

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

HOUSE

Tuesday, April 14, 1981

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

Prayer by the Reverend Truman Bray of the Penney Memorial United Baptist Church, Augusta.

The journal of yesterday was read and approved.

The following papers from the Senate appearing on Supplement No. 1 were taken up out of order by unanimous consent:

Ought Not to Pass

Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill, "An Act to Limit the Sunday Closing Law" (S. P. 519) (L. D. 1449)

Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Concerning Participation of Physicians before the Professional Malpractice Advisory Panel" (S. P. 314) (L. D. 870)

Were placed in the Legislative Files without further action pursuant to Joint Rule 22 in concurrence.

Leave to Withdraw

Report of the Committee on Public Utilities reporting "Leave to Withdraw" on Bill "An Act Relating to the Regulation of Providers of Cable Television Service" (S. P. 528) (L. D. 1472)

Report of the Committee on Public Utilities reporting "Leave to Withdraw" on Bill "An Act Concerning Sewer Lien Fees" (S. P. 492) (L. D. 1397)

Report of the Committee on Agriculture reporting "Leave to Withdraw" on Bill "An Act to Remove the Responsibility for Carrying Out Dog Licensing Laws from the Animal Husbandry Specialist" (S. P. 57) (L. D. 83)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Repeal the Requirement for Reflective Material on Off-premise Signs" (S. P. 374) (L. D. 1116)

Report of the Committee on Aging, Retirement and Veterans reporting "Leave to Withdraw" on Bill "An Act to Providing Cost-of-Living Adjustments to Retirement Allowances under the Maine State Retirement System to Parallel Those Granted to Active State Employees" (S. P. 239) (L. D. 694)

Came from the Senate with the Reports read and accepted.

In the House, the Reports were read and accepted in concurrence.

The following paper from the Senate appearing on Supplement No. 2 was taken up out of order by unanimous consent:

The following Communication:

The Senate of Maine
Augusta

April 13, 1981

The Honorable Edwin H. Pert

Clerk of the House

110th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it accepted the Majority Ought Not to Pass Report on Bill, "An Act to Exempt Illegal Possession of Liquor from the Maine Juvenile Code", (H. P. 875) (L. D. 1044).

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

Was read and ordered placed on file.

Orders

On motion of Representative McSweeney of Old Orchard Beach, it was the following Order:

ORDERED, that Representative Porter D. Leighton of Harrison be excused April 13 and 14 for personal reasons.

House Reports of Committees**Ought Not to Pass**

Representative Nadeau from the Committee on Election Laws on Bill, "An Act Concerning the Registration of Voters in Small Communities" (H. P. 595) (L. D. 672) reporting "Ought Not to Pass"

Representative Carter from the Committee on Appropriations and Financial Affairs on Bill, "An Act Relating to Funding and Support for Alcoholism Treatment and Rehabilitation Centers" (H. P. 515) (L. D. 582) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 22, and sent up for concurrence.

Leave to Withdraw

Representative Jackson from the Committee on Business Legislation on Bill, "An Act to Limit the Profit on the Resale of Tickets for Certain Performances and Events" (H. P. 720) (L. D. 852) reporting "Leave to Withdraw"

Representative Hobbins from the Committee on Judiciary on Bill, "An Act to Revise the Small Claims Law" (H. P. 1182) (L. D. 1406) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on State Government reporting "Ought Not to Pass" on Bill, "An Act to Provide that Merit Increases for State Employees will Only be Awarded for Job Performance that is Meritorious" (H. P. 714) (L. D. 839)

Report was signed by the following members:

Senator:

VIOLETTE of Aroostook

— of the Senate.

Representatives:

WEBSTER of Farmington

DILLENBACK of Cumberland

McGOWAN of Pittsfield

DIAMOND of Bangor

LISNIK of Presque Isle

KANY of Waterville

PARADIS of Augusta

— of the House.

Reports were read.

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

Report was signed by the following members:

Sensors:

AULT of Kennebec

GILL of Cumberland

— of the Senate.

Representatives:

MASTERTON of Cape Elizabeth

SMALL of Bath

BELL of Paris

— of the House.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not accept the "Ought Not to Pass" Report. I hope also that you will take a look at this bill. The title is "An Act to Provide that Merit Increases for State Employees will Only be Awarded for Job Performance that is Meritorious."

Let me give you a very brief history of this issue. In 1975, the state hired Hay Associates to come in and redo the pay schedule for our state employees. They set up new job classes, they set up salary ranges, and they set up steps within those salary ranges to provide for orderly progression from the lowest salary possi-

ble to the highest salary possible in a job classification.

Yearly performance appraisals were set up based on objective job descriptions and standards. These appraisals were done by supervisors who were trained to do the job. It is on this appraisal system that the merit raises are now based. Those not eligible for merit increases are those who are at the top step in the salary range, special project employees and those employees who are on probation, and probation is a six-month period.

In 1977, the Longley Administration took a look at the merit raise system, and he noticed that there was a very high percent of those eligible getting merit raises, and there were high costs involved. So, the appropriation bill of that year, L. D. 118, carried a limit to the merit raises, and so the appropriation bill was called "The 60-40 Bill" which you may have heard about.

Very briefly, what the paragraph, Section 7, entitled "Merit Rating Required," said was that the Governor and the State Budget Office, when next preparing a budget, may include only sufficient funds for merit increases for a maximum of 60 percent of those employees who have not yet reached their pay grade maximum. Also, increments within the seven steps provided for in the compensation plan shall be awarded on the basis of merit without regard to longevity.

The 60-40 bill, we had a big hearing at the Civic Center and, to put it lightly, it was simply not acceptable to the state employees. We reworded that section of the appropriation bill, and our rewording was as follows: "The Commissioner of Personnel is directed to require merit rating for each individual who is recommended for a salary increase on a form prescribed by him. Department heads are directed that the granting of merit increases be scrutinized and documented carefully" And, again, it is the intent of the legislature that in instances where merit increases are not earned and warranted, they shall be denied.

As required by state law, the state Personnel Board reported to the State Government Committee on the performance appraisal system in 1979 and again in 1980. In June 1979, they reported that 77 percent of those under the Hay Plan were eligible for merit raises. Of those eligible, 96 percent received the raises. Again in June of 1980, they reported that 55.2 percent of state employees were eligible for merit raises. Of these, 99.4 percent received merit raises.

In its 1980 report, the State Personnel Board noted that the number of merit awards is too high, that the rating system is cumbersome and not effective, and "the board continues to find that the performance appraisal system does not provide true merit incentive for state government employees. In practice, the advancement in salary now referred to as merit increase is virtually automatic. Less than one percent of the 7,157 eligible employees during this period were denied a merit increase."

Subsequently, in 1980, the statutes were rewritten and the merit rating required section read as follows: "It is hereby declared to be the policy of the state that in those instances where annual merit increases are earned and warranted, as evidenced by the performance appraisal, they shall be awarded. In those instances where such increases are not earned and warranted, they shall be denied." There was no mention of longevity in this wording.

In the meantime, the unions representing various classes of state employees have been busy at the table negotiating the meaning of merit increase. Generally speaking, the contracts provide for a merit raise for "satisfactory job performance." This brings us to the bill before us which very simply reads: "No provision in the collective bargaining agreement may grant a merit salary increase on the basis of any standard that is less than meritorious; that is work quantity and quality that together

exceed that which is required." We have attempted here to define the term "meritorious service."

State employees already receive across-the-board cost-of-living raises negotiated for them by their unions. Most of those eligible receive merit raises also. I would submit that the merit raise is not what it is meant to be, an incentive for improved performance and productivity in state government.

MSEA says about this bill — "This is clearly a bargaining issue which should not be in the legislative process. While this bill does not set arbitrary ceilings such as in the 60-40 bill, it will force supervisors to decide what kind of work is meritorious." I ask you, what else should they be doing? This is exactly what they should be doing.

The issue at stake here is this — should the legislature, this body, set personnel policy at all? If you think we do have a right and a responsibility over personnel policy, how strongly do we feel about pay policy related to performance? Should practically all those eligible receive merit raises? We are talking about well over a million dollars a year for these merit raises. That figure could be reduced if we pass this bill.

I urge you to vote against the pending motion and accept the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I happen to be one of the people who voted against this bill, and we did it with a great deal of thought.

Presently, state employees receive their cost-of-living increases and they receive their merit increases and the lady from Cape Elizabeth is exactly right. Merit increases, or meritorious increases, are difficult.

In 1977, 93 percent of the people in the state received the merit increase. In 1978, 97 percent received it; 1979, 96 percent received it; and in 1980, 99 percent of the people received the merit increase.

I don't think it would make a great deal of difference whether you have this bill or the existing bill whether they are going to receive the merit increase. You have all worked for a supervisor or an employer. Those who are nice people, those are the people who shine the apple, those are the people who are going to receive the merit.

The way this thing is set up, we have step increases for state employees, and it seems to me that the way they should receive their merit increase is through going to another step in their category. Often the supervisor is not there on his shift, even, when the people are working.

We had an interesting point. Mr. Bustin came in and spoke in favor of this bill, supposedly, but he did not testify in favor at all. Actually, he suggested that everything should be modified in the state employment program, that the steps should be corrected, that the meritorious thing should be taken out, that other things should be done, and actually he is the one who convinced us that we shouldn't vote for this. So, he really didn't speak for it, and it is unfortunate, but I think the state has to modify and improve the programs that they now have, and for now I suggest you forget about merit increases.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Lisnik.

Mr. LISNIK: Mr. Speaker and Members of the House: I want to thank Representative Dillenback for his thoughtful response.

First of all, the bill was reported out "ought not to pass" for two reasons; one, many people felt that this was in the collective bargaining sphere, but what standard employee moves along the pay scale is clearly a wage issue. Wages, along with hours and working conditions, from the corps of issues which are subject to negotiation.

While the legislature has the power to change this and remove matters from the scope of the bargaining issues, I do not feel that we should so severely restrict the scope of collective bargaining.

Secondly, the proposed change in the definition of meritorious service will be nearly impossible to administer. Although this legislature does not set an arbitrary limit on meritorious increases, it does set up an unwor-
kable standard.

The experience of the now infamous 60-40 system and the experience of most systems awarding merit raises have demonstrated that there is no way of preventing arbitrariness and favoritism and subjectivism that permeates the system. In addition, the fact is that the system of step raises, that we have called meritorious raises, have never really been a meritorious system to a layman. Under the present seven-step pay plan, the fourth step was designated by the Hay Report as a step which corresponds with the average salaries of the job studied. In other words, it takes three years for an employee to reach the salary level appropriate for that position.

What this legislation proposes is to override a contractual provision which would change the basic structure of the state pay plan, give supervisors an incredible amount of work trying to administer the system, destroy morale and invade the collective bargaining process. I think we are opening up an incredible can of worms that we neither have the time nor the knowledge to deal with. We decided several years ago that the best place to deal with these issues is the collective bargaining table, and I suggest that we leave it there.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Ms. Small.

Ms. SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I think the choice is simple here. Do we award a merit increase to those who perform their job above what is expected and required of them, or do we award the increase for satisfactory performance, as it is being done now?

I can't speak for every business in Maine, but in my home town, our industry, the Bath Iron Works, has merit increases which are given out only when an exceptional job is performed. These are, I believe, an incentive to give it a little more effort in performance in your job. Indeed, it creates a competition for the raises to be handed out. I am sure if the BIW found itself giving out merit increases to 99 percent of its working force, it would reevaluate its system for giving raises.

The state employees testified that these guaranteed merit raises are an incentive to stay with the job for many years. I guess I would say our job market outside of state government should be an incentive to stay with a job with the state.

If you feel the state employees are putting out a hundred percent effort, then I guess we don't need this legislation, but I believe a merit increase should be used as an incentive to perform meritorious and superior work and not average or mediocre work.

I might add to Representative Lisnik, if the State Government Committee is so afraid of interfering with collective bargaining, then perhaps the "flextime bill" which the MSEA asked us not to put in because that also interfered with collective bargaining and that bill which we are going to report out unanimous "ought to pass," perhaps that one we should reconsider also.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentlewoman from Waterville, Mrs. Kany, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Masterton of Cape Elizabeth requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker and Members of the House: Just to answer my good, charming, friendly seatmate here, who is also my seatmate in the State Government Committee — yes, Mr. Bustin did come in with tongue in cheek to testify in favor of my bill. What he suggested, actually, was keeping the collective bargaining for the cost-of-living, keeping the merit raises, but just having them automatic raises every year and adding some whipped cream on the cake, and that would be special bonuses for special meritorious performance. Now I ask you, ladies and gentlemen, we have a merit system in place. Is it to be a truly merit system?

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: I hate to rise in opposition to the gentlelady from Cape Elizabeth, Mrs. Masterton's bill, because to be perfectly honest, there is no one on the State Government Committee who has worked harder to improve our personnel system, but the bill simply does not do what the title would let you think that it does, even though the intent is, of course, honorable. Basically, it would assure us that we could provide a merit raise for all employees who deserve one. I think people should know that not all employees are eligible for merit raises any year. In fact, we are talking basically about step increases and not real merit raises.

We have a range, as we described, with a number of steps, and only those people who are not at the end of the range and are not new employees are eligible for a step increase. So last year, for instance, only 55.2 percent of these people were even eligible for a step increase. I think that is very, very important for you to know.

We do have a special merit increase, which is a two-step, and that could actually be called a merit increase. Only a few of our 11,000-plus employees have received those. In 1978, only 48 were granted; 1979, 24; 1980, only 29 granted. So we really do not have a merit system, and this bill certainly would not provide one for us.

I do hope that you do go along with the motion before us, in favor of the Majority 8 to 5 "Ought Not to Pass" Report.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from Waterville, Mrs. Kany, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Berube, Boisvert, Brannigan, Brennerman, Brodeur, Carrier, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Cunningham, Davies, Diamond, G. W., Diamond, J. N., Dillenback, Dudley, Erwin, Fitzgerald, Foster, Fowle, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H. C., Hobbins, Jalbert, Jordan, Joyce, Kane, Kany, Ketover, Kilcoyne, Lancaster, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Martin, A., Masterton, McGowan, McHenry, McSweeney, Michael, Michaud, Mitchell, E. H., Mitchell, J., Moholland, Nadeau, Nelson, M., Norton, O'Rourke, Paradis, E., Paradis, P., Pearson, Perry, Post, Prescott, Reeves, P., Richard, Roberts, Rolde, Smith, C. B., Soulas, Soule, Strout, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster, Wentworth, The

Speaker.

NAY — Aloupis, Armstrong, Bell, Bordeaux, Boyce, Brown, A., Brown, D., Brown, K. L., Cahill, Callahan, Canary, Connors, Curtis, Damren, Davis, Day, Dexter, Drinkwater, Gavett, Gillis, Hanson, Higgins, L. M., Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Kelleher, Kiesman, Lewis, Livesay, Lund, MacBride, Masterton, Matthews, McCollister, McKean, McPherson, Murphy, Nelson, A., Paul, Perkins, Peterson, Pouliot, Racine, Randall, Reeves, J., Ridley, Salisbury, Sherburne, Small, Smith, C. W., Stevenson, Stover, Studley, Tarbell, Telow, Treadwell, Walker, Weymouth.

ABSENT — Austin, Jacques, Leighton, Manning, Martin, H. C.

Yes, 85; No, 61; Absent, 5.

The SPEAKER: Eighty-five having voted in the affirmative and sixty-one in the negative, with five being absent, the motion does prevail. Sent up for concurrence.

Consent Calendar

First Day

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

(H. P. 293) (L. D. 337) Bill "An Act to Revise the Maine State Lottery" (Emergency) — Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-202)

No objections being noted, the above item was ordered to appear on the Consent Calendar of April 15, under the listing of Second Day.

Consent Calendar

Second Day

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

(H. P. 964) (L. D. 1155) Bill "An Act to Increase the Limit of Indebtedness of the Newport Water District from \$1,000,000 to \$1,500,000"

(H. P. 1190) (L. D. 1414) Bill "An Act Relating to Seeking Work and Accepting Suitable Work to be Eligible for Extended Unemployment Benefits" (Emergency) (C. "A" H-199)

(H. P. 12) (L. D. 6) Bill "An Act to Overrule Federal Preemption of Certain Maximum Rate Ceilings of the Maine Consumer Credit Code" (C. "A" H-200)

No objections having been noted at the end of the Second Legislative Day, the House Papers were passed to be engrossed and sent up for concurrence.

Second Reader

Tabled and Assigned

Bill "An Act to Deregulate the Bag Limit and Size Requirements of Striped Bass" (S. P. 369) (L. D. 1088)

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

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I tried to contact the Commissioner of Marine Resources to get additional information on this bill; however, he is out of town and won't be back until tomorrow, and I would request that somebody table this bill for me for one day.

Thereupon, on motion of Mr. Diamond of Windham, tabled pending passage to be engrossed and tomorrow assigned.

Passed to Be Engrossed Amended Bill

Bill "An Act to Clarify the Application of Military Service Credits to Retirement Benefits for Employees of Local Districts under the Maine State Retirement System" (S. P. 274) (L. D. 783) (H. "A" H-201 to C. "A" S-99)

Was 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 non-concurrence.

Passed to Be Enacted

An Act to Amend the Workers' Compensation Law to Facilitate Ridesharing (S. P. 286) (L. D. 812)

An Act Concerning Cases which may be Heard in the District Court for the Division of Western Aroostook (S. P. 380) (L. D. 1138)

An Act Concerning the Election Days in which Courts must Close (S. P. 381) (L. D. 1139)

An Act to Control Brucellosis in Cattle (H. P. 309) (L. D. 341) (C. "A" H-177)

An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District (H. P. 385) (L. D. 428) (H. "A" 178 to C. "A" H-167)

An Act to Allow Savings Banks and Savings Associations to Accept Demand Deposits of their own Funds (H. P. 519) (L. D. 585)

An Act to Improve the Administration of Workers' Compensation Hearings and Appeals (H. P. 523) (L. D. 589) (C. "A" H-175)

An Act to Authorize County Commissioners to Charge Rent for Space Furnished to Other Governmental Entities in County Court Houses and Other County-owned Facilities (H. P. 753) (L. D. 890) (C. "A" H-171)

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

An Act to Define a Loose Cord of Wood for Fuel Wood Sold on that Basis (H. P. 1319) (L. D. 1517)

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

The SPEAKER: The Chair recognizes the gentleman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: In the last couple of weeks, as this little piece of legislation has been drifting along, I have heard several people say — gee, that's an awful piece of legislation, but nobody has done anything about it.

Sitting here reading it, you have a 24 inch firebox in your Ashley or a new Defiant and you want to buy 20 inch wood to go in that 24 inch firebox, you can't do it, because they only offer 16, 12 or 14 inch wood. This is a terrible piece of legislation. I ask for a division and hope you all support me.

The SPEAKER: The Chair recognizes the gentleman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker, Men and Women of the House: Those of you who were here last year will remember that we another bill that removed an inaccurate measurement of the loose cord as a known cord of wood. At that time in the law, 144 cubic feet was the measurement in the statute that was suppose to relate to your regular standard cord.

When firewood began to be used more and more and bought and sold by more and more people because of the energy shortage, the 144 cubic feet was found not to stand up to your standard cord. We had a bill originally that had some measurements in it that was not tried and tested, so what we did, we just took out the measurement of 144 cubic feet and left it so that people could buy and sell their wood as they wanted to, except if you wanted to advertise, then you had to sell it by the cubic foot.

Since that time, the Department of Agriculture has done extensive studies throughout the state. They actually went to different sellers of firewood and threw the wood on the ground, stacked it up, put it in boxes, whatever, and did this throughout the state and came up with these measurements. If you would take your bill out, I will read it to you. It does make sense because there is a clause in it that allows you to buy and sell your wood as you want, as long as those arrangements are made between buyer and seller. But if you want to sell it as a cord, then these measurements have to be used.

"Fuel wood, when sold loose and not ranked and well stowed, shall be sold by the cubic foot or loose cord, unless other arrangements are made between the buyer and seller." That is the key to it there. You can make your own arrangements if you want to, but a lot of fuel wood is being advertised now in the newspaper, and people who are not used to buying it and not used to measurements of wood are finding that they are confused when the price of one cord is different from another.

When sold by the loose cord, the wood, in any cord, shall be the same length, either 12 inches, 16 inches or 24 inches. That is when sold by the loose cord. When so sold, the volume of the cords shall be: A cord of 12 or 16 inches in length shall mean the amount of wood contained in a space of 180 cubic feet, and a cord of wood 24 inches in length shall mean the amount of wood contained in a space of 195 cubic feet.

If you want to buy or sell your wood in any other lengths, you can do it. All you have to do is make arrangements. The two people will look at each other and say, yes, I would like to buy this amount of wood, or I would like to buy that truckload of wood, or I would like to buy that pile of wood. But if you want to advertise, there has to be some kind of standard. One person can't advertise a cord of wood and have no measurements to go by when another person is also doing the same thing, and if the cord doesn't stack up to be your standard cord, then the department has nothing to go by when they have a complaint. They go out to the site and they see that it doesn't stack up, they have nothing, no measurements to go by. They feel they have to have this, and we felt, in the Agriculture Committee, unanimously, that the study was thorough and these measurements were fairly accurate.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, a cord is a cord is a cord. I just piled six cords away into my shed for 1983. I have had some background in mathematics and engineering. I would like to have somebody explain to me how you measure some two-foot lengths of wood dumped in your yard that you have purchased as a cord? I would like to know the mathematical equation for measuring that.

The SPEAKER: The gentleman from Cumberland, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlemen from Dexter, Mr. Sherburne.

Mr. SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: I don't think there is any way that you can measure a cord that is dumped in your yard. But the department made a very thorough study of this subject in the last year. In hearing room 120, there are several photographs of cords of wood that were used in making this study. At several locations, they took a cord of wood and stacked it, accurately measured in a 4 x 8 foot pile of 4-foot wood. They sawed this in different lengths. They sawed it in 12 inch lengths, they sawed it in 16 inch lengths and they sawed it in 2 foot lengths, and when Miss Brown said something about not being able to buy 20 inch wood, she could buy 20 inch wood if she wanted to, but if she bought 4 foot wood and decided she wanted 20 inch wood, she would get two sticks of 20 inch but she would have an 8 inch stick left over from each stick.

These three lengths were used because they are the three lengths that are convenient to saw out of 4 foot wood. Something like 30 different piles of wood were sawed, thrown into a box loosely and, as Mrs. Locke said, in the 12 and 16 inch wood it usually came out to 180 cubic feet. When it was sawed just once so it made 24 inch wood, it took a somewhat bigger box or 190 to 200 cubic feet.

The standard measurement that had been used before this study was 144 cubic feet, which fell far short of being a cord of wood. After the

wood had been thrown in the box loosely, it was taken out and restacked, and a cord of wood stacked in 4-foot lengths is 128 cubic feet. When it was thrown in the box, it came out to 180 to 200 cubic feet. Then when it was restacked, it came out to a little less than 128 cubic feet again, but these tests that were run were very close and they came out with a very good average. It is my opinion that this gives at least a good rule for people who are buying wood, who have no method of actually measuring, to feel that they are getting a cord of wood. I think it is a good bill, it was a good study, and I believe that we should go with it.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Day.

Mr. DAY: Mr. Speaker, Ladies and Gentlemen of the House: We still didn't get the answer to Mr. Dillenback's question as to how you figure this. Is it a truncated cone, an elliptical half moon? Anybody that can figure the mathematics of a thrown pile of wood, if they don't know what a 4 x 4 x 8 is, we are just passing a bill that nobody could figure the mathematics on. What, are you going to supply photographs of certain piles that people can match up with their pile of wood in their yard? That is the only way the average person could figure it out.

I agree with Miss Brown, that this is a bill that we don't need.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I was born in a little town, Topsham, have worked in the woods and cut and sawed logs and cut pulpwood and some things when I was a kid. Then I moved to the city, and I am telling you, you people in the city have been ripped off royally. I shifted to the full burning of wood this past year, and I didn't know what I was going to do because I didn't know where I could go and trust anybody that was going to give me a cord of wood. I didn't want to stack it, I was too tired to stack it, and I have got a cellar that I can just throw it in, so I was delighted with the work that had already been done by this committee because they had determined what a thrown cord was and what the cubic feet was.

I finally found somebody I trusted, and that was Lucas Tree. I figured if I couldn't trust Lucas Tree, who could I trust? I went out and talked to them and they said they had the state come down, they had the state measure the size of the truck that they had. I took a look at it and it looked good to me, but I still felt much more secure that they said they weren't selling me a cord of wood, they were selling me 185 cubic feet of wood. 50 percent was maple and 40 percent — some of that was pretty estimated but it was pretty close — and I was delighted. I think for those in the city who are getting pickup truckloads and face cords — it is my understanding from talking to the Lucas Tree people that when complaints have been made, the department has gone out and they have found out people have paid for a cord and haven't got much more than a half a cord. So this, really, is a good city bill.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to inform the city people that us country yokels have been taken, too. I don't know of Lucas Tree Company owning any timber lots. The cut along the roadside and they cut off my property and other people's property — what are they doing in the wood business? I think Lucas Tree Company owes me an apology. I think they are selling some of my wood. They cut on my property and wanted to pay me \$1500, too, so I can play rough.

We delivered wood in the City of Portland, the man put it in his shed and stopped payment on his check. He never hauled it out or put it at the edge of the road. We had to go in an hand

carry it. I don't want anybody to think us country yokels are taking the city people. Some of you city folks are taking us. And we give you a good measure. If I couldn't give a man a good measure, I wouldn't be in business. Repeat sales is where we make money, not the first sale. And I want to know what the Lucas Tree Company is doing in the wood business, because they are a contractor and they cut roadside wood? I would like to know how many acres of timber lots they own?

The SPEAKER: The Chair recognizes the gentleman from West Gardiner, Mr. Weymouth.

Mr. WEYMOUTH: Mr. Speaker and Members of the House: The little blue dump truck out in the parking lot that many of you joke to me about, that is mine. I haul a lot of wood with that truck: I throw it in, I throw in a cord of wood, I deliver it, say, in Augusta, Lewiston, and by the time I get there, if it is loose, it shakes down.

I think they have done a good job in trying to work with this bill, but I would like to tell you, you deliver a cord of wood, you start with a cord thrown in loosely, with you start talking 180 or 144, when you get there, it is shaken down so that it doesn't look like as much.

It also makes a difference whether you are putting in good size wood or whether you are throwing in limb wood. I agree with Miss Brown, this bill should be voted down.

The SPEAKER: The Chair recognizes the gentleman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker, Men and Women of the House: I would like to try to answer Mr. Dillenback's question, if I can remember exactly what it is. If I don't answer it, it is because the debate in between has made me forget a little bit.

The way that you find out whether you have a cord is, you stack it. If you stack the cord that is on the ground and it doesn't measure up to be your standard cord, then you have been shortchanged, that is the way that you find out. If this happens, the question has been put, what are you going to do about it? Well, of course, you would call the Division of Inspection and Measurements and you complain. They come out and they measure also. There really isn't much you can do, but the next person who buys from this particular seller is most likely going to have the same problem and it won't take too long when the department will be called and there will be an inspector on the spot waiting when the person comes and when they stack the wood they will find out, and that is one way of getting rid of the person or the ripoff artist.

As far as the question of limb wood goes, this was also taken into consideration. Apple limbs, apple tree limbs, the gnarly type and whatever were also stacked. What they did was use a cubic volume — they had a box that held a certain cubic feet and they put the wood in there and they dumped it out and stacked it. They did this with all types, crooked limbs, straight pieces and whatever, and before they had gotten a very good type average, we were very satisfied with the report of the study. It was very expensive.

The reason that you have to have something for some people that are just reading a newspaper or don't understand what a cord is or what the difference in price might be is because people have been shortchanged. I live in a rural area where wood is sold a lot, firewood, and the people who were selling firewood honestly and were in the business to do so, felt that the other people who were not selling it honestly were putting them out of business because they were selling a short cord and could charge a lesser price. There has to be some type of measurement.

If you want to advertise firewood, then you should have some standard to go by. If you want to advertise it by a cord, according to the bill, you should be advertising it, you should be doing your measurements in certain standard

length of wood. If you don't want to do that, you don't want to cut your wood in all 12 inch lengths or all 16 inch or all 24 inch, and you want to sell a pile of wood, a box of wood or a truckload of wood of all different lengths, you can do that. All you have to do is tell the person, or the buyer would come in and say, I would like to buy a pickup truck full of "that" wood, and they can do that, but if they want to buy it by the cord, there has to be some way of measuring it.

We are very satisfied that these measurements would protect both the buyer and the seller.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Lisnik.

Mr. LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I think the point that Representative Locke just made is probably the most important point here. You can make any arrangements that you want between the buyer and the seller, and that is something that you should understand.

Mr. Brannigan, I think, really hit the nail on the head. This is legislation for the city. It isn't terribly important for those of us who are from Aroostook County or from the country because we grew up in the woods and we all know what a cord of wood is.

Representative Locke and the Agriculture Committee spent an awful lot of time on this piece of legislation. I hope you vote it out "Ought to Pass."

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I can tell you that the person who sells wood to me would believe that this is a good bill because he always gives me a little bit more than a cord when he sells wood to me. But the person who shortchanges me on the cord of wood would say that this is an awful bill and the majority of my constituents that buy wood would say that this is a good bill; let's vote on it.

The SPEAKER: The Chair will order a vote. The pending question is on enactment. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

75 having voted in the affirmative and 33 in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (H. P. 931) (L. D. 1102)

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

Orders of the Day

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

Bill, "An Act to Repeal the Prohibition Against Transfer of Birth Control Prescriptions between Pharmacies" (S. P. 391) (L. D. 1149)

Tabled—April 10 by Representative Prescott of Hampden.

Pending—Passage to be Engrossed.
On motion of Mrs. Prescott, retabled pending passage to be engrossed and tomorrow assigned.

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

HOUSE DIVIDED REPORT — Majority (7) "Ought to Pass" as Amended by Committee Amendment "A" (H-195) — Minority (6) Ought Not to Pass — Committee on Energy and Natural Resources on Bill, "An Act to Amend the Site Location Law" (H. P. 935) (L. D. 1105)

Tabled—April 13 by Representative Davies of Orono.

Pending—Motion of the same gentleman to Accept the Minority "Ought Not to Pass" Report.

On motion of Mr. Hall of Sangerville, tabled pending the motion of Mr. Davies of Orono to accept the Minority "Ought Not to Pass" Report and later today assigned.

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

HOUSE DIVIDED REPORT — Majority (7) "Ought to Pass" — Minority (6) "Ought to Pass" as Amended by Committee Amendment "A" (H-198) — Committee on Energy and Natural Resources on **RESOLVE**, Providing for Revision to the Land Use Regulation Commission's Land Use Handbook, Section 6, "Erosion Control on Logging Jobs" (H. P. 454) (L. D. 501)

Tabled—April 13 by Representative Davies of Orono.

Pending—Motion of the same gentleman to accept the Majority "Ought to Pass" Report.

The **SPEAKER**: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. **KIESMAN**: Mr. Speaker, Ladies and Gentlemen of the House: This Bill that we have before us came before the Energy and Natural Resources Committee. It came as a result of direction that was given last session on control of erosion in logging operations.

The LURC handbook on Erosion Control on Logging Jobs is a rather loosely drawn advisory document, and the LURC agencies were going to use this as the rule and guide for erosion control. In order to do that, it was necessary to tighten it up a little bit and clarify what they actually intended, and they came out with a supplement to the handbook. When it came before the committee, there was some question because the handbook and the supplement had some rather specific dimensions and definitions in it and it was intended as a guide.

There was a lot of discussion with the director of LURC and with the chairman of the LURC board, the commission, and it was pointed out in a letter that was received by the committee from the director, Mr. Pidot, that the guidelines were intended to be flexible and allow a considerable degree of landowner flexibility and discretion in the maintenance of roads. He went on several places in this letter to lay out the fact that it was a guide-line-type thing and was not to be interpreted as being really specific.

As a result of his comments and the comment of Mr. Blood, who is chairman of the commission, an amendment was prepared which attempted to paraphrase their statements received in this letter so it would put on the record what the intention was when this handbook and its supplement was adopted as the rule and guide.

The supplement that was prepared says, whereas it is the intention of the legislature that this resolve shall so reflect that these guidelines shall be construed to allow persons operating thereunder to use good judgement, common sense and discretion in order that the construction of roads may proceed in a reasonable and flexible manner with due consideration for terrain, location and other site specific factors. In addition, enclosed as exhibit A is the supplement to the handbook so that it is available and is put into the resolve as available for everyone to read and understand exactly what was involved.

Therefore, I think it was an effort on the part of the amended Committee Amendment "A" to put into the resolve exactly what was said and testified in the committee to reflect what was told to us and to give some guidance in the amendment for the use of anyone who was working in the LURC territory on roads, and I hope you will vote against the pending motion.

The **SPEAKER**: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. **JACQUES**: Mr. Speaker, Ladies and Gentlemen of the House: I have here a memo from Jeff Pidot, whose job it is to enforce the logging guidelines. If I may have your indul-

gence, he says, the third whereas clause in this amendment makes the road guidelines unenforceable. It says that the guidelines "shall" be construed to allow persons operating under them to use good judgement, common sense and discretion. What this does, in effect, is to have the legislature cancel out the guidelines and their revisions and substitute instead, judgement and common sense. How can a judge decide whether good judgement and common sense were used in any given case? The whole reason for the revisions before the legislature were developed was to clarify the Land Use Handbook, Section 6, so we would have something to serve as meaningful guidelines for the location, construction and maintenance of major haul roads.

The revisions adopted by the Land Use Regulation Commission went through a complete public review process with many changes made in the final draft. As a matter fact, the comments of the logging roads subcommittee of the paper industry information office were incorporated into the draft before it went to the public hearing. What this amendment would turn around and do now is take away all the work that went into making the guidelines flexible, reasonable, meaningful and try to substitute them with a few words that have no real meaning when it comes to trying to enforce the law.

If you accept the Minority Report and go against the Majority "Ought to Pass" Report, this is what you are going to do — you are going to gut the whole system as we have it set up now.

Charlie Blood got up there and he probably made more sense than anyone at that hearing because he explained to us what the handbook did and how LURC uses the handbook. Truthfully speaking, it made some of the opponents look kind of foolish because he said it right there in black and white — if you are doing it right, you won't have any problems; if you are doing it wrong, then you will, and when you do something wrong, you should. I hope you go along with the Majority Report.

The **SPEAKER**: The Chair recognizes the gentleman from Freeport, Mr. Mitchell.

Mr. **MITCHELL**: Mr. Speaker, Ladies and Gentlemen of the House: This is the pamphlet on erosion control on logging roads and this pamphlet is meant as a guide for those people who construct logging roads in Maine. Logging roads are absolutely essential to Maine's economy. The raw materials from our forests move across these roads on their way to the mills where a lot of people that we represent work. The pamphlet offers suggestion on how to build logging roads while minimizing their environmental impact. Road layout is discussed. The book points out the importance of ditches and culverts and recommends that when a logging road is abandoned, that the bridges be removed, the culverts be pulled and water bars be constructed where the culverts once stood.

If this is done, the logging bed road should be able to last for 40 or 50 years and when the next logging operation comes in to harvest another generation of forest trees, the road is there. If it isn't done, the culverts fill up with debris, rocks and pretty soon they don't drain the road at all, the water washes down across the road, it will wash the road right out into the nearest brook. I have been on a logging road in western Maine and stood at the bottom of the washout and looked around and I couldn't even see the surface of the ground, the washout was so bad.

These guidelines are extremely reasonable. This resolve simply states that if you follow the guidelines in this book, you don't need a permit, and if you choose not to follow the guidelines in the book, you should go to LURC and get a permit.

The Minority Report from the committee, which was called on the committee "the boxer II amendment," reduces this to absolutely nothing. It just says that you should do it and

there is no enforcement at all.

Maine's future depends on a healthy forest, and we should do everything in our power to make sure that the forests remain healthy and productive. We are stewards of the land and we should leave Maine's forest in better shape than we found them.

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

The **SPEAKER**: The Chair will order a vote. The pending question is on the motion of the gentleman from Orono, Mr. Davies, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

82 having voted in the affirmative and 28 in the negative, the Majority "Ought to Pass" Report was accepted.

The Resolve was read once and assigned for second reading tomorrow.

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

HOUSE DIVIDED REPORT — Majority (7) "Ought Not to Pass" — Minority (6) "Ought to Pass" — Committee on Energy and Natural Resources on Bill, "An Act to Limit the Storage of Spent Fuel at Nuclear Reactors" (H. P. 1007) (L. D. 1203)

Tabled—April 13 by Representative Davies of Orono.

Pending—"Ought to Pass" Report.

The **SPEAKER**: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. **KIESMAN**: Mr. Speaker, Ladies and Gentlemen of the House: I guess this is my day to draw from a stacked deck but I think this is an important enough issue that it should be discussed.

This bill, "An Act to Limit the Storage of Spent Fuel at Nuclear Reactors" proposes to limit the onsite storage of fuel assemblies at the Maine Yankee to 953 assemblies. The bill says that at the present time Maine Yankee is okay up to 1987 or 1988. In actual fact, the Maine Yankee will lose its capability for a full core discharge in 1984 or 1985. That means that if it is necessary for them to work in a containment area, they can't pull the assemblies out of the core and put them in safe storage. No plant in the United States has ever arrived at the situation and if they ever do, it is very probable that the Nuclear Regulatory Commission would close the plant or, in any case, would greatly reduce its output.

You are probably aware that the federal government reserves the authority for processing and final disposal of spent fuel assemblies and spent nuclear material. This is your high level material.

When Maine Yankee was originally designed, it was designed for 318 assemblies in the spent fuel pool. The federal government had plans for the reprocessing of spent fuel when it was removed from nuclear plants throughout the United States and they had the authority for permanent disposal of the residue. The feds were slow in getting on line with this reprocessing and disposal, and Maine Yankee became aware that they were facing problems with the 318 assemblies approved for the pool. So, they went in for a modification to their permit which would allow closer stacking of the assemblies and that increased their capacity to the present 953 assemblies.

There was a processing plant in New York, it was a very small plant, it was more of pilot plant, first commercial plant, I guess, and that was not in any way capable of handling the reprocessing that would be generated in all of the nuclear generating plants in the United States.

There was a new plant built in South Carolina, but because of a federal political decision not to reprocess in the United States in an effort to encourage foreign countries not to get into the reprocessing business, this plant was never allowed to go on line. The permanent

storage of residue, there being no residue, went on the back burner.

An interim proposal was made called, Away from React to Storage, or AFR, by the federal government. This would have created some large spent fuel pools and the complete assemblies would be stored in the pool managed by the federal government away from the reactor sites. This moved very slowly in the previous administration, and the present administration had not funded this program or there is no indication they are going to fund it, because I think they are now looking forward to reprocessing.

The Maine Yankee became aware of these foot draggings by the federal government and saw that they were getting into trouble in 1984 or 1985, so they went back to the Nuclear Regulatory Commission with a proposal to allow re-racking of their fuel assemblies. What this would do, it would allow them to store them in a more concentrated manner in the pool. This has been done at some other nuclear plants throughout the United States with good results and the federal NRC has indicated that they may favorably consider this, but it has not yet been approved. It is very possible that it might be.

In any case, acceptance of this bill would very well set up a scenario where Maine Yankee would be forced to close in 1984 or 1985 when their pool was filled to the point that they could no longer make a full core removal. If that happened, the Maine Yankee would, in all probability, go to court to prevent enforcement of this law if it were passed. If they lost in court, they would very probably sue for compensation for taking

In any case, the ratepayers would pay much more for their replacement electricity, the taxpayers would pay the litigation costs that the state was involved in, and I submit to you that these are the same people, the ratepayer and the taxpayer.

This coming after the referendum would seem to fly in the face of the decision of the people of Maine when they voted against closing Maine Yankee, and, in effect, that is what passage of this bill would do.

I urge you to vote against the "Ought Not to Pass" motion and when the vote is taken, I request a roll call.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: The bill that you have before you, L. D. 1203, is referred to by some of the people that I work with as the "feet to the fire bill." The principle behind this bill is based on the fact that we have been seeing a lot of evidence at the federal level that they are not responding to local control issues whatsoever. Whether you are a liberal or a conservative, a Democrat or a Republican, you probably have some frustration with the fact that the federal government, in many cases isn't doing things you would like to see them do.

We have a situation in the state, in fact in all of the states in the country that have nuclear power plants, where we are not getting any action on the part of the federal government towards resolving the problem of permanent waste storage or disposal. We have temporary systems of disposing of these matters, of placing these storage assemblies, these used fuel assemblies, in temporary storage pools at the location of a plant. These pools have a limited size, they can accommodate a limited number of used fuel assemblies. We have been trying to persuade the federal government to finally come up with some permanent way of dealing with this problem. To date, they have not done anything. In fact, all they have done is flip-flop back and forth so frequently, it is like a fish out of water. This bill holds the feet of the federal government, through the Nuclear Regulatory Commission, to the fire by saying, if you don't come up with a solution in the next six or seven years, you are going to force the nuclear power

plants to shut down. Now, whether you want to do that or not, you are never going to get any action from the federal government unless you keep their feet to the fire, and this bill will do it.

As Mr. Kiesman has indicated, the plants can operate until 1987 or 1988 with the storage capacity that they have available to them right now. They are going to be able to keep putting the used fuel assemblies in there for at least another six or seven years without any problem whatsoever. During that time, by having a bill like this in place, it keeps the feet of the federal government to the fire to keep working towards a permanent solution, because if you don't come up with a permanent solution, if you continue to expand the storage pools that we are using at the various nuclear power plant sites, there is not going to be any incentive whatsoever for the federal government to take some action, because the temporary solution, de facto, becomes the permanent solution. You keep expanding that pool, they keep putting their fuel assemblies there, and they never do anything about final disposal of those nuclear wastes. If you have sent out questionnaires to your constituents like I have and a number of other legislators have, you are finding that one of the most significant issues that your constituents are responding on is the need for some kind of permanent solution to waste disposal, and it is coming from people who are in favor of nuclear power as well as from people who are opposed to nuclear power. That problem exists now whether we are going to get rid of nuclear power or whether we are going to keep it. Those fuel assemblies are there, they can cause a problem. They are going to continue to be radioactive until we find a way of permanently disposing of them. We are not going to get the federal government to take some action. They are going to keep flip-flopping back and forth unless we have bills like this on the books to keep the pressure on them to come up with that solution. Otherwise, they are going to continue to rely on the temporary solutions and there are tremendous risks with us continually expanding the temporary pools. If we keep doing that, we are not going to get any resolution to the problem.

I urge you to support this important piece of legislation. It is a local control issue and it keeps the feet of the federal government to the fire, and I think we need to do that.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I think the argument that you are going to put the feet of the federal government to the fire is a little bit ridiculous. I have not seen any state have the fed's feet to the fire yet and be successful about it.

I would submit to you that there has been more action on the problem of high level radioactive waste in the past four months than there was in the previous four years, so there is motion going on in that direction. I will also tell you that it is not accurate to say that Maine Yankee has the storage capability to take care of their needs until 1987 or 1988, because in 1984 or 1985 they lose their full capability, and it is very doubtful that NRC will allow them to continue to operate when they cannot take the assemblies out of the core in case of a need, in case they have to get in there or if they have an emergency. They have got to have that capability. They do not have the capability to run on until 1987 or 1988.

The discussion of the expansion of the pool is not accurate. There is no intention or request to expand the pool. The request that we are talking about that has been discussed is to increase the numbers of assemblies in the pool that exists by restacking. It is just like that thrown cord of wood that we have been talking about. You throw it in a pile and it takes up a certain amount of space and you stack it up in a nice neat cord and it takes up less space. That

is exactly what is proposed at Maine Yankee that this bill would prevent, not to increase the size of the pool; it just allows it to put the assemblies in the pool in closer proximity and NRC would be the one that will make the judgment on that. They have approved that type of method in other power plants around the country, and the federal government, no matter how much you put their feet to the fire, they only move about so fast. They are moving, but I don't think you want to see Maine Yankee close down while you are waiting for the feds to move.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: As I mentioned to the Speaker a week or so ago, his testimony on this bill was so eloquent he almost convinced me—then I took a look at the facts. I am sure there is concern on the part of everyone, regardless of party or philosophy, over the safety and storage of radioactive waste. I wish I could tell you that this bill does something to help that problem; I don't believe it does.

I will further remind you that this whole idea of encouraging the federal government to move ahead has certainly been one of the aspects of nuclear power that I have been most interested in, and in my first session of the legislature in 1977, I authored and this legislature passed a bill placing a moratorium on new nuclear power plant construction until the federal government has come up with a method of solving the nuclear waste problem. That bill is on Maine Statutes.

I think Mr. Davies is mistaken. As was pointed out, unfortunately or fortunately, our Subcommittee on Radioactive Waste has been notified of federal government activity in the high level waste that agree that there is now a written memorandum of understanding between the feds and the State of Maine to pursue geologic studies in the state for the storage of high level waste. And on the low level matter, a number of states, both in this part of the country and in the rest of the country, are seeking to get together to discuss the possibility of forming compacts among states for storage of low level waste.

Frankly, I haven't seen as much activity since the start of commercial nuclear use. So Mr. Kiesman is absolutely correct about that point.

I think the good Speaker, in fact, acknowledged the federal authority in this area when back in January, I believe it was, he urged our Attorney General to intervene in the pending application before the Nuclear Regulatory Commission, and, as we all know, the Attorney General was sympathetic to that and, indeed, so was the Governor, and we now have a situation where the State of Maine will intervene in a negative position against this application before the NRC. In effect, we have made a judgment before we have heard the facts, and I find that regrettable.

Finally, I think it is important to keep in mind that we had a referendum on this issue. The vote was substantial: a substantial number of people said they would like to see the plant closed, but the majority did not. It seems to me that there is no question but that this bill would cause the closing of Maine Yankee.

I would like to quote from the remarks made before the hearing by Mr. Pat Garrett, who, as you know, has been an ardent foe of nuclear power. He makes some very good points. I might say, but once the referendum was over, he accepted the fact that the voters had spoken and said that he would no longer continue to try to see the plant closed. He said in his testimony that in his opinion 1203 would not result in the closing of Maine Yankee. Now, that may sound contradictory, but let me explain. He said it would not result in the closing of Maine Yankee unless the Maine Yankee management did not seek other solutions.

Here are some of the other solutions that he brought to our attention, and I would ask you if you think they are very logical or realistic. The first solution would be the transfer of spent fuel in excess of the current number of assemblies to other spent fuel pools. How many other nuclear power plants in this country are as eager as we are to take our fuel? I don't think very many. He also suggests that possibly transfer of assemblies might go to West Valley. That, to me, sounds very unlikely in that they have had such difficulty with West Valley and, in fact, they have not yet even cleaned it up for probably a decade after it was last used for any nuclear storage.

He mentions the possibility of licensing the Barnwell facility. That may very well happen, I suppose. That is a federal decision and we have absolutely no say or control over whether it is licensed or not. Another solution would be permanent federal storage facilities. Clearly, we are seeing much activity in this area, but, again, it is an area over which we as a state have no control.

I would suggest to you that 1203, while it does state a concern, it does not deserve to become law for the reasons that clearly the federal authority is preeminent here and the people of Maine have already told us how they feel about the status of Maine Yankee.

I hope you will vote against the pending motion.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I think one of the biggest concerns I had the day of this hearing, regardless of what you have heard, it was the testimony by two or three of the people. They were very disturbed because of the lack of knowledge they had about any of this being stored there, and how frightened they seemed to be about this.

I venture to say that this is one of the most important things. Had the people known then that we were storing so much there, it might have made a difference in the referendum.

My point is, I would hope we could avoid another referendum, which I hear is about to be done, and somehow put the burden on the government's back so they will do something. I have had two telephone calls, and I wish I had that letter with me that I got from the dear old lady that was so wrought about the lack of information that has been given them in the past.

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

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

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentlewoman from Vassalboro, Mrs. Mitchell, to the rostrum for the purpose of acting as Speaker pro tem.

Thereupon, Mrs. Mitchell assumed the Chair as Speaker pro tem and Speaker Martin occupied his seat on the floor.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Madam Speaker and Members of the House: As you obviously have been able to tell by now, if you looked at the L.D. at all, I am the sponsor of this legislation. I am the sponsor not as the result of a moment in my life when I may have been weak and someone approached me and asked me to sponsor this bill, but because I had a principle which I felt was important to be enunciated.

This country is a federal system, and federalism is defined very simply as a system of gov-

ernment where the power is shared between two levels of government, the state and federal, a system of government where once that has been defined that each has its responsibilities and each one attempts to carry it out. This issue, in my opinion, is a demonstration of a broken faith, a broken promise which has occurred as a result of not on the part of Maine Yankee but on the part of the federal government. This is not the only one and probably will not be the last in our history, but it is, I think, a demonstration of what does happen. I would like to relate to you why basically that has occurred and what the problems are and why I see this a basically just that, a matter of principle.

There is no question that the issue of spent fuel is an issue of great importance that has been ignored for a long time by federal and state officials. It has now become a state problem, and that is what bothers me. As long as the state continues to permit on-site storage of nuclear waste, the federal government will continue to abrogate its responsibility.

Large quantities of spent fuel that are at Wiscasset are, of course, and no one disagrees, a potential health hazard to the people of Maine, and we know, the larger the amount, the greater the potential threat. Maine Yankee was never designed to provide for storage facilities at its site. None of the original licenses or approvals that were granted by the state and local agencies or, for that matter, the federal, were ever granted with the intention that a large amount of spent fuel would ever be stored on site. Because of federal assurance that a national facility to deal with nuclear waste would be developed, Maine Yankee was permitted to proceed with storage pools large enough to accommodate only a short-term accommodation and accumulation of spent fuel.

A permanent or semi-permanent facility at Wiscasset was not envisioned, intended or implied. Yet, the NRC has granted permission to increase the allowable number from 318 to 953, and currently there is a pending application to take it to 2551. If approved, the latest request would permit on-site storage of all radioactive waste generated during the entire lifetime of Maine Yankee, clearly contrary to the original licensing intentions.

If the State of Maine allows the federal government to get away with it, then I see no need or no desire by the federal government to do anything about it. Unfortunately, nuclear waste is not something that can be wished away. Ignoring it or pretending that it is not a critical issue is not one which will get us very far.

There are many reasons why we ought to support this bill in addition to that. There are, of course, the long-term questions as to whether or not it ought to be stored there at all — the vulnerability of Maine Yankee to acts of terrorism, among others.

But I think the major issue before us all is whether or not we will continue to allow Maine Yankee to produce nuclear waste contrary to the original intentions of the licenses without additional scientific evidence. It demonstrates to me a broken faith, a broken promise, and based on that original promise, we, the people of Maine, through our licensing agencies, allowed the structure to be created and allowed the facility to have its spent fuel area.

The problem we now face is, because of the federal government's inability or lack of movement, we are struck with allowing more or we are, in my opinion, faced with the fact as to whether or not we are going to make it a point and a matter of principle and tell the federal government that we, the people of Maine, are not going to allow that to occur.

I agree fully with the remarks of some of the people that have spoken already that the people of Maine did speak this past year on the question; that is not the point I am trying to make. The point that I am trying to make is whether

or not we are going to send a message, clear and spoken by the voters through us, to Washington that this will be done.

I am not saying, nor am I criticizing the present administration, because it is administrations twice back, not the present one, the present one happens to be stuck with the problem, but I think that we can deliver a message, if we can, not in a partisan fashion but simply stating the fact that it is important that we act for the people of Maine. That is the reason I put in the legislation; that is the reason why I would hope that this body would give it favorable support. I certainly hope that you will vote yes on the pending motion.

At this point, Speaker Martin returned to the rostrum.

The SPEAKER: The Chair would like to thank the gentlewoman from Vassalboro, Mrs. Mitchell, for acting as Speaker pro tem.

Thereupon, Mrs. Mitchell returned to her seat on the floor and Speaker Martin resumed the Chair.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker and Members of the House: I would add to those eloquent words of the previous speaker.

We find ourselves in a situation, as Mrs. Huber has raised, of having our Governor and our Attorney General involved in a proceeding with the Nuclear Regulatory Commission to take action very similar to what this bill would attempt to do. If this legislation were to vote against this legislation, we will be cutting the legs out from underneath the Governor and the Attorney General on this matter. I think that is a very unwise thing to do and I would urge you to support this bill to give them the leeway to work on this matter before a federal agency that they need.

Mr. Kiesman of Fryeburg was granted permission to speak a third time.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I understand fully the good intentions of the gentleman from Eagle Lake when he put this bill in. I would only submit that, yes, it is a principle, but I question whether we should hold the electrical user, the public, the ratepayers of Maine, hostage to a principle to make a point to the federal government that it is apparently not within the federal government's capability, within the timeframes that we are talking about, 1984 or 1985, to solve this problem. That is what this will be doing.

In regard to the gentleman on my right, the fellow who just spoke, to make a decision in favor of this bill will do the same thing that he is appalled about if we kill the bill, because it certainly would preempt an unbiased decision on the part of the NRC and would certainly be detrimental to the position of the Maine Yankee on this issue.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, I would like to pose a question through the Chair to any member of the committee.

After listening to the debate and hearing the concerns both of Representative Martin from Eagle Lake and Representative Kiesman from Fryeburg, just what is our federal delegation doing in Washington? Would anyone care to report back to us. If the legislators in the state and the people in the state are so concerned that we have got to the bill at this point, just what, if anything, are the two Senators and the two Congressmen doing?

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, has posed a question through the Chair to anyone who may care to answer if they should have the answer.

The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, by the ab-

sence of no answer, it appears that either the Senators or the Congressmen are not concerned or they haven't been asked to participate in urging the federal government to move in these directions?

I can sympathize with what the Speaker has to say, but I also am listening to the concerns of Mr. Kiesman and also the people who are footing the bills in this state for the high costs of electricity that we use. I am really undecided which way I am going to go on this. If the concerns are raised by the members of the committee and by the Speaker, then I would ask any members of the committee or the Speaker, have you been in contact with our congressional delegation and what is their feeling on the absence of support coming from the federal government?

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to stand after the eloquent speech of the Speaker. However, the impact that he has made is very obvious. I think he is very sincere in what he says, but the message that I received is that the ratepayers are the ones who are going to suffer.

The other question that comes to mind immediately, where and how are we going to store this material? You ask the federal government to do something. I have been following this very carefully, somebody says that you can put in glass, you can put it below the sea, what if the federal government says that Maine is the ideal place to store it? What if we bring all the material up here? We don't want it. We can't ship it anywhere else. No other state wants it. The only thing that we can do is work with what we have, and I am sure the impact on the poor little old lady that you talk about everyday, the impact on the poor little old lady that you talk about everyday, and the poor workingman, will be prohibitive. We have to go along with this situation and hopefully something will resolve from it.

I am not going to vote in favor of this, and I am going to go along.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Orono, Mr. Davies, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Berube, Boisvert, Brannigan, Brennerman, Brodeur, Carrier, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Curtis, Davies, Diamond, G. W., Diamond, J. N., Erwin, Fitzgerald, Foster, Fowlie, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H. C., Hobbins, Holloway, Jacques, Jalbert, Joyce, Kane, Kany, Ketover, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Matthews, McColister, McGowan, McHenry, Michael, Michaud, Mitchell, E. H., Mitchell, J., Moholland, Nadeau, Norton, Paradis, P., Paul, Pearson, Perry, Post, Pouliot, Prescott, Reeves, P., Richard, Ridley, Roberts, Rolde, Smith, C. B., Soulas, Soule, Theriault, Thompson, Tuttle, Twitchell, Vose, the Speaker.

NAY — Aloupis, Armstrong, Bell, Bordeaux, Boyce, Brown, A., Brown, D., Brown, K. L., Cahill, Callahan, Conary, Conners, Cunningham, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Gavett, Gillis, Hanson, Higgins, L. M., Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kelleher, Kiesman, Kilcoyne, Lancaster, Lewis, Livesay, Lund, MacBride, Martin, A., Masterman, Masterton, McKean, McPherson, McSweeney, Murphy, Nelson, A., Nelson, M., O'Rourke, Paradis, E., Perkins, Peterson, Racine, Randall, Reeves, J., Salsbury, Sherburne, Small, Smith, C. W., Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Treadwell, Walker, Webster, Wentworth, Weymouth.

ABSENT — Austin, Carter, Leighton, Manning, Martin, H. C.

Yes, 76; No, 70; Absent, 5.

The SPEAKER: Seventy-six having voted in the affirmative and seventy in the negative, with five being absent, the Minority "Ought to Pass" Report is accepted.

The Bill was read once and assigned for second reading tomorrow.

The Chair laid before the House the following matter:

House Divided Report—Bill "An Act to Amend the Site Location Law" (H. P. 934) (L. D. 1105) which was tabled earlier in the day and later today assigned pending the motion of the gentleman from Orono, Mr. Davies, that the House accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would vote to defeat the "Ought Not to Pass" Report so I could move for the "Ought to Pass."

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker, I withdraw my motion.

Since I made the motion the other day on this bill, there has been some negotiating going on and it is now my opinion that we can accept this bill in the "Ought to Pass" form, that we have resolved the problems that we had with it, so I would urge you to accept the "Ought to Pass" Report.

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

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-195) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

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

Consent Calendar

First Day

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

(H. P. 1198) (L. D. 1351) Bill "An Act to Create the Casco Bay Island Transit District" (Emergency) Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-203)

There being no objections, under suspension of the rules, the above item was given Consent Calendar, Second Day, notification, passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Mr. Stevenson of Unity.
Adjourned until nine o'clock tomorrow morning.