate is because under the Constitution it

says the House and Senate shall have final determination over the status of their members. This bill does not change that or alter it in any way. It just creates the same mechanism for initial review of appeals of disputed elections as every other race in the state.

If you feel that the House and Senate should not have to comply with the same procedures that we have mandated for every other elective office, then I suppose you will be opposing this bill. However, if you feel that it is only fair for us to go through the same procedure, we still retain our autonomy with regard to the authority granted us by the Constitution to seat our own members, I urge you to accept the motion of recede and concur.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Whitcomb of Waldo that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 279

YEA - Aikman, Anderson, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Cameron, Carleton, Clukey, Coffman, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Greenlaw, Heino, Hussey, Joy, Kneeland, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Lord, MacBride, Marsh, Marshall, Michael, Murphy, Nash, Norton, Pendexter, Plowman, Reed, G.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, True, Tufts, Whitcomb, Young, Zirkilton.

NAY - Ahearne, Aliberti, Beam, Bowers, Brennan, Caron, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Coles, Cote, Daggett, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Hale, Hatch, Hichborn, Hogle, Holt, Jacques, Jalbert, Johnson, Joseph, Kerr, Kilkelly, Kontos, Lemke, Martin, J.; Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Richardson, Ricker, Rotondi, Rowe, Rydell, Saxl, Simonds, Skoglund, Stevens, K.; Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, The Speaker.

ABSENT - Adams, Ault, Birney, Campbell, Carr, Cathcart, Constantine, DiPietro, Heeschen, Hillock, Ketterer, Kutasi, Larrivee, Look, Martin, H.; Melendy, Nickerson, Ott, Pendleton, Pinette, Rand, Reed, W.; Ruhlin, Saint Onge, Sullivan, Tardy, Thompson, Winn.

Yes, 50; No, 73; Absent, 28; Paired, 0; Excused, 0. 50 having voted in the affirmative and 73 in the negative, with 28 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Adhere.

#### Non-Concurrent Matter

Bill "An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act" (EMERGENCY) (H.P. 1368) (L.D. 1851) which was passed to be engrossed as amended by Committee Amendment "A" (H-801) as amended by House Amendment "A" (H-817) thereto in the House on March 9, 1994.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-801) as amended by House Amendment "A" (H-817) thereto and Senate Amendment "A" (S-506) in non-concurrence.

The House voted to Recede and Concur.

---

**COMMUNICATIONS**

The following Communication:

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

March 10, 1994

Honorable Dan A. Gwadosky, Speaker of the House  
Honorable Dennis L. Dutremble, President of the Senate  
State House Station #2, State House Station #3  
Augusta, ME 04333

Dear Speaker Gwadosky and President Dutremble:

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

The 1993 program year was very active. Program staff are to be commended on their efforts in maintaining a high standard of response to evolving needs.

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

Sincerely,

S/William A. Peabody  
Director

Was read and with accompanying report ordered placed on file.

---

The following Communication:

COMMITTEE ON ENERGY AND NATURAL RESOURCES  
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 24, 1994

Honorable Dennis L. Dutremble, President of the Senate  
Honorable Dan A. Gwadosky, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Energy & Natural Resources has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 796 An Act Regarding the Motor Vehicle

Emission Inspection Program

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mark W. Lawrence  
Senate Chair

S/Rep. John L. Martin  
House Chair

Was read and ordered placed on file.

---

The following Communication:

COMMITTEE ON TAXATION  
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 24, 1994

Honorable Dennis L. Dutremble, President of the Senate  
Honorable Dan A. Gwadosky, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1937 An Act to Provide Incentives for  
Businesses to Create Jobs in the State

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John E. Baldacci  
Senate Chair

S/Rep. Susan E. Dore  
House Chair

Was read and ordered placed on file.

---

The following Communication:

COMMITTEE ON UTILITIES  
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 24, 1994

Honorable Dennis L. Dutremble, President of the Senate  
Honorable Dan A. Gwadosky, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Utilities has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1037 An Act to Cause the Renegotiation of Utility Contracts for Electric Power Generated at Private Facilities

L.D. 1975 An Act to Encourage the Processing of Off-grade Potatoes in Aroostook County

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Harry L. Vose  
Senate Chair

S/Rep. Herbert E. Clark  
House Chair

Was read and ordered placed on file.

**SPECIAL SENTIMENT CALENDAR**

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

Recognizing:

Yvette Farris, of Belgrade, winner of the 1994 Jefferson Award for Public Service. Mrs. Farris has been helping people for almost five decades. She gives credit to the public who helps her. She now dedicates her selfless efforts to the elderly and children; (HLS 903) by Representative TRACY of Rome. (Cosponsors: Senator CAREY of Kennebec, Representative JACQUES of Waterville, Representative PARADIS of Augusta)

On objection of Representative PARADIS of Augusta, was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending passage and specially assigned for Tuesday, March 29, 1994.

the following members of the Lawrence High School Girls Basketball Team, of Fairfield, 4-time winners of the Class A State Basketball Championship: Jill Atwood, Wendy Atwood, Cindy Blodgett, Alexis Bogel, Addie Brown, Michelle Clark, Janet Francoeur, Kelly Jonassen, Chrissy Roy, Sherrie Roy, Carolyn Tabone, Karen Weymouth, Shannon York and Catherine Suttie; their managers Kevin Douglas, Christy Hamlin and Katriz McLellan; and their coaches Bruce Cooper, Larry Deans, Lars Jonassen and Scott Ballard; (HLS 904) by Speaker GWADOSKY of Fairfield. (Cosponsors: Representative CLEMENT of Clinton, Representative CHASE of China, Senator MARDEN of Kennebec, Representative PARADIS of Augusta)

On objection of Representative CLEMENT of Clinton, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: On behalf of the members of the House, it is a great pleasure and sense of personal pride to be able to introduce to you the Lawrence High School Girls Basketball Team. It wasn't many years ago that the Lawrence Girls Basketball Team in the program lived in the shadow of a very successful

boys program at Lawrence High School. It wasn't unusual to require only for a set or two of bleachers to be pulled out for the girls basketball games. Something has dramatically changed over the last four years as they have won the State Championship in Class A for the last four consecutive years, a feat that many people felt would no longer be possible considering the competitive nature of Class A basketball, a feat that hasn't been accomplished, in fact most recently was 1970 and 1980 through 1981 from Westbrook High School.

They have committed themselves to a program of excellence and dedication. They are outstanding scholars as well as athletes. They are tremendous role models for the school encouraging younger people, such as my daughter, to take up the sport of basketball.

I mentioned to you last year that the backboards in our town have been dropped from ten feet to eight feet as six and seven year olds are learning to play basketball for the first time, in large part because of the role models they see here.

Their record I believe, excluding Kennebec Valley Conference games, for the last four years has been 85 and 3. They have won 36 consecutive home games and 16 consecutive tournament games. They have become the adopted daughters and granddaughters of our entire community, witnessed by the fact that we have had nearly 4,000 people who have traveled to the State Championship game in Portland to cheer them on and by virtue of the fact that at 1:30 in the morning, on Sunday morning on March 20th, there were conservatively 1,200 to 1,500 people still at the Lawrence High School gymnasium to watch the team lead and present our community with its fourth consecutive gold ball. It was a tremendous achievement this year in that the boys also won the Class A State Championship gold ball.

With that said, it is a pleasure, my honor, and I would request the girls, along with their coaches, because they have been superbly coached during this period of time, to please stand and accept the greetings of the Maine House of Representatives for your accomplishments.

Subsequently, was passed and sent up for concurrence.

Cindy Blodgett, of Clinton, for her remarkable and distinguished achievements as a member of the Lawrence High School Girls Basketball Team. During her 4 years as a starter on the team, she led the Lawrence Bulldogs to 4 consecutive Class A State Championships. She ended her career as the all-time leading scorer in the history of Maine high school basketball with 2,596 points and is also the holder of several records in Maine high school tournaments. In addition to many other honors, she was named Kennebec Valley Athletic Conference Player of the Year for 3 consecutive years. She plans to attend the University of Maine at Orono next year with a full 4-year basketball scholarship; (HLS 905) by Representative CLEMENT of Clinton. (Cosponsors: Senator MARDEN of Kennebec, Speaker GWADOSKY of Fairfield, Representative CHASE of China)

On objection of Representative CLEMENT of Clinton, was removed from the Special Sentiment Calendar.

Was read.

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

Representative CLEMENT: Mr. Speaker, Ladies and Gentlemen of the House: It is a privilege for me to stand up here today and recognize Cindy Blodgett. Not only is she an all time leading scorer in the history of Maine but she resides in my hometown. My children recognize Cindy and every accomplishment she has done. She has done a wonderful job in communicating to the young people in our town on how important it is to do good in class and what you can achieve if you put your mind to it. She also is a team player and she stresses that on the floor as well as in her everyday life by spending time with young people.

I really take my hat off to Cindy. It is a pleasure for me to stand here today and recognize Cindy Blodgett from Clinton. She is a wonderful person and a great basketball player. To you Cindy and your future going to the University of Maine in Orono, all I can say is thank you very much.

Subsequently, was passed and sent up for concurrence.

---

**REPORTS OF COMMITTEES**

**Ought to Pass as Amended**

Representative COTE from the Committee on **Judiciary** on Bill "An Act to Expand Protection to Persons with Mental Illness and Mental Retardation" (H.P. 347) (L.D. 450) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-934)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-934) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

---

**Ought to Pass as Amended**

Representative PINEAU from the Committee on **Banking & Insurance** on Bill "An Act to Ensure Equitable Insurance Practices" (H.P. 789) (L.D. 1062) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-943)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-943) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

---

**Ought to Pass as Amended**

Representative POULIN from the Committee on **Energy & Natural Resources** on Bill "An Act to Improve Environmental Protection and Support Economic Development under the State's Land Use Laws" (H.P. 1100) (L.D. 1487) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-942)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-942) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

---

**Ought to Pass as Amended**

Representative KNEELAND from the Committee on **Agriculture** on Bill "An Act to Provide for Greater Efficiency within the Department of Agriculture, Food and Rural Resources" (H.P. 1191) (L.D. 1588) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-944)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-944) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

---

**Ought to Pass as Amended**

Representative COTE from the Committee on **Judiciary** on Bill "An Act to Protect Maine Children from Child Pornography Contraband" (H.P. 1274) (L.D. 1718) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-935)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-935) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

---

**Ought to Pass as Amended**

Representative TREAT from the Committee on **Human Resources** on Bill "An Act to Rename Boarding Care Facilities and Expand Their Definitions" (EMERGENCY) (H.P. 1337) (L.D. 1800) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-945)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-945) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

---

**Ought to Pass as Amended**

Representative TREAT from the Committee on **Human Resources** on Bill "An Act to Develop Standards for the Licensure of Hospice Programs" (H.P. 1355) (L.D. 1821) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-946)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-946) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

---

**Ought to Pass Pursuant to Joint Order (H.P. 1456)**

Representative PINEAU from the Committee on Banking & Insurance on Bill "An Act Regarding Access to Chiropractic Services" (H.P. 1461) (L.D. 1986) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1456)

On motion of Representative PINEAU of Jay, tabled pending acceptance of the Committee Report and specially assigned for Tuesday, March 29, 1994.

---

**Divided Report**

Majority Report of the Committee on Marine Resources reporting "Ought to Pass" Pursuant to Joint Order H.P. 1373 on Bill "An Act to Conserve Sea Urchin Resources" (H.P. 1459) (L.D. 1984)

Signed:

Senators: PINGREE of Knox  
GOULD of Waldo  
VOSE of Washington

Representatives: MITCHELL of Freeport  
SWAZEY of Bucksport  
COLES of Harpswell  
CONSTANTINE of Bar Harbor  
TOWNSEND of Eastport  
LOOK of Jonesboro  
HEINO of Boothbay  
LEMONT of Kittery

Minority Report of the same Committee reporting "Ought Not to Pass" Pursuant to Joint Order H.P. 1373 on same Bill.

Signed:

Representatives: SKOGLUND of St. George  
FARREN of Cherryfield

Reports were read.

Representative MITCHELL of Freeport moved that the House accept the Majority "Ought to Pass" Report.

On motion of Representative ZIRNKILTON of Mount Desert, tabled pending the motion of Representative MITCHELL of Freeport to accept the Majority "Ought to Pass" Report and later today assigned.

---

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1055) (L.D. 1407) Bill "An Act Concerning Primary Care and Parental Rights and Responsibilities in Cases of Domestic Abuse" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-940)

On motion of Representative COFFMAN of Old Town, was removed from First Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-940) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

---

(H.P. 1148) (L.D. 1547) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 to Provide Funds for Assistance to Maine Businesses" Committee on Housing & Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-949)

On motion of Representative COFFMAN of Old Town, was removed from First Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-949) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

---

(H.P. 1201) (L.D. 1609) Bill "An Act to Clarify Maine Election Laws" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-947)

On motion of Representative COFFMAN of Old Town, was removed from First Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-947) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

---

(H.P. 1279) (L.D. 1727) Bill "An Act to Affect the Credit of People Who Are in Default of Child Support Payments" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-936)

On motion of Representative COFFMAN of Old Town, was removed from First Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-936) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

---

(H.P. 1339) (L.D. 1802) Bill "An Act to Adopt the Uniform Interstate Family Support Act" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-939)

On motion of Representative COFFMAN of Old Town, was removed from First Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-939) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.



(H.P. 1352) (L.D. 1818) Bill "An Act to Establish the Right of Grandparents to Act as Foster Parents for Their Grandchildren" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-938)

On motion of Representative COFFMAN of Old Town, was removed from First Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-938) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

(H.P. 1441) (L.D. 1967) Bill "An Act to Amend the Probate Code to Provide Greater Due Processing in Guardianship and Conservatorship Cases" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-937)

On motion of Representative COFFMAN of Old Town, was removed from First Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-937) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

#### CONSENT CALENDAR

##### Second Day

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

(S.P. 663) (L.D. 1831) Bill "An Act Regarding Maine's Comprehensive Early Intervention System for Infants and Children, Ages Zero to Five" (EMERGENCY) (C. "A" S-510)

(S.P. 673) (L.D. 1845) Resolve, Concerning Reauthorization of the \$9,520,000 Bond Issue for Construction and Renovation of Juvenile Correctional Facilities (C. "A" S-522)

(H.P. 1202) (L.D. 1611) Bill "An Act to Adjust the Dates for Distributions from the State Harness Racing Commission" (C. "A" H-925)

(H.P. 1415) (L.D. 1925) Bill "An Act to Amend the Equine Licensing Laws" (C. "A" H-926)

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

(S.P. 733) (L.D. 1958) Bill "An Act to Establish the Maine School of Science and Mathematics and the

Task Force on the Maine School of Visual and Performing Arts" (Governor's Bill) (C. "A" S-511)

On motion of Representative KILKELLY of Wiscasset, was removed from Second Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-511) was read by the Clerk.

On motion of Representative KILKELLY of Wiscasset, tabled pending adoption of Committee Amendment "A" (S-511) and later today assigned.

#### BILLS IN THE SECOND READING

##### As Amended

Bill "An Act to Guarantee Equal Access and Nondiscrimination to All Students Enrolled in Approved Equivalent Instruction Programs" (H.P. 1069) (L.D. 1435) (C. "A" H-910)

Bill "An Act to Reinstitute Stipends for Professional Staff at State Mental Health Institutions" (H.P. 1358) (L.D. 1833) (C. "A" H-892)

Bill "An Act to Enhance the Effectiveness of the Office of the Public Advocate" (S.P. 693) (L.D. 1879) (C. "A" S-445 and S. "A" S-514)

Bill "An Act to Establish an Alternative Form of Telecommunications Regulation in the State" (S.P. 726) (L.D. 1947) (Governor's Bill) (C. "A" S-492)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Papers were Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

#### ENACTORS

##### Emergency Measure

An Act to Encourage Effective Use of State Resources (H.P. 1354) (L.D. 1820) (C. "A" H-818)

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

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

##### Emergency Measure

Resolve, to Require a Study of Solicitation Sales Fraud (S.P. 670) (L.D. 1838) (C. "A" S-453)

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

On motion of Representative HOGLUND of Portland, under suspension of the rules, the House reconsidered

it action whereby L.D. 1838 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-453) was adopted.

The same Representative presented House Amendment "A" (H-932) to Committee Amendment "A" (S-453) which was read by the Clerk and adopted.

Committee Amendment "A" (S-453) as amended by House Amendment "A" (H-932) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-453) as amended by House Amendment "A" (H-932) thereto in non-concurrence and sent up for concurrence.

---

An Act to Require Risk-based Capital Standards and Standard Valuation to Ensure Continued Accreditation for the Bureau of Insurance (S.P. 701) (L.D. 1899) (C. "A" S-464)

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

---

An Act to Clarify the Requirements of Disclosure of Information Pertaining to Mentally Disabled Clients (H.P. 759) (L.D. 1026) (C. "A" H-805)

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

On motion of Representative FITZPATRICK of Durham, was set aside.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1026 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-805) was adopted.

The same Representative presented House Amendment "A" (H-930) to Committee Amendment "A" (H-805) which was read by the Clerk and adopted.

Committee Amendment "A" (H-805) as amended by House Amendment "A" (H-930) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-805) as amended by House Amendment "A" (H-930) thereto in non-concurrence and sent up for concurrence.

---

Resolve, to Create the Blue Ribbon Commission on Hunger and Food Security (S.P. 715) (L.D. 1930) (C. "A" S-476)

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

On motion of Representative JACQUES of Waterville, was set aside.

On motion of Representative CHONKO of Topsham, under suspension of the rules, the House reconsidered its action whereby L.D. 1930 was passed to be engrossed.

The same Representative presented House Amendment "A" (H-964) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-476) and House Amendment "A" (H-964) in non-concurrence and sent up for concurrence.

---

#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, March 25, 1994, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-891) - Minority (5) "Ought Not to Pass" - Committee on Aging, Retirement and Veterans on Bill "An Act Relating to Retirement Benefits for the State Police" (H.P. 1363) (L.D. 1842)

TABLED - March 23, 1994 by Representative JALBERT of Lisbon.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

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

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will join me in shooting down this "Ought to Pass" Report so that we can go on to kill this bill. Unfortunately, this is not the solution to the problem that is attempted to be addressed by this bill.

What the proponents of this bill are asking for is that we pass a special provision for 93 state employees that would allow the State Police who were in the open plan to retire after 25 years of service, regardless of their age.

I don't want to argue whether that is a good plan or not. What I want to argue is that the approach that is taken in this bill is inappropriate. We have voted on (although you didn't know it maybe) a bill that set up the outcome of the so-called Monks Commission Report which will establish an implementation committee to put into effect the changes recommended by the Monks Commission over the next two years. That commission is required to deal with the problems that were highlighted by the Monks Commission and attempt to solve the inequities in the State Retirement System for all classes of employees.

When we dealt with that bill in Committee, we specifically required that this commission look at the problems in the special plans and all the special plans, not just state police, and address the issues which have been brought to our attention about the problems of recruiting and hiring qualified employees and keeping them on the job until they are of age to retire.

Over the last four years, we have taken away or impaired benefits for more than 42,000 state employees and teachers. This bill will reverse that trend for only 93 state employees. Game wardens, who

I believe have equally as dangerous and demanding a job and is equally as much a job for young people, do not get any attention in this bill. The problems of inequity in their plan are not addressed in this bill. I think it is wrong that a game warden should have to work until 62 years of age, performing many of the same duties of a State Police officer, while a state police officer under this bill would be able to retire after 25 years of service, maybe at age 47 or younger. Again, I don't think that it is necessarily bad that State Police officers could retire at that age, I think the problem is the way this bill addresses it and the timing of this bill.

Another fundamental problem with the way this bill addresses it is it attempts, because we didn't have the money to put into the system to solve the problem correctly, to solve it in a temporary way by putting all the costs for making sure the system is made whole so there is no unfunded liability on to the individual state employee or State Police officer. Now, what that means is a State Police officer who has ten years of service under this bill will end up paying a huge amount, a lump sum payment, one time of as much as \$15,000 (maybe more) if that officer wants to join in this special option. The officer who has only worked for a couple of years may pay significantly less, \$1,000 or \$2,000 up-front to join in the same plan. I think that is unfair on the face of it and that the real solution should be developed in a comprehensive way by the committee that is set up to implement the Monks Commission Report.

I think it is totally unfair to proceed ahead with this at this time to all the other state employees who do not get any special treatment. I think it is much more appropriate to address this issue in a comprehensive way.

What you will see before you, if you read the amendment, is an interim solution that sets up a second class of State Police officers. When the Monks Commission completes its work, there may likely be a third class. I think that is wrong and I think you should reject this and go on to defeat the bill and allow the Monks Commission process to proceed and resolve this problem.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to take offense to some of the vocabulary that was used by the last gentleman who spoke — shooting down and killing — I think that is very offensive.

This, we should find the full truth. The amendment clearly specifies what is happening here. It allows a State Police officer to elect to receive unreduced retirement benefits before the age of 55 after 25 years of service, if the officer pays a full actuarial cost of the benefits. The provision to provide becomes effective July 1, 1995. State Police officers hired after that date must make their decision within 30 days of hire. A person already employed as State Police officers on July 1, 1995 must decide within 90 days of that decision. The decision is irrevocable. The Maine State Troopers Association is required to pay for the actuarial services needed by the Maine State Retirement System to develop a method for calculating the actual cost.

The good gentleman from Kennebunkport stated that the Monks Commission will address it. The Monks Commission or the committee that will be appointed

does not address the State Police issue itself, it does address special plans.

To go back to the retirement system — it was decided a few years back by this legislature that State Police could retire after 25 years if he or she was 55 years old. That was then. You have got a situation now which is altogether different. I know I would not have wanted to be a state trooper yesterday or last week when we had that storm and you only need to go out and look at that monument out there, we are asking a lot of these young people.

Here is the thing you have got to remember. A young man or young woman goes into the State Police at 22. If he or she must wait until 55, that person will have 35 years of service and get 50 percent of their pay. Normal retirement for state employees, if you have 35 years multiplied by two, gives you 70 percent. I don't think it is fair.

We are talking about stress, a young person comes in at 22 — after 25 years, they have done their duty. The military allows you to retire after 20 years regardless of age or 30 years regardless of age. I know many people, I had two brothers retire in their 40's and 50's because they had done 20 and 30 years respectively.

The Monks Commission is not instructed under that bill to specifically apply it to the State Police.

The good gentleman from Kennebunkport mentioned the game wardens — this does not go into effect until July 1, 1995 and I have said to people who favor doing something for the game wardens, they have all next year, they can come back to the 117th and do something which will apply in July. The proposal for the game wardens did not come in until the last day that we took up this bill. We would have been more than glad to do it but only one individual showed up, we had nothing from the association, nothing from the game wardens themselves. They do deserve it, but there is still time because this does not go into effect until July 1, 1995. At that time, the State Police will get together with the retirement system and if anyone wishes to retire under this bill, they will have to cough up the difference so that we don't have to worry about the unfunded liability. That's what was taken up in the amendment. That's what the good gentleman from Kennebunkport seems to completely overlook and ignore.

I ask you to vote for the Majority Report.

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

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I think the previous speaker has helped me with my argument. This amendment does not go into effect until 1995. About six months or possibly a year after that at the latest, the Monks Commission process is going to produce its final product which does address the problems in all the special plans. The State Police will be represented, the employee and employer side in the State Police unit will be represented in the Monks Commission and will have an equal say with every other member of that commission on how the retirement system problems get worked out.

I think the State Police would probably liked to have had, when it was presented in committee, the option of participating in this and not going forward with this amendment now or not participating and getting their amendment now, they said they would like to have both. What they are looking for is to

have the real solution that the Monks Commission is going to develop which will give State Police personnel real choice in their retirement plan, real choice like every other state employee and address the issue of the need to be able to retire at a younger age than most other state employees because of the demands of the job. They can get that from the Monks Commission process but they were looking for more than that. They wanted something supposedly to address their problem in the interim and this will not do it. It will simply delay the real solution and potentially cost those people who go this route a significant amount of money. Those State Police officers that were not in the hearing room and who do not understand this, I believe, will be greatly misled if they take this option, pay the \$15,000 that it may cost them to join this plan, and then the system changes a year later because of the Monks Commission solution and that \$15,000 has been blown if the solution we come up with is one that truly addresses in an equitable way giving State Police officers choice.

The issue of the memorial outside the capitol building was raised by the previous speaker and I would submit to you that if you go down there and look, if I am not mistaken, there are more officers who were game wardens that were killed in the line of duty than State Police officers. I don't say that to suggest that game wardens are more deserving than State Police officers of the special plan that the State Police officers have. I simply suggest that the solution only addresses State Police officers and does it in a poor way in this bill and it is inappropriate. It make more sense to address the problems in a comprehensive way, once and for all, so I would ask you to please vote against the "Ought to Pass" Report and go on to defeat this bill.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support passage of this bill, L.D. 1842. I don't have to tell you that all police work is stressful, whether you are in the local P.D., the Sheriff's Department or game wardens or whatever, it is all stressful work. Some studies I have seen have put it number two among the most stressful jobs in the United States and I have seen some studies that put it number one.

The nature of the duties of the State Police are, I feel, unique. They have a very stringent hiring process, written tests, physical aptitude tests, polygraph exams, background investigations. They just advertised for the State Police Academy, they got around 2,000 applicants and they will be lucky if they get 50 qualified people out of those 2,000 applicants. They have longer and more extensive training. They currently train for 18 weeks and in the next academy they are going to be going for 22 weeks.

They have a wide range of duties and are required to work alone in remote areas most of the time. They are required to move around the state. In my career as a State Police officer, I moved my family eight times.

Nine P.D.'s in the State of Maine have a better retirement plan than the State Police. Auburn P.D., Bangor, Biddeford, Brunswick, Lewiston, Portland, South Portland and Waterville all have 25 year retirement plans.

We expect a lot from the State Police in the State of Maine and I believe we have never been disappointed. I know this legislature has a great deal of respect for the State Police but we have got to realize that 55 is too old to be a State Police officer. I might even go as far as to say that 50 is too old to be a State Police officer, it is a young person's job.

The Monks Commission, who did a study last summer, weren't asked to study the special plans and they didn't study the special plans. The State Police testified before that commission and the commission was very supportive of the fact that they should have a different plan.

It has been pointed out to you that the bill goes into effect in 1995. In the interim period, each State Police officer is going to have the opportunity to go to the State Retirement System, get all the facts and figures and decide — it is going to be a choice of theirs, they do not have to take this plan, it is strictly voluntary.

If this implementation committee that you heard about is not even going to report back until January of 1996, that means that the 117th Legislature will be looking into this and there is going to be a big change in this Legislature in the 117th, so I would suggest that if anybody in this legislature feels that that should change, they should change it now and not wait for the 117th. It is a safety issue. We need to attract and retain qualified State Police officers, we have to protect the public and protect the officers from having to work well beyond the time when it is physically safe for them.

If this bill passes, it would go into effect in 1995 and that is a very appropriate date. 1995 is the 70th anniversary of the Maine State Police, 70 years of exemplary service to the people of the State of Maine.

I urge you to give the members of the Maine State Police a worthwhile anniversary present by passing this bill.

Mr. Speaker, I request a roll call.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I won't go into a long floor speech on this, it is pretty hard to expound on what the good Representative Clukey has already stated. I will say that there is no question that 55 years is too old to be a State Police officer.

If you look at the facts that the State Police are willing to foot the entire bill for this bill that brings them in line with the major police departments around the state, I think that it is the right thing to do, the only thing to do and I would urge your support of this bill.

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

Representative ERWIN: Mr. Speaker, I would request that the Clerk read the Report.

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

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: In response to the gentleman from Kennebunkport, I would like to know where he got \$15,000. He keeps saying things were blown out of proportion, well I think he has blown this figure out

of proportion. We never once in the committee — may God forbid, I am only the Chair — we never heard the word \$15,000 because it is based on the actual time that the gentleman is going to be in service.

Now, it says 55 years old or 25 years — a person does not have to retire. As Representative Bailey said, 55 is too old to be handling that kind of work, but a person as a state trooper may retire after 25 years. I say again, if the gentleman from Kennebunkport was to talk about fairness — I retired from the state with 32 years service which gave me 64 percent. Yet, if I had been a state trooper at 55, I would have got 50 percent, is that fair?

Why shouldn't you give the fairness to the state trooper? I want you people to put yourself in the feet of a state trooper. I have a very good friend of mine, Officer Landry of Lewiston, he attempted to go solve a domestic problem, he is now gone.

We had a young gentleman a few years ago, down in Berwick, Officer Black, who tried to stop a bank holdup, he is gone. We have got them all gone.

The thing is, remember now, if the state trooper wishes to retire after 25 years, it is up to he or she to decide "I've had it." They are going to be put out to pasture, they can still be gainfully employed.

Representative Wentworth of Kennebunkport was granted permission to address the House a third time.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: The question was posed where I got this \$15,000 figure? I got it by doing some simple math. The cost to the system would be roughly five percent of salary per year for every year up to the ten years of service that would be affected by this change that a State Police officer had worked. If you take a salary of approximately \$22,000 or the average over that ten year period and multiply times five percent per year and then add the interest that the system is including in this bill to the police officer as well, you will come up with a number right around \$15,000 for that officer that has worked ten years under the open plan. It could be more depending on what the system realized for a rate of return during that time and what they project for future cost for an early retirement. Their estimate was roughly five percent plus interest.

This plan that has been argued, this particular amendment, would somehow make our state retirement system competitive with municipal and county law enforcement officer plans and that is simply untrue. No municipal or county law enforcement plan would have this huge lump sum payment included in it.

The officers who have worked nine or ten years, who have a large family and who simply can't afford to go out and get a bank loan to pay this lump sum amount, are not going to be able to join this no-age plan. Therefore, they are still going to be better off if they go into a municipal position or a county position. So, it is not going to solve the problem of retaining qualified officers.

The real solution will come when we offer the State Police a plan that allows them to retire before age 55 and the state pays the part of the bill that they should be paying, but that funding is not included in here because the money couldn't be found, so we put all the onus on the State Police officers.

I think that is wrong and, as I said before, the real solution will come with the Monks Commission Report which will resolve this, I believe, once and for all. If we choose this option, we are simply

going to make matters worse for a small class of State Police officers and then the real solution will come on and we will have an even more complex time trying to figure out how to transfer these police officers into the new plan that the Monks Commission adopts.

Therefore, I think you should set aside your particular loyalties on this issue and vote for a solution that really works and that means opposing this bill and waiting for the Monks Commission.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to point out that the committee did not put this onto the State Police, this is something that they wanted themselves. I think it is exemplary and it just points out how badly they want to be able to retire before age 55. I would just reiterate that we did not put this on there, this is something they agreed to and wanted themselves.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I just want to be on Record as to why I am on the Minority Report. I do not, as any of the other members of the committee, dispute the fact that the state troopers are a special group that need this kind of early retirement. It is, indeed, a young man's occupation.

My reason for opposing this, as I will oppose any changes in these waning moments of the 116th, is that I would like to see the Monks Commission implementation committee be able to really and truly fix the Maine State Retirement System for the benefit of all, all, and that includes all the special plans. So, I will be opposing any last minute changes including Constitutional Amendments.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Members of the House: I am going to quote three things that I have seen with the State Police. Over 30 years ago, I had spoken to Officer Black just 15 minutes before he was shot. I will never forget that as long as I live and he didn't live to be 55.

I have traveled a super highway and, about a month ago, just in front of me, a car hit a moose. The people were injured and I saw the state policeman there working getting those people out of the car.

Last night coming up, I saw the state policeman walk through the muck and the mire in the ditch to help a person get out of a car that had gone off the road.

These people, every day, face these things. It isn't a matter of money with me, it is a matter of they are burnt out by the age of 55.

Representative JALBERT of Lisbon was granted permission to address the House a third time.

Representative JALBERT: Mr. Speaker, Men and Women of the House: I am glad that my good friend, Representative Farnum, brought up the question of Officer Black. I have a very good friend, a retired state trooper, in a nursing home and he is in bad shape. Harold Bartlett, everybody at home knew him as Russ Bartlett of Lisbon Falls. He received a call to cover a bad accident on the road from Lisbon Falls to Topsham. Three ladies had been killed and when he

got there, one of them was his daughter Julie. Can you imagine?

Getting back to my friend from Kennebunkport, I wish he would listen to his House Chair once in awhile, he might learn something about the Retirement System. He says that the \$15,000 that the state troopers have to pay in they will have to borrow it — no, no, no. If he knew anything about the Retirement System, they have a plan and anybody who tries to pay back can pay so much a month or so much a year or you pay the whole thing if you want to.

As far as to say that the Monks Commission — nothing was put into the charge to the commission that will be appointed to specifically take care of the state troopers. Maybe if the good gentleman had brought up in the amendment — the amendment here was proposed by the state troopers themselves. In all due respect, I think we should do something for the game wardens, marine wardens and corrections officers, but as was stated, there will be time enough. All we received was one amendment by one of the persons, a former game warden saying, please put that in, at the last minute. We wanted to do it but why jib with it, the thing shouldn't have this one or that one. As I say again, if the last speaker, the gentleman from Kennebunkport, would maybe take another course in mathematics, he could probably outbid me any time on mathematics. I went to school and the teacher was sick, when I was awake and she was there and I was sleeping. That is probably why he knows more about mathematics than I do. But, anybody can tell me now what you will pay in years to come, you ought to go work for the Retirement System.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: As sponsor of this bill, I feel it is important to get up and just kind of summarize why I put the bill in and why I was pleased with the Majority Report and hope you support it.

We are dealing with only "93" state employees here. But, I think we all have to understand that those 93 do a very different job from other employees.

Years ago in a previous life, when I was on the road, I learned and earned the respect for the people in that type of profession. Yes, I know the amendment isn't the end-all and the Monks Commission is coming down but the Monks Commission is coming down after the effective date of this voluntary move by a State Police officer. If the Monks Commission favors other language, they will say so and the next legislature can in fact enact it.

This gives us an opportunity to meet a commitment to officers that were hired since 1984. You can't be a state cop at 55. You can't be a municipal police officer at 55 and be asked to do what these people do.

Yes, I know it isn't an end-all approach but I think it is a start in the right direction. I am very pleased with the committee report.

When the good Representative from Kennebunkport spoke, he used the term "totally unfair." I know every one of us who have been here over the last few sessions have felt that we have acted totally unfair to all our state employees in the Retirement System because of the budget constraints we have.

Yes, we are dealing with 93 people, not the 42,000 in our mass. I think this is a good start and I think it is a good place to start and I think it will send a message to other state employees that their

legislature will work with them and that will happen in years to come.

I ask for your favorable vote to the Majority Report.

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

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

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

## ROLL CALL NO. 280

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Beam, Bennett, Birney, Bruno, Cameron, Carleton, Caron, Carr, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Cote, Cross, Daggett, Dexter, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Foss, Gean, Gould, R. A.; Greenlaw, Hale, Heino, Hichborn, Hoglund, Hussey, Jalbert, Johnson, Joseph, Joy, Kerr, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Lord, MacBride, Marshall, Martin, J.; Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Paradis, P.; Pendexter, Pendleton, Pineau, Plourde, Plowman, Poulin, Pouliot, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rowe, Saint Onge, Simonds, Simoneau, Small, Spear, Stevens, A.; Sullivan, Swazey, Tardy, Taylor, Townsend, G.; Tracy, True, Tufts, Vigue, Whitcomb, Winn, Young, Zirnkilton.

NAY - Adams, Barth, Bowers, Brennan, Coles, Constantine, Farnsworth, Fitzpatrick, Gamache, Gray, Hatch, Heeschen, Holt, Jacques, Ketterer, Kilkelly, Marsh, Michael, Mitchell, J.; Pfeiffer, Rand, Rotondi, Rydell, Saxl, Skoglund, Stevens, K.; Townsend, E.; Townsend, L.; Treat, Walker, Wentworth.

ABSENT - Campbell, Cathcart, DiPietro, Hillock, Kutasi, Look, Martin, H.; Melendy, Ott, Pinette, Ruhlin, Strout, Thompson, The Speaker.

Yes, 106; No, 31; Absent, 14; Paired, 0; Excused, 0.

106 having voted in the affirmative and 31 in the negative, with 14 being absent, the Majority "Ought to Pass" Report was accepted.

The Bill read once. Committee Amendment "A" (H-891) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

---

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

---

HOUSE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (H-899) - Committee on

**Utilities** on Bill "An Act to Amend the Charter of the Passamaquoddy Water District" (H.P. 503) (L.D. 661)  
 TABLED - March 23, 1994 by Representative CLARK of Millinocket.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

On motion of Representative CLARK of Millinocket, tabled pending his motion to accept the Majority "Ought Not to Pass Report and later today assigned.

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-442) - Minority (4) "Ought Not to Pass" - Committee on Banking and Insurance on Bill "An Act to Promote Economic and Employment Growth in the Financial Services Sector" (S.P. 620) (L.D. 1722)  
 - In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be Engrossed as amended by Committee Amendment "A" (S-442).

TABLED - March 23, 1994 by Representative HALE of Sanford.

PENDING - Motion of same Representative to accept the Minority "Ought Not to Pass" Report.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: Before you, you have a bill that will purport to create job opportunities within the State of Maine. You are going to be told that only 30,000 cards are generated in the State of Maine. 30,000 cards may not be a great number in accordance to other states but rest assured, ladies and gentlemen of this House, what we are doing here today will be to deregulate credit cards. We will say to our constituents back home, you no longer need protection because there is only 30,000 of you out there and we are going to remove that protection.

Instead of being capped at 18 percent, there will be no percentage limit on what you have to pay. Instead of having a 25 day grace period, you are no longer going to have a 25 day grace period. Instead of having certain fees that are disallowed right now, they will be allowed to charge those fees.

In fact, I would like to quote from the Chase Premiere Advantage Credit Agreement of the Chase Manhattan Bank: "State exceptions: the sales slip or duplicate statement fees, late payment charges, return payment charges do not apply and will not be imposed if your billing address is in Iowa, Kansas, Maine, West Virginia, Wisconsin or Wyoming unless the law of these states is changed to permit such charges."

Ladies and gentlemen, our consumers use their credit cards, not only for short-term things, but also because the credit that the banks are extending to consumers for small loans has been very tight. When they have had need to buy an appliance, even a second car, they have been able to use their credit card and still stay within the 18 percent that the bank charges you. By saying to the consumer with this bill, we are not watching anymore and we are going to allow all this to happen, then in essence what we are doing is putting our consumers right down the drain.

I have spent ten years in this House. This is the first bill in ten years that I have lost any sleep over. I tell you, ladies and gentlemen, I cannot figure it out, when they talk about a skunk in the wood pile, this one is a skunk and I think it is worse than that.

At first, they were going to take away the open-ended credits, which would be your home equity loans, any business you do with your fuel suppliers but they are also going to start charging late payments. We will have a late fee payment that is disallowed that will be put on now. Not only that, the Maine Merchants Association is in agreement with this because they are allowed to put a late charge fee on your credit cards.

I asked if on the pre-computed credit cards, credit card line of credit or something like that, which is a credit card, if the late fee would be able to be folded into the principal and they said "Oh, no." I called the Bureau of Banking and they said, "Yes." I spent two hours with a gentleman that works at one of the banks in my hometown discussing this bill, taking the law, taking the changes and he said that it certainly is the worst thing that could happen to consumers.

You will also hear that 45,000 credit cards from Key Corp — they allow the credit to stay within the guidelines as a service to their customers.

The banks will talk also with members of the committee about MBNA and how they are thriving. Yes, they are thriving in Camden. They are also going to expand their services, not because of this piece of legislation, they were going to anyway.

We have heard about people having credit cards out-of-state. I, for myself, did not sell my credit card out-of-state, all of a sudden I had a notice in my statement, "you are now doing business with Northwest Car Services in Iowa." I certainly didn't call them up. Fleet Bank sold it and I am sure a lot of people are in the same position. Peoples Heritage, they sold their credit card accounts to MBNA.

Right here it says Brian Arsenal, a spokesman for Peoples Heritage said, "Maine's law was a factor in the bank's decision to sell its credit card portfolio. It did not limit the profitability of the product." So you see ladies and gentlemen, they are going to say we are losing money on the 25 day grace period.

I happened to catch a business news report and it involved the post offices and the pilfering of credit cards, \$100 million loss to the banks every year. Those cards do not even reach the consumer or the recipient that is supposed to be holding them. They do not lose that money, they spread that \$100 million loss amongst their customers, so rest assured that the banks are going to lose nothing, irregardless of what we do.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I would first like to thank the good Representative from Sanford, Representative Hale, it is obvious to me that she really cares about people and the consumer and I agree 100 percent with what she has just said.

I would first like to say that the title of this bill is, I feel, is deceptive. I always feel uncomfortable when there is a bill that talks about employment growth and job growth within the title

when there is no real significant evidence or proof that that is exactly what is going to happen. I think that is the case with this bill.

In fact I was discussing this bill with some bankers and members of the Maine Bankers Association and they admitted that probably this bill will not bring jobs into Maine. So, as a result of that, I feel very uncomfortable about the title of this bill.

If they did bring jobs to Maine — let me just discuss the "what if" — the credit card market today is currently saturated and the experts will tell you that. If a market is saturated, the only way to penetrate it or make further gains within that market, in this particular market, is probably two ways, one would be to lower the interest rate on those credit cards. I think there is one positive aspect of this bill, it is a possibility that there could be some minor lowering of interest rates on credit card bills because of increased competition. However, the drawback is far worse.

The other opportunity for a credit card issuer to more heavily market its option would be to expand the credit limit that is offered to the consumer. For example, if your credit limit was \$5,000 for a particular credit card and you had a preapproved card in the mail that said we are going to give you a \$10,000 credit card limit, that might make you take a look at that and possibly change the credit card that is in your pocket now to the one that is coming. Well, there is a problem with that. The problem is that there has always been standards for credit, for approved credit. When you go to a bank, credit union or savings and loan to borrow money, there always has been and should be some standards set for the approval of that credit. The social and economic costs of expanding aggregate credit card debt has been phenomenal and I think that there are many experts out there that have said that part of the reason for the last recession that we have just been through was the severe expansion of revolving credit, the majority of which is credit card debt.

This bill will probably contribute to further expansion of credit card debt because of the raising of the debt limits that I have just spoken about. Even though not all aspects of the bill cover that or seem to address that, that will probably be the implication of this bill.

I don't think it is fair to young people. I have spoken about this before. Young people who can get credit cards based on their future earning potential, they might not be earning anything right now but they can qualify for credit cards and that has always concerned me greatly because if they don't get a job right away upon completion of a degree, for example, they can be saddled with huge credit card debt. Again, I spoke about this last year. There was a person who was a college student that walked into my office one day who had seven credit cards maxed out and didn't know what to do. I tell you, I didn't know what to do either. I did my best at counseling that student but it is something that is severe and it causes family budgets, monthly, to be in very severe circumstances, very difficult to make monthly payments when you have outlandish credit card debt. Possibly I agree that there should be more personal responsibility but there are other circumstances that come into play, I think we have to recognize them.

I think it is unconscionable that we would expand this market in Maine when it is proven here in the State of Maine that we have per capita less

outstanding credit card debt than many other states. Why is that so? It is because of the regulation that we have had. Banks are a quasi-public institution. We are not talking about private business here where we should introduce out-and-out competition. In private business, I sometimes agree that we should deregulate and offer that competition to drive down costs of the market. In this case, that is just not so. I think that if we have learned anything from some of the banking practices and situations that we have seen in the last ten years, it should be that in deregulation and in the possibility of deregulating a banking concern, you can run into all kinds of implications that cannot be foreseen.

So, what I am saying here is that these are some of the implications that I see and I am hoping that you will press the green light button because there is an "Ought Not to Pass" here, I hope you will follow my lead.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: I think that in light of what has gone on before, I ought to take a minute to explain just what this bill does.

The bill removes the caps on annual fees and interest rates which are currently written into Maine law. There is a certain amount of cap on the annual fee that can be charged for a credit card, there is an interest rate cap of 18 percent.

Now why would anybody ask, should we do something like that? The answer is, assuming that those caps on annual fees and interest rates are a good idea, they cannot be enforced. The reason they cannot be enforced is federal law which says that if a credit card is issued in a state other than Maine to Maine residents, the law of the state in which the credit card is issued shall apply.

What this has meant for Maine banks that wish to issue credit cards is that they have a tough time because whenever there is a situation when those — for instance in the early 1970's when the cost of credit exceeded 18 percent, they could do business. As a matter of fact, there are over 600,000 credit cards issued to Maine residents by out-of-state financial institutions. The reasons so many of them are issued by out-of-state institutions is that we have driven them out with our cap. There are about 30,000 cards left. They will undoubtedly leave when there is an economic incentive for them to do so.

It is fine to say that there are 30,000 credit cards still issued under Maine law here today, it is going to be fine only so far and only for so long as it is in the economic interest of the issuers to stay here. Once the interest rate starts going up, they will leave just as surely as anything I can imagine. So, the result, perhaps it is an unfortunate result, is that because of federal law, the Maine law is ineffective. Not only is it ineffective, it does a positive harm because it drives away the jobs, the mill, the backroom operations that you have with credit card issuers. There are very few jobs in the credit card industry here in Maine now. Although nobody can promise that if we pass this bill, those jobs will come back but we can be certain that they will not come back if we do not pass this bill.

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

Representative ALIBERTI: Mr. Speaker, Colleagues of the House: I would like to approach this from a



different point of view, not from a banker's point of view. I would like to approach this from the consumers point of view. I have been a credit card holder for many, many years and at no time did I hold more than one credit card. I have changed sources of credit cards three times because of insensitivity to the consumer. This appears to be the situation again here. One of the major banks sold their credit cards. A second major bank sold their credit cards. In the meantime, the very services that I appreciated over and over again as a customer of those banks and the services they offered, I found it impossible to get an up-to-date evaluation of the status of my credit card. It was very available at the time when their credit card initiated in the State of Maine and was part of the State of Maine banking community. It happened, yes. What happened was that as I asked them for an account, I had to call an 800 number, I called the 800 number and they said, well, If you want this, push this. Do you want this? Push this. In the meantime, I lost track of what they wanted me to push and I had to start all over again. I immediately withdrew my account.

Have you ever heard of Credit Unions? Let me tell you something about a credible credit union in the city of Lewiston. I don't even have to mention their names because their reputation is a matter of record. Thirteen percent interest if you choose not to use that 30 day requirement. If you don't choose that 30 day requirement, all you have to pay is 9 percent. These are established rates.

Employment — I don't think there is a commercial bank in the city of Lewiston right now that has in their presence all the time, during the time to serve the consumer concerns, the number of people willing to serve you at this credit union, there were 20 people, I counted them myself, every time I go in there — 20 people. Doesn't that speak for itself?

Then the audacity to push this bill through under the title in which they have, that says something about their credibility.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I am one of the sponsors of this bill and I am concerned to have my credibility questioned. I do believe that this bill has the potential to enhance our position as a state to attract jobs into this state. Just to echo what one of the previous speakers has said, that the only guarantee that we have with this bill is that if this bill does not pass, there will not be any additional jobs and probably there will be fewer jobs.

We have gotten somewhat off track in the discussion today on this bill. There was a discussion about students and what happens when students get credit cards. It is my understanding that currently there is a Senate panel in Washington that is looking at just that issue. It is a very significant issue, it is a very serious issue, but it has nothing to do with this bill.

We heard about the fact that Maine, according to one of the previous speakers, people have fewer credit cards and they have less money involved in those cards or less credit involved in those cards. This bill is not going to deal with that. That is great, nobody has a problem with that. Maine people deal with things and pay cash for what they get or whatever. This bill is not going to affect that.

What this bill says is that currently in the State of Maine, we have the facade of protection. You can pick up the law book and say, these are the protections that I have as a citizen of the State of Maine because of Maine law, and that is not true. The only time you have that protection is if you have one of those 30,000 credit cards that are issued within the state. If you have one or more of the 600,000 credit cards that are issued outside of the state, you can look at the law book and see that the law is there and you don't have that protection. I think that is a facade of the law and it is something that we need to deal with because as the next step in that we would be in a position to attract companies that would move into this state, non-polluting companies, companies that are providing decent jobs at reasonable wages to provide the services for these credit cards.

Now, the other question that people have asked me is, are we the first state that has ever tried to do this? I would like to quote some testimony that was provided at the committee by the Department of Economic and Community Development. "Over the last 12 years, Sioux Fall, South Dakota has emerged as a major back office processing center for bank credit cards receivables. In the 1980's while the overall population of the state grew by less than .7 percent, the population of Minnehaha County grew more than 12 percent, and that of Sioux Falls by nearly 25 percent. This growth was due almost entirely to the decision of City Corp to move its processing center there in 1980, a decision encouraged by the state legislature which repealed the state's usury law, thereby allowing the bank to charge market interest rates. No single location has been able to challenge the established work force of Sioux Falls which has attracted major credit card issuers such as First Credit Bank, Chemical Bank and Inner Bank Corporation."

So, we are not the first ones to do this, we are not the first ones to try this. We are looking at something that in fact has created jobs in other states. We have an excellent work force, Maine is a wonderful place to live. This particular law that is currently on the books is preventing some companies from coming into this state in order to issue credit cards. But again, I think the bottom line piece for me is that this currently a facade, 30,000 people are covered by a law that is on the books, while 600,000 credit cards are not covered because the credit cards come from another state.

I would urge you to vote red on the pending motion and pass this bill.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: First, I will ask you to vote against this motion to accept the Minority "Ought to Pass" Report.

One of the previous speakers stated in her quote that he was impressed to see another Representative in this body cares about people and the consumer. Ladies and gentlemen of the House, I don't know any person in this body that I serve with who does not care about people and the consumer, so I don't know who that was targeted at or what reason it was for.

You heard the comment on the young people's credit opportunity. This doesn't change that.

You heard about the Chase Preview Advantage Credit Card, the return payment charge — this bill as amended doesn't change that.

What you have in front of you, ladies and gentlemen of the House, is that you are again on the edge of making a major decision. The reason I support repealing our usury laws to the degree the committee put it out and tailored it in that committee amendment is because we are only protecting with our current usury laws less than 30,000 cards. You have over 600,000 that are not.

You heard two of the people who are speaking for the motion say that they are upset because all of these big banks are selling their products elsewhere, they are selling their line. Why do you think they are doing that? It is because our laws are not as advantageous as other states.

If we didn't have a dual system of banking in this country, probably we could do this and we would have to require that Chase Manhattan and that when Key Bank sold its business out and they want to issue a card to a Maine person, a Maine citizen, it would come under our laws. Ladies and gentlemen, that has been tried and was stricken down in the courts.

The state that domiciles the cards is where it happens, those are the laws it goes by. It is very clear.

Also debit cards weren't mentioned. The problem with the debit card is that Maine-based debit cards are restricted by these laws. Therefore, your LaVerdiere's, your Day's, these type cards are restricted under our usury laws. However, your Sears, your J.C. Penny aren't. Again, while trying to do the right thing for the people of Maine, this legislature has handcuffed our businesses.

So, being one that usually does stand up for the little guy and everybody says, "Ah, Pineau, you are with the banks now" — well there is a reason for that on this one. We are not dangling out there our citizens who hold cards. These citizens are protected as they are with the other states. Under Regulation B, the Equal Credit Opportunity, Federal Credit Billing Act, Fair Credit Reporting Act, Credit and Charge Card Applications — ladies and gentlemen, these are federal protections that are in fact now monitoring over 600,000 of our cards. Yes, this is a major decision and I agree. I had to think long and hard before I sponsored this legislation.

Maine's fiber optic potential is extremely high. Maine's fiber optic potential means that we can get on the telecommunication network, we can be into these jobs that move paper through wires. These jobs are clean. These jobs pay better than base rates. These jobs have health insurance. These jobs have benefits.

Yes, we don't have a guarantee that these jobs are going to come hustling and bustling into Maine, but I will guarantee you that the 30,000 cards that are now here, as soon as the interest rate, the prime rate hits 12 or 13, those lines are gone, so what have we protected?

There was a study done by the Department of Economic and Community Development in cooperation — I am trying to think if it was Rand, I am not sure — on the productivity of the Maine worker. That is the most inviting part this state has to anyone looking to relocate up here. We are 20 percent more productive than most when you look at same line jobs, same age people, it is really interesting, we do what we do and we do it right.

However, this message will send two loud and clear points. One, we are positioning ourselves to be competitive. Two, we are going to take away that smoke and mirror coverage that you now have on most of the credit cards you are now carrying or sitting on in this chamber or in your pocketbook if you don't happen to have it on your body.

Mr. Speaker, I ask for a roll call and I also ask that the Committee Report be read.

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

---

The Speaker resumed the Chair.

---

On motion of Representative JACQUES of Waterville, tabled pending the motion to accept the Minority "Ought Not to Pass" Report and later today assigned. (Roll Call requested)

---

The House Recessed until 3:30 p.m.

---

(After Recess)

---

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

**ENACTORS**

**Emergency Measure**

An Act to Amend the Underground Oil Storage Tank Replacement Fund (H.P. 681) (L.D. 923) (C. "A" H-868)

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

---

**Emergency Measure**

An Act Concerning Commercial Divers (H.P. 973) (L.D. 1304) (C. "A" H-835)

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 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

---

**Emergency Measure**

An Act to Preserve Productive Forests (H.P. 1309) (L.D. 1764) (C. "A" H-846)

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 10 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

---

**Emergency Measure**

An Act to Clarify the Tax-exempt Status of Nonprofit Rental Housing (H.P. 1320) (L.D. 1782) (C. "A" H-831)

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. 114 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

---

**Emergency Measure**

An Act to Authorize an Increase in the Holdings of the Farmington Home for Aged People (H.P. 1398) (L.D. 1907)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

---

**Emergency Measure**

An Act to Allow for Reciprocal Licensure for Electricians in the State (H.P. 1400) (L.D. 1909) (C. "A" H-847)

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

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

---

**Emergency Measure**

An Act to Revise the Duties of the Superintendent of the Pineland Center (H.P. 1445) (L.D. 1972) (Governor's Bill) (C. "A" H-870)

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

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

---

**Emergency Mandate**

An Act to Create the Mount Desert Water District (H.P. 1269) (L.D. 1696) (C. "A" H-841)

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. 121 voted in favor of the same and 0 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

---

**Emergency Mandate**

An Act to Amend the General Assistance Standard of Need (H.P. 1396) (L.D. 1905) (C. "A" H-863)

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. 112 voted in favor of the same and 8 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

---

**Mandate**

An Act to Establish the Somerset County Budget Committee (H.P. 1406) (L.D. 1915) (C. "A" H-852)

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. 119 voted in favor of the same and 0 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

---

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

---

**ENACTORS**

An Act to Amend the Laws Concerning Emergency 911 (S.P. 452) (L.D. 1419) (C. "A" S-452)

An Act to Enable the Creation of the Volunteer Social Workers Project (H.P. 1106) (L.D. 1493) (C. "A" H-848)

An Act to Clarify Certain Provisions of Maine's Hospital Payment System (H.P. 1188) (L.D. 1585) (C. "A" H-834)

An Act Regarding Insurance Coverage for Mental Illness (H.P. 1218) (L.D. 1637)

An Act to Amend the Petroleum Market Share Act (S.P. 596) (L.D. 1655) (C. "A" S-455)

An Act to Study Eagle Mortality in Maine (H.P. 1235) (L.D. 1662) (C. "A" H-844)

An Act to Permit Electric Utilities Greater Flexibility in Adjusting Electric Utility Prices to Meet Changing Market Conditions (H.P. 1239) (L.D. 1666) (C. "A" H-862)

An Act to Provide Assistance to Homeowners Who Have Faulty Septic Systems (H.P. 1245) (L.D. 1672) (C. "A" H-866)

An Act to Revise the Eastport Port Authority Charter (H.P. 1266) (L.D. 1693) (C. "A" H-860)

An Act to Amend the Laws that Deal with the Protection of Natural Resources (S.P. 619) (L.D. 1721) (C. "A" S-447)

An Act to Establish the Public Access to Maine Waters Fund (H.P. 1312) (L.D. 1767) (C. "A" H-879)

An Act to Prevent Damage Claims against the State Due to the Installation of Drinking Water Wells in Areas of Possible Hazardous Substances and Oil Pollution (H.P. 1328) (L.D. 1791) (C. "A" H-878)

An Act to Strengthen the Maine Bottle Deposit Laws (H.P. 1343) (L.D. 1810) (C. "A" H-839)

An Act to Amend the Laws Concerning Set-back Variances (H.P. 1369) (L.D. 1853) (H. "A" H-875 to C. "A" H-827)

An Act to Clarify and Expand the Driver Education and Evaluation Programs in the State (H.P. 1381) (L.D. 1868) (C. "A" H-869)

An Act Concerning Municipally Owned and Operated Solid Waste Incinerators (S.P. 690) (L.D. 1876) (C. "A" S-481)

An Act to Implement the Recommendations of the Commission to Study the Statutory Procedures for Local Property Tax Abatement (H.P. 1387) (L.D. 1886) (C. "A" H-853)

An Act to Clarify the Appropriate Acknowledgement of Religious Holidays in Maine Schools (S.P. 704) (L.D. 1901) (C. "A" S-459)

An Act Regarding Registration for the Provision of Substance Abuse Counseling Services (S.P. 705) (L.D. 1902) (C. "A" S-479)

An Act to Create the Blaine House Commission (H.P. 1440) (L.D. 1966) (Governor's Bill) (C. "A" H-840)

Resolve, to Establish Minimum Standards for Adult and Family Shelters in the State (H.P. 1383) (L.D. 1882) (C. "A" H-829)

Resolve, to Enhance the Development of Alternative Uses of Maine Agriculture and Forestry Products (H.P. 1437) (L.D. 1963) (C. "A" H-874)

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

An Act to Designate Certain Lands under the Constitution of Maine, Article IX, Section 23 (H.P. 1428) (L.D. 1953) (C. "A" H-858)

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

On motion of Representative MARTIN of Eagle Lake, was set aside.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Members of the House: This is the piece of legislation which puts into place the Constitutional Amendment that was adopted by the voters of Maine last year in reference to sale and transfer of public lands.

For the Record, I need to include the provision, in particular, since we excluded the land of the Baxter Will and this is a letter from the Baxter State Park Authority addressed to myself and to the members of the Legislature: "This letter is in response to an inquiry regarding the Baxter State Park Authority's position on L.D. 1953, legislation implementing Article IX, Section 23 of the Maine Constitution. The Authority's position on lands donated by Governor Baxter himself and land contiguous to the park purchased with funds donated by Governor Baxter are subject to the restrictions contained in the deeds of gift regarding use and alienation. Therefore, we support the legislation in Subsection 598A, Subsection 5, excluding such lands." It is signed by Susan J. Bell, Chair of the Baxter State Park Authority.

Specifically what we are doing is to exclude that land which was granted to the state by the will of Governor Baxter and the land that was purchased because those restrictions are much stronger than the present authority that is in this piece of legislation to implement the Constitutional Amendment.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Facilitate Government Investment in Mutual Funds (H.P. 1439) (L.D. 1965)

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

On motion of Representative PINEAU of Jay, was set aside.

On further motion of the same Representative, under suspension of the rules, the House reconsidered

its action whereby L.D. 1965 was passed to be engrossed:

The same Representative presented House Amendment "A" (H-888) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-888) in non-concurrence and sent up for concurrence.

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

**REPORTS OF COMMITTEES**

**Ought to Pass as Amended**

Representative TARDY from the Committee on Agriculture on Bill "An Act to Require Licenses and Fees for BST Manufacturers and Dealers" (EMERGENCY) (H.P. 1384) (L.D. 1883) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-950)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-950) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-950) 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. 1083) (L.D. 1449) Bill "An Act to Make Statutory Changes to Implement the Recommendations of the Legislature's Total Quality Management Committee" (EMERGENCY) Joint Select Committee on Rules reporting "Ought to Pass" as amended by Committee Amendment "A" (H-951)

(H.P. 1301) (L.D. 1756) Bill "An Act to Authorize a Department of Inland Fisheries and Wildlife Bond Issue of \$10,000,000 for Fish Hatcheries" Committee on Appropriations & Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-962)

(H.P. 1392) (L.D. 1890) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$14,000,000 to Construct Environmental Protection Facilities and to Investigate, Abate, Clean up and Mitigate Threats to the Public Health and Environment from Uncontrolled Hazardous Substances Sites" (Governor's Bill) Committee on Appropriations & Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-963)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, March 29, 1994 under the listing of Second Day.

**BILLS IN THE SECOND READING**

**As Amended**

Bill "An Act to Expand Protection to Persons with Mental Illness and Mental Retardation" (H.P. 347) (L.D. 450) (C. "A" H-934)

Bill "An Act to Ensure Equitable Insurance Practices" (H.P. 789) (L.D. 1062) (C. "A" H-943)

Bill "An Act Concerning Primary Care and Parental Rights and Responsibilities in Cases of Domestic Abuse" (H.P. 1055) (L.D. 1407) (C. "A" H-940)

Bill "An Act to Improve Environmental Protection and Support Economic Development under the State's Land Use Laws" (H.P. 1100) (L.D. 1487) (C. "A" H-942)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 to Provide Funds for Assistance to Maine Businesses" (H.P. 1148) (L.D. 1547) (C. "A" H-949)

Bill "An Act to Clarify Maine Election Laws" (H.P. 1201) (L.D. 1609) (C. "A" H-947)

Bill "An Act to Protect Maine Children from Child Pornography Contraband" (H.P. 1274) (L.D. 1718) (C. "A" H-935)

Bill "An Act to Affect the Credit of People Who Are in Default of Child Support Payments" (H.P. 1279) (L.D. 1727) (C. "A" H-936)

Bill "An Act to Rename Boarding Care Facilities and Expand Their Definitions" (EMERGENCY) (H.P. 1337) (L.D. 1800) (C. "A" H-945)

Bill "An Act to Adopt the Uniform Interstate Family Support Act" (H.P. 1339) (L.D. 1802) (C. "A" H-939)

Bill "An Act to Establish the Right of Grandparents to Act as Foster Parents for Their Grandchildren" (H.P. 1352) (L.D. 1818) (C. "A" H-938)

Bill "An Act to Develop Standards for the Licensure of Hospice Programs" (H.P. 1355) (L.D. 1821) (C. "A" H-946)

Bill "An Act Relating to Retirement Benefits for the State Police" (H.P. 1363) (L.D. 1842) (C. "A" H-891)

Bill "An Act to Amend the Probate Code to Provide Greater Due Processing in Guardianship and Conservatorship Cases" (H.P. 1441) (L.D. 1967) (C. "A" H-937)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was Passed to be Engrossed as Amended in

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

Bill "An Act to Provide for Greater Efficiency within the Department of Agriculture, Food and Rural Resources" (H.P. 1191) (L.D. 1588) (C. "A" H-944)

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

On motion of Representative TARDY of Palmyra, was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed and later today assigned.

Bill "An Act to Amend the Public Smoking Laws" (S.P. 724) (L.D. 1945) (C. "A" S-488)

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

On motion of Representative KERR of Old Orchard Beach, was set aside.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-488) was adopted.

The same Representative presented House Amendment "A" (H-967) to Committee Amendment "A" (S-488) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: We are back to the smoking bills again. Last year's bill which is current law, I felt reached a compromise between anti-smokers and those who believed the laws were adequate. The current law has only been in effect for approximately a few months. Store owners and other small business owners are making great efforts to both comply with the law and not irritate their smoking customers. As you all know, signs must be posted in all businesses affected by the law. Current law exempts certain locations from smoking, religious ceremonies, theater productions, taverns, lounges, beano games and everything else that we discussed last year.

The current law also establishes separate rules for schools, workplaces, restaurants, private offices and hospitals. It also imposes a \$100 fine for persons violating the law. The proposal, L.D. 1945, and the amendment is on your desk but I am going to take a few seconds just to read a portion of it. Under Section - 1, it says it "exempts pool halls serving alcohol where minors are not allowed." I concur with that and that is not the section that I have a problem with. As you move down, it says, under Section - 2 "prohibit smoking in mixed use areas such as restaurants, bowling alleys, lunch counters and stores." As you all know, Wal\*Mart, K-Mart, the mom and pop stores have established these lunch areas, so now there will be no smoking in any of those areas, lounges, restaurants, hotel lobbies.

It also imposes up to a \$500 fine for subsequent violations, not only on the smoker, but also the employees of a business where the infraction occurs.

Also, it allows the courts to impose injunctive relief. That means close down your establishment for a period of time or suspend your license.

This friendly amendment that I have presented will maintain pool hall exemptions in the bill. That is the Section - 1. What it does do is it clarifies that the smoking law that applies to a given business will apply to the area where the business activity is occurring. For instance, the restaurant law will apply to an area of a lunch counter in a store and prohibit — the smoking will apply to the remainder of the store.

I would like to give you another example of how this provision will work — it would be a situation where a retail store also operated a restaurant or a lunch counter which was not separate physically from the retail store establishment. In this instance, the law governing smoking in restaurants would apply to the lunch counter or restaurant portion of the business and the law with respect to smoking in public places such as the retail store would apply to that portion of business operated as a retail store.

Where we have increased the current fine in the present bill, 1945, the fine is \$100 and I recommend in my amendment that we increase that to \$200. The power of the injunctive relief and the \$500 fine is not included, because as a non-smoker and being in business, I think we are doing everything we possibly can to accommodate the law. It is not an easy thing to do when you have "vacationland" for your license plate. We cater to a lot of tourists.

This bill does one thing that I have a problem with that we did accomplish last year, it created a level playing field. We no longer have that level playing field without my friendly amendment.

Thank you very much. I urge you to support the amendment.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: The bill before you, if it is not amended as it is proposed to be, is the first bill in the history of this legislature that I am aware of that addresses the subject of smoking that came out of that committee with a unanimous report.

We have a committee that includes smokers and non-smokers and people with differing views on the subject of smoking regulation. This bill came to our committee and we worked extremely hard in coming up with a report that we could bring to this floor and have you vote on. In fact, at one point, it was a divided report, we reconsidered it and came back with something that everyone could support.

The original bill that was before us did something very similar to what is in this proposed amendment, House Amendment "A" and that was unilaterally rejected by the committee.

We clarified the law in three ways and I would like to go through what our bill does. I would urge you to vote against the pending amendment which would change the intent of what our correction to the law does. Basically, it is a clarification.

The first piece which Representative Kerr's amendment does not affect is the part that basically creates a larger loophole in the existing law. It creates that loophole for pool halls that serve alcohol. Those of us that are more on the side of restricting smoking were not totally comfortable with this. We had a lot of argument about it but we were willing to go along with it because of the other

parts of the bill which clarify the law in a more restrictive direction.

The second piece of the bill, which Representative Kerr's amendment would simply reverse the intent of, basically clarifies what happens in a situation where you have one kind of use in the middle of another kind of use. This actually came to us from bowling alleys that were very concerned, they had restaurants in the middle of the bowling alley — they didn't know what part of the law applied to those restaurants because, as you know, within the restaurant part of the smoking law, you can have smoking areas but within bowling alleys, you can't have smoking.

We clarified the law to make it clear that either the area had to be entirely enclosed or you couldn't have smoking. That was something that many small businesses appreciated. They wanted us to do that because they had already gone to the expense of doing that, that is what the original law intended but it wasn't clearly stated. Our amendment clearly stated it.

Representative Kerr's amendment reverses that and basically says that if smoking is allowed, then it can be allowed to seep out into the entire rest of the area. So basically you have the lowest level of restriction apply under his amendment in a mixed use area.

In terms of the penalty, the concern was that there was no increased penalty for someone who repeatedly violates the law. We kept the penalty at only \$100 in our amendment but we bumped it up to \$500 for those who do violate the law more than once. That is an appropriate penalty. This is something we worked out with the sponsor of the bill and he is happy with the bill as it is now.

I urge you to stick with the bill that came out unanimously from our smoking and non-smoking members of the Human Resources Committee and vote red on the pending amendment.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I, too, rise to ask you to vote against the pending motion. The whole issue around mixed use has had some confusion in the legislation that we passed last year and I think this just clarifies it. I think that you need to be concerned in situations where there is mixed use or one or two more activities that children frequent these areas as well and the bowling alleys are the perfect example. I think we need to continue to show that we do have a commitment in realizing the fact that environmental tobacco smoke is a health hazard, that we need to protect our children and we need to protect the people who don't smoke. I think it would be unfortunate for us to regress at this point, especially when on the national level now we are hearing a lot about — there is this whole movement nationally to ban smoking in public places because it has certainly been very well accepted that environmental tobacco smoke is a health hazard.

It is also, as the Chair of my committee pointed out, something that we were able to compromise with. We have smokers and non-smokers on our committee and it was a compromise that was agreed to from both perspectives. So, I ask you to support the committee and to vote down this amendment.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: The issue of smoking and not smoking — at any establishment in this state at the present time, the licensee can allow or not allow smoking in their establishments, if they choose to do so. I would like to make that point clear.

The section under penalty in this bill where it says, "A person or entity subsequently violates any provision of this chapter within 12 months of a previous violation commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged. This section does not prohibit the court from issuing injunctions or contempt orders to enjoin continued violations in this chapter."

People, the courts can take their license. That is a serious offense. If a licensee does not want to have smoking in their establishments, they can put up "no smoking" signs.

I called a bowling alley because this amendment, and I refer to it as a friendly amendment only because of what we went through last year, does not impact the Section - 1 of the original bill.

What I am trying to continue to do is create that level playing field. I would just urge your support of this amendment because it is a great deviation, I believe, from the original bill of 1945 that was brought to this committee. It originally dealt with pool halls and billiard parlors. If in fact you looked at the Marriott in South Portland and we chose this hall to be the Marriott, they have a restaurant, they have a lounge and they have a lobby, under the current law where we don't allow smoking, those areas could not have it or if they did it would have to be in a designated area. At the present time without this amendment, there would be no smoking in that area. I am not saying that that is all bad, but the establishment can do that now if they choose to do so.

The other thing I would like to bring out is the fine because I think it is very important to realize that if the law were to pass with the fines and someone in the lobby was smoking and an inspector came in and said you are not allowed to smoke and even if the manager said, don't smoke, there is going to be a confrontation. There will also be fines that are levied on the manager and the individual that was smoking. That is the first offense.

The second offense could happen a few days later — same situation. You end up in court, this individual may lose their license.

I would just, again, try to create the same playing field, the ink is barely dry on the bill that was passed last year and I believe on your desks there are several letters that I have had circulated from the Maine Merchants Association. In the second paragraph, if I may read because I believe there is a minor error, I will begin at the second paragraph, "Based on feedback I have had from small businesses and restaurants since the enactment of L.D. 904 last year it says, "the least, it should be the most restrictive language of the committee version of L.D. 1945 would only increase confusion in a troublesome spot of the existing law."

Again, I would urge you to support the amendment.

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

Representative SIMONDS: Mr. Speaker, Ladies and Gentlemen of the House: As sponsor of the bill, L.D. 1904 in the last session, I did want to rise and urge you not to adopt the proposed amendment for these reasons. I did participate in the hearing on this year's bill, L.D. 1945, and, frankly, considering the number of interests represented in that hearing from business owners, from health people, from members of the Liquor Commission and from the Attorney General and law enforcement, I really did not expect the committee to find agreement. I commend the members of the committee in finding a unanimous position on this bill.

On the question of injunctive relief, I remember some discussions with the Attorney General pointing out that they obviously do not have the manpower to go about the entire state in all questions involving some element of enforcement. It was from the beginning the intent to allow common sense and judgment to rule and that has worked in most cases. In a few cases, there have been those who are simply standing pat and not interested in changing. They will pay the \$100 fine and so that is the cost of doing business, they will pay it again as a cost of doing business and it was the Attorney General's feeling that there needed to be some method by which those individuals can be brought to justice. The suggestion was that after several instances of ignoring the law and advice, then the powers of the court, under injunctive relief, should be brought to bear.

I urge you, ladies and gentlemen, not to turn the clock back on this important measure and reject the pending motion.

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

Representative CLARK: Mr. Speaker, I would like to pose a question through the Chair. To anyone who can answer, can businesses do this right now? If this is not the bill, can business do this right now?

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

The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Ladies and Gentlemen of the House: I am not sure what "this" is, but I will try to answer your question and if I guess wrong on the "this", you can let me know, Representative Clark.

Right now, I think there is some confusion in terms of how the law is currently written, what happens with mixed uses. I think there has been an interest in enforcing the law to require the most restrictive use but the law does not specifically state what happens in cases of mixed uses. This has come up a lot, as I mentioned before, with the bowling alley example where a bowling alley is a public place — under the law, bowling alleys clearly cannot have smoking and yet there is a restaurant which is allowed to have a smoking area within the restaurant.

It is my belief that the law that we enacted last year would require an enclosure around that restaurant but there was no specific provision in the law last year that stated that one way or the other. Either we clarify it in one direction, which is to make it clear that the more restrictive law applies, that would be the committee approach or under Representative Kerr's approach, we would clarify it

to say that the least restrictive law applies and therefore smoke could go out into the bowling alley.

I think there is some need for clarification here and that is why we agreed to put this provision into the law that we have right now.

I hope that that answers your question. I think that it clarifies what we have right now but there is some difference of opinion between those who are enforcing the law and those who are trying to comply with it.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I just want to, very briefly, clarify because some of the handouts are a little misleading so that it is very clear in your mind that this does not have anything to do with restaurants and lounges, that those are covered by a totally different law and that we are just dealing with public places and we are dealing with multiple use places.

As the speaker before me just reiterated, I guess this is a vote on whether you want to decide whether you want to clarify the issue of mixed use in a way that reflects what we all voted in last session or whether you want to regress and go back to the less restrictive.

Again, I ask you to vote against this motion.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I didn't think I was going to get up on this item here today but it seems that we have made so many rules and regulations for our constituents out there that they don't know what to believe and what not to believe. What I am referring to is that we pass laws here and we have nobody to enforce them. I think that we are wasting our time and the taxpayers' money by making laws that nobody is going to enforce. We don't have the manpower to take care of this enforcement, so you can pass all the laws you want, there's going to be people out there breaking them constantly. I say to you, let's do what Representative Kerr is asking, let's follow his light.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "A" (H-967). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Treat of Gardiner requested a roll call vote.

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

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

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I hope that you will vote against the pending motion and against adoption of this floor amendment which in essence guts the bill that came



out of the Human Resources Committee unanimously on smoking.

As I stated earlier, this is the first bill that was agreed to by everyone on the committee. If you adopt this amendment, it will essentially make many places right now that are considered public places such as bowling alley's, parts of department stores, areas where smoke can come into because we will no longer be required to put walls around the smoking area.

I urge you to vote against the pending motion so we can go on to adopt this bill.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I would also like to add my two cents. One of the arguments that you have read in some of the letters which have been circulated is that the bill creates confusion. I would argue that that is simply not true. The testimony we heard in deliberating on this bill was that the bill we passed last year has left some room for confusion. For instance, we have instances where corner convenience stores, which have say two corner tables, are claiming to be restaurants and, therefore, not subject to this smoking law we passed last year.

This bill we are passing now clears up that confusion. I would urge you to reject the floor amendment.

Representative Kerr of Old Orchard Beach was granted permission to address the House a third time.

Representative KERR: Mr. Speaker, Men and Women of the House: It seems very clear that the supporters of the unanimous committee report continues to avoid the penalty issue in this bill.

I would like to read it again It says, "A person or entity who subsequently violates any provision of this chapter within 12 months of a previous violation commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged. This section does not prohibit the court from issuing injunctions or contempt orders to enjoin continued violation of this chapter."

Remember, your license can be taken. There is no business in this state today — remember, I am a small business owner, I have to work for a living and be in this legislature and I just want you to remember that any licensee in this state can put up a no smoking sign with or without this law.

I urge your support of the amendment.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Men and Women of the House: I would like to tell the good Representative from Old Orchard Beach, Representative Kerr, that Representative Tracy and other members in this House also have to work for a living.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-967). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 281

YEA - Ahearne, Aliberti, Anderson, Bailey, H.; Bailey, R.; Bennett, Birney, Cameron, Campbell, Carleton, Caron, Chonko, Clark, Cloutier, Clukey, Coffman, Cote, Cross, Daggett, DiPietro, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Gamache, Gould, R. A.; Gray, Hale, Heino, Hussey, Jacques, Jalbert,

Joseph, Joy, Kerr, Ketterer, Kneeland, Larrivee, Lemont, Libby Jack, Libby James, Lord, MacBride, Marshall, Martin, J.; Michael, Michaud, Murphy, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pineau, Plourde, Poulin, Pouliot, Reed, W.; Ricker, Robichaud, Rotondi, Ruhlin, Saint Onge, Saxl, Simoneau, Skoglund, Spear, Stevens, A.; Strout, Sullivan, Swazey, Townsend, G.; True, Tufts, Vigue, Winn, Young, Zirkilton.

NAY - Adams, Aikman, Ault, Barth, Beam, Bowers, Brennan, Bruno, Carroll, Cashman, Cathcart, Chase, Coles, Constantine, Dexter, Donnelly, Dore, Faircloth, Farnsworth, Fitzpatrick, Foss, Gean, Greenlaw, Hatch, Heeschen, Hichborn, Hoglund, Holt, Johnson, Kilkelly, Kontos, Lemke, Lindahl, Lipman, Marsh, Melendy, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Oliver, Pendexter, Pendleton, Pfeiffer, Pinette, Plowman, Rand, Reed, G.; Richardson, Rowe, Rydell, Simonds, Stevens, K.; Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Whitcomb.

ABSENT - Carr, Clement, Hillock, Kutasi, Look, Martin, H.; Small, Tardy, Thompson, The Speaker.

Yes, 80; No, 61; Absent, 10; Paired, 0; Excused, 0.

80 having voted in the affirmative and 61 in the negative, with 10 being absent, House Amendment "A" (H-967) to Committee Amendment "A" (S-488) was adopted.

Committee Amendment "A" (S-488) as amended by House Amendment "A" (H-967) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-488) as amended by House Amendment "A" (H-967) thereto in non-concurrence and sent up for concurrence.

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

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

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-442) - Minority (4) "Ought Not to Pass" - Committee on Banking and Insurance on Bill "An Act to Promote Economic and Employment Growth in the Financial Services Sector" (S.P. 620) (L.D. 1722) which was tabled by Representative JACQUES of Waterville pending the motion of Representative HALE of Sanford to accept the Minority "Ought Not to Pass" Report. (Roll Call Requested)

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to reiterate what I said this morning but I would like to pass on to you a message from the good Representative from Van Buren at her request. I spoke quite extensively to her about this particular bill because knowing that she had served six years on Banking and Insurance and Business Legislation Committees when it was all incorporated into one committee — she very emphatically agrees with the "Ought Not to Pass." She said they worked on it very extensively and the reason for that was because of the small loan

companies around, Beneficial Loan, MAC, — I don't know what other ones, those happen to be the two in our area, they had gone up to 25 and 30 percent interest at the time that this piece of legislation went into effect. If we in essence remove this consumer protection, then we are setting our legislation back at least 14 or 15 years.

I think the important thing to remember is that this is a consumer protection issue.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Mr. Speaker, Men and Women of the House: I don't intend to repeat all that has been said here today but I totally agree with what you heard from Representatives Carleton, Pineau, and Kilkelly. Representative Pineau spelled it out real well for you and when he said that you are making a major decision, you are making a major decision, but it is a decision that goes beyond just these credit cards.

I take exception to people who think that the title to this bill is misleading. One of the issues mentioned by Representative Libby was that he had not heard of any jobs being brought to Maine. Well, let me tell you about some. The people in Camden have certainly benefitted from the credit card industry. MBNA moved into Camden, took over buildings that were not in the best of shape, not hundreds of thousands of dollars but millions of dollars has been spent in Camden to rebuild property, buy property for executives, executives have been brought in.

MBNA, I understand, is headquartered in Delaware — I have got to back up a second — part of this major decision, Representative Pineau mentioned it, is the fiber optics. I was surprised to learn a few months ago that Maine probably has one of the best telephone systems, if not in New England, but in the country, because of fiber optics. Consequently, we can attract any type of 800-line operation, be it credit cards, be it anything. I know of a small company in Thomaston that started out in Camden in a person's house, they outgrew that, they went to Rockland for some space, they outgrew that and, consequently, some people renovated facilities for them in Thomaston and they are outgrowing that. That is an 800-line operation.

MBNA comes in to Camden and there were unique circumstances that brought them there, one of them being that the Chief Executive Officer at one time had lived there. But, that is not the sole reason they are there. Companies of that size do not make decisions to move because someone wants to live somewhere and then spend millions of dollars. They have employed over 200 people in Camden. They have raised the wage in that area. I understand that they start out at somewhere around \$8.50 an hour for their employees. I have seen the W-2's of some of those people who disclosed their income as to what they are making and they are making a lot more now than they did a year ago.

They outgrew the Camden facility and they are now building one in Orono, which I understand is going to employ about 200 people. I also understand that this legislation, if we pass it, will encourage them to expand further and will bring other operations in here.

This does not do anything to hurt the consumer in Maine. The credit cards that most of us have come from out of Maine and are not covered by Maine law.

This will create jobs, good paying, clean jobs and I urge you to defeat the Minority "Ought Not to Pass" and support the measure.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: There was a time when usury was considered a sin. There was a time when it was legislated against or at least limited. Maybe it isn't a sin today but I think it is hardly productive of true economic growth, or for that matter, of social justice.

Al Smith used to say, "Any way you slice it, it is still balogna." I think any way you define this legislation, it is still a usury bill.

As Representative Hale has said, it is basically an anti-consumer bill as well.

We may have to live with usury in our modern age but I don't think we should be in the practice of promoting it.

To argue that present law is inadequate regarding usury, a facade and that therefore we should throw up our hands and render ourselves totally impotent on this issue doesn't impress me and I hope it doesn't impress you as an argument.

The totally unregulated or realistically unregulated use of usurious plastic, if I can put it that way, will increase the total amount of indebtedness. Now, not only history but basic supply and demand economics shows us this is not good over the long term and most of us want to survive over the long term not just the short. It is not good for the indebted individuals and it is not good for the overall economy.

I must say there is an attempt or has been an attempt to portray opposition to this legislation as anti-business. I guess it matters with your perspective, to me that simply is not true. Demand for other products traditionally is stifled if consumers are too deeply in debt. This bill promotes that type of situation. Its economic effect, therefore, is hardly the economic growth that is presented. There is growth here all right but I believe it is cancerous.

I, therefore, urge you to vote for the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Men and Women of the House: I, too, am a cosponsor on this bill, along with Representative Kilkelly and Representative Pineau and Senator McCormick. There has been some misrepresentations, I think, that you have heard. One has been that there is no grace period on the bill. Well, that simply is not true. There is still a grace period on the bill of 25 days, as long as you have no balance on your credit card.

Currently over 50 percent of the people in Maine who do have credit cards pay off their balance in full every month and do not pay any interest charge or a late charge.

There are only 30,000 credit cards left that are distributed by the State of Maine and to think that we are going to hurt the consumer with this bill is wrong. I think what you will see is that those 30,000 cards will join the other over 600,000 cards from out-of-state and the people in Maine will make another wise decision to go with a lower interest rate and a better credit card.

There is a Federal Disclosure Act when you sign your document agreeing to abide by the laws of the credit card.

Representative Aliberti gave you an example of changing over to a credit union credit card. Well, that credit card is regulated by the Federal Charter which does not fall under Maine law and he is getting a nine percent interest rate — he admitted it himself. This bill will allow banks in Maine to provide those same kinds of services.

We cannot guarantee that this bill will bring jobs into the State of Maine, no one can guarantee that. All we can do is make it an environment that might attract jobs.

MBNA came in here even under the laws we now have but they say that we might want to expand further if you can get rid of some of these laws that you currently have on the books. Over 40 other states have eliminated these laws. In order for us to compete, we need to do the same thing.

Ninety-nine and a half percent of the credit cards issued in this country right now fall under the laws that pertain to this bill. We cannot legislate morality and how to use your credit card. All we can do is say we will try and make it the best that you can and get the best interest rate that you can by lifting all the laws that restrict us from being competitive.

You have heard about the fiber optics in Maine and it is a very small window we have to operate under. When you ask a business why they moved to an environment, they want a safe environment for their children, good schools and productive employees — Maine offers that. The only thing we do to not attract the banking business here is have very restrictive laws on bank credit cards.

I ask you now to repeal the Minority "Ought Not to Pass" Report and pass the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I rise today to oppose the pending motion so that we can go on and pass the "Ought to Pass" Report as we should be doing.

I do not only do this as a Representative from Rockland but as the House Chair of Economic Development. This bill does nothing bad but only a world of good for Maine. Opponents of this bill attempt to portray it as bad for Maine consumers, that is an argument that simply doesn't hold up in today's world of high tech telecommunications, poised on the on-ramp to the information highway.

Credit cards are marketed nationally over a variety of media. The national, if not the international marketplace, moves to determine interest charges, annual charges and late fees and those consumers who don't like the charges or fees of a particular credit card can and do readily find another one that meets their needs.

It is a fallacy to think that Maine citizens only use credit cards from Maine's financial institutions. It is also a fallacy to think that when Maine citizens get their cards out-of-state that they do so even though the credit cards available here in Maine are a better deal because we all know that only some of the Maine cards are a better deal and some aren't so good. The market decides that, not governmental regulations as I have learned the

hard way because I certainly have voted for some of these regulations.

Like I said, I have learned the hard way and I now know that this bill will not affect the Maine consumers one iota, but it will only help the environment for creating jobs.

The quality of life in Maine, the quality of our work ethics, the availability of trained and trainable work force and the extensive fiber optic telecommunications network has made Maine initially appear very attractive to our nation's financial service industry, but nearly all of them ended up going somewhere else.

MBNA, as you have all heard about, which has offices in Camden and Orono, did not go somewhere else. They created over 400 new, good paying jobs in less than two years. Their entry wage is \$8.50 an hour with good opportunity for advancement, good benefits, including health care. The jobs are non-polluting.

MBNA doesn't need tax breaks for environment permitting exceptions. They provide training and they are good corporate citizens in their communities. They are poised to act as a beacon luring other financial businesses to Maine because of the quality of life and quality of work force. Why did they buck the industry and move here? They were able to come to Maine because they do not issue credit cards. They only do market research in telemarketing for a credit card issued in Delaware. The MBNA operation in Delaware employs 5,000 people — 5,000 in Delaware and 400 here in Maine and that is only one company. Had our laws been different, would those numbers have changed? Would those 5,000 jobs have been here in Maine and only 400 in Delaware?

Our archaic and overly restrictive laws regarding credit cards are keeping the other companies with 5,000 employees from moving here.

I challenge any one in this body to stand up and say that their districts couldn't use a business that would come in and possibly hire 5,000 Maine citizens at a minimum starting wage of \$8.50 with benefits and health care included. Why in the world would we consider rejecting a measure that has a positive potential and no downside? It seems so obvious. Maine people have the ability to get the best possible deal on credit cards available in the national marketplace and this bill does nothing to limit that ability. This bill is not about consumer protection, it is about jobs. Let's pass the bill and send a signal to the country's financial institutions that Maine is a great place to set up shop.

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

Representative JOSEPH: Mr. Speaker, Women and Men of the House: There is so much to say, I am not sure exactly where to begin.

I will accept the challenge of my colleague from Rockland. Yes, I would love to have 5,000 jobs in the city of Waterville; however, I really don't want those jobs on the backs of 30,000 consumers of the state. All of us are elected public officials and our responsibility is to protect the public health and safety of the people that we represent. We are not here to represent special interests and those people who contribute to our campaigns, but we are here to actually talk about the facts of this piece of legislation.

I find it very interesting that MBNA of Delaware did not have to repeal consumer credit protection in order to locate in Camden, Maine. MBNA is planning to expand in Orono with 300 extra jobs. They did not request to repeal the credit protection laws of this state. This Representative, if only 1,000 persons in this state were going to be affected by us repealing the consumer credit laws, could not vote for those.

I find it extremely interesting that there are no assurances that there will be new jobs because of this piece of legislation. We asked this specifically in the committee.

I am a product of this body who listened to insurance carriers say that, if you do not change the workers' comp laws, we will withdraw from this state, no new businesses will come into this state and I call that kind of policymaking legislative blackmail.

I want to call your attention to a piece that was put on your desk today. Last Thursday, I believe, the 24th of March, the prime rate was increased. Now, it was only increased a fraction and it probably seemed insignificant to you but in one of the major papers in this state it said, "The prime rate increase", and this was written by Saul Hansol of the New York Times, "The prime rate increase will mean higher interest rates for millions of consumers and businesses since the rates on many home mortgages, credit cards, small business loans, are linked to the prime. For example, Citi-Corp, the nation's largest bank has \$20 billion in loans based on the prime rate. That is only nine percent of their assets and most of those are credit cards. Citi-Corp's standard credit card carries an interest rate of the prime rate plus 9.4 points, thus the ratepayers by holders of those cards will increase to 15.65."

Prior to my time in this legislature, it was told to me and I further researched this issue, that as the interest rate increases, Maine adopted some of the most strict credit protection laws in this country.

At this point, I would like to talk about Maine law. I am quoting from the Bureau of Consumer Credit Protection testimony before the committee, "Maine law current limits the financial practices of credit card issuers in various ways. It restricts the annual percentage rate to 18 percent." And, when you are getting up to 15.65, I think you need to think about whether you want to lift that cap. It prohibits late fees and with this new legislation, late fees could be charged. Over the limit fees and returned checks are also prohibited. It allows only one type of balance calculation method, namely the average daily balance excluding new purchases methods.

Every purchase we make on our credit card receives its own one month grace period. With this piece of legislation, that would be repealed and that happens even if we are running a balance on our account.

In this testimony from the Bureau of Consumer Credit Protection, he says, "This bill reveals that it would more accurately be titled, An Act to Deregulate Credit Cards. It authorizes a \$10 delinquency charge which may seem reasonable; on the other hand, we don't have to pay it now. This bill, if passed, may result in increased cost to consumers holding credit cards from Maine banks."

It would certainly be up to the banks and other interests to demonstrate that the economic benefits of the state would outweigh the potential increase cost to consumers by credit card deregulation.

For example, in 1990, Casco Northern Bank sold its portfolio to Chase Manhattan Bank of Delaware. Chase Manhattan promptly raised the interest rate on the Casco Northern cards from 17.04 to 19.8. Do we really want to jeopardize the 30,000 credit card holders in this state whose bank adheres to Maine law even though it may not be required?

Recently Peoples Heritage Bank sold its portfolio to MBNA which promptly applied Delaware law and increased the fees.

Maine Consumer Credit Code only impacts the activities of state-chartered banks.

I believe that this is simply a consumer credit protection bill. Credit card operations are most profitably done on a large scale. This is why Maine banks have sent most of their portfolios that sold them out-of-state and it goes on to say, "because in fact they found this a convenient way to raise needed cash."

This is simply a consumer credit protection act. We are being asked to deregulate credit cards. There are no assurances there will be new jobs or any jobs. I am not from Missouri, but if I were, I would say, show me.

If these industries that wish to come because of our superior fiber optic ability and if they feel that after they are established here that they would need some help from the legislature, that would be the time.

I have learned through economic development experience of my own that you cannot give abatements because every time you do, they have this insatiable appetite of let's go one more step.

We have heard that people don't come to Maine simply for the quality of life. Well, I refute that because Van Lear, Kyes Fibre is moving all of their operations back to the State of Maine. Why? Because their management team says that their employees and their management team will live in a safer, healthier environment with a superior work force. Let's sell what is good in the State of Maine, let's not jeopardize 30,000 of our citizens.

I ask you to support the Minority "Ought Not to Pass" Report.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: At the beginning of the previous speaker's statement, there were comments made about why people would sponsor this bill having to do with working for the banks or support for campaigns. I would hope in the future that one of the things that could happen within this body is the sense that as a deliberative body we have a requirement that people have differing opinions, but let's try to assume that people at least are doing it for good, honorable intentions. I am just very concerned that there is a sense that I, as a cosponsor of this bill, or any of the other people that cosponsored this bill did it for any reason other than the fact that we were convinced that in fact it is in the best interest of this state.

I had a letter from Dana Totman who is the Director of CED which is a CAP Agency in Bath. He said, "Please keep supporting this bill, poor people need jobs, most of our clients don't have credit cards, what they need are jobs. He was supporting it as someone who is a strong advocate for the needs of low income people."

In addition, one of the issues that was raised in the handout that was passed out, Citi-Corp standard credit card carries an interest rate of prime plus 9.4. What is interesting to me is that the rate is going to go from 15.4 percent to 15.65 percent, which is already lower than the maximum that is allowed in the State or Maine. So obviously, they don't have to be based in the State of Maine to have a rate that is 18 percent or lower. Let's let the market decide.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: To go back to Representative Joseph's comments earlier, I want to state for the Record that she is absolutely right. The world of banking is changing and it is changing at a rate that is hard to keep pace with. If you look at the regionalizations and the growth of the banking industry, it is almost mind-boggling, but what is happening during this growth and regionalization and merger phase is that we see that they are regionalizing facilities that process credit cards, not just credit cards, but all backroom facilities which include thousands of jobs.

If we say this will not bring jobs to the State of Maine, we may be right, but ladies and gentlemen, friends and colleagues, I guarantee you that three years ago when we lowered the amount that we can accept as a fee for having a credit card, the argument was said that this will not affect jobs. I bought into that argument, I will admit I am guilty, I thought this won't have any affect on jobs, it is going to be a good consumer bill. What happened is we have had several banks since then in order to increase their profitability is sell their credit card business out-of-state. Those jobs are gone. I guarantee you they are not going to come back unless we do something.

I do think Representative Kilkelly has the highest and most honorable intentions. I think the reason she would cosponsor something like that is very clear from her statements, you can't second-guess those. It is very clear to me that passage of this bill will allow jobs to happen in Maine. This legislature does not create them, we allow them to happen.

Please vote against the pending measure and allow private industry to create jobs in the State of Maine.

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

Representative JOSEPH: Mr. Speaker, Women and Men of the House: My sincere apologies to Representative Kilkelly of Wiscasset, if in any way that I suggested that the sponsors of this bill were sponsoring this bill for special interests, I did not mean it, we certainly will check the Record to see exactly what I did say.

However, I was appealing to this body to represent the 30,000 persons who hold credit cards and who would be affected by this. I was urging this body not to listen to the special interests and I believe that I said those kinds of people who generally contribute to our campaigns. My sincere apologies, I meant no personal offense.

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

Representative RAND: Mr. Speaker, Men and Women of the House: I really had no intentions of getting up on this bill, although I certainly do support the Minority "Ought Not to Pass" position.

A few things have not really been brought out and I would like to take this opportunity now to do so. Usury laws in Maine protect more than the 30,000 credit card holders. These laws also protect the holders of merchant cards. If we pass this L.D., people who have a Porteous card or a Jordan Marsh, those types of cards, will no longer be protected by our usury laws. So, that does entail many thousands more people.

I think Representative Libby brought up an interesting point and I think it is one that we would do well to remember. It is a great deal easier to get credit, extend credit through a credit card than through the traditional bank loan situation. If I went to the bank tomorrow to get a \$5,000 loan, I would have to prove to the bank that I had a way to pay this money back, that I had collateral. We are now, all of us, being inundated through the mail with preapproved credit cards — \$1,400 limit, \$5,000 limit — this looks very attractive to some people, particularly if they have a pretty low paying job, it is time for the kids to start school and they don't have any money for school clothes for their kids.

The elimination of the yearly fee is something that I could have gone along with. Maine caps its yearly fee at \$12.00, that is actually a non-issue. According to the publication put out by the credit card people themselves, the annual fee is going the way of the dinosaur. They are looking for more innovative ways to make profits on credit cards and since they are marketing them so wisely, they are capturing a less sophisticated group of users who will not realize that their interest is being compounded in the way it is, will not realize that now they will have an interest fee plus a late charge until they have gotten themselves into more debt than they can really handle.

In today's Portland paper, there is an article entitled "Workers' High Debt Worrisome." The columnist fear overstretched, middle-classed families could put a brake on the economy. I see this legislation as enhancing, albeit it in a small manner, that type of problem for Maine workers who are traditionally low paid, this is a low wage state.

As far as the job situation, it has been estimated that 35,000 jobs will be created nationally with these backroom servicing positions. While there is a possibility some of these jobs could come to Maine, there certainly is no guarantee. Since the passage of NFTA, I would be surprised if 35,000 jobs are created in this market in this area in the United States. I think that is something that we should wait and see.

I would urge you to accept the Minority "Ought Not to Pass" Report. This is definitely an anti-consumer protection piece of legislation and certainly thousands more than the 30,000 card holders are affected.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Ladies and Gentlemen of the House: Thank you Mr. Speaker, I certainly will not go on long tonight. I would just like to emphasize that this talk about protecting credit card customers, 30,000 of them, is something that is not accurate. We currently have a couple of banks that issue credit cards still within this state, they are subject to the limits imposed by Maine State Law. The reason that those banks still issue credit cards in the State of Maine is that

general interest rates are low right now. Were we to get into a situation, and it will inevitably occur at some point where general interest rates go up, those banks which now issue credit cards within the State of Maine, will simply send them out-of-state because it is more profitable to do so. Maybe we wish that it were not so, maybe we wish that we had control over on our destiny with regard to credit and credit cards but this is a global economy. Federal law says that credit cards issued in other states can be purchased and issued to Maine citizens and the laws of those other states will apply to Maine holders of those credit cards.

The upshot of all of this is that the Maine laws regarding credit cards are simply useless, they will become completely useless when interest rates rise. So, I don't think there is any upside to the present laws. The only upside that occurs concerning this legislation is the possible potential upside that will occur if we get more credit card backroom operations in here. There are a few credit card jobs, I should add, still in Maine. I believe that there are about 25 and those particular jobs are at-risk unless we pass this legislation.

I urge you to vote against the Minority "Ought Not to Pass" Report so that we can go on to pass the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Canaan, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: My name is on the Majority "Ought to Pass" Report. I would like to think that I am not signing a bill that promotes usury. I was persuaded that usury laws in Maine are not effective in preventing usury. I was persuaded that they are effective in preventing this particular credit card industry from coming into the state.

I was persuaded particularly to learn about the fiber optic status (whatever fiber optics is) of the State of Maine. Most of us, I think, can remember the handcranked telephone that they had in Bryant Pond and the big furor when the handcranked telephones went out of existence in Bryant Pond. Well, Maine was slow getting onto the fiber optic train or the modern communication train but now we are in a position to better benefit because our technology in this area is right up-to-date. It is just the type of environment with good workers, good technology, a good place to live, that this particular industry is looking for. No promises that jobs will be made but certainly we know if we don't pass this legislation the door stays closed.

I urge you to defeat the Minority "Ought Not to Pass" Report.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: Just briefly — we heard earlier in the debate before our break about both credit cards and debit cards and what I challenge this legislature to do is this, bring some legislation before this body that will promote the debit card market and you will be bringing legislation to this body that will not be promoting risk.

Last year we passed legislation that allowed banks to sell annuities. I know you all remember it because we were avalanched by a lot of people in business suits. That bill, I thought, was an excellent bill and I voted for it. If it doesn't bring jobs to Maine, it will at least make banks more

competitive. We did that last year for the banking industry and I think because of that, we made some positive movement. I am hoping that let that legislation ride on its own merits and not run scared that we have to keep continuing to create more and more jobs for the banking industry through poorer legislation.

I would like to end with just this note, whether you vote for or against this bill, you are voting for people and I understand that. Somebody took some remarks that I made for the good Representative from Sanford, Representative Hale, wrong and I would just like to go on the Record saying if you did, I apologize because I know that there are two sides to every story.

The SPEAKER: A roll call has been ordered. 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 Sanford, Representative Hale, that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

## ROLL CALL NO. 282

YEA - Adams, Ahearne, Aliberti, Brennan, Caron, Cashman, Chase, Chonko, Dutremble, L.; Farnsworth, Gamache, Gean, Gray, Hale, Hatch, Heeschen, Holt, Hussey, Joseph, Lemke, Libby James, Martin, J.; Michaud, Mitchell, E.; Murphy, Pfeiffer, Rand, Richardson, Rydell, Saint Onge, Stevens, K.; Townsend, E.; Townsend, G.; Tracy, Treat, Wentworth.

MAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Birney, Bowers, Bruno, Cameron, Campbell, Carleton, Carroll, Cathcart, Clark, Clement, Cloutier, Clukey, Coffman, Coles, Constantine, Cote, Cross, Daggett, Dexter, DiPietro, Donnelly, Dore, Driscoll, Erwin, Faircloth, Farnum, Farren, Fitzpatrick, Foss, Gould, R. A.; Greenlaw, Heino, Hichborn, Hognlund, Jacques, Jalbert, Johnson, Joy, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Larrivee, Lemont, Libby Jack, Lindahl, Lipman, Lord, MacBride, Marsh, Marshall, Melendy, Michael, Mitchell, J.; Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pendleton, Pineau, Pinette, Plourde, Plowman, Poulin, Pouliot, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Strout, Sullivan, Swazey, Tardy, Taylor, Townsend, L.; True, Tufts, Vigue, Walker, Whitcomb, Winn, Young, Zirnklilton, The Speaker.

ABSENT - Carr, Hillock, Kutasi, Look, Martin, H.; Morrison, Thompson.

Yes, 36; No, 108; Absent, 7; Paired, 0; Excused, 0. 36 having voted in the affirmative and 108 in the negative, with 7 being absent, the Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" Report was accepted. The Bill read once. Committee Amendment "A" (S-442) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-442) in concurrence.

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

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, March 25, 1994, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

SENATE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (1) "Ought to Pass" as amended by Committee Amendment "A" (S-493) - Committee on Utilities on Bill "An Act to Protect the Interests of the Town of Otis in Certain Ponds" (EMERGENCY) (S.P. 630) (L.D. 1747)

- In Senate, Majority "Ought Not to Pass" Report read and accepted.

TABLED - March 24, 1994 (Till Later Today) by Representative CLARK of Millinocket.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

Representative COFFMAN of Old Town moved to table until later in today's session.

Representative CLARK of Millinocket requested a division on tabling.

The SPEAKER: The Chair ordered a division. The pending question before the House is the motion of the Representative from Old Town, Representative Coffman that L.D. 1747 be tabled until later in today's session. Those in favor will vote yes; those opposed will vote no.

13 voted in favor of the same and 96 against, the motion to table did not prevail.

Subsequently, the Majority "Ought Not to Pass" Report was accepted in concurrence.

SENATE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (1) "Ought to Pass" - Committee on Utilities on Bill "An Act to Permit Scrutiny of Books and Records of Nonutility Generators" (S.P. 645) (L.D. 1804)

- In Senate, Majority "Ought Not to Pass" Report read and accepted.

TABLED - March 24, 1994 (Till Later Today) by Representative CLARK of Millinocket.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

Subsequently, the Majority "Ought Not to Pass" Report was accepted in concurrence.

Bill "An Act Creating the York County Budget Advisory Committee" (H.P. 1351) (L.D. 1817) (C. "A" H-872)

TABLED - March 24, 1994 (Till Later Today) by Representative MURPHY of Berwick.

PENDING - Passage to be Engrossed.

On motion of Representative MURPHY of Berwick, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-872) was adopted.

The same Representative presented House Amendment "A" (H-924) to Committee Amendment "A" (H-872) which was read by the Clerk and adopted.

Committee Amendment "A" (H-872) as amended by House Amendment "A" (H-924) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-872) as amended by House Amendment "A" (H-924) thereto and sent up for concurrence.

An Act to Authorize the Artisans School to Grant Degrees (S.P. 691) (L.D. 1877) (C. "A" S-434)

TABLED - March 24, 1994 (Till Later Today) by Representative COFFMAN of Old Town.

PENDING - Passage to be Enacted.

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

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

I would like to know in authorizing and giving this school degree granting authority what the process is? Could anyone tell me?

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

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

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: The process is one that is established by this legislature as delegated by the Department of Education. There was a Visiting Committee who went to the school, the school had to meet all the standards, financial standards, educational standards and it was the unanimous report of this Visiting Committee to the legislature that this school be allowed to award degrees.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-855) - Committee on Legal Affairs on Bill "An Act to Assist in Crime Prevention" (H.P. 1041) (L.D. 1393)

TABLED - March 24, 1994 (Till Later Today) by Representative GEAN of Alfred.

PENDING - Motion of Representative BENNETT of Norway to accept the Minority "Ought to Pass" as amended Report.

Subsequently, the Minority "Ought to Pass" Report was accepted. The Bill read once. Committee

Amendment "A" (H-855) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, March 29, 1994.

Bill "An Act Regarding Cable Television" (H.P. 1096) (L.D. 1483)  
 TABLED - March 24, 1994 (Till Later Today) by Representative CLARK of Millinocket.  
 PENDING - Adoption of Committee Amendment "A" (H-836).

On motion of Representative CLARK of Millinocket, tabled pending adoption of Committee Amendment "A" (H-836) and later today assigned.

Bill "An Act to License Athletic Trainers" (H.P. 536) (L.D. 720) (C. "A" H-845)  
 TABLED - March 24, 1994 (Till Later Today) by Representative COLES of Harpswell.  
 PENDING - Passage to be Engrossed.

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

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: If this was just a title bill, I wouldn't be speaking today. If this bill said in essence that to call yourself an athletic trainer, you must meet certain qualifications, I wouldn't be concerned, I wouldn't like it particularly but I wouldn't say anything about it, but this bill is not just a title bill. It is also a practice bill. That means that no one may engage in a practice of athletic training as defined in this bill without being licensed by the state.

The practice of athletic training involves the prevention of athletic injuries, among other things, organization and administration of an athletic training program, education and counseling of athletes, recreational athletes, coaches, family members, medical personnel and communities in the area of care and prevention of athletic injuries.

This means if we pass this bill that a parent advising their child on how to avoid injury would be committing an illegal act. That means you couldn't give advice to your neighbor's children or to your neighbor because you would be committing an illegal act.

There is an exception here to school coaches. The exception says, "School coaches in the performance of their official duties" — which means that the girls' basketball coach could not give advice to anyone other than a member of the girls' basketball team on prevention of injuries. They couldn't say "stretch before you run" because that is advice under prevention of injury. It means that any Little League coach, any YMCA coach, any recreational league coach could no longer counsel or advise any of their players in any way which could be construed to be advisement under prevention of injuries or how to train for their sport. Do we really want to, ladies and gentlemen, create a situation where people engaged in normal, routine activities will be committing illegal acts?

I asked the athletic trainers when I objected to this bill to the sponsor, he put me in touch with the athletic trainers who had brought this bill before this legislature, and I said to them, "I would be

willing to compromise and let you have a title bill." This would say in fact that no one could call themselves an athletic trainer without meeting certain qualifications. They said, "No, we want it all, we want a title and a practice." Ladies and gentlemen, I can't agree to that, I can't agree to a situation where no one in this room can give advice to anybody else about the prevention of injuries or training because no one in this room is a licensed athletic trainer. Each one of us, no matter who we gave that advice to, family, friend, neighbor, Little League team, would be committing an illegal act. How many Little League coaches, for example, are going to want to coach a team when they open themselves up for suit every time they might advise their team to stretch before exercising? I think this bill (if we pass it) will cause chaos and will be right back here next year with all of us (or those of us who will be returning anyway) for having very red faces for having passed it in the first place.

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

Representative Hوجلund: Mr. Speaker, Ladies and Gentlemen of the House: In due respect for Representative Coles, the only thing I want to say is that the athletic trainers are practicing their profession but what they want to do is upgrade their profession so that they are not called practicing trainers. They are considered athletic practicing trainers so, therefore, they will have a college education, a certified license from the state, and that is exactly what they are trying to do.

The schools and the Little League's and such — those coaches are exempt. The rest of them that are practicing athletic training want to upgrade their profession with the physical therapist and combine their profession so they are licensed to do all the physical things such as sprains and breaking elbows, fingers and whatever you do in football and basketball. That will be their primary duty and so they are trying to upgrade their profession. That's simple what I believe the bill is trying to do.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: When we had this bill in committee, I, too, had the same concerns as Representative Coles and, therefore, we voted out of committee on a 12 to 1 report, I'm the one, and I was assured at that time that none of those issues were in fact true.

In reading the bill, I am still convinced that those issues are true. I am absolutely convinced that we are going to create chaos in the school systems around the State of Maine.

If I remember the number correctly, there are approximately 43 people who, in the State of Maine, might qualify for this license. Therefore, if you take a look around the State of Maine and if this law is interpreted as I believe it will be interpreted, that the people who are working with the athletes in the school departments must, and I repeat must, fall under this classification, must be licensed as athletic trainers, we are going to create a huge shortage around the state. Therefore, that's where I believe the chaos is going to come from.

I would urge you to vote against this bill as I believe it will also cause another mandate onto our school systems because with this license these people are going to be demanding higher pay and I interpret



that as a mandate on our school systems who are, as we all know, already strapped for money. We don't need to take any chances of creating a cost for them that is unnecessary. I might also point out that through the hearings in our committee nobody could bring to me any information that proved that we had a problem.

Again, we seem to be fixing something that isn't broke. I urge you to vote against this, please.

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

Representative KNEELAND: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clarify what has been said. The Maine Medical Association's physical therapists and the Maine Principals' Association have met with the athletic trainers of the state to work on sound clarification and are in agreement with this proposal.

This bill combines athletic training and a board of physical therapy. The definition of an athletic trainer is consistent with the National Athletic Trainers Association, which is a national governing body of athletic trainers. Other definitions are stated in the bill.

The bill states that athletic trainers may not make medical diagnoses, but here's what we have been hearing, here's the meat of the whole situation — "persons employed by public or private schools or conferences or associations, their office coach, physical education instructors and the like are exempt provided that athletic training is not their primary responsibility." They do not call themselves athletic trainers, so if you were training a boxer, you are just a boxer trainer, you are not an athletic trainer.

"To qualify for licensure, a person must be a graduate of a college or university approved by the board and have completed that college's or university's curriculum in athletic training, or other curricula acceptable to the board, and have completed an athletic training education program approved by the National Athletic Training Association or a program of practical training in athletic training acceptable to the board; and must have passed the National Athletic Training Association Board of Certification examination." That is a two day examination and it is both written and oral and is given at MIT. The applicant must be currently certified by the National Athletic Training Association and approved by the board. The biennial licensing fee will not exceed \$60, which is the same provision for the physical therapist."

When this bill is enacted, a member of the public who may wish to seek the services of an athletic trainer may be assured that the trainer has at least four qualifications: American Medical Association recognized allied health care professional who has at least a bachelors degree from a college or university; has fulfilled the requirements for national certification as established by the National Athletic Trainers Association Board of Certification; maintains high professional standing through mandatory continuing education units; and is certified nationally and licensed by the State of Maine.

When an athletic trainer is licensed by the State of Maine, that individual has met these requirements. The title of the licensed athletic trainer will be protected by state law and may not be misrepresented in any way. While there are national

certification programs, they lack the legal standing to discipline members of the profession.

The problem that we have had with people with five hours of health care or just regular training in first-aid have called themselves athletic trainers. This is a safety issue that we are trying to correct.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: When we had this bill in committee, the opposition alluded to by the two previous speakers, Representative Coles and Representative Cameron, were addressed and we were very, very careful and specific as to what we intended by this licensing. We specifically requested that included in the bill would be a letter coming from superintendents and principals if they had any problems created by this legislation. The date, I believe, is going to be January 1, 1995 when we are supposed to have a report on problems created by this legislation. If it does create a problem, then we are going to relook at this particular piece of legislation.

Ladies and gentlemen, I urge you to support the Majority "Ought to Pass" Report.

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

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: I am here in support of the act to license athletic trainers. L.D. 720 does not require any high school to hire an athletic trainer. What it does say is that if any school system elects to hire an athletic trainer, then that athletic trainer should be a licensed athletic trainer.

I know, for example, of instances where students who are listed as managers, the ones who, in some cases, become trainers. It does not prohibit coaches and those who are qualified of doing the taping of ankles and the taping of fingers and so forth before games or during games. It does not give an athletic trainer the license to practice medicine. There are limits that that athletic trainer must be bound by. School systems, coaches, parents and athletes will know they are receiving quality and qualified individuals who can provide athletic health care if they have a licensed athletic trainer. Again, they are not required to hire an athletic trainer at all. Many coaches are equipped and can do the basics but, if they have someone professing to be an athletic trainer, then that person must be a licensed athletic trainer under this bill.

I urge your support of L.D. 720.

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

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: People speaking in support of the bill have talked about how it is important that people who call themselves athletic trainers be assured that they are qualified to be athletic trainers. I agree. If someone wants to call himself or herself an athletic trainer, they should be qualified. I have no objections with setting those qualifications into law and requiring them to have a license in order to use the title, athletic trainer, but this bill goes way beyond that. This bill says they may not practice athletic training, which includes advising anyone on the prevention of injury or the care of injuries. It creates an exception for federal officials, doctors and for school coaches. It says that a school coach may not advise anyone

outside the course of their official duties so a basketball coach may not advise a member of the football team on the care or prevention of injury. They may not say "warm up, stretch before you go out on the field" because that would be advising them under prevention of injuries outside the course of their official duties as a basketball coach because they would be giving advice to someone not on the basketball team.

In addition, there are a lot of coaches in recreational and teams and people in this state engaged in athletic activities outside of schools, recreational leagues, ski slopes, YMCA swim groups, there are dozens and dozens, hundreds even, of athletic endeavors in this state that are not under a school auspices.

This bill, if we pass it, would say that anyone engaged in those activities who gave anyone else advice on how to prevent or care for an injury would be committing an illegal act. Remember, even you as a parent or grandparent or brother or sister could not give advice to another member of your family without committing an illegal act.

I urge you to oppose the bill.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. I am not very familiar with this particular legislation, although I am somewhat familiar with the whole concept of licensing. We deal with it in the committee that I am all the time.

One of the interesting things that I found out when I came to the legislature was that there are many groups who want to be licensed by the state. To me, that was surprising because I would have thought that groups would not want to undergo state regulation. As time went on, it occurred to me that there was a reason why many groups want to become licensed by the state, it adds prestige and of course there is always the reason of safety of the public that must be balanced against other reasons. I think that too often groups become licensed, get a licensing board dominated by members of the particular profession or group and then engage in anti-competitive practices which limit the inclusion in the group through over-stringent requirements, educational requirements, training requirements and the like.

My gut feeling is that the whole process of licensing groups is overdone in this and other states. You will be hearing me talk more about this with other bills later in this session. For now, I would urge you to be very careful about creating an officially sanctioned group which may serve to protect its own rather than the public.

---

Under suspension of the rules, the members were allowed to remove their jackets.

---

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

A vote of the House was taken.

Representative DONNELLY of Presque Isle requested a roll call on passage to be engrossed.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative HOGLEUND: Mr. Speaker, Ladies and Gentlemen of the House: I hate to do this at this late time but in talking with the sponsor, I realized what they are trying to do. This bill is not as complicated as they are trying to make it out to be.

What it is athletic trainers of practicing that particular profession, so in essence what they want to do now is have themselves licensed so they are called athletic trainers. If you are working for a coach or you give advice or you are working for a school, if you are helping out, you can do the same thing because you are exempt, except you can't give yourself that title of athletic trainer. It is like advanced nurse practitioner — if I want to fix a bandage and put it on someone's cut, I want to give them a cold compress for their knee or their head, that's fine, but I can't call myself a nurse. That's as simple as that bill is and I would like you to stay with the passage of engrossment.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: At the risk of delaying this any longer, I would just like to read a couple of passages out of the bill itself.

Under the definition of athletic trainer, it talks about the use of appropriate preventive devices and hot and cold massage, electric stimulation, exercise and exercise equipment and this is one of the parts that bothers me — it says, "Athletic training includes instructions to coaches, athletes, family members, medical personnel and communities in the area of care and prevention of athletic injuries." It goes on to say under License Violations — "Any person who engages in athletic training without first having a license or employs an unlicensed person to engage in athletic training" and all the things I listed people presently do in all kinds of athletic facilities. It says, if you employ that person and they engage in any of these activities, they will be guilty of a Class E crime. We are creating criminals out of people who are out there helping our children participate in sports. That's the way I read this bill, I think it is much more complicated than it has been portrayed.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: To prolong this a little bit and to try to get it on track, I would like to pose a question to anybody who might be able to answer it.

In the course of any athletic event that happens in SAD 15 and an individual may get injured — if I were called by the athletic director out to render care, if this bill were to become law, where I don't work for that school and I am not an employee, have I now just created a criminal act by treating, caring for and administering some type of "athletic training" to that individual and suggesting to the coach or that player what should take place in the next 24, 48, or 72 hours? The way I look at this amendment, I think I just became a criminal guilty of a Class E crime.

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

The Chair recognizes the Representative from Portland, Representative Hogle.

Representative HOGLE: Mr. Speaker, Ladies and Gentlemen of the House: I will try to answer. I think to answer Representative Carroll's question, the answer is no, he is an EMT. I assume he is licensed as that. Aren't you qualified?

To get back to the question and I believe I am right — this is not a criminal act, I believe that was all dropped in the amendment, Representative Cameron. I think the amendment (and I don't have it in front of me) — what you can do is you can take care of that person and if it goes on and you cannot diagnose a prognosis, you then have to refer it to a physician which you would do in any case.

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

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: The only comment I want to make is that I hope that everybody has referred to the amendment with a filing number H-845 and read the changes that have been made to the bill.

One other point, one of the forces behind this whole bill was Wes Jordan, who is the athletic trainer for the University of Maine and he has continually backed this bill. His point is that we do have people who are (in most cases) students who are tending to students, tending to players in various sports and they are not qualified but they are being called athletic trainers.

He told a story about a happening in the basketball tournament in February. There was an injury and he tended to the student and he advised the student not to play the rest of the game. The coach wanted that student and simply asked the student to call his mother out of the stands and asked the mother if she would give permission for the boy to play. He had dislocated his shoulder, they did put it back in, the boy said it didn't hurt anymore — Wes's point was that with an initial injury like that, you could have a slight fracture, there could be future neurological damage so, therefore, that was why he advised the boy not to be allowed to play. The mother said, oh yes, he wants to play, let him play. He played the rest of the game and, fortunately, no further injury was forthcoming, but that's the point, if you have an athletic trainer on the team, if you have one who is a licensed athletic trainer, that question would never have come up.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House: This is not the first time that this particular type of activity has come forth to the State of Maine. I am speaking, having 38 years of coaching with about everything you can think of, and also as being an administrator and athletic director and the people who have said that we are making too much of this are absolutely correct. There is only one small thing that they are trying to do and I don't know as I am correct in saying to try to stop people from using pseudo names or what have you but they are just trying to if somebody is selling them themselves as a licensed athletic trainer that people realize that if they are seeking

jobs that there should be qualifications for these types of people.

Coaches are from the word go are told certainly that there are times when you need to practice some emergency care. That does not take into diagnosing and treatment. In most schools today, that is spelled out, they have meetings, and it would surprise me if most of the coaches today are not asked to take certain types of courses in which they would know what to do, when to do it, and how to do it.

I would urge you certainly to pass this particular bill.

Representative TRACY of Rome requested the Clerk to read the Committee Report.

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

Representative Coles of Harpswell was granted permission to address the House a third time.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: I hate to draw this out but it is clear that there's an essential distinction still being missed, a distinction between licensing someone to allow them to use the title of athletic trainer, which is a legitimate activity (which I don't object to) prohibiting anyone from engaging in the practice of athletic training which includes all the things Representative Cameron described.

If you look at the amendment on Page 3, line 35 through 37, it says, "a person may not profess to be an athletic trainer." That's fine. Practice athletic training, which means offering advice in the care or prevention of injuries to anybody, including your own family, neighbors, your recreational league teammates. Or, render athletic training services" — again, the definition of athletic training — if the bill simply said that you can't call yourself an athletic trainer unless you met a whole series of qualifications, I wouldn't object. I offered to amend the bill to say just that and I would still agree to amend the bill if I had to, but the trainers said no, we want more than that, we want more than just protecting the term "athletic trainer" and assuring the quality that people who call themselves athletic trainers, we want to prevent anyone in the state except athletic trainers from doing common, everyday, ordinary things. That is the basic problem with this bill.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: As some of you know, my summer employment is as director of Hoop Basketball Camp in Casco, Maine, which is a camp that is located on Pleasant Lake, a very beautiful camp. I employ in the summer athletic trainers to help us in the work of the camp. This bill will help me employ a licensed trainer that is recognized by the state.

I think all we are trying to do in this bill is — it is a simple bill — to try to put together a system that will help us to reduce the liability for camps like mine as well as for school systems around the state. I hope you will join with me in passing this legislation.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: If you would like, I would kind of make some reference to the amendment dealing with the legislation at hand. What it does is it

refers to — I mentioned January 1st without looking at the date, the date is January 1, 1996 — when the board is supposed to get a report from the Superintendents of Schools and the Principals as to the number of athletic training individuals, whether they were licensed athletic trainers or just athletic trainers as we see them, how many have been forbidden or restricted from operating as they have been, the reduction in the number of athletic injuries that were caused by having licensed athletic trainers and the data is supposed to be sent to the Business Legislation Committee telling us exactly what the restrictions are because of this licensing of athletic trainers.

I firmly believe that this is a good bill and deserves to be supported. It will not cause any restrictions. I think if it does, then we will revisit this bill in the future, so I would ask you to support the passage of the impending legislation.

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

Representative CLEMENT: Mr. Speaker, Ladies and Gentlemen of the House: I was on the Business Legislation Committee. I had the opportunity today to spend a few minutes with a basketball coach of Lawrence High School's team and I talked to him about this piece of legislation. He said that we need it, it was a good idea, whoever brought it up, he thought I did and I told him that I didn't, and he assured me that Lawrence High School has a person that could qualify with all the license requirements and that this legislation will take care of that.

I hope that you follow the Majority "Ought to Pass" Report and pass it to be engrossed.

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

Representative GRAY: Mr. Speaker, I would request a ruling from the Chair regarding the mandate on this bill.

The SPEAKER: To respond to the question posed by the Representative from Sedgwick, Representative Gray, regarding the mandate — according to information that we have with Fiscal Program and Review, the bill at this time doesn't require a mandate preamble. However, it is my understanding that there is interest in the committee in continuing to pursue this and so the Chair would rule at this moment at this stage of, the bill the bill does not need a mandate preamble.

On motion of Representative HOG Lund of Portland, tabled pending passage to be engrossed and specially assigned for Tuesday, March 29, 1994.

---

Bill "An Act to Create the Great Salt Bay Utility District" (H.P. 1336) (L.D. 1799) (C. "A" H-825) TABLED - March 24, 1994 (Till Later Today) by Representative KILKELLY of Wiscasset. PENDING - Passage to be Engrossed.

On motion of Representative CLARK of Millinocket, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-825) was adopted.

The same Representative presented House Amendment "A" (H-919) to Committee Amendment "A" (H-825) which was read by the Clerk and adopted.

Committee Amendment "A" (H-825) as amended by House Amendment "A" (H-919) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-825) as amended by House Amendment "A" (H-919) thereto and sent up for concurrence.

---

SENATE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (S-468) - Minority (3) "Ought Not to Pass" - Committee on Taxation on Bill "An Act to Encourage Municipal Investment in Local Economic Development Projects" (EMERGENCY) (S.P. 647) (L.D. 1806) TABLED - March 24, 1994 (Till Later Today) by Representative NADEAU of Saco. PENDING - Motion of Representative DORE of Auburn to accept the Minority "Ought Not to Pass" Report.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: We all hear a lot of rhetoric from time to time about we need jobs in the State of Maine, we need economic development, we need to give incentives. If we do nothing else this year, this is a jobs bill.

This is one of those situations where a "rising tide floats all votes." What this bill does is it enables municipalities to take a maximum 10 percent of their evaluation, apply for a municipal incentive district zone, something we have been calling mid-zones for awhile, they would apply to DECD, there would have to be local action taken, a local vote, and then they would apply to DECD for approval on the state level. What you have is maximum 10 percent of the city's or the municipality's evaluation and that would be frozen for 10 years max.

What that would do essentially, as it is now if your local evaluation goes up, the state evaluation in terms of educational funding, the state's contribution goes down. So, there is actually a negative effect. This would say, okay, if you guys are willing to make the investment, if you guys are willing to help yourselves, we will not penalize you. Right now, there is no incentives. If you do something on the local level, you end up getting penalized for it so there is no incentive at all.

Another little phrase that a certain Governor of this state used to use fairly often was "The best social services program is a good job" and that is exactly what this is. This is an opportunity to let municipalities steer economic development on their own. It is simply a jobs bill, it is simply an opportunity to create jobs, it is not a matter of shrinking the pie as some folks in here would have you believe, it is not a situation where anybody's school subsidy would actually shrink. We are creating new money with this. The only thing that the educational people might have merit with is that this might decrease their increase but it would not give them an outright decrease on their funds. This is totally new money, this is just an opportunity to expand your pie.

I recently was chatting with economic development people on this whole concept and it is basically a situation where — I like to use the little analogy of chocolate bars — you give me five chocolate bars, the odds are pretty good that you are going to get one of them but I am going to reserve the right to keep one for myself. If we don't do anything, then

you certainly won't get your chocolate bar. If you don't give me a chance to get mine, then absolutely no question about it, you are not going to get one either because nothing from nothing is nothing.

This is simply one of those situations where the educational folks, the purest on the school subsidy formula, will argue and say that this is throwing a monkey wrench in the whole equation. I would argue you that that is a phantom argument but there is also an amendment that some of us worked on in the Taxation Committee and it basically addresses the concern about — let's say you are in a SAD compact, the School Administrative District (we will say) would have four towns in it, one of the town's might be considered a mid-zone so you freeze the evaluation on the mid-zone and what happens to the other three towns? We did address that with an amendment which basically says that for the purposes of a School Administrative District, the evaluation would be kept whole. There would be no negative impact on those districts.

In closing, I would simply request that you listen to Representative Kerr who knows this issue quite well and will give you a couple of more details and certainly consider the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: The title of this bill was shortened I think because it should read: "An Act to Encourage Municipal Investment In Local Economic Development Projects by Transferring your Rightful Tax Burden to the other Municipalities in your County and in your State." The only thing that can be gained from it is that you shelter up to 10 percent of your state evaluation for a ten year period from your adjusted state evaluation. In other words, a community with a \$700 million adjusted state evaluation could shelter a \$70 million project. Now they are not giving a tax incentive to the developer of that project — no, they are collecting the taxes from that \$70 million and using it for their local appropriations and so forth. What they are doing is not taking the increase, the \$70 million increase, in their state evaluation and obviously this shifts the burden of county tax, that 10 percent, to the other towns and municipalities in the county, it skews the school funding formula, it has a potential to direct havoc on the school funding formula. No question they dealt with the local school district because what that did was magnify what is bad in this bill.

If you take a local school district and shelter \$70 million evaluation from one community out of four or five in the town and transfer that burden when you do your local appropriations to those other towns, you will see what is really bad about this bill. By softening that, they just kind of diffused it a little bit but the principal is the same, you are transferring the burden to the other communities for state revenue sharing, county tax, and school funding, so I would urge you to support the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Ladies and Gentlemen of the House: It is kind of odd that I would be debating my good friend from Palmyra but unfortunately the title of the bill is "An Act to

Encourage Municipal Investments In Local Economic Development Projects."

What this bill does do is it addresses a very specific problem created by the state's method of equalizing municipality evaluations statewide.

Under the present system, a city or town is encouraged to invest in public infrastructure intended to promote private development. The evaluation of the land served or the adjacent land to the infrastructure increase is pure speculation. But, because the value increases, the town's property tax goes up and there is a disincentive for communities to create economic development.

Let me give you an example. For instance, take Route 1, the community decides to put a new sewer line down, the sewer line goes in and all the adjacent properties along that highway are increased because now sewer is accessible. The property tax goes up before any revenue is derived to pay for that infrastructure change but yet we ask communities to create economic development. At the same time, when they go to create the development, the disincentive comes into play because then you are penalized under the GPA formula, the revenue sharing formula, and the county tax. So, what this bill does is it creates the incentive for communities to create economic development and the Representative from Palmyra is correct. For a ten year period, should a community speculate on creating economic development, that community freezes the evaluation in that district, only ten percent of the community's district can come under this mid-zone. We did the same thing under the STIFF's and TUFF's districts. It is very, very similar and I would just urge this legislature that if in fact we are trying to increase economic development and create jobs, it begins with communities at the municipal level. Let's give them the changes in the law so that they won't be paralyzed for being aggressive and progressive in creating economic development.

I would urge you to support the Committee Report.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I hesitate or I am reluctant to debate against my good colleagues from York County but I must describe to you the very disastrous impact on school funding should this bill pass. I would like you to think it through with me for a minute.

I also hesitate to talk about anything with job development in the title because I think everybody in here wants that to happen. I would submit to you, however, that this is not the right place to offer the economic incentives to towns for their economic investment.

The school funding pie is finite, it has not grown, you simply mush it around and you take away from one school and it goes somewhere else. So if you can think about a finite resource that is simply going up and down among our towns, I would like you to think about the devastating impact that this kind of legislation would have.

If you look at SAD 33 at St. Agatha, they tax themselves at 185 percent of the state average for schools and yet, according to a study that we just had, they only get 54 percent of the programs that are needed to go on to college, no matter how hard they try because the evaluation up there is only \$22,600,000.

Moving down to Easton or over to Easton, (I will have to get my Aroostook County friends to help me with the direction) they tax themselves at twice the state average and still have only 67 percent of the basic programs. Their state evaluation is only \$60 million.

If you move closer to home, you have all been reading about Whitefield and the troubles they have been having and even though some of them we might not be very sympathetic because they voted a tax cap, nevertheless there is serious funding problems in Whitefield for schools. Their total state evaluation is \$75 million. A neighboring town that I represent, theirs is only \$71 million — I dare say that any four of these towns would love to have economic development come there even if it meant losing some of its school subsidy. But I don't believe it is going to come there, I think it is probably going to go to the towns that are able to offer these bigger tax districts. I think it is important for you to note that the evaluation in Saco is \$727,850,000 and at Old Orchard Beach it is \$529 million. Are you asking the children in Easton and St. Agatha to forgo their share of the school subsidy for 10 years?

I just think that is not appropriate and though I would like to help the towns develop their business incentive districts, I would hope that we would ask for that money from the General Fund and not take it from kids who can't afford to pay in other parts of the state.

I hope you will vote with the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I think this dilemma probably crystalizes the need for the establishment of an education study commission that would involve the participation of the Bureau of Taxation and all of those others that we need to have. I will tell you where historically I think we have a counterpart. I believe this state today is about where we were before we enacted the Sinclair Act legislation.

Without an unbiased, the bluest of Blue Ribbon Commissions to settle this problem, I am not talking about a cheap settlement because it is in a way, I would think I wouldn't want to put up less than a quarter of a million dollars and that is probably not enough, but that is less than 1/10th of 1 percent and the people of this state need to be taxed equally for education, which is a state function and our Constitution needs to be changed to reflect that responsibility very clearly.

I have made this proposition verbally to the Education Committee and I am sure we are going to have a lengthy discussion on it. It's at times like this when education and economic development come head to head and they can't do that. We cannot have that happen and until we remedy how we fund the state's share of the schools and how we pay that local share for that matter, we are going on and have this kind of debate. I hope that maybe — Mr. Speaker, I appreciate you for letting me go on because you could have gavelled me out as being non-germane to the issue at hand. I think they are cousins, if not brother and sister, however.

The SPEAKER: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: Representative Tardy indicated the title of the bill should be a lot longer than it is. In the Taxation Committee, we referred to it as real lot shorter name than that and we called it "The Saco Bill."

I must say that I'm all for economic incentives, I think we need that, but it has been eloquently phrased here by the two members of the Education Committee of real reasons why we cannot go along with it. Saco would like to have this bill real bad but I can see it mushrooming around the state. We are going to have all that evaluation pushed off through the school funding formula and the other revenues that come back to the towns and how it will affect us — in other words, it is a bad bill for rural areas.

I think we need to take the words of Representative Norton and we need to look at that in the future, so I would urge you (and I don't need to go into all the other reasons because I think they have already been spoken) as a member of the Minority Report, I would urge you to accept this Minority Report.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I really hate to even speak to this because I have to agree with what has been said by Representative Tardy, Representative Spear and Representative Libby as far as the numbers are concerned. Representative Norton and Representative Dore are absolutely right, we are at loggerheads here with education and economic development. Listening to what has been said here tonight, I rethought what I was going to say three times.

I would like to explain briefly why I voted for this bill on the Majority side of it. The bill provides for an incentive for the communities to invest money in their infrastructure. Saco, for example, as I understand it, has spent \$9 million putting in a water line. Somehow they have got to pay that back, all right? The 10 percent you hear about here is 10 percent of the assessed value, say at the present time of when they established these zones — suppose you have a community with a \$100 million assessment, they put money in for water lines, sewer lines or what have you, and a whole bunch of Wal\*Mart's come in and all of a sudden, they go from a \$100 million to \$130 million — that \$30 million isn't sheltered, \$10 million is. That \$10 million is sheltered to provide the money to come back to the community to pay off their indebtedness. That is the intent of this thing.

Another thing that is in this bill that I like — you know we were bright enough a number of years ago to form school administrative districts, they have proven to be good, we pool our resources, we educate our children, but no one ever talks about doing that in an economic sense. We never sit down and say, you know, I live in Thomaston but I am dependent upon Rockland for my living. We never talk about the economic dependence that we have on one another. This bill takes a step toward that.

Let me read just two sentences to you. "Agreements between municipalities — municipalities may jointly create municipal incentive development zones that encompass property located within the boundaries of the municipalities. The municipalities may enter into agreements with each other allocating

the economic benefit resulting from the creation of the zones. Well, I think about some of the rural areas, I think about where I live, that is a natural for Owls Head, South Thomaston and Thomaston to get together to do something on contiguous borders or to share this type of thing.

I look at this from a little different twist. Yes, you may be giving up a little bit of school subsidy and Representative Libby is right, we have finite amount of money that we deal with. Either you stick with the finite amount of money or you increase the amount of money. It seems to me that if we encourage communities to encourage economic development, which leads to jobs, then we are going to increase the taxes that we need to finance our schools. The income taxes are going to go up, the sales taxes are going to go up — we just extended the unemployment benefits in this state for what — three more months? That is coming out of that unemployment fund, if those people are working, there is more going into it. If we have people working across the state because we have invested in economic development and we have encouraged the community to do something and they come off that welfare roll, how much money are we talking about going into the General Fund that can be redistributed and perhaps to education?

I urge you to vote for this bill and accept the Majority Report because to my way of thinking, jobs and economic development is nothing more than the seed corn for the money you need for education. It is the chicken and the egg.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: The hour is late and I am going to try to be brief but I haven't gotten up on this bill since it came up about a week ago on the calendar and it has been delayed since then by a lot of other important debate and here we are back at mid-zones.

How is it that there are only three members of the Taxation Committee who are opposing this bill and look at the configuration of the three members. We have Representative Tardy from a rural area, we have Representative Spear from the other side of the aisle and we have myself, the Chair of the Committee — why would these three members, not exactly people with the most in common in the committee, be opposing a bill that the majority supports? I think what we have in common, the three of us, is a real concern for the educational funding formula and what is happening to it.

I want to give you a little history lesson about this bill. We talked about it in committee, we discussed it at length and I went to the sponsors and said, "take it to the education committee and see if you can fix the problems." A few days later, I said, "Well, what did they say?" There's nothing that we can do so we didn't take it to them. So, I took it to the Education Committee and said, "Can we come up with a deal here? I am the Chair of the Taxation Committee and what we would like to do is tax incentives for economic development." This is something we do in Maine very well, we have STIFF's, we have TIFF's, we have investment tax credits, we have energy in manufacturing credits. Some of these things I voted for, some of them I voted against, but we have a lot of things on the books for economic development and we would like to put more things on

the books, particularly in an election year. We thought we would try to work out something. The truth is, you can't work something out and I had to decide and you have to decide today whether to go with the minority of us or the majority of the committee. It really is a debate between a good idea for economic development but that cannot not have a negative impact on the school funding formula and how equitable you feel the school funding formula is and is it getting less and less equitable all the time?

I happen to be from an urban area, the mid-zones would most likely happen in my district and I happen to agree philosophically a tremendous amount of the time with Representative Nadeau on my committee on economic development, with Representative Kerr on Appropriations about economic development. Everybody decides where "their enough" points is. Being from an urban area, it is surprising to me that this was "my enough" points because, frankly, those of you in the rural areas are much less likely to do mid-zones, you don't have the staff, you don't have the backing and you don't have a lot of interest in the part of small industry in coming to your town. The good news is that you have a low tax base and sometimes you can attract a new industry that way. The bad news is you are going to lose out largely to urban areas to my part of the state.

Probably I should look at this and be on the part of the bill that is most reflective of my part of the state but I am very worried that our educational funding formula is getting so bizarre that these lawsuits and these challenges to it that you see coming down the road are going to be successful because it is just not fundamentally fair.

So, you will have to decide what you are going to do but the one thing you need to know is that this shelters increased evaluation in municipal development zones and it protects the school subsidy where you do a mid-zone. So, you have got to ask yourself, are we doing a mid-zone in my town, is this likely to happen soon? If it isn't, those towns who do a mid-zone will be sheltering their school subsidy for 10 years at my expense. That's as simple as it gets to be. You will have to decide how you are going to vote on this bill, I kind of have a sense of the flavor of things, but that is why I am on the Minority Report.

Good luck with your decision today.

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

Representative Hوجلund: Mr. Speaker, Ladies and Gentlemen of the House: I disagree with my good friend, Representative Dore and Chair of the Taxation Committee. One of the questions I would like to ask the Clerk of the House is to read the "Ought to Pass" Report because you have two chairs and the opposite chair is on the "Ought to Pass" Report.

I would also like to have a roll call.

The thing on this particular bill is that it does not affect the educational funding. What it does is if you decide to develop in Scarborough, Westbrook, Lewiston, Auburn, Hallowell or anywhere you want, the taxes freeze right there, they absolutely freeze at that spot, so you are still getting the same amount of money in the educational funding. It is not going to stop, it is not going to change, it stays the same for 10 years. What it does is create jobs. What it does is give the incentive for towns and cities to have economic development for jobs. You are getting two things, you are creating jobs,

you are keeping the taxes where they are at and then 10 years later, the new money from the property tax evaluation will go into the money, hopefully, for school funding. In the meantime, when you take these jobs, you are now getting sales tax kind of money, construction money, anything with sales and that money is generated and that is new money that is going into the coffers. But to say that it affects the educational funding and to let people believe that this is going to do that is wrong. If they don't have any development, you are not going to get any money. You have it at that same rate as it is now. If you have a development, you are freezing it at that same rate and you keep it so you are still getting that same kind of money coming into the fund as you were before. The only trouble is that you are taking a chance at giving your cities and towns an opportunity to develop.

I have to say that I disagree with the former Representative who said that it is a Saco bill, this is not a Saco bill, it is a Westbrook, it is a Scarborough bill, it is a Rockland bill, it is a Portland bill, it could be Limestone. The problem is that that is the incentive to create economic development and jobs. That is the long range, because at the end, there may be more monies for school funding.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: In my opinion, this is an economic development bill without any cost to the state. It is a bill that the city of Saco has come in with for a development that they are already to go with. They have done it on their own and it can do nothing but bring jobs to the Saco area.

In thinking about this bill, you have to stop and think what it might do to a SAD when one town has more development and some of it is set aside, 10 percent of it. I had to stop and think of both sides of this and I reside in a school district that has three towns. If one of those towns got a development in there, it could benefit the other towns other ways. It may not benefit on the educational funding formula but it would benefit with more business in the town, it would benefit some of the people working there, it would build homes in the other towns so their evaluations would change also. We would have a different tax base and in thinking of this, I weighed both sides and I still feel that the economic development in this state is very important and that the jobs in this state are very important and these job and economic development far outweighs what little harm it is going to do to any school district. So that's where I'm coming from so I would hope that you will all vote against the "Ought Not to Pass" motion on the floor and vote with the majority of the committee.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Ladies and Gentlemen of the House: To think for one minute that this type of shelter of state evaluation doesn't affect your school funding formula is incorrect. If you believe that for one minute, I would like to go back to about 1989 or 1990 and freeze our state evaluations at that level if somebody wants to amend this bill to do it. I think that is what we are talking about. Just give it some thought and think about what the impact of this is before you vote.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Ladies and Gentlemen of the House: Earlier during the debate, someone mentioned about the evaluation in my community that I live in, Old Orchard Beach. I would just like to give you a little history on a community that had a evaluation of about \$610 million. At that point, my town decided to create a TIFF district and, as you all know, we revitalized our downtown area. We spent about \$4 million. The evaluation was frozen at about the \$550 million. With great expectations and speculation, we had hoped to attract business, which would drive that evaluation up. Not all scenarios are very positive. The evaluation has dropped almost \$15 million in that district. I would like to be in a situation where the evaluation was not frozen because we would gain under the formula, but it was the risk factor that the community took to create economic development and we are living with that.

The evaluation in my community today continues to decrease, it dropped \$40 million just last year. Our mill rate is \$21.75 per thousand, one of the highest in York County, if not the highest. So, when municipalities are asked to create economic development, there is a disincentive that this bill is trying to correct. You can't expect communities and developers to take all the risks. There are no guarantees that property values or investments are going to come into that community. You can look at Old Orchard Beach for a community where it didn't happen.

From a municipal standpoint, local money invested in infrastructure is supposed to help attract business. Instead, it pressures property taxes before new development can even come in or the municipality can recoup its money that it had invested. We've got to provide incentives if you want jobs.

This bill is not a bill that is written for Saco or any specific community in this state. I would hope that every community in the state would take advantage of it. Go out and seek industry or small businesses to come into your community and I would encourage every community to do that and take advantage. If there is such a great advantage to a mid-zone, take advantage of it because that is the only way that I believe that this state is going to get back on track. Economic development must take place at the municipal level first. Let's continue to give the tools to those municipalities that want to be progressive and aggressive, let's give the tools to do so, but let's limit their risk too.

I would urge you to vote against the pending motion and accept the Majority "Ought to Pass Report."

The SPEAKER: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief but I just want to emphasize, and I am kind of responding to what Representative Høglund said earlier, that when you freeze the evaluation (just remember this) in a town after they have had a big development, that evaluation will stay there for 10 years and everybody elses evaluation in rural Maine or wherever, will go up. Therefore, as your evaluation goes up, you receive less. If you have the same amount of money, you are going to receive less and the ones who hold



still will receive more. That's the way the formula works with the school funding formula. It will on your county tax and some of the other ones, but just remember that is the way it works. If your evaluation holds, the others go up; the ones that go up are going to receive less if you are working with the same pot of money.

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

Representative Hوجلund: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to correct a statement — I think Representative Spear and I are on the same wavelength but he says it in a different manner. The thing is that the evaluation on Portland, for instance, or Saco or wherever, the rest of the town will up along with yours except for the one designated spot and that will be frozen. The rest of the evaluation in the city or town goes up so what you are trying to do is give the incentive to take that risk so I would vote against this.

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 Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: Just briefly I would like to go on the Record and say that although I voted with the majority in the committee, for reasons I do not care discuss at this moment, after listening to this debate, it is very clear to me that I would like to vote in favor of the Minority Report, "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Cross.

Representative CROSS: Mr. Speaker, Men and Women of the House: There seems to be a little bit of confusion here, at least in my mind. I have been a town manager for 12 years and as far as I was concerned, the towns don't regulate their evaluation except to pay their bills. The state tells you what the evaluation is. If you freeze your evaluation at a certain level and the state increases your evaluation, you are going to pay a lot more dollars and it is going to affect your educational monies.

I urge you to vote against this bill.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

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

If this bill requires the towns to freeze this for 10 years, is this not a mandate?

The SPEAKER: In response to the question posed by the Representative from Rome, Representative Tracy, the Chair would respond that because this bill is optional and voluntary, the Chair would rule that this is not a mandate.

The pending question before the House is the motion of the Representative from Auburn, Representative Dore, that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

## ROLL CALL NO. 283

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bennett, Bowers, Bruno, Campbell, Carleton, Carroll, Chonko, Clark, Clement, Cloutier, Clukey, Coles, Constantine, Cross, Daggett, Donnelly, Dore, Driscoll, Erwin, Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Heesch, Hichborn, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Ketterer, Kilkelly, Kneeland, Larrivee, Lemont, Libby Jack, Libby James, Lipman, Michael, Michaud, Mitchell, E.; Morrison, Nash, Nickerson, Norton, O'Gara, Oliver, Ott, Pfeiffer, Pineau, Pinette, Plowman, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Tardy, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, True, Vigue, Walker, Wentworth, Winn, Zirkilton.

NAY - Bailey, R.; Barth, Brennan, Cameron, Caron, Coffman, Cote, Dexter, DiPietro, Dutremble, L.; Faircloth, Heino, Hوجلund, Joy, Kerr, Kontos, Lindahl, Lord, MacBride, Marsh, Marshall, Melendy, Mitchell, J.; Murphy, Nadeau, Paradis, P.; Pendexter, Pendleton, Plourde, Poulin, Pouliot, Rand, Rowe, Ruhlin, Simoneau, Swazey, Tufts, Whitcomb, Young.

ABSENT - Adams, Beam, Birney, Carr, Cashman, Cathcart, Chase, Gean, Hillock, Kutasi, Lemke, Look, Martin, H.; Martin, J.; Thompson, Townsend, G.; The Speaker.

Yes, 95; No, 39; Absent, 17; Paired, 0; Excused, 0.

95 having voted in the affirmative and 39 in the negative, with 17 being absent, the Minority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

Expression of Legislative Sentiment recognizing Andy Bedard, member of the 1994 Mountain Valley High School Basketball Team in Rumford (HLS 877).

TABLED - March 24, 1994 by Representative ERWIN of Rumford.

PENDING - Passage.

Subsequently, the Sentiment was read and passed and sent up for concurrence.

Expression of Legislative Sentiment recognizing members of the Mountain Valley High School "Falcons" Basketball Team in Rumford (HLS 879).

TABLED - March 24, 1994 by Representative ERWIN of Rumford.

PENDING - Passage.

Subsequently, the Sentiment was read and passed and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-849) - Minority (5) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Separate Peaks Island and Certain Other Islands in Casco Bay

from the City of Portland" (EMERGENCY) (H.P. 1082) (L.D. 1448)

TABLED - March 24, 1994 by Representative JOSEPH of Waterville.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative JOSEPH of Waterville to accept the Majority "Ought to Pass" Report and specially assigned for Tuesday, March 29, 1994.

---

Resolve, to Require That Doctors of Chiropractic Be Included as Select Physicians in the Maine State Employees Health Plan (EMERGENCY) (H.P. 1071) (L.D. 1437)

TABLED - March 24, 1994 by Representative PINEAU of Jay.

PENDING - Adoption of Committee Amendment "A" (H-859).

Subsequently, Committee Amendment "A" (H-859) was adopted.

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

Representative PINEAU: I move indefinitely postponement of L.D. 1437 and all its accompanying papers.

Ladies and Gentlemen of the House: We have on the calendar today Item 6-8, which is tabled and is a bill that the committee was ordered to put out which will deal with this matter so that is why I need this indefinitely postponed.

Subsequently, on motion of Representative PINEAU of Jay, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

---

Bill "An Act to Reestablish a Mechanism for Review of Disputed Elections" (H.P. 1418) (L.D. 1932)

- In House, Minority "Ought Not to Pass" Report of the Committee on Legal Affairs read and accepted on March 24, 1994.

- In Senate, Majority "Ought to Pass" as amended Report of the Committee on Legal Affairs read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-885) in non-concurrence on March 25, 1994.

- In House, House Adhered.

HELD at the Request of Representative DAGGETT of Augusta.

On motion of Representative DAGGETT of Augusta, the House reconsidered its action whereby the House voted to Adhere.

On further motion of the same Representative, tabled pending the motion to Adhere and specially assigned for Tuesday, March 29, 1994.

---

Representative Strout of Corinth was granted unanimous consent to address the House:

Representative STROUT: Mr. Speaker, earlier today on Roll Call #280 on L.D. 1842, I was present and

voting. I was recorded as absent, I would like to be recorded as voting yea.

Representative Holt of Bath was granted unanimous consent to address the House:

Representative HOLT: Mr. Speaker, I wanted the Record to show that on March 24th my vote was not registered on L.D. 1186, I think by accident. It was Roll Call #271, An Act to Modify Joint and Several Liability in Medical Malpractice Actions and I would like the Record to show that I would have voted yes, "Ought Not to Pass."

---

On motion of Representative ST. ONGE of Greene, adjourned at 7:45 p.m., until 9:00 a.m., Tuesday, March 29, 1994.