

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

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August 29, 1985

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HOUSE

Tuesday, June 11, 1985

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

Prayer by Reverend Nina Sedlock, East Pittston United Methodist Church, Pittston.

Quorum was called; and held.

The Journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE

Augusta

June 10, 1985

The Honorable Edwin E. Pert

Clerk of the House

112th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

Please be advised the President has appointed the following Conferees to the disagreeing action between the two branches of the legislature on "Resolution, Proposing an Amendment to the Constitution of Maine to Provide for Staggered 4-year Terms for Senators" (S.P. 394) (L.D. 1093)

Senator Kany of Kennebec

Senator Violette of Aroostook

Senator Perkins of Hancock

Thank you.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act Converting Caswell Plantation into the Town of Caswell" (Emergency) (S.P. 636) (L.D. 1650)

Came from the Senate, referred to the Committee on Local and County Government and Ordered Printed.

Under suspension of the rules, the Bill was read once and without reference to any committee and assigned for second reading later in today's session.

Unanimous Leave to Withdraw

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Relating to Loitering on Public Sidewalks" (S.P. 416) (L.D. 1146)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Concerning the Use of Motor Vehicles in the Commission of Theft and Related Crimes" (S.P. 424) (L.D. 1172)

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

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-245) on Bill "An Act to Protect Works of Art" (S.P. 415) (L.D. 1145)

Signed:

Senators:

CHALMERS of Knox

CARPENTER of Aroostook

SEWALL of Lincoln

Representatives:

COOPER of Windham

PRIEST of Brunswick

DRINKWATER of Belfast

PARADIS of Augusta

ALLEN of Washington

KANE of South Portland

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

Signed:

Representatives:

CARRIER of Westbrook

STETSON of Damariscotta

(Representative MacBRIDE of Presque Isle - of the House - Abstained)

(Representative LEBOWITZ of Bangor - of the House - Abstained)

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-245)

Reports were read.

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

Representative PARADIS: Mr. Speaker, I move acceptance of the Majority "Ought to Pass" Report.

Men and Women of the House: L.D. 1145 is a much needed bill for a very particular segment of our society, artists. What this bill does is it creates a cause of action. I am a lay person and I am not an attorney but what this does is permit an artist to go to court and to petition the court to have his or her name taken off a work of art. If they feel that work of art has been altered, and by doing so, causes loss of the person's professional reputation; in other words, an artist has a drawing or a sculpture of some sort and somebody reproduces that, or is changed so that the artist who created this work of art no longer feels that that looks well on his or her reputation as an artist, they can go to court, under this bill within a certain limit of time, and petition the court and say, please have my name taken off from that particular work of art. It is no longer mine, it is somebody else's because it has been altered. I think that is only fair to the artists of Maine to do that. They put their heart and soul, their personality, their identity into a work of art, and when somebody copies that in a way that is unfavorable to their reputation, their livelihood, they ought to have a right to say, I cannot take that away from you but I don't want my name associated with that piece of art. That is simply what this bill does.

I urge the acceptance of the Majority "Ought to Pass" Report.

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

Representative STETSON: Mr. Speaker, Men and Women of the House: I won't belabor this issue. I don't think it is a badly needed piece of legislation. I think that any artist could have brought a similar action without this kind of legislation but if you all feel that this is so necessary, I guess we will have to have more judges, more courthouses and certainly it won't hurt the lawyers any either.

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

Committee Amendment "A" (S-245) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-245) in concurrence.

Messages and Documents

The following Communication:

STATE OF MAINE

DEPARTMENT OF AUDIT

STATE HOUSE, STATION 66

AUGUSTA, MAINE 04333

June 10, 1985

TO GOVERNOR JOSEPH E. BRENNAN
AND MEMBERS OF THE ONE HUNDRED
AND TWELFTH LEGISLATURE

In compliance with statutory requirements, I submit herewith the 65th Annual Report of the State Auditor for the fiscal year ended June 30, 1984.

We have made extensive examination of major pertinent transactions. We do not make a detailed examination of all recorded transactions on the general books of the State for the year. We did, however, make a detailed examination of accounting records, procedures and internal controls, and verified financial transactions on a selective basis in our post audits of the activities of the various State Departments, Agencies, Boards, etc. during the

year. The results of these audits, together with comments, observations and audit findings and recommendations are contained in our individual audit reports submitted to the respective State Departments, Agencies, Boards etc.

Based on the scope of our examination, it is our opinion that, except for the exclusion of certain trust and operating fund transactions and balances recorded and controlled locally by State agencies and not reflected of the various State Departments, Agencies, Boards, etc., of the State of Maine for the fiscal year ended June 30, 1984 has been fairly presented in conformity and with generally accepted accounting principles applied on a consistent basis.

Statements and schedules pertaining to the financial position of the various operating funds of the State of Maine at June 30, 1984 may be found in the Annual Report of the State Controller.

I would like to express my special appreciation to the staff of the Department of Audit for their continued loyalty and devotion to duty and to the State Officials for their cooperation with this department.

Respectfully submitted,

S/ ROBERT W. NORTON

State Auditor

Was read and with accompanying papers ordered placed on file.

The following Communication:

State of Maine

One Hundred and Twelfth Legislature
Committee on Aging, Retirement and Veterans

June 10, 1985

The Honorable John L. Martin

Speaker of the House

112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Aging, Retirement and Veterans during the first regular session of the 112th legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	41
Unanimous reports	38
Leave to Withdraw	17
Ought to Pass	4
Ought Not to Pass	1
Ought to Pass as Amended	15
Ought to Pass in New Draft	1
Divided reports	1
Carry Over Bills	

(Approved by the Legislative Council)2

Respectfully submitted,

S/ N. PAUL GAUVREAU

Senate Chair

S/ DANIEL B. HICKEY

House Chair

Was read and ordered placed on file.

Reports of Committees**Divided Report****Later Today Assigned**

Majority Report of the Committee on Energy and Natural Resources on Bill "An Act to Require Voter Approval of the Disposal of Low-level Radioactive Waste" (I.B.1) (L.D. 615) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish a State Policy Relating to the Disposal of Low-level Radioactive Waste" (H.P. 1141) (L.D. 1649)

Signed:

Senators:

USHER of Cumberland

EMERSON of Penobscot

Representatives:

MICHAUD of Medway

JACQUES of Waterville

RIDLEY of Shapleigh

HOGLUND of Portland

BROWN of Livermore Falls

DEXTER of Kingfield

LAW of Dover-Foxcroft

COLES of Harpswell

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

Signed:

Senator:

KANY of Kennebec

Representatives:

MITCHELL of Freeport

HOLLOWAY of Edgecomb

Reports were read.

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

Representative MICHAUD: Mr. Speaker, I move acceptance of the Majority "Ought to Pass" Report.

Mr. Speaker, Men and Women of the House: Basically, what you have before you is L.D. 615 and L.D. 1649. L.D. 615, the initiative bill, requires for voter approval for all low level radioactive waste sites within the State of Maine. It also adds for voter approval for an interstate compact, which if Maine chose to send its waste outside of the state, if that is part of the agreement, the voters have to go to referendum.

The Majority Report, 1649, does a couple of things. First of all, it will allow for voter approval if Maine chooses to dispose of its waste within the State of Maine with the exception of Maine Yankee. It also sets state policy. In the Majority Report, the first and desirable policy that we are setting, if approved by the voters, is that Maine dispose of its waste outside of the state, that is the first option.

The second option is for the State of Maine to enter into an agreement with the government or private agency to dispose of its waste.

Third and final policy that is set in the Majority Report is for Maine to dispose of its waste by itself.

In the Majority Report, if Maine cannot enter into a compact with some other state to accept its waste, then it would have to dispose of its own waste within the State of Maine and the voters would have to approve of that measure. The major difference is if Maine can enter into a compact with some other state, then the voters will not have the option to approve of that site and the basic reason behind the Majority Report is that, if some other state is willing to take our waste, then Maine people should not care whether or not it is disposed of safely, which I would assume that it would be if some other state is going to take it.

In 1982, Massachusetts passed a referendum similar to what the initiative bill does and what has happened to Massachusetts and why the Majority Report feels that it will hurt Maine's chances of negotiating some type of contract is that other states will be leary to any type of compact with the state that requires voter approval for that compact. I will give you a scenario. Say if the initiative of the Minority Report does pass by the voters, what will basically happen is Maine, more than likely, will be in the same situation as Massachusetts and no other state will be willing to negotiate any type of agreement with them. What will happen is Maine will have to have its own disposal site. Keep in mind that federal law says that, if the state cannot enter into a compact, that they cannot refuse any other state so if Maine can't enter into a compact with some other state, we have to have our own site. If we have our own site, and say Vermont wants to dispose in Maine, Maine can't refuse them under the federal law.

I hope you will go along with me in accepting the Majority "Ought to Pass" Report.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Representative Michaud is right, we have two bills here, we have the initiative bill which is Report B and that requires voter approval of any plan to dispose of low level radioactive waste, whether

it is inside this state or outside the state. The competing measure which is Report A, allows for disposal of waste outside of the state or Maine Yankees without voter approval but requires voter approval for disposal of waste with any other site in the state. It also sets a policy. My belief is that our policy for low level radioactive waste is that we should dispose of it in the safest, reasonable manner and that is a policy which is being developed and perhaps the competing measure is a bit premature in setting that policy into law.

There are three things that we can do today, we can pass the initiated bill and if you vote for Report B, that is what you will be doing. If you pass the initiated bill, there will be no referendum. I don't think that the initiated bill is probably the best in the world—the question is certainly loaded and I think that on any ballot, it will probably win. We have a serious problem and the federal law requires us to resolve that problem by January 1, 1986. If we pass the initiated bill, it is not the best thing in the world but I am sure we can live with it, we will not have to go referendum and spend all that time, which we would otherwise spend resolving problems dealing with this election. I think that if we pass the initiated bill, we can get down to work and do the job.

The other alternative is to kill both of these bills and if we kill both of these bills, the initiated bill will go out to the voters and the voters can vote for it, up or down.

The third alternative that you can face today is to pass the competing measure and if you pass the competing measure what you will do is give the voters three questions in November; to pass the initiated bill, to pass the competing measure, which the committee wrote, or to pass neither of those. One of those three questions must receive 50 percent of the vote or it will be resubmitted to the voters. If we pass the competing measure here and it goes out as three questions on the ballot, I would urge you all to vote for none of the above because I think that things are going along fine before this competing measure was introduced. This is a very, very technical matter and it is very difficult to make technical decisions in a public arena. I think that you would really do a service to this state if you went out and voted for none of the above in November, if we pass the competing measure today.

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

Representative CONNOLLY: Mr. Speaker, I move that this bill and all accompanying papers be indefinitely postponed.

Mr. Speaker, Member of the House: It is my understanding, and if I am wrong, I wish someone would correct me, that the only way to get that initiated bill and that bill only before the people for a vote is if the legislature were to indefinitely postpone both reports that are before us now. I am not an expert by any stretch of the imagination on all the issues that are contained in this legislation but I do know and I have been involved in initiated petitions in the past that the process is a somewhat sacred process and one of the ways that we allow laws to become laws in the State of Maine is to allow citizens to initiate a referendum and to collect a very significant number of signatures. If those signatures are certified as eligible voters, they then come to the legislature, and for all the years that I have been in the legislature, it is a fairly routine matter that the legislature then kills the bill and then it goes on to the people for a vote.

What we have today is Maine Yankee and Central Maine Power and other utility nuclear interest in the state who are scared to death by this initiated referendum because they think that it may pass and it may put some restrictions on their operations. Regardless of the merits of the bill or the petition, I think that

that issue, and that issue alone, ought to be put before the people for a vote.

In the Majority Report, we have what I refer to as the G. Gordon Liddy amendment because its initial draft was offered by David Flannigan of Central Maine Power and Maine Yankee. That is what is referred to as the competing measure and the only reason that that is before the legislature is to try to confuse the voters and try to prevent a 50 percent or a majority vote on the initiated question. The Majority Report, which says, that we should accept the bill and pass the bill as it came before us, is, in my opinion, another attempt to subvert the process. If we pass that bill, it would then allow the legislature, at some future point, the opportunity to amend it, to make it better, to deal with some of the problems that Representative Mitchell, in good faith, points out may cause a problem.

I have been involved particularly with two referendum questions in the past, both of which when they began, all the pollsters said had enormous support amongst the voters. One was the milk question and one was the bill that was before us a few years ago dealing with the election of the PUC Commissioners and the legislature took the position on those two questions, despite the seeming popularity and the fear on the people who didn't want them to pass that they would perhaps pass in the election in November, to send them out to the people for a vote and then the opponents had every opportunity to debate the issues, up or down, and in both of those cases, those referendum questions were defeated. The question of the election of the Commissioners to the PUC at time that that bill was before the legislature, the pollster, I forget his name, the fellow from Bowdoin, Chris Potholm, said that that issue had 70 to 75 percent support of the people of the State. By the time the PUC and the Governor's Office and Central Maine Power went to work, that question was defeated in November. I think the process is a sacred process and I think that the bill ought to be allowed to go before the people for a vote and I would hope, that based on that, that you would support a motion of indefinite postponement.

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond for a moment to the Representative from Portland, Representative Connolly's comments about the sacred process, which I agree is a process which is part of Maine law and it is a very important process and is one that has caused many issues to be decided in the ballot box from the people. However, to say that that sacred process ought not to be dealt with in such a way that alternatives to that process can be offered, I think is very wrong. I had to smile when Representative Connolly said that the best thing we could do would be to send this issue to the people by itself. Then if there were problems, amend it after the people have voted affirmatively.

Let's go back a couple of years to the issue that was voted at the ballot box on repealing the retroactive portion of tax conformity. You may recall that that created great furor among the people. They had voted, they had made their intentions known and now the legislature was attempting to deal with the issue in its own way. I guess you might even say that the recent election in Lewiston-Auburn is another example of people saying, don't tamper with something after we have voted. I think the same is true here. We are not tampering with the sacred process, we are simply providing an alternative.

I would like to talk about the real issue. Maine, along with every single state in this nation, has a problem on its hands, and that problem is how we are going to deal with our low level nuclear waste. This is waste that comes

from nuclear generating facilities, such as Maine Yankee, which is the largest producer in this State, its waste comes from hospital laboratories, and so it is something that we have to deal with. As a result, the low level siting commission has been dealing with this issue, as Representative Michaud stated, for the last couple of years. It is a highly, highly, technical problem that Maine faces.

Representative Mitchell, very admirably I believe, said, that it is an emotional issue, which is difficult to discuss in the public arena and that is true. I think because of the emotional aspect of the question before us it became important for us then to look at the possibilities of a competing measure. Just so you will understand what you are voting for, the Majority Report provides the people with the opportunity, as Representative Connolly wants to have, to vote on the initiated referendum question. It provides, however, a second alternative for the people to vote on and again, Representative Michaud laid that out very well. If we did as Representative Connolly suggests and indefinitely postpone this bill, that means that only the one question will go out to the voters, one question only, and that is a referendum to hold additional referendums on any plan that Maine may develop to deal with low level nuclear waste. I don't think that the people of Maine necessarily want to wade through all of the technical questions and all of the technical problems that go into finding a permanent solution for the storage and ultimate disposal of low level waste. At that point, I believe we will be introducing the element of emotionalism, which is going to tend to dominate the discussion, and then the decision may be based on an emotionalism rather than a technical ability for our being able to get rid of the material.

I ask you not to indefinitely postpone this bill so that we can go on and accept the Majority Report so that in the Fall, the voters of Maine will have a choice. Let's not ask the voters of Maine to go back referendum after referendum to vote on every singly option that Maine, after years of research and development, may come up with to vote on something that is highly technical that I think could lead to an awful lot of confusion among the electorate. I think the issue before us is clear, it need not be made difficult and I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Edgecomb, Representative Holloway.

Representative HOLLOWAY: Mr. Speaker, Members of the House: I do hope that you will not vote to indefinitely postpone these bills. I think today we should change some of the policy here in the legislature and, rather than send this issue out to referendum, I see no reason why we cannot adopt, right here, the people's initiative. 44,000 people collected signatures, put their name on line, and said they wanted this to either be adopted here at the legislature or go out in November. I believe that we can save ourselves a tremendous amount of confusion, we can save ourselves an alternate measure going out to the people by adopting it here today.

I happen to live in the area of Maine Yankee, just across the river from it, and a lot of my people are tremendously concerned about what will happen in that area. But I think if we adopt this measure today, the people's initiative, and say, yes to this question, which says: "do you want the right to vote for or against any plan for the storage of disposal of low level radioactive waste?" Now that would go on the statutes today and then in November there would be the question on a ballot that would give you the opportunity to vote for wherever the storage site would be. It is that simple so I hope you will vote against the pending motion, which is indefinite postponement, turn down the Majority Report, and accept the

Minority Report, right here today, and put this into statute right now and save ourselves referendums in November.

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

Representative LAW: Mr. Speaker, Ladies and Gentlemen of the House: Before we vote today, we should consider what is best for our constituents, not what we perceive is best for them. I believe that we should give them the opportunity to make the decision.

If you vote, not for the Majority Report, what you are doing is giving them yes or no. It is all or nothing.

I believe that the bill that the majority of the Energy and Natural Resources came up with is a good balance. It provides primarily a compact outside the state or disposal at Maine Yankee. The primary reason that these are in there is because 90 percent of the low level radioactive waste in the State of Maine is generated at Maine Yankee. They are the ones that have the expertise in disposal.

Now, before a disposal site is established at Maine Yankee, presuming this measure goes through and wins in the Fall, the site would have to be designed and it would have to be approved by the Department of Environmental Protection and then it would have to be approved by the Legislature. So, there is little chance that if the disposal site at Maine Yankee is not safe, is not the best place for the disposal of the low level waste, that it will then go out to referendum. I urge you to support the Majority "Ought to Pass".

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

Representative CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I don't intend to prolong the debate but I do want to respond to a couple of things.

First of all to my friend, Representative Brown, you obfuscate the issue, the speech couldn't have better delivered if it had been written by David Flannigan. You said in part that I don't think that the people of Maine want to wade through all these particular questions. Who are you and who are we to tell the people of Maine what they should or should not want to wade through?

Representative Law said, all or nothing, if we send out the first question. Look at where the competing measure comes from. Look at who drafted it, look at why it was put before the committee. It came from David Flannigan and it came from Maine Yankee. It is a competing measure. The reason that it is competing is because it is an attempt to destroy an initiated referendum. If I were one of the 50,000 plus people that signed that initiated referendum, and I saw this legislature try to subvert that referendum, either by passing the bill in the legislature so it could be amended or by putting the competing measure on, I would be very, very upset.

Mr. Speaker, I ask for a roll call.

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

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

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Connolly, you directed your comments to me and I am going to direct mine to you. David Flannigan doesn't write anything for me and neither does anybody else. I don't know what your policy is on your committee but nobody writes reports

for me.

I am going to tell this body exactly where the competing measure came from. When this bill was presented to the legislature, along with other bills dealing with low level nuclear waste, the low level nuclear waste siting commission, as part of its deliberations, considered all of those bills and made recommendations to the Energy and Natural Resources Committee on each and every one of those bills. When this particular bill was considered by the low level siting commission, we spent several meetings discussing it. One thing that came out of, I think, each and every discussion on that bill was the consideration for a competing measure. It wasn't to us by CMP, it wasn't given to us by Maine Yankee, it wasn't given to us by the University of Maine or David Flannigan. It came out of the commission. Henry Warren in particular, as the DEP Commissioner, was one of the proponents of a competing measure. There were several of us named to a subcommittee to deal with the coming up competing measure. Once we came up with a possibility, it was discussed, it was changed, it was altered, we spent many hours dealing with the right wording, the right concept, the kind of thing that we wanted to send out to the voters, the kind of issue that we thought would be a good issue for the voters to vote on as an alternative to the one that was being sent to them. That is the origin of the competing measure and I thought that I ought to set the record straight Mr. Connolly.

Representative Connolly of Portland was granted permission to address the House a third time.

Representative CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I just want to respond — my remarks still stand.

The SPEAKER: The Chair would caution the Representative from Portland, Representative Connolly, from questioning the intent, the desires, and the motives of any member of this body.

The Chair recognizes the Representative from Portland, Representative Connolly, who may respond.

Representative CONNOLLY: Mr. Speaker: Just for the record Mr. Speaker, I did not question the motives of any member of this body.

The SPEAKER: The Chair's comments stand. The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: This competing measure that the Committee on Energy and Natural Resources dealt with, we worked very closely with the low level radioactive waste committee. This is an important issue for the people of the State of Maine and Representative Brown is 100 percent correct. Not only did the low level radioactive commission work on this bill but the Energy and Natural Resources Committee dealt with this bill, we made a lot of changes in this bill. It wasn't handed to us by CMP or any other member.

As far as the signatures go, I had constituents call me up on the signatures and they thought the initiative bill should go through and they should have a right to vote. But once I explained to them, as far as the interstate compact, they had no problem with the competing measure. Their major concern is storage in the State of Maine, they have no concern where it goes outside the state, their concern is in the State of Maine and that is what that competing measure does.

I hope that this body would vote against the motion to indefinitely postpone and vote with the Majority Report.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I would like to know if there is any possibility of explaining to me — if I vote for the ensuing

position, is there an opportunity for any referendum in going to the people?

The SPEAKER: The Chair would answer in the affirmative.

A roll call has been ordered. The pending question before the House is on the motion of Representative Connolly of Portland that the initiated bill and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 173

YEAS:—Brodeur, Carroll, Connolly, McCollister, McHenry, Nadeau, G.G.; Priest, Reeves, Rolde, Rydell, Scarpino, Sproul, Webster.

NAYS:—Aliberti, Allen, Armstrong, Baker, A.L.; Boutilier, Begley, Bell, Bonney, Bost, Bott, Boutilier, Bragg, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Carter, Cashman, Chonko, Clark, Coles, Connors, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Farnum, Foss, Foster, Greenlaw, Gwadosky, Hale, Handy, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hognlund, Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Kimball, Lacroix, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McGowan, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perry, Pouliot, Randall, Rice, Richard, Ridley, Rioux, Roberts, Rotondi, Salsbury, Sherburne, Simpson, Small, Smith, C.B.; Smith, C.W.; Soucy, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Taylor, Telow, Theriault, Vose, Walker, Warren, Wentworth, Whitcomb, Willey, Zirkilnton, The Speaker.

ABSENT:—Baker, H.R.; Callahan, Carrier, Duffy, Kane, Michael, Pines, Racine, Ruhlin, Seavey, Tardy, Weymouth.

13 having voted in the affirmative and 126 in the negative with 12 being absent, the motion to indefinitely postpone did not prevail.

Representative Michaud of Medway requested a roll call vote on acceptance of the Majority "Ought to Pass" Report.

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

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

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I hope this House will think carefully before voting to accept this Majority "Ought to Pass" Report. If we accept the Majority "Ought to Pass" Report, the competing measure will go on the ballot for the voters. The voters will know that the legislature approved all of the things in this measure and will consider that the legislature is very seriously putting this measure before them as a responsible alternative to the initiated referendum.

I don't understand this competing measure. I am reading the ballot question. "Do you want to vote on any Maine site for disposal of low level radioactive waste if it is not disposed of safely outside of Maine or at the Maine Yankee site?" This is in pretty direct contrast to the question of the initiated referendum, which is, "do you want the right to vote on any low level radioactive waste disposal site in Maine?" I think that it would be fairer and easier on the voters not to have them wade through a lot of technical stuff, let them vote up or down on

the initiated referendum. I think all of the arguments can be made, as Representative Connolly said, against voting for it and that it will be a much fairer thing to do to the voters of Maine than put a very complex question in a very complex bill before them, which I don't believe any member of this legislature has totally considered before they actually voted it out.

I would move to indefinitely postpone the Majority Report.

The SPEAKER: The Chair would advise the Representative the motion is out of order.

The pending question is on accepting the Majority "Ought to Pass" Report, a roll call having been ordered.

The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

The question is to the Chairman of the Committee — if we accept the Majority Report and Maine enters into a compact with another state, with Maine being the possibility of being the host site for the radioactive waste and we sign that compact, would the Maine voters at that time have a choice if the majority option was passed, in voting on whether or not they wanted to accept that compact?

The SPEAKER: Representative Mills of Bethel has posed a question through the Chair to the chairman of the committee, who may respond if he so desires.

The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: To answer the good Representative's question, yes they will, if Maine is chosen as a site, the voters will have a chance to approve it.

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

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I didn't phrase that quite the way I wanted to. What I want to know is, if Maine enters into a compact with Maine being the possibility of being a host state, not if they are chosen, but if there is a possibility that Maine is going to be a host state, will the voters of Maine have a chance to vote on that?

The SPEAKER: Representative Mills of Bethel has posed an additional question through the Chair to the Representative from Medway, Representative Michaud, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: The compact will state that if they enter into an agreement and they say that Maine will be a host state, then the voters will approve it. Also, I might add that it would have to be approved by DEP and the Legislature.

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

Representative SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: May I address a question to the Chairman?

To follow up a little bit on the question that Representative Mills just asked, there seems to be at least to my mind a lack of clarity in reading the bill. On Page 3, subsection 1484, paragraph 1, starting on line 27 under interstate compact, if the terms of a compact require this state to host any waste facility, that facility must be approved by the voters in a statewide election. I realize this is splitting legal words or legal hairs but that is what we have to deal with. It would appear to me, if the compact does not require that this state host the facility, then the voters would not have to vote on it, if the possibility existed within the wording of the compact for this state to host the facility and that possibility

could exist either by specific wording or by lack of specific wording, then the voters would not, based on my interpretation of this, get to vote on it.

I would repeat the question to my good friend Mr. Michaud and say, do the voters only get the right to vote on it, if it is required that this state host a site, not if the possibility, either that possibility be put in there by omission or formal wording, host the site?

The SPEAKER: Representative Scarpino of St. George has posed a question through the Chair to anyone who may respond.

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: A compact is a very complex document developed between states. It is one that has to be approved by Congress and it does, in the compact, part of the compact, determine what state is going to be the host state. Therefore, to me, the wording is very clear. That is what a compact does. Compact tells where that material is going to be disposed of and, in this case, if it were Maine and frankly folks, the only compact that I can see ever being considered with Maine, would either be Maine, New Hampshire and Vermont together or Maine and New York together with the only possibility being New York being the host state. So, the only possibility then of Maine ever being a host state would be between the three states of Maine, New Hampshire and Vermont, as I see it. The compact would very strictly spell out which state would be the host state and yes, Maine voters would have the opportunity to vote on that compact.

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

Representative MILLS: Mr. Speaker, Men and Women of the House: In our meetings with the low level waste siting commission with New Hampshire and Vermont — at this time period, we are talking about a compact where each state picks a site and then the governors — this is what we are talking about this time, nothing has been signed or anything — of the three states would get together and basically draw straws and see which state would be the host state. Now, if a compact such as that was signed, what I am asking is, would the people of Maine have the right at that time to decide whether or not they would go with that host state? In other words, if a compact was signed between Maine, New Hampshire and Vermont saying that each state picks a site and then afterwards they are going to get together and draw straws and Maine happens to draw the bad straw and we were picked as the host state, at that point, would the voters have a chance to vote on whether or not they wanted to accept that compact? That is what I want to know.

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

The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the Representative's question, the bill provides and, in fact present law provides, that any compact will be subject to legislative approval before it becomes effective. If that compact has in it a provision that Maine will be the host state, then that compact would also have to be subject to referendum by the people.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Michell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: In this last series of questions, I think really points up the weakness in both approaches to the problem. The best way to dispose of this waste is to get ourselves involved in an interstate compact

but, because of the cloud that these two bills present us, we can't go out and negotiate in good faith with any other state. So, in fact, if the voters approve either of these questions in November, we are going to increase the whole likelihood that low level radioactive waste will be disposed of in Maine.

I guess we can probably live with the Minority Report but if the motion before you passes, I do hope you will all go out and really fight hard in November and encourage all of your friends to vote for the third alternative, which would be for neither of these bills.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Medway, Representative Michaud, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 174

YEAS:—Aliberti, Armstrong, Baker, A.L.; Begley, Bonney, Bott, Boutillier, Brannigan, Brown, D.N.; Cashman, Coles, Connors, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Farnum, Foss, Foster, Greenlaw, Gwadosky, Hale, Handy, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Inghram, Jackson, Jacques, Jalbert, Joseph, Lacroix, Lander, Law, Lawrence, Lord, Macomber, Martin, H.C.; Masterman, Matthews, Mayo, McGowan, McPherson, McSweeney, Melendy, Michaud, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.R.; Nicholson, Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perry, Pouliot, Randall, Rice, Richard, Ridley, Rioux, Roberts, Rotondi, Salsbury, Sherburne, Smith, C.B.; Smith, C.W.; Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Telow, Theriault, Vose, Walker, Warren, Whitcomb, Willey, Zirnkilton.

NAYS:—Allen, Beaulieu, Bell, Bost, Bragg, Brodeur, Brown, A.K.; Cahill, Carroll, Carter, Chonko, Clark, Connolly, Holloway, Kimball, Lebowitz, Lisnik, Manning, McCollister, McHenry, Mills, Mitchell, Moholland, Nadeau, G.G.; Nelson, Priest, Reeves, Rolde, Rydell, Scarpino, Simpson, Small, Soucy, Sproul, Taylor, Webster, Wentworth.

ABSENT:—Baker, H.R.; Callahan, Carrier, Duffy, Kane, MacBride, Michael, Pines, Racine, Ruhlin, Seavey, Tardy, Weymouth, The Speaker.

100 having voted in the affirmative and 37 in the negative with 14 being absent the motion to accept the Majority "Ought to Pass" Report was accepted and the Bill read once.

The SPEAKER: Hearing objection to suspending the rules for the purpose of giving the Bill its second reading at this time, the Chair will order a vote.

Those in favor of suspending the rules for second reading will vote yes; those opposed will vote no.

A vote of the House was taken.

104 having voted in the affirmative and 12 in the negative, the rules were suspended for the purpose of second reading.

Thereupon, the Bill was read a second time.

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

Representative SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: I have an amendment to this bill that was just delivered to my desk this morning. Actually, it was delivered to my desk a half an hour ago. I have signed it and am going to deliver it to the Clerk. I would appreciate it if someone would table this bill in order for me to have this amendment printed so I can present it.

On motion of Representative Murphy of Kennebunk, tabled pending passage to be engrossed and later today assigned.

Passed to Be Engrossed

Bill "An Act Relating to the Authority of

Medical Service Organizations and Nonprofit Hospitals to make Incidental Indemnity Payments" (H.P. 1129) (L.D. 1636)

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

Representative Higgins of South Portland moved the bill be recommitted to the Committee on Taxation.

The SPEAKER: The Chair recognizes the same Representative.

Representative HIGGINS: Mr. Speaker, Men and Women of the House: As you may recall from yesterday's discussion, nearly all the debate on this subject was on the issue of the proposed tax. Rather tempered comments yesterday were offered by myself in hopes of working out a way to have a chance to review the tax provisions in this bill. Specifically, I am referring to Section 3.

Myself and other members of the Taxation Committee have met with Representatives Brannigan and Murray, as well as the lobby, in order to hopefully meet this goal. Unfortunately, it has been clearly apparent, somewhat to my surprise, that the lobby apparently doesn't want this tax policy reviewed by the Committee on Taxation.

Despite the aspersions cast upon the intentions of those wishing to review this previously unannounced tax policy, in order to instill confidence in the intentions of those wishing to review this policy, I offered to the lobby and to those members of the Majority Report, a commitment from taxation that we would review this policy on Wednesday afternoon and on Thursday we would report this bill out because of some of these aspersions that have been cast on those wishing to review the tax policy, the tax policy appearing to be the primary component of the bill. Unfortunately, this offer has not been taken up by those who have been involved in the bill.

Unfortunately, I find myself here anticipating what could be a debate, perhaps a turf fight at this late point in the session. I am sorry the House has to face this but the issue of tax exempt status, the insurance premium tax, Blue Cross-Blue Shield have been before the Taxation Committee at least during the last five years. The Taxation Committee is currently reviewing an apparent disparity in our tax treatment under the insurance premium tax between out of state businesses and in state, which is the subject of various opinions as to our current constitutionality.

I can only anticipate that those members on the Majority Report will argue against referral, the issue before us, by stating that the issue, is indeed, a business issue, despite the tax implications in Section 3.

I would only compare it with the Keyes Fibre bill. Clearly the issue of keeping Keyes Fibre and its employees working here in Maine is a business issue and a business policy. However, since this proposed policy, in trying to accomplish this goal, is a tax exemption, the issue came before the Taxation Committee. In a similar fashion, this bill before us hopes to accomplish a business policy through a tax policy proposed by an amendment. Section 3 of the bill has never been discussed in a public hearing. It is only through the work session process that the tax portion was put on this bill in what some have stated is a way of trying to bring a Majority Report on the policy together.

I believe that this bill has merit. I haven't been able to look at the policy. As a matter of fact, I even voted for the policy yesterday, as did other members of the Taxation Committee. I would only like to have a chance to look at this tax policy and how it relates to the other issue before us.

I would hope that this House would support this referral at this late date in hopes that we can have it out immediately as I had promised the lobby in a good faith effort yesterday.

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

Brannigan.

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: First of all my colleague from Portland, Representative Higgins, I just want to say to him and the whole body that the lobby is not in control of this bill and it is in the control of the Committee on Business and Commerce at this time.

The Committee discussed it informally yesterday afternoon and felt that we would continue to have the bill as part of our intention to present it as a policy dealing with insurance carriers.

Let me just explain what we have done and what we saw and the decision will be up to you as to whether it should be rereferred or not. First, Blue Cross and Blue Shield, as you know, works in tandem with its insurance company, Blue Alliance. Blue Alliance does pay a premium tax.

All of these decisions are reviewed by the tax committee although in the past the whole issue of premium tax on these health carriers has been reviewed by both committees. Of late, the tax committee has had it more often than the business committee. At all times, it has been decided by both committees that their tax exempt status would continue. It was never intended that this be an end run or a fight between taxation. We saw that as we allowed Blue Cross to change some of their ways — what they now do under Blue Alliance and pay a tax on, that ten percent would be shifted over to a whole comprehensive package. So, the decision was that that part they pay tax on now would be shifted over. That is what the ten percent is all about. We didn't feel that that was a major tax issue and so we did not see it as violating any approach to policy with the tax committee.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Higgins of South Portland to recommit this bill to the Committee on Taxation. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

79 having voted in the affirmative and 32 in the negative, the motion did prevail. Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Bil "An Act to Establish the Maine Court Facilities Authority" (S.P. 564) (L.D. 1504)

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be engrossed and later today assigned.

At this point, Representative Gwadosky of Fairfield assumed the Chair to act as Speaker Pro Tem.

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

Passed to Be Enacted Emergency Measure

An Act to Make Supplemental Allocations from the Highway Fund and Changing Certain Provisions of the Law Necessary for the Proper Operation of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987 (H.P. 673) (L.D. 956) (C. "A" H-353)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Regulate Membership Camping (H.P. 773) (L.D. 1094) (C. "A" H-356)