

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Twelfth

Legislature

OF THE

STATE OF MAINE

VOLUME I

SECOND REGULAR SESSION

January 8 - April 2, 1986

Sent down for concurrence.

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

Senate at Ease

Senate called to order by the President.

In Senate Chamber
Tuesday
February 4, 1986

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Senate called to Order by the President.

PAPERS FROM THE HOUSE

Prayer by Chaplain James Daniels of the Green Street Methodist Church in Augusta.

House Papers

REVEREND SMITH: Let us pray. Lord God of justice, You rule our ways and govern every earthly government. May we never confuse our paper laws with the tablets of Your eternal will. Give to those who make, administer or defend our laws love for mercy and truth. You have given persons authority to exercise leadership over us and have bidden us to obey them and to pray for them and we beseech You. Give our Legislators and our executives and our government workers a knowledge of Your will for the world. Let them remember that they serve a public trust beyond personal gain or glory. May they serve You with pure exemplary lives, and thereby give those who they lead an ideal to follow. Help us, oh God, to serve You by serving others. Amen.

Bill "An Act to Promote Fairness for Home Buyers"
H.P. 1391 L.D. 1962

Comes from the House, referred to the Committee on BUSINESS AND COMMERCE and ORDERED PRINTED.

Which was referred to the Committee on BUSINESS AND COMMERCE and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning Atlantic Salmon"
H.P. 1392 L.D. 1963

Committee on FISHERIES AND WILDLIFE suggested and ORDERED PRINTED.

Comes from the House, referred to the Committee on MARINE RESOURCES and ORDERED PRINTED.

Reading of the Journal of Yesterday.

Out of order and under suspension of the Rules, on motion by Senator CLARK of Cumberland, the following Joint Order

S.P. 783

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending REFERENCE.

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Friday, February 7, 1986, at 12 o'clock in the afternoon.

Which was READ and PASSED.

COMMUNICATIONS

The Following Communication: H.P. 1382

WHITEWATER ADVISORY COMMITTEE
STATE HOUSE, STATION 13
AUGUSTA, MAINE 04333

January 17, 1986

Sen. Charles P. Pray
President of the Senate
State House Station #3
Augusta, Maine 04333

Rep. John L. Martin
Speaker of the House
State House Station #2
Augusta, Maine 04333

Dear Sirs:

In accordance with 12 MRSA §7364-A, ¶13 this will submit the annual report of the Whitewater Advisory Committee.

Sincerely yours,

S/Clinton B. Townsend,
Chairman Whitewater
Advisory Committee

Comes from the House READ and with Accompanying Papers ORDERED PLACED ON FILE.

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE, in concurrence.

The Following Communication:

112th MAINE LEGISLATURE

January 28, 1986

Hon. Vincent L. McKusick
Chief Justice
Supreme Judicial Court
Portland, ME 04112

Dear Mr. Chief Justice:

We cordially invite you and the Associate Justices of the Supreme Judicial Court to a Joint Convention of the House and Senate to be held in the House of Representatives at eleven o'clock on Tuesday, February 18, 1986.

At that time we would be pleased to have you deliver such remarks as you may care to make on the State of the Judiciary. We look forward to seeing you and the other Justices at that time.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE
SUPREME JUDICIAL COURT
PORTLAND, MAINE 04112

January 31, 1986

Hon. Charles P. Pray
President of the Senate
Senate Chamber
State House
Augusta, ME 04333

Hon. John L. Martin
Speaker of the House
House of Representatives
State House
Augusta, ME 04333

Dear President Pray and Speaker Martin:

I and my colleagues of the Supreme Judicial Court accept with pleasure your invitation to a Joint Convention of the House and Senate, to be held in the House of Representatives at eleven o'clock on Tuesday, February 18, 1986.

At that time I will be prepared to report to you on the state of the judiciary.

With all best wishes,

Sincerely,

S/Vincent L. McKusick

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE
WORKERS' COMPENSATION COMMISSION
STATE HOUSE STATION 27
AUGUSTA, MAINE 04333

January 31, 1986

Honorable Charles P. Pray
President of the Senate
State House Station #3
Augusta, Maine 04333

RE: Quarterly Report for Last Quarter of Calendar
1985
Required by 39 M.R.S.A. §92(3)

Dear President Pray:

Attached are statistical summaries of the Commission workload, including each commissioner's case mix, and caseload. Douglas A. Clapp led the Commission in numbers of decisions issued.

In 1985 the Commission received 62,060 First Reports of Injury. These are injuries in which medical attention was required or the employee experienced lost time.

Out of 62,060 injuries, there were 36, 841 filings which indicated some type of payment -- 21,667 indicating medical payment and 15,020 indicating payment of weekly benefits.

There were 2,871 Notices of Controversy filed, of which 1,095 or 38% were resolved prior to an informal conference. 1,776 informal conferences were held.

In connection with 1985 injuries only, 1,071 petitions for formal hearings were filed; 256 written decisions were issued. (Note that 256 is low in comparison to 4,517 total decisions issued in 1985; this is because most decisions related to pre-1985 injuries which had been coming through the pipeline).

Reports on pending cases from each Regional Office indicate wide variance in caseload. For example, Commissioners Bradley and Soucy have lower caseloads; Commissioner Clapp has the highest caseload. We are trying to evaluate this difference and see if there is a real difference or simply a difference in record-keeping method.

On the other hand, in comparing the relative number of decisions per commissioner, the individual totals are more comparable than in past years. There is less variance between commissioners than in the past. This is because we now have a core group of experienced, seasoned commissioners. For example, there have been dramatic increases in the number of decisions in Millinocket and Northern Penobscot County due to experience gained by Commissioner Peter Michaud.

There have been no complaints or filings in connection with the 30-day decision rule pursuant to Commission Rule 22.11 and §99-B.

As the attached charts indicate, there is a vast amount of data involved in workers' compensation. These charts are an embryonic attempt to assemble and sort some of the information. Our computerization has gathered tremendous amounts of factual information, and we are only now figuring out what questions to ask, and how to extract meaningful answers.

In the near future we will be able to provide more detailed data on the informal conference and direct pay system. We also would like to track average time limits at each stage.

We would be glad to discuss these numbers further at your convenience, Mark Souders, who recently received a masters in economics from the University of Maine at Orono, has been performing yeoman service in his new job as a statistician for this agency.

Sincerely,
S/Ralph L. Tucker
Chairman

Which was READ and with Accompanying Papers
ORDERED PLACED ON FILE.

The Following Communication:

January 31, 1986

The Honorable Charles P. Pray
President of the Senate
112th Legislature
Augusta, Maine 04333

Dear Mr. President:

Herewith is the final report of the Special Legislative Committee to Study the Feasibility of State Assistance to the Rail Industry. The Special Legislative Committee has fulfilled its obligation as directed by Chapter 74, Private and Special Laws of 1985.

Respectfully submitted,
S/Donald V. Carter
Committee Chair

Which was READ and with Accompanying Papers
ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
AUGUSTA, MAINE 04333

January 31, 1986

TO: Honorable Charles P. Pray, President of the Senate
FROM: Michael R. Petit, Commissioner
SUBJECT: Cost of Meeting Various Levels of AFDC Need Standard

Attached is the report required annually by the Maine State Legislature in regard to the cost of meeting various levels of the AFDC Need Standard (22 MRSA 3759).

This is an update of reports forwarded to the Legislature in 1984 and 1985.

The report reflects:

1. The cost of increasing standards to reflect accord with CPI cost of living increase for 1985 (estimate at 5%); and
2. The cost of meeting full need in accord with figures published on current poverty level (Department of Health and Human Services) in conjunction with BLS cost of living index.

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

The Following Communication:

THE SENATE OF MAINE

January 31, 1986

The Honorable Joy J. O'Brien
Secretary of the Senate
State House Station #3
Augusta, ME 04333

Dear Madam Secretary:

Pursuant to my authority under M.R.S.A. 1, Section 1002, I am pleased to appoint Ms. Judy Paradis of Madawaska to the Commission on Governmental Ethics and Election Practices.

This appointment will require confirmation by two-thirds of the Senate.

Sincerely,
S/Paul E. Violette
Senate Majority Leader

Which was READ and ORDERED PLACED ON FILE.

Pursuant to Title 1, MRSA Chapter 25, subsection 1002, a two-thirds vote of the Senators present and voting is necessary.

28 Senators having voted in the affirmative and No Senators in the negative, with 7 Senators being absent, and No Senators being excused, and 28 being more than two-thirds of the Membership present, it is the vote of the Senate that the appointment be ACCEPTED. The nomination of Judy Paradis was CONFIRMED.

The Secretary has so informed the Secretary of State.

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

February 3, 1986

Honorable Joy J. O'Brien
Secretary of the Senate
State House Station #3
Augusta, ME 04333

Dear Madam Secretary:

Please be advised that on January 31, 1986, the House voted to confirm the nominations of Richard W. Smith of Woolwich, Paul W. Chaiken of Bangor and Charles L. Cragin of Falmouth as members of the Commission on Governmental Ethics and Election Practices.

Sincerely,
S/Edwin H. Pert
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE
DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES
AUGUSTA, MAINE 04333

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

January 31, 1986

To: Joy O'Brien, Secretary of the Senate
Edwin Pert, Clerk of the House
G. William Buker, Bureau of the Budget

Out of order and under suspension of the Rules, the Senate considered the following:

From: S/Robert Eugene Boose, Commissioner

PAPERS FROM THE HOUSE

Re: Recommendation for 1986-1987 Funding Levels for Adult Education

House Papers

Pursuant to the provision of Title 20, M.R.S.A., Chapter 315, Section 8606, I am required to certify annually prior to February 1, to the Legislature and to the Bureau of the Budget a recommendation for the funding level for the various program categories in Adult Education.

Bill "An Act to Guarantee Insurance Coverage for Child Care Centers and Family Day Care Providers Licensed by the State"
H.P. 1394 L.D. 1966

Please see the recommendation below:

Comes from the House, referred to the Committee on BUSINESS AND COMMERCE and ORDERED PRINTED.

EDUCATION: ADULT EDUCATION

1986 = 1987

All Other \$2,528,326 *
(Including Category 6300-Grants to Cities and Towns)
(This includes programs of High School Completion, Adult Literacy, General Adult Ed., Adult Handicapped, Adult Voc. Ed., and Administration)

Which was referred to the Committee on BUSINESS AND COMMERCE and ORDERED PRINTED, in concurrence.

* For FY 87 the current budget allocation is \$2,220,106 which leaves a \$308,220 shortfall.

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

Bill "An Act Concerning the Protection of the Natural Resources on the Lower Penobscot River"
H.P. 1395 L.D. 1967

Comes from the House, referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, in concurrence.

SENATE PAPERS

Bill "An Act to Protect the Confidentiality of Certain Utility Employee Records"
S.P. 784 L.D. 1969

Out of order and under suspension of the Rules, the Senate considered the following:

Presented by President PRAY of Penobscot
Cosponsored by: Representative VOSE of Eastport,
Representative PARADIS of Old Town,
Representative HAYDEN of Brunswick
Approved for Introduction by a Majority of the
Legislative Council pursuant to Joint Rule 26

PAPERS FROM THE HOUSE

House Papers

Which was referred to the Committee on UTILITIES and ORDERED PRINTED.

Bill "An Act to Prohibit Free Distribution and Establish a Warning Label and an Excise Tax for Smokeless Tobacco"
H.P. 1396 L.D. 1968

Sent down for concurrence.

Comes from the House, referred to the Committee on TAXATION and ORDERED PRINTED.

Which was referred to the Committee on TAXATION and ORDERED PRINTED, in concurrence.

On motion by Senator TWITCHELL of Oxford, Tabled until Later in Today's Session, pending REFERENCE.

Senator CLARK of Cumberland, was granted unanimous consent to address the Senate Off the Record.

Senator PERKINS of Hancock, was granted unanimous consent to address the Senate Off the Record.

Off Record Remarks

On motion by Senator CLARK of Cumberland, RECESSED until sound of bell.

After Recess

Senate called to Order by the President.

Off Record Remarks

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on AGRICULTURE on Bill "An Act to Revise the Maine Apiary Laws" H.P. 1223 L.D. 1730

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-492).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-492) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on UTILITIES on Bill "An Act to Prohibit Local Measured Service Prior to December 31, 1986" (Emergency) H.P. 1387 L.D. 1956

Reported that the same Ought Not to Pass

Signed:

Senators: WEBSTER of Franklin BALDACCI of Penobscot

Representatives: VOSE of Eastport WILLEY of Hampden RICHARD of Madison PARADIS of Old Town NICHOLSON of So Portland WEYMOUTH of West Gardiner

The Minority of the same Committee on the same subject reported that the same Ought to Pass

Signed: ANDREWS of Cumberland

Representatives: BAKER of Portland McHENRY of Madawaska WEBSTER of Cape Elizabeth CLARK of Millinocket

Comes from the House with the Minority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Reports were READ.

Senator BALDACCI of Penobscot moved ACCEPTANCE of the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator ANDREWS: Thank you Mr. President. Mr. President men and women of the Senate. I am going to ask you, this morning, to vote against the motion before you to accept this report. It is not often that the good Senator from Penobscot, Senator Baldacci, and myself have disagreements on the Committee of Public Utilities, but on this occasion we do. I think that it bears a good solid look from all of us as to whether or not we should allow this very controversial system, which we have come to know as Local Measured Service, to go into effect immediately on whether we should wait until the voters have a chance to decide one way or the other in November.

The report before you, and the report that I am urging this Senate to accept, does not take a position with respect to Local Measured Service. We are not saying that it is good or bad. We are not telling the voters whether they should vote it up or whether they should vote it down. This specific measure before you does not take an issue one way or the other and I know that there are a variety of opinions on the floor of this Senate as to where we should go. The Bill before you and the report before you has nothing to do, specifically, with the issue of Local Measured Service as much as it has to do with the process that we have in establishing whether or not Local Measured Service is going to take effect.

The decision before us today has to do with the process. In my view, the issue before us today is fairness; whether or not we are going to respect the Constitutional Rights of citizens to petition the ultimate authority in this State. That is, the people in Maine.

Let me just step back a minute and tell you quite frankly, I have been sitting in the Public Utilities Committee for several weeks now and this is a very heated debate. It is hot and we are in for quite a debate this fall on this issue. To be perfectly frank and honest with you, the initial arguments that I received from those who support Local Measured Service made sense. At first blush, I liked them. As a matter of fact, it wasn't until I looked below the surface and heard both sides of the issue that I concluded there is reasonable doubt about this issue. There is enough of a doubt to let this issue go before the voters. Again, let me remind you the issue before us today is not whether we like or don't like Local Measured Service; whether we are going to support it or not. The question is the process. I heard an argument for example, that said, "Look, you should pay for what you use." In fact, one person testified before the Committee said, "If you buy two widgets you pay twice as much as if you bought one widget." That makes a lot of sense. So if you talk ten minutes of the phone you should spend twice as much as if you talked for five minutes on the phone. Now, at first blush, that makes a lot of sense, until you look a little bit closer and you realize that it doesn't cost the Telephone Company anymore money for me to talk ten minutes to my neighbor as opposed to five minutes to my neighbor. With respect to Local

Measured Service and the telephone system the "two widgets cost twice as much as one" argument doesn't hold water.

At the very least, the people who want to argue their point should have their day in court, before the voters, to be able to show that it isn't that way at all. That there is a distinction with that widget argument with respect to telephone service. Then we heard, "well look, the majority of people in Maine are winners under this system. Local Measured Service will save the vast majority of consumers money", and since I have an interest, as I'm sure everyone else does, in saving our voters and our constituents and our consumers money, that was a very interesting argument. I listened to it very closely. But, then I began to learn a little bit more about the trend with the implementation of Local Measured Service, what would actually happen in other States. I began to learn that the short term trend of reduction of costs is only short term and if some of those States where we have actually seen this take effect, we have seen that the rates have gone up in the long term.

So you only get a narrow picture, you only get a short term view. Perhaps, some of those constituents who are saving money on the short term will be losing money in the long term.

Then I heard the argument that I thought had a lot of creditability. "You say a majority of them will save. How much more will they save?" We learn, in the Committee, that they will save very little. The vast majority will save pennies, perhaps fifty cents a month, on average, was what was presented. Then we heard some figures. We had some various groups of people broken down. The majority of elderly will save money and the majority of businesses will save money, so therefore, let's give them a chance to save that money. Let's take the business percentages, for example. One business group got up and said, "The majority of Maine businesses will save money, let's give them a chance." Sixty-eight percent was a figure that was used by the Telephone Company and by the Public Utilities Commission.

Another business organization came before us, The National Federation of Independent Businesses, and said: "Listen, take a look at those figures, take a look at those percentages, they are not quite right. They are exaggerated." They took the same figures that the Telephone Company and the Public Utilities Commission were using and they found that those figures were exaggerated, they were not quite as we thought they were at first blush. Even the percentages are in dispute, and certainly those businesses who were disputing those figures would like their day in court before the voters before this system is implemented.

We then heard from some Social Service Agencies, particularly those representing the elderly, with the respect to the elderly and the majority of elderly people who will save. We work with elderly people. We know elderly people. We can tell you something that many elderly people, especially those on fixed incomes, who are shut-in, who are isolated, and who

depend on their phone for their basic inter-action with the community. Those people may save money. They will use every opportunity to save money, but it is going to be at a tremendous cost. They argued that the increased isolation by not using their phone because they would always be thinking of the cost. They would always be thinking about saving or losing a few pennies. Those people who represent those elderly constituents of theirs, argued before us that there is a tremendous social cost to elderly people that is not calculated in those raw percentages that we are receiving. Don't look at those arguments at first blush, look beyond them.

At the very least, whether you agree with one side of the other, it seems to me that we should give those groups a chance to make their case before the voters in Maine. It is very difficult to get a referendum going and to collect the amount of signatures necessary, and these people did it for one reason. They wanted to see the system stopped, they wanted to appeal to the ultimate authority in the State of Maine. The ultimate political authority, the people, before any change happened in the system. Unless we pass this delay provision, we will not be allowing those people who collected those signatures, use that ultimate authority, to appeal. We won't be giving them that opportunity.

We heard from those who would be losing and they came to us and said, "We may be losing under this system, but we would like to have our chance even though you may actually have a reduction in your phone bill. We would like to have the chance to convince you, before the system goes into place, that in fact, it is not in your interest to have that short-term minor reduction savings. That because of the effect on a community at large, we want to convince you in a full debate that it is not in anyone's interest for Local Measured Service to go into effect. Perhaps, the percentage of people who are going to save money might decide in a referendum election that they don't like Local Measured Service.

A few other groups that testified before us, Social Service Agencies, Ingraham Volunteers, for those of you who are not familiar with that program, it is a program that is available in my city, available to people in the Greater Portland area and is based on volunteers on the phone. The suicide prevention program for young people, for example, or the program for the touching base with elderly people in the community. It is all based on volunteers and it is all based on the phone. Ingraham Volunteers said to us, "A vital service that is going to have to be made up somehow, is going to have to be paid for somehow, is going to be lost if we allow Local Measured Service to go into effect before the people have a chance to decide." They have not figured this into their budget, they have been assuming as they developed their program that throughout this program year their volunteers would have unlimited use of the telephone, just as it is now. The effects could be catastrophic if right in the middle of their year we were to allow this system to go into place.

The Southern Maine Senior Citizens Program; I called them to find out what effect this would have on their agency. They provide services, for example, Meals on Wheels, a very important program. I asked them what effect this would have on this agency and they said: "Our bill is going to go up by almost \$6,000 this year. We haven't budgeted for that and we don't know where it is going to come from. If we could have planned for it, if there had been some advanced warning, if we could have seen it coming, perhaps. In the middle of our budget year, particularly with the effects of Federal cuts it could be a very serious problem for us, we don't know where we are going to get the money. We would at least like our chance to make our case to the voters to ask them to not allow this to go into effect before it does."

Well, the argument that I heard and the final argument that I will talk about, is the "Try It" argument. Try it you'll like it is how the saying goes. Why not try it, what is it going to hurt? It could even give us some concrete experience, people could actually see, in their bills, whether they would be winners or losers and on the basis of that they could make their decision. Again, at first blush makes perfect sense. Until you look at it a little bit closer. Now, if the point in trying it is to give citizens concrete experience let them see exactly what the effect will be on them before they make a decision. Well there is a way we can do it without disrupting the con system and without hurting those agencies and individuals that I mentioned earlier. Provide these consumers with all the information that they would need to know exactly and concretely what the effect of Local Measured Service would be on their phone bills. Namely, its call duel bills. You get a bill in the mail and you see what you will have to pay that month and right along beside it you see what the bill would be if Local Measured Service took effect. What makes the advocates for Local Measured Service argument particularly hollow in this respect, namely the argument that we want to give voters as much information as possible before they decide. Is the way in which they have chosen to implement Local Measured Service that will go into effect on the fifteen if we don't make a stand right now with delay.

In my view, whether you like Local Measured Service or you don't like Local Measured Service, putting the system into effect on February 15, 1986, in my view, is the worst possible way you can start a Local Measured Service System.

Let me explain why, for those of you who have districts directly effected by this plan know that we received a series of bills, duel bills, month after month in 1985, that described the original Local Measured Service System. Again, we can tell whether or not our bills would go up or whether or not they would go down under the Local Measured Service System several months preceding the time that that was ultimately was going to go into effect. So, we knew exactly what the effect was going to be.

Now, in 1986, we have a brand new system so all that information we received every month in 1985 is now totally irrelevant. But, now the plot thickens, it is not just a system that we are going to win or lose. We are going to have to make some choices between three options. We won't be able to choose whether or not we like the original system under the three options. If you want flat rates, your rates are going to go up, we won't have that choice. But, we are going to have to choose between three options: A, B, or C. Before we are asked to make that choice, we receive no information whatsoever, no concrete information of what the effect is going to be on our bill. I was called throughout the Super Bowl a few weeks ago, by my constituents who didn't have that basic information asking me which option to choose. They were confused. They didn't really know.

If the point is to make Local Measured Service as understandable and clear for people as possible, then let's at least do what we did in 1985 and provide our constituents with sample billings, as we were shown in 1985. You don't have to change the system in order for people to have that concrete information.

I mentioned earlier - we had a discussion before we came into Session, and I heard the argument several times during that meeting and I looked at the bills everyone had received in making the choice. There was some information on this piece of paper, this letter, which was also confusing. For example: "if you chose Option B" and I am quoting from this letter which everyone received, "if you chose Option B, your bill for local calling will never be more than \$19. Or Option A, for no matter how many local calls you make, the most you pay each month is \$18. It will never be more." That is the basis on which some people are making their decision, this letter.

Now we all know that is not true. It is ridiculous to say that this is cut in stone, and if the telephone company wants to cut in stone that the cap under this Local Measured Service will never be changed, your bill will never be more, then let's write it right into the statute, and make sure it will never be more. Of course, that is not true, and we know that it is not true, but consumers have been receiving this, who are looking at that, they are taking it at face value. It is not the best way to start this system, even if you like it. We have to give people more clear information. You don't need to do that by implementing the system on February 15th.

You know, if we were to choose all of our referendum issues, on the basis of concrete experience, and I mentioned at the meeting that we just had. We have had two referendums on closing down the Maine Yankee power plant. At that time, as you can remember, part of the argument was, those who were opposed to shutting down Maine Yankee said, "This will have a catastrophic effect on the economy, it will drive electric rates up, it will drive consumers rates up, it will drive business rates up". The other side said, "No, that is not true, that is just scare tactics, fear, they are blowing this up". Now, what we could have done in that case, was giving people some concrete experience.

Shut down Maine Yankee and see whether or not those fears and those allegations came true. Well, of course we didn't do that, because we didn't have to do that in order to give voters a concrete idea of what the effect of that referendum would be.

So it is with this referendum. You can be for Local Measured Service or you can be against Local Measured Service, but the people have petitioned to go to the ultimate authority on this issue. And I say, ladies and gentlemen, that we support that provision, to let those people have their day in court. Let them vote, that is their day in court before the people, let the people decide one way or the other and be done with the issue.

I argue that, not on the basis of opposition to Local Measured Service, I argue that on the basis of fairness. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President and men and women of the Senate. I rise today, on an issue that the Committee has had for over a year and a half. It is involved in a particular area which is local calling. But, it involves much more than that. It involves the breakup of AT&T at a national level. It involves the taking away of long distance revenues from local operating companies. It takes away that mechanism that has subsidized local calling for a great number of years. The process has been changed.

Our Commission is not a bunch of people that are wearing black hats and masks and that are trying somehow to impair the ability of some people to keep a phone, and not worry about it. Our Public Advocate is not somebody that is out there trying to protect the interests of the Utilities. I certainly would resent any dispersions on the representation of a majority of the Committee on Utilities, as to being pawns for the Utilities.

We are trying to do what is best for the people in the State of Maine. We are trying to make sure that the elderly, the low income, the disabled can maintain having a telephone in their homes. We are very concerned about that. There is a tremendous pressure to raise rates, a tremendous pressure. The question here, I think very importantly, is the process. It is not the Committee or the majority of the Committee on Utilities that is seeking to delay anything. It is not the Committee or the majority of the Committee on Utilities that is trying to violate the Constitutional process by suspending a Commission order, prior to a referendum.

If the Utilities Coalition that were fighting this particular model, wanted to have an elected commission and raise the appropriate number of signatures, fifty thousand, and they were going to hold the vote in November, would we then act as a Legislature and suspend the present commission because we would be afraid they would do something favorable, and somehow influence that vote?

I present to you, that is not the case. That it is not that we are violating the process by trying to delay it prior to the vote. We would be doing it. The Committee on Utilities isn't asking you to put it into place, it isn't asking you to take it out. The Committee on Utilities, the majority, has a proposal that are going to have safeguards. But, even the Public Advocate submits a strong consumer legislation, that they probably would not otherwise be able to get. The Committee on Utilities, which is the next L.D. that we dealt with, then came up with to protect people, to put into law that they cannot make money, the caps will not be removed, that there would be sunset provisions.

It is a pretty far reaching package, to protect people. Now, you talk about the process that they want to be able to have dual bills as they have had before.

I submit to you that they are going to continue those dual bills, because of the selection in the affected areas, which I am of one. A, B, or C, you choose one, you are going to get a dual bill in the months after that, as far as the other options, in what your use would be. And, you can switch for no charge, within that 6 month period.

What are the opponents of Measured Service afraid of? If Measured Service is so bad for everyone, why not try it out? Let the people experience for themselves, so that they know exactly what they are voting for. The opponents of Measured Service, who are sponsoring a measure on the subject, seem so perversely obsessed with keeping the people of Maine in the dark, about what Measured Service really is like.

I hear an outcry about Measured Service from a few people in Augusta. But, I have not heard an outcry at home. I have not heard an outcry from the people who have been getting the dual billing for the last six months. I only hear an outcry here. It is a very serious thing for this Legislature to overrule one of its' regulatory agencies. The gravity of such an action has been well understood in the discussions surrounding the "Big A" decision. But, in this case, a case that many would argue is of less consequence to the future of Maine than "Big A", a case in which the Public Utilities Commission has acted only after long and exhausting hearings, a case in which the utility in question has informed its' customers, over six months about what the changes will involve. A case in which there is not apparent public outcry against the change. In this case we seem to be almost casual in our consideration of overruling the careful judgment of the Public Utilities Commission.

No, this is not our role. This is not what we are here to do. Our role is to support our citizen Utility Commission when it acts responsibly and in good faith. And, it has in this case. To trust in the people of Maine to make the right judgment on Measured Service, only after they have fully experienced what it is like. To do this, to fulfill our role, we must defeat the Bill before us. I urge you to do so. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Mr. President, ladies and gentlemen of the Senate. Today, I rise in a somewhat precarious position. During my time here, in the Maine House of Representatives and Senate, I have consistently opposed the creation of the Public Advocate, and now today, I am siding with him. I am also siding with the Public Utilities Commission, which I do not ever remember doing. I am also on the side of the telephone companies. So, I guess I am in a position that I never thought I would be in.

I want to talk, today, about the same things that Senator Andrews and Senator Baldacci have spoken about, and that is the process. The thing about the process that has frustrated me is the politics of fear is being used on this issue. The handicapped, the senior citizens in our State, the poor people, the blind, they are all being manipulated. Manipulated by people through the fear of the unknown. Proponents of this version of this legislation, no one in this Body, I would say, but people are using this measure to scare people. I really bothers me. Up until two weeks ago, I felt that I might support this measure. That was until I had the opportunity to go to Androscoggin County and speak to 175 senior citizens. I was the guest speaker and I spoke to some people from Oxford, Franklin, and Androscoggin Counties just about this issue.

The elderly people out there were terrified. I had a person come to me who said she was going to be faced with the decision of eating or using her telephone, because her phone bill was going to go to \$80 per month. This is the kind of misinformation the people have. I think it is a sad day when we have to start legislating for this kind of logic.

Because of that speech and the people I talked with that day, and the public hearing which we held about a week ago, I decided to oppose delaying this measure. This was for a very simple reason. What we need to do is let the process work, the way the process has always worked, and let the people see what it is going to do to them.

I do not personally feel that if this were such a bad idea, if this were such a terrible idea, why would everybody be opposed to it? If the people were so strong against Measured Service, which is not an issue we're discussing, really, we are discussing delaying implementation. If it is such a bad idea, won't those people out there realize that when they get their bill in the mail? Won't they go out in droves and vote out this measure? It makes common sense to me.

I want to talk about what is going on out there. I want to tell you that most of you probably received calls last night from people who are afraid. The best way to address their concerns and the best way to let them know what this issue is going to do to them, is to let them have a chance to see that bill and to make an informed decision.

As elected officials, we all use the mail. We all have done everything we can to let the people know why they should support us and why they should support the other guy, depending which way you come from. But, the point is, let the people get the bill in the mail. If they don't like it, and it really is doing to them what is being said, then they will vote against it.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator DIAMOND: Thank you Mr. President. May I pose a question through the Chair to the Senator from Penobscot, Senator Baldacci?

THE PRESIDENT: The Senator may state his inquiry.

Senator DIAMOND: The question is, is he aware of and is the Committee aware of any definite expansion of this proposal in the next year or two, if this were to pass at this time?

THE PRESIDENT: The Senator from Cumberland, Senator Diamond has posed a question through the Chair to any Senator who would care to respond.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: If I understand the question which has been posed, correctly, what we are voting on today. The impact which we were discussing earlier was if the referendum passes, then it would put those plans of modernization on the back burner. Those electronic switching systems that have the capabilities of touch tone, dial forwarding and passing along data transmission. It would put all of those ESS's on hold in any other areas, if this referendum succeeded in November, because it is with that equipment that allows them to be able to measure the service. So that if it passes, and people do not want Measured Service, then all those plans would be put way on the back burner. I think that answers your question.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President and Members of the Senate. When the Measured Service proposition was first brought up a year ago, there were great concerns addressed by people in my area, which is one of the selected areas throughout the State of Maine. I cosponsored a bill last year to prohibit implementation of Measured Service until February 15th.

I arranged for hearings in Kittery and many of my people attended those hearings and expressed their opinions.

Since that time, we have had a petition signed by nearly 50,000 people throughout the State asking for postponement until after a vote is taken next November. Not one person in my area has contacted me to vote against L.D. 1956. The issue of benefits or non-benefits of Measured Service is not before us today, as has been expressed, but merely a postponement. A lobbyist, yesterday, stated that as long as I were not planning to seek reelection, I could vote against my constituents easily. Not so.

As long as I am in office, I intend to represent the people in District 35 to the best of my abilities, by voting against this Majority Report today. I believe I am representing their views. As the Senator from Penobscot, Senator Baldacci has stated, Measured Service is effective in selected areas. In other words, the people in my area and in other areas of the State are the guinea pigs.

If implemented State wide, I would not be opposed to the Majority Report as I am. Mr. President, when the vote is taken, I request a Roll Call.

THE PRESIDENT: The Senator from York, Senator Hichens has requested a Roll Call.

Under the Constitution, in order for the Chair to order a Roll Call, it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise in their places and remain standing until counted.

Obviously, more than one-fifth having risen, a Roll Call is ordered.

The pending question before the Senate is the motion of the Senator from Penobscot, Senator BALDACCI that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Mr. President. I would like to pose a question through the Chair to the Senator from Penobscot, Senator Baldacci, or to the Senator from Franklin, Senator Webster. My question, I guess, deals with the constitutionality, and I have sat here and listened to the debate. I have listened to the debate on LMS in the Committee, when that public hearing was waged. I would like to quote from the Constitution of the State of Maine, Article 1, Part 3, Section 2: "All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it." The Constitution also goes on

to further state, and I will just paraphrase, that under the Maine Constitution, there should not be attempts by the Legislature to supersede the public's initiative process and the right of petition. So, I guess, my question, and I am also on the fence in this issue, is if we do not vote today to delay Local Measured Service until after this public initiated referendum, are we therefore actually disturbing the free political process that we have in this State?

THE PRESIDENT: The Senator from Kennebec has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President. I am not an attorney. I do not want to paraphrase the Constitution. I would suggest that if we had the Senator seek an opinion by the Attorney General, as to that legality, he could tack that on with others that have been proposed in this particular area.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Chalmers.

Senator CHALMERS: Let me state very briefly that I do not believe that if we vote today along the lines to implement Local Measured Service this month, we are not taking away the right of the people to vote. There is going to be a referendum. It seems to me, and it is interesting to find myself on the same side as Senator Webster, and while I am over there, let me just enjoy this for a brief minute, and let me, if I may, make three or four observations.

I happen to believe that Local Measured Service is a good thing. I happen to believe that my mother is going to save money on Option A. I happen to believe, very firmly, that I am going to save money on Option B. My business, which depends on the telephone, is going to pay a slightly higher rate, but then everybody is going to pay a slightly higher rate. I think the problem is, as Senator Baldacci has alluded to in the beginning, that we cannot turn back the clock. We cannot put Humpty Dumpty back together again, and we can't get Ma Bell back.

I think the judge that made the decision thought he had a good idea, but we are all paying for it. The problem is that I heard this morning, that we do have a system. We have a system of an appointed board, the PUC, that has studied this. We have a Public Advocate, and we have a Legislative Committee. They have all advocated, and thought this all out, their process says that we should have Local Measured Service.

It seems to me that we are going to have a referendum. We are not denying the people their vote. But, we need to have a referendum where the people need more information upon which to base that vote. We need to test it. We can't know about riding a bicycle unless you get up onto a bicycle and try it.

It also seems to me that the people in my district are calling me, and they are afraid, and we do have a referendum by fear, and I worry about the elderly that are calling me and saying "Please don't do this". I remember back to Edmund Burke, back in the 1700's, who when asked about a representative's responsibilities to his constituencies' said, "Your representative owes you not his industry alone, but his judgment, and he betrays instead of serving you if he sacrifices it to your opinion." I have thought about it and I intend to vote with Senator Baldacci.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator DIAMOND: Thank you Mr. President and ladies and gentlemen of the Senate. You know, a year ago the Audit Program and Review Committee had a very enjoyable time and reviewed the PUC. We did that at end with great satisfaction, and found that the Utility Committee was doing an excellent job for the citizens of Maine. We can tell you that it took a full year in doing that review, and we found out that not only were they doing a good job as a group, but also as individuals. They had their philosophy straight in terms of taking care of the citizens.

But, one of the last things we did as a Committee, we were invited down to hear this new proposal they were going to let out to the public. That new proposal was Local Measured Service, much different than what we see before us today. Much different than what we have seen before us in the past several months. At that time, we were shown in great detail why that was the answer. It was the proposal. It was the thing that was going to change communications in the way that it is paid for in the State.

But, it is just like looking from black to white. It is not the same thing that we have today. At the same time, we were told it was going to be the epitome, the thing that was coming. I remember distinctly, debating with the Commissioners at that time, albeit briefly, on what my concerns were. I was reassured that my concerns were ill founded and that it would not be changed. However, when that resistance began to grow, it was changed. And now my fear is, this time period that they have given us, this showcase they want us to go by, to give the people in this State to vote on some experience. My concern is that experience we're going to use to vote on next November may not be what the end result will be in 2 years. In other words, what we are using as a trial basis may be altogether different than what this package might look like in 2 years down the road.

I think there is some agenda here that is to certainly expand this type of program, which is why I asked the question of the good Senator from Penobscot, Senator Baldacci. We are going to see other kinds of telephone companies and other organizations that provide this type of service, implementing this. We're talking about a State wide extension.

One of the statements made by the Senator from Penobscot, Senator Baldacci, was, "what are the opponents afraid of?" Well, I just explained what I am afraid of as an opponent. But, I might ask that question back. What is the great hurry? What is the compelling reason why we should implement this prior to the citizens' vote? What are you afraid of? What is wrong with letting people vote and then deciding to put this whole process in action? What we are afraid of, and what I heard earlier today, was that the referendum process doesn't work very well. We hear all kinds of scary rhetorical things during the debate. Good Lord, if we educate these people out there, what might happen? They might hear some things that they do not need to hear.

I think the referendum process has worked well. If you, or anyone else in the State want to gather 47,000 signatures to go out and put something before the people, you should have that right to do that. It has worked very well.

The time of debate, the time of listening, the time of judgment is all built in. That's why it's now through November. I would ask that this Senate join in a resounding voice, speaking for the referendum process, saying we have not heard a compelling reason why we need to jump into this right now. There are some concerns. If we do jump into this and we allow folks to make a judgment on an agenda, is that the same agenda we're going to see in 2 years? Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President. Am I in a position to request Leave of the Senate that I may speak a third time?

THE PRESIDENT: The Senator has the floor.

Senator BALDACCI: More in answering questions than anything, I would like to point out to the good Senator from Cumberland, Senator Diamond, and to the other Senators, that this started, this process of mandatory Measured Service was supposed to go into effect in July, last July. It was this Legislative Committee, in this Legislature which stopped that action of mandatory Measured Service. We felt there was a concern. We felt there should be more hearings. They should be listening to what we're hearing. They studied it, they held hearings in the affected areas. They came up, not the Commission but the Public Advocate's Office, working with these people, came up with an alternative proposal.

In that alternate proposal, it is not significantly different than what was originally proposed. Because, Option A is exactly what was originally proposed. Option C is the flat rate, unlimited flat rate. Option B is where it really addressed the concerns of the volunteers of the elderly and the people that were going to be stuck at home all day. Because, it is in Option B that you can call between 12 and 2, and after 7:30 at night until 9 o'clock the next morning, and on Saturday and

Sunday for no charge. That is \$8.70 per month. So, it is not significantly different, but it is different in the fact that it offers options. It is optional Measured Service, you can have it, and if you don't want to have it, you have that option.

I felt this was very important. There is no hurry. That is why it is going into February, because we asked them to hold off until February 15th so we would have time to study this. We asked for the date. We asked them to put it off. So, this is basically following in line, and there is no rush to do it. The rush is to delay it before the people have had a chance to experience it.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and members of the Senate. I am reading the various Bills in the package, now, for the first time. This includes a copy of the Initiated Bill, which has not yet been printed. I just now was able to get a copy of what had been presented by the petitioners. I understand, through reading in the media, that the Committee asked to have and make certain that there would be sufficient signatures for initiated legislation. So, it is my understanding, just through reading the press, and I really don't know, that perhaps that the Committee looked at the entire package of what would be brought up by the petitioners in addition to the Emergency Bill, upon which we are now voting that would postpone enactment of what the Public Utility Commission is proposing.

Also, the majority of the members of the Committee are recommending another Bill. Well, in reading the other Bill, and the Initiated Measure, it appears to me that what the majority of the Committee is recommending is a competing measure. Clearly, there appears to be a competing measure. I would really ask the Committee Chairman to speak to that.

THE PRESIDENT: The Senator from Kennebec, Senator Kany has posed a question through the Chair to any Senator who may care to may respond.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President and members of the Senate. In answer to the question of the good Senator from Kennebec, Senator Kany, I would like to point out that somewhere in that document, it should say very specifically that this should not be interpreted as a competing measure. It should also be noted for the Record, that an informal vote of the Committee was taken, and you can rest assured there will not be any competing measure coming out of the Committee on Utilities, that will be put on any ballot in November or whenever it is held on this particular question.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and members of the Senate. If the Initiated Measure is to go into effect, if the voters approve it immediately, and if the Bill that the majority of the members of the Committee are recommending would go into effect 90 days after the end of the Session, not being an emergency measure. What you are suggesting is that since the majority of the Committee is recommending a Bill that would not go into effect until 1988, then indeed, it simply will just not go into effect. Then I am asking, in that case, why even bother to present such a Bill to us now?

If you are suggesting a Bill that would not go into effect until 1988, and competes with what the initiated measure is suggesting, why don't you wait until 1987 to bring such a proposal to us? I really haven't discussed this with anybody. It just doesn't make a lot of sense to me.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President and members of the Senate. In response to the question that was raised by the Senator from Kennebec, Senator Kany. The intention was that they could be placed side by side in State law, at the same time, because they would not be competing as is clearly stated in the Bill.

I have been told in a caucus, after review by the Public Advocate, that a date change would have to be put into effect in that particular legislation so that it could be, but the dates are the problem with the particular measure. It was not the fact that the intention was afterwards. The Committee wrestled with this and has its own ideas as to what it would like to be, as part of that plan, and have brought that forth on a separate piece of legislation that will be discussed after this.

I don't think it is appropriate to discuss it at this time, but I would be more than happy to discuss it with you after this debate.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and members of the Senate. I would just like to go on the Record as saying, I think that is one of the strangest things I have ever heard of, recommending a Bill that would not go into effect until 1988, and discussing it now, when you have a initiative measure, which probably has a significant number of signatures so it can to to the voters in November. I just really can't quite comprehend what the majority of the members of the Committee had in mind, unless they wanted us to think that certain things would go into effect. I find it all quite strange.

THE PRESIDENT: The Chair would remind the Membership that the Bill before you for debate is L.O. 1956.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Where it impugns on the integrity of the Committee process, I rise to the comments of the good Senator from Kennebec, Senator Kany.

It was our intention to develop a Bill that would offer some safeguards to the public. In the event that the referendum does not succeed, there was nothing there that is going to be in place to protect the public. There would be no safeguards in statute. That would be it. The Committee, therefore, developed something to offer protection and safeguards, which we feel that everybody should be able to support on both sides of their particular persuasion.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator ANDREWS: Thank you Mr. President. Mr. President and members of the Senate. I was going to respond to a point that the good Senator from Penobscot, Senator Baldacci, had made earlier about usurping our authority over the Regulatory Agency, questioning the integrity of the Regulatory Agency, namely the the Public Utilities Commission, and his earlier comments.

If we really believe the integrity of that Commission and that process, as was argued earlier in this debate, then there should be no need for the Legislature to provide safeguards to the public. With regard to the original question posed by the Senator from Kennebec, Senator Kany, it is a very serious question and I have asked the Attorney General's office for an opinion. As I read the Constitution of the State of Maine, it says "That the measure thus proposed, unless enacted without change by the Legislature at the session at which it is presented, shall be submitted to the electors together with any amended form, substitute, or recommendation of the Legislature." (Section 18) May I repeat, together with any amended form, substitute, or recommendation. So, it can be argued that the other measure could, in fact, be a competing measure. We do not know. There is a serious question. But, that is what the Constitution reads and somebody could certainly argue that it would require a competing measure.

The importance of this bill before us and this delay provision, ladies and gentlemen, is Number 1: it recognizes that there is very heated debate on both sides, there is no question about it. Just look at the debate that we have had thus far. It also recognizes that the early trend that you get when Local Measured Service is first adopted, only gives you a partial picture of the effects of Local Measured Service. The trends in other States document that very clearly, so you only get a partial picture. Ladies and gentlemen, there may be some accusations being fired at some individuals or groups who are on one side of this debate or the other.

But, I don't think anybody on the floor of this Senate or this Legislature is using this issue to scare people.

I don't think there is anyone here who is and I quote from the debate "who is perversely obsessed with keeping Maine people in the dark." There is no new information that is going to be garnered by implementing this system that can't be garnered by providing it to the people in their bills. From now, right up until the point of the election, they will have the same information at hand.

What we will be doing is preventing a brand new billing system, a highly obviously controversial system, from going into place, until the people have a chance to vote. They will get all of the information both ways, they will have that information available, plus they will have the information from the heated debate. But we will let the people decide. Thank you.

The Senator from Penobscot, Senator BALDACCI requested and received Leave of the Senate to speak a fourth time.

Senator BALDACCI: Mr. President. There has been some concern about the competing measure, and I understand from the discussions with the House Chairman, and for the Record, that the Attorney General's Office has given an oral opinion that this is not a competing measure. The Senators will have a copy of that opinion this afternoon, for your perusal, so if you would like to whatever you wish on this particular action until that opinion comes forth.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Mr. President and members of the Senate. I am not a Constitutional attorney and I am not a lawyer, but it is nice to live in this Country of ours and be able to look at the Constitution of the State of Maine, our State, and also our United States Constitution, and find guidance. It is the kind of guidance, I guess, that we can find in the Word of the Lord. I want to respond to the good Senator, Senator Chalmers, and just mention something that caught my eye. Again, under Article 4, Part 3, Section 17, it says under Notes of Decisions, in a Supreme Court case, Farris ex rel. Dorsky vs. Goss (1948) in 1948, "The right of the people under the Constitution to enact legislation and to approve or disapprove, legislation enacted by the Legislature, is an absolute right and cannot be abridged directly or indirectly by any action of the Legislature." It further states again under Notes of Decisions of the Maine Constitution, the case of Allen vs. Quinn (1983): "This section must be liberally construed to facilitate, rather than to handicap, the people's exercise of their sovereign power to legislate." And, that raises some questions in my mind as to what we are doing today, if we do not pass this Bill.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may state his inquiry.

Senator DUTREMBLE: Where the petition reads "Do you want ban Local Measured Telephone Service and direct the State to keep a flat rate", does that mean if the people of the State vote in November to ban mandatory Local Measured Service, that it would still be possible for the PUC to install an optional Local Measured Service?

THE PRESIDENT: The Senator from York, Senator Dutremble has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President. My understanding of the question, and I am not an attorney, is yes, they can because as long as an optional measured service plan doesn't reach 25% of the residents, that it does not become a mandatory measured feature. As far as this referendum position is concerned, they could, in fact, develop an optional measured service plan, to answer your question, even if the referendum is passed, banning mandatory measured service.

THE PRESIDENT: The pending question before the Senate is the motion of Senator BALDACCI of Penobscot to ACCEPT the Majority OUGHT NOT TO PASS Report.

A Yes vote will be in favor of Acceptance.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

Senator CLARK of Cumberland who would have voted in the Yea requested and received permission to pair her vote with Senator VIOLETTE of Aroostook who would have voted Nay.

ROLL CALL

YEAS: Senators, BALDACCI, BLACK, BUSTIN, CHALMERS, EMERSON, ERWIN, GILL, KERRY, MAYBURY, MCBREAIRTY, PERKINS, SEWALL, SHUTE, STOVER, TWITCHELL, USHER, WEBSTER

NAYS: Senators, ANDREWS, BERUBE, CARPENTER, DIAMOND, DOW, DUTREMBLE, GAUVREAU, HICHENS, KANY, MATTHEWS, NAJARIAN, PEARSON, TRAFTON, TUTTLE, THE PRESIDENT - CHARLES P. PRAY

Bill "An Act to Increase the State's Deductible or Self-insured Retention" H.P. 1264 L.D. 1773

ABSENT: Senator BROWN

Bill "An Act Concerning Emergency Medical Services Personnel" H.P. 1258 L.D. 1768

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators having paired their votes and 1 Senator being absent, the motion by Senator BALDACCI of Penobscot, to ACCEPT the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE, PREVAILED.

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

Sent down for concurrence.

Senate

Senate

Bill "An Act to Amend the Access Roads to Public Ski Areas" S.P. 652 L.D. 1684

Ought to Pass in New Draft

Bill "An Act to Amend Certain Motor Vehicle Laws" S.P. 664 L.D. 1706

Senator BROWN for the Committee on MARINE RESOURCES on Bill "An Act Concerning Lobster Trap Identification Tags"

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED.

S.P. 651 L.D. 1676

Sent down for concurrence.

Reported that the same Ought to Pass in New Draft under same title.

S.P. 785 L.D. 1970

Which Report was READ and ACCEPTED.

Senate at Ease

The Bill in NEW DRAFT READ ONCE.

Senate called to Order by the President.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

SECOND READERS

The Chair laid before the Senate the Tabled and specially assigned matter:

The Committee on Bills in the Second Reading reported the following:

House

Bill "An Act to Amend Certain Provisions of the Underground Oil Storage Tank Installers and Underground Oil Storage Facilities" S.P. 782

Bill "An Act to Expand Investment Opportunities for State-chartered Credit Unions" H.P. 1220 L.D. 1728

Tabled - February 3, 1986, by Senator VIOLETTE of Aroostook.

Pending - REFERENCE

Bill "An Act to Provide for the Use of the So-called 'Interim Bank Approach' to Facilitate the Formation of a Financial Institution Holding Company" (Emergency)

H.P. 1255 L.D. 1765

(Committee on ENERGY AND NATURAL RESOURCES suggested.)

(In Senate, February 3, 1986, RECONSIDERED reference to Committee on ENERGY AND NATURAL RESOURCES.)

Off Record Remarks

Which was referred to the Committee on AUDIT AND PROGRAM REVIEW and ORDERED PRINTED.

Sent down for concurrence.

The ADJOURNMENT ORDER having been returned from the House READ and PASSED in concurrence, on motion by Senator CLARK of Cumberland, ADJOURNED until 12 o'clock, Friday, February 7, 1986.

The Chair laid before the Senate the Tabled and Later Today assigned matter:

Bill "An Act Concerning Atlantic Salmon"
H.P. 1392 L.D. 1963

Tabled - February 4, 1986 by Senator CLARK of Cumberland.

Pending - REFERENCE

(Committee on FISHERIES AND WILDLIFE suggested and ORDERED PRINTED.)

(In House, February 4, 1986, referred to the Committee on MARINE RESOURCES and ORDERED PRINTED.)

On motion by Senator CLARK of Cumberland, referred to the Committee on MARINE RESOURCES and ORDERED PRINTED, in concurrence.

The Chair laid before the Senate the Tabled and Later Today assigned matter:

Bill "An Act to Prohibit Free Distribution and Establish a Warning Label and an Excise Tax for Smokeless Tobacco"
H.P. 1396 L.D. 1968

Tabled - February 4, 1986 by Senator TWITCHELL of Oxford.

Pending - REFERENCE

(In House, February 4, 1986, referred to the Committee on TAXATION and ORDERED PRINTED.)

Which was referred to the Committee on TAXATION and ORDERED PRINTED, in concurrence.