

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fifteenth Legislature
OF THE
State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

The Chair laid before the House the eighth matter of Unfinished Business:

Bill "An Act Relating to Unredeemed Deposits" (H.P. 1519) (L.D. 2131) (C. "A" H-1034)
TABLED - March 10, 1992 (Till Later Today) by Representative TREAT of Gardiner.
PENDING - Passage to be Engrossed.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I move that this bill be indefinitely postponed along with all accompanying papers.

I don't lightly stand here and move indefinite postponement of a bill that has received strong support from the committee that it went to. This piece of legislation has significant consequences for the environment and it was never reviewed by the committee that generally looks at that policy, the Energy and Natural Resources Committee. Moreover, it significantly cuts the budget of a key agency of this state, the Waste Management Agency, along with some other programs and it will not be reviewed by the Appropriations Committee. Therefore, I think it is appropriate that this matter be discussed here so that everybody knows what they are voting on. I would urge you to vote against it because I believe that it is not a good bill.

This is a bill that basically cuts \$65,600 from both the Waste Management Agency, a piece of it from the Department of Environmental Protection Solid Waste Program, and a small piece out of the revolving loan fund for recycling equipment. If this were a bill that cut that amount of money in order to balance the budget deficit that we are facing now in order to provide homeless shelters or mental health services, perhaps I would look at it differently. But, it is a bill that takes that money and gives it directly to two beer distributors, Anheuser-Busch and Coors that happen to produce refillable bottles. This is money that does not belong to them, it belongs to the State of Maine. I think we should think very carefully before we make this type of transaction.

This bill involves the bottle bill float. I don't know how many people are really familiar with this issue so I want to discuss it a little bit. The bottle bill float or unredeemed deposits is deposit money that has never been returned to the consumer that bought the bottle or can. It has remained in the hands of wholesalers and distributors. Last year, we passed a law that said that 50 percent of this money should come to the state to help fund programs that are very important to us, solid waste programs that are right now helping out towns that face tremendous burdens financially in terms of dealing with their solid waste problems. What this bill would do would be to exempt certain manufacturers, certain distributors of beer that package that beer in refillable containers. It would say that they could keep the entire 5 cent deposit that is not returned as opposed to just the 2.5 cents that the law currently allows.

Right now, we are in the midst of a lawsuit in which these same distributors and others are claiming that the state has no right to any of this money. Coincidentally, the judge in that case, Judge Alexander, ruled yesterday that the state has an absolute right to this money and that it does not

belong to the wholesalers and distributors. I believe what is happening here is that these people are seeing the writing on the wall and trying to get the same money based on the argument that they are promoting the environment.

I would just like to read very briefly from Judge Alexander's decision because I want it to be very clear in your mind that this money does not belong to these entities and it never really has legally. It is basically a windfall that they have kept over the years and that we need it and we deserve it and the law has upheld that in order to run our state government. Judge Alexander said, "The consumer or any person in possession of the container after the consumer has always had the right to return the funds, to return of the funds upon presentation and that right being established by statute. The Legislature has now regulated a portion of the remainder fund to be dedicated to uses in areas that have likely faced the burden of the remaining abandoned containers. This does not affect the taking of any distributors property, this redemption or recycling fund being a creation of legislative regulatory power, never became the property of the distributors except by default. The legislature has modified that default by further control over this fund with a 1991 legislation. The distributors have no property interests in the unclaimed redemption fund except that which the legislature chooses to give or default to them."

One thing that you should be aware of is that the language in this bill specifically negates some of that language in the existing law that makes it very clear that the state owns this money and whatever happens on this, I believe the bill will have to be amended to deal with that language so that we don't jeopardize our case right now which is going to be appealed, both sides have committed earlier that they would appeal it.

What is the rationale for this bill then? As I have presented it, it just takes money from the state and gives it to the beer distributors. The sponsors and supporters say that by allowing refillable container distributors to keep all of the five cent float that they will promote refillable bottles, they will make more of these, they will use them more often and that will be good for the environment because they are refillable containers. I certainly can see that if they are refilled several times — the state has said at least five times — are better than bottles that are recycled because they use less energy and are basically better for the environment. There is absolutely no proof that this will happen. First of all, the financial incentive is miniscule. The money involved, although to the state it is a very big amount of money for what we use it for, the solid waste management, it is a very small amount when you are looking at the budget of Anheuser-Busch or Coors. \$65,000 comes out to one tenth of one cent per refillable container that they sell. Moreover, no company testified before the committee that they would be willing to return to refillable containers if they were given the entire five cent amount. In fact, industry discussions with the Waste Management Agency, either they just don't think consumers like refillable bottles because they are glass and more and more people are going to the lighter weight and more convenient containers such as aluminum or plastic and that the only way we will get more refillables is to really do a major consumer advocacy

and get people to change their minds about it and be willing to put up with the different products.

The \$65,000 here is — I think something political going on. When you look at the amendment, it doesn't just evenly take this money out of the Waste Management Agency. What it does is say, we are going to take most of this money out of the siting office. Well, that is politically smart. How many people here are big fans of the siting office? It is not the most popular office in the Waste Management Agency. They didn't target recycling. Everyone loves recycling but the siting office is the one that is going around trying to find a special waste landfill site so why not go after them and everyone will agree. Well, I have had my problems with the Waste Management Agency, I have even represented a town that was selected by that agency as a site for an ash landfill. But, I don't think that is a reason to cut their budget by \$44,000. One of the concerns that I had over the siting process last time was they went out and hired a consultant as cheap as they could and they got what they paid for. They didn't get a very good search. That had data that wasn't accurate, they didn't go onto the sites enough because that costs more money. Cutting their budget is not going to make the siting process better. In fact, it targets the same fund that is going to be used to refund money to those towns that dug into their pockets to provide the technical expertise on this siting process that the agency hadn't done yet. That is a real concern as well.

There is a bill that is wending its way through the process, my understanding is that it has come through committee and it will address the siting process, reorganize it and also provide some financial help to these towns. This is money that would be available for that purpose, yet we are going to cut it here today without it having been considered by the Energy and Natural Resources Committee, without it being considered by Appropriations.

I think that this bill just makes no sense, it doesn't help the environment, it isn't going to increase the use of refillables, it doesn't improve the state's other efforts to recycle and handle solid waste. It could interfere with a lawsuit and, therefore, reduce the amount of money coming to the state budget and cause a problem for us in the future. I hope that you will vote with me to indefinitely postpone this bill.

Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: We went over this bill quite extensively. By the way, I might add that I am very proud of my committee, they are very conscientious and very knowledgeable. As a matter of fact, we have people on the committee that are involved in that particular field.

In the testifying that came about, Sherry Huber herself testified in front of the management committee and she spoke neither for nor against this bill so she didn't imply that this was going to hurt her committee. As a matter of fact, there has been a lot of talk throughout the legislature that, through restructuring, this committee might be done away with and something else might take its place, namely the DEP, so let's not kid ourselves.

As far as the beverage companies, they have gone

all out to comply with our wishes to clean up the environment.

I don't know if many of you have gone through one of these beverage plants and have seen for yourself the enormous expenditures that they have gone through to comply with the Bottle Bill. It has been very extensive and this is one way, the committee felt and I felt, that we could at least show our approval for the efforts that they have given. She has already mentioned the local, we have others on the committee that I am sure is going to speak, but I know that this is going to encourage the beverage people to further aid us in the recycling program.

I hope that you will defeat the present motion and go along with the bill as it was unanimously passed in the committee.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: Very briefly, let me give you some background on, not this particular bill, but where this bill came from.

In the past legislature, my freshman year, I put in a bill that would collect the so-called Windfall Profits from Bottle Companies. The bill came out of committee as a bill to make them report. On advice, I also put in that bill a Class D for false reporting.

In the public hearing, distributor after distributor, walked up to that committee and said that there is no money there. Also, after the bill had passed this House and the other body and went to the Governor, they had it recalled from the Governor's desk. They wanted the Class D crime for a false reporting removed, I don't know why, but they did. Nonetheless, it stayed intact.

When the report came in to the Department of Agriculture, there was \$3.2 million dollars there under the old bottle bill so this is just some of the facts that I wanted to refresh you on on the original bill.

I would also point out that you have on your desks a statement on this from the Maine Waste Management Agency. I wasn't at the hearing so I don't know what went on down there but I would urge indefinite postponement of this bill and all its papers.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Ladies and Gentlemen of the House: We worked on this bill in our committee like our chairman said and we even appointed a subcommittee to work on this bill. I am involved in this industry, I own a redemption center, and I just want to ask the people in the House, what does the Maine Waste Agency stand for? It stands for recycling.

Here we have a situation where these people, the beer industry predominantly, using bottles over and over again until they basically self-destruct. It is a thicker bottle of glass — I don't know if you have had the opportunity to see the differences in beer bottles but I have. Owning a redemption center, you see them all day long, but it is a thicker bottle, it is more expensive to buy. There have been allegations to the fact that Anheuser-Busch does not really reuse these bottles, they just recycle them. Those allegations are false, ladies and gentlemen. When the beer driver comes to my redemption center, he wants those reusable bottles separated, he puts them in a separate bay in his truck and he puts the

breakable bottles in another bay in his truck. They call them FRB's, refillables, and they go back to Anheuser-Busch in Nashua somewhere to get refilled. If any of you buy any of these beverages in New Hampshire, you will see that they don't even use these bottles, they use a very thin glass over there that they break and recycle. Here is one of the only states in the country that uses this thicker glass bottle to reuse.

National Distributors in this state says, if this law is not repealed, they are going to go through the thinner bottle instead of the thicker bottle so it will just get crushed. Maine Beverage in Portland right now is almost to the point of bankruptcy because they can't get rid of this glass. I remember in my town, not too many years ago, we used to get \$15 a ton for glass. We had 55 gallon drum barrels there and we used to get \$15 a ton. Now that the market has been so saturated, they don't give you anything for the glass and they don't even want the green glass anymore, all they want is clear and brown. I don't even know what to do with our green glass, they haven't found a market for it.

Here we have an opportunity to reduce the waste by giving these people to refill these containers and might give an incentive for people to use more refillable containers so we would reduce our glass consumption because there is no market yet for glass. We have flooded it so much that it has just gone down to the point where nobody wants anymore. It takes years to create these market and Maine Beverage is going under because of this whole situation. So, let's reduce some of their load by encouraging the refillable containers.

Representative Treat says it is going to reduce the Maine Waste Agency by 65,000 — that number has been from 30,000 to 65,000 and it has been going back and forth, nobody knows what that number is. This is the escheat law, as they call it, and has only been intact for about nine months now. There are distributors and wholesalers saying that they are getting more in returnables than they are spending out for containers so what happens at the end of the year? The state owes those people money because they took back more returnables than they sent out. I have no doubt in my mind that we are going to end up owing the distributors money in this state because they are going to be taking in more than they are selling.

With our proximity in New Hampshire, most of those containers marked there "a nickel deposit" — I have a redemption center about 18 miles from the border of New Hampshire and I have no idea where those containers came from, all I see is they have a nickel deposit on them and I am going to pay the guy a nickel deposit. So, most distributors, especially in southern Maine, are taking back more returnables than they are spending out. Can you imagine the state forking over a few thousand dollars to these distributors while we have the budget problems that we have? This escheat law doesn't work, I would like to repeal the whole thing but we are going to repeal this part of it hopefully today to encourage these people to use refillable containers.

I urge you to vote no on the pending motion.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: One of the things that has been a big issue in the discussion so far is the issue of

accountability and I think that is an important one here on this measure. We are talking about offering an incentive to distributors to use more refillable bottles and I would like to know and I would pose this in the form of a question — if this bill, as is currently written, contains any language that would assure the people of Maine that the nickels that we don't get back for our bottles that are going to go to these distributors now are going to actually produce the incentive. If we don't get an increased use in refillable bottles because of this provision, then is there any language that would automatically repeal the giveaway that is in this bill?

The SPEAKER: The Representative from Arundel, Representative Wentworth, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Ladies and Gentlemen of the House: I didn't hear the Representative's question or didn't understand it — if he could repeat, please?

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: Is there any language in this bill that would assure that we actually see an increase in refillable bottle usage in this state by giving this money back to the distributors? If we don't see any increase, are they automatically going to lose this giveaway that is in the bill?

The SPEAKER: The Representative from Arundel, Representative Wentworth, has reposed his question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Ladies and Gentlemen of the House: As far as I know there is no incentive to increase the use of reusable containers. Basically, this reduces the fact that they have to pay the escheat law onto the reusable container or the refillable container. That's all this does.

They still have to pay the 2 1/2 cents on everything else that is not refillable.

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

Representative COLES: Mr. Speaker, Men and Women of the House: You have heard how there is a difference between the refillable bottles and bottles that are actually being refilled. I think you just heard also there is no requirement in this bill that documents that the bottles are being refilled as these people claim they are. So, they may end up taking his money without doing what they are supposed to do.

I want to add one other point which probably the members of the Business Legislation Committee and other members of this body weren't aware of. The Energy and Natural Resources Committee, just a couple of days ago, reported out a unanimous "Ought Not to Pass" on a bill which would require the Maine Waste Management Agency to reimburse towns for their direct substantive participation in any sited actions by that agency. That is going to cost the agency some money and this bill is going to take money away from that agency, it is going to make it harder for them to reimburse towns for direct substantive

participation if a town is potentially targeted as a site for a landfill.

I also wanted to mention that the Maine Waste Management Agency does two things, one is it recycles and the other thing it does, as we all ought to know by now, it is charged with siting and developing landfills to serve the people of this state. The only alternative to having the Maine Waste Management Agency do that is to reopen the whole business to the private market and allow private commercial operations to go wherever they wish to go. The Maine Waste Management Agency has done a good job generally on the recycling aspects of its responsibilities. Its first effort at siting was not done very well at all. The Energy Committee spent quite a lot of time exploring with that agency what went wrong and what they are going to do about it. They seem, by and large, on the right track. One of their major failings the first time around was they tried to do it on escheat and you cannot site a facility like this, which is going to cause so much anxiety wherever it is sited, by trying to shortcut the scientific and technical work. That scientific and technical work costs money, quite a lot of money. Once again, if we take money away from the agency, we are going to further inhibit because they have any too much money right now to do the job they are supposed to do. We are going to inhibit their ability to reimburse towns who are potential landfill sites and their ability to find a proper site.

I hope you will support the pending motion.

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

Representative HøGLUND: Mr. Speaker, Ladies and Gentlemen of the House: I happen to think this is a good bill and the reason I sponsored it was simply because I was trying to do something to protect our natural resources. We talk about money but no one has mentioned our natural resources.

I think if we have businesses who are environmentally responsible, are complying with the laws, rules and regulations regarding the environment, that we ought to give them 50 percent of the float money back. What I was trying to do is give businesses the incentive to continue to recycle and reuse. Some of these companies, regardless of how small or how big they are, they are truly reusing and recycling so, therefore, if we give them the incentive to continue, maybe other businesses will do the same. I believe if they are reusing and recycling and complying that our natural resources will also be saved and that is the thing that I actually sponsored the bill for. I think that that is our most important thing, that our natural resources and what we truly said we would like people to do, reuse and recycle.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Men and Women of the House: One thing I forgot to mention was that, in the last session, the redemption centers were really hurting and we raised their fee a penny per bottle, which was going to help them survive and it did. We had lost about 50 percent of the redemption centers. In so doing this, we really hurt the beverage companies and they suffered. They were against this bill so you can see that we are concerned with the environment and that is exactly why we went the way we did. Consequently, I urge you to defeat the pending motion and to go along with the

majority with a unanimous "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues: I urge you to vote against the pending motion. To me, this is recycling at its best. We have given incentives to towns, we have given incentives to other industries to recycle. Now that we have a couple of companies recycling, you know as well as I do, it has cost them more money to bring those bottles in, put them through a washer and sterilizer. That's why dairies went to plastic bottles because it was costing them so much to go ahead and recycle the glass bottle. But here we are, we have companies who are doing this and, for heaven sakes, this is something that is good. It has taken stuff out of the landfills. You have heard about what glass is bringing and the drudgery it is on the market — let's give incentives to companies that are doing a good job.

I urge you to down this motion.

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

Representative COLES: Mr. Speaker, Men and Women of the House: I would like to make very clear that this is not an issue about recycling. All containers collected under the deposit law are recycled. This is a question of reuse, which is a high priority on the state's official Waste Management policy. The real question is, are these bottles that are designed for reuse being reused or are they simply being treated like every other container being crushed and recycled? There is no requirement in this bill and no requirement in state law for the people who want this break from us to demonstrate that they are in fact reusing these bottles with the requisite of five times rather than simply recycling them. It is not an issue of recycling, it is an issue of reuse.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Bell.

Representative BELL: Mr. Speaker, Ladies and Gentlemen of the House: I spent my entire career in the supermarket business, as I have said, so I am a fairly good authority on the retail part, especially beer that has been mentioned here. The bottles, I believe, that have been mentioned we call bar bottles. You will find that all your bars use these returnable bar bottles. I challenge you to go into any of the local markets and see if you can buy yourself some bar bottles because there are very few markets who use them. The only time I would sell them is when someone had a special and had a real hot price on beer I would bring them in. It is the only time you could sell them. People don't care for those tall bar bottles on a retail level so my question is, what percentage of the glass that they claim is going to be used on returns on beer is the total? I believe it is very, very small.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Men and Women of the House: Representative Bell points out the fact that bar bottles — it is not only bar bottles, it is a bottle that is called an FRB that is used by Anheuser-Busch that they sell, Budweiser, Michelob and all these other beverages in a 12 ounce tall necked bottle with a twist cap. It is a thicker glass, it is called an FRB. It is not a bar bottle, it is a reusable glass, it is a little thinner than a bar bottle and is used about five to seven times. A

bar bottle probably is used ten, fifteen, or twenty times but this glass is used about five to seven times.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: Just to give you a little information on the number of bottles in the state, these are 12 ounce bottles. Industry-wide, they amounted to 39,238,668. Of this amount, 1.9 million were not returned, which amounts to \$98,000 and if you take 50 percent of that, you are looking at \$49,000 so this is what is really involved.

As far as the fees that are paid by the different companies, we have 58 companies in the state. Of these companies, they paid us in the first quarter of 1992, they were late in paying, it was \$289,463.61. The consensus amongst the companies right now is that the next quarter will be a negative amount, which means that we will have to pay the companies back. In the first period they paid us, Aroostook Beverage had \$6,243 that we owed them and we owed Coors Brewing \$3,535. Quaker Oats Company, \$19,422 that we owed so in the next reporting period, the feeling is that we will owe the companies some money. This is the reason I would urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I hope you will support the pending motion before you today. I am not going to speak on the refillability of what is recyclable, I am going to speak to the dollars. Being a member of the Appropriations Committee, I have become more and more aware of the bills that come and go before this body and what effect it will have on the funding for the General Fund. Even though this is not General Fund money, what might happen, what could happen is that this agency needs money, they will come before the Appropriations Committee and request money. We can refuse to give them any money or we can vote to appropriate additional money to the agency.

I don't think this is a time to start making changes in dedicated accounts as far as deappropriating money. When the agency was established, the Appropriations Committee had given the agency \$800,000 which is a loan. My concern here is, if we take more money away from the agency, then it will be longer and longer before that loan is paid back to the General Fund. Not only that, I think the state has had the fortune of winning too many court cases but it did win this court case. It will be appealed and I do not want to have any legislation going through this body that will affect the outcome of that appeal so I would hope that you would go along with the pending motion that you currently have before you and defeat this bill.

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

Representative Hوجلund: Mr. Speaker, Men and Women of the House: I wanted to kind of clear up a matter with my good friend from Millinocket, Representative Michaud. The courts have decided and if they do that it ought to be the state's money, that is good. I agree with that and I am glad that it is happening that way. The only thing that I am saying is that we have to have the economy, business and the environment working together, we can't

penalize them and fine them if they are willing to work and do the right things. We have to do something to keep business going and clean up our environment. We talk about the natural resources, we talk about the landfills and, at the same time, we have businesses who are willing to do things to save our natural resources. I think we ought to work with them and maybe have other businesses and other industries do the same because, in the long run, it would be less costly to the state.

We are talking about \$65,000, that is all we are talking about today because there are only a few companies that are reusing and are truly trying to recycle.

I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I just wanted to clarify something. There was some question about the Waste Management Agency's position on this bill. As I understand it, at the public hearing the agency came in and said that they were neither for nor against, they did not take a position. Subsequently, after hearing the testimony and reviewing the information that was provided to the committee, they determined that in fact in their view, this was not going to increase the number of refillable bottles and other containers and, therefore, they decided they were against this bill. I have distributed to you a statement from the Waste Management Agency on that point and I hope you will read it and consider it and vote for the pending motion to indefinitely postpone this bill.

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 pending question before the House is the motion of the Representative from Gardiner, Representative Treat, that L.D. 2131 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 341

YEA - Adams, Aikman, Anthony, Ault, Bennett, Butland, Cahill, M.; Cathcart, Chonko, Coles, Crowley, Daggett, Farnsworth, Foss, Garland, Gean, Goodridge, Gray, Hale, Handy, Hanley, Heeschen, Hepburn, Hichborn, Holt, Kilkelly, Lawrence, Lemke, Luther, Mahany, Manning, Marsh, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Pendleton, Pfeiffer, Powers, Richardson, Salisbury, Simonds, Simpson, Small, Swazey, Townsend, Treat, Wentworth, The Speaker.

NAY - Aliberti, Anderson, Bailey, H.; Bailey, R.; Barth, Bell, Boutilier, Carleton, Carroll, D.; Carroll, J.; Cashman, Clark, H.; Cote, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnum, Farren, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hastings, Heino, Hichens, Hوجلund, Hussey, Jacques, Jalbert, Joseph, Ketover, Ketterer, Kontos, Kutasi, Larrivee, Lebowitz, Libby, Lipman, Look,

Lord, MacBride, Macomber, Marsano, Martin, H.; Mayo, McHenry, Melendy, Merrill, Murphy, Nadeau, Nash, Norton, Ott, Paul, Pendexter, Pines, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Ricker, Saint Onge, Savage, Sheltra, Skoglund, Spear, Stevens, A.; Stevenson, Strout, Tamaro, Tardy, Tracy, Tupper, Vigue, Waterman, Whitcomb.

ABSENT - Bowers, Clark, M.; Constantine, DiPietro, Kerr, McKeen, Nutting, Pineau, Rand, Richards, Rotondi, Ruhlin, Rydell, Stevens, P..

Yes, 56; No, 81; Absent, 14; Paired, 0; Excused, 0.

56 having voted in the affirmative and 81 in the negative with 14 being absent, the motion did not prevail.

Representative Treat of Gardiner moved that L.D. 2131 be tabled until later in today's session.

Representative Coles of Harpswell requested a roll call on the tabling motion.

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 pending question before the House is the motion of the Representative from Gardiner, Representative Treat, that L.D. 2131 be tabled until later in today's session. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 342

YEA - Adams, Anthony, Bennett, Cahill, M.; Carroll, D.; Cathcart, Chonko, Cote, Daggett, DiPietro, Duffy, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Gwadosky, Handy, Heeschen, Hepburn, Hichborn, Holt, Jacques, Joseph, Ketover, Kontos, Larrivee, Lawrence, Lemke, Mahany, Manning, Marsh, Mayo, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Norton, O'Gara, Paradis, J.; Paradis, P.; Parent, Plourde, Powers, Richardson, Saint Onge, Simonds, Simpson, Swazey, Townsend, Treat, Wentworth.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Bell, Boutilier, Butland, Carleton, Carroll, J.; Cashman, Clark, H.; Coles, Donnelly, Dore, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Graham, Greenlaw, Gurney, Hale, Hanley, Hastings, Heino, Hichens, Hogle, Hussey, Jalbert, Ketterer, Kilkelly, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Marsano, Martin, H.; McHenry, Merrill, Morrison, Murphy, Nadeau, Nash, Ott, Paul, Pendexter, Pendleton, Pines, Poulin, Pouliot, Reed, G.; Reed, W.; Ricker, Salisbury, Savage, Sheltra, Skoglund, Small, Spear, Stevens, A.; Stevenson, Strout, Tamaro, Tardy, Tracy, Tupper, Vigue, Waterman, Whitcomb.

ABSENT - Barth, Bowers, Clark, M.; Constantine, Crowley, Gray, Kerr, McKeen, Nutting, O'Dea, Oliver, Pfeiffer, Pineau, Rand, Richards, Rotondi, Ruhlin, Rydell, Stevens, P.; The Speaker.

Yes, 53; No, 78; Absent, 20; Paired, 0; Excused, 0.

53 having voted in the affirmative and 78 in the negative with 20 being absent, the motion to tabled did not prevail.

Subsequently, the bill was passed to be engrossed

as amended by Committee Amendment "A" (H-1034) and sent up for concurrence.

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

An Act Relating to the Division of a Member's Rights and Benefits under the Maine State Retirement System Pursuant to a Qualified Domestic Relations Order (EMERGENCY) (H.P. 711) (L.D. 1016) (C. "A" H-924)

TABLED - March 10, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

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

TABLED AND TODAY ASSIGNED

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

An Act to Amend the Subdivision Laws within the Jurisdiction of the Maine Land Use Regulation Commission (EMERGENCY) (H.P. 1514) (L.D. 2126) (C. "A" H-957)

TABLED - March 10, 1992 by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted.

On motion of Representative Jacques of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 2126 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-957) was adopted.

The same Representative offered House Amendment "A" (H-1077) to Committee Amendment "A" (H-957) and moved its adoption.

House Amendment "A" (H-1077) to Committee Amendment "A" (H-957) was read by the Clerk and adopted.

Committee Amendment "A" (H-957) as amended by House Amendment "A" (H-1077) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-957) as amended by House Amendment "A" (H-1077) thereto in non-concurrence and sent up for concurrence.

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

Resolve, Concerning the Removal of Residential Underground Oil Tanks (EMERGENCY) (H.P. 1614) (L.D. 2275) (C. "A" H-1003)

TABLED - March 10, 1992 by Representative RICHARDS of Hampden.

PENDING - Final Passage.

This being an emergency measure, a two-thirds