

# MAINE STATE LEGISLATURE

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# **LEGISLATIVE RECORD**

OF THE

## ***One Hundred and Eleventh Legislature***

OF THE

**STATE OF MAINE**

### **Volume II**

**FIRST REGULAR SESSION**

**May 16, 1983 to June 24, 1983**

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**HOUSE**

Wednesday, May 25, 1983

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

Prayer by the Reverend Paul Sparacio of Wilton United Methodist Church.

The journal of yesterday was read and approved.

**Papers from the Senate**

The following Communication:  
The Senate of Maine  
Augusta

May 24, 1983

Honorable Edwin H. Pert  
Clerk of the House  
111th Legislature  
Augusta, Maine 04333  
Dear Clerk Pert:

In reference to the action of the Senate May 23, 1983, whereby the Senate Insisted and Joined in a Committee of Conference on "An Act Relating to Drinking in Public" (S. P. 420) (L. D. 1273).

The Chair appointed as conferees on the part of the Senate:

The Senator from:  
Androscoggin — Senator Charette  
Aroostook — Senator Carpenter  
Waldo — Senator Shute

Sincerely,  
S/JOY J. O'BRIEN  
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:  
The Senate of Maine  
Augusta

May 24, 1983

Honorable Edwin H. Pert  
Clerk of the House  
111th Legislature  
Augusta, Maine 04333  
Dear Clerk Pert:

In reference to the Action of the Senate May 20, 1983, in which the Senate Insisted and Asked for a Committee of Conference on Resolution, Proposing an Amendment to the Constitution of Maine to Provide that Senators shall Serve Four Year Terms Commencing in 1986" (S. P. 62) (L. D. 168)

The Chair appointed as Conferees on the part of the Senate:

The Senator from:  
Aroostook — Senator Violette  
Penobscot — Senator Baldacci  
York — Senator Hichens

Sincerely,  
S/JOY J. O'BRIEN  
Secretary of the Senate

The Communication was read and ordered placed on file.

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

Report of the Committee on Agriculture reporting "Ought Not to Pass" on Bill "An Act to Change the Seed Potato Board" (S. P. 249) (L. D. 795)

Was 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 Taxation on RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Tree Growth Tax Law (Emergency) (S. P. 414) (L. D. 1261) reporting "Ought to Pass" in New Draft (S. P. 580) (L. D. 1676)

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 and the New Draft read

once. Under suspension of the rules, the New Draft was read the second time and passed to be engrossed in concurrence.

**Divided Report**

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Require Motorcycle Driver Education Prior to Licensure to Operate a Motorcycle" (S. P. 364) (L. D. 1119)

Report was signed by the following members:

Senator:  
EMERSON of Penobscot — of the Senate.

Representatives:  
STROUT of Corinth  
THERIAULT of Fort Kent  
MACOMBER of South Portland  
McPHERSON of Eliot  
CALLAHAN of Mechanic Falls  
MOHOLLAND of Princeton  
CARROLL of Limerick — of the House.

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

Report was signed by the following members:

Senators:  
DANTON of York  
DIAMOND of Cumberland — of the Senate.

Representatives:  
CAHILL of Woolwich  
REEVES of Pittston  
NADEAU of Lewiston — of the House.

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted. In the House: Reports were read.

Mr. Carroll of Limerick moved that the Majority "Ought Not to Pass" Report be accepted.

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

A vote of the House was taken.

76 having voted in the affirmative and 32 having voted in the negative, the motion did prevail.

**Non-Concurrent Matter**

Bill "An Act to Increase Funding Allocation for the Bureau of Air Quality Control for Fiscal Year 1983" (Emergency) (H. P. 1258) (L. D. 1679) which was referred to the Committee on Energy and Natural Resources in the House on May 23, 1983.

Came from the Senate referred to the Committee on Appropriations and Financial Affairs in non-concurrence.

In the House: The House voted to recede and concur.

**Messages and Documents**

The Following Communication: (H. P. 1274)

Department of Energy  
Chicago Operations Office  
9800 South Cass Avenue  
Argonne, Illinois 60439

May 13, 1983

Honorable John L. Martin  
Speaker of the House of

Representatives of  
the State of Maine  
Augusta, Maine 04333

Dear Mr. Martin:  
Subject: Crystalline Rock Nuclear Waste  
Depository Project

On April 22, 1983, Mr. Robert Morgan, Director, Nuclear Waste Policy Act Project Office, Department of Energy (DOE), wrote to you concerning DOE's Crystalline Rock Project. At that time, he advised you that DOE would be initiating contact with state legislators concerning DOE's plans for the Crystalline Rock

Project in your state and the other sixteen states currently under study. For your information, the Department conducted a briefing, on April 14, for the Members of the Energy Committee of the National Conference of State Legislatures on DOE's overall National Waste Terminal Storage Program and on the current status and plans for the Crystalline Rock Project.

The Nuclear Waste Policy Act of 1982 (Act) requires DOE to identify sites for two deep-minded geologic repositories for disposal of high-level radioactive waste and/or spent fuel. The Act requires that the President recommend a site for the first repository to Congress by March 1987. Potentially acceptable sites for the first repository have been identified in basalt formations at the Hanford Site in Washington, tuff formations at the Nevada Test Site and salt formations in Louisiana, Mississippi, Texas and Utah. Crystalline rock formations are being considered as potential sites for the second repository. The Act requires that the President recommend a second repository site to Congress by March 1990. To date, no potentially acceptable site in crystalline rock has been identified, and DOE does not expect to make this determination before February 1984 at the earliest.

"Crystalline rock" is a general term that includes granite and other igneous and high-grade metamorphic rocks. The seventeen crystalline states currently under investigation are grouped into three Regions—North Central (Michigan, Minnesota, and Wisconsin), Northeastern (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont), and Southeastern (Georgia, Maryland, North Carolina, South Carolina, and Virginia) for the Regional Phase of the Crystalline Rock Project. The Regional Phase consists of a literature-based compilation of geologic and environmental data for each of the seventeen states being studied and this phase is nearing completion. This geologic and environmental data base is contained in draft Regional Geologic and Environmental Characterization Reports which have been prepared for each of the three regions under investigation. These draft reports (copies enclosed) characterize the geology and environment of crystalline formations in the North Central, Northeastern, and Southeastern regions and have just been transmitted to the state contact, designated by your Governor, for review and comment.

State review of these draft reports is an integral part of DOE's process for involving the states in this national program. The data base contained in these draft reports will be used in conjunction with screening criteria, based on the siting guidelines being developed by the Department pursuant to the Act, to select crystalline formations in the three regions for more intensive study in the next phase (Area Phase) of the Crystalline Rock Project. Therefore, it is important that they contain accurate and current information about your state. In order that any comments on the information on your state are integrated into our considerations, we request that state comments be forwarded to us by August 1, 1983.

After state comments have been received and evaluated, the Regional Geologic and Environmental Characterization reports will be revised and issued in final form in October, 1983.

A second set of draft documents, the Area Recommendation Report and the draft Area Characterization Plan will be provided to the state contact and to you for review during September 1983. The draft Area Recommendation Report will recommend particular geologic formations for further more intensive study and will describe the process by which they were identified. The draft Area Characterization Plan will describe how the field activities will be carried out. Similar to the review pro-

cess for the Regional Characterization Reports, these draft documents will be undergoing simultaneous review by DOE. To ensure that state concerns can be adequately addressed in the final issuance of the Area reports in February 1984, we request that state comments on these draft reports be forwarded to us by December 1, 1983. Actual field work will not be initiated before February 1984.

DOE currently plans to identify to state officials those geologic formations which appear appropriate for further study, based on the draft Area Recommendation Report, at the time of the transmittal of the draft report for state review. Notification to your Governor and state legislature of any potentially acceptable site within your state will not take place until the Area Recommendation Report is completed.

In order to assist the states in their review effort, I have previously offered to provide limited financial assistance (grants) to each of the seventeen states. Enclosed, for your information, is a copy of my letter on this matter.

Also enclosed is a copy of the briefing book used at the presentation to the National Conference of State Legislatures on April 14, 1983. It includes the material presented as well as some additional background information. Also enclosed is a copy of a final report entitled "A National Survey of Crystalline Rocks and Recommendations of Regions to be Explored for High-Level Radioactive Waste Repository Sites" (OCD-1). This report describes the geologic reconnaissance that was completed during the national survey of crystalline rocks and the decision process which resulted in recommending the North Central, Northeastern, and Southeastern regions for further study.

I recognize that the enclosed materials represent a large volume of information to be provided at one time, however, I wanted to make every effort to provide you with the information which has been given to the key state contacts to date.

The Crystalline Rock Project Office in the DOE's Chicago Operations Office is responsible for crystalline studies. Please don't hesitate to contact me (312-972-2257) or Dr. Gary C. Marshall (312-972-2241) of my staff if you wish to discuss any aspects of the project or the information provided, or if you have questions regarding our current or planned activities. I am looking forward to working with you to ensure that effective Federal-State interactions are established and maintained for this important national program.

Sincerely,  
S/SALLY A. MANN, Manager  
Crystalline Rock Project Office

The Communication was read and with accompanying Report ordered placed on file and sent up for concurrence.

#### Study Report Committee on Education

Representative Locke from the Committee on Education to which was referred by the Legislative Council the study relative to School Finance have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Revise the School Finance Act" (H. P. 1275) (L. D. 1688) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted.

Under suspension of the rules, the Bill was read twice, passed to be engrossed without reference to committee and sent up for concurrence. (Later Reconsidered)

#### Orders

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

ORDERED, that Representative Norman O. Racine of Biddeford be excused May 27 and May 31 for personal reasons.

#### House Reports of Committees Unanimous Leave to Withdraw

Representative Masterman from the Committee on Taxation on Bill "An Act to Repeal the Sales Tax Exemption for New Machinery and Equipment" (H. P. 496) (L. D. 593) reporting "Leave to Withdraw".

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

#### Ought to Pass in New Draft

Representative Moholland from the Committee on Transportation on Bill "An Act to Amend Certain Motor Vehicle Laws" (H. P. 909) (L. D. 1188) reporting "Ought to Pass" in New Draft (Emergency) (H. P. 1272) (L. D. 1686)

Representative Cooper from the Committee on State Government on Bill "An Act to Clarify the Types of Property which Pass by Deed" (Emergency) (H. P. 1176) (L. D. 1570) reporting "Ought to Pass" in New Draft (Emergency) (H. P. 1273) (L. D. 1687)

Reports were read and accepted and the New Drafts read once. Under suspension of the Rules, the New Drafts were read the second time, passed to be engrossed and sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Agriculture reporting "Ought Not to Pass" on Bill "An Act to Provide for Consumer Representation before the Maine Milk Commission" (Emergency) (H. P. 1137) (L. D. 1499)

Report was signed by the following members:

Senator:

HICHENS of York

— of the Senate.

Representatives:

SHERBURNE of Dexter

LOCKE of Sebec

PARENT of Benton

ANDERSON of Stockholm

CROUSE of Washburn

SMITH of Island Falls

— of the House.

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

Report was signed by the following members:

Senators:

ERWIN of Oxford

WOOD of York

— of the Senate.

Representatives:

STOVER of West Bath

MCCOLLISTER of Canton

MICHAEL of Auburn

— of the House.

Reports were read.

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

Mr. MICHAEL: Mr. Speaker, I move that the House accept the Minority "Ought to Pass" Report.

The SPEAKER: The gentleman from Auburn, Mr. Michael, moves that the Minority "Ought to Pass" Report be accepted.

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

Mr. SHERBURNE: Mr. Speaker and Members of the House: This bill would provide a public advocate to represent the consumers before the Maine Milk Commission. Those on the Majority "Ought Not to Pass" feel that this position is sort of unnecessary because of the composition of the commission. Probably 10 years ago, this would have been a good idea because at that time the commission was composed of a much different set of members than it is today. At that time, the commission had producers, some processors, people who were called producer processors, and two consumers. It was a commission of seven members, six from the industry, plus the Commissioner of Agricul-

ture.

A few years ago, due to pressure from the general public, I guess, the composition of the commission was changed pretty dramatically. At that time, when we changed the commission membership, only people who had no vested interest whatsoever in the dairy industry could be commission members. The new and present commission has four members appointed by the Governor who are strictly consumers.

At the time that this change was made, it was pretty scary for those in the industry but this present setup has worked very well. Even people who were opposed to the commission and were appointed to that board, once they studied the industry got a real feel for the issues that came before it, generally they have done a real good job. I think they have represented the public, they have represented the industry very well.

One problem with this bill today is the cost of it, it costs \$30,000, and that \$30,000 all comes from the dealer. It will be pretty hard for the dealer to pass this cost on because the \$30,000 comes from one cent per hundred pounds of milk which the dealer purchases and turns the one cent over to the commission. There are 45 quarts of milk in a hundred pounds, so it would be pretty hard to divide up that one cent in 45 quarts, so really the dealers can't pass this cost on very well to the consumer.

If this were to be, it seems as though the person who is public advocate, who is representing the consumer, this should come from the general fund, but instead of that, it comes strictly from the dealers.

We have squeezed our dealers almost to the point of no more squeezing. I can remember when the former got just about one half of the retail price of the milk. Today, the farmer gets about two-thirds and that difference has all come from the dealers, so the dealers have been squeezed just about to the limit.

The same public advocate that represents the consumer before the PUC would be representing the consumer before the Maine Milk Commission. It seems as though this would be spreading his duties pretty thin. Also, it seems as though if he was to spend much time before the Milk Commission, the consumers of electricity or other energy would be shortchanged a little bit before the PUC.

Ladies and gentlemen, I believe that this position really is unnecessary and I hope you will go with the "ought not to pass" motion.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: The bill before you addresses the public advocate on the Milk Commission. By law, the members of the Milk Commission can only consider in their deliberations that evidence which is presented to them in testimony in their hearings. They are not allowed to bring in or solicit information or testimony so that the public has no person representing them as such. We felt that it was necessary to represent the public in the Public Utilities Commission because of the ability of the power companies to employ legal advice; the same thing holds true within the milk industry.

The \$30,000, of course it is going to create another position in the public advocate's office, so it is not going to take manpower away from the Public Utilities Commission's work.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I sponsored this bill on behalf of Governor Brennan, and at the time I thought it was just another possible good bill but the more I got into it, I found out that it had a great deal of benefits.

Some of the problems that Mr. Sherburne raised this morning, I am sure weren't as big as he was trying to make you believe. There is a

\$30,000 price tag, it does create an additional position. It does exactly what Mr. McCollister said, it allows the public to have a permanent advocate when necessary before the commission.

The Maine Milk Commission today is limited in terms of the consumer representatives and what they can hear or what can be presented on behalf of the consumer. The public advocate's position dealing with the PUC has saved Maine consumers many millions of dollars just by their actions before the PUC. The system is basically the same, and I would submit to you here this morning that this small amount of money, which Mr. Sherburne described, is negligible in the amount of money that would be asked to fund this in terms of the overall benefit to the consumer.

I would urge you to support Mr. Michael's motion of "Ought to Pass."

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Brown.

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I have a bit of a problem with a bill like this because I happen to be one who considers that any citizen who is appointed to a board or commission such as the PUC, such as the Maine Milk Commission, the Board of Environmental Protection, and on and on, should all be public advocates, they should all be advocates for the people of the State of Maine.

I would like to ask a couple of questions if I may to anyone who may wish to respond. First of all, how many members presently make up the Maine Milk Commission; secondly, of that number, how many of those individuals are directly tied to the dairy industry in one form or another?

The SPEAKER: The gentleman from Livermore Falls, Mr. Brown, has posed a series of questions through the Chair to anyone who may care to answer.

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

Mr. SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: The present commission is made up of four members. None of them can have any vested interest in the dairy industry whatsoever. They are strictly consumers.

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

Mr. SMITH: Mr. Speaker and Members of the House: I oppose this bill for one reason and one reason only. What does a public advocate represent? Who does he represent? I believe he should be representing the people. When this attorney was asked if he had a problem with the Governor on an issue, what would he do? He suggested that he would resign. Well, that, to me, is not the answer that I wanted. If he is representing the people, then he should stay in his position and do just that.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I am opposed to this, I don't think it would help the cause a bit. I rise mainly to rebut the statement made by the gentleman from Bangor, Mr. Kelleher. He really rubbed me the wrong way when he said that the Public Utilities Commission, he would like you to believe that they have saved the people in the State of Maine millions of dollars. They haven't saved them one red cent in my opinion, they have cost us money. All they are doing is making their job bigger by making the people in Maine, and there are people around who are gullible enough to accept the thought that they are saving you money, but what they are doing is making their own job bigger so they have to make people think that. Actually, they keep the system involved so obsolete that in the end it costs people money. When these power companies — and I don't care if it is the telephone company or what have you — ask for an increase and they cut it in half, all they are doing

is cutting the modernization of the system. This, in turn, costs the taxpayer money. An illustration would be in this city. There are some transformers, I am sure, that are nearly 50 years old. They waste nearly 50 percent of the power going through them. So the net result is, the fellow that buys the power on the other end is paying for the loss in the transmission. This goes on and on in both the telephone industry and the utilities all along the line.

All they are doing is deceiving the people to the extent that they are making them think they are saving them money and they are actually costing them money. I hope the people understand just how these systems work. It would be like asking you as a trucker to go out and haul pulpwood with a truck made in 1924, because in my town, the water wheels were put in, in 1923 and 1924, and they are as obsolete as a truck made that same year to go out and compete with the modern truck today. I only offer that as an illustration and this is just what is happening in the utility business and these people upstairs.

Some other states have seen fit to operate without a Public Utilities Commission and they have decided to take their excess profit, if there is any; in other words, they say if we allow you 8 percent or 6 percent or what have you to operate in our state, anything over that is excess profit, and these states have cheaper power than we do because they have got modern systems. If we would do the same thing, we would save the taxpayers of Maine money. The only way we can save the taxpayers of Maine, in my opinion, and I have been around here awhile, is to abolish this commission altogether, then we could save the taxpayers of Maine some money. Until that is done, \$30,000 here and \$100,000 there is not going to save the taxpayers money. They have got to pay that \$30,000, they have got to pay for running all these things, and the net result is they will not save the taxpayer a cent, it will just make someone a job, some ward healer a job. That is the extent of it.

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

Mr. KELLEHER: Mr. Speaker and Members of the House: Mr. Dudley, you weren't listening—you weren't listening. I said that the public advocate's job dealing with the PUC has saved the taxpayers money. I wasn't talking about the Public Utilities Commission and I wasn't applauding the Public Utilities Commission, I said the advocate's job that we have now as an intervenor has saved your people and my people money, so don't be misquoting me on the floor because I am not at all a big champion of the Maine Public Utilities Commission. And the theory behind this issue is the same thing, that a public intervenor on behalf of the consumers of this state dealing with the Maine Milk industry would, by its very actions, be better served by this type of a commission.

The farmers don't want it, the dairymen don't want it, the dealers don't want it, but the general public will be better served.

I have no axe to grind here, I don't milk any cows, I don't have any dealings with the dairymen but I do buy milk in the store, that is why I think this bill is important. It absolutely saves people money just by the actions of a public intervenor—that is where I am coming from. I ask for a roll call, Mr. Speaker; this is a good consumer issue and I urge that you support Mr. Michael's position.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I am gentleman enough to apologize to the gentleman from Bangor because perhaps I did misunderstand him, but I hope I made a point. What he is asking for I am still against because it is another person on the payroll, and the public is not asking for it, someone down here is asking for it. As for the public advocate, I think that speaks for itself.

In other words, we have a commission that we are paying big money to look after the public's interest, and then we have to have a public advocate to look after him, and next year we will have to have someone to look after the public advocate and this can go on and on forever, bills like this one we have this morning.

The SPEAKER: The Chair recognizes the gentleman from Benton, Mr. Parent.

Mr. PARENT: Mr. Speaker and Members of the House: I have heard no public demand for this bill. No consumer group appeared in front of the committee to speak in favor of this bill. Without taking anymore of your time, I see no compelling need for this bill; in fact, I see no need at all.

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

Mr. MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I haven't heard any public demand for this bill either; of course, I also haven't heard any public demand for the Milk Commission, and I think it is our job up here to make these determinations. The general public, for the most part, doesn't understand the intricacies of the whole pricing mechanism up here, so it is our responsibility to make sure that we do a good job of it.

I would like to just answer a couple of statements that have been made so far. Someone said that the electricity consumers would suffer if the public advocate had to also deal with the Milk Commission. That is not accurate. In fact, the \$30,000 price tag insures, as the gentleman from Bangor says, that there will be a position to handle the milk rate matters. It may be the public advocate himself, it may be his staff sometimes working on that, so that, of course, would not be a problem.

Also, it has been said that the public advocate at the hearing said that if he had a problem with the Governor, if he was in disagreement with what the Governor wanted, then he would resign and therefore we should vote against the bill. I am pleased to think that the public advocate said that he would resign rather than going along with what a governor wanted him to do if it was against his own conscience. Of course, the truth of the matter is that the public advocate doesn't run down to the governor's office and say, what do you want on this matter, he has done a very good job, but those are sort of beside the point kinds of things.

The problem we have right now is that, first of all, the dairy farmers and producers and dealers in this country are a privileged group, because virtually around the country we operate under federal orders which gives them advantages in the amount of money that they receive from the market place. In Maine, the Maine market people anyway, we give them an additional advantage by having a Maine Milk Commission. There is actually no consumer representation on that commission. When you go to a hearing, what you have is attorneys from the producers and they give a detailed presentation that, by the way, is always designed to obtain the highest price possible.

So this bill is just basic common sense. If we don't currently have the consumers being represented, it is appropriate that the public advocate be there and present the consumer point of view. It doesn't necessarily mean that the prices are going to drop, because it doesn't necessarily mean that the prices are going to drop, because it doesn't necessarily mean that the current commission is pricing the milk too high by any means, but it is just a common sense matter.

I hope you will vote to support this bill, we have been good to our farmers, our dairy farmers, I think we would like to do that, and it is only appropriate to balance this matter off.

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 the gentleman from Auburn, Mr. Michael, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present 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 Auburn, Mr. Michael, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Ainsworth, Andrews, Baker, Beau-lieu, Bost, Brannigan, Brodeur, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Connolly, Cote, Daggett, Diamond, Erwin, Gauvreau, Hall, Handy, Hayden, Higgins, H.C.; Hobbins, Joseph, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, MacEachern, Macomber, Manning, Martin, H.C.; McCollister, McGowan, McHenry, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Paradis, P.E.; Paul, Pouliot, Richard, Roberts, Rolde, Soule, Stover, Tuttle, Vose.

NAY—Allen, Anderson, Bell, Benoit, Bonney, Bott, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Chonko, Clark, Conary, Connors, Cooper, Cox, Crouse, Crowley, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Gwadosky, Hickey, Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Jalbert, Kiesman, LaPlante, Lebowitz, Lehoux, Lewis, Lisnik, Livesay, Locke, MacBride, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McPherson, McSweeney, Michaud, Moholland, Murphy, E.M.; Nelson, Norton, Paradis, E.J.; Parent, Perkins, Perry, Pines, Racine, Randall, Reeves, J.W.; Reeves, P.; Ridley, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevens, Stevenson, Strout, Swazey, Tammaro, Telow, Theriault, Thompson, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Armstrong, Kane, Mahany, Murphy, T. W.; Rotondi, Seavey, The Speaker.

Yes, 51; No, 92; Absent, 7; Vacant, 1.

The SPEAKER: Fifty-one having voted in the affirmative and ninety-two in the negative, with seven being absent, the motion does not prevail.

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

#### Passed to Be Engrossed

Bill "An Act to Appropriate Moneys for Programs of Preventive Intervention and Family Support" (H. P. 1269) (L. D. 1683)

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

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

Bill "An Act to Authorize a Bond Issue in the Amount of \$3,000,000 for the Elimination of Asbestos Hazards in Public School Buildings" (S. P. 582) (L. D. 1690)

Came from the Senate referred to the Committee on Appropriations and Financial Affairs and ordered printed.

In the House, the Bill was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Establish Reimbursement Principles Governing Nonprofit Hospital and

Medical Service Organization Agreements with Rural Health Centers" (S. P. 581) (L. D. 1680)

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

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

#### Passed to Be Enacted Emergency Measures

An Act to Expand the Tourism Promotion Program (S. P. 451) (L. D. 1372) (C. "A" S-116)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken, 119 voted in favor of same and 15 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Make Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Years Ending June 30, 1984, and June 30, 1985 (H. P. 518) (L. D. 643)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken, 128 voted in favor of same and 2 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Finally Passed Emergency Measure

RESOLVE, Authorizing the State Tax Assessor to Convey Title to the Former Municipal Building of Plantation 21 to the Bureau of Public Lands and Authorizing the Bureau of Public Lands to Lease the Former Municipal Building to the Princeton Grange (H. P. 1232) (L. D. 1636)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken, 120 voted in favor of same and 2 against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act Concerning the Posting of the Text of all Constitutional Resolutions and Statewide Referenda at the Polling Places on Election Day (H. P. 80) (L. D. 89) (C. "A" H-253)

An Act Relating to the Adjustment to the Penalty for Withdrawal from Current Use Tax Laws (H. P. 676) (L. D. 859) (C. "A" H-248)

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

#### Enactor Reconsidered

An Act Relating to Bail Commissioners (H. P. 701) (L. D. 890) (C. "A" H-252)

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

On motion of Representative Joyce of Portland, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-252) was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-289) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

An Act to Extend and Amend the Statute entitled Purchase of Foodstuffs from Maine Concerns (H. P. 710) (L. D. 901) (C. "A" H-254)

An Act to Amend the Statutes Governing the Licensing and Approval of Adult and Child Care Programs (H. P. 791) (L. D. 1032) (H. "A" H-255 and C. "A" H-208)

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

#### Enactor Tabled and Assigned

An Act Relating to the Labeling of Milk Containers (H. P. 1132) (L. D. 1498)

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

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and tomorrow assigned.

An Act Concerning the Catching of Herring for Bait (H. P. 1172) (L. D. 1560)

An Act to Regulate the Season on Coyotes (H. P. 1227) (L. D. 1621)

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 Appropriating Money for Research and Development of Appropriate Turbine Technology (H. P. 1230) (L. D. 1633)

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

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

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: This is a \$25,000 boondoggle and that is why I ask for a roll call.

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 pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Ainsworth, Andrews, Baker, Beau-lieu, Benoit, Bost, Brannigan, Brodeur, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Conary, Connolly, Cote, Cox, Crouse, Daggett, Dexter, Drinkwater, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, A.C.; Matthews, Z.E.; McCollister, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Smith, C.B.; Soucy, Soule, Stevens, Swazey, Tammaro, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Allen, Anderson, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Clark, Connors, Cooper, Crowley, Davis, Day, Dillenback, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McGowan, McPherson, Murphy, E.M.; Paradis, E.J.; Parent, Pines, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Sproul, Stevenson, Stover, Strout, Telow,

Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Armstrong, Curtis, Diamond, Kane, Mahany, Martin, H.C.; Murphy, T.W.; Perkins, Rotondi, Seavey.

Yes, 81; No, 59; Absent, 10; Vacant, 1.

The SPEAKER: Eighty-one having voted in the affirmative and fifty-nine in the negative, with ten being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

An Act to Clarify Independent Contractor Status Under the Workers' Compensation Act (H. P. 1231) (L. D. 1635)

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

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 1635 is a new draft of L. D. 1158, which appears as the unanimous committee report. Because of the nature of this subject, the members of the Business Legislation Committee think that it is important that the legislative intent behind this measure be spelled out in the Legislative Record.

This bill is a response to a recent Law Court decision in the case of Timberlake v. Frigon & Frigon. The Court in that case suggests that the determination of independent contractor status under the Workers' Compensation Act will from now on be made in a manner that deviates from the previously accepted methods. This legislation is an attempt to return to the methods for these determinations that have been in place for many years, that is, to return to the law as it was interpreted prior to the Timberlake case.

In enacting this legislation, we do not make a determination that any given class of people are to be considered independent contractors or employees. Indeed, in the Timberlake case itself, there are indications in the court's opinion that under the traditional tests, Timberlake might have been considered an employee. What we do seek to do, however, is to indicate the legislative intent that no single factor, of the eight traditionally applied tests, is to be given special importance in these determinations.

The Workers' Compensation system is administered primarily by carriers and by the Workers' Compensation Commission. As a result, any indication by the Law Court that the tests for independent contractor or employment status might have been changed results in widespread uncertainty in the administration of the system. Long-standing business arrangements and commission decisions are brought into question.

The Timberlake opinion didn't determine whether that worker or a class of workers are in fact "employees" under the Workers' Compensation Act. Instead, it stated a new rule for making that determination. That rule itself is subject to interpretation by carriers and the commission. This bill simply says that we are not willing at this time to change the rules, and that independent contractor relationships will continue to be determined according to the rules in place prior to Timberlake.

The SPEAKER: The Chair recognizes the gentleman from Kingfield, Mr. Dexter.

Mr. DEXTER: Mr. Speaker, Men and Women of the House: As you know, I have tried for years to help the small woods operators. I have introduced legislation in the past and, unfortunately, many of them have not been successful. However, this is a giant step toward my goals.

I am one of those who tend to criticize quite often, but this time I would like to thank the sponsor, the members of the committee and especially the chairman, Mr. Brannigan, for all the help that they have given. The sponsor of the bill came to me and he apologized for not

having my name on the bill because, as you know, we were rushed the first part of this session and he said he simply forgot. He is a good friend of mine and I happen to believe him.

During the course of the debate on this bill, it took some unexpected turns, it is quite a confusing issue and the sponsor and I worked together. It is a fine example of a bipartisan approach to a problem.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank my good seatmate for what he just said, because this is a very important bill for a lot of us and the woods-men back home.

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

An Act to Authorize Tax Liens on Personal Property (H. P. 1235) (L. D. 1644)

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

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker and Members of the House: First, I would like to ask for a roll call when the vote is taken. I am going to oppose it. The reason I am going to oppose it is because under the present system I believe that we have the power to collect personal taxes at the local level without going the lien process.

My concern with this is that dealing with farming equipment, we give \$10,000 exemptions and my concern is that at the present time we will list each piece of equipment separately; however, when we send out the tax bills, we reduce a \$10,000 valuation, and it just looks to me like it is going to create more paperwork for the municipalities to decide which one of these pieces of equipment that we are going to set aside that there is going to be a possible tax lien. Therefore, I would urge you to vote no on enactment.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: What we have before us is an option that we can provide our municipalities with, an option to help perfect the collection of taxes, property taxes, personal property taxes.

Personal property taxes are taxes based on machinery and equipment, computers, boats and these types of things. Number 11 on Page 4 limits the placement of lands to taxes owed in excess of \$200. Assuming that a tax rate was \$20 per thousand in a municipality, this would mean that the value of the items, whether it was computers, machinery, equipment or what, would be in excess of \$10,000. These are large amounts of money and in some cases we have found that machinery has been moved out of state to avoid paying these personal property taxes and we have found that going to small claims court, which is one of the ways that municipalities have found that they can best collect taxes, just hasn't been effective in dealing with it.

This would provide a lien system, the same lien system that we have for real estate taxes for personal property taxes.

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 passage to be enacted. All those in favor will vote yes; those opposed will vote no.

**ROLL CALL**

YEA—Ainsworth, Allen, Anderson, Andrews, Baker, Beaulieu, Benoit, Bonney, Bost, Brannigan, Brodeur, Brown, A.K.; Brown, D.N.; Brown, K.L.; Carrier, Carroll, D.P.; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Curtis, Daggett, Day, Diamond, Erwin, Foster, Gauvreau, Gwadnosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Ingraham, Jacques, Jalbert, Joseph, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lebowitz, Lehoux, Livesay, MacEachern, Macomber, Manning, Martin, A.C.; Masterman, Masterton, Matthews, Z.E.; McColister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Perry, Pouliot, Racine, Reeves, P.; Richard, Roberts, Rolde, Small, Soucy, Stevens, Stover, Swazey, Tammaro, Thompson, Tuttle, Willey, The Speaker.

NAY—Bell, Bott, Cahill, Callahan, Carroll, G.A.; Conary, Conners, Davis, Dexter, Dillenberg, Drinkwater, Dudley, Greenlaw, Higgins, L.M.; Holloway, Jackson, Kiesman, Lewis, Lisnik, Locke, MacBride, Matthews, K.L.; Maybury, McPherson, Moholland, Murphy, E.M.; Paradis, E.J.; Parent, Paul, Perkins, Pines, Randall, Reeves, J.W.; Ridley, Roderick, Salsbury, Scarpino, Sherburne, Smith, C.B.; Smith, C.W.; Soule, Sproul, Stevenson, Strout, Telow, Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Zirkilton.

ABSENT—Armstrong, Kane, Mahany, Martin, H.C.; Murphy, T.W.; Rotondi, Seavey.

Yes, 91; No, 52; Absent, 7; Vacant, 1.

The SPEAKER: Ninety-one having voted in the affirmative and fifty-two in the negative, with seven being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

An Act to Amend the Charters of Various Sewer Districts Organized Under the Private and Special Laws, including Limerick and Jackman (H. P. 1236) (L. D. 1645)

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 item of Unfinished Business:

Bill, "An Act to Require Swimming Pools to be Enclosed" (S. P. 511) (L. D. 1528)

— In Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-129)

Tabled—May 23, 1983 by Representative Cox of Brewer.

Pending—Motion of same gentleman to Reconsider whereby the House Adhered to its previous action whereby the Bill and accompanying papers were Indefinitely Postponed in non-concurrence.

Mr. Cox of Brewer moved that this matter be tabled for one legislative day.

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

The SPEAKER: The pending question is on the motion of the gentleman from Brewer, Mr. Cox, that this be tabled for one legislative day pending his motion to reconsider whereby the House voted to adhere. All those in favor of tabling for one day will vote yes; those opposed will vote no.

A vote of the House was taken.

81 having voted in the affirmative and 52 having voted in the negative, the motion did prevail.

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

Bill, "An Act to Increase the Minimum Wage" (H. P. 884) (L. D. 1138)

Tabled—May 23, 1983 by Representative Kilcoyne of Gardiner.

Pending—Motion of same gentleman to Re-



consider whereby the House accepted the Majority "Ought Not to Pass" Report of the Committee on Labor.

On motion of Mrs. Mitchell of Vassalboro, tabled pending the Motion of Mr. Kilcoyne of Gardiner to reconsider whereby the Majority Report was accepted and tomorrow assigned.

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

SENATE DIVIDED REPORT — Majority (7) "Ought to Pass" in New Draft (S. P. 570) (L. D. 1646) — Minority (6) "Ought Not to Pass"

— Committee on Judiciary on Bill "An Act to Provide Equal Access to Justice" (S. P. 203) (L. D. 625)

— In Senate, Majority "Ought to Pass" in New Draft (S. P. 570) (L. D. 1646) Report read and accepted and the New Draft passed to be engrossed.

Tabled — May 24, 1983 (Till Later Today) by Representative Joyce of Portland.

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

On motion of Mr. Kelleher of Bangor, tabled pending the motion of Representative Joyce of Portland to accept the Minority "Ought Not to Pass" Report and tomorrow assigned.

Reference was made to (S. P. 62) (L. D. 168) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide that Senators shall Serve Four-Year Terms Commencing in 1986.

In reference to the action of the House on Monday, May 23, 1983, whereby it Insisted and Joined in a Committee on Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative GWADOSKY of Fairfield  
Representative KELLEHER of Bangor  
Representative STROUT of Corinth

Reference was made to (S. P. 420) (L. D. 1273) Bill "An Act Relating to Drinking in Public" (H. "A" H-201 to C. "A" S-86)

In reference to the action of the House on Monday, May 23, 1983, whereby it Insisted and Asked for a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative HOBBS of Saco  
Representative MacEACHERN of Lincoln  
Representative BOTT of Orono

On motion of Mrs. Locke of Sebec, the House reconsidered its action of earlier in the day whereby Bill "An Act to Revise the School Finance Act," House Paper 1275, L. D. 1688, was passed to be engrossed.

On motion of the same gentlewoman, the Bill was referred to the Committee on Education and sent up for concurrence.

(Off Record Remarks)

On motion of Mrs. Mitchell of Vassalboro,  
Adjourned until nine o'clock tomorrow morning.