

MAINE STATE LEGISLATURE

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



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

LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

HOUSE

Wednesday, May 8, 1985

The House met according to adjournment and was called to order by the Speaker pro tem. Prayer by Reverend Roland Arno, Second Baptist Church of Sidney.

Quorum called; was held.

The Journal of yesterday was read and approved.

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

Papers from the Senate

The following Communication:

The Senate of Maine
Augusta

May 7, 1985

The Honorable Edwin H. Pert
Clerk of the House
112th Legislature
Augusta, Maine 04333
Dear Clerk Pert:

Please be advised that the Senate today voted to adhere to its action whereby it indefinitely postponed Joint Resolution Expressing Concern Over the Violence Between Protestants and Catholics in Northern Ireland (H.P. 1007)

Thank you.

Sincerely,
S/ Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Unanimous Leave to Withdraw

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on RESOLVE, Regarding the Administration of Environmental Laws (S.P. 422) (L.D. 1170)

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Bill "An Act to Further Protect Significant and Outstanding Rivers and to Equalize their Treatment in Organized Municipalities and Plantations" (S.P. 433) (L.D. 1200)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Appropriate the Amount of \$2,000,000 from the General Fund for the Design, Construction and Furnishing of Court Facilities" (S.P. 237) (L.D. 631)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act Concerning Supplemental Appropriations for Home-based Care" (Emergency) (S.P. 490) (L.D. 1317)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act Concerning Golf Course Employees as Nonseasonal Employees Under the Employment Security Law" (S.P. 507) (L.D. 1367)

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

Refer to the Committee on Local and County Government

Report of the Committee on Labor on Bill "An Act to Amend the Law Relating to Employment and Dismissal of County Employees" (S.P. 530) (L.D. 1425) reporting that it be referred to the Committee on Local and County Government.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Local and County Government.

Report was read and accepted and the bill referred to the Committee on Local and County Government in concurrence.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-74) on Bill "An Act Relating to Structures Located in

Proposed Ways" (S.P. 265) (L.D. 708)

Signed:

Senators:

CARPENTER of Aroostook
CHALMERS of Knox
SEWALL of Lincoln

Representatives:

LEBOWITZ of Bangor
ALLEN of Washington
PARADIS of Augusta
PRIEST of Brunswick
KANE of South Portland
DRINKWATER of Belfast
COOPER of Windham
MacBRIDE of Presque Isle

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

Signed:

Representatives:

CARRIER of Westbrook
STETSON OF Damariscotta

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-74)

Reports were read.

Representative Paradis of Augusta moved the House accept the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, I wonder if the previous speaker would explain to the House exactly what we are doing here so everybody has a good idea what they are voting on.

The SPEAKER PRO TEM: The Representative from Damariscotta, Representative Stetson, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: As a courtesy to the gentleman from Damariscotta, I shall attempt to explain this very limited bill.

It rose out of a problem in the city of Lewiston, so-called paper streets. People buy homes on certain streets, those streets are on paper but they are not in existence. There has been some problems with those when people want to transfer their property, to sell their home, they have a problem in transferring the title and getting loans from banks, etc.

What this bill does with the amendment, it says: if you have been living on that land, owning the land and living in the home for 20 years, then those paper streets no longer have jurisdiction over you and no longer pose a problem when you want to sell the property. The amendment says that the town can give notice within that period to say that, while we may intend to do something with that land, we may tend to extend the boundaries of the street, lengthen the street, etc. and that we want you to go on notice so that the people who own that land, who have the debt, have at least an idea that the city is going to be doing something. There was a real problem there, an honest to goodness people problem in Lewiston, and that is true of other towns and cities in this state. This amendment and this bill seeks to redress that and give the benefit of the doubt to the people who have invested on that street. I think it is only fair that this legislature recognize that when people buy a home, that they buy it in good faith and if there is a problem in researching that, then the city really has a problem, not the person. They have made an investment, the city should have the right engineer in employ doing the right type of research and not giving faulty research because that was the problem. They were giving faulty information to the banks and to the owners so now this can be corrected. If the city does

not plan to make any use of that land in 20 years, they ought to notify the people and say everything is all right, you ought to be able to sell the land. People move from house to house quite often in this country and it is only recognizing that principle.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, does this mean that we are going to bail out the people in Lewiston who illegally built their houses on streets that were laid out by the city and had never been constructed?

The SPEAKER PRO TEM: The Representative from Damariscotta, Representative Stetson, has posed a question through the Chair to anyone who may respond if they so desire.

Whereupon, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (S-74) was read by the Clerk and adopted, the Bill assigned for Second Reading tomorrow.

Non-Concurrent Matter

Bill "An Act Concerning Good Time for Persons Convicted of Murder" (H.P. 270) (L.D. 340) on which the Majority "Ought to Pass" as amended Report of the Committee on Judiciary was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-110) in the House on May 7, 1985.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Judiciary read and accepted in non-concurrence.

On motion of Representative Allen of Washington, the House voted to adhere on its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-110).

Consent Calendar**First Day**

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

(S.P. 358) (L.D. 979) Bill "An Act to Amend the Social Worker Registration Act with Respect to Employment by Nursing Homes" (Emergency) Committee on Business and Commerce reporting "Ought to Pass"

(S.P. 404) (L.D. 1114) Bill "An Act Relating to the Use of School Buses for Nonschool Activities when Operated by a Motor Carrier" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-72)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, May 10, 1985 under the listing of Second Day.

Orders

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Weston R. Sherburne of Dexter be excused May 8, 9, and 10 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Harland W. Bragg of Sidney be excused May 8, 9, and 10 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Walter E. Whitcomb of Waldo be excused May 8, 9, and 10 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Muriel D. Halloway of Edgecomb be excused May 8, 9, and 10 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Willis A. Lord of Waterboro be excused May 7, 8, 9, and 10 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Peter J. Manning of Portland be

excused May 8, 9 and 10 for legislative business.

Was read and passed.

Reports of Committees

Unanimous Ought Not to Pass

Representative BELL from the Committee on Appropriations and Financial Affairs on Bill "An Act Concerning the Funding of Superior Courts in Maine" (H.P. 523) (L.D. 743) reporting "Ought Not to Pass"

Representative HIGGINS from the Committee on Appropriations and Financial Affairs on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Permit the Governor to Veto Items Contained in Bills Appropriating Money and Retaining the Power within the Legislature to Override such Item Vetoes (H.P. 344) (L.D. 461) reporting "Ought Not to Pass"

Representative FOSTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Extend Medical Assistance to Families Losing Aid to Families with Dependent Children due to Employment" (H.P. 705) (L.D. 1015) 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 LISNIK from the Committee on Appropriations and Financial Affairs on RESOLVE, Concerning the Transportation of Prisoners From the Maine State Prison (H.P. 309) (L.D. 398) reporting "Leave to Withdraw"

Representative SMITH from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide for Certain Discounts on Over-the-Counter Medication Purchased by Elderly Persons" (H.P. 833) (L.D. 1177) reporting "Leave to Withdraw"

Representative CONNOLLY from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Emergency Assistance to Needy Families with Children" (H.P. 474) (L.D. 677) reporting "Leave to Withdraw"

Representative NADEAU from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide an Office of Advocate in Cases of Child Abuse and Selection of and Operation of Children in Foster Homes" (H.P. 893) (L.D. 1288) reporting "Leave to Withdraw"

Were 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 WILLEY from the Committee on Labor on Bill "An Act Requiring Employee Rest Breaks" (H.P. 264) (L.D. 318) reporting "Ought to Pass" in New Draft (H.P. 1018) (L.D. 1471)

Report was read and accepted, the New Draft was read once and assigned for Second Reading tomorrow.

Ought to Pass in New Draft/New Title

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Establish a Greenbelt Area Along the Kennebec River" (H.P. 82) (L.D. 102) reporting "Ought to Pass" in New Draft under New Title RESOLVE, to Provide for an Agreement Between the State and the City of Augusta to Establish a Greenbelt Area on State-owned Land on the East Bank of the Kennebec River in Augusta (H.P. 1017) (L.D. 1468)

Report was read and accepted, the New Draft read once and assigned for Second Reading tomorrow.

Consent Calendar

First Day

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

(H.P. 572) (L.D. 843) Bill "An Act Concerning Striped Bass" Committee on Marine Resources reporting "Ought to Pass"

(H.P. 374) (L.D. 515) Bill "An Act to Make Allocations for the Administrative Expenses of the Bureau of Alcoholic Beverages, the Department of Finance and Administration and the State Liquor Commission for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H.P. 341) (L.D. 458) RESOLVE, Creating the Commission to Study Emergency Medical Services in Maine Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-116)

(H.P. 588) (L.D. 858) Bill "An Act to Clarify Sentences Permissible for a Crime Committed by a Parolee" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-117)

(H.P. 361) (L.D. 481) Bill "An Act to Amend Certain Aspects of Post-conviction Review" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-118)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 9, 1985 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:

(S.P. 397) (L.D. 1107) Bill "An Act to Clarify the Law Regarding Peer Review Immunity Under the Maine Health Security Act"

(S.P. 391) (L.D. 1090) Bill "An Act Making Allocations Related to the Alcoholism Prevention, Education, Treatment and Research Fund for the Expenditures of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) (C. "A" S-71)

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

Passed to Be Engrossed

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Extend the Tenure for Sheriffs from 2 Years to 4 Years (S.P. 348) (L.D. 943)

Was reported by the Committee on Bills in the Second Reading and read a second time, passed to be engrossed in concurrence.

Bill "An Act Relating to Membership on the Board of Trustees of the Criminal Justice Academy" (H.P. 1016) (L.D. 1465)

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

Representative Lacroix of Oakland offered House Amendment "A" (H-119) and moved its adoption.

House Amendment "A" (H-119) was read by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oakland, Representative Lacroix.

Representative LACROIX: Mr. Speaker, Men and Women of the House: The only thing this amendment does is remove the Commissioner of Mental Health and Retardation from the Board of Trustees of the Maine Criminal Justice Academy. When we were working on this bill in committee, we inadvertently left this Commissioner on when Mental Health and the Department of Corrections were separated. We were adding the game warden colonel of the Department of Inland Fisheries and Wildlife to the Criminal Justice Academy's Board of Trustees since they do have training at the Criminal Justice Academy.

Whereupon, House Amendment "A" was

adopted.

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

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

Reports of Committees

Ought to Pass in New Draft/New Title

Representative NELSON from the Committee on Human Resources on Bill "An Act to Require the Reporting of Occupationally-related Cancers" (H.P. 357) (L.D. 477) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require the Reporting of Factors Contributing to the Causation of Cancer" (H.P. 1019) (L.D. 1472)

Report was read and accepted, the New Draft 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. 266) (L.D. 336) Bill "An Act to Amend the Maine Community Services Act" Committee on Audit and Program Review reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 9, 1985 under the listing of Second Day.

Passed to Be Enacted

An Act Concerning the Value of Prizes that may be Awarded on Beano (S.P. 372) (L.D. 1006)

An Act Providing for Change of Venue of Criminal Cases (S.P. 543) (L.D. 1452)

An Act to Establish the Departmental Indirect Cost Allocation Program (H.P. 998) (L.D. 1440) (S. "A" S-69)

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.

Resolve, to Address Special Education Needs of Learning Disabled Children (S.P. 211) (L.D. 569) (C. "A" S-70)

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Orono, Representative Bost.

Representative BOST: Mr. Speaker, Men and Women of the House: It was with considerable reluctance that I signed the "Ought to Pass" Report on this bill, which would create a commission to study the educational needs of learning disabled children. I feel that the makeup of the Commission is unwieldy and will, in all probability, lack the focus necessary to address the problem. My primary objection to this legislation is the fact that the Department of Education, which has been charged with the responsibility to attend to these children with special needs, allowed this situation to get to the point of crisis. Long recognizing the issues and knowing what needed to be done, for some reason, the Department either ignored the issues or relegated them to non-priority status.

The legislature, unfortunately, must assume responsibility for the ball that the Department fumbled.

I will vote yes on enactment because we must address these special educational needs but, at some point, we must hold various departments, and in this case, I am referring to the Education Department, accountable for what I perceive as neglect.

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

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

consent:

Committee of Conference

Report of the Committee on Conference on the disagreeing action of the two branches of the Legislature on: RESOLVE, to Name the Wiscasset Bridge the Donald E. Davey Bridge (H.P. 373) (L.D. 492) have had the same under consideration and ask leave to report:

That the House recede from Passage to be Engrossed; that Committee of Conference Amendment "A" (H-120) be read and adopted and the Resolve Passed to be Engrossed as Amended by Conference Committee Amendment "A" (H-120) in non-concurrence.

That the Senate Recede and Concur with the House.

(Signed) Representatives MAYO of Thomaston, MILLS of Bethel and STROUT of Corinth—of the House.

Senators DANTON of York, CHALMERS of Knox and SHUTE of Waldo—of the Senate.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Ellsworth, Representative Foster.

Representative FOSTER: Mr. Chairman, is this the amendment that takes away the legislature's power to name bridges and give it to the Maine Historical Preservation Committee?

The SPEAKER PRO TEM: The Representative from Ellsworth, Representative Foster, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: The Committee of Conference has studied this issue and the Committee of Conference thought it was best that the legislature be taken out of the position of naming bridges and yes, the authority would be turned over to the Maine Historical Preservation Commission because we felt this was the best group to handle this procedure.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, I am sort of confused. The original bill pertained to naming the Wiscasset Bridge to the Donald E. Davey Bridge of which I have no objection to. When you read the amendment, it changes the complexity of the whole thing. I am just wondering whether or not this amendment is germane because what this does, the amendment is "An Act to Authorize the Maine Historic Preservation Commission to Name Bridges" and the original bill was a "Resolve to Name the Wiscasset Bridge, the Donald E. Davey Bridge." Is this germane?

The SPEAKER PRO TEM: The Chair would respond to the Representative from Biddeford's request on the question of germaneness to read first from Mason's Book, Section 770, Reports of Committee of Conferences—"a report of a Committee of Conference is objectionable in form if the committee has not confined itself to differences of opinion between the two Houses but objection to form may be made at the time the report is introduced and if not made at that time, it is not in order at a later period."

The Chair would rule that given the amendment in its present form that the amendment is germane.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: As a charter member of the Historical Society in my hometown, I can't conceive of a historical society having the duties and power to name brand new structures after someone. If that is the case, every new structure that goes up in my hometown will have the name of Representative John Jalbert on it if this goes through.

I cannot conceive how a historical society would be in a position of naming a bridge after an individual, who in the line of duty, died. That has nothing to do with the historical factor. I can see if you are going to have the structure remaining such as the Bailey Island Bridge or some other bridge in a locality. This is strictly within either the County Commissioners, the legislature or the local towns or cities. In Lewiston, we named it after a former Governor and it was done by the Legislature. Another bridge was named after the Vietnam veterans, that was done by the Legislature. I would say that any new structure does not belong within the domain of the historical society.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cumberland, Representative Dillenback.

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I have no objections to the historical society taking a position on naming some bridges but I don't think they should have the authority to name the bridge. I can recall having a bill here last session, I believe it was, in putting art works in schools when we build a new school. We took the authority away from them to dictate in any way what art work should be put in the schools. We allowed them to make a recommendation, then the school authority would have the right to select what they wanted to select. It seems to me if you wanted to follow this theme, you would have this historical society make a recommendation and then the legislature would make the decision. I don't think they should have the authority to name the bridges.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Armstrong.

Representative ARMSTRONG: Mr. Speaker, Ladies and Gentlemen of the House: I, for one, can't even imagine the Maine Historic Preservation Commission wanting the sole authority to name bridges in this state.

I would ask for a roll call on acceptance of the Committee of Conference Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I move indefinite postponement of Committee Amendment "A."

The SPEAKER PRO TEM: The Chair would inform the Representative from South Portland that the motion is out of order at this time. The only question before the House at this time is acceptance of the Committee of Conference Report.

The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, I move that this be tabled for one legislative day.

Representative Macomber of South Portland requested a division on the tabling motion.

The SPEAKER PRO TEM: the pending question before the House is on the motion of Representative Strout of Corinth that the bill be tabled for one legislative day. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

67 having voted in the affirmative with 53 in the negative, the motion did prevail.

Orders of the Day

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

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

HOUSE REPORT—"Ought to Pass" as amended by Committee Amendment "A" (H-115)—Committee on Local and County Government

on Bill "An Act to Amend the Charter of the Bustin's Island Village Corporation" (Emergency) (H.P. 38) (L.D. 40)

TABLED—May 7, 1985 (Till Later Today) by Representative DIAMOND of Bangor)

PENDING—Acceptance of the Committee Report.

Whereupon, the Committee Report was accepted and the Bill read once.

Committee Amendment "A" (H-115) was read and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

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

An Act to Prevent Double Benefits for the Same Period of Service, to Provide Membership as of the Effective Date of First Contributions and to Provide that Benefits be Paid only to Members, their Dependents or Beneficiaries (H.P. 999) (L.D. 1441)

TABLED—May 6, 1985 by Representative HICKEY of Augusta.

PENDING—Passage to be Enacted.

On motion of Representative Hickey of Augusta, retabled pending passage to be enacted and tomorrow assigned.

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

An Act to Clarify the Definition of Spouse (H.P. 426) (L.D. 606) (C. "A" H-102)

TABLED—May 6, 1985 by Representative HICKEY of Augusta.

PENDING—Passage to be Enacted.

On motion of Representative Hickey of Augusta, retabled pending passage to be enacted and tomorrow assigned.

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

SENATE DIVIDED REPORT—Majority (10) "Ought Not to Pass"—Minority (3) "Ought to Pass" in New Draft under New Title Bill "An Act to Reduce Public Health Risks in Spruce Budworm Control Efforts" (S.P. 545) (L.D. 1458)—Committee on Energy and Natural Resources on Bill "An Act to Prohibit the Use of Chemical Insecticides in the State Budworm Suppression Program after 1985" (S.P. 350) (L.D. 978)—In Senate, Majority "Ought Not to Pass" Report read and accepted.

TABLED—May 7, 1985 by Representative MICHAUD of Medway.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, first I would like to request the yeas and nays.

Mr. Speaker, Men and Women of the House: This bill, as it was originally submitted to the Legislature, would have prohibited the use of chemical pesticides in the spruce budworm spraying after this year. The Energy and Natural Resources Committee held an exhaustive hearing on this bill and there were two major concerns. There was a public concern about the widespread use of chemicals in the environment especially the chemicals used in the spruce budworm spray program. Industry expressed a concern that an outright prohibition on the use of chemicals would be overly restricted.

The redraft, which is the Minority Report, addresses both of these problems. It directs the Commissioner of Agriculture to establish a pesticide of choice for the spruce budworm program. This pesticide of choice would be the pesticide which poses the lowest possible risk to human health. The redraft also addresses the concerns of industry because it allows the commissioner, under certain circumstances, to

allow other pesticides to be used. Those special circumstances are a circumstance of extreme infestation of budworm, special timber stand conditions which would not be easily treated by the pesticide of choice, or significant cost differential between the pesticide of choice and other pesticides.

Specifically, the bill would encourage the use of a substance called Bt, which is *Bacillus thuringiensis*. It is a biological agent and it is used as a pesticide to control spruce budworm. There is less risk to the public health if you use Bt. It is a narrow spectrum pesticide that only kills the larva of moths, it is non-toxic to fish and wildlife and it is used throughout the United States in every major forest spray program except the gypsy moth control in the State of New Jersey and it is also used in Eastern Canada in spruce budworm control program. It has economic advantages because it can be used in the watershed so you don't have to have these buffer areas which you don't spray. In the buffer area, usually all the trees die if you don't use the chemical insecticide.

Furthermore in 1984, there was some Bt used in the State of Maine and, in those areas where it was used, it was 86 percent effective.

The other chemical that we are considering using in the spruce budworm in the State of Maine is a chemical called Zectran. That is the chemical that the people who run the program would like to use. Dr. Terry Shehata, the State Toxicologist has indicated to the committee that no testing has been done on the mutagenic, tetragenetic effects of this chemical and people don't know what happens if you inhale it. The labels on Zectran says that it is fatal to humans if you swallow or inhale it. It says it is toxic to wildlife and it should not be allowed to enter watersheds. Yet, for the 1985 proposed budworm program, initially the Maine Forest Service proposed using Bt on only 25 percent of the land to be sprayed. There were some people that objected to it and they upped that to 40 percent and finally, after the disaster at the Bopol Union Carbide Plant in India, Zectran became unavailable and this year the Maine Forest Service will use Bt for most of the spray program.

Another issue that we should look at when we consider this bill is an ethical issue. Zectran is made by the Union Carbide with Methyl Isocyanate and that is the chemical that killed 2,000 people in India and injured 200,000 more. Everyone who uses the chemical, including the State of Maine and everyone who benefits from the pesticide bears some responsibility for the risks associated with their production. Accidents, large and small, will occur only by decreasing our use of chemical insecticides so that we can reduce the risk of future tragedies.

In recent years, we have used a lot of chemicals that have turned out to be less safe than what was originally thought. We have used DDT and found it was very dangerous. We have used dioxin, which is extremely toxic. We have used DES, we have used formaldehyde and we have used a lot of Tannate in the State of Maine and it is in ground water and in a lot of wells in Aroostook County. I think we should take every step to ensure that events like this don't occur again. The redraft is a moderate measure and it encourages the safest possible alternatives wherever possible. It is a very reasonable approach to protect the health of the public. It address all the concerns on that were expressed at the public hearing except the concerns of the Zectran salesmen and their lobbyists and I understand their concerns because they need to make a lot of money to pay off all the liability they have incurred in this accident.

I would ask you to join with me and vote against the pending motion so we can accept the bill in new draft with new title.

The SPEAKER PRO TEM: The Chair

recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I hope you would join me in supporting the Majority 10 to 3 Report, "Ought Not to Pass." I have a few facts here to give you about Zectran and the spruce budworm program.

First of all, all pesticides used by the Maine Forest Service already undergo a thorough independent review by the U.S. EPA, the Maine Board of Pesticide Control, and the Maine State Toxicologist. Each of these agencies has approved the use of the chemical insecticide Zectran.

Two, there has been no indication from the Bureau of Health, Budworm Health Monitoring Program or the Maine Forest Service that long term environmental program project that Zectran poses a significant harm to human health or the environment.

Three, I feel that the bill circumvents a current established state pesticide review process that is carried out by the Maine Board of Pesticide Control, the agency that is best qualified to assess the benefits and risks of the given pesticide.

Bt has not been proven as effective in protecting red spruce as Zectran has in Maine. In 1984, 20 percent of all Bt blocks were failures. There were no Zectran block failures in 1984. Bt also costs \$1.00 per acre more than Zectran. This bill was a 10 to 3 Majority "Ought Not to Pass." At the public hearing when, I asked the question to the sponsor when he presented the bill whether he has a problem with the current program he said, "no, it is running properly." But at that time, he wanted to use 100 percent Bt.

So, I hope that this body would support the Majority "Ought not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Mithcell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: The problem with the present program is that it lumps insecticides into two groups, those that you can use and those that you can't use. You can take any insecticide out of the acceptable group and use it. Now, those insecticides in the acceptable group run a wide spectrum from fairly dangerous chemicals to chemicals that are hardly dangerous at all. The issue before us is, are we going to use a dangerous chemical to save a few bucks or a few trees at the risk of the public health? That's it, plain and simple. I don't think it is worth the risk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: When I came here nine years ago and I served on the Energy and Natural Resources Committee, this spray program had been going on for years. I made the statement at that time that I felt that it would only perpetuate the problem. Also, during the years that followed, we had some companies that wished to get out from under the program, those that mainly practice silviculture and I worked hard to get them out from under. However, we do have a tiger by the tail and the question is, when can you let go? I happen to think that we are in a position where we cannot stop this program, we are nearly on the verge of eradicating the budworm at the present time. I do not feel that we should tie the hands of the Maine Forest Service. This is essentially what we would be doing.

Now, as far as the incident in India, they have a law there in that country that they must own at least 51 percent of the stock. Furthermore, all the employees were Indians. I am not standing up for any company but the track record for that company here in this country is excellent. So, it is not fair to blame something that happened over in India on what might

happen over here because you just cannot compare the two. So, that is why I signed the Majority "Ought Not to Pass" Report.

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

Representative COLES: Mr. Speaker, Men and Women of the House: As originally proposed, I also opposed this bill because I felt it was too restrictive and too inflexible. The new draft, however, I support very strongly because it is not restrictive and it is not inflexible, too inflexible or too restrictive. Very simply, it does not mandate any given spray. It does not mandate Bt, it does not mandate Zectran or anything else. It says that one spray will be established as the preferred spray because it is safer in terms of human health and in terms of environmental health. It has exceptions in there in consideration of the availability of the given pesticide in any year and in consideration of the inadequacies of the preferred pesticide in light of certain special conditions that may exist that year and if the preferred pesticide is considered to be too far excessive of alternative costs.

The budworm spray program is the only program we have on our forests in this state. It is by far the largest spray program in this state. This bill has absolutely nothing to do with agricultural spraying, it does not address it in any way whatsoever.

One difference between an agricultural program and a forest program is that forest spraying is done from the air. Representative Mitchell from Freeport mentioned the fact that Zectran cannot be sprayed in the buffer zones along streams and rivers and ponds, Bt can. Another difference is that spraying Bt from the air, even if the pesticide drifts over ponds, towns, or watershed areas, will not have the adverse effect that Zectran has.

My friend from Medway mentioned the question of failures. I studied very closely the Forest Service reports and there is substantial differences in the methods of application between Bt and Zectran. If you account for those differences, I believe the failure differences are very small, particularly in contrast to risk human health and environmental health. The additional costs is also very small in contrast to those same risks.

I urge you to reject the Majority Report and accept the new draft of this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Livermore Falls, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I think it is pretty obvious that this bill deals with two things that the major proponents are trying to put across. One is, I believe, an attack on the overall spruce budworm spray program as a whole. Secondly, the concern over the company, Union Carbide, because of the problems they had in India. While I am in sympathy with those problems, I am not sure that is a reason why we should limit the use of anything in this nation or in this state based on what happened over there, as unfortunate as that accident may have been.

Representative Coles was right on the target when he said that this is the largest spray program in the state. Because it is the largest spray program in the state and because it is administered by the state, it has the highest controls in the state. It is conducted in an area of the state of the lowest population. It is a program which is very carefully monitored from the beginning to the end. Representative Coles compared this spray program to other agricultural spray programs and said that one of the things that distinguished this from agricultural spray programs was that this one was from the air. I would invite him to visit some of the agricultural areas around my part of the state and observe the spray programs in the orchards. I asked this question during the

committee hearing as to the volume of spray that is used in the spruce budworm spray program compared to the volume of spray that is used in all of the agricultural program throughout the remainder of the state, while I couldn't get an answer, the estimate was that the amount of spray used in all of the other combined programs was probably much, much larger than that of this single, even though large program of the spruce budworm spray program activities.

So, while we are talking about a major program, we are also talking about one which has a great deal of controls with it and I believe one that has established an excellent track record since its inception. We are battling a major problem in this state and I believe we are doing it as effectively as we can. To tie the hands of the agency to a product that possibly can be quite inferior in terms of its effectiveness, I think would be a very very bad mistake.

So, I would urge you to follow Representative Michaud's lead and vote for the defeat of this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: You know I kind of get a kick out of this type of discussion here. I said down in the committee room that it probably would be nice if we could spray budworm with chocolate milk and Coca Cola and then we wouldn't hurt anybody but we probably wouldn't kill too many spruce budworm, although I do know that Coca Cola has changed their formula and we don't know exactly what is in it so maybe it might turn out to be something fairly effective to spruce budworm.

The thing that bothers me is that the paper companies have been cutting trees at a remarkable rate and the clear cuts are popping up all over the State of Maine. When you ask them why, they all tell you to help control spruce budworm because the damage has gone too far and we have to get the wood out before the four or five years go by and the wood isn't worth anything any more. Now, if we stop spraying, as Representative Dexter said, we have almost got this thing licked, what is going to happen? If this thing comes back, I can tell you what is going to happen, we are going to have a heck of a lot more clear cuts and we are going to have clear cuts all over the State of Maine where spruce budworm has been affecting the trees.

Now our spray program in the State of Maine is a pilot program. I am very proud of the fact that Mr. Stratton and his department has one of the best run, most intensively planned spray programs in the United States, so much that everybody comes here to see how we do the job. Now, are we going to allow the professionals who we hire, and I hear this all the time whether it be talking about the biologists in Fish and Wildlife or foresters in the State of Maine, do the things that we hire them to do and pay them the big money to do it and ask them to try to control the spruce budworm epidemic in the State of Maine, or are we, the Legislature, due to emotions, going to try to circumvent the process that they follow? Since I have been on that committee, and that is seven years, I have visited many spruce budworm areas and I have seen the difference of areas that are sprayed by Bt versus some other kinds. It is true, Bt is a lot better insecticide to use. The only problem is, it doesn't do as good a job. Most of the major companies use Bt along streams, rivers and the shores of lakes specifically for the extra protection it provides to the fish and wildlife in that area. But all you have to do is get up in a plane and fly over and you will see there is a definite difference between where Bt is used and where another type is used, it is not quite as effective. Unless you want to go down using chocolate milk and

Coca Cola, I think we should allow the professionals to do what they want to do. Mr. Stratton assured us that all the concerns that the people of this state have are going to be addressed and are being met by his department. I think we should let them do their job.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, I would like to pose a question to either of the last two speakers.

My question is, if the present spruce budworm program in such a good program and it is so effective, can you explain why the International Paper Company, which owns a great deal of land in the state and which has an independent spray program, opted not to use chemical pesticide last year and used 100 percent Bt?

The SPEAKER PRO TEM: Representative Mitchell of Freeport poses a question through the Chair to anyone who may care to respond.

The Chair recognizes the Representative from Livermore Falls, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: If I worked for International Paper Company, I probably could answer that question, but since I don't, I can't. All I can say is that apparently that was the decision that was made by the company for reasons that are particularly unknown to me. I think that whether it is International Paper Company, Seven Island Company, Scott Paper Company or the State of Maine, I think the decision is one based on a number of factors, and those factors obviously are going to be effectiveness, safety, and cost of the product. The decision that is made at that time has to be made in good judgment by those who are in charge. My feeling is that the State Forest Service has done an excellent job in making those decisions thus far and I think we ought to continue to give them the opportunity to continue to do so.

Representative Mitchell of Freeport was granted permission to address the House a third time.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: I don't work for the International Paper Company either but I am going to venture a good guess as to why they decided to use Bt on their forest lands. My guess is that they found Bt was an effective agent to control spruce budworm on their land. I would just like to lay this issue out clearly and simply to you once again, the question is whether you are going to use a short cut to save a little bit of money or are you going to put the public interest at the highest interests, spend a little bit of money and protect the public health and environment?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I mentioned to you that I have seen some of these areas that were sprayed with Bt and the other insecticides and the area that I visited was around St. Francis Lake, which is I.P. land. At the time we were flying around, I did ask them why they didn't use more Bt then they did along the streams and rivers and the answer I got was, they found it was not anywhere as effective as the other forms of pesticides that were available to them.

Another thing, I.P. has also just sold quite a bit of their lands in this state and, from what I hear, they have got some more land that is available for sale right now, so, probably the fact that they are selling their land or looking to sell their land, they really could care less what happens to the spruce budworm on their holdings. My understanding is, before they get done, they will not have any substantial land holdings in this state anyway so probably they could care less.

The SPEAKER PRO TEM: The Chair

recognizes the Representative from Dover-Foxcroft, Representative Law.

Representative LAW: Mr. Speaker, Ladies and Gentlemen of the House: I was on the committee also. There are a lot of people in the State of Maine today and all over the country that do not like chemicals, don't want any spraying of chemicals. I don't want to be labeled as a person who does like chemicals but I agree with several of the speakers before, the Representative from Waterville especially. We have got to let the people that we have given the responsibility to, let them have the authority to do it they way they think is best. Obviously, Ken Stratton, it is not his money so he is isn't doing it just to save money, he is doing it because he believes it is the best way. This year, regardless of the reason why, he is using 80 percent Bt and only 20 percent of the chemicals. I urge you to support the Majority "Ought Not to Pass."

The SPEAKER PRO TEM: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: Just to clarify one point made by Representative Mitchell, I have testimony here from Jerry Williams from I.P.—the program in 1983, they used 35 percent Bt; in 1984, they used 45 percent, so it is not 100 percent.

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

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

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

Representative COLES: Mr. Speaker, Men and Women of the House: I would like very briefly to repeat that Bt is an effective pesticide, Zectran is an effective pesticide. This bill would not mandate the use of either. It simply tells the Director of the Forest Service to select one as a preferred pesticide on the basis of human health and environmental risk. It allows him to make exceptions to allow the use of other pesticides based upon the cost, availability and adequacy. There is not a mandate of any kind whatsoever. It allows professionals, the ones who have been doing a good job, as many people today have testified, to continue to do a good job.

The SPEAKER PRO TEM: The pending question before the House is the motion of the Representative from Medway, Representative Michaud, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 58

YEAS:—Aliberti, Armstrong, Baker, A.L.; Beaulieu, Begley, Bell, Bonney, Bott, Branigan, Brown, D.N.; Cahill, Callahan, Carter, Clark, Connors, Cooper, Cote, Daggett, Davis, Dellert, Descoteaux, Dexter, Dillenback, Drinkwater, Erwin, Farnum, Foss, Foster, Greenlaw, Hale, Hayden, Hichborn, Hickey, Higgins, L.M.; Hillock, Ingraham, Jackson, Jacques, Jalbert, Lacroix, Lander, Law, Lawrence, Lebowitz, Lisnik, MacBride, Macomber, Martin, H.C.; Masterman, Matthews, McPherson, McSweeney, Melendy, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Nadeau, G.R.; Nicholson, Nickerson, O'Gara, Paradis, E.J.; Parent, Paul, Perry, Pines, Pouliot, Racine, Rice, Richard, Ridley, Rioux, Rotondi, Salsbury, Seavey, Small, Smith, C.B.; Smith, C.W.; Soucy, Stevens, A.G.; Stevenson, Strout, Swazey, Tammaro, Tardy, Taylor, Telow, Theriault, Vose, Walker, Webster, Weymouth
NAYS:—Allen, Baker, H.R.; Bost, Boutillier, Brodeur, Brown, A.K.; Carroll, Cashman,

Chonko, Cole, Connolly, Crouse, Diamond, Duffy, Handy, Harper, Hepburn, Higgins, H.C.; Kimball, Mayo, McCollister, McGowan, McHenry, Michael, Mills, Mitchell, Murray, Nadeau, G.G.; Nelson, Paradis, P.E.; Randall, Reeves, Roberts, Rolde, Ruhlman, Scarpino, Simpson, Sproul, Stevens, P.; Willey

ABSENT:—Bragg, Carrier, Crowley, Gwadosky, Hoglund, Holloway, Joseph, Kane, Lord, Manning, Priest, Rydell, Sherburne, Stetson, Warren, Whitcomb, Zirkilton, The Speaker

93 having voted in the affirmative and 40 in the negative with 18 being absent, the motion did prevail.

Orders of the Day, cont.'d

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

HOUSE DIVIDED REPORT—Majority (7) "Ought Not To Pass" Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-106)—Committee on State Government on Bill "An Act to Establish the Department of Forestry" (H.P. 338) (L.D. 441)

TABLED—May 7, 1985 by Representative GWADOSKY of Fairfield.

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

On motion of Representative Nadeau of Saco, retabled pending the motion of the Representative from Fairfield, Representative Gwadosky, that the House accept the Majority "Ought Not to Pass" and specially assigned for Friday, May 10, 1985.

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

An Act to Prohibit Open Burning at All Municipal Solid Waste Disposal Sites (H.P. 976) (L.D. 1399) (H. "A" H-99)

TABLED—May 7, 1985 by Representative MICHAUD of Medway.

PENDING—Motion of Representative SMITH of Island Falls to Indefinitely Postpone Bill and Accompanying Papers.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: The bill before you addresses a conflict between state and federal law. Federal law prohibits open burning of dumps, period. Maine law allows open burning of dumps that serve a population of less than 1,000 people. The United States Environmental Protection Agency, which administers the federal law, has indicated that they will enforce this law in the State of Maine if we don't change and conform. What that means is that some small Maine town is going to be prosecuted for violation of federal law if we don't act. I think that everyone on the committee recognized that some small dump can be burned without imposing any particular threat to the environment and some dumps can be burned and they present, quite frankly, an enormous threat to the environment.

This bill is going to be a problem for some small town but it is something that we have just got to do. On the Energy and Natural Resources Committee, there are a lot of people that represent small towns and the bill, as originally proposed, would have gone into effect immediately. The committee spent a lot of time on it. It has been with us every single session, we finally reached a compromise and this bill will become effective in 1989. Men and Women of the House, if you judge the quality of a compromise by the lack of enthusiasm that people have for the final product, we have a very, very good compromise because I tell you, I for one, am not enthusiastic about this bill and I don't think that any one else on the Energy and Natural Resources committee was. I don't think any of us are happy about what we are doing but it is something that we just plain have to do. We cannot wait any longer;

if we do, some small town is going to be dragged into court by the federal government.

I ask you to join me today and vote against the motion to indefinitely postpone this bill so we can enact it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Island Falls, Representative SMITH.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: First I would like to read from a section of a letter from the United States EPA. "Presently EPA is willing to allow those towns who are working in good faith towards an acceptable solution the time they need for design, construction and implementation of alternate disposal systems. We are aware of the difficulties faced by the small towns and recognize that alternate means of waste disposal cannot be developed overnight, however, we do expect the towns to cease burning as soon as is feasible."

I don't think we have the fear that has been suggested. I hope you will join me today to defeat this bill.

This bill would give the DEP and the EPA a little more power on the state level, power that I am afraid of. We pay these people on the state level and we should have the right to control them on this level. This is a small town bill, small town to the small tax base struggling to meet the needs which have high costs. With this bill, we will be forced in the small towns to stop burning in one location, the town dump. Our people bring their waste to our town on a given day or days and there is an attendant to make sure things are kept in proper order. He has a radio contact with the town office should he need help with a fire or any other problem. It is covered weekly. Now, isn't this better than each one burning their own waste in the backyards? Many used to burn at their own homes using a 50 gallon oil drum, cut out at the top, small holes in the side or bottom for draft and you had a great burner. Pass this bill, we would be going back to that process. We have no choice.

We hear much about acid rain destroying our forests, lakes and streams—what are they doing about it? Studies and more studies. It is easy to go after the small towns than big businesses—small towns do not have the money to pay those lawyers to fight for studies but we do have a lot of oil drums.

We have heard that the federal level have these laws and they do, assisting our state agencies tendencies to go wild, we need a little check on them, that is why we must kill this bill. Let the federal agency set the pace for this change, let them keep the power. Whenever everything is satisfactory to them, then we can get rid of the present state level law, but for now, let's keep it.

I hope you will vote with me to indefinitely postpone and Mr. Speaker, I would ask for a Division.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: I hope you would vote against the motion to indefinitely postpone. I, too, as Representative Mitchell, in the past have always voted against bills that would do away with that 1,000 population on open burning. Basically what this bill does is allow the municipalities that still burn to submit a plan to the Department of Environmental Protection by July 1, 1986. That plan could call for open burning and by January 1, 1989, that plan has to be implemented.

I have a letter from the Department of Environmental Protection and how they plan to bring this into compliance. I will read it into the record so it will make it clear should this bill pass: "bringing towns into compliance with the proposed bill, L.D. 438, will be scheduled according to where those towns are found on the Department's solid waste priority list.

Priority schedule is necessary because the Department believes that the resources should be directed to environmental problems that have the greatest impact and not just to the issue of compliance or non-compliance. This bill will motivate and direct towns to obtain environmentally safe methods of disposing of municipal waste bringin towns into compliance with the proposed bill and will start with those towns that have a significant impact on the environment and have readily available alternatives for solid waste disposal. If the EPA sues any Maine towns, the Department will render technical assistance where it can to help them find environmentally sound alternatives to open burning."

At the public hearing, we had someone from EPA that attended the hearing. Representative Smith read you part of what was in that letter that they sent to us, the other part which I will read is in the last paragraph which is the reason why I went along with the unanimous committee report. I quote: "EPA has recently cited three towns in New Hampshire with populations less than 1,000 for non-compliance with the open burning regulations. We are prepared to follow the same course of action in Maine to assure compliance with the federal law." Basically, what they are saying is, we have a law on the books that is in violation of federal law, if the State of Maine does not change that law, they will come up here, they will enforce that law regardless of whether Maine law says a thousand or not, EPA will preempt that law. What they are asking us to do is change the law and they will ignore it.

Mr. Speaker, I would ask for a roll call when the vote is taken and I hope you will vote against the motion to indefinitely postpone.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to give you a little history about our town dump. In the 1970's the selectmen moved the town dump away from the river to its present location. They did not get approval to do this but it was an excellent move. Under the laws at the time, it would not have passed because one of the selectmen would not spend the money for an engineer to lay out the area so we never did get permit for a dump.

In 1981, my town filed an application for a town dump location approval. A new site was selected by DEP and we have spent \$24,252.09 and we still have a long ways to go before it can be used. Of course, we do not have a permit this time.

We don't need the state level to have more power. I believe we should let the federal government come in. I am not fearful of them. I am fearful of the local level. It reminds me of when I was in the service—you can be an acting PFC from New York or Texas and they were next to God, if not above him, and that is all I can think of when I see these fellows come in. I suggest to any of you, if you have any business with them, you had better get a tape recorder because from time to time, they will have different views of what should be done.

In my part of the country, when it gets 10, 20, and 30 below zero, when you try covering a dump, you need some pretty heavy equipment to do that. I represent small towns. I have two towns that are over a thousand and they have the same problems. It was interesting the other day, I talked to the town manger of Medway, I thought I would find out what they were doing in that particular area, it seems that they have been dumping their waste at the Great Northern Sludge Dump and they have been notified that they can no longer do it and they are going to be having problems, I know.

I hope you vote to indefinitely postpone this measure and let the federal government come in, I am not fearful of them but I am fearful

of the local people.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Dover-Foxcroft, Representative Law.

Representative LAW: Mr. Speaker, Ladies and Gentlemen of the House: This is getting to be a habit. I have two small towns, who are in violation at this time. I am 100 percent against having the state dictate, but the law is the law, and EPA, when they testified at the hearing made it clear that they were going to start enforcing the law. The thing is, if you have just one person in your town or any other town, that writes a letter to DEP or EPA telling them that they are burning they are in violation and they are going to have to come up. Originally, I was against the bill but I believe we negotiated out amongst the committee the best thing we could get and have DEP agree to give the small towns a couple more years, at times even three years, to work out the solution. I think we should kill this bill and indefinitely postpone.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I am really troubled by this bill and when I first came to the legislature, I was a very strong supporter of doing away with open dump burning. In fact, in my first term, we had a vote to have the state move ahead of the federal, it got two votes, I was one of them.

We had one of the worst burning dump situations in the town of York, but what happened to my town is that we got rid of our burning dump, we went to a sanitary landfill, we spent a million dollars and that landfill is now closed. We have polluted an aquifer. We have actually caused more pollution in this than what we were doing with our open dump burning. We are in a situation now where we send out solid waste to be burned in Portsmouth, New Hampshire and yet, at the same time, we have things that we can not burn, we are being told to get rid of that, DEP has been very little use in trying to help us deal with that particular problem. I realize that we have a gun to our head but I would pose a question to those supporters of the bill as to what they might have put into the bill to give DEP the kind of resources to help these towns, not just sit back and say, do it, and go out and spend all that money and then maybe end up polluting ground water as we did in the town of York. I wonder if anybody can answer that question, whether DEP is going to be given the resource to help, really help these towns?

The SPEAKER PRO TEM: The Representative from York, Representative Rolde, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Livermore Falls, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: You don't know how it pains me to stand up here as "a supporter of this bill." I had to unplug my nose probably more than anybody else to finally sign this out in the majority fashion.

I agree with everything that has been said in terms of not liking to be threatened by the federal government. I agree with everything that has been said about the fact that there are those here who don't think that the small burning dumps is a major pollution problem. I agree with that, but, unfortunately, we are between a rock and a hard place and I do represent small towns as do many of the folks on the committee and so we had to make a choice. Again, as others have said, this is something that comes to us year after year, and the choice was very difficult but in direct answer to your question, I will try to respond to it, there are two things that I wanted to bring out in our discussion. One refers back to the letter that Representative Michaud read from the DEP. They

assured us that they would not, if this bill became law, go out and start putting the heavy hand of bureaucracy on the small towns that are continuing to burn. While everybody that serves in this legislature knows that it is one thing to hear that in the committee room and another thing to see it followed up and so several of us on the committee requested that they put that in writing and that that be read into the records, which is what Representative Michaud did earlier today so we are going to hold them to their word. It is a matter of legislative record that is going to enable us to do that.

Secondly, I think the 1989 deadline is a reasonable deadline for one big reason and that is that we are beginning to see the development of energy recovery systems by way of incineration systems that are going to, hopefully, be a long term solution to our solid waste problems. I think everybody hopes that this will be the ultimate solution. Realistically, it is going to take two or three years for these systems to get on line and it is going to take that long for these small towns to be able to connect into those area wide systems.

I guess the only solace that I can take from any of this is that, unless sufficient numbers of those energy recovery systems are on line by 1988 to assure us that these small towns are going to be able to tie into those and I hope by that time we would be able to amend that law to give them the amount of time that they need. So, the sum and substance of my comments are, I am not happy about having to enact this legislation but I would be even less happy to see the feds come in and prosecute the small towns. It is a difficult choice, it is very, very difficult, so I hope that I have responded to your question.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Representative Rolde of York on this question and though Representative Brown's answers were very well put and very well stated on what the promise is for the future, he did not point out to us or show us what the DEP is doing for us or intends to do for us in this bill.

I have been involved in municipal government for six years before I came to this legislature. Our question and the most pressing question we had before us on the council during those years was this very issue we are talking about today. What are we going to do with our waste? Ten years later, we are still talking about it and the DEP, our very own agency, which is charged with the responsibility of assisting communities, looks with a heavy hand to the solution. I think Representative Smith of Island Falls, is correct, I believe that we should indefinitely postpone the bill and I would urge your support in that direction.

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly, the bill allows the municipality to submit a plan. In that plan, they could call for open burning so it is not as if it is prohibited. If the Department feels that in that municipality there is no alternative, then if they accept the plan, they will still be able to open burn.

Representative Smith is correct as far as the

situation with the Medway dump. However, this would not affect the Medway dump. Medway is over a thousand so this bill doesn't affect it.

I would urge you to vote against the pending motion to indefinitely postpone.

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

Representative STROUT: Mr. Speaker, Members of the House: I keep hearing the gentlemen from Medway speak about the DEP going to let us submit plans for these small towns. The problem out there is that some of us out there, I think, know a little bit more about how we should maintain our dumps than the DEP. That is the problem that we have run into up in our area. We have tried to tell them what we think is right for us and we have tried to make some recommendations and the problem that we run into is that those recommendations that we make for the areas they are in, they don't listen to us. You know, if they would just listen to us and come out with some recommendations that would be a help to some of the small communities, some of us would be willing to do what they want to do.

Let me say to you, when they tell about burying some of this refuse out there, the gentleman from York, Representative Rolde is absolutely correct—this is creating more problems than back when we used to burn and then cover. I have said a good many times and I have had the federal boys on my dump, and by the way, we are not in compliance, but I have had them say to me, "you know, if you would cover this every day or if you would do this, we wouldn't bother you." Probably I shouldn't be up here today saying it, because probably DEP will be at my dump tomorrow, but I can tell you this, that if DEP would allow us to burn on a Sunday night and cover Monday morning, it is the best thing you have got for the dumps in the State of Maine. If we could burn and cover, that is where the problem is. When you fill those landfills out there, the way that we are doing now, all we are doing is polluting that ground and it is getting worse.

We have one landfill not too far from our area in the town of Hampden and I heard back two or three years ago that that was going to last 20 years—now I hear it will probably be four to five years. I tell you as I stand here today, I am glad that I don't live near that landfill because I think they are going to have problems down the road.

I would urge you today to support the motion to indefinitely postpone and see if DEP won't come back with some ideas to help the municipalities over the next two years rather than take this route.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Shapleigh, Representative Ridley.

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I never thought I would see the day that I would get up to support the present bill that is before us. I hope you would vote against the present motion to indefinitely postpone.

There probably is nobody more opposed to any type of legislation like this than I am. I represent small towns but sooner or later, we are going to have to face up to the problem. I don't like this landfill, I never have from the very inception of it. I think it is the worst thing you can do. There has been a lot of ground water polluted down in my area, Burning—that is what my town has done and we have been doing it since I can remember. We dig large trenches in the ground about 20 to 25 feet deep and about 100 feet long and we put the stuff in there and burn it and then we push dirt up, keep it all down in one end and cover it over. I thought this was probably the nicest and economical method as you could use but then times have changed, we are using things today in our everyday life that we never used

20 years ago. They come in plastics, all kinds of plastic jugs, plastic bottles, pesticides, this stuff is thrown in the dump and when you burn it, it ends up in a concentrated form so that eventually it is going to get down into the water table and this is really what bothers me.

Your air pollution, you can control that; you stop burning and the air will clean up but if you get pollution in your ground water; I don't know how you are ever going to clean it up. This is a very, very dangerous thing to be doing, burying these things in the ground.

I thought we had come up with a pretty good compromise explaining these problems that these small towns have. If you think somebody has a problem, how about these people who live on islands off the coast of Maine? We all went through that, some islands out there don't have more than a half a dozen people on them—what are they going to do? Some of them at the present time are shipping their garbage and what not back onto the mainland so all of us do have some big problems but I think the answer as far as I am concerned is not this landfill because it is very costly, you use up a lot of land and the stuff is in the ground and it is going to get down into the water table. I think burning it in these energy recovery units where they can generate steam, produce electrical power, this the answer to it as far as I am concerned. I realize that some of the areas in the state aren't going to be able to do this because they are too sparsely located and you aren't going to be able to produce enough refuse to do it but this is the problem that we pointed out to the DEP and that is why it was read into the record that these small communities that do live so far apart on some of these islands, if they burn, they are going to look at these on the amount of emissions that are going into the air and this is now they are going to establish a priority list. Eventually, even those people are going to have to come up with something but from all I can gather and the study that was put into this, I think the proposed bill that we come up with is the solution. As I said before, I never thought I would hear me say this but I would hope you would vote against indefinite postponement.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: If anybody thinks that by passing new legislation, which would conform to the regulation of the DEP or any state departments, is just wishful thinking. As an employee of the state, although I prided myself as a state employee, not a bureaucrat, if I had been a bureaucrat I would have made some changes. While you are conforming to the regulations of the state bureaucrats, they are sitting down at the same time finding ways that you will not conform. A bureaucrat must come back with new regulations to justify their existence. In my hometown, I saw that. First, they told us we couldn't dump near the little river so they showed us a new spot and after we met all those regulations, they told us we were polluting the aquifer, so remember one thing, while you are conforming to the laws, the bureaucrats are sitting down planning new ways so they can justify their existence and they are going to come back with new regulations.

I would agree with the gentlemen from Island Falls, we should indefinitely postpone this.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: There is probably nobody in this body that dislikes bureaucrats anymore than me but, unfortunately, we are getting off the base here. It is not the state DEP that we have to worry about, it is the federal government and federal law that prohibits

burning. Now this issue has come before the that Energy and Natural Resources Committee all four terms that I have been on it and all we keep doing is extending so the small towns, who wouldn't be forced into compliance, would have a little more time. The last time we changed it, we made it for any town under one thousand so the towns could have a little more time to adjust the problem but they haven't been addressing the problem and you can blame DEP all you want but the problem is, the hammer is ready to come down. I don't think Island Falls or any other little town can afford to pay \$10,000, \$30,000 or \$50,000 fines because they are violating federal law, which says you will not burn in a dump. Now this bill does not make a darn bit of difference to me because the city of Waterville does not burn and the dump is in my district. We have a landfill there that the town of Winslow is also using because their landfill isn't any good now. The first thing we do when we get a fire in that dump is the whole Waterville Fire Department goes over there and puts it out because that is what the law says. I was a fireman three years and we spent more time putting out dump fire than we did anything else.

Now get off the path that it is the state DEP and the state bureaucrats, they are not the problem, and you are not going to have to worry about those fellows. It is Uncle Sam that is coming along. If you want to indefinitely postpone this bill, that is fine with me, but when the Feds comes along and start whopping these towns I hope I am around to say I told you so, because that is what we are going to be telling you, I told you so. You will see how fast they spend a heck of a lot of money and they end up complying which we are trying to get them to do now anyway.

The SPEAKER PRO TEM: the Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: I, too, hesitate to rise today. Representative Ridley and I probably have fought this issue more than any other two people in this legislature. We teamed up and really worked hard but there comes a time when we realize that we have got to retreat and regroup, I guess. We have some formidable forces against us. I can remember and Representative Jacques has served next to me, I guess at the longest term, and he will tell you how many times that I said burying garbage in the ground is like burying a time bomb. I said the cure is worse than the disease, time and time again and some of those people who advocated that are now apologizing, which is fine, anybody that can admit a mistake, that is fine, but I just had to get up and say why I am on the report the way I am. I am not trying to influence anybody, I am just explaining my position and each and everyone vote their conscience.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of Representative Smith of Island Falls that the Bill be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 59

YEAS:—Allen, Armstrong, Bonney, Brown, A.K.; Cahill, Clark, Connors, Dillenback, Drinkwater, Erwin, Farnum, Foss, Greenlaw, Harper, Hepburn, Hichborn, Ingraham, Jackson, Jalbert, Lander, Lebowitz, MacBride, Macomber, Martin, H.C.; Masterman, McHenry, McPherson, Moholland, Murphy, E.M.; Nickerson, Paradis, E.J.; Parent, Pines, Rice, Rolde, Rotondi, Salisbury, Smith, C.B.; Smith, C.W.; Soucy, Stevens, P.; Stevenson, Strout, Tammara, Theriault

NAYS:—Aliberti, Baker, A.L.; Baker, H.R.; Beaulieu, Begley, Bell, Bost, Bott, Boutillier, Brannigan, Brodeur, Brown, D.N.; Callahan, Carroll, Carter, Cashman, Chonko, Coles, Cooper, Cote, Crouse, Crowley, Daggett, Davis,

Dellert, Descoteaux, Dexter, Diamond, Duffy, Foster, Hale, Handy, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Jacques, Joseph, Kimball, Lacroix, Law, Lawrence, Lisnik, Matthews, Mayo, McGowan, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, O'Gara, Paradis, P.E.; Paul, Perry, Pouliot, Racine, Randall, Reeves, Richard, Ridley, Rioux, Roberts, Ruhlin, Scarpino, Simpson, Small, Sproul, Stetson, Stevens, A.G.; Swazey, Tardy, Taylor, Telow, Vose, Walker, Webster, Wentworth, Weymouth, Willey

ABSENT:—Bragg, Carrier, Connolly, Gwadosky, Hoglund, Holloway, Kane, Lord, Manning, McCollister, Priest, Rydell, Seavey, Sherburne, Warren, Whitcomb, Zirnklton, The Speaker

45 having voted in the affirmative and 88 in the negative with 18 being absent, the motion did 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 sixth tabled and today assigned matter:

Bill "An Act Relating to Solicitations and Public Office Holding by State Employees" (S.P. 533) (L.D. 1434)

TABLED—May 7, 1985 by Representative DIAMOND of Bangor.

PENDING—Passage to be Engrossed.

On motion of Representative Diamond of Bangor, retabled pending passage to be engrossed and tomorrow assigned.

(Off Record Remarks)

Representative RICHARD of Madison was granted unanimous consent to address the House:

Representative RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: Just last week we observed the 10th Anniversary of the end of the conflict in Vietnam and, in August of this year, we will observe VJ Day and the end of World War II in the Pacific. Today, May 8th, marks the anniversary of VE Day in Europe. Forty years ago today, allied forces brought to an end the World War fighting in Europe with the signing of the unconditional surrender which brought an end to one of the most diabolical governmental regimes in history. I ask that you all join me in paying tribute to and in honoring and remembering all those who fought and especially all of those who perished as combatants and victims of Nazi terrorism. Thank you.

On motion of Representative Allen of Washington,

Adjourned until 9:00 o'clock tomorrow morning.