

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

## **One Hundred And Fifteenth Legislature**

OF THE

## **State Of Maine**

### **VOLUME VII**

#### **SECOND REGULAR SESSION**

Senate

March 10, 1992 to March 31, 1992

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#### **SECOND CONFIRMATION SESSION**

May 20, 1992

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#### **THIRD CONFIRMATION SESSION**

August 19, 1992

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#### **THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

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#### **FOURTH SPECIAL SESSION**

October 16, 1992

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#### **FOURTH CONFIRMATION SESSION**

November 19, 1992

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#### **HOUSE AND SENATE LEGISLATIVE SENTIMENTS**

December 5, 1990 to December 1, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE  
THIRD SPECIAL SESSION  
5th Legislative Day  
Tuesday, October 6, 1992

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

Prayer by the Honorable Peter J. Manning, Portland.

The Journal of Monday, October 5, 1992, was read and approved.

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

**SENATE PAPERS**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

October 5, 1992

Honorable Joseph W. Mayo  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Mayo:

Senate Paper 232 Legislative Document 586, An Act to Improve The State's Fiscal Forecasting Capabilities, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator having resigned, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

Maine State Senate  
Augusta, Maine 04333

October 5, 1992

Honorable Joseph W. Mayo  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Mayo:

Senate Paper 910 Legislative Document 2330, An Act to Implement the Recommendations of the Special Commission on Governmental Restructuring, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator having resigned, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

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

**SENATE PAPERS**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

October 5, 1992

Honorable Joseph W. Mayo  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Mayo:

Senate Paper 929 Legislative Document 2384, An Act to Restructure State Government, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator having resigned, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

Pursuant to Joint Rule 13

From the Committee on Banking and Insurance on Bill "An Act to Deregulate Workers' Compensation Insurance Voluntary Market Rates and to Establish the Workers' Compensation Employers' Mutual Fund" (S.P. 965) (L.D. 2442) (Received by the Secretary of the Senate on October 3, 1992, pursuant to Joint Rule 13)

Came from the Senate with the Bill and accompanying papers indefinitely postponed.

Subsequently, L.D. 2442 and all accompanying papers were indefinitely postponed in concurrence.

#### COMMUNICATIONS

The following Communication: (H.P. 1787)

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

October 3, 1992

To the Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, H.P. 1218, L.D. 1776, "An Act Concerning Indian Territory under the Maine Indian Claims Settlement Laws." Because of the proposed changes in how Trust Lands acquired by the Passamaquoddy Tribe and Penobscot Nation will be treated under land use laws, I cannot support this bill.

The purpose of L.D. 1776 is to exempt the Trust lands acquired by the Passamaquoddy Tribe and the Penobscot Nation from the laws administered by the Maine Land Use Regulation Commission. Under the bill, the tribes would assume all local land use authority for those areas. Of concern to me is the mechanism and criteria required by this bill for the Indian tribes to assume that control.

This legislation allows the Legislature's Energy and Natural Resources Committee, rather than the Maine Land Use Regulation Commission, to review the tribes' comprehensive land use plans and ordinances and make a recommendation for approval or disapproval to the full Legislature, which would then make the final decision. I object to this provision of the bill because it transfers an Executive Branch function to the Legislative Branch. I also object to the fact that the plan and ordinance decision would be based only upon general goal statements, rather than minimum standards and zoning criteria that are measurable and predictable and which would assure a base level of protection to natural resources and adjacent landowners. Other municipalities which seek to remove lands from the unorganized territories must meet minimum land use standards not less stringent than those of Maine Land Use Regulation Commission.

Maine's current law provides a mechanism for a municipality to remove itself from the Commission's jurisdiction and adopt and administer its own land use regulations. The Passamaquoddy Tribe and the Penobscot Nation can make use of the same mechanism to withdraw from Commission jurisdiction, and in the

past they have been encouraged to do so. Like municipalities, however, the tribes must demonstrate to the Commission that the degree of natural resource protection they will provide is no less protective than the level provided by the Commission. In the twenty years that this mechanism has been in place, ten communities have sought to withdraw from the Commission's jurisdiction. All ten have worked with the Commission in developing an adequate plan, and all ten have been successful.

I also object to the fact that this legislation amends the Indian Land Claims Settlement Act, adopted by the State of Maine in 1980. Because of this, the bill requires ratification by both tribes, and once it becomes law, its provisions cannot be further amended without their approval. I do not believe that the ability of the State to take action through legislation should be foreclosed in this manner.

Furthermore, a review of the legislative record demonstrates that the issues raised by this bill were considered and understood at the time of the adoption of the Claims Settlement Act. In fact, the issue of state natural resource laws and the relationship between the Maine Land Use Regulation Commission and the Indian Trust lands was discussed at the time, and representatives of the tribes and the State acknowledged that the Commission's procedures would apply to the Trust lands. I believe it is appropriate to maintain the integrity of those procedures established as part of the Claims Settlement Act.

To date, the Passamaquoddy Tribe has acquired approximately 75,000 acres of the 150,000 acres of Trust lands provided by the Settlement Act, and the Penobscot Nation has acquired 55,000 of the 150,000 for which it is eligible. Lands now in trust represent portions of 12 townships dispersed across northern and eastern Maine, with parcel sizes ranging from less than 5 acres to more than 14,000 acres. Because these land areas do not represent a contiguous parcel, but are scattered land holdings, the impact of land use activities cannot be easily isolated from adjacent lands. Therefore, development and review of a land use plan that comprehensively considers natural resources and adjacent land uses and owners is crucial to avoid future land use conflicts.

For twenty years our policy has been to extend sound land use planning and subdivision control to the unorganized areas of Maine. Despite the success of this policy, L.D. 1776 would establish a separate set of rules for lands acquired by the Indian trusts. Given the fact that separate treatment was considered and rejected at the time of the adoption of the Maine Indian Land Claims Settlement Act, I cannot support such a dramatic departure from our current law.

For all of these reasons, I respectfully urge you to sustain my veto of this bill.

Sincerely,

S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act Concerning Indian Territory under the Maine Indian Claims Settlement Laws" (H.P. 1218) (L.D. 1776).

The SPEAKER: The pending question before the House is "Shall this Bill become a law notwithstanding the objections of the Governor?"

The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Men and Women of the House: L.D. 1776 hasn't changed since it was overwhelmingly passed in this body a few months ago. L.D. 1776, just to refresh your recollection, provides a vehicle for the Penobscot and Passamaquoddy tribes to take their trust lands and incorporate those lands into their municipal status. At the present time, LURC having jurisdiction over the trust lands, the process to take those lands out of LURC's jurisdiction, would be for the tribes to produce a comprehensive land use plan to LURC and have LURC approve that plan. Upon approving that plan, that trust land would then become part of the municipal status.

Because of the dealings with LURC and the tribes, the tribes have opposed going that route. They wanted to deal government to government. This bill, L.D. 1776, provides that vehicle so that the tribes can produce a comprehensive plan to the Energy and Natural Resources Committee who fine-tuned L.D. 1776 and voted out unanimously and sent back to the Judiciary Committee what is now before you.

Twelve short years ago, the tribes, prior to the Land Claims Settlement, had virtually no local form of government and pretty much relied upon the state for their decision making. Today, I would say that the local government of both tribes surpasses most of our major cities in this state. The tribes have come a long way and I feel that giving them the vehicle to take their trust lands and incorporate it into their reservation land is the right thing to do.

I urge all the members of this body to follow suit with their last vote and override the Governor's veto.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: This bill came to the Judiciary Committee. Since our Chair is now the Assistant Majority Leader, I rise to explain a bit about it from the point of view of the Judiciary Committee.

The Bill grew out of a dispute over who had jurisdiction over Federal Indian Trust Land in terms of changes in the zoning and land use and it grew particularly out of a provision in federal law which provides land or natural resources acquired by the secretary in trust for the Passamaquoddy Tribe and Penobscot Nation shall be managed and administered in accordance with terms established by the respective tribe or nation and agreed to by the secretary in accordance with Section 102 of the Indian Self-Determination and Education Assistance Act or other existing law. Because of that provision, the Passamaquoddy and Penobscot Nations felt they did not have to submit to LURC jurisdiction over this land. There was a legitimate dispute that was headed to the courts. Rather than have it be decided through the courts, this bill was brought here to determine and settle the issue of whether or not the Indian Tribal

Lands Trust territories should lie under LURC jurisdiction or something else. The resolution that was made was a sensible one. It, first of all, avoids the litigation and secondly, it maintains state control both through the Legislative Branch and the Executive Branch. The veto message suggests that it takes it out of the Executive Branch control but keep in mind that these lands would continue to fall under DEP jurisdiction and all of the legislation that we pass in this body and that DEP carries out and instead have a procedure, rather than go to LURC as Representative Bailey has explained, it would take the plans and bring them to committee having jurisdiction over Energy and Natural Resource matters for approval.

This approach accords greater dignity to the tribes than calling the tribe similar to a municipality or an unorganized territory that has to go to LURC. It is for this reason that this Resolution makes good sense. It is a Resolution of the dispute, it keeps adequate state control, both in the Executive and Legislative Branches and it accords greater dignity to the tribes than anything else that could be developed.

I urge your support for overriding the Governor's veto.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Attean.

Representative ATTEAN: Mr. Speaker, Ladies and Gentlemen of the House: I stand today in opposition to this veto as a very sad and deeply troubled person. I am sad because I perceive a fundamental shift in the relationship between the state and my tribe, a relationship which I thought was, not only a vast improvement over the old prior one, but was immensely positive in part because of this bill and the way it evolved.

This bill was a conscious decision of my tribe to submit to the legislature for a decision. We felt that the legislature was the proper forum to resolve this dispute rather than being openly confrontational in a courtroom. My people have had a long-standing difference of opinion with the state agency. The state agency in question, LURC, Maine Land Use Regulation Committee, had even made statements in the early 1980's at various workshops which we attended that they indeed did not have jurisdiction on Federal Indian Trust Land.

When LURC began to exert its jurisdiction, the tribes rebuffed their efforts. This has been a long-standing dispute, years. We thought by submitting legislation, we could resolve this dispute.

This veto message sends the wrong message to my people. Now we are right back where we were over two years ago with all of this added contention on top.

There were many good people both in the legislature, legislative staff, my people, attorneys, working to achieve this unique legislative solution. This legislative solution was never an attempt to usurp any Executive Branch function. That concern was raised late in the process after all of the good people working on this issue had arrived at a consensus and it was not an easy consensus to arrive at.

The legislation did not make any judgments, it did not point any fingers, it did not lay any blame. Instead, it chose to move forward in a progressive fashion by allowing the state and the tribes to work together in a better government to government

relationship, both of us working towards a mutual goal.

Now the tribe has been caught up in a dispute between the legislature and the Executive Office and we are suffering as a consequence, when indeed all we had hoped for was a peaceful resolution of a long-standing dispute.

I guess I should explain a little bit about how we as native people feel about the Trust Land. First I want to make one statement, the tribes are not a municipality, we have been a tribal government since time in memorial, we have existed on this land in what is now the State of Maine for eons. The tribe, my tribe, (Representative Soctomah will speak for her people) view this land that we recently reacquired under the terms of the negotiated settlement as an eternal land base, something it had always been, something that it always will be. It is not land that some out-of-state consortium will come in to develop, to build condominiums to sell to the highest bidder. It is our land to live on as we have lived traditionally and as we will live progressively for ages to come. Our Indian Trust Land has a different fundamental status than unorganized territory in the rest of the state.

As I said before, we are not a municipality, yet when LURC laws were first put on the books in 1970, the tribal government was recognized as the local government in control and was exempted from the LURC laws. We thought that that exemption would cover the trust lands that were acquired after 1980 because we are still the same local government in control.

I note in the Governor's veto message that there are procedures for newly emerged municipalities to remove themselves from the control of LURC. Again, I remind you the Penobscot Nation, the tribal government, the local government in control, is not a newly emerged municipality. We believe that proper land use and proper land control are essential to protect the assets which we must hand down to our descendants.

Given the provisions of the negotiated compromise that was reached with two legislative committees, we were bound to stand by those. If one were to look at the bill, one could see that we did not get much, the tribe did not get much in the way of the actual legislation. What it got was a recognition of this government to government relationship with the state. The Governor's veto message does damage to this relationship. The Governor speaks that this legislation amends the Land Claims Settlement Act. I respectfully beg to differ with the Governor. It does not amend Title 30, MRSA. If I remember correctly, it amends Title 12.

It does require the tribes approval simply because this is an interpretation of the language contained in the Land Claims Settlement Act and as such should be accepted by my people rather than being handed down unilaterally from on high. It is a protection for my people, they understand what this legislation does, they have pledged to support it and the goals that we all seek to achieve. My people have chosen to ratify this legislation.

The Governor speaks to the trust lands not being contiguous. I would like to remind this body that under the terms of the Settlement Act, the trust land can not be contiguous, never will be, never can be. If you were to read that, you would see a whole list of properties that can be acquired in the Unorganized Territories and they are spread over eastern and

northern Maine, they can't be contiguous. I am getting the message from this veto that we are to be held to a slightly different standard or development and review of a land use plan because of this non-contiguous nature.

It took a long time, over two years, to achieve this legislative compromise. It is a shame to see it erased away by this veto message. I felt proud to have worked for my people, to negotiate, to compromise, to achieve mutual goals with the state. As I said earlier, I am very sad because I think those efforts were in vain.

Where do we go from here? Where do we go with all this extra baggage that is now piled on top of what we thought was a creative solution to our problem.

For those of you who so overwhelmingly support me and my position on this bill and two committees recommendations, I ask for your support again.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: I am not sure if you are aware but the Houlton band of Maliseet Indians have been included underneath the Indian Land Claims Settlement and they live entirely within my district in the towns of Houlton and Littleton for the most part and that is where they are at present buying lands as well.

During my time on the Houlton Town Council from March of 1985 to March of 1988, we began dealing with the band of Maliseet Indians in their acquisition of the land which needed our approval and we gave it. Now they are moving ahead with developing housing and developing their own forms of government and they will govern themselves eventually. Once they do that, our relationship will be with them as we would with a municipality. They are not a municipality but our relations with them will be as if they were another town.

What disturbs me here is that, if we accept the premise that the land should be contiguous before we will allow the tribes to govern them in any way they see fit, that the precedent could be carried over into our very towns and we will be required to have contiguous development within the borders of our individual townships, towns or cities. This means that you will no longer be able to have scattered site housing for folks or that you will need all of your industrial development in one small area rather than in several as is appropriate in many towns.

More than that seems to be the underlying distrust of the tribes that I detect. I know the majority of this body supported this bill before so I am kind of preaching to the choir but I am asking everyone to think about who has taken better care of the lands they have been entrusted with? I live with one of the tribes, I went to school with these people. I travel the Penobscot and Passamaquoddy lands as well as I go through eastern and northern Maine and I have never once, a single time, seen anything untoward on those lands. As a matter of fact, I thank God once in a while that they are taking care of them and preserving them the way that they should be.

For any of those of you who have doubts about whether or not to override the veto, I would say that I personally (from my experience) have absolute faith and trust in the intentions and honor of the tribes. I will vote to override the veto, not because of any

conflict with any other politician in this building, but rather to support those tribes and to renew my vow of trust in them and what they have been doing. I hope that you all will give that some consideration and that you will take the time if you are still running to go to the lands that the Indians own and take a look at what they are doing. I assure you that you will have the same faith and trust in them that I do. I urge you to vote to override the veto as an act of faith.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I rise today because this piece of legislation was troubling to me from the very beginning. I met some time ago, at the time of passage, with the good Representative of the Penobscot Indian Reservation as well as with Representative Bailey. I took the opportunity to read parts of the treaty applicable and the negotiations that led to that treaty. I further met with the Attorney General's office to review for them why they had a continuing objection to this legislation. They opposed it in the committees and they said they had fought the battle and lost and, therefore, it was simply a matter for the legislature to handle.

This piece of legislation is done primarily to change and alter a very carefully tuned, negotiated treaty and settlement of a claim by the United States of America and the State of Maine. You are now asked to renegotiate that, just as a ball player who in his contract with a team says half way through, I don't like it, I want a change. This is a change to the terms. Make no doubt about it. This matter is asking for a unique, very unique, solution by private and special law through this legislature that nobody else probably in the State of Maine whether an abutter or not of this particular land, the Indian Trust Land, could get by way of this legislature. For instance, when would you make a rule with me as an owner of land that says I can have a plan once approved by the committee of this legislature that you could never change, you the State of Maine and this legislature could never change, except I agree with that change. This is what this law does.

Whether or not you like LURC is not the issue here. There are many that have horror stories of dealing with LURC. The issue is what is right for the State of Maine, not today, not tomorrow, not next year and the year after, but for the decades and centuries to come. The State of Maine stands in friendship with the Indian Nations or tribes of this state, they have done it in part in a callous way and in part in a much less callous way, in a much more friendly and service way. If you change those terms, you change the treaty. It is as simple as that.

What was negotiated doesn't make sense to me to change anymore today than it did last month or last Spring. What you are doing is forever giving away your right to change it again, absent the consent of the Indian Representatives.

For that reason, I think that this is a bad piece of legislation for the State of Maine. It is clearly a rewriting of a treaty that was carefully crafted, negotiated and hammered out by representatives on both sides over a long, long settlement period. Why change it? I don't see the reason for it, I clearly don't see the terms of it as being fair, I clearly don't understand and will not support one which

limits the State of Maine to look and to what is best for the State of Maine as this does.

I urge you not to override the veto.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to support an override on this veto of this particular legislation. I am not a lawyer and I am not attuned with all the fine agreements that were accomplished in the Indian Land Claims Act. However, two things strike me as important here today. One, how was the land taken care of when the tribes were in control of it, (for eons, I might point out) compared to the short time that the American government has had charge of it, no comparison as far as I am concerned.

The other point that really kind of amazes me is anyone representing government getting up and accusing the tribes of wanting to change treaties. It kind of makes me wonder where they learned that if that is true. I don't believe it is true. These people want to be the masters of their own fate, they want to live on their own land and they want control of their own land.

I am voting to override this veto, not because of little legal implications or anything like that, but because I have more trust in the stewardship of the tribes than I do our own government.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: I thank you for this opportunity to address this body in regard to L.D. 1776. On behalf of the Passamaquoddy Tribe, I would like to express our disappointment on the veto of L.D. 1776. The Passamaquoddy Tribe viewed L.D. 1776 as an honorable solution in resolving the conflicting perceptions between the state and the tribe on how Indian land was to be treated.

The tribe was committed to the development of a land use plan. The plan would have been scrutinized by the Energy and Natural Resources Committee, utilizing the LURC guidelines as a standard before making a recommendation to the Judiciary Committee as requested. A public hearing would have been held before the Legislative Branch voted on the land use plan. This process placed a greater responsibility on the tribe and did not negate us in submitting a plan. For the tribe, this was an honorable solution.

Leadership has a responsibility to create an environment whereby its citizens can live in respect, harmony and prosperity. L.D. 1776 was passed in the House and Senate. I want to thank those people who have worked with a dedicated effort and understanding of the relationship between the land and the Passamaquoddy people and look to you today in 1992 for your support in our continued struggle for the past 500 years toward a better way of life.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I rise just to correct any misunderstanding that might be put in the minds of people based upon the remarks of my good friend from Fryeburg, Representative Hastings.

There are two perceptions, one is that the Indian Land Claims Act would be modified by this legislation and the other is that the Indian Land Claims Act in

any event was superseded by federal law, which we all know federal law controls over state law when there is a conflict between them. The federal law, the Federal Indian Trust Lands Act provides that the tribes would manage and administer in accordance with terms established by the respected tribe or nation and agreed to by the secretary. Now, that is the Secretary of the Interior, federal.

So, there was a genuine conflict between the federal interpretation based on the federal law, interpretation under the Indian Land Claims Act and yes, it is true that some people would say that this is a modification. In order to avoid having to go to court and determine that issue, this bill provides for going through the procedure provided under the Indian Land Claims Act, the state act, and requires that the support of the tribe, the approval of the tribes and all of the provisions that would go with a modification.

But, there is a different point of view entirely which is really avoided by this bill, by this carefully crafted compromise and that is that this is no modification at all. I rather agree with that latter interpretation. Also, I am not absolutely clear which interpretation is right but I do know I support the compromise because it does avoid having to go to court and make those determinations. It does grant to the tribes the dignity which I think they deserve. I support the override.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Attean.

Representative ATTEAN: Mr. Speaker, Men and Women of the House: I, too, rise to correct a misinterpretation of this legislation. As I said earlier, it does not amend Title 30, MRSA, Section 6201, that is the Land Claims law. It instead amends existing state law. It is not a private and special law and the reason it requires the tribes approval is that this is a mutual understanding of what the vague language in the settlement act means. It does not alter it, it does not change one word of the settlement act, it is not a renegotiation.

The good Representative from Portland quoted to you the language in the companion legislation that Congress passed. I have no need to recite that to you again, just be aware that it is contained within Public Law 96-420. There also is another part of that same federal law which says, Section 16-A, "In the event a conflict of interpretation between the provision of the Maine Implementing Act and this act should emerge, the provisions of this act shall govern."

I am not a lawyer, I do know we made the conscious decision to seek a legislative solution. I just thought you should know that. The state will certainly have oversight authority, still, over tribal land as it does with any other municipality in this state by the DEP laws. The state can change those as they see fit without cooperation or consent from the tribes.

Our whole purpose in approaching the legislature was to avoid what you are hearing today, to settle and reach a peaceful resolution of a long-standing dispute. We thought we had reached that resolution.

I said earlier that I am deeply troubled by the tone of the veto message and I am very unclear for future relationships. I said that the tribe needed to accept a mutual understanding of the language. I think that is only fair. We cannot have these types

of decisions handed down to us, one-sided decisions, forever and ever, that wasn't the intent of the land claims. That was to reach this peaceful resolution which I thought we had. I am still troubled as to the future.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly. If my memory serves me correctly, I remember the last time we voted on this issue in the House, we didn't have a roll call, but there was a Division. If I recall correctly, I think there were only three people who opposed this legislation. So, I would hope today that you remember your last vote and would override the Governor's veto.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

To the good Representative from South Portland, whom I do greatly admire as an attorney, but I ask him whether or not the Attorney General's office did not represent to the Judiciary Committee in its deliberations that this particular bill was, in their opinion, a modification of the Indian Land Claims Act?

The SPEAKER: Representative Hastings of Fryeburg has posed a question through the Chair to Representative Anthony of South Portland who may respond if he so desires.

The Chair recognizes that Representative.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: In response to my good friend's question, it is true that the Attorney General's office did oppose this and feel it was a modification. That was his opinion. The key word in the question was the word "opinion." It was indeed their opinion.

How do we resolve disputes? For me, it makes sense to resolve them outside of the courts wherever possible. Here was an opportunity for us to take this legitimate dispute about what law controls and how to deal with jurisdiction over these trust lands and resolve it through a carefully put together approach in this body that involved two committees working long hours and working with the Attorney General's office and working with the Native American Tribes and Nation and we resolved that dispute. We came to a resolution and we presented it. It is that solution that gives some deference to the opinion of the Attorney General and some deference to the opinion of the tribes and Nation that make sense to me. That is why I am asking you to support this legislation despite the Governor's veto.

The SPEAKER: The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Men and Women of the House: No one believes more strongly in land use planning than myself. In 1988, I sponsored the first growth management law and in 1989 that law comprehensively asked towns to plan for their future, with both incentives and penalties for not doing so.

In reading the Governor's veto message, he points the lack of those very methods and the lack of protection that the future of these lands would have, both the natural resources and the property values of other landowners. The Energy and Natural Resources Committee looked at this bill and worked on it for a long time. It is both my opinion that the Attorney



General's office and the Land Use Regulation Commission were correct that indeed these lands, if they wanted to have their own land use planning ability, should go through the Land Use Regulation Commission's procedure for withdrawing and having those protections put in. The Energy Committee spent a lot of time listening to the problems and listening to the advantages that would be accomplished by this and we made collectively the decision that if they made a comprehensive plan, not only setting forward their goals, but their strategy for implementing them that indeed the protection of those lands and natural resources would have the possibility of greater protection than even LURC's guidelines. This was a decision that we made, as I said, with a lot of time and thought put into it. It wasn't done haphazardly, it wasn't done unconsciously. The Judiciary Committee struggled with some of the land claims issues, we dealt with just the protection of the natural resources and property values.

Reading the Governor's veto message, he points out that it is putting the responsibility for the land use planning in the area of the Legislative Branch rather than the Executive Branch. Last year, this legislature abolished our whole growth management program, not because growth management wasn't a good thing to do, not because sound land use planning isn't necessary in this state, but because we didn't have the money. I ask you — what the tribes are asking us is not because of economic pressure, they are asking us because of their history, because of their goals, their values, their differences, they are asking us to give them what every other community in this state has which is the ability to plan for their own future and protect their own natural resources and their own property values. They are not going to do it without legislative approval which will be the safeguard for how it affects other property and other natural resources in this state.

So, I ask you to override this Governor's veto and really consider what we have done in this state, in this legislature, to really plan wisely for the future of our lands and our natural resources. I believe this would be a positive step in that direction, where some of the steps we have made in the last few years were really steps backwards.

After reconsideration, the House proceeded to vote on the question "Shall this Bill become a law notwithstanding the objections of the Governor? Pursuant to the Constitution, a two-thirds vote of the members present and voting being necessary, a roll call was taken.

## ROLL CALL NO. 485V

YEA - Adams, Aliberti, Anderson, Anthony, Bailey, H.; Bailey, R.; Bell, Boutilier, Cahill, M.; Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichborn, Hoglund, Holt, Hussey, Jalbert, Joseph, Kerr, Ketterer, Kilkelly, Larrivee, Lawrence, Lemke, Lerman, Lord, Luther, Macomber, Mahany, Manning, Martin, H.; McHenry, McKeen, Melendy, Michael, Mitchell, J.; Morrison, Nadeau, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Pfeiffer, Pineau, Plourde, Pouliot, Powers, Rand, Reed, W.; Richardson, Ricker, Rotondi, Ruhlin,

Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Ault, Barth, Bennett, Bowers, Butland, Carleton, Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Hanley, Hastings, Hichens, Lebowitz, Libby, Lipman, Look, MacBride, Marsano, Merrill, Michaud, Murphy, Nash, Norton, Parent, Pendexter, Pendleton, Pines, Reed, G.; Richards, Salisbury, Savage, Spear, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Cashman, Clark, M.; Dutremble, L.; Greenlaw, Hepburn, Jacques, Kontos, Kutasi, Marsh, Mitchell, E.; Nutting, Paul, Poulin, Small, Treat.

Yes, 95; No, 40; Absent, 15; Vacant, 1; Paired, 0; Excused, 0.

95 having voted in the affirmative and 40 in the negative with 15 being absent and 1 vacant, the veto was not sustained..

The following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

October 3, 1992

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, H.P. 1316, L.D. 1902, "AN ACT To Establish a Professional Standards Board for Maine Teachers," which establishes an autonomous professional standards board with sole authority to issue licenses authorizing teachers to teach in schools; to establish criteria for the issuance, renewal, revocation and suspension of those licenses; to approve preparation programs for teachers licensed pursuant to the chapter; and to establish, by rule, administrative policies and procedures of the board governing the duties described in this subsection.

This act creates a new bureaucracy, with its own operating budget and staff, while leaving the State Board of Education unchanged and maintaining a Division of Certification within the Department of Education.

The Board would be dominated by members of the Maine Teachers Association who would be making decisions on the issuance, renewal, revocation, suspensions and appeals of its decisions by the members of the same association. This establishes an unavoidable conflict of interest.

Teachers are paid with public funds, over 50 percent of which are contributed by the state, thus requiring closer public scrutiny of how teachers are licensed. While other professions have peer review boards, none of these professions are paid in whole by public funds.

I am concerned that the teachers association could use this provision to narrowly control entry into the profession. This is in conflict with our efforts to expand alternative entry into the

profession, a healthy move for bringing new blood into teaching.

I also object to the provisions of the bill regarding fees. Currently, fees from the certification of new and non-practicing teachers flow into the General Fund. This bill would remove those fees and give them to the Professional Standards Board as well as impose new fees on practicing teachers.

I urge you to sustain my veto of L.D. 1902.

Sincerely,

S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Establish a Professional Standards Board for Maine Teachers" (H.P. 1316) (L.D. 1902).

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

Representative HANDY: Mr. Speaker, Men and Women of the House: I would urge you today to vote yea to override the Governor's veto of this legislation. This legislation proposes to establish a 13 member Professional Standards Board for Maine teachers, much like those other peer review boards that are currently in the state statutes, well over four dozen currently exist.

I would like to draw your attention to the Governor's veto message because I do find a number of his reasons for his objections to the bill questionable and I certainly find one most specious.

First of all, the Governor points out that (in the third paragraph) this Board would be dominated by members of the Maine Teachers Association, although they certainly would be in the majority, having seven of the thirteen members, to suggest that they would be dominated is, I think, an overstatement. If that is of a concern of the Governor, I would pose the rhetorical question, why are other boards, such as the Board of Medicine, surely dominated by physicians in this state? What about the Board of Overseers of the Bar? That is dominated by attorneys. It seems that there is a great inconsistency here with the Governor pointing to this one whereas he has no concern about other boards being dominated by those other professions. In fact, when you have a peer review board, it should have a majority of members of that profession. Otherwise, it wouldn't be a peer review board.

The Governor says that he has objections to this because it "conflicts with our efforts to expand alternative entry into the profession, a healthy move for bringing new blood into teaching." Well, in my eight years on the Education Committee and certainly all the time that I have been on the Education Committee during the Governor's tenure, I have not seen a significant piece of legislation come from his office or from the Department of Education that has anything whatsoever to do with providing the alternative means of certification for teachers in the State of Maine. So, I think that there is a prospect of a great misleading statement here.

His second to the last paragraph which I will

read into the Record says, "I also object to the provisions of the bill regarding fees. Currently, fees from the certification of new and non-practicing teachers flow into the General Fund. This bill would remove those fees and give them to the Professional Standards Board as well as impose new fees on practicing teachers." I find this argument to be the most specious of all because it was this Governor who offered up a fee schedule for licensing of teachers in order to balance his budget. All of a sudden he has this new found concern for teachers paying fees.

The educators in the State of Maine want this legislation so they can have a direct input into the process of licensure of teachers in the state, much like those of other professions in this state. After all, we are entrusting our children to teachers, we seem to want to put more trust and more responsibility in plumbers, electricians and other profession in this state but when it comes to teachers, no, it is hands off.

The Governor does point to an objection that was not only raised by him but other members on the floor of this House during the course of the debate earlier this session on this issue and that is the issue of money and that the monies that are used to pay teachers are public funds. True. I don't see why that is such a big distinction, but if that is a problem for the Governor, let me point to a couple of other examples. What about the attorney who is appointed for criminal defense of an indigent alleged criminal? That person is paid with public funds. What about the public health nurse who is paid wholly with public funds, that Board of Nursing is run by a majority of nurses. There are numerous other instances where individuals get public funds who have a professional standards board. It seems to me there is no reason (that reason does not hold water) as far as I am concerned that teachers should be looked at as something different.

As I said, we entrust our children to teachers, there isn't any reason why we shouldn't afford them the respect and recognition as a profession, much like we do doctors and lawyers in this state.

I would hope that you would vote to override the Governor's veto by voting yea.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to sustain this veto because the whole area of certification is to give the public minimal assurance that the people who are teaching in our state are qualified. It is a license. We don't have a chance to choose our teachers, so it is the public and not the profession that needs the assurance.

However, I have long felt that many of the things that we could get seemingly from a board of this time could come through the open channels of a true advisory committee, not stacked in anyone's favor and remaining in the public domain and not under any standards board where, if one of us, (me too, I am an educator) had trouble with my certificate, I can find a forum, an open forum, in which to address it.

I am thinking about proposing legislation in the next session that would remove the responsibility for certification from the State Board of Education and put it back in the Department of Education where it belongs and to surround that department and this commissioner with an advisory committee, made up of teachers, administrators and teacher educators, a

member of the state board and probably someone from the public at large. I haven't ironed out if there would be anyone else that wouldn't end in an even number for you might even vote on such a committee. I would like to see their advice clearly sought on every matter pertaining to education. I assure you that if we went along this path, we would remove the need to think about an alternative to certification that did not include professional advice and to keep the function in the public where we can really and truly impact it. I seek no domination by anybody. I want to see certification return to a sane level. I want to see it do the job it is supposed to do and give that public that assurance. I want the quality to come from the advice and not the rule of an advisory committee. I believe that that is the place to put that responsibility, back at the state level.

Several years have passed and I was a critic of the original change. I have studied my own thoughts carefully to see if they were wanting and I don't believe the track record that is involved, massive duplication at the local and state level, where each group inspects their credentials has turned out to improve the quality of education for I think you take another avenue entirely. I think you call it staff development. I believe if we put the licensing aspect of this problem behind us and get on to those factors that can truly improve the quality of instruction, which is a heck of a lot better right now than it has ever been, (I want to point that out) I think it can further be improved through a staff development approach to education. Since I am in danger of not being germane to this question, I shall sit down at this point. I urge you to sustain the veto.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: The only reference to the bill itself is the third/fourth paragraph which seems to be in jeopardy. The statement perhaps can be questioned. Teachers are paid with public funds over 50 percent. I hope that will be true in the next budget.

My prepared statement — override is very important. There should be a resounding voice in the affirmative in support of the legislation, that is important.

The insensitivity to an attempt to add more responsibility, accountability, to a most critical profession, that is important.

The preparation of all our young by a more sensitive and professional segment of teachers, that is important.

I am deeply disappointed at our Governor in his wisdom or his lack of wisdom in his choice to veto this legislation.

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

Representative OLIVER: Mr. Speaker, Ladies and Gentlemen of the House: Thousands of Maine teachers are waiting our decision on this bill. They are your neighbors. They are the educators you trust with your children. They are the participants in community affairs. They sit on boards.

What they are asking is what plumbers and electricians ask for. This is the only major group of professionals lacking a professional standards board. This bill sends a clear message to these dedicated educators during these very stressful times

that we honor their efforts on behalf of our children, that we trust their professional judgment and input into the standards governing their profession.

Further, and I think this is an important point, where professional standards boards have been authorized in other states, professional standards have been upgraded and strengthened. Our Maine teachers, these professionals we trust with the education of our children, are now facing layoffs, job insecurity, larger class sizes, cutbacks in programs and in pay incentives.

We have had very little opportunity during the past two years and the two years we face with the 116th to have creative initiatives that move forward the state of government in this state. This is one of those initiatives, paid for by the teachers themselves, so it is a matter of trust. It is a matter of trust in the sense that these are people who went to college to gain a degree in a low-paying but people serving profession. These are the intelligent, caring, compassionate people that we call our teachers. What they are asking is simple, a role in determining the standards in which they would be governed by, so it is a matter of trust. Do we trust our professional educators to make the right decisions? We certainly trust them to educate our children. I urge your support for this legislation.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to sustain the veto on this. I just want to make a couple of points.

I think at this time, particularly when we are faced with an impending billion dollar figure shortfall for the next two years and probably for the two years after that and the two years after that right into the next century, we are going to be redefining state government as perhaps we have never done before into something quite different than perhaps what we envision it to be now or in the near future. I don't think we can afford to duplicate what is currently being done in the certification area by creating a new board at this time. So, I would be opposed to this, the establishment of a professional standards board, for that reason.

The other area is the perception of accountability. Each year in Maine, we spend over \$1 billion in state, local and federal aid for K to 12 education. The perception out there in the public is that we are not doing a particularly good job. SAT scores are quoted as dropping and business people are saying our graduates can't read and write and so forth when they graduate from high school. So, there is a perception that we are not doing a good job. There may be, I believe, some adequate and compelling reasons why when we look at what we are asking our teachers to do compared to what they used to do when perhaps people of my age went through school.

I would like to read into the Record the task force for changing school funding and this was in the Portland Press Herald and it says, "Maine stacks up with the rest of the nation in areas of school funding as follows: Maine spent \$5,894 per pupil in 1991." The average nationally was \$5,261, we rank 12th. The average salary for classrooms, we didn't fair as well, we rank 35th, being about less than \$5,000 below the national average.

The other statistic which is quoted and this goes to what Representative Oliver mentioned is that the

"student/teacher ratio in Maine was 14.5 to 1 whereas the national average is 17.2 to 1." Maine had the fifth lowest student/teacher ratio. I think we have to keep those in proper context when we are discussing this bill.

I would urge you to support the Governor on this action.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I must pick up right off the bat on the first comment of the previous speaker who said that we are in the midst of (or will be doing for the next several years) changes like we have never seen before. I submit to the legislature and this body, what is wrong with this change? Why not even at least consider this change?

The teaching profession -- the Governor's veto message mentioned that he is concerned that the Teachers Association could use this provision to narrowly control entry into the profession. The previous speaker said that we are not doing a good job, that the public feels we are not doing a good job. In my judgment, I feel that in fact, if teachers were more involved in the selection of those who are responsible for our children and the changes that may or may not come, as the Representative mentioned, that in my judgment, we would be doing a better job. I believe teachers should be involved. If this board, given other professions, I know the Governor has made the statement that plumber's boards and other boards of that nature do not have public funds, I think that is a smoke screen. I think the fact that we demand that these boards have their profession, their peers, observing and scrutinizing the work that their members do, is very important to be sure. But to say that we can't extend that same right and responsibility to the most, if not the most important professions in the State of Maine, just flies in the face of what is fair and what is just.

I would again stress that what the previous speaker said, that we will be seeing great amount of changes and I submit to you that this is a change that we need to face up to and to submit.

I urge you to vote to override the Governor's veto.

After reconsideration, the House proceeded to vote on the question, "Shall this bill become law notwithstanding the objections of the Governor." Pursuant to the Constitution, a two-thirds vote of the members present and voting being necessary, a roll call was taken.

ROLL CALL NO. 486V

YEA - Adams, Aliberti, Anderson, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cathcart, Clark, H.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hogle, Holt, Hussey, Jalbert, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lerman, Luther, Macomber, Mahany, Manning, Martin, H.; McKeen, Melendy, Michael, Mitchell, J.; Morrison, Nadeau, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Simpson, Stevens, P.; Swazey, Townsend, Tracy, Waterman, Wentworth, The Speaker.

NAY - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Chonko, Donnelly, Duplessis, Farren, Foss, Garland, Hanley, Hastings, Heino, Hichborn, Hichens, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Merrill, Michaud, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Sheltra, Skoglund, Spear, Stevens, A.; Stevenson, Strout, Tamaro, Tardy, Tupper, Vigue, Whitcomb.

ABSENT - Cashman, Clark, M.; Dutremble, L.; Greenlaw, Hepburn, Jacques, Marsh, McHenry, Mitchell, E.; Nutting, Paul, Small, Treat.

Yes, 82; No, 55; Absent, 13; Vacant, 1; Paired, 0; Excused, 0.

82 having voted in the affirmative and 55 in the negative with 13 being absent and 1 vacant, the veto was sustained..

The following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

October 3, 1992

The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, L.D. 2028, H.P. 1416 "AN ACT To Clarify Municipal Approval of Payments of Public School Funds and Awards of Hardship Fund Assistance". This bill alters the provisions of the hardship fund created by P.L. 1991, c. 625 to create a loan program for public schools funded out of any potential surplus in fiscal 1992. Since fiscal 1992 closed on June 30th of this year, I consider this bill moot.

Even so, I object to the provisions of this bill which would have created the presumption that any surplus be deposited into a fund from which loans can be drawn. Our experience of the last few years suggests that any unexpected surplus ought to be retained in the general fund rather than be committed immediately to further use, even if that use is in a revolving loan program.

Finally, this bill is in conflict with the budget bill enacted this spring, L.D. 2185. To amend the law in one bill, as L.D. 2028 does, and then repeal it in another, as L.D. 2185 does, creates unnecessary conflict and confusion. For these reasons, I urge you to sustain my veto of L.D. 2028.

Sincerely,

S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Clarify Municipal Approval of Payments of Public School Funds and Awards of Hardship Fund Assistance" (H.P. 1416) (L.D. 2028).

After reconsideration, the House proceeded to

vote on the question "Shall this Bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution, a two-thirds vote of the members present and voting being necessary, a roll call was taken.

ROLL CALL NO. 487V

YEA - Adams, Aliberti, Bell, Boutilier, Cahill, M.; Cathcart, Chonko, Clark, H.; Crowley, Daggett, Dipietro, Duffy, Erwin, Farnsworth, Gean, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hoglund, Holt, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lerman, Luther, Macomber, Mahany, Manning, Martin, H.; McHenry, McKeen, Melendy, Michael, Mitchell, J.; Nadeau, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Saint Onge, Simonds, Simpson, Skoglund, Swazey, Tammaro, Townsend, Tracy, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, D.; Carroll, J.; Coles, Constantine, Donnelly, Dore, Duplessis, Farnum, Farren, Foss, Garland, Goodridge, Gould, R. A.; Gray, Hanley, Hastings, Heino, Hichborn, Hichens, Hussey, Jalbert, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Merrill, Michaud, Morrison, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Ruhlin, Rydell, Salisbury, Savage, Sheltra, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Tardy, Tupper, Vigue, Whitcomb.

ABSENT - Cashman, Clark, M.; Cote, Dutremble, L.; Greenlaw, Hepburn, Jacques, Marsh, Mitchell, E.; Nutting, Paul, Small, Treat.

Yes, 69; No, 68; Absent, 13; Vacant, 1; Paired, 0; Excused, 0.

69 having voted in the affirmative and 68 in the negative with 13 being absent and 1 vacant, the veto was sustained.

The following Communication:  
STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

October 3, 1992

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, H.P. 1515, L.D. 2127, "AN ACT to Provide a Private Remedy for Violation of the Lead Poisoning Control Act." L.D. 2127 amends the Maine Lead Poisoning Control Act by adding the following:

"A violation of this Chapter is a prima-facie evidence of a violation of the Maine Unfair Trade Practices Act in an action for equitable relief."

A one-sentence bill would appear to be innocuous. But the reference of L.D. 2127 to the Maine Unfair Practice's Act, 5 MRSA Chapter 10, has broad implications. The essential and critical point for the members of the Legislature to understand is that L.D. 2127 adopts, by reference, the requirement

that a prevailing plaintiff be awarded reasonable attorney fees and costs in relation to an action for equitable relief. I believe that this provision will encourage plaintiffs to bring suit, increasing the amount of litigation in our system and the costs that it imposes on our economy. It should be noted that the provision for attorney's fees applies only to plaintiffs, and not to defendants, even if the defendant prevails.

For these reasons, I respectfully ask for your support in sustaining this veto.

Sincerely,

S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Provide a Private Remedy for Violation of the Lead Poisoning Control Act" (H.P. 1515) (L.D. 2127).

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: Maine is to be commended for the stand it has taken against lead poisoning. Twenty years ago, the Lead Poisoning Control Act was passed by the legislature which was considered model legislation by most. This past session we added to it. Maine can levy fines and punishment against violators. We are not powerless when it comes to enforcing lead poisoning statutes.

As a health professional who has provided health care for children for over 20 years, I do not take lightly the fact that I must rise and oppose legislation on lead poisoning. Having worked out of the Munjoy Hill Health Station for four years, ten years ago, I come to you very well versed on the issue. In that capacity, I managed care of children with lead poisoning and I know very well the problems involved. There is a national wave in this country to get the lead out of America. Some of you in this body believe that that should be so, but I say to you, we need to be realistic about the fact that people do live and have to live in lead paint environments.

I say to you today that perhaps we are all (right now) sitting in a lead painted environment because I am sure there is lead paint in this room.

We need to differentiate between lead presence and lead hazards. Those who advocate to get all of the lead out at all costs need to review the lesson asbestos has taught us. For the past 20 years, class action suits against the paint industry have been unsuccessful. This legislation just perpetuates the process because the bottom line with this bill is to bring class action suits against the paint industry.

Kids afflicted with lead poisoning and families of these children do not care about suing the paint industry but they do care about the health of their children and they care about dealing with the lead paint hazards in their environment.

Let our efforts and resources provide for public information and education and prevention efforts rather than paying for attorney fees that this bill allows. Let's not use our precious resources to line

the pockets of attorneys; rather, let's vote to help children where it really counts.

I ask you to vote to sustain this veto because the lead poisoning issue belongs in the public health arena and not in the courts of this state.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: This bill also came through the Judiciary Committee, but there was another piece of legislation that passed through this body this past year and that was "An Act to Protect Children from Lead Poisoning." It went through the Human Resources Committee and it is the act to which the good Representative from Scarborough referred. It does strengthen the protection system for protecting children from lead poisoning. It makes a commitment that the goals of this state in the area of lead poisoning is to eradicate childhood lead poisoning by the year 2010. Part of that law, which was by the way signed by the Governor and is Chapter 810 of public law, part of that law says that a person may not knowingly rent a dwelling that has been posted and ordered cleared of harmful lead-based substances, and it goes on.

Supposing you live in a residence and you learned it has been posted. You go to your landlord and ask that that lead paint be removed and the landlord declines to do anything about it — what are your recourses? What options do you have? You have a couple of options, you can try to get the health department to try to close the place down. You can go to the state Attorney General's office which has a Consumer Affairs Division and stand in line. It is a long line because, as you know, we have cut back on our state resources or you can hire private counsel to say this is in violation of the "Act to Protect Children from Lead Poisoning." But, if you are living in a rented premises, chances are you can't afford a lawyer, so you can go to Pine Tree Legal Assistance. We all know about the problems that they have and the shortage of people that they have. In fact, the Muskie Commission and its bipartisan support demonstrated clearly the inadequacy of poor people to get legal services. Chances are you are going to stand in line again. Now, what the Attorney General's office proposed and the Judiciary Committee passed was a bill that makes violation of the Lead Poisoning Act a prima facie evidence of a violation of the Maine Unfair Trade Practices Act. What that says is that the prevailing party can collect attorney fees. That is like a ticket to a lawyer because it means, if you live in premises that are in violation of the act and your landlord is snubbing his nose at you, you can now go to a lawyer who can start an action and at least know that the legal costs will be recovered.

When this bill came through the Judiciary Committee and came to the floor of the House and other body, there was concern, especially from the second floor, that this was too broad and would open flood gates because a lot of lawyers might want to try to bring these cases and collect damages. So, an amendment was placed on this bill in the other body, an amendment that was proposed by the Legislative Council to the Chief Executive of this state and that amendment says — it just adds six words, "in an action for equitable relief" and that is part of the enacted version. That amendment was accepted and

became part of the law so that now you get attorney fees only if you are bringing an action for equitable relief which means an injunction. It means you can't bring a damage action and collect attorney fees, it means you can only collect attorney fees if you win and if you are seeking some form of injunction to require the landlord to fix the problem.

This is clearly a ticket for a poor person to get legal help to address the problem. This is a way that we can help to deal with our commitment in law to eradicate childhood lead poisoning by the year 2010 through the elimination of potential sources of environmental lead and do it without any state cost, rather the cost is borne by those people who knowingly and willfully violate that law. It is only done in cases where equitable relief or some form of injunction is sought, not anything to do with damage actions.

Will there be a flood gate? I doubt it. In fact, I suspect poor people will still have a hard time getting lawyers to take these cases because those of you who have dealt with lawyers in these things know that you don't collect as attorney fees anything close to what it actually costs for the attorney to handle the case, typically.

We have done similar things with a whole range of other laws in this state. We have made it a violation of the Unfair Trade Practices Act to violate the cable television laws, charitable solicitation laws, used motor vehicle inspection laws, home construction contract laws, insulation contracts, landlord/tenant leases and so on. Thus, the same provision that is proposed in this bill already applies to a whole host of other situations. Don't you think we ought to care sufficiently about children and lead paint poisoning to do a similar thing in this area? I submit it makes good sense.

I also submit that it makes good sense to follow the proposal that came directly from the Chief Executive's legal counsel to limit the bill and contain it. That is exactly what is sitting on the Governor's desk and that is what this veto measure relates to. This is an opportunity to support access to attorneys for people who can't otherwise afford it when they are dealing with situations where there is knowing violation of the lead paint laws of this state.

I urge support for overriding this veto.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I really was not terribly knowledgeable about this law until I started to read this morning the provisions of it and this particular veto message. I recall my days on the good committee of Judiciary when we did consider attorney fees and the emplacement of those provisions and the collection of attorney fees into different bills. It is my recollection that every time we ever acted on it, at least in the two years that I served, we put a prevail bill in, a prevail provision. That is the only fair way to put attorney fees in. If I am sued by somebody and I win, it may very well be fair and good public policy to allow me to collect my attorney fees. Similarly, if you sue me under the same law and I win in defense of it, I am not wrong, why should I have to pay the expense of defending? That is called a prevail law and it is in most of our discrimination laws in the State of Maine and I see no reason why it shouldn't be in this law.

For this reason, I would vote against this bill because it is strictly one sided. It says, at least by the veto message and what I read of the statute briefly this morning, that indeed a plaintiff may win attorney fees if the verdict on equitable relief is granted. If it is not granted because the defendant prevailed, that is it was a wrongly brought action or for one reason or another the court would not enforce the effort of relief, the defendant has to pay his own attorney fees. He has been sued wrongly, he has to pay. If the plaintiff sues, he wins, he collects. That is unfair to me. I would not support it on that basis.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I just want to correct that impression — the Governor's veto message in fact is very clear that the requirement that a prevailing plaintiff be awarded reasonable attorney fees and costs is exactly what is in this bill. It is exactly in that because that is in the Unfair Trade Practice Act, it does not in any way expand the Unfair Trade Practice Act and it is only the prevailing party who could win attorney fees if this become laws.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Simonds.

Representative SIMONDS: Mr. Speaker, Ladies and Gentlemen of the House: I rise to urge your support of the vote to override this veto. As a member of the Human Resources Committee and sponsor of the bill, I find it perplexing that the good Representative from Scarborough would say that we must learn to live in a noxious, toxic environment. We do not have to accept that proposition and especially we shouldn't accept it for children.

As has been mentioned already, we enacted new legislation to create a lead-free environment by the year 2010 and the legislature should be commended for that action. Since that legislation was enacted, this has come even more to the attention of the nation. We have had documentaries appear on television regularly on the severity of the problem and public health people now tell us that this is the number one health problem for children under six.

You have heard arguments among learned attorneys on the legal aspects of this. I do recall, I am not able to speak with credibility on those issues, but I do recall as this legislation went through the process, there was concern about how broadly we were opening the opportunities for litigation. Those issues were addressed in the process through members representing the Governor's Office and we believe that they were indeed truly addressed and that the opportunities for litigation had been narrowed to this phrase "equitable relief" meaning you have an opportunity to have an attorney to seek relief when your landlord simply is not acting to protect you and your family.

We have reason to believe that there was some miscommunication in that process among the parties involved and that the issue really was settled to the satisfaction of the Executive Office.

I urge you, apart from the niceties of that kind of argument, do we really believe that the health of children under six is less important than some of those protections that have already been put on the books, the same kind of legal counsel available to

people who have experienced violations in regard to trading in solar energy equipment to odometer tampering to motor vehicle repairs to home mobile construction? Isn't it just as important to give the same protection for families and children living in a toxic environment?

I urge you to support the motion to override the veto.

After reconsideration, the House proceeded to vote on the question, "Shall this bill become law notwithstanding the objections of the Governor?" Pursuant to the Constitution, a two-thirds vote of the members present and voting being necessary, a roll call was taken.

ROLL CALL NO. 488V

YEA - Adams, Aliberti, Anthony, Bell, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Cote, Crowley, DiPietro, Dore, Duffy, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hognlund, Holt, Joseph, Kerr, Ketterer, Kontos, Larrivee, Lawrence, Lemke, Lerman, Luther, Macomber, Mahany, Manning, Martin, H.; McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, J.; Nadeau, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Pineau, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Simpson, Stevens, P.; Swazey, Townsend, Tracy, Treat, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Bowers, Butland, Carleton, Carroll, J.; Coles, Daggett, Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Hanley, Hastings, Heino, Hichens, Hussey, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Merrill, Morrison, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Plourde, Poulin, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Sheltra, Skoglund, Small, Spear, Stevens, A.; Stevenson, Strout, Tammaro, Tardy, Tupper, Vigue, Whitcomb.

ABSENT - Cashman, Clark, M.; Constantine, Dutremble, L.; Greenlaw, Hepburn, Jacques, Jalbert, Kilkelly, Marsh, Mitchell, E.; Nutting, Paul.

Yes, 75; No, 62; Absent, 13; Vacant, 1; Paired, 0; Excused, 0.

75 having voted in the affirmative and 62 in the negative with 13 being absent and 1 vacant, the veto was sustained..

The following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

October 3, 1992

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, H.P. 1669, L.D. 2345, "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State."

L.D. 2345 is drafted in permissive language, but its impact and intent is not to facilitate the use of



private contracting by the state, but rather to restrict it. The standard that this bill would create would make contracting for most services impossible, even those traditionally contracted to the private sector. For example, the operation of 5 MRSA Section 1816-A(1)(A), as enacted by L.D. 2345, would create a presumption that the state could not engage in a contract for services unless it could show that those services are not available within the civil service system. Yet the state has a diversity of existing civil service job classifications, and there are few contracts that are so unique that some existing job classification could not be used to provide that particular service. Thus, this single sub-paragraph would limit a wide range of contracts with the private sector unless a demonstration could be made that some other "permissive" exception applied.

L.D. 2345 would enact 5 MRSA Section 1816-A, which in turn contains five subsections. Subsections 1, 2, and 3 of Section 1816-A establish the general conditions and procedures by which the state may contract for private services. Section 1816-A(1) is styled in permissive language, but its intent and operation can only be to restrict the state's ability to enter into contracts with private entities.

The first hurdle for any contract for personal services with the state is the demonstration that one of the seven permissive exceptions provided by Section 1816(A)(1) applies to this specific contract. This hurdle is only a minor step, however, as the nine separate conditions imposed by subsection(2) must all be satisfied in order for a contract to go forward. One of these requirements is that the contracting agency demonstrate that the costs avoided by the state by contracting out exceed the marginal cost associated with the contract and a portion of the overhead of the agency. This provision is an effort to force the inclusion of fixed costs onto private contracted services even though these costs could not be avoided by refusing the contract. This is counter to common sense, and have no effect but to increase the cost of state services to Maine taxpayers.

In the event that, somehow, a proposed contract for private services manages to navigate the narrows of Section 1816-A(1) and (2), the prospective contractor must then engage in a full bid process under subsection(3). This provision ignores the reality of how the state currently contracts for services. At the present time, it is not unusual for a service to be contracted to the only vendor able to provide that particular service. The bidding process imposed by subsection(3) would require the state to engage in a meaningless bidding procedure that would only add time and costs to the contract without any benefit to the state and its taxpayers. It is important to keep in mind that subsection(3) modifies the general permissive conditions contained in subsection(1) so that even if the contractor could demonstrate that the proposed contract met one of the seven permissive conditions contained in that subsection, including subsection(1)(G) that the services are of an urgent nature, the provisions for bidding contained in subsection(3) must still be followed.

I hope that you will take the time to review the provisions of L.D. 2345 very carefully before acting upon this message. In particular, I urge you to examine the specific procedures established by subsection(3) relating to the bidding process established, particularly the "reasonable opportunity to comment" provided to the state employees' union on all proposed contracts, and the provisions of the Maine Administrative Procedures Act referenced by the subsection as the governing law for any review of a proposed contract.

A fair review of the requirements of L.D. 2345 can result in but one conclusion — that its intention is to restrict private contracting. Its result would be to increase the costs of state government. At a time when so many Maine people are asking us to find ways to cut costs and create efficiencies, I can find no rational basis for allowing this bill to become law.

Thank you for your consideration.

Sincerely,

S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State" (H.P. 1669) (L.D. 2345).

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

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address this bill and what it would actually do. I have read remarks in three places about the bill, in the Governor's message, in the newspaper and in a report from the Majority Office. Frankly, I am kind of — I don't understand why there is so much confusion as to what the purpose of this bill is.

This bill refers to contracting out state services, privatizing state services and attempts to set standards for that privatization. This bill refers to current services which are provided by state government and which are proposed for privatization, not services which have traditionally been contracted, renewals, rollovers or rebids. It applies to a small number of contracts. At any time when there is a proposal to contract out a service, a function of state government, not an employee, not a position, but a service of function of state government, this process I hope takes place now. It is not new, it is not an additional process. Right now, someone, somehow, makes a decision whether or not privatization will take place.

There are references to overhead costs in the Governor's message and I would like to read a few comments from an article in the Governing Magazine from a year ago that speaks to privatization. "Contracting out works best when government can precisely analyse what it wants done. The cost of contracting out a service compared with performing it in-house must be accurately estimated. When considering the potential savings from contracting out, for instance, it isn't enough to merely consider the cost of the contract itself. The government will



invariably spend money to prepare and monitor the contract and may have to provide some of its own equipment. The cost of monitoring a contract is often undervalued because of the complications. Figuring out how much in-house delivery of the service is really costing can be just as difficult. While the direct costs are fairly clear, it is harder to determine which overhead and administrative expenses can be saved. Contracting out a certain service may nominally reduce the workload in such departments as personnel, accounting and purchasing but it isn't necessarily going to cut the work force. Privatization hardly ever deals with the fundamental system of how the work gets done."

The portion of L.D. 2345 relating to the bid process for contracting services does not mandate the bid process be applied to services with a sole source nor was it intended to interfere with those contracts. Clearly, the intent of L.D. 2345 is to establish basic standards and procedures in a critical area where currently no standards exist.

I would like to read to you from an L.D. which in fact was not passed. It was by the Restructuring Commission, L.D. 2329, which says: "The Commission of Administrative and Financial Services shall apply the evaluation criteria for program and operations contracting." There is no criteria now. It identifies a number of potential areas where the state might contract, might privatize, and I am going to read some of those to you. These have been discussed in the past and I am sure they will be discussed in the future. I do want to remind you that this bill was not passed but these are the areas that we are looking at, these are services that are not now privatized but they have been proposed for privatization. They are the state's lottery operation, minimum security facilities, pre-release detention centers — portion of juvenile services, out-patient/in-patient and support services in those areas not already designated under the AMHI Consent Decree, developmental services including those currently provided by Pineland, the Elizabeth Leviton Center, the Bath Children's Home, the Aroostook Residential Center, lab services in the areas of Marine Resources, water quality testing, agricultural products testing and other public health areas, property management services by the Bureau of Public Improvement, administrative service including the Department of Human Services, Bureau of Medical Services, operations of the State Medicaid processing system, buildings and grounds maintenance, State Motor Vehicle acquisitions — there are many areas that have been proposed for privatization.

I would suggest that we need to have some type of standards that looks at how these decisions are made. One of the provisions in this bill is that cost savings must be shown. Today, there is no requirement that cost savings must be shown in order to privatize.

I am holding in my hand a list of 19 questions that were posed by the Joint Select Committee on Corrections in regard to the proposed privatization of the Maine Youth Center. One of those questions is, "What monitoring plan will be put in place and how much will that cost the state?" This is a basic question that should be addressed in any proposal for privatization. We need to understand what we do now and what we expect the privatizing agency to do and if we don't have that information and can't make comparisons, how can we make good decisions about the

delivery of the services of state government?"

Right now, there are more than \$25 million of personal services contracts with millions more being suggested for privatization. These millions of dollars from Maine taxpayers sent on contracted services deserve the minimal scrutiny and accountability that this legislation would provide.

I urge you to support L.D. 2345 and to join me and override this veto.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: As you have just heard, L.D. 2345 was not submitted arbitrarily or in a vacuum but L.D. 2345 has a direct connection to the Restructuring Commission's recommendations. It is important that this bill's title says, "responsible contracting for services." I believe that reasonable and responsible is what we are looking for.

The Restructuring Commission was developed to improve the effectiveness of government programs and to improve the cost efficiency of government programs.

The Governor states in his veto message, at a time when so many Maine people are asking us to find ways to cut costs and create efficiency, I can find no rational basis for allowing this bill to become law.

Before the State and Local Government Committee, there were 18 pieces of legislation, six Acts, ten Resolves and 2 Constitutional Amendments. As you have just heard, L.D. 2329, was a result to establish a mechanism for assessing privatization of state services. Because it was a Resolve, the committee developed a compromise and accepted L.D. 2345 to develop this responsible and reasonable criteria for contracting of services in this state to provide more cost efficiency and to be sure that they were needed services in state government.

For this reason, on May 6th of this year, I wrote a letter to Governor McKernan and I would like to put this letter on the Record. It says, "Dear Governor McKernan: In light of your decision to pocket veto pieces of legislation that the Joint Standing Committee on State and Local Government worked, I am writing to you to see if there exists a middle ground on these issues, L.D. 2330, L.D. 2384, L.D. 586 and L.D. 2345, "An Act Concerning Reasonable Standards and Procedures for Contracted Services by the state."

In reading your reasons for the actions that you are taking, it is clear to me that you misunderstand what these bills do. Perhaps you have been provided inaccurate information or have been misinformed as to what the legislation is seeking to accomplish. First, these bills" (and this bill that we are discussing today) "closely reflect the recommendations of the Restructuring Commission Report."

Secondly, the questions that the committee asked itself during deliberations on the several pieces of legislation before it were, is it necessary, does it reduce duplication, does it produce savings for Maine taxpayers and does it improve services?

As a former legislator yourself, you know that there is no perfect piece of legislation. You also know that there are always provisions on which we do not agree. We do agree, however, that downsizing government is a goal and we do agree that we can do better. We also can agree that the taxpayers must receive services in the most effective delivery system that we can design. I believe that we can

agree that in these very difficult times for the average Maine citizen, direct services must take top priority. The Joint Standing Committee on State and Local Government did that with input from the Executive Branch, other Joint Standing Committees, service providers and citizens. We had no preconceived ideas or any hidden agenda except those goals previously stated. There were no political motivations, only straightforward deliberations and frank discussions of the issues.

I ask for your reconsideration, not for me or for you, but for the benefit of the potential of the political process for good government and for those who look to you and to us with trust for assistance and sincere consideration. If you wish to discuss these issues or areas that may be modified, please contact me. I am at your service. Sincerely, Ruth Joseph."

This letter was written in an attempt to not throw out the good work of the State and Local Government Committee, not to throw out the good work of the Restructuring Commission and this is a bill, above all, that is extremely important to how contracting of state services will be done in the future.

I believe that this legislature has had a bad rap, again taking the blame because of the acts of the Chief Executive. In two editorials, it says on September 23rd "that the 115th Legislature couldn't agree on governmental reform or how to set new priorities. You can give them direction." In another one, it says "that the legislature blew off a major recommendation of a special commission it created to conduct the first comprehensive review of Maine state government in 20 years." I suggest to each of you that the Maine Legislature passed these bills in good faith, that they would meet the criteria and the goals of the Restructuring Commission.

I urge you to support L.D. 2345 because it is reasonable and it is responsible.

After reconsideration, the House proceeded to vote on the question "Shall this Bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution, a two-thirds vote of the members present and voting being necessary, a roll call was taken.

ROLL CALL NO. 489V

YEA - Adams, Aliberti, Anthony, Ault, Bell, Boutilier, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Erwin, Farnsworth, Gean, Goodridge, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hoglund, Holt, Hussey, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lerman, Luther, Macomber, Mahany, Manning, Martin, H.; McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Coles, Donnelly, Duplessis, Farnum, Farren, Foss,

Garland, Gould, R. A.; Hanley, Hastings, Heino, Hichens, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Merrill, Murphy, Nash, Ott, Parent, Pendexter, Pines, Reed, G.; Reed, W.; Richards, Savage, Small, Spear, Stevens, A.; Stevenson, Tupper, Vigue, Whitcomb.

ABSENT - Cashman, Clark, M.; Constantine, Dutremble, L.; Gray, Greenlaw, Hepburn, Jacques, Jalbert, Marsh, Nutting, Paul, Salisbury.

Yes, 89; No, 48; Absent, 13; Vacant, 1; Paired, 0; Excused, 0.

89 having voted in the affirmative and 48 in the negative with 13 being absent and 1 vacant, the Governor's veto was sustained.

The following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

October 3, 1992

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, H.P. 1729, L.D. 2420, "AN ACT to Legalize Marijuana for Medicinal Purposes."

I take this step because of my concern that the provisions of this bill are excessively broad. While I am sympathetic to the needs of those who suffer from glaucoma or from the side effects of chemotherapy or radiation therapy, I believe that L.D. 2420 as presently drafted unnecessarily weakens our efforts to control the cultivation and trafficking of marijuana.

Specifically, L.D. 2420 legalizes the cultivation, possession, and use of marijuana by individuals who have been diagnosed with glaucoma or who suffer from significant nausea or vomiting as a result of chemotherapy or radiation therapy. These provisions apply both to adults and juveniles.

I note that L.D. 2420 established a "Marijuana Therapeutic Research Program" similar in effect to P.L. 1979, 457, which sunsetted in 1981, and to P.L. 1983, 423, which was repealed on December 31, 1987. The history of this piece of the legislation suggests that it is no more likely to find success the third time around than it did in its two previous efforts. Still, the "Marijuana Therapeutic Research Program" at least contains provisions requiring a physician's prescription for the use of marijuana. I am concerned that no such requirement appears in the main body of the bill.

Regardless, I will encourage the members of the 116th Legislature to revisit this issue in an effort to accomplish the laudable intent of this bill in a more responsible form.

For all of these reasons, I hope you will support my objections to L.D. 2420.

Thank you for your consideration.

Sincerely,

S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Legalize Marijuana for Medicinal Purposes" (H.P. 1729) (L.D. 2420).

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

Representative MANNING: Mr. Speaker, Men and Women of the House: Just to remind this House that this bill came out of Human Resources -- we spent an awful lot of time with this particular piece of legislation trying to address as many of the concerns that people had. We worked well into the evening with both the Representative from Belfast and myself and the Representative from Washington County, Representative Bailey.

This bill basically deals only for those individuals who have glaucoma or who are dealing with chemotherapy. I hope that we don't have to go into a large debate because we went into a large debate back then and I think most of us know how we are going to be voting.

I would just like to speak about the last part of the Governor's message, which says "that I will encourage the members of the 116th Legislature to review this issue in an effort to accomplish the laudable intent of this bill in a more responsive form."

Although I won't be here, I will be watching with great interest, hoping that the Governor will perhaps put his own bill in, work with the sponsors of this past year and work with other people who testified in our committee. It was testimony that I think many of my committee would agree was probably one of the toughest bills we had to deal with because it brought tears to their eyes when they talked about their loved ones spending the last few months of their lives because of the chemotherapy. If we can try to do something for these individuals, I think it would be best for them.

I would hope that the Governor and his staff would sit down with Representatives from this body to draft something that he feels comfortable with. Quite frankly, I understand a little of what he is talking about. Since we have last met, we have had people on Donahue coming out of the infamous Stark, Maine and I don't think there is anybody in this body who wants to see the State of Maine known as the marijuana capitol of the world. I also don't think there is anybody in this body who wants to see a loved one suffer the way we all know people do. So, I would hope that if we don't override the Governor's veto that the Governor himself will step forward, present something that he feels comfortable with and, hopefully, the 116th Legislature can address this problem and that everybody in the 116th would feel comfortable with it.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: This bill, as far as I am concerned, may have good intentions but I have talked with eye doctors around the state and they claim that marijuana as a glaucoma medication is obsolete at

this point. There are much more effective medications that can be used in the treatment of glaucoma. However, as far as the treatment for chemotherapy to reduce nausea, there is no question that marijuana does have an impact, does have an effect.

The federal government has developed a THC medication that can be sold and is sold in drugstores for that purpose. I understand that the cost is fairly expensive for that medication. I would prefer that the state provide resources to patients so they can afford that medication rather than to implement this legislation here.

This legislation would allow juveniles to grow, to possess, and our good Representative from Portland, Representative Manning, said that it would bring tears to your eyes to listen to some of the testimony. I wish Representative Manning could have been in my shoes for the last 9 years of my State Police career and listened to some of the stories that some of these families go through in all other drug-related instances, including marijuana. Drugs are a menace to this society and I think this piece of legislation here opens the door to invite the marijuana groups to cultivate marijuana and to use this piece of legislation to enhance that production.

I would urge this body to sustain the Governor's veto.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to remind Representative Bailey that I have spent 11 years dealing with dual diagnosis and I understand quite well what he is talking about. I have had to deal with it as a Committee Chair and prior to that for 12 years. It isn't something that I do lightly when I talk about this.

I would hope that the good gentleman, if he does get reelected, would put a bill in if he feels that strongly about it that would allow those people who can't get marijuana, who can get the legal drug, be able to get some money and deal with that.

It is one thing to say one thing but it is another thing to do it.

After reconsideration, the House proceeded to vote on the question "Shall this Bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution, a two-thirds vote of the members present and voting being necessary, a roll call was taken.

ROLL CALL NO. 490V

YEA - Adams, Aliberti, Anthony, Bell, Cahill, M.; Carroll, D.; Cathcart, Coles, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Erwin, Farnsworth, Gean, Goodridge, Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hoglund, Holt, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lerman, Luther, Mahany, Manning, Martin, H.; McKeen, Melendy, Michael, Mitchell, E.; Mitchell, J.; Nadeau, O'Dea, Oliver, Pfeiffer, Pineau, Plourde, Poulin, Powers, Rand, Richardson, Rotondi, Ruhlman, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Swaze, Townsend, Tracy, Treat, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Bowers, Butland, Carleton, Carroll, J.; Chonko, Clark, H.; Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Gould, R.

A.; Hanley, Hastings, Heino, Hichborn, Hichens, Hussey, Kutasi, Lawrence, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Marsano, McHenry, Merrill, Michaud, Morrison, Murphy, Nash, Norton, O'Gara, Ott, Paradis, P.; Parent, Pendexter, Pendleton, Pines, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Strout, Tamaro, Tardy, Tupper, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Cashman, Clark, M.; Constantine, Dutremble, L.; Greenlaw, Hepburn, Jacques, Jalbert, Lemke, Marsh, Nutting, Paradis, J.; Paul.

Yes, 67; No, 70; Absent, 13; Vacant, 1; Paired, 0; Excused, 0.

67 having voted in the affirmative and 70 in the negative with 13 being absent and 1 vacant, the Governor's veto was sustained.

The following Communication: (H.P. 1788)

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

October 3, 1992

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, H.P. 1776, L.D. 2458, "AN ACT to Require That Administrative Costs Reductions be a First Priority in the Event of Revenue Shortfalls."

As the members will recall, L.D. 2458 was introduced in the waning days of the Second Regular Session, and was enacted without reference to committee and without benefit of public hearing. In the haste to present this bill to me for my consideration, a number of important factors were overlooked.

The most objectionable oversight is the failure of this bill to include in its provisions for administrative cost reductions the costs associated with the legislative and judicial branches of government. There is no reason to believe that the taxpayers of the State of Maine would find excessive administrative costs in the legislative branch, or the judicial branch, to be of less concern to them than costs elsewhere in state government. I note that while the increase in the judicial budget between FY 1986 and FY 1993 has been substantial — approximately 68% — it is far surpassed by the astonishing level of growth in the legislative budget — approximately 125%. I believe that this rate of increase, combined with the need to find savings in all accounts affecting the General Fund, requires an even-handed approach to administrative cost savings in all three branches of government.

I must also draw the members' attention to questions relating to the operation of this bill. First, Section 1668-A(1) as enacted would require me to prepare legislation to reduce administrative personnel as the "first and highest priority" in balancing the budget in the event of a shortfall. Nowhere, however, does L.D. 2458 define "first and highest priority." I point out that the elimination

of all "administrative personnel" earning at least \$50,000 per year — not including those in the legislative and judicial branches — would produce minimal savings. The result would be the complete elimination of management capabilities at a time when efficient management is the key to the costs savings that the public is demanding.

If it is the Legislature's intention to provide a meaningful proposal to address potential shortfalls, then, the administrative costs of the legislative and judicial branches should also be included in the provisions of L.D. 2458. Otherwise, this proposal is not worthy of further consideration.

Sincerely,

S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Require that Administrative Cost Reductions Be a First Priority in the Event of Revenue Shortfalls" (H.P. 1776) (L.D. 2458).

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I want to make it clear on the Record the intent of this legislation.

As you know, I am the sponsor of L.D. 2458, "AN ACT to Require That Administrative Costs Reductions be a First Priority in the Event of Revenue Shortfalls."

I have read the Governor's veto message and I disagree with each of the following points that he raises. First, this legislation does, I repeat does, include Legislative and Judicial Branches of government. When the legislature reads that the Governor must prepare legislation that would reduce administrative personnel in state government, nowhere does it exempt the Legislature and the Judicial Branches.

Second, the Governor claims he does not know how to interpret first and highest priorities. Well, let me say that I believe this legislation calls upon the Chief Executive of our state government to prepare legislation that would reduce administrative personnel as his first and highest priority. In balancing the budget, if further budget cuts or supplemental appropriations are needed in FY93, the clear meaning of this term is unavoidable. Before the Governor proposes any other reductions in state government, he first must prepare reductions to the cost of administrative personnel.

Lastly, this veto message states that completely eliminating all administrative personnel would yield a minimal savings, although in the context of the entire \$1.5 billion General Fund budget, that may be true, but I call upon you to recognize that we need to make reductions in all aspects of state government even if the savings generated are relatively small. No one is saying that all administrative personnel would be eliminated, that's too extreme.

Let me finish by saying that we on the Appropriations Committee have tried on numerous occasions to reduce the cost of administrative personnel. We have reduced the salaries of some

administrative personnel earning over \$50,000 and we have eliminated a few upper level administrative jobs but that's about it.

This bill calls upon the Governor to include all agencies, and I repeat all agencies, of state government when developing legislation so as to reduce the cost of administrative personnel. If the First Regular Session of the 116th Legislature is asked to make further budget reductions on supplemental appropriations, I ask for your support in overriding the Governor's veto on this important legislation.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I know that we are coming to the end of a very long weekend and I will try to keep my remarks extremely brief.

What we have in this legislation is well-intended legislation, however micro-management, and the Constitution provides that the Governor as the Executive Department is to run the state subject to the appropriate legislative authority. I would like to cite to you the Constitution of the State of Maine, Article V, Part I, Section 9: "He shall from time to time give the legislature information of the condition of the state and recommend to their consideration such measures as he may judge expedient."

I believe that this type of legislation interferes with that. Furthermore, even though well-intended, I would like to give you an example of the problem that we can incur with this. Let's assume that there is a 10 percent shortfall — does that mean that (a) the Governor must propose a reduction of 10 percent in the number of administrative personnel or the Governor must propose a reduction in cost equal to 10 percent of the cost to the personnel and must take the entire amount out of the administrative personnel or does that mean something else? If so, what? I think the legislation, though well-intended, raises a lot of questions and ties the Executive's hands too much.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: It is a pleasure for me to cosponsor this bill with Representative Pouliot from Lewiston. We did so in observation of what has happened over the past two years of being in this legislative process, being in a situation where we have gone through a tremendous transition of lack of revenues and having to go back and back again, attempting to find dollars from any particular place that we might be able to find them.

There was one constant theme that we heard from our constituencies during that time and that was, "If you are going to cut, cut at the top, stop cutting the people who provide the direct services. Get through the bureaucracy and start making the cuts." I heard that in my district and I am willing to bet that you heard the same thing in each of your districts as well.

This is not a complicated piece of legislation. It is very, very straightforward. It simply suggests that if for some reason there is a shortfall in revenues between now and the end of the fiscal year, June 30, 1993, the Governor, as a first priority, is required to prepare legislation to submit to the

legislature to put together a plan to cut administrative costs. Yes, we do have some definitions in here about administrative costs — what are administrative personnel? We are specifically referencing those people who supervise five or more employees and who have a salary greater than \$50,000. That is not very complicated, that is pretty straightforward. We are targeting specifically those people who are making the larger salaries who are in administrative functions and who perhaps aren't providing the types of direct services that we need to be provided.

I hadn't planned to speak, but since there was a reference in the veto message about the legislative budget, there was a concern that for some reason this wasn't going to apply to the legislative budget or to the judicial budget — nothing could be further from the truth. It says in the enacted law itself, "that the Governor shall at the same time prepare legislation to be submitted to the legislature that would reduce administrative personnel in state government as the first and highest priority in balancing the budget for 1992 and 1993." Once again, "that would reduce administrative personnel in state government." Obviously, that includes and it is clearly our intent and always has been our intent to include the Judiciary as well as the Legislature and we are willing to look at ourselves. I think we have done a pretty good job in terms of making cuts within this Legislative Branch itself.

You see a suggestion in here that there has been some sort of astonishing growth in the legislative budget. I think the reference was "68 percent since 1986 in the Judicial budget and 125 percent in the Legislative budget." It is very confusing from time to time when you deal with percentages over a period of time. If you look at the Executive budget during that same period of time, you would see a growth even more dramatic. Take the Executive Department, understanding that since that time we have taken out whole functions of the Department of Economic and Community Development, which has been switched over. Energy Resources has been switched, Community Services has been changed, we have moved whole areas out of the Executive Department. Still, since 1986, there has been over a 200 percent increase in the Executive Department. There has been a 230 percent increase just in the Governor's office in that same amount of time so it is very difficult and you should be leery when you see numbers being used like this to compare, particularly when they are not willing to compare their own offices, but are very willing to compare and make reference to a legislative account or a judicial account but not look at their own Executive Department.

I want to make a couple of further statements about the legislative budget because we have done more than our share during the past two years and it is something that is not talked about on a regular basis. Fiscal year 1992 expenditures for the legislative budget of \$12.4 million are now less than what we allocated in 1990, two years ago. Our spending from 1989 to 1991 for the legislative budget is still less than one-half of one percent of total state spending. There are only 7 states in this nation that have less staff than we do. Forty-two states have more staff than we have in the State of Maine.

As I said earlier, we have also done our share in the various cuts as we have gone through the various

rounds. In fact, in 1992, when each department was required to make a 10 percent cut across-the-board, the Legislative Branch was the only branch of state government that met its goal. We cut 103 percent at a time when the Executive Branch reached 60 percent of its goal and the Judicial Branch reached 72 percent of its goal.

We have also made steps specifically in the administrative areas to cut costs. Twenty-five legislative staff positions have been eliminated or frozen, we have across-the-board salary cuts that have been applied to every member of the legislative staff. Our legislative salaries have been cut 5 percent. The constituent allowance that is provided to legislators has been cut 10 percent. Expenses paid to legislators have been cut \$350,000. The budget for out-of-state travel has been cut by 52 percent. Printing within the Legislative Branch has been cut by 28 percent. Postage has been reduced by some 48 percent so we have made cuts and will continue to make cuts. We have done more than our share from the Legislative Branch and will continue to do that.

The point is, if we find ourselves in a shortfall between now and the end of this fiscal year, June 30, 1993, we are willing to go back into our budget and make the necessary cuts and we are willing to do them at the top, not at the bottom. We have seen cuts across-the-board and we have seen the devastating effect that that can have.

The purpose of this particular bill, the importance of this bill, is to go back to our constituencies and say, "We have done what you have asked, we have made a best faith attempt to cut the bureaucracy where it needs to be cut." A lot of people say that we need to cut the bureaucracy but never do it. We have seen the examples of restructuring in the other body and that bill never got to this body. A lot of people like to run against the bureaucracy, very few like to cut it. There is tremendous interest in not only maintaining the status quo but enhancing the status quo. If you are serious about cutting the budget, if you are serious about reducing the bloated bureaucracy and going after administrative costs, then you will vote with us to help override this veto.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: It is interesting when you start talking about budgets on the House floor. To get back to the Appropriations Committee as a whole and we try to understand the numbers as they fly about in all directions, we just heard from the good Representative from Fairfield about how the Executive budget had increased by a certain percentage and some people perhaps heard the phone ring and someone called from the Executive and said, "Well, that's because the legislature shifted this, this and this to the Executive budget and that's why it went up and their staff levels were now down to 1986 levels." These numbers fly back and forth and I think it just brings to light the fact that our attempts to micro-manage the process of budget preparations and budget cuts from here really get us ahead very little.

I can understand and have a great deal of sympathy and appreciate what the words of this legislation says in regard to wanting to cut at the top. I don't think there is a person in here who doesn't enter with that objective but think about

what that does in the budget preparation process and maybe even think ahead about when someone from another political party may be in the Executive Branch in the next Century or whenever and would like to talk about what it means to prepare a realistic budget and one that is driven by legislative demand. It seems to me that we ought to maintain the separation of powers and say that the Executive puts forth a budget in their judgment for whatever right or wrong reasons they have and the legislature then exercises its will on that budget.

What we are suggesting now is that in a budget that looks at the primary hit point as the administrative, which certainly is a populist objective, is that we may be overlooking the need to eliminate whole programs and we may in fact be continuing sometimes the rhetorical debate instead of the meaningful debate on what we do to face budget shortfalls. This must be a terribly difficult piece of legislation to vote against but, on the other hand, it is a piece of legislation, should it eventually become law, that in the minds of many of us could encumber the process. It seems to me that we are dangerously close to finding it impossible to deal with budgetary problems and shortfalls as it is.

I would hate to see us further encourage budgets that, as I have heard time and time again from other members of this House, really have no meaning or are a charade or are up here just for the legislature to tear down — I think this invites that kind of budget preparation process and so I would encourage you to sustain the Governor's veto.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Men and Women of the House: I feel compelled to speak because I am voting to override the Governor's veto, something I have not done in the past. I do commend him for protecting executive powers for himself and for future governors. I think that is a very important constitutional position.

I also commend him, over the past two years, for proposing spending cuts in programs and personnel, many of which this legislature failed to accept. I feel that we have failed to make some tough spending cuts and decisions. He certainly had the courage, as did some of his commissioners, to propose those. However, I am voting to override because I think the people of Maine truly believe we have not cut spending in any meaningful way and I agree with them. I think we have an enormous task ahead of us over the next year and I see this bill as broadening the Governor's power to propose cuts and I hope that we go ahead with it.

After reconsideration, the House proceeded to vote on the question "Shall this Bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution, a two-thirds vote of the members present and voting being necessary, a roll call was taken.

## ROLL CALL NO. 491V

YEA - Adams, Aikman, Aliberti, Anthony, Bailey, H.; Bailey, R.; Barth, Bell, Boutilier, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Coles, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Erwin, Farnsworth, Farren, Foss, Garland, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Hanley, Heesch, Heino, Hichborn, Høglund,

Holt, Hussey, Joseph, Kerr, Kilkelly, Kontos, Larrivee, Lawrence, Lebowitz, Lerman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Martin, H.; McHenry, McKeen, Melendy, Merrill, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Savage, Sheltra, Simonds, Simpson, Skoglund, Small, Stevens, P.; Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Anderson, Ault, Bennett, Bowers, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Hastings, Hichens, Ketterer, Kutasi, Libby, Lipman, Marsano, Murphy, Norton, Ott, Parent, Pendexter, Pines, Richards, Salisbury, Spear, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Cashman, Clark, M.; Constantine, Dutremble, L.; Greenlaw, Hepburn, Jacques, Jalbert, Lemke, Marsh, Nutting, Paul.

Yes, 108; No, 30; Absent, 12; Vacant, 1; Paired, 0; Excused, 0.

108 having voted in the affirmative and 30 in the negative with 12 being absent and 1 vacant, the Governor's veto was not sustained. Sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

Representative Clark of Millinocket was granted unanimous consent to address the House.

Representative CLARK: Mr. Speaker, Men and Women of the House: It saddens my heart today to announce that a close friend of mind passed away, a former member of this body, Leon J. Crommett, who served here for five terms. In spirit, I know he is here today because every weekend when I went home, we used to communicate regarding days of old and I can tell you right now he was a feisty fellow, 91 years of age, who really loved this body. He was a pioneer of a lot of the State and Local Government foundation. He was a pioneer who also loved sporting events.

So Mr. Speaker, when the House adjourns today, I move we do so in memory of Leon J. Crommett from Millinocket.

At Ease to the Gong

The House was called to order by the Speaker.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

SENATE PAPER

The following Communication:

Maine State Senate  
Augusta, Maine 04333

October 6, 1992

Honorable Joseph W. Mayo  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Mayo:

House Paper 1218, Legislative Document 1776, An Act Concerning Indian Territory under the Maine Indian Claims Settlement Laws, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

13 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 5 Senators being absent, and 1 Senator having resigned, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

Maine State Senate  
Augusta, Maine 04333

October 6, 1992

Honorable Joseph W. Mayo  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Mayo:

House Paper 1776 Legislative Document 2458, An Act to Require That Administrative Costs Reductions be a First Priority in the Event of Revenue Shortfalls, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

11 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 5 Senators being absent, and 1 Senator having resigned, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

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At this point, a message came from the Senate borne by Senator **DUTREMBLE** of York informing the House that the Senate had transacted all business before it and was ready to adjourn without day.

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The Speaker appointed Representative **PARADIS** of Augusta on the part of the House to inform the Senate that the House had transacted all business before it and was ready to adjourn without day.

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Subsequently, Representative **PARADIS** reported that he had delivered the message with which he was charged.

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The Chair appointed the following members on the part of the House to wait upon his Excellency, Governor John R. McKernan, Jr., and inform him that the House had transacted all business before it and was ready to adjourn without day.

Representative **McHENRY** of Madawaska  
Representative **AULT** of Wayne  
Representative **PINES** of Limestone  
Representative **PINEAU** of Jay  
Representative **ST. ONGE** of Greene  
Representative **ANTHONY** of South Portland  
Representative **GOODRIDGE** of Pittsfield

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Subsequently, the Committee reported that they had delivered the message with which they were charged.

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The Chair recognizes the Representative from Howland, Representative **HICHBORN**.

Representative **HICHBORN**: Mr. Speaker and Members of the House: I move that the House stand Adjourned Without Day.

The **SPEAKER**: The Representative from Howland, Representative **Hichborn**, moved that the House adjourn sine die. Is this the pleasure of the House?

The motion prevailed and at 4:50 p.m., Eastern Daylight Saving Time, Tuesday, October 6, 1992, the Speaker declared the House adjourned without day.

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