

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

HOUSE

Monday, April 11, 1983

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

Prayer by Father Louis Berube of St. Philips Catholic Church, Auburn.

The members stood at attention during the playing of the National Anthem by the Wiscasset High School Band.

The journal of the previous session was read and approved.

Papers from the Senate

Bill "An Act Concerning the Size of Exempt Lots Under the Subdivision Laws" (S. P. 462) (L. D. 1411)

Came from the Senate referred to the Committee on Energy and Natural Resources and ordered printed.

In the House, was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Require Discharge Planning for Mental Health Patients" (S. P. 463) (L. D. 1412)

Came from the Senate referred to the Committee on Health and Institutional Services and ordered printed.

In the House, was referred to the Committee on Health and Institutional Services in concurrence.

RESOLVE, to Authorize the Commissioners of Cumberland County to Reimburse the Town of Harpswell \$9,781.22 Unexpended Retirement Funds" (S. P. 464) (L. D. 1413)

Came from the Senate referred to the Committee on Local and County Government and ordered printed.

In the House, was referred to the Committee on Local and County Government in concurrence.

Reports of Committees**Unanimous Leave to Withdraw**

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Repeal the Maine Guarantee Authority" (S. P. 88) (L. D. 219)

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act to Revise the Mark-up Percentage for Maine Produced Products under the Liquor Laws" (S. P. 128) (L. D. 315)

Report of the Committee on Aging, Retirement and Veterans, reporting "Leave to Withdraw" on Bill "An Act to Eliminate Discrimination Against Retired Maine Residents who have Previously been Members of the Maine State Retirement System" (S. P. 207) (L. D. 628)

Report of the Committee on Public Utilities reporting "Leave to Withdraw" on Bill "An Act to Provide for a Feasibility Study and a Referendum on Public Power in Aroostook County" (S. P. 309) (L. D. 923)

Report of the Committee on Agriculture reporting "Leave to Withdraw" on Bill "An Act Relating to the Notification of Intent to Apply Pesticides" (S. P. 401) (L. D. 1249)

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

Ought to Pass in New Draft

Report of the Committee on Energy and Natural Resources on Bill "An Act to Extinguish Obsolete Mineral and Mining Rights" (S. P. 53) (L. D. 145) reporting "Ought to Pass" in New Draft (S. P. 468) (L. D. 1414)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence, the New Draft given its first reading and assigned for second reading, Tuesday, April 12.

Divided Report

Majority Report of the Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-49) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Equality of Rights under the Law (S. P. 28) (L. D. 59)

Report was signed by the following members:

Senators:
BALDACCI of Penobscot
VIOLETTE of Aroostook

— of the Senate.

Representatives:

LEBOWITZ of Bangor
SPROUL of Augusta
COOPER of Windham
LaPLANTE of Sabattus
GWADOSKY of Fairfield
PARADIS of Augusta
DILLENBACK of Cumberland
KETOVER of Portland
HOLLOWAY of Edgecomb
SALSBURY of Bar Harbor

— of the House.

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

Report was signed by the following member:

Senator:
HICHENS of York

— of the Senate.

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-49)

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, I move that the Majority "Ought to Pass" Report be accepted.

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

Mr. CARRIER: Mr. Speaker, I move that this be tabled for two legislative days.

Whereupon, Mr. Kelleher of Bangor requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, that this matter be tabled for two legislative days pending the motion of Mr. Gwadosky of Fairfield to accept the Majority Report in concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

34 having voted in the affirmative and 85 having voted in the negative, the motion did not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted in concurrence and the Resolution read once. Committee Amendment "A" (S-49) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Livesay.

Mr. LIVESAY: Mr. Speaker, I would like to pose a question through the Chair. Could somebody explain to me the purpose of Committee Amendment "A" and the reason for its existence?

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

The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Committee Amendment "A" states that the referendum on this Resolution will take place in November of 1984. It was the feeling of the committee that this was an important item and it should be voted on when there is a large voter turnout, not in an off year when only 20 percent of the people may turn out to vote.

Thereupon, Committee Amendment "A" was adopted in concurrence.

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

**Divided Report
Indefinitely Postponed**

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-50) on Bill "An Act to Provide for the Use of Major Credit Cards at Selected State Liquor Stores" (S. P. 160) (L. D. 448)

Senators:

CLARK of Cumberland
CHARETTE of Androscoggin
SEWALL of Lincoln

— of the Senate.

Representatives:

PERKINS of Brooksville
MURRAY of Bangor
BRANNIGAN of Portland
POULIOT of Lewiston
TELOW of Lewiston
MARTIN of Van Buren
CONARY of Oakland
STEVENS of Bangor
RACINE of Biddeford

— of the House.

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

Report was signed by the following member:

Representative:
MacBRIDE of Presque Isle

— of the House.

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-50)

In the House: Reports were read.

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I move that we accept the Majority "Ought to Pass" Report.

The SPEAKER: The gentleman from Portland, Mr. Brannigan, moves that the Majority "Ought to Pass" Report be accepted in concurrence.

The gentleman may proceed.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: This bill simply asks that major credit cards, Master Charge, Visa, etc., may be used in the purchase of alcoholic beverages from our state liquor stores, which is now prohibited.

Ordinarily, this bill is heard and judged before the Legal Affairs Committee. However, it was decided that the major issue in deciding this piece of legislation was the availability of major credit cards, and that kind of issue is a Business Legislation issue, and so it was sent by the Legal Affairs Committee to our committee for a hearing and decision.

Do all kinds of people and does everyone now have credit cards? Years ago, as you remember, when credit cards first came out they were being shipped willy-nilly to everyone and anyone through the mail, anyone could have them, and in those days it was true that almost anybody could have and use and abuse major credit cards. That has all ceased and changed. It can't even be sent through the mail now.

Two years ago, when we were pleaded with by the banking people to allow them to charge a fee for credit cards, they said that credit card issuance had been dropping off because they were not profitable for them and if we did not give them a yearly fee for credit cards, that they would drop off even more. We did not give them a fee for credit cards two years ago and it is true that to get a credit card today, you have to have a tremendous amount of credit rating. The use of credit cards has not diminished, but the use of credit cards by people who have marginal credit has dried up tremendously. So, I believe it is on those grounds that our committee felt very comfortable in making this

common use of credit, the use of payment, really, it is a payment process and we see no reason why that normal type of payment process shouldn't be used in our liquor stores just like in any other place.

I hope you will support the Majority "Ought to Pass" on this bill.

The SPEAKER: The Chair recognizes the gentlewoman from Presque Isle, Mrs. MacBride.

Mrs. MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not accept the "ought to pass" report so that you can accept the "ought not to pass" report.

I voted against this bill for a number of reasons, but chiefly because I feel it will not be for the best good of the people of the State of Maine.

Guy Marcotte of the Bureau of Alcoholic Beverages, at the hearing on the bill, stated that credit card use could increase liquor sales by 8 percent. In New Hampshire, when credit cards were authorized in liquor stores, their liquor sales increased 20 percent. Ladies and gentlemen, do we want to increase liquor sales in Maine 8 percent or 20 percent? Are the dollars that would be derived worth all the problems that could be created?

In the 110th Legislature, we passed a tough drinking and driving law. This year, the Governor advocates an even tougher law to try to combat the needless accidents on the highways, many of the accidents caused by alcohol.

Drinking is on the rise again. Maine rates eighth in the nation in alcohol consumption. Do we want to add to that?

In the 110th Legislature, we also passed a premium tax to help people who are problem drinkers. Do we now want to make it easier for people to purchase alcoholic beverages, to be able to buy more alcohol just by signing on the dotted line?

I have several credit cards and I thoroughly enjoy them. I use them for necessities and I use them for something I want when I do not have the cash. They are convenient. But I also know that I am tempted to buy more than I need, to buy something on the spur of the moment, when all I have to do is flash a credit card and sign my name to pay later.

We are working hard in the State of Maine to help people with problems with alcohol. We have a number of bills in the legislature this year requesting aid for alcoholics. How, then, can we turn around and make it easier for them to purchase alcohol by using a credit card? What possible good can come to the people of the State of Maine for being able to charge liquor, liquor that they don't need and perhaps cannot afford? A credit card would be easier and more convenient, I agree, but I do not believe that easier and more convenient means best for the people of our state.

Ladies and gentleman, I hope you will vote against the "ought to pass" report and I request a roll call.

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

Mr. BOST: Mr. Speaker, Men and Women of the House: I would like to briefly share my reaction to L. D. 448. I find it difficult to understand how this bill managed to receive such a favorable review from committee.

Certainly, at first glance it seems to be innocuous enough, enabling our Canadian friends to perhaps bring a bit more liquor home with them after vacation and making it more convenient for the liquor customer who happens to be a little short on cash to stock up, but I hope this House considers some of the contradictions this bill creates before voting on it today.

Try to explain to your constituents why the state would enable a credit card holder to charge liquor but not groceries. Try to explain to the people back home the correlation between accessibility and abuse and how this bill addresses that relationship. Then, finally, try to explain to them why the state which claims

one of the toughest anti-drunk driving initiatives in the country would simultaneously make it easier to buy and stockpile liquor. How many times this session must we be confronted with bills like the one allowing liquor in bowling alleys or lowering liquor prices statewide? Let's put this credit card idea to rest like we did those other two notions. I strongly urge you not to accept the "ought to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: At the hearing on this bill, I was very interested in the figures presented by the representative of the Bureau of Alcoholic Beverages. He told us that the bureau estimated additional sales of \$5,600,000, with a net to the state of \$2,370,000 if the bill were passed. This certainly would be a big help to the General Fund.

While many of my colleagues will tell you of the many additional sales to tourists who travel on credit cards, let me tell you of an incident in my area which is probably typical of other areas in the state.

I had a constituent approach me last summer asking, "How come Maine doesn't allow credit cards to purchase liquor?" He travels down state several times a year and each time purchases four or five hundred dollars worth of liquor for persons in our neighborhood. I had previously told him that he should buy at the Kittery store in Maine, first because the store is in Maine, and second because liquor was slightly cheaper. He said he went to the Maine store but on finding that they would not accept credit cards, he went back to New Hampshire and bought the liquor.

Actually, there is no reason for Maine to lose this income. I hope you will vote for the bill.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Paradis.

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning as a cosponsor of this L. D. I think it is a questionable tactic on the part of some to try to label this bill, a credit card sale bill, as an alcohol consumption bill.

This has nothing to do with alcohol consumption by individual people whether these people do have a problem or not with alcoholism. You may have a problem with alcoholism, and many families do have at least one person, that person can go into any drugstore, we have one very close by this chamber, and buy wine or beer and put it on their credit card; they can do that today and no one is saying that we ought to take that power away from them. You can go and buy cigarettes in almost any store that accepts credit cards and put it on your card; yet, I find no one here this morning saying that cigarette smoke is good for your health, that we ought to go and try and prohibit cigarette sales from being a credit card sale item. And you know what type of problems we have from cigarette smoking and emphysema. The good gentleman from Kingfield, Mr. Dexter, could be much more eloquent on this topic than I could be.

This is a business practice, that is what this bill entails. This bill here seeks to say that if you have a proven track record of credit, you have a good proven background paying for your bills and you have credit cards, major bank credit cards, Visa and Master Card, then you ought to be able to buy one more item with it, items that perhaps you already buy in your local community, you could also use them in the state liquor store.

Are we trying to put a stamp on everyone that goes into a state liquor store saying that that person is a questionable alcoholic, a questionable abuser?

I am a member of the Maine Highway Safety Committee. One of the major things that we want to do through that committee is to educate the public about mature, sensible drinking, not the 10 or 15 drinks in the evening but

perhaps the one or two. Not everyone has a problem, but everybody has to make an individual choice about what their problems are, whether it be alcoholism or obesity or cigarette smoking or any of the other major problems that we face as a modern society.

Let me just read into the record here briefly what the criteria is for owning or possessing a major credit card, because I don't think that has been mentioned to the opponents of this bill this morning.

Number one, this is the Visa criteria that Depositor's has established. Most banks have established extremely conservative loan policies; Depositor's requires a minimum gross income level of \$12,000 annually. The applicant must have established an excellent credit history, and by established, we mean a minimum track record of six months proven payment responsibility. An excellent credit history means no more than one minor derogatory when there are four or five credit references. The overall credit history must be A-1. Our residency requirements are such that homeowners must be established for more than one year, and a person renting must have established their address for more than two years. Job stability is another consideration in which there must be between one and two years of employment in the current position. If an applicant is self-employed, a minimum of three years of successful operation, supported by income tax statements, is required. Last, after acceptance, there are parameters established to control usage during the first year to assure responsible handling. These are business practices; these are sound business practices.

This bill is not an alcohol consumption bill. It does not seek to increase the rate by which abusers can buy alcoholic beverages; they can do that now. I wish they wouldn't. I don't think anybody in this chamber wants to encourage alcoholism; that isn't what this bill addresses. I think it is a questionable tactic for the members and some of my colleagues to try to limit this bill and try to define it as an alcohol-supported bill.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Brodeur.

Mr. BRODEUR: Mr. Speaker and Members of the House: This bill, to me, seems to be a suicide bill. Ten percent of our population is estimated to suffer from the disease of alcoholism; 20 percent, and in some parts of the state 80 percent of the population is affected, meaning their family or their friends suffer from the disease of alcoholism.

In the situation of alcoholism, one of the critical points in the recovering process is the time when somebody's income, meaning their job or some other source of income, is threatened; therefore, they will have problems in purchasing alcohol. If somebody would have a credit card at that time, it seems that that threat would be lessened and the time in which they can continue to purchase alcohol would be extended; therefore, lessening the chance of recovery and increasing the chance they will continue to drink when they suffer from the disease of alcoholism.

Alcoholism, drinking for an alcoholic is slow suicide; you will die from it if you don't stop drinking, and for that reason alone, we ought to not pass this bill. Once we extend the credit, extend the purchasing power to the alcoholic, we will increase the chance of suicide.

One more thing—if we are to continue to allow the person drinking, we are cooperating in that process.

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

Mr. DAY: Mr. Speaker, Ladies and Gentlemen of the House: Having served for the past two years on the Select Committee on Alcoholism Services and seeing the problems and so forth related to alcohol, I find that I will have to agree with Representative MacBride and the gentleman from Orono, that we should not

make it easier.

In regards to alcoholism and credit rating, alcoholism does not respect credit rating or income and those types of things. Last week in the Wall Street Journal, the two professions at the top of the alcoholism hit parade were lawyers and doctors. Therefore, I urge you not to accept the Majority Report.

The SPEAKER: The Chair recognizes the gentlewoman from Washington, Mrs. Allen.

Mrs. ALLEN: Mr. Speaker, may I pose a question through the Chair. The question is, does this extend to agency liquor stores or just state-owned stores?

The SPEAKER: The gentlewoman from Washington, Mrs. Allen, has posed a question through the Chair to anyone who may care to respond.

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

Mr. BRANNIGAN: Mr. Speaker, in agency stores they now accept credit cards, and of course Shaw's and a lot of other places do not, but where they do they are already acceptable.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Paradis.

Mr. PARADISE: Mr. Speaker, Ladies and Gentlemen of the House: I noticed that some of the people who are speaking against the bill often urge this body to fund social service programs perhaps even beyond what we can afford. I would like to ask them in general—where are we going to find the monies to pay for all of these social programs that they would urge us to enact?

If the State of Maine is in the liquor business, it is in there for one major reason, it is a revenue producer. I am not saying that we ought to get into every revenue-producing area because we make money, but we are in the liquor business and I don't see any real movement underway for the state to get completely out of the liquor movement because we make some \$30 million directly and some \$300 million indirectly when you count excise taxes and income taxes and major corporation taxes on these businesses that are in the liquor business.

I just cannot understand the reasoning of some, although they are perfectly legitimate in raising the question, that it costs us millions of dollars to fund these social programs, some of them are worthwhile, some of them are excessive. If we don't have the revenue before us to spend, where are we going to get the money for these programs. Are we going to add on a surcharge to the income tax, are we going to tax businesses more than they ought to be taxed and make it more difficult for them to survive? Why always pick on the liquor stores, why always pick on the liquor bills that come before this body? That, I think, is one of the essential questions, one of the honest questions we ought to ask ourselves this morning when we vote on this bill.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I hesitated to get involved in the debate today, especially since it is a pretty lopsided report, but the remarks by the good gentleman from Augusta, Mr. Paradis, have instilled in me sort of a reaction, I guess, to the statement that hadn't we ought to be honest with ourselves and look at the issue. It seems to me that that really ought to be honest with ourselves, and if I caught the gist of his remarks, it was that we ought to pass this bill because we need the money. Well, I don't happen to agree with that. I think if we want to be honest with ourselves and we need the money, we ought to vote for a tax increase or we ought to vote for some other funding mechanism rather than encouraging people to consume more alcohol and to create problems that we here on a day-to-day basis are trying to eliminate.

Let's be honest and let's say what we are in

favor of and what we are against. It is not a business practice, it is a fact that we are trying to encourage people to consume and purchase more alcohol in the State of Maine so we will have some additional money. I don't think that is what we in this legislature and in the last few years have been trying to do.

I think if we need the money, we ought to say we need the money and vote for a tax increase somewhere down the line, but let's not encourage people to drink more in order to fund some additional social programs that are out there.

The banks are obviously in favor of this piece of legislation because it is going to mean more money that they are going to be able to collect on their credit cards. In addition to that, if some poor guy happens to go into a store and buy fifty or sixty dollars worth of booze and he can't pay for it, he is going to have to pay 18 percent interest, so the banks are excited about that sort of thing.

I think this piece of legislation goes against everything this House has stood for in the last four years in trying to keep people sober in the State of Maine, but, in addition to that, we tried to eliminate the alcohol abuse that exists in this state, and especially the drunk driving, that we have consistently gone on record in favor of.

Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed and I would ask for the yeas and nays.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, moves that this bill and all its accompanying papers be indefinitely postponed in non-concurrence and asks for the yeas and nays.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I think this issue here today is just a very common sense one—it deals with fair play. I don't like the arguments about generating revenues in this state because of selling alcohol. I don't like the argument on the floor of this House that it will provide money for social service programs.

I do appreciate an argument called fair play. If Mr. Higgins and those in this House who have some very valid arguments from their perspective in regards to this bill are so concerned about the idea of charging liquor on credit cards, then I would like to see Mr. Higgins and Company put a bill in here to prevent any one of us or any of our constituents from buying alcohol when they go into a restaurant for their meals. The principle is the same. If they want to extend their arguments on that very basic principle, I can applaud them for it, but if they want to have a double set of standards, whether you are buying a bottle of liquor in a state-owned liquor store, or you go into a restaurant and buy a drink with your meal, I say they are somewhat inconsistent in this House today. It is just as simple as that.

If Mr. Higgins is so concerned about, as we all are, people on the road driving after they have been drinking, most of them or a great many of them do it in public restaurants. So if he really wants to be the champion of that cause, then I submit that he should get on his horse and put an amendment either to this bill or something else, but he won't do it and you people here won't do it, so if that is the case, then I suggest that you just apply the old motion of fair play whether someone wants to go into a restaurant and purchase a drink on a credit card or he wants to go into a liquor store to buy a bottle of liquor to take home.

The SPEAKER: The Chair recognizes the gentlewoman from Bangor, Mrs. Lebowitz.

Mrs. LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: My concern is not actually with charging liquor on a card because of the harm it can do, but I believe that there could be harm done to the state.

I work in the federal court and handle filings of bankruptcy cases. In many many instances,

there would be three or four or even more credit cards with enormous amounts of money that these people had charged probably knowing that they intended to file bankruptcy. I think there is a potential for misuse of the credit card, and I think there is a potential for loss of revenue to the state, because once a bankruptcy petition is filed, there is no redress.

The SPEAKER: The Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I have lived up to the Senator now for three years and I have seen about everybody in this hall come in there and get half stewed and use their credit card and stay all night. I can't see any difference.

And talking about alcoholics, I don't believe there are too many people in the State of Maine that are alcoholic that can afford a credit card.

I know that I used to drink a fifth of liquor a day, my day was 18 hours, but I made a promise to my wife when I got married that I would quit drinking, and that was 43 years ago July 2. So I think it is up to the nut that is using the credit card whether he wants to buy that much liquor or not.

The SPEAKER: The Chair recognizes the gentleman from West Bath, Mr. Stover.

Mr. STOVER: Mr. Speaker, Ladies and Gentlemen of the House: The basic reason for this bill is greed, in my opinion; we want to expand the sale of liquor to make more money. I contend that the reason for the state being in the liquor business is not to make money primarily, but to control the problem.

The other night, I watched a replay of a hearing before a congressional committee in Washington. This had to do with regulation of the boxing industry. One of the people who testified was Floyd Patterson. He is a former heavyweight champion of the world and now he is the boxing commissioner of the state of New York. He said the three big problems they have in the state of New York was drugs, alcohol and unemployment. I like to read that our unemployment problem isn't quite as bad as some other parts of the country, drugs don't seem quite as bad here because of various reason, low density of population being one of them, and we are doing our best, hopefully, to control this alcohol problem. If we should pass this bill that is before us today, it is a step in the wrong direction. We don't need this bill, it is a bad bill.

Looking at the economic side of it, the amendment says that it is going to cost the state \$140,000 a year, that was an estimate; it could cost \$200,000 a year because, after all, we know that it isn't only tourists that are going to take advantage of this credit card, a lot of people now buying liquor and paying cash are going to be using a credit card, and a lot of those people shouldn't be using the credit card for that particular purpose.

I ran into a constituent of mine just the other day and I mentioned this bill to him and he said, oh my goodness, I hope you don't pass it. I happen to be an alcoholic. He said, I meet once a week down there in the city of Bath and about 200 of us get together and oftentimes many of us, the only thing that keeps us from going out and buying liquor is the fact that we don't have the money. He said, for goodness sake, if you have any regard for us, don't pass that bill. This is what they call a buy now, pay later bill, and it isn't a good bill as far as using it for this particular purpose.

I hope you support the motion for indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Harrison, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: It has been interesting sitting here this morning listening to the debate on this piece of legislation. I believe that it has been brought to our attention that it is permissible presently for state agency stores to accept credit cards. As my row captain here indicated, fairness is about as important as

anything else. I just feel that in the realm of everything that has been discussed this morning, that it would be fair to extend that courtesy to the state stores.

We have talked about the increase in sales, we have talked about Maine ranking eighth in the nation, we have talked about everything, I guess, around the problem.

There is a problem and everybody recognizes it, but I don't feel that by allowing state run liquor stores to make sales on credit cards is going to compound this problem. I feel that it is a decent bill, I think that everything that goes with it in honesty and fairness is there, and I would suggest that every member of this House accept the Majority "Ought to Pass" Report or vote against the pending motion of indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from St. George, Mr. Scarpino.

Mr. SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: There are a couple of things that I would like to bring out that haven't been brought out up to this point. Earlier when they were talking about the requirements that the credit card companies have on the individuals and how it would be very difficult for an alcoholic or someone who has an alcohol problem to have a credit card—the fact was ignored that alcoholism isn't like the measles, it doesn't have a short incubation period, it has a very long incubation period and it is a progressive disease. In many cases, it doesn't manifest itself until someone is in their 40's or 50's or their 60's. There is plenty of opportunity for that individual to have a credit card, to have a good credit rating and when the disease manifests itself, the individual is in a position to both abuse the card and abuse himself. Personally, I feel the abuse of the self is much more important than the abuse of the card. Money is replaceable, lives aren't.

This bill in itself, however, does present the possibility for that increased abuse and all its related problems. Accordingly, I would support the motion to indefinitely postpone and would hope that everyone else on this floor would.

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

Mr. MURRAY: Mr. Speaker, Ladies and Gentlemen of the House: I think one point should be made very clear when we are discussing this issue. The use of a major credit card is not going to assist, educate or inhibit the problem drinker from buying alcohol. By tinkering with the means of purchasing, we are not going to either help or hurt the problem drinker. What this bill intends to do is help the majority of people who purchase alcohol to buy it in a more convenient manner. I think the issue is that simple and it should be kept in mind.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Members of the House: I felt compelled to say a few words on this. I have done some inquiring where this was before Legal Affairs and I am a member of the Legal Affairs Committee.

Over the weekend I did a lot of business with people with credit cards and I casually asked them, "Would you appreciate being able to use this to buy booze" and they said, "Heck no, I don't want to buy booze with that." One or two of them said, "My lord, my wife could tell how much I buy then because the bill comes back to the house." I have talked to a lot of other people that didn't have a credit card and they didn't think it was a very good idea, so if the people who have the credit cards that I talked with didn't want it and the other people didn't want it either, I feel compelled to vote for indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Brodeur.

Mr. BRODEUR: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I would like to answer a few of the questions. One of them

was made by Representative Paradis and he asked, how much is the cost? He said the state generated about \$30 million in revenues and \$300 million in revenues indirectly, but the cost of alcoholism in this state has been accounted at about \$700 million conservatively. So in terms of economic costs, we are losing also, not counting the social costs.

Another fact, half of the alcohol purchased in the state is made by a small percentage of people, people who use it at a higher rate than most other people. And in answer to the challenge made by Representative Kelleher, I would be glad to put in a bill to prevent the use of credit cards for the purchase of alcohol to make it consistent.

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 in favor of a roll call 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 pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Anderson, Baker, Bell, Benoit, Bonney, Bost, Brodeur, Brown, A.K.; Callahan, Carrier, Carroll, D.P.; Clark, Connors, Connolly, Cooper, Cox, Crowley, Curtis, Daggett, Davis, Day, Dexter, Diamond, Drinkwater, Dudley, Foster, Gauvreau, Gwadosky, Hayden, Higgins, L.M.; Ingraham, Joyce, Kilcoyne, LaPlante, Lebowitz, Lisnik, Livesay, Locke, MacBride, Martin, A.C.; Masterman, Matthews, K.L.; Matthews, Z.E.; McHenry, Michael, Mitchell, E.H.; Mitchell, J.; Murphy, Norton, Paradis, E.J.; Parent, Paul, Pines, Reeves, J.W.; Richard, Ridley, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Strout, Thompson, Walker, Webster, Wentworth, Weymouth, The Speaker.

NAY—Ainsworth, Andrews, Armstrong, Beau-lieu, Bott, Brannigan, Brown, D.N.; Cahill, Carroll, G.A.; Cashman, Chonko, Conary, Cote, Crouse, Dillenback, Erwin, Greenlaw, Hall, Handy, Hickey, Higgins, H.C.; Hobbins, Holloway, Jackson, Jalbirt, Joseph Kane, Kelleher, Kelly, Ketover, Kiesman, Lehoux, Lewis, MacEachern, Macomber, Manning, Martin, H.C.; Maybury, McCollister, McGowan, McPherson, McSweeney, Melendy, Michael, Moholland, Murray, Nadeau, Nelson, Paradis, P.E.; Perkins, Perry, Pouliot, Racine, Reeves, P.; Roberts, Roderick, Rolde, Rotondi, Salsbury, Soucy, Soule, Stevens, Swazey, Tammara, Telow, Theriault, Tuttle, Vose, Zirnkliton.

ABSENT—Brown, K.L.; Carter, Jacques, Mahany, Masterton, Randall, Willey.

Yes, 73; No, 69; Absent, 7; Vacant, 2.

The SPEAKER: Seventy-three having voted in the affirmative and sixty-nine in the negative, with seven being absent and two vacant, the motion does prevail.

Sent up for concurrence.

Messages and Documents

The following Communication: (S. P. 473)

111th Maine Legislature

April 7, 1983

Honorable Ronald Usher
Honorable Robert A. MacEachern
Chairmen
Joint Standing Committee on
Fisheries and Wildlife
State House
Augusta, Maine 04333
Dear Chairmen Usher and MacEachern:

Please be advised that today Governor Joseph E. Brennan nominated Carroll York of West Forks for appointment to the Inland Fi-

sheries and Wildlife Advisory Council.

Pursuant to Title 12 MRSA Section 7033, this nomination will require review by the Joint Standing Committee on Fisheries and Wildlife and confirmation by the Senate.

Sincerely,
S/GERARD P. CONLEY
President of the Senate
S/JOHN L. MARTIN
Speaker of the House

Came from the Senate read and referred to the Committee on Fisheries and Wildlife.

In the House, was read and referred to the Committee on Fisheries and Wildlife in concurrence.

The following Communication: (S. P. 474)

111th Maine Legislature

April 7, 1983

Honorable Judy C. Kany
Honorable Donald M. Hall
Chairs
Joint Standing Committee on Energy
and Natural Resources
State House
Augusta, Maine 04333
Dear Chairs Kany and Hall:

Please be advised that today Governor Joseph E. Brennan nominated Kim Matthews of Freeport for appointment to the Board of Environmental Protection.

Pursuant to Title 38 MRSA Section 341, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

Sincerely,
S/GERARD P. CONLEY
President of the Senate
S/JOHN L. MARTIN
Speaker of the House

Came from the Senate read and referred to the Committee on Energy and Natural Resources.

In the House, was read and referred to the Committee on Energy and Natural Resources in concurrence.

Petitions, Bills and Resolves Requiring Reference

The following Bills were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Education

Bill "An Act Relating to School Boards" (H. P. 1096) (Presented by Representative Brown of Gorham)

(Ordered Printed)
Sent up for concurrence.

Health and Institutional Services

Bill "An Act to Allow Retailers to Sell Prison Made Items" (Emergency) (H. P. 1097) (Presented by Representative Manning of Portland) (Cosponsors: Representative Melendy of Rockland and Senator Gill of Cumberland) (Submitted by the Department of Corrections pursuant to Joint Rule 24)

(Ordered Printed)
Sent up for concurrence.

Orders

On motion of Representative McSweeney of Old Orchard Beach, it was

ORDERED, that Representative Darryl Brown of Livermore Falls be excused April 12th and 13th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Roger Pouliot of Lewiston be excused April 14th through April 19th for personal reasons.

House Reports of Committees Unanimous Ought Not to Pass

Representative Perry from the Committee on Legal Affairs on Bill "An Act Relating to Private Security Guards" (H. P. 960) (L. D. 1241) reporting "Ought Not to Pass"

Representative Swazey from the Committee on Legal Affairs on Bill "An Act Concerning the Date of Celebration of Independence Day" (H. P. 959) (L. D. 1240) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative Pouliot from the Committee on Business Legislation on Bill "An Act Concerning Advertising by Chiropractors" (H. P. 875) (L. D. 1129) reporting "Leave to Withdraw"

Representative Baker from the Committee on Public Utilities on Bill "An Act to Clarify Utility Financing of Energy Conservation" (H. P. 202) (L. D. 246) reporting "Leave to Withdraw"

Representative Higgins from the Committee on Taxation on Bill "An Act to Increase the Premium on Liquor for Alcoholism Prevention, Education, Treatment and Research" (H. P. 35) (L. D. 40) reporting "Leave to Withdraw"

Representative Swazey from the Committee on Legal Affairs on Bill "An Act Concerning the Value of Prizes that may be Awarded on Beano" (H. P. 774) (L. D. 1004) reporting "Leave to Withdraw"

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

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought Not to Pass" on Bill "An Act to Amend the Annual Review of Fees Law" (H. P. 219) (L. D. 267)

Report was signed by the following members:

Senators:

BUSTIN of Kennebec
CARPENTER of Aroostook
GILL of Cumberland

— of the Senate.

Representatives:

BRODEUR of Auburn
RICHARD of Madison
NELSON of Portland
MELENDY of Rockland

— of the House.

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

Report was signed by the following members:

Representatives:

CARROLL of Gray
PINES of Limestone
WEBSTER of Farmington
SEAVEY of Kennebunkport
MAYBURY of Brewer
MANNING of Portland

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, I move that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: This is my bill and I would like to briefly give you some background on it, and at that point, after I do, I am going to go along with the gentlelady from Portland with the "Ought Not to Pass" Report.

This bill was originally put in, as we put in quite often some bills, to force the bureaucracy to do something that they ought to do anyway. As a result of the pressure of having this bill put in, and it deals with the review of fees under the Medicaid Law and the rights of the providers of services under Medicaid to review these fees, we have a memorandum from James Lewis, Director of the Bureau of Medical Services in the Department of Human Services, saying he would take care of the objections

that this bill intended to relieve.

He writes in his memorandum: As an alternative to enactment, if the fee review schedule were to provide for earlier document availability and feedback from the Bureau to the professional associations, that would satisfy their complaints.

Being of suspicious mind, I would like to read into the record the annual review of fees schedule that was promised by Mr. Lewis and the Department so that it will be on record that they have agreed to do this, and then I will be perfectly happy to go along with the Majority Report.

They set as a date April 1, 1983—announcement of annual fee review schedule to representative provider associations; April 1-30, 1983, notice of annual fee review schedule to individual providers; May 1-31, 1983, Meetings between representative provider associations and the Bureau of Medical Services; June 15, 1983, Bureau of Medical Services early feedback to provider associations on provider input; August 1, 1983, annual fee review report available to representative provider associations. So with that now in the record, and we will be monitoring this to make sure that the department does do what they say and have promised they are going to do, I would now go along with the Majority "Ought Not to Pass" Report.

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

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" on Bill "An Act to Remove the Sunset Provision for Home Health Care Providers in the Certificate of Need Law" (H. P. 611) (L. D. 759)

Report was signed by the following members:

Senators:

BUSTIN of Kennebec
GILL of Cumberland
CARPENTER of Aroostook

— of the Senate.

Representatives:

MANNING of Portland
CARROLL of Gray
BRODEUR of Auburn
NELSON of Portland
RICHARD of Madison
MAYBURY of Brewer
MELENDY of Rockland
PINES of Limestone

— of the House.

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

Report was signed by the following members:

Representatives:

WEBSTER of Farmington
SEAVEY of Kennebunkport

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Majority "Ought to Pass" Report.

Very simply, those of us who have been here for awhile understand the purpose of Certificate of Need and the word is "need"—and that this health agency service should fall under the same category as other health services.

Last year, in 1982 alone, \$7.25 million was saved to the state of Maine because of the Certificate of Need process.

I urge the passage of this bill.

The SPEAKER: The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: Today, we have before us a bill better titled, "How to, by Joe Stalin."

Last year, its sponsor, both legislative

chairmen, the lobbyist for the non-profit agencies, the Department of Human Services, the private health sector and myself agreed to include Home Health Care Services under the Certificate of Need only until a licensure bill could be written and passed.

Last November and again in December, the lobbyists assured me that they were wrapping up the bill. In January, I was assured it would be printed right soon. Well, I guess they were wrapping it all right.

So, lo and behold, what do we have before us? The means to assure no future competition. The several big health service companies have their services in place and have joined the non-profit agency association. We now have a big sister association in bed with our big brother Department of Human Services, and the question the elderly, who are the prime users of our home health services, are asking is: "Why do we have an Alice in Wonderland Committee?"

The statement was documented last year that the non-profit agencies were charging as high as \$30 per hour for their services, that the private health agencies could return their owners a profit by charging as little as \$6 and certainly no more than \$10 an hour. So I wonder, now that the private sector has joined the sisterhood, if their prices are now sufficiently high that they no longer endanger the nonprofit agencies with their astronomical pricing which supports their bloated management costs.

Are you aware of what Certificate of Need does? It stifles competition. To start a service or to expand one, you have to prove to the Department of Human Services that an area needs a service. I have been assured that the extent is not known; that your services will not endanger one that is already in place—in other words, you must not create competition and lower the cost per hour to our elderly—that you will not fail; service without income. To receive a Certificate of Need can take months, even years, and it may cost thousands of dollars. From my own experience with a constituent, I found that personality conflicts with department personnel can smoulder for years and erupt in roadblock after roadblock for an application.

My good colleagues on the Health and Institutions Committee, who make up the majority of this report, serve on a committee which oversees the mammoth department of Human Services, a department which consumes \$364 million, an increase of \$62 million since 1980, have lost sight of the very people who look to them to protect them from the bureaucratic empire builders.

Who is going to be hurt by removing competition from the market? Fellow members of the House, you met them, you sat and talked to them when you were last campaigning, their sons and daughters have married and moved to another city or out of the county, they are now alone, or if they are lucky, they still have one another and they want to stay in their own homes, their homes where their children were born and grew while Dad went off to war. They faced recession after recession, resulting in double digit inflation, which has dwindled their savings, now they need someone to help with the housework, to administer to their aches and pains, but they cannot afford \$30 an hour. Do you realize that that is 50 percent more than the government paid Dad when he went off to fight the war?

Let us consider what the private sector can do for this couple, or should I say could have done before somebody corrupted somebody.

If you leave competition in the marketplace, prices for services will be brought down to a reasonable level. Health care provider companies will spring up all over Maine and those who need the service will be better able to afford it. Jobs will be created and non-profit agencies will be forced to reduce their bloated

management costs or get out of the public trough. We will see even smaller home health care providers with fewer frills to services those whom the first entries into the market place don't wish or cannot afford to serve.

But if we burden this industry in its infancy with Certificate of Need, it will be strangled by bureaucratic red tape and only one third of the people will benefit who could otherwise receive help in maintaining their dignity in their autumn years.

Join with me in defeating this anti-elderly bill and vote no on the pending motion.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I want to first tell you one of the reasons why I am supporting this and, believe it or not, this is a rural bill. This bill will help the rural people more than it will help the urban people. Since we have gotten involved with home-based care two years ago, I have watched with great interest the classified ads and the people that Representative McCollister is trying to help out are basically advertised for just the urban areas. They are advertising for Portland, for Bangor, for Lewiston.

What this bill is trying to do is help those people, most of which I understand is rural, getting those people to be served in the rural areas. One of the things that this legislature did two years ago was pass the home-base care bill which is going to help out those people who want to stay in their homes, and with Certificate of Need on these, we want to make sure that these proprietors, these people who are coming in for profit, if they are going to serve Portland, I want them to also serve Bridgton, Harrison and Jackman. These are the areas that really need it because the proprietors, since this bill went into effect two years ago, have sprung up in the Portland area; yet, they don't want to go any further because it costs them more money to go to the rural areas. So if you are really interested in helping the rural areas and your constituents, then I hope you will go along with the gentleday from Portland, Mrs. Nelson.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Brodeur.

Mr. BRODEUR: Mr. Speaker, Members of the House: What this bill does is one thing — it removes the sunset provision of something that already exists, so we have some example of what is going on. Certificate of Need does four things: It assesses whether there is a public need; whether there is sufficient level of competence to carry out that activity; whether there is sufficient financing available and whether the overall costs of such services to the health care system is reasonable in relation to the economic market.

We have two good examples of how that works. In the midcoast area, there was an agency that was granted a Certificate of Need because they showed all the conditions; in the Lewiston area, there is an agency whose Certificate of Need application is on hold because the financing mechanism is not stable, and until that proposed agency can stabilize their finances, it is not in the best interest to start a health agency where people will be cut off from that health agency.

I put in this bill to assure that health care be made available to areas throughout the state to assure the rural areas and low-income elderly receive care. Presently, home health agencies which are to be started by a hospital or a nursing home will have to have a Certificate of Need in any case, and if a home health agency is Medicare certified, it must serve all the people regardless of ability to pay. If the home health agency who is Medicaid certified has some problems in supporting its program or an agency that is not competent, who doesn't meet a need, comes into an urban area and undercuts, for instance, one service, that agency's overhead will be higher because they

will only serve those people that are low income and elderly and have a low ability to pay. The people who will be cut off are not the people in the urban area first, but the low income and the rural areas because of the high overhead and the fact that they can't pay.

This bill will assure there is not a duplication. It won't say that if there is additional need that there won't be another agency because that happened in the mid-coast area, but it prevents some group that doesn't have their act together yet to start an agency.

The SPEAKER: The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: The basic problem with Certificate of Need is political. It is the impact of politics on the economic system, our lives, our families, our health and our very freedom. Unless we free the home health care system of this political interference, the free enterprise system can never save the elderly from being economically manipulated by the bureaucrats here in Augusta. Certificate of Need is not an economic issue, as some would have you believe, it is a moral, intellectual and a political issue that has devastating economic and social consequences.

We must confront the long-range implications of what we are doing to our elderly and eventually to ourselves. Unless we stop this continued grab for power now, we face rampaging socialism with all the evils it entails. The evils that beset us are not inevitable, they are not the nature of things or are they imposed upon us by events. On the contrary, the economic woes of the health field have been the result of human error, of indecision stemming from mistaken philosophy, political timing and tunnel vision on the part of the empire builders. Most of all, our gravest problem at this hour results from power exerted over public policy by a handful of dangerous socialists. Yes, a case can even be made that these advocates of government controlled health care are installing basic communistic philosophy in the Maine law.

I ask you to say no to further inroad of Marxism and defeat the pending motion.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Portland, Mrs. Nelson, 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.
66 having voted in the affirmative and 39 in the negative, the motion did prevail.

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

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" on Bill "An Act to Amend the Probate Fees" (H. P. 714) (L. D. 905)

Report was signed by the following members:
Senators:

VIOLETTE of Aroostook
TRAFTON of Androscoggin
— of the Senate.

Representatives:

FOSTER of Ellsworth
LIVESAY of Brunswick
HAYDEN of Durham
DRINKWATER of Belfast
HOBBS of Saco
SOULE of Westport
— of the House.

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

Report was signed by the following members:
Senator:

COLLINS of Knox
— of the Senate.

Representatives:

CARRIER of Westbrook
REEVES of Newport

BENOIT of South Portland
JOYCE of Portland

— of the House.

Reports were read.

On motion of Mr. Hobbins of Saco, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

Consent Calendar First Day

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

(H. P. 548) (L. D. 700) Bill "An Act to Amend the Definition of Hospital in the Maine Health and Higher Educational Facilities Authorities Act" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended in Committee Amendment "A" (H-124)

(H. P. 818) (L. D. 1058) Bill "An Act to Amend the Maximum Fee for Applications and to Clarify the Basis for the Annual Assessment of Financial Institutions" — Committee on Business Legislation reporting "Ought to Pass"

(H. P. 859) (L. D. 1109) Bill "An Act to Amend the Motor Vehicle Racing Law" — Committee on Legal Affairs reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of April 12 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. 603) (L. D. 751) Bill "An Act to Exempt Clustered Single Family Subdivisions from the Maine Condominium Act"

(H. P. 700) (L. D. 889) Bill "An Act to Amend the Procedure for Assessing Surveying Costs in Court Cases"

(H. P. 804) (L. D. 1044) Bill "An Act Relating to the Maine Municipal and Rural Electrification Cooperative Agency" (C. "A" H-122)

(S. P. 298) (L. D. 912) Bill "An Act to Improve the Administration of Agricultural Fairs" (C. "A" S-47)

(H. P. 847) (L. D. 1097) Bill "An Act Eliminating the Responsibility of the State Planning Office to Prepare an Annual Housing Report"

(H. P. 862) (L. D. 1111) Bill "An Act to Amend the Competitive Bidding Procedure to Allow Negotiation for Petroleum Product Procurement" (Emergency)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was passed to be engrossed as amended in concurrence and the House Papers were passed to be engrossed or passed to be engrossed as amended and sent up for concurrence.

Passed to Be Engrossed

Bill "An Act Concerning Visitation Rights for Parents and 3rd Persons with Children Involved in Divorce or Custody Proceedings" (H. P. 1091) (L. D. 1433)

RESOLVE, Providing for a Study of a Maine Product Marketing Strategy and a Maine Business Product Logo (Emergency) (H. P. 1095) (L. D. 1437)

Were reported by the Committee on Bills in the Second Reading, read the second time, the House Papers were passed to be engrossed and sent up for concurrence.

Amended Bill

RESOLVE, Authorizing Gerald Pelletier to Bring Civil Action Against the State of Maine (S. P. 51) (L. D. 144) (S. "A" S-43)

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 concurrence.

Passed to Be Enacted

An Act Relating to Hunting and Fishing by Disabled Persons (H. P. 266) (L. D. 326) (C. "A" H-96)

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.

Orders of the Day

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

Bill "An Act to Provide for the Continued Operation of the Maine Occupational Information Coordinating Committee and Include an Economic Data-based System for Economic Development within the Committee's Designated Responsibilities" (H. P. 1093)

Tabled—April 8, 1983 by Representative Carter of Winslow.

Pending—Reference.

On motion of Mr. Kelleher of Bangor, the Bill was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

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

An Act Pertaining to the Political Rights of State Employees (S. P. 439) (L. D. 1318) (S. "A" S-42)

Tabled—April 8, 1983 by Representative Nadeau of Lewiston.

Pending—Passage to be Enacted.

On motion of Mr. Gwadosky of Fairfield, retabled pending passage to be enacted and tomorrow assigned.

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

An Act to Prohibit Shooting within 100 Yards of any Dwelling During Hunting Season. (H. P. 167) (L. D. 198) (C. "A" H-90)

Tabled—April 8, 1983 by Representative MacEachern of Lincoln.

Pending—Motion of Representative Armstrong of Wilton to Indefinitely Postpone Bill and All Accompanying Papers. (Roll Call Requested)

The SPEAKER: The Chair recognizes the gentleman from Auburn, Miss Lewis.

MISS LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: We have debated this bill on several occasions before and I do not really understand what the big hangup with this piece of legislation is.

By current law, hunters are restricted from coming up within 100 feet from your house. All that this bill does is move them an extra 200 feet, that is up to 100 yards from your own house.

As probably most of you know, in congested areas of the state, the various cities and towns have passed ordinances so that there isn't any hunting permitted there at all. It is in the rural areas where hunters all of a sudden might appear walking right across your lawn and shooting something. All that this bill does is protect those people who are in the rural areas where hunting is permitted from having guns being shot right at them when they are out on the lawn raking leaves or hanging clothes on the line. This is simple protection so that those who hunt can still enjoy their privileges but those that are living in their homes during hunting season are still allowed to go outside and enjoy the beautiful falls days in Maine.

I hope that you will vote against this motion so that we can pass this good bill on to be enacted.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Armstrong.

MR. ARMSTRONG: Mr. Speaker, Ladies and Gentlemen of the House: I rise to speak on this bill again and I will try not to repeat everything I said last week. I am sure that nobody wants to hear my porcupine hunting story again. I am glad that Representative Lewis is back because

I certainly believe she ought to have her day on the floor of the House. I would also like to note that she should be congratulated for having had a doctoral thesis approved and will be a June candidate for a PhD. So I am arguing with a doctor here this morning.

There are several reasons why I think this bill should be killed. First off, those that we charge with enforcing fish and game laws, the warden service, believe that this law is unenforceable. I would ask any of you to walk into the woods a hundred yards and be able to tell me where the hundred yard mark is. Most of us, when we are walking in the woods, think we have walked a hundred yards when in fact we have only walked 50 or 70 yards.

I don't believe that the courts will convict someone for violating an imaginary line in the woods a hundred yards from anybody's residence. We have a current law that says a hundred feet; I think it is working well. There are all kinds of laws besides this law saying that you can't shoot at anybody or shoot at their dwelling.

There are other problems with this law in regard to seasonal dwellings, hunting camps and this type of thing. I am not sure when the L.D. says "dwelling" if they mean seasonal dwellings, hunting camps, or year-round dwellings.

I don't think we ought to clutter up our statutes with unenforceable laws, regardless of the intent of the law.

I think the real problem I have also is the fact that this bill, with the committee amendment, and I pointed this out the other day, you can discharge a gun, hunting or otherwise, within 10 feet of someone's dwelling if you are on your own land. The original bill, which is a very short one, simply changes the law from 100 feet to 100 yards. It says a person is guilty of discharging firearms near a dwelling if he discharges a firearm within a hundred feet of a residential dwelling without the permission of the owner or in his absence an adult occupant of that dwelling. Representative Lewis' bill changes that to a hundred yards.

The committee amendment says that this amendment excepts a person from the provisions of this subsection if he or his guest is discharging the rifle or handgun on property owned by him. In other words, not even the 100-foot limitation would apply if people passed this bill with the amendment. If I am standing on my own land and this bill passes as amended, I am on my own land but within 10 feet of Representative Foster's dwelling, I can shoot a gun and there isn't anything you can do about it. I think we have a reasonable law in the current law of 100 feet. I think 100 yards is unenforceable. I think this bill, with its amendment, not only doesn't eliminate what some see as a problem but in fact it can put the hunter, as Representative Crowley said, right under your bathroom window, shooting out, if in fact he owns land up to your bathroom window, which, of course, is more true in the built up sections maybe than in the rural sections.

I don't know what else I can say. The bill is very short and sweet, the amendment is very short and sweet. I think it is unenforceable, the wardens say it is unenforceable, and I can't see us putting an unenforceable law on the books of the State of Maine.

I urge your support in voting to postpone this bill and all its accompanying papers.

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Smith.

MR. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: This law is already on the books and all we are doing is changing it from feet to yards. I think Mr. Armstrong's problem is more with the law now than it is the L.D. that we are discussing here.

We really are not having a problem with the neighbors, as was suggested, the problem is with the hunters coming into our neighborhood and shooting. Changing the distance from feet to yards makes sense. One hundred

feet, as was pointed out, is not very far; 100 yards may not be very far either, but I would feel better 100 yards away than 100 feet with someone shooting at me, even if it was Representative Jacques.

I hope you will vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Paradis.

MR. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I think this is a good bill. I live in the woods and I can assure you that we are not troubled by our neighbors, it is strangers coming around. My discussion with law enforcement officers, including the game wardens, say it will be no more difficult to enforce the 100 yards than it will the present 100 feet. I think we ought to protect our families and our properties from these people who have no concern as to where they are in the discharging of weapons. Weapons are made to kill and they will kill in houses as well as outside of houses.

I urge you not to support this motion to indefinitely postpone this morning.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

MR. MACEachERN: Mr. Speaker, Ladies and Gentlemen of the House: I wholeheartedly agree with the arguments put forth by Mr. Armstrong. I see no reason for my repeating them. I tried to do it a couple of times before and was very unsuccessful, but I just feel that this bill is unenforceable, unnecessary and I think that the law we have on the books now is sufficient to take care of this. If it isn't, any town or city or village or anybody else in the state who wants to can pass an ordinance to prevent shooting of firearms within the built up area and that will take care of it pretty much.

I would urge you would go along with the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Miss Lewis.

MISS LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The hunters in this state are putting us into a terrible predicament. On the one hand, they say that they should be able to cross our lawns and hunt within a hundred feet of our houses. When this bill was first put in which changed this to a hundred yards, the hunters said, but wait a minute, what if we want to do some target shooting on our own property that is closer than that to someone else's house? So those of us who put in the bill said, well, yes, there is room for compromise, the hunters and the non-hunters should be able to live together in peace, so we agreed to an amendment in which people on their own property could do as they pleased.

On the first day of debate, the gentleman from Wilton, I believe, started complaining about porcupines eating his porch and said, I won't be able to shoot them because I am close to my neighbors. I believe that those of us in favor of the bill pointed out that the amendment covered his problem.

In the next day of debate, the gentleman from Wilton suddenly is saying that the amendment is terrible, the original bill is what we really should have. In other words, they are not going to like it with the amendment; they are not going to like it without the amendment, but there is a real problem out there. The problem is not in the congested areas of Maine, the problem is on those rural roads that have houses scattered up and down those roads. The hunters are in the woods behind the houses, they suddenly appear in the yard of the house shooting, for example, one of my constituent's horses or another constituent's barn—not one of my constituents, somebody else's constituent's barn.

The question is, do we want these hunters right in our yards or do we want them just a few more feet away from our houses? I believe that we can all live in peace. I believe that the

hunters and non-hunters can really get along in Maine, but unless the non-hunters have civil protection to keep the hunters away from their doorstep, I don't believe we will be able to live in peace.

For those reason, I hope we can pass this bill on to be enacted by defeating the indefinite postponement motion.

The SPEAKER: The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: I thought the other day that this bill had been thoroughly debated and I was quite satisfied with the outcome, but today it is back with us and most everything has been covered.

I happen to be one of the awful people in someone's mind that is a hunter; yet, I am supporting this 300-yard provision. I have had more of my people, particularly in the rural areas, pleading with me over the past seven years to get through some kind of a bill that wouldn't have people shooting right close to the house, and this is it.

But now, as a hunter, I want to tell you the concern that I have. Those people have a provision right within their power, which I have told them about, and some of them have already done this—all they have to do is, the land that they own adjacent to their building, and it may be several hundred acres, it may a thousand acres, they post that land and they take it away from me as a hunter.

I hope you will vote against the indefinite postponement motion this morning.

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 pending question is on the motion of Mr. Armstrong of Wilton that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Anderson, Armstrong, Baker, Bell, Brannigan, Brown, D.N.; Clark, Conary, Connolly, Cote, Cox, Davis, Diamond, Drinkwater, Erwin, Gauvreau, Hall, Hayden, Hickey, Hobbins, Ingraham, Jackson, Joseph, Kelleher, Kilcoyne, Lehoux, MacEachern, Manning, Martin, H.C.; McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Moholland, Murray, Nadeau, Paradis, P.E.; Parent, Pouliot, Racine, Reeves, J.W.; Roberts, Roderick, Rotondi, Smith, C.W.; Soule, Stevens, Strout, Tammaro, Theriault, Tuttle, Vose, Webster.

NAY—Ainsworth, Andrews, Beaulieu, Benoit, Bonney, Bost, Bott, Brodeur, Brown, A.K.; Cahill, Callahan, Carrier, Carroll, D.P.; Carroll, G.A.; Cashman, Chonko, Connors, Cooper, Crouse, Crowley, Curtis, Daggett, Day, Dexter, Dillenback, Dudley, Foster, Greenlaw, Gwadlosky, Handy, Higgins, H.C.; Higgins, L.M.; Holloway, Jalbert, Joyce, Kelly, Ketover, Kiesman, LaPlante, Lebowitz, Lewis, Lisnik, Livesay, Locke, MacBride, Macomber, Martin, A.C.; Masterman, Matthews, K.L.; Matthews, Z.E.; Maybury, McPherson, Mitchell, J.; Murphy, Nelson, Norton, Paradis, E.J.; Paul, Perkins, Pines, Randall, Richard, Ridley, Rolde, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Soucy, Sproul, Stevenson, Stover, Swazey, Telow, Thompson, Walker, Wentworth, Weymouth, Zirkilton.

ABSENT—Brown, K.L.; Carter, Jacques, Kane, Mahany, Masterton, Perry, Reeves, P.; Willey, The Speaker.

VACANT—Mayo, Studley.

Yes, 58; No, 81; Absent, 10; Vacant, 2.

The SPEAKER: Fifty-eight having voted in

the affirmative and eighty-one in the negative, with ten being absent and two vacant, the motion does not prevail.

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

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

House Divided Report — Majority (12) "Ought to Pass" in New Draft (H. P. 1088) (L. D. 1415) — Minority (1) "Ought Not to Pass" Committee on Judiciary on Bill "An Act Relating to Justices and Judges of the Supreme Judicial, Superior and District Courts" (Emergency) (H. P. 73) (L. D. 78)

Tabled—April 8, 1983 by Representative Hobbins of Saco.

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

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

Mr. CARRIER: Mr. Speaker, last week I wanted to table this and I wasn't allowed to table it. This is the confusing part of it, but I will test it again.

Reluctantly, I move that we table this for one day.

The SPEAKER: The Chair would advise the gentleman that he has debated the issue.

Whereupon, on motion of Mr. Hobbins of Saco, tabled pending the motion of the same gentleman to accept the Majority Report and tomorrow assigned.

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

Bill "An Act to Expand the Tourism Promotion Program" (Emergency) (S. P. 451) (L. D. 1372) (In Senate, referred to the Committee on Appropriations and Financial Affairs).

Tabled—April 8, 1983 by Representative Gwadlosky of Fairfield.

Pending—Reference in concurrence.

On motion of Mr. Gwadlosky of Fairfield, the Bill was referred to the Committee on State Government in non-concurrence and sent up for concurrence.

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

Bill "An Act to Provide for State Service Payments to Municipalities in which State-owned Buildings are Located" (H. P. 1085)

Tabled—April 8, 1983 by Representative Carter of Winslow.

Pending—Reference.

On motion of Mr. Jalbert of Lewiston, the Bill was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

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

Bill "An Act Relating to Business, Travel or Recreation on Sunday" (S. P. 29) (L. D. 84)

In House, Passed to be engrossed as amended by Committee Amendment "A" (S-38) and House Amendment "C" (H-108) on March 31.

In Senate—Insisted on its previous action whereby the bill was passed to be engrossed as amended by Committee Amendment "A" (S-38) in non-concurrence.

In House, Recede and Concurred.

Tabled—April 8, 1983 by Representative Baker of Portland.

Pending—Motion of same gentleman to Reconsider Receding and Concurring.

On motion of Mr. Brannigan of Portland, tabled pending the motion of Mr. Baker of Portland to reconsider receding and concurring and tomorrow assigned.

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

Mr. KANE: Mr. Speaker, is the House in pos-

session of House Paper 1023, L.D. 1324, An Act to Prohibit Hazing at Post-secondary Institutions?

The SPEAKER: The Chair would answer in the affirmative, having been held at the gentleman's request.

Mr. KANE: Mr. Speaker, having voted on the prevailing side, I move that we reconsider whereby this bill was passed to be enacted and further move that we table this for one legislative day.

Thereupon, on motion of Mr. Kane of South Portland, tabled pending his motion to reconsider whereby the Bill was passed to be enacted and tomorrow assigned.

(Off Record Remarks)

On motion of Mr. Carroll of Gray, Adjourned until nine o'clock tomorrow morning.