

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 2, 1992 to May 18, 1993

Senate

Ought to Pass As Amended

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

Senator **HANDY** for the Committee on **LABOR** on Bill "An Act Concerning Independent Contractors under the Workers' Compensation Laws" (Emergency) S.P. 389 L.D. 1184

In Senate Chamber
Tuesday
May 4, 1993

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-108)**.

Senate called to Order by the President, Dennis L. Dutremble of York.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-108) **READ** and **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME, AND PASSED TO BE ENGROSSED, As Amended**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Prayer by Reverend Albert Earle of the Steep Falls Baptist Church in Cornish.

REVEREND ALBERT EARLE: Our heavenly Father we thank you this morning for the privilege of looking to him who is the author of wisdom and understanding and guidance. We recognize our human weakness as we face the problems of the day but depend upon your help as we entertain the matters that come before us during this session. Your word tells us that we are to pray for those who have rule over us. You've told us in your word that if any man lack wisdom he may ask of God, who giveth to all men liberally and abundantly. We confess our need today Lord in the world of turmoil and strife and uncertainty we pray that you will help these who are given the control of Government to make right decisions based upon the righteousness of God. We pray Lord that when we come to the end of this day each of us will be able to look back with clear conscience and say we have done what has been right, we have followed the dictates and the mandates of the God we serve and we pray that the results of this meeting today and the following days will be such as to bring health and blessings to the members of our State, the citizens who have elected these officials. May we have the joy of knowing that when we stand in your presence we'll have no regrets but we will be able to look back and say certainly we have done his work. This we pray in Jesus' name. Amen.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Grant Conditional Licensure to Social Work Graduates from Schools That Are Awaiting Accreditation" H.P. 1027 L.D. 1379

Bill "An Act Regarding Registration of Nursing Assistants" H.P. 1028 L.D. 1380

Come from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**, in concurrence.

Reading of the Journal of Monday, May 3, 1993.

Bill "An Act Regarding the Holding of Juveniles in the Penobscot County Jail" H.P. 1026 L.D. 1378

Off Record Remarks

Comes from the House referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**.

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

Which was referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**, in concurrence.

COMMITTEE REPORTS

Bill "An Act to Provide University of Maine System Employees the Option of Biweekly Payment" H.P. 1045 L.D. 1397

Bill "An Act to Provide for Direct Reimbursement of Special Education Costs"

H.P. 1046 L.D. 1398

Come from the House referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **EDUCATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Requiring the Department of Environmental Protection to Adopt Rules for a Waiver of Fee and a 2-Year Extension to Low-income People in Meeting Motor Vehicle Emission Standards"

H.P. 1022 L.D. 1374

Bill "An Act Concerning Duplicate Fees Required by the Department of Environmental Protection"

H.P. 1023 L.D. 1375

Bill "An Act to Regulate the Impacts of Metallic Mining on Groundwater"

H.P. 1035 L.D. 1387

Come from the House referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Regulate the Aboveground Storage of Oil and the Transportation of Oil in Inland Areas"

H.P. 1039 L.D. 1391

Committee on **ENERGY & NATURAL RESOURCES** suggested and **ORDERED PRINTED**.

Comes from the House with Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

Which was **INDEFINITELY POSTPONED**, in concurrence.

Bill "An Act to Clarify the Law Concerning Complimentary Licenses for Disabled War Veterans" (Emergency)

H.P. 1029 L.D. 1381

Bill "An Act to Strengthen the Landowner Relations Program"

H.P. 1030 L.D. 1382

Come from the House referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**.

Which were referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Provide One Centralized Location for Obtaining Permits"

H.P. 1033 L.D. 1385

Bill "An Act Fostering Advantageous Job Development"

H.P. 1040 L.D. 1392

Come from the House referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Encourage Residential Energy Efficiency"

H.P. 1047 L.D. 1399

Committee on **ENERGY & NATURAL RESOURCES** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT**.

Which was referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Establish Multidisciplinary Reviews of Child Abuse and Neglect Fatalities and Serious Injuries and to Provide Access to Confidential Information for the Multidisciplinary Reviews"

H.P. 1031 L.D. 1383

Bill "An Act to Require Agencies to Maximize Medicaid Reimbursement"

H.P. 1048 L.D. 1400

Resolve, to Create the Healthy Start Task Force (Emergency)

H.P. 1049 L.D. 1401

Come from the House referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Strengthen the Enforcement of the Civil Rights and Sexual Harassment Laws"
H.P. 1032 L.D. 1384

Bill "An Act Waiving Court Mediation Fees"
H.P. 1042 L.D. 1394

Bill "An Act Concerning Tribal Protection Orders" (Emergency)
H.P. 1053 L.D. 1405

Bill "An Act Concerning Primary Care and Parental Rights and Responsibilities in Cases of Domestic Abuse"
H.P. 1055 L.D. 1407

Come from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which were referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Resolve, Instructing the Department of Labor to Place Van Buren and Madawaska in Separate Labor Markets
H.P. 1044 L.D. 1396

Comes from the House referred to the Committee on **LABOR** and **ORDERED PRINTED**.

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

Bill "An Act to Clarify the Financial Authority of the Workers' Compensation Board" (Governor's Bill) (Emergency)
H.P. 1034 L.D. 1386

Committee on **BANKING & INSURANCE** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **LABOR**.

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

Bill "An Act to Expand the Authority of Property Managers"
H.P. 1024 L.D. 1376

Bill "An Act to Assist in Crime Prevention"
H.P. 1041 L.D. 1393

Bill "An Act Concerning Renewals of Valid Concealed Weapons Permits"
H.P. 1043 L.D. 1395

Come from the House referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State"
H.P. 1036 L.D. 1388

Bill "An Act to Strengthen the Public Disclosure of Lobbying Activities"
H.P. 1038 L.D. 1390

Bill "An Act to Establish the Penobscot County Budget Advisory Committee"
H.P. 1050 L.D. 1402

Bill "An Act to Provide Access to Landlocked Property"
H.P. 1051 L.D. 1403

Bill "An Act to Allow the Town of Berwick to Rebuild Certain Private Roads" (Emergency)
H.P. 1052 L.D. 1404

Bill "An Act to Create a Body Politic and Corporate by the Name of Great Diamond Island Village Corporation"
H.P. 1056 L.D. 1408

Come from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Restructure the Department of Defense and Veterans' Services"
H.P. 1037 L.D. 1389

Comes from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

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

Bill "An Act to Create an Investment Tax Credit to Encourage New Capital Investments by Maine Businesses"
H.P. 1025 L.D. 1377

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

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

Bill "An Act to Amend Certain Motor Vehicle Laws"
H.P. 1057 L.D. 1409

Comes from the House referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

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

Bill "An Act Pertaining to Pole Attachment Rate Disputes"
H.P. 1054 L.D. 1406

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

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

**Pursuant to Public Law
COMMISSION TO STUDY THE FUTURE OF MAINE'S COURTS**

The **COMMISSION TO STUDY THE FUTURE OF MAINE'S COURTS**, pursuant to Public Law 1989, chapter 891, Part B, ask leave to submit its findings and to report that the accompanying Resolve, Creating the Court Futures Implementation Commission (Emergency)
H.P. 1021 L.D. 1373

Be referred to the Committee on **JUDICIARY** for Public Hearing and printed pursuant to Joint Rule 20.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, pursuant to Joint Rule 20.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Resolve referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, pursuant to Joint Rule 20, in concurrence.

SENATE PAPERS

Bill "An Act to Ensure Prompt and Equitable Payment for Construction Services"
S.P. 457 L.D. 1424

Presented by Senator **CIANCHETTE** of Somerset
Cosponsored by Representative **CAMPBELL** of Holden and Representatives: **GEAN** of Alfred, **GWADOSKY** of Fairfield

Which was referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Sent down for concurrence.

Resolve, Directing That the State's Coastal Zone Management Program Be Amended to Include Monitoring of Shellfish Harvesting Areas by the Department of Marine Resources (Emergency)
S.P. 456 L.D. 1423

Presented by Senator **VOSE** of Washington
Cosponsored by Senators: **FOSTER** of Hancock, **PEARSON** of Penobscot, Representatives: **CHONKO** of Topsham, **FOSS** of Yarmouth, **KERR** of Old Orchard Beach, **MACBRIDE** of Presque Isle, **MITCHELL** of Freeport, **POULIOT** of Lewiston, **REED** of Falmouth
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Separate Little Diamond Island in Casco Bay from the City of Portland and to Create the Little Diamond Island Village Corporation as Part of the Town of Long Island"
S.P. 458 L.D. 1425

Presented by Senator **CONLEY** of Cumberland
Cosponsored by Representatives: **ADAMS** of Portland, **RAND** of Portland

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

ORDERS

Joint Resolution

On motion by Senator **CAHILL** of Sagadahoc (Cosponsored by: Representative **CHONKO** of Topsham, Representative **COLES** of Harpswell, Representative **HOLT** of Bath, Representative **SMALL** of Bath, Representative **A. STEVENS** of Sabattus) the following Joint Resolution:

S.P. 459

JOINT RESOLUTION RECOGNIZING THE HONORABLE PAUL A. MACDONALD ON THE OCCASION OF HIS RETIREMENT FROM JUDICIAL SERVICE

WHEREAS, the Honorable Paul A. MacDonald, of Woolwich, is an outstanding citizen and a dedicated public servant whose reputation for honesty, fairness and efficiency is widely known throughout his community and State; and

WHEREAS, his excellent reputation afforded him with ever-widening opportunities for public service, including 17 years as Deputy Secretary of State, 20 years as Secretary of State and nearly 3 decades of judicial service; and

WHEREAS, the dedication of the West Bath District Court building in Paul A. MacDonald's honor on May 7, 1993, in the year of his retirement from judicial service, is a fitting tribute to his years of service to the citizens of the State of Maine; now, therefore, be it

RESOLVED: That We, the Members of the 116th Legislature of the State of Maine, now assembled, in the First Regular Session, take this opportunity to commend the Honorable Paul A. MacDonald on behalf of the people of the State for his years of distinguished service; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be presented to the Honorable Paul A. MacDonald in token of our thanks and best wishes for the future.

Which was **READ** and **ADOPTED**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

COMMITTEE REPORTS

House

Change of Reference

The Committee on **LEGAL AFFAIRS** on Bill "An Act Regarding Disorderly Conduct" H.P. 969 L.D. 1300

Reported that the same be **REFERRED** to the Committee on **JUDICIARY**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **REFERRED** to the Committee on **JUDICIARY**, in concurrence.

Ought to Pass As Amended

The Committee on **AGING, RETIREMENT & VETERANS** on Bill "An Act to Extend Burial Eligibility for Dependent Children" H.P. 764 L.D. 1031

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-213)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-213)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-213) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **AGRICULTURE** on Bill "An Act to Exempt Certain Greenhouse and Nursery Owners from Licensing Fees" H.P. 166 L.D. 218

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-209)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-209)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-209) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **BANKING & INSURANCE** on Bill "An Act to Amend the Law Pertaining to the Termination of Credit Insurance" H.P. 489 L.D. 647

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-211)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-211)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-211) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Prevent Unauthorized Use of the Name Passamaquoddy" H.P. 584 L.D. 788

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-210)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-210)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-210) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **HUMAN RESOURCES** on Bill "An Act to Limit Administrative Costs in Contracted Services" (Emergency) H.P. 436 L.D. 555

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-214)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-214)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-214) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **JUDICIARY** on Bill "An Act to Amend the Provisions of the Probate Code Providing Filing Fees and Duties of Registers of Probate" H.P. 515 L.D. 673

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-195)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-195)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-195) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Require That the Inspection and Investigation Responsibilities of the Electricians' Examining Board Receive Funding Priority" H.P. 490 L.D. 648

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

CIANCHETTE of Somerset
MARDEN of Kennebec

Representatives:

VIGUE of Winslow
REED of Dexter
HILLOCK of Gorham
CAMERON of Rumford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-176)**.

Signed:

Senator:

BUSTIN of Kennebec

Representatives:

CLEMENT of Clinton
HOGLUND of Portland
ST. ONGE of Greene
WINN of Glenburn

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-176)**.

Which Reports were **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

Divided Report

The Majority of the Committee on **FISHERIES & WILDLIFE** on Bill "An Act to Provide for an Open Season on Most Inland Fisheries in the State" H.P. 567 L.D. 772

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-199)**.

Signed:

Senators:

LUTHER of Oxford
HALL of Piscataquis

Representatives:

FARREN of Cherryfield
GREENLAW of Standish
JACQUES of Waterville
NICKERSON of Turner
SWAZEY of Bucksport
TRACY of Rome
ROTONDI of Athens

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Representatives:

CLARK of Millinocket
HEINO of Boothbay

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-199)**.

Which Reports were **READ**.

The Majority **OUGHT TO PASS AS AMENDED** Report was **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-199) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act Regarding Family Leave" H.P. 318 L.D. 406

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-178)**.

Signed:

Senators:

HANDY of Androscoggin
LUTHER of Oxford

Representatives:

LIBBY J D of Buxton
CHASE of China
RUHLIN of Brewer
CLEMENT of Clinton
ST. ONGE of Greene
SULLIVAN of Bangor
COFFMAN of Old Town

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

BEGLEY of Lincoln

Representatives:

CARR of Sanford
LINDAHL of Northport
AIKMAN of Poland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-178)**.

Which Reports were **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

SECOND READERS

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

House As Amended

Bill "An Act to Change the Penalty for Night Hunting or Illegal Killing of Large Game Animals"
H.P. 229 L.D. 297
(C "A" H-203)

Bill "An Act to Require Removal of Ice Fishing Shacks from Private Property"
H.P. 339 L.D. 442
(C "A" H-197)

Bill "An Act to Clarify the Disbursement of Maine Children's Trust Fund Income"
H.P. 380 L.D. 493
(C "A" H-196)

Bill "An Act to Amend the Laws Pertaining to the Distance Snowmobiles May Be Operated from Certain Buildings" (Emergency)
H.P. 424 L.D. 543
(C "A" H-200)

Bill "An Act Regarding Responsibilities of Union School Committees"
H.P. 456 L.D. 582
(C "A" H-198)

Bill "An Act to Restrict the Taking of Turtles and Snakes from the Wild for Export, Sale or Commercial Purposes"
H.P. 485 L.D. 643
(C "A" H-201)

Bill "An Act to Clarify That the Existing Sales Tax Exemption for the Aquaculture Industry Extends to Seaweed and Other Marine Plant Growers"
H.P. 518 L.D. 702
(C "A" H-202)

(See Action Later Today)

Bill "An Act to Increase Reimbursement to the State Police for Services Provided to Federal Agencies"
H.P. 723 L.D. 982
(C "A" H-204)

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

On motion by Senator **ESTY** of Cumberland, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENGROSSED, AS AMENDED**, in concurrence:

Bill "An Act to Clarify That the Existing Sales Tax Exemption for the Aquaculture Industry Extends to Seaweed and Other Marine Plant Growers"
H.P. 518 L.D. 702
(C "A" H-202)

On further motion by same Senator, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate

Bill "An Act to Clarify the Grounds for Civil Action for Child Sexual Abuse"
S.P. 250 L.D. 769

Bill "An Act to Implement the Recommendations of the Criminal Law Advisory Commission Regarding Revisions to the Maine Criminal Code"
S.P. 377 L.D. 1133

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

Sent down for concurrence.

Senate As Amended

Bill "An Act Regarding the Holding of Juveniles in the Androscoggin County Jail" (Emergency)
S.P. 26 L.D. 19
(C "A" S-97)

Bill "An Act to Provide Additional Powers to the Public Utilities Commission"
S.P. 100 L.D. 278
(C "A" S-101)

Bill "An Act to Ensure Compliance with Existing Energy Efficiency Building Standards"
S.P. 241 L.D. 734
(C "A" S-102)

Bill "An Act to Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority"
S.P. 263 L.D. 801
(C "A" S-103)

Bill "An Act to Amend the Provisions Related to the Supervised Community Confinement Program"
S.P. 269 L.D. 833
(C "A" S-98)

Bill "An Act to Amend the Composition of the Port Authority for the Town of Kittery"
S.P. 311 L.D. 944
(C "A" S-100)

Bill "An Act to Reform the Insurance Code Laws"
S.P. 342 L.D. 1039
(C "A" S-99)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

An Act Regarding the Approval of School Warrants by Municipal Officers
H.P. 185 L.D. 237

An Act to Allow Rebate Coupons in Agency Liquor Stores
H.P. 304 L.D. 392
(C "A" H-141)

An Act to Strengthen the State's Support Laws
H.P. 401 L.D. 514
(C "A" H-138)

An Act Regarding Priorities in the Probate Code
H.P. 491 L.D. 649
(C "A" H-140)

An Act to Provide Protection for Mortgagees Under the Utility Laws
H.P. 501 L.D. 659

An Act to Amend the Civil Violation and Civil Forfeiture Laws for Natural Gas and Natural Gas Pipeline Utilities
H.P. 519 L.D. 703
(C "A" H-136)

An Act to Amend the Recording Requirements for Proceedings Involving Real Estate
H.P. 534 L.D. 718
(C "A" H-139)

An Act to Authorize the Offset of Insurance Premiums
H.P. 627 L.D. 847

An Act to Eliminate the Seasonal Legal Researcher Position at the Public Utilities Commission and to Make Certain Other Changes
H.P. 670 L.D. 908

An Act to Include a Waiver Provision for the Advance Notice Required by the Public Utilities Commission for Energy Agreements and Contracts
H.P. 686 L.D. 927

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

An Act to Ensure Geographically Appropriate Placement for Nursing Home Residents
S.P. 87 L.D. 241
(H "A" H-171)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ENACTMENT**.

An Act Regarding Certification Fees for Adult Education Teachers
H.P. 619 L.D. 843
(H "A" H-170)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act Concerning Harness Racing
H.P. 156 L.D. 208
(C "A" H-121; S "A" S-75)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with No Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Laws Relating to Financial Institution Service Corporations
H.P. 301 L.D. 389
(S "A" S-74 to C "A" H-131)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with No Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Provide Fully Paid Health Insurance Benefits to Retired Teachers"

S.P. 135 L.D. 426
(C "A" S-81)

In Senate, April 27, 1993, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-81) in NON-CONCURRENCE.**

The Senate **ADHERED.**

The Secretary has so informed the Speaker of the House.

Off Record Remarks

Senator **HANDY** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Senator **CARPENTER** of York was granted unanimous consent to address the Senate off the Record.

Senator **ESTY** of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator **CARPENTER** of York, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the Tabled and Specially Assigned (5/3/93) matter:

SENATE REPORT - from the Committee on **LABOR** on Bill "An Act to Amend the Occupational Disease Law" S.P. 216 L.D. 687

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-92).**

Minority - **Ought Not to Pass.**

Tabled - April 29, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

Senator **HANDY** of Androscoggin moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to move this Bill and all its Accompanying Papers be Indefinitely Postponed. There isn't anyone, I believe, who would not understand the pain or the concern of any individual in any situation concerning health. The difficulty with this piece of legislation is that it has not had any actual final definition concerning the area of coverage between health insurance and Workers' Compensation for the disease in business occupations. The Bill itself, if passed, would create a fiscal note that in this economic climate would not be helpful for any of us. The other point that the Board of Workers' Compensation and Maine Mutual has sent letters to most of the Committees dealing with Labor or Banking and asked them not to make a major change in the law because they are struggling to survive their growing pains of the first year. Those growing pains and the fiscal note would be enough for me to say I hope you will support the Indefinite Postponement. Thank you.

Senator **BEGLEY** of Lincoln moved the **INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The good Senator from Lincoln made reference to the Workers' Compensation system and our efforts to instill a little bit of stability in that. This Bill does that in fact, it was the Maine Supreme Judicial Court that has upset the apple cart in this particular case, not the legislative branch of State Government. In October of 1992 the Maine Supreme Judicial Court rendered a decision in the case of Manzo vs. Great Northern Paper Company in which Mr. Manzo sought medical expenses for his occupational disease, asbestosis. The court, in rendering the decision, said that he was not entitled to that. What this Bill does, as amended by the Majority Report, and I'm very disappointed that the Senator made the motion to Indefinitely Postpone, is that this Bill protects those people who find themselves falling through the cracks. Even a representative of one of Maine's

insurance companies acknowledged that in fact a person who finds himself in such a situation also finds himself facing out of pocket medical expenses. Here's a situation. An occupational disease is not covered under Workers' Compensation, and if there's no lost time a person may not go to their own health insurance for coverage. Therefore a person with such an occupational disease finds himself falling through the cracks and paying out of pocket for something that was clearly workplace related. Yet the way the laws are constructed it does not allow for that individual to be compensated simply for medical costs. That's what this Bill does, it addresses the medical costs of an individual with an occupational disease. It does not provide for any monies whatsoever with respect to lost time. I would sincerely hope that you would oppose the motion to Indefinitely Postpone so that we can support this Bill and support the workers of Maine who find themselves plagued by this.

Let me just reiterate. This does not make any substantial changes to Workers' Compensation. It restores, it restores what was the status quo after we passed the legislation in the previous session of the legislature and gets back to that status quo that was upset by the Maine Supreme Judicial Court. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If this were more clearly defined for me I would probably agree with it in some respects but again, an incapacitated condition has not been proven in the Bill or even under that situation where it might be. Again, it is a situation which very few people, including myself, wish to debate because it is so personal but at the same time it is not the time for such a thing. I ask for a Division. Thank you.

Senator **BEGLEY** of Lincoln requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I hope I have information that will help the good Senator from Lincoln change his mind because I will provide him with that, it's not included in the Bill but in Section 603 of the Workers' Compensation statutes of Title 39-A, Section 603 states "Occupational disease defined. As used in this chapter the term occupational disease means only a disease that is due to the causes and conditions characteristic of a particular trade, occupation, process or employment that arises out of and in the course of employment." Thank you.

On motion by Senator **BUSTIN** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **BALDACCI:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a question to anyone in the chamber who wishes to respond. One, does this expand presently what the Workers' Compensation system is now reimbursing for? Secondly, if there was a court decision that was rendered, after that court decision has it increased costs or decreased costs? Was there any type of

fiscal note from the Superintendent of Insurance or the State or whatever in regards to this particular piece of legislation? Thank you.

THE PRESIDENT: The Senator from Penobscot, Senator **BALDACCI** has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. There was no information from the Superintendent of Insurance Senator Baldacci. As far as the court case, the court case rendered in October of 1992, that was a time after the Blue Ribbon Commission's report and the legislation was adopted by the Maine Legislature. As far as costs, it is possible as with anything that there may be increased costs but this renders this back to the status quo, the status quo being that of the legislation which we passed in the previous legislature. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I think we should also look at this from the point of view from the worker who wants to work and only wants his medical bills paid. We all know how expensive medical bills can be. If you're going to tell people the only way we're going to pay your medical bills is if you tell your doctor you're incapacitated and you can't work then I think you will push them into doing that. I don't see how that is going to save money for the system. If the only way you can get medical bills paid is to tell the doctor no I cannot work then I think that is what people will simply have to do. Thank you.

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

Senator **BALDACCI:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I just want it to be very clear that while I feel very strongly that these things ought to be covered and that the laws ought to be there and broadened and protecting these people, in light of the proposed rate increases and all that's going on within the economic environment of the State at this particular point I don't think it makes sense at this time to be addressing these issues. I think that's why we set up the Workers' Compensation Board and wanted it not, or at least I didn't want it, in the Legislature, we wanted it in the Board as a process. I feel very uncomfortable at this time trying to tinker with that system until we've had an opportunity to let it develop on its own. I'm not opposed to doing this but I am opposed to doing it at this time. Thank you.

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

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To answer the good Senator from Penobscot, Senator Baldacci, about the cost of the system and how this particular issue is going to be paid for. This system, as developed, already includes this cost. Anybody who is paying Workers' Compensation Insurance today is paying it based on the projections of the actuaries that they may have to pay for this particular kind of situation. The difference comes when the court stepped in because there was refusal to pay by an

insurance company because they said that it didn't come under their Workers' Compensation insurance coverage because in their interpretation, the insurance company's interpretation, of the Workers' Compensation law was that the worker had to be out of work. In other words lost time because of the disease. That then puts the worker in limbo. You now have an employer who may in fact be paying two bills, one is their health insurance coverage, and one is their Workers' Compensation coverage, both of which is supposed to take care of the worker in times of illness. In this particular illness, and we do have a member of the other body who is caught in this dilemma, in this instance that worker is not able to recoup either from the group health coverage or the Workers' Compensation coverage because of the law court which interpreted the present law to mean that you had to be off the job in order to get compensated for an occupational disease. The occupational diseases aren't a whole plethora of diseases out there that anybody can come up with and say that this is an occupational disease. They are set explicitly in you occupational disease reporting law which says "Occupational diseases shall include," there's no way for you to add anything else to this, it says "Asbestosis; mesothelioma; silicosis; and exposure to heavy metals." That's what it is, so if we don't pass that what you are actually doing is that you have a Workers' Compensation law that in fact covers this that the law court says doesn't have to pay and you have a health insurance law that says that they don't have to pay for anything that's incurred at the worksite. So now you have a problem, what do you do? The reason for this Bill here is to clear up for the law court exactly what the legislature meant as to what it was going to cover and when was the onset for the coverage for any disease that was incurred at an occupational site. If there's a question as to whether that disease was incurred at the site or off site then that's a question that has to be discussed between insurance companies, not a question that gets discussed here. It is the law court who made it a discussion for here. We do have to do that otherwise what you are doing is, as the good Senator from Oxford, Senator Luther has said, make the worker have to make a very horrendous decision. Do I then just say okay, if I can't get paid to take care of my illness and I'm willing to work while getting that illness taken care of then I'm going to have to just not work. Which is going to incur lost time. This Bill does not incur lost time. It is an important Bill, both for containment costs and for treating workers for illnesses that they incur while on the job. I would plead with you to beat the pending motion and pass this Bill out. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **AMERO, BALDACCI, BEGLEY, BUTLAND, CAHILL, CARPENTER, CIANCHETTE, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER**

NAYS: Senators **BERUBE, BRANNIGAN, BUSTIN, CAREY, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

ABSENT: Senators None

Senator **CONLEY** of Cumberland, requested and received Leave of the Senate to change his vote from **YEA** to **NAY**.

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, with No Senators being absent, the motion of Senator **BEGLEY** of Lincoln, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **FAILED**.

Senator **CAHILL** of Sagadahoc requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HANDY** of Androscoggin, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **HANDY** of Androscoggin, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-92) **READ** and **ADOPTED**.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Chair laid before the Senate the Tabled and Specially Assigned (5/3/93) matter:

SENATE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act Related to Mobile Home Parks" S.P. 112 L.D. 313

Majority - **Ought Not to Pass**.

Minority - **Ought to Pass**.

Tabled - April 29, 1993, by Senator **ESTY** of Cumberland

Pending - **ACCEPTANCE** of Either Report

On motion by Senator **CAREY** of Kennebec, the Minority **OUGHT TO PASS** Report **ACCEPTED**.

Which was under suspension of the Rules, **READ TWICE**.

On motion by Senator **ESTY** of Cumberland, Senate Amendment "A" (S-107) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I like to pose a question to the sponsor of the amendment. If I could just have a full detailing of exactly what this amendment would do.

THE PRESIDENT: The Senator from Oxford, Senator Hanley has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator **ESTY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The original Bill made a number of changes to the mobile home park law. The amendment, in fact, eliminates any references to pet fees, guest fees, or other fees and simply addresses the issue of entrance fees. The entrance fees are presently set at four times the rental cost. The amendment sets them instead, at two times the rental cost. That position, I believe, is a compromise position that was supported by a great many members of the Committee and that's why I offered it. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a question perhaps to one of the legal minds in the body. Would legislation such as this set precedent in terms of homeowners associations, condominium associations, apartment owners, charging a vast deposit on rents. Would that somehow cloud that issue for these people?

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

Senator **ESTY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. While not posing as a legal mind, I certainly wouldn't want to be accused of doing that, I would say that in my non-legal opinion that since the amendment only deals with taking the entrance fee which is presently at four times the rental cost and taking it down to two times the rental cost it would not change any precedent since that precedent has been set before and this is simply changing it to a two, it's already there. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In Committee the amendment that has now been added on is what had been agreed to by the park owners and tenants and that was the only part that could be agreed on. Basically the Committee had already agreed and the Majority Ought Not to Pass came out over conflict between pet fees, guest fees and so on and so forth. This amendment does not speak to that, it speaks only to two times

the entrance fee and that was acceptable. Thank you.

On motion by Senator **ESTY** of Cumberland Senate Amendment "A" (S-107) **ADOPTED**.

Which was **PASSED TO BE ENGROSSED, as Amended**.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned (5/3/93) matter:

SENATE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act Concerning the Mandatory Use of Car Safety Seat Belts"
S.P. 155 L.D. 486

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-88)**.

Minority - **Ought Not to Pass**.

Tabled - April 29, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-88)** Report

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act to Amend the Laws Governing the Task Force on Defense Realignment and the Economy" (Emergency)

H.P. 194 L.D. 257
(C "A" H-177)

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, May 3, 1993, **READ A SECOND TIME**.)

(In House, April 27, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" H-177**.)

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORTS - from the Committee on AGRICULTURE on Bill "An Act to Extend the Repeal Date of the Laws Governing Biosynthetic Bovine Somatotropin" (Emergency)

S.P. 198 L.D. 634

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-105).**

Minority - **Ought Not to Pass.**

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 3, 1993, Reports **READ.**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

The Chair laid before the Senate the Tabled and Today Assigned matter:

An Act to Prevent Discrimination
S.P. 92 L.D. 246
(C "A" S-57)

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - **ENACTMENT**

(In Senate, April 13, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" S-57.**)

(In House, April 15, 1993, **PASSED TO BE ENACTED.**)

On motion by Senator **BUTLAND** of Cumberland the Senate **SUSPENDED THE RULES.**

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In the spirit of cooperation which I think has been pretty evident this year in this body I would go along with the Senator's request for reconsideration, even though it does take a two-thirds vote to secure such a reconsideration. Because of the courtesy I've been extended for tabling this Bill for as long as I have and for many of the other courtesies that have been extended to me I would ask that the motion be granted.

THE PRESIDENT: The motion to suspend the Rules is not debatable.

On motion by Senator **BUTLAND** of Cumberland, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

On further motion by same Senator, Senate Amendment "H" (S-77) **READ.**

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

Senator **BUTLAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. First of all I appreciate the opportunity to reconsider this Bill. I'm offering this referendum amendment in a sincere attempt to break the deadlock on L.D. 246. All of the players have been heard from, the House and the Senate have passed the measure by comfortable majorities. The Governor has stated his objections and his intention to veto, even though it has passed the two bodies comfortably I don't believe that there is enough support there to override the veto. We have to decide where we're going from here. We can either fail this referendum, allow it to be vetoed and start from scratch in 1995, but in the interim I suspect that the voters, by their own initiative, would choose to participate directly with a referendum in 1994. If you have ever listened to the testimony at the public hearings for this act, L.D. 246, or any of the previous acts you can't help but be moved by the stories of fear, intimidation, hatred and violence. Someone is going to have to explain to me why it is preferable to preserve the status quo for two more years then to allow this to go to public referendum with a perceived threat of rancor. The public will react reasonably when presented the facts, to assume otherwise is patronizing at best and condescending at worst. It has never been my intention to simply propose, debate and pass this amendment. I view it as a continuing process and an outstanding opportunity for the legislature to accept a leadership challenge. I will tell you what I am willing to do. I have been informed that I have an allowance for a district-wide mailing and I assume that everyone else does also, I am willing to contribute my allowance towards the production and mailing of a Majority and Minority Report which describes this issue without excess, without exaggeration, but with just the facts. I'm also willing to host within my district, within my six towns, any number of debates throughout the fall. Thirdly, I would be willing to help the media to police this debate by reporting any instances of distortion. It is not my intention to be a passive participant.

I listened to the debate three weeks ago on a similar amendment and quite frankly I was surprised by the negative tenor. I believe that many in this chamber sell the good people of the State of Maine short when they say that it is unwise to allow a majority to decide the rights of a minority. The proponents of L.D. 246 spoke with great pride of the increasing list of organizations and individuals who support this measure. My question is how long must this list be before we come to the understanding that Maine people are both compassionate and fair minded. Quite frankly I'm embarrassed by the comparison of our present situation to the civil rights movement in the South in the 1960's. The comparison only serves to demean our friends and neighbors. I consider Maine people capable of mature conduct and reasonable decision-making. I don't remember seeing or hearing displays of excessive hatred or rancor during the recent debate on gay rights in Portland. Like my seatmate from Cumberland, Senator Harriman, I believe that the Portland debate served a useful purpose by better educating all citizens on this issue. And after all is said and done I suspect the opponents were more accepting of the outcome, knowing that they had been afforded the opportunity to participate

directly in the process. I also suspect that any group or individual who chose to drag this issue into the gutter would do so at their own peril. I'm certain that there would be a public outcry and a backlash that would undermine their base of support. If you think that prejudice is going to end towards this group by the mere passage of this act you are mistaken. All of the civil rights legislation passed in America has yet to cure the disease of racism in our nation. We need to educate and we need to enlighten. In this particular issue we need to put to rest once and for all all of the tired stereotypes that hinder understanding. The leadership for implementing this process is sitting right here in this chamber. Ladies and Gentlemen of the Senate, this is an issue that has been debated on nine separate occasions, it is not a simple matter, we are not discussing the boundary between the towns of Enfield and Passadumkeag, we are debating the bounds of tolerance. After eighteen years futility I do not consider this to be an abuse of the referendum process. For me it is the only means of breaking the deadlock and it is also a means to facilitate direct democracy and education. The fate of the gay rights issue in 1993 is up to us. We can fail to pass this amendment and the Governor can veto it and we can be right back here in 1995 or we can take a positive action here today. Thank you.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To the good Senator from Cumberland, Senator Butland, I appreciate his candid support of L.D. 246 and his own attempts to get this impasse behind us and reach a resolution that is acceptable. This chamber has already debated the referendum question in a slightly different form a little earlier and rejected it by a large margin and I'm hopeful that the chamber, for all the good reasons expressed then, will continue with its vote. Not to mention the fact that if this amendment was put on this Bill would then go back to the beginning and we would be debating this issue once again for probably a fairly length of time. The impasse which the good Senator from Cumberland talked about, we have been attempting to get by and we spent a long time this past week trying to get by it. I am prepared to speak about that when we debate the merits of the Bill on final passage. The issue on referendum became clear as we discussed it during these last two weeks. As a matter of fact I have an article in front of me right now which talks about a referendum that is looming in Florida. "Bitter Ballot Showdown Looms in Florida". One of the sides has spent some three million dollars and the other side has spent some multi-million dollars in this referendum campaign. It's a very nasty, dirty, negative campaign with national groups, particularly the far right, have brought in a substantial amount of money to craft out a TV message that plays on hate. I don't think that's the type of campaign we should go through here in this State, we certainly did not want to and wisely avoided it on the choice issue. This would be very similar, talking about individual minority rights. For that reason alone I do not think that we should engage in going to a referendum on that and I think that is reason enough to vote against this particular proposal. Thank you.

On motion by Senator **CONLEY** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BUTLAND** of Cumberland to **ADOPT** Senate Amendment "H" (S-77).

A vote of Yes will be in favor of **ADOPTION**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BEGLEY, BUTLAND, CAHILL, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUTHER, MARDEN, WEBSTER**

NAYS: Senators **AMERO, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, CONLEY, ESTY, FOSTER, HANDY, LAWRENCE, LUDWIG, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, SUMMERS, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

ABSENT: Senators None

Senator **CAREY** of Kennebec requested and received Leave of the Senate to change his vote from **YEA** to **NAY**.

Senator **CIANCHETTE** of Somerset requested and received Leave of the Senate to change his vote from **YEA** to **NAY**.

11 Senators having voted in the affirmative and 24 Senators having voted in the negative, with No Senators being absent, the motion of Senator **BUTLAND** of Cumberland, to **ADOPT** Senate Amendment "H" (S-77), **FAILED**.

Senator **WEBSTER** of Franklin requested a Division.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Once again I want to thank this body for the patience it has shown with this issue over the last several months. I also want to thank the Governor for his patience and for his work to try and reach a meaningful compromise

here and I think it's important for this body to know that there were several meetings that went on with the Governor's staff as well as one meeting with the Governor. Speaking as one Senator I felt that he showed that he was sensitive to the fact that discrimination does exist against our gay and lesbian citizens, he also showed sensitivity towards the fact that there is violence against this group of Maine citizens and although he worked hard to try to find a middle ground that we could all live with, unfortunately, through the course of our meetings, particularly with John Devine from the Governor's Office who was extremely helpful, it became clear to us that we could not draft a compromise which would protect people from being discriminated against. The bottom line in the end was you actually had to get beat up in order to get some sort of protection under the last proposal that we had on the table, in order to get protection from losing your job. To try to make that into a positive message was just impossible. To try to draft it in such a way it was unclear whether you would get a lifetime protection for being beat up once, if that would apply to every job you ever had, it was unclear as to what would start the process going. Would one police report about being beat up be enough to get you that protection and in consultation with the Attorney General's Office and with law enforcement from Lewiston and Portland I became convinced that that alone would not be enough. So we explored with the Governor's Office the possibility of a Portland style ordinance which would keep the State out of this issue and give people the private right of action to sue and it became unworkable. All this is not to say that there hasn't been tremendous progress here. I feel like this has been a very positive session in reference to this Bill and with my good friend from Cumberland, Senator Butland, I don't think it's like you go away with nothing. You look at civil rights for blacks, it started off with the fourteenth amendment over 120 years ago. It took a hundred years to get the voting rights act so in twenty short years we have come a long way. We've got a Bill by Senator Lawrence from York which will be heard in Judiciary which deals specifically with hate crimes, an important measure that I look forward to. We've already had some indication that Mr. Wyman will be supporting that measure. So there has been tremendous progress and I don't want to go away from this debate with anything but a positive feeling. For everyone who has been patient, to the Governor who I think has expressed an awareness of what the problem is, and to those of you who supported this Bill, you know it's pretty easy for me being from Portland, to support this measure. I look over here to Senator Carey from Kennebec and some of the others in here who have dared to support this and to get out there. All of you have been supportive and I would be remiss if I did not thank Senator Amero from Cumberland for her tremendous efforts on this measure. I just want to thank you all and urge you to continue your support for this Bill. Thank you.

THE PRESIDENT: The pending question before the Senate is **ENACTMENT**.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Increase the County Share of the Government Operations Surcharge Fund"

H.P. 97 L.D. 139

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-114).**

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE** (Division Requested)

(In Senate, April 26, 1993, Reports **READ**.)

(In House, April 15, 1993, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-114) AS AMENDED BY HOUSE AMENDMENT "A" (H-145)** thereto.)

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Gould.

Senator **GOULD:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If you are in favor of County Government I believe that you would vote against the pending motion of Ought Not to Pass and vote for the Minority Report. What this Bill does is an act to increase the County share and change the name of the Government Operation Surcharge Fund. "The Jail Operation Surcharge Fund - There is hereby a fund to be known as a Jail Operation Surcharge Fund, this fund must be maintained by the Treasurer of the State for the sole purpose of reimbursing Counties for costs associated with operations of the jail system. Surcharge imposed - A surcharge of 10% must be added to every fine, forfeiture, or penalty imposed by any Court in this State which, for the purpose of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected as a result of the surcharge must be deposited monthly in the Jail Operation Surcharge Fund." There is a procedure here to reimburse the Counties for these monies. This process doesn't start until July 1, 1995. "The total fines, forfeitures and penalties, including the surcharge paid to the counties must increase by 1% each year until all money paid into the fund is paid to the Counties an amount equal to the Counties prior year's expenditures." In no way will we be paying the county more than what their previous expenses were. I move that we do not vote for the motion on the floor of Ought Not to Pass and I request a Roll Call.

On motion by Senator **GOULD** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The Ought Not to Pass Report does not indicate one's position on whether or not we support County Government, that has nothing to do with this. The current 10% surcharge on all fines and penalties levied in a court, 10% is set aside for jail maintenance. 2% of that goes directly back to the counties which have jails. In fiscal year 91 - 92 the reimbursement of that 2% amounted to \$398,000, I don't have this year's figures yet. The Bill that is proposed to you would increase the 2% to the total amount of 10% collected for that purpose over a period of five years beginning in 1995. First of all, I don't believe that we can predict what the financial or fiscal arrangements will be at that time. There is also another reason to vote against this because there will be a tremendous fiscal note which, if it were implemented today, would be \$460,000 for the first year and close to \$600,000 for the second year and I suspect it will be much greater at that time in 1995. I would urge you to support the Ought Not to Pass Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Those of you who know me would expect that this is the kind of Bill that I would normally be supportive of. I customarily would, and I would but for a couple of reasons. One is that we made a commitment some time ago to levy this surcharge and to provide the funds to help support County Government, in particular County Jails, that was a commitment we made, we raised funds to do it and the purpose was to help County Government. Now I understand that during these difficult fiscal times that this particular act, we've had to withdraw the money from and use for other purposes as we've done in many other cases. I will not be supporting it today, however, because I feel that it is inappropriate once again to raise the expectations of the local level of Government that some additional funding is coming in a new fiscal year, when we may or may not be able to live up to that. We must make commitments that we can keep, that we can be consistent with. We can't keep asking levels of Government or agencies to anticipate that the State is going to do something then find only that we have to yank it back. We cannot commit the next session of this legislature to any fiscal matters whatsoever. If our economy has not improved and the funds are not available we may well find that we are not able to support this request. Unless we can honestly deal with revenues and expenditures on the items that we have within the budget that we have control over I find it difficult to make promises that I cannot keep. Even though I think it's one that we should have kept but have been unable to. For those reasons I will not be supporting the passage of this Bill. Thank you.

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

Senator **ESTY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I speak today as a member of the State and Local Government Committee.

Senator Cleveland, the good Senator from Androscoggin, has essentially summed up the reason that I voted not to support this Bill and will instead support Senator Berube, the good Senator from Androscoggin. The fact of the matter is that I support the intention of what is trying to be accomplished regarding County Government, certainly as a long time Municipal Official I advocate and support property tax relief and property tax reform, the problem with this legislation is simple. It makes an empty promise to municipalities that we are unable to keep. It says we can't afford to do this this time, maybe in the next biennium. Please recall the trouble we got ourselves into when we did that with the negotiations regarding State employees, it's the same kind of empty promise. We don't want to do that to our municipalities, instead during this session let's take some real action regarding general assistance, regarding school funding, regarding revenue sharing, and regarding the circuit breaker program that we can send back to the municipalities this session that says we're doing all we can for property tax relief now. This is an empty promise, please don't take this kind of action. It's not the kind of action that we would like to encourage in this legislature, we can't do it now so we'll promise it in the next legislature, I don't think we want to do that. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI, BERUBE, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

NAYS: Senators **AMERO, BEGLEY, BRANNIGAN, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, PINGREE, SUMMERS, WEBSTER**

ABSENT: Senators None

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, with No Senators being absent, the motion by Senator **BERUBE** of Androscoggin, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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

Off Record Remarks

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency

An Act Concerning Independent Contractors and the Responsibilities of Landowners under the Workers' Compensation Laws

S.P. 389 L.D. 1184
(C "A" S-108)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with No Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senator **CAHILL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BUSTIN** of Kennebec, **RECESSED** until 4:00 p.m.

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **HARRIMAN** for the Committee on **HOUSING & ECONOMIC DEVELOPMENT** on Bill "An Act to Provide for the 1993 and 1994 Allocations of the State Ceiling on Private Activity Bonds" (Emergency) S.P. 138 L.D. 429

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-112)**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-112) **READ** and **ADOPTED**.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act to Protect Consumers when Disconnecting Cable Television Services" (Emergency) S.P. 195 L.D. 631 (C "A" S-58)

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, April 13, 1993, **READ A SECOND TIME**.)

On motion by Senator **VOSE** of Washington, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-58).

On further motion by same Senator, Senate Amendment "A" (S-106) to Committee Amendment "A" (S-58) **READ** and **ADOPTED**.

Committee Amendment "A" (S-58) As Amended by Senate Amendment "A" (S-106) thereto, **ADOPTED** in **NON-CONCURRENCE**.

Which was **PASSED TO BE ENGROSSED, As Amended in NON-CONCURRENCE**.

Sent down for concurrence.

ORDERS OF THE DAY

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

Bill "An Act to Restructure the Department of Defense and Veterans' Services" H.P. 1037 L.D. 1389

Tabled - May 4, 1993, by Senator **ESTY** of Cumberland.

Pending - **REFERENCE**

(In House, May 3, 1993, Referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.)

On motion by Senator **ESTY** of Cumberland, referred to the Committee on **AGING, RETIREMENT AND VETERANS** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Require That the Inspection and Investigation Responsibilities of the Electricians' Examining Board Receive Funding Priority"

H.P. 490 L.D. 648

Majority - **Ought Not to Pass**.

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-176)**.

Tabled - May 4, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 4, 1993, Reports **READ**.)

(In House, May 3, 1993, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-176)**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

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

SENATE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act Concerning the Mandatory Use of Car Safety Seat Belts"

S.P. 155 L.D. 486

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-88)**.

Minority - **Ought Not to Pass**.

Tabled - May 4, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, April 29, 1993, Reports **READ**.)

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

Senator **BRANNIGAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The hearing on this Bill was dramatic. There were many issues brought up as to why it is important that a person wear seatbelts when they are driving automobiles and when they are passengers in automobiles. Some of the very important issues but not THE important issues were things such as a person is, of course, a better driver when they are belted in because if an accident or an untoward incident happens they are not immediately thrown from their position of power behind the wheel, in front of the pedals, so that they can control their automobile or their vehicle better and it is a safety feature for all of us. The issue of the fact that we are one of the few States left in the country which does not feel that this safety measure is one that all of our citizens should have. There are forty-four states now that have this requirement. The fact that this requirement is no more disruptive to our liberty than the fact that we have to have our pictures taken and have our driver's license renewed, that we have to have inspections, that we have to have our car properly equipped. All of the other safety kinds of things, traffic regulations etc. that we must do in order to be safe and responsible citizens of this State. We are one of the few states, as I said, that does not feel that this is a necessary requirement. We're asking people today to make the choice to change that. Of all the things that was brought in front of us it was really the issue of savings that were the most moving, the most poignant. Savings regarding suffering, savings regarding lives, and savings regarding money. Somehow this year because we are so concerned about money in every area that that just seemed to have more weight than other years when I and others have dealt with this Bill. Of course it shouldn't, it should be the saving of lives, hundreds in the last few years that we had required folks to wear seatbelts. Hundreds, thousands of people whose families wouldn't have suffered or themselves would not have suffered or suffered as much had they been properly prepared in a safe way in their automobiles and trucks for a possible accident.

If those of you who are still in doubt could have seen what we have seen, heard what we heard from people who had been belted in an accident, who had been unbelted in an accident. Families of people who had been saved by the loss of a loved one because they had been in proper safety positions. I just believe that given how members of the Committee voted, 9 - 4, all three Senators, because of what they heard and what they saw. Others will speak of the cost savings but the cost savings is a major issue. Those of you who had time to take a look at this canary yellow sheet that is on our desks this morning, this doctor who had been in the Emergency Room all night came to Augusta, sat through another piece of hearings before he had an opportunity to speak. He felt it was so important that he wanted to do that, and gave us just these small statistics of how many millions of dollars difference there has been in this one hospital in a few months between dealing and assisting people who were in accidents who lived but those who were belted versus those who were unbelted. I wish that we could bring to you the power of the testimony that we received. The moving testimony that we received. I believe the people of this State are ready, a majority of the people of this State are ready to have the requirement to buckle up. A majority does not buckle up at this time but the people in this State are very responsive

to the law. I know people who say well if it was a law I would do it, I know I should and I would. If they had heard and seen what we heard and saw they would buckle up and I think you would vote to have them do it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As a first year student at the University of Maine my beginning philosophy course taught me that life is a search for the good, the true and the beautiful. In this latest budget round I've given up on the good and the beautiful but I'm sticking with the true. I rise today in support of L.D. 486 "An Act Concerning the Mandatory Use of Car Safety Seat Belts" because I was convinced by the preponderance of evidence as was so eloquently put by our Chairperson, Senator Brannigan. The human suffering, the pain and suffering inflicted on unbelted individuals was indeed very poignant. We did hear from an incredible stream of people throughout the day and my bones still ache when I think of some of the descriptions the physicians gave us because they had it. You heard, if they just had to do one more body that should not have been damaged as severely as it was, if there had been a little simple precaution. The orthopedic person who told us about the midface area, a very specific area that gets severely damaged, he said I have never yet been able to put somebody back so they even look like they used to before. The truth is the fact that it is costing the people of this State mega mega bucks.

If we're going to be taking money away from children, if we're going to be taking money away from the elderly and if we're going to be taking money away from mentally ill people who we are discharging to the streets because we don't have the money in the budget this round we should be taking this savings and running with it. We were given a most immediate case in a hospital nearby. A woman, half a million dollars for her medical attention from an accident that could have been prevented if she had been wearing her seatbelt, and you have to figure if we spent half a million dollars on her recuperation from the Intensive Care Unit the chances are very, very good that the taxpayers of this country and this state will have to support her for the rest of her life. There is a young classmate of mine who is brain damaged. She was driving her husband to the airport in Presque Isle to go to Desert Storm and she was hit and she will never be the same again. It will be a lifetime cost that could have been avoided if this woman had been belted. It's an incredible cost shift. We, again, have to speak the truth to our constituents. I spent the weeked, we had a Top of Maine Trade Show in Madawaska, and brought up this very issue because I wanted to hear it up front first. People understand. You don't need to worry about that, they have common sense. They send us here, they hire our intelligence, our hard work and they have us gather the information and if we go back with the information that we have I don't think anybody will suffer for it. The Bangor Daily News did an editorial on this and they had no problem understanding that it's a bottom line cost that this State can no longer afford. I can't put it more strenuously how important this is for the citizens of this State. The Feds are probably going to come after us soon and have us do it anyway but in the meantime we need to put the cost savings in immediately and you can bet your boots you will have a lot of cost savings immediately. The widow and the

children that we will have to support forever, I think we don't have a choice if we are going to be true and if we are going to be honest and speak the truth. I would really urge your support for this Bill. Thank you.

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

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I think the question we have to ask ourselves here today is how much Government do we need? There's no question in my mind that education is the way to address this problem. It's amazing to me, I'm going to continue to remind you where we are, here we are in month four, now we've got another significant issue we're dealing with, not jobs for people in Maine, not changing the Workers' Comp law, not the issue of how we're going to make Maine a better place, we're going to talk about seat belts. More government regulation. Ladies and Gentlemen of the Senate it seems to me that this State is heading in the wrong direction. I've watched with frustration the direction we have headed in the last ten years. This is not the way we ought to be going. It seems to me that the people of this State are intelligent enough to make their own decision, they don't need big brother telling them what to do. It doesn't make sense to me that we ought to be enacting this type of legislation. I have two little children, a four year old and a ten year old, I always wear a seatbelt when they're in the car because if I don't they harass me until I do. I've gotten to the point myself where I begin on a regular basis to wear a seatbelt. It's amazing to me that we have to deal with this issue, it's totally amazing and irritating to me that we're wasting our time on this type of issue. Regardless, it's here, we ought to come to the conclusion that the people of this State can make up their own mind, they don't need big brother telling them what to do. Ladies and Gentlemen of the Senate, let's dispose of this Bill and get on with doing something important for the people of this State. Thank you.

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

Senator **CARPENTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise today to oppose the Majority Report on the mandatory use of car safety seatbelts. I certainly do not oppose the use of seatbelts, I encourage it. I believe the education has been working very well in the past, my children, three girls, are all over the eighteen age limit now. They use their seatbelts and as they were growing up they urged myself and my wife to use our seatbelts, so now we are confirmed seatbelt users. I certainly believe that everyone should use seatbelts I just don't believe that when somebody becomes eighteen years old and is now an adult that we have to continue to govern their lives in the use of seatbelts or many other things. There's another section is this Bill that I really question a lot. It's called the mandatory use of seatbelts but the law enforcement of this Bill, through the amendment, seems to me there is no way that it can be mandatory. An officer can't stop you for not wearing your seatbelt. This Bill says you must be stopped for a traffic violation. I picture myself driving down the Maine Turnpike, maybe doing 80 MPH and blue lights are behind me and let's say I have my seatbelt on. I pull over and a Trooper pulls up behind me, I take my seatbelt off to reach for my wallet and he's there. Under this Bill, the way I read it, is I could be cited for not wearing my seatbelt. Another

version of the same incident is I'm going down the Maine Turnpike, 80 MPH, blue lights, and I just reach up and put my seatbelt on and pull over and I can't be cited. I don't think it's a very good Bill and I think if you're eighteen or over you should make the decision yourself. I call for a Division and I hope you vote against the Majority Report. Thank you.

Senator **CARPENTER** of York requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Gould.

Senator **GOULD:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I placed on your desk, and I want you to know the report I placed on your desk was not written by me but written by my son. He had to write this at Wentworth College on the economics of a situation so I suggested that he write about the mandatory seatbelt law. It is the truth if you buckle up you're going to save yourself and the State money. I use the word State money because there are Medicaid people out there that are not wearing their seatbelts either. There are cases on record that it costs as much as \$500,000 for a person not wearing a seatbelt, and it costs the State of Maine. It's not a new idea. Every State in the union has passed mandatory seatbelts except for six. I implore you to vote for the mandatory seatbelt law. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a series of questions. The Senator from Cumberland, Senator Brannigan, pointed out on the handout that was given to us here in the chamber, dealing with the accelerated cost of those who choose not to wear seatbelts and without question these figures are impressive if you support this piece of legislation. However, I have a few questions regarding these statistics. I question the methodology of the collection of this data and actually the survey itself. You're looking at 144 incidents, I'm assuming, or 144 cases at Eastern Maine Medical Center. The first question I would have is were all these accidents of the same nature, meaning were they all belted or unbelted, were the people all traveling at 75 MPH, or if they were belted or unbelted were they traveling at 3 or 4 MPH and was the extent of a belted persons injuries maybe whiplash or was the extent of an unbelted persons injuries whiplash. It doesn't seem to me to be terribly clear by these statistics and I would suggest that it's somewhat, although they are good intentioned, and I say this in a not disrespectful manner, but I think it is somewhat unfair to put this type of information before the body without it being clearly defined as to the nature of the collection of the data. Thank you.

THE PRESIDENT: The Senator from Cumberland, Senator **SUMMERS** has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm sorry that Senator Summers from Cumberland feels that it's unfair. This is a doctor who has worked to gather statistics. It is belted versus unbelted in all different kinds of accidents. It certainly is not a scientific study beyond nor is it presented to be one

beyond what is here. I really fail to understand if people who were belted have much less damage to their body if it is whiplash or facial tearing or breaking. I guess I just don't see the point of the question. I don't think anybody denies that there is money to be saved, I would hope that nobody would deny that there is money to be saved by people wearing their belts. I just would like to say that talking about the things that Senator Carpenter from York spoke of. It was interesting what he was saying, and the Senator from Franklin also, Senator Webster, they needed to be taught, they as adults needed to be taught how to be safely involved with their vehicles. They were taught by their children. There are some people who don't have that opportunity. We can't afford to wait until all of those untaught people die off, in one way or another, and others grow up. I think there is nothing wrong with the State teaching, the State urging, the State requiring, we do it all the time for all kinds of activities for the good of the State, for the good of the people of the State. I think it's very interesting. Of course if he drives at 80 MPH down the Turnpike, and we know he was just using an example, it has never happened, I just would treat the issue of the officer. If this law was on the books the people of the State of Maine will follow it. We don't expect police to be out along the streets watching whether you are belted or not. I will try to help you Senator Carpenter save your life. For those of you who belong to AAA you may have recently gotten their magazine and it told you what to do when you are stopped by the police. It is not to reach down and unbuckle and get your wallet. It is to keep your hands where the officer can see them. He is frightened of you. That's what it says. He or she is frightened, they don't know what you are going to do when you start reaching for the glove compartment or reaching in your pocket. They have no idea what you are going to pull out. So I would suggest that you keep your hands on the wheel and the officer will then judge whether you are belted or unbelted. Just one of the things you gain by being a member of the Senate, a little tidbit. Importantly the issue of saving money is a very important part, saving money for the State, saving money for the insurers and therefore our premiums and certainly saving lives and suffering. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to extend my thanks to the Senator from Cumberland for not only answering my question but my colleagues questions from York County. I appreciate the answers, I think. I would have to concur with my colleague from Franklin County that this is an issue of education and it's an issue of government regulation. Do we need to have the government in our lives especially in light of the fact that the amendment to this Bill, as my good friend from York County mentioned, would make this a secondary offense. I really at this particular point with this legislation in that posture question the need for the legislation because it's almost non-existent at that point. I advocate the use of safety belts, I use a seatbelt, my kids use a seatbelt, I think it's incredibly important to do so but I think you have to ask yourself if you live in a free society what is the cost of that. Not only in terms of monetary but also in terms of recognizing everyone else's personal freedoms. If we take that right of choice from this person and the choice of whether or not somebody wants to smoke from that person over here, and we

take the choice of whether or not somebody wants to have a beer over here, then pretty soon the country that all the eastern European countries are trying to become is becoming just like the eastern European countries. I really cannot justify the need of this legislation and for that reason Mr. President I move the Indefinite Postponement of this Bill and all its Accompanying Papers. Thank you.

Senator **SUMMERS** of Cumberland moved the **INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We will have a hard time telling people in our districts that we were sincere about saving money and cutting back if, and most of the people of the people I've spoken to feel the right to do things are controlled by who has to pay for that ability, right now we as a State has as a policy that if somebody is brought into the Emergency Room they are to be taken care of and not dumped back onto the street because they are not able to pay for it. We, the State of Maine, are paying the bill. We are going to be talking about money again, a lot, and I hope people are able to find the money somewhere that we are spending on unbelted individuals and their care. I have to congratulate Senator Gould's son, I have perused the information and it is incredible data. We cannot honestly, and with a straight face, say that the rights of the people of this State are being invaded when the people of this State are paying this incredible burden that they can no longer afford to pay. We're taking it from somewhere, and like I said, I have been trained well in the Human Resources Committee that the people we are taking it from are the children who haven't had their chances yet, the elderly and the ones the State usually makes an effort to protect. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I guess I want to weigh in on this debate on the side of being in favor of this Bill and relate to you some surprising testimony that the Banking and Insurance Committee has heard on our Statewide hearings on the Family Security Act, the Comprehensive health care Bill. I'll tell you I was prepared to hear from special interest groups and I was prepared to hear from proponents and opponents but what I wasn't prepared for, and what hit me like a thunderbolt, was the amount of people coming and testifying before us saying you must build in personal responsibility into any universal health care proposal. Personal responsibility, we've heard it from doctors, we've heard it from ordinary people, we've heard it from smokers, we've heard it from nonsmokers, we've heard it at every single hearing and I'll tell you I didn't think we would hear it. It was a complete surprise. It is almost the overwhelming message, or one of the overwhelming messages, of our hearings. Personal responsibility, people who live healthy lives, who buckle up, want to be able to have a credit on what they pay in health insurance. Correspondingly they want to know that people who are taking chances pay a little bit more. That's universal in the input and is surprised me. Probably the most eloquent person to tell us this was Doctor Richard Siegel, a family practice doctor from Bangor, and I wish the good

Senator from Penobscot was here because he serves his area and I know that he is interested in this debate, Senator Pearson. Doctor Siegel told us, I see that in this legislation you have an emphasis on primary care and preventive care and that is also true to the Clinton task force and their deliberations, but let me tell you there's not very much a family practice doctor can do about preventive medicine. There's not very much that's within our control. After you do immunizations, after you're making sure all the women who should have mammograms, that's about it. The big preventive areas are seatbelts, smoking and fluoride, that's the big preventive area. That's what we should be paying attention to. Once again I was struck by that argument. That if we are indeed in favor of reforming our health care system, which is the debate of the hour, and reforming it in favor of preventive care instead of high cost treatments in the Emergency Room and otherwise, we have to take seriously proposals like this. We have to take seriously requiring that our citizens buckle up and that we help with smoking cessation instead of funding lung cancer treatment at a much higher cost. I will be voting against the Indefinite Postponement motion and I would ask that you would to and to remember Doctor Richard Siegel and the other hundreds of people who testified in favor of taking personal responsibility into account. Thank you.

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

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to respond to comments made by the good Senator from Kennebec and I would ask you to remember who you represent, and remember that this is an issue that people at home, at least people I represent, I would argue that most people in rural Maine feel pretty strong about it, and that is how much government do we need. I remember a debate that happened elsewhere a couple of years ago where someone stood up in a different branch of the legislature and said that they could envision a knock on the door and having somebody at the door saying I am here from the government to help you. You know we have reached the point here that we have so much government in our lives that we are beginning to wonder, people in this State are very frustrated, very upset that we don't treat them like they have enough intelligence to make their own decisions. I campaigned, like most of you did, to get elected here. I knocked on a lot of doors, I talked to a lot of people. I also have a lot of contact, perhaps more than most, with everyday people when I am in their homes fixing their furnace and people in this State just don't like to be told what to do first of all, more important than that they are adults. We already have a law saying if you are a minor you have to have certain things we don't need to tell 55 year old people, 65 year old people, as far as that goes 35 year old people how they ought to live their lives when it comes to whether they ought to have a seatbelt or not. I've taken pride during my tenure in legislature having always voted for every issue the way I felt the people in my district wanted. People in this State do not want government telling them whether or not they have to have a seatbelt, it's that simple. Every single poll, every single survey I have ever seen published up until very recent times, have said the government should not be telling us what to do. People in Maine don't want this why are we shoving it down their throats? It seems to me that this is a simple vote and I request a Roll Call.

On motion by Senator **WEBSTER** of Franklin, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **SUMMERS** of Cumberland to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **CIANCHETTE** of Somerset who would have voted **YEA** requested and received Leave of the Senate to pair his vote with Senator **BUSTIN** of Kennebec who would have voted **NAY**.

Senator **CONLEY** of Cumberland who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **PEARSON** of Penobscot who would have voted **YEA**.

Senator **TITCOMB** of Cumberland who would have voted **YEA** requested and received Leave of the Senate to pair her vote with Senator **CLEVELAND** of Androscoggin who would have voted **NAY**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI**, **BEGLEY**, **BUTLAND**, **CAHILL**, **CARPENTER**, **FOSTER**, **HANLEY**, **KIEFFER**, **LUDWIG**, **LUTHER**, **MARDEN**, **O'DEA**, **SUMMERS**, **WEBSTER**

NAYS: Senators **AMERO**, **BERUBE**, **BRANNIGAN**, **CAREY**, **ESTY**, **GOULD**, **HALL**, **HANDY**, **HARRIMAN**, **LAWRENCE**, **MCCORMICK**, **PARADIS**, **PINGREE**, **VOSE**, **THE PRESIDENT - DENNIS L. DUTREMBLE**

ABSENT: Senators None

PAIRED: Senators **BUSTIN**, **CIANCHETTE**, **CLEVELAND**, **CONLEY**, **PEARSON**, **TITCOMB**

14 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 6 Senators having paired their votes and No Senators being absent, the motion of Senator **SUMMERS** of Cumberland, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

On motion by Senator **SUMMERS** of Cumberland, the Senate **RECONSIDERED** its action whereby it **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report.

Senator **SUMMERS** of Cumberland requested a Division.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

16 Senators having voted in the affirmative and 16 Senators having voted in the negative, **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Minority **OUGHT NOT TO PASS** Report.

Senator **BRANNIGAN** of Cumberland requested a Division.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Minority **OUGHT NOT TO PASS** Report.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

16 Senators having voted in the affirmative and 16 Senators having voted in the negative, **ACCEPTANCE** of the Minority **OUGHT NOT TO PASS** Report, **FAILED**.

Senator **BRANNIGAN** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On motion by Senator **BRANNIGAN** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **CIANCHETTE** of Somerset who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **BUSTIN** of Kennebec who would have voted **YEA**.

Senator **CONLEY** of Cumberland who would have voted **YEA** requested and received Leave of the Senate to pair his vote with Senator **PEARSON** of Penobscot who would have voted **NAY**.

Senator **TITCOMB** of Cumberland who would have voted **NAY** requested and received Leave of the Senate to pair her vote with Senator **CLEVELAND** of Androscoggin who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators AMERO, BALDACCI, BERUBE, BRANNIGAN, CAREY, ESTY, GOULD, HALL, HANDY, HARRIMAN, LAWRENCE, MCCORMICK, PARADIS, PINGREE, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

NAYS: Senators BEGLEY, BUTLAND, CAHILL, CARPENTER, FOSTER, HANLEY, KIEFFER, LUDWIG, LUTHER, MARDEN, O'DEA, SUMMERS, WEBSTER

ABSENT: Senators None

PAIRED: Senators BUSTIN, CIANCHETTE, CLEVELAND CONLEY, PEARSON, TITCOMB

Senator **PARADIS** of Aroostook was granted unanimous consent to address the Senate on the Record.

Senator **PARADIS**: Thank you Mr. President, Ladies and Gentlemen of the Senate. When we adjourn I would like us to do so in memory of Jeff Fortier, Representative Kilkelly's son. Thank you.

On motion by Senator **PARADIS** of Aroostook, **ADJOURNED**, in memory of Jeff Fortier, until Thursday, May 6, 1993 at 10:00 in the morning.

16 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 6 Senators having paired their votes and No Senators being absent, the motion by Senator **BRANNIGAN** of Cumberland, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-88) **READ** and **ADOPTED**.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

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

Bill "An Act to Amend the Laws Governing the Task Force on Defense Realignment and the Economy" (Emergency)

H.P. 194 L.D. 257
(C "A" H-177)

Tabled - May 4, 1993, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 3, 1993, **READ A SECOND TIME**.)

(In House, April 27, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-177)**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Senator **BALDACCI** of Penobscot was granted unanimous consent to address the Senate off the Record.