

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME IV**

**FIRST REGULAR SESSION**

**Senate**

May 19, 1993 to July 14, 1993

**FIRST CONFIRMATION SESSION**

October 14, 1993

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

In Senate Chamber  
Wednesday  
May 26, 1993

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

Prayer by the Honorable M. Ida Luther of Oxford.

**SENATOR M. IDA LUTHER:** Good morning Ladies and Gentlemen of the Senate. For our shared meditation this morning I want to read a brief passage from Henry David Thoreau's Walden:

"Once it chanced that I stood in the very abutment of a rainbow's arch, which filled the lower stratum of the atmosphere, tinging the grass and leaves around, and dazzling me, as if I looked through colored crystal. It was a lake of rainbow light, in which, for a short while, I lived like a dolphin. If it has lasted longer it might have tinged my employment and my life."

Let us be in the spirit of prayer. Heavenly Father, grant us the grace to be so joyful of your creation that our employments and lives will also be tinged with beauty and joy. Amen.

Reading of the Journal of Tuesday, May 25, 1993.

Off Record Remarks

**COMMUNICATIONS**

The Following Communication: S.P. 513

**116TH MAINE LEGISLATURE**

May 25, 1993

Senator Georgette B. Berube  
Representative Ruth Joseph  
Chairpersons  
Joint Standing Committee on State & Local Government  
116th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Mark R. Dionne of Sanford for appointment as the Management Representative of the Workers' Compensation Board.

Pursuant to P.L. 1992, Chapter 885, this nomination will require review by the Joint Standing Committee on State & Local Government and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble  
President of the Senate

S/John L. Martin  
Speaker of the House

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

Sent down for concurrence.

Off Record Remarks

The Following Communication:

**DEPARTMENT OF PUBLIC SAFETY  
STATE HOUSE STATION 42  
AUGUSTA, MAINE 04333**

May 24, 1993

Honorable Dennis L. Dutremble  
President of the Senate  
State House Station #3  
Augusta, ME 04333

Dear Senator Dutremble:

Pursuant to 24 M.R.S.A., Section 1544, it is my privilege to present you and the Legislature the seventeenth annual Crime in Maine report for the year 1991.

Although the release of this report has been delayed, due in part to budget constraints and a vacancy in the publication coordinator's position, we continue to place great value in the availability of crime data as a useful reference for public officials and Maine's citizens.

The Maine Department of Public Safety, which oversees this useful tool, and the Maine State Police, which produces it, continues their efforts to improve our sole crime data collection program and it's resulting publication.

In our desire to meet the needs of the many consumers of Crime in Maine, we are seeking your feedback as to suggestions for an improved report via the reader survey form located after page 108.

It is hoped that the release of the 1992 annual report will meet the more traditional June/July time frame.

Please feel free to contact Stephan M. Bunker of my staff should you have any questions as to the report or the Uniform Crime Reporting Program.

Respectfully,

S/John R. Atwood  
Commissioner

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

The Following Communication:

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA 04333**

May 25, 1993

Honorable Joy J. O'Brien  
Secretary of the Senate  
116th Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Improve Communication between the Executive and Legislative Branches" (H.P. 419) (L.D. 538):

Representative FAIRCLOTH of Bangor  
Representative JOSEPH of Waterville  
Representative YOUNG of Limestone

Sincerely,

S/Joseph W. Mayo  
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE.**

The Following Communication:

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA 04333**

May 25, 1993

Honorable Joy J. O'Brien  
Secretary of the Senate  
116th Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Concerning Limits on Security Deposits" (H.P. 898) (L.D. 1213):

Representative DAGGETT of Augusta  
Representative POULIN of Oakland  
Representative STEVENS of Sabattus

Sincerely,

S/Joseph W. Mayo  
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE.**

**SECOND READERS**

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

**House As Amended**

Bill "An Act Authorizing Presidential Preference Primary Elections in the State" H.P. 114 L.D. 156 (C "A" H-401)

Bill "An Act to Further Discourage the Smoking of Cigarettes by Minors" H.P. 454 L.D. 580 (C "A" H-396)

Bill "An Act to Amend the Natural Resources Protection Laws" H.P. 936 L.D. 1259 (C "A" H-412)

Bill "An Act Concerning the Operation of Aircraft under the Influence of Intoxicating Liquor or Drugs" H.P. 1084 L.D. 1450 (C "A" H-400)

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

Bill "An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke" H.P. 666 L.D. 904 (C "A" H-358)

Which was **READ A SECOND TIME**.

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

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Bill "An Act Concerning Duplicate Fees Required by the Department of Environmental Protection"  
H.P. 1023 L.D. 1375  
(C "A" H-411)

Which was **READ A SECOND TIME**.

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

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**Senate**

Bill "An Act to Make Additional Appropriations and Allocations and to Make Technical Corrections to the Laws for the Fiscal Years Ending June 30, 1993 and June 30, 1994" (Governor's Bill) (Emergency)  
S.P. 497 L.D. 1517

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

Sent down for concurrence.

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**Senate As Amended**

Bill "An Act to Allow for the Expenditure of Certain School Construction Funds Elsewhere in the District"

S.P. 192 L.D. 628  
(C "A" S-206)

Bill "An Act to Enhance the Role of the State Board of Education"

S.P. 209 L.D. 680  
(C "A" S-205)

Bill "An Act to Establish a Full Employment Program as a Pilot Project in Certain Counties of the State"

S.P. 212 L.D. 683  
(C "A" S-204)

Bill "An Act to Clarify Maine Election Laws"

S.P. 268 L.D. 805  
(C "A" S-207)

Bill "An Act to Allow the Use of Polystyrene Cups in Schools"

S.P. 353 L.D. 1067  
(C "A" S-211)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Transfer the Responsibility for Recounts of Elections to the Judicial Branch  
S.P. 475 L.D. 1474  
(C "A" S-208)

Resolve, Authorizing the Conveyance of Certain Public Lands in Newcastle (Governor's Bill)  
S.P. 502 L.D. 1525  
(C "A" S-210)

Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$39,500,000 to Match Available Federal Funds for Improvements to Highways, State and Local Bridges, Airports, Cargo Ports and the Ferry Service" (Governor's Bill)

S.P. 505 L.D. 1529  
(C "A" S-212)

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

Sent down for concurrence.

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**ORDERS OF THE DAY**

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

**Emergency**

An Act to Extend the Repeal Date of the Laws Governing Biosynthetic Bovine Somatotropin

S.P. 198 L.D. 634  
(S "A" S-123 to C "A" S-105)

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

**Pending - ENACTMENT**

(In Senate, May 18, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-105) AS AMENDED BY SENATE AMENDMENT "A" (S-123)** thereto.)

(In House, May 25, 1993, **PASSED TO BE ENACTED**.)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with 2 Senators having voted in the negative, and 30 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 of the Governor for his approval.

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

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on **HUMAN RESOURCES** on Bill "An Act to Enable Parents of Children with Mental Illness to Care for Their Children at Home"  
H.P. 268 L.D. 346

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-426)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-426)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-426) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **LATER TODAY ASSIGNED FOR SECOND READING**.

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The Committee on **LEGAL AFFAIRS** on Bill "An Act to Encourage Participation in Primary Elections"  
H.P. 815 L.D. 1101

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-429)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-429)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-429) **READ** and **ADOPTED**, in concurrence.

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

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**Divided Report**

The Majority of the Committee on **BANKING & INSURANCE** on Bill "An Act to Authorize Maine Financial Institutions and Credit Unions to Sell Annuities"  
H.P. 778 L.D. 1051

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-399)**.

Signed:

Senators:  
MCCORMICK of Kennebec  
CAREY of Kennebec

Representatives:  
PINEAU of Jay  
TRACY of Rome  
ERWIN of Rumford  
CARLETON of Wells  
CAMPBELL of Holden

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

Signed:

Senator:  
KIEFFER of Aroostook

Representatives:  
HALE of Sanford  
RAND of Portland  
KUTASI of Bridgton  
JOSEPH of Waterville  
TOWNSEND of Canaan

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-399)**.

Which Reports were **READ**.

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

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**Divided Report**

The Majority of the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes"  
H.P. 1060 L.D. 1428

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

Signed:

Senator:  
MARDEN of Kennebec

Representatives:  
CLEMENT of Clinton  
REED of Dexter  
LIBBY of Kennebunk  
WINN of Glenburn  
ST. ONGE of Greene  
THOMPSON of Lincoln  
HILLOCK of Gorham  
VIGUE of Winslow

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-430)**.

Signed:

Senators:

CIANCHETTE of Somerset  
BUSTIN of Kennebec

Representatives:

CAMERON of Rumford  
HOGLUND of Portland

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-430) AND HOUSE AMENDMENT "A" (H-427)**.

Which Reports were **READ**.

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

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**Divided Report**

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Amend State Law Regarding HIV Testing"

H.P. 744 L.D. 1002

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

Signed:

Senators:

PARADIS of Aroostook  
BALDACCI of Penobscot

Representatives:

GEAN of Alfred  
TREAT of Gardiner  
BRENNAN of Portland  
JOHNSON of South Portland  
TOWNSEND of Portland  
BEAM of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-415)**.

Signed:

Senator:

HARRIMAN of Cumberland

Representatives:

BRUNO of Raymond  
PENDLETON of Scarborough  
PENDEXTER of Scarborough  
FITZPATRICK of Durham

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

Which Reports were **READ**.

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

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**Divided Report**

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act to Regulate the Use of Aircraft for Surveillance Purposes by Law Enforcement Agencies"  
H.P. 889 L.D. 1203

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

Signed:

Senators:

CAREY of Kennebec  
HALL of Piscataquis

Representatives:

NASH of Camden  
ROBICHAUD of Caribou  
STEVENS of Sabattus  
BENNETT of Norway  
TRUE of Fryeburg

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-425)**.

Signed:

Senator:

HANDY of Androscoggin

Representatives:

DAGGETT of Augusta  
GAMACHE of Lewiston  
MICHAEL of Auburn  
BOWERS of Washington  
LEMKE of Westbrook

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-425)**.

Which Reports were **READ**.

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

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Off Record Remarks

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

**ENACTORS**

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

An Act to Amend the Occupational Disease Law  
S.P. 216 L.D. 687  
(C "A" S-92; H "A"  
H-365)

Senator **BEGLEY** of Lincoln moved the **INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**.

**Emergency**

An Act Regarding Missing Children  
H.P. 425 L.D. 544  
(S "A" S-167 to C  
"A" H-262)

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

Off Record Remarks

Senator **CAREY** of Kennebec was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **PEARSON** of Penobscot 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.

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

On motion by Senator **BRANNIGAN** of Cumberland, **RECESSED** until 4:00 this afternoon.

After Recess

Senate called to order by the President.

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

**ORDERS**

**Joint Order**

On motion by Senator **VOSE** of Washington the following Joint Order:

S.P. 514

ORDERED, the House concurring, that Bill, "An Act concerning the Operation of Aircraft under the Influence of Intoxicating Liquor or Drugs," H.P. 1084, L.D. 1450, and all its accompanying papers, be recalled from the Engrossing Department to the Senate.

Which was **READ** and **PASSED**.

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

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

**COMMUNICATIONS**

The Following Communication:

**COMMITTEE ON STATE AND LOCAL GOVERNMENT  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

May 26, 1993

The Honorable Dennis L. Dutremble  
 President of the Senate of Maine  
 116th Maine Legislature  
 State House  
 Augusta, Maine 04333

**ROLL CALL**

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 116th Maine Legislature, the Joint Standing Committee on State and Local Government has had under consideration the nomination of Lt. Col. Alfred R. Skolfield, Jr. of Oakfield, for appointment as the Chief of the Maine State Police.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Sen. 1 Berube of Androscoggin  
 Rep. 8 Joseph of Waterville, Gray of Sedgwick, Ahearne of Madawaska, Rowe of Portland, Walker of Blue Hill, Look of Jonesboro, Bennett of Norway, Young of Limestone

NAYS: 0

ABSENT: 4 Sen. Esty of Cumberland, Sen. Butland of Cumberland, Rep. Kilkelly of Wiscasset, Rep. Dutremble of Biddeford

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Lt. Col. Alfred R. Skolfield, Jr. of Oakfield, for appointment as the Chief of the Maine State Police be confirmed.

Signed:

S/Georgette B. Berube  
 Senate Chair

S/Ruth Joseph  
 House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

**THE PRESIDENT:** The Joint Standing Committee on State & Local Government has recommended the nomination of Lt. Col. Alfred R. Skolfield of Oakfield be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on State & Local Government be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 116th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

YEAS: Senators None

NAYS: Senators AMERO, BEGLEY, BERUBE, BUSTIN, BUTLAND, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, CONLEY, ESTY, FOSTER, GOULD, HALL, HANDY, HANLEY, HARRIMAN, KIEFFER, LUDWIG, LUTHER, MARDEN, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, SUMMERS, TITCOMB, VOSE, WEBSTER, THE PRESIDENT - DENNIS L. DUTREMBLE

ABSENT: Senators BALDACCI, BRANNIGAN, CAHILL, LAWRENCE

No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 4 Senators being absent, and none being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Lt. Col. Alfred R. Skolfield, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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Off Record Remarks

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

**SECOND READERS**

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

**House As Amended**

Bill "An Act to Enable Parents of Children with Mental Illness to Care for Their Children at Home"  
 H.P. 268 L.D. 346  
 (C "A" H-426)

Bill "An Act to Encourage Participation in Primary Elections"  
 H.P. 815 L.D. 1101  
 (C "A" H-429)

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

---

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **BALDACCI** for the Committee on **HUMAN RESOURCES** on Bill "An Act to Ensure Small Boarding Homes Sufficient Funds to Remain Economically Viable" S.P. 238 L.D. 731

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-221)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-221) **READ** and **ADOPTED**.

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

Sent down for concurrence.

---

Senator **CONLEY** for the Committee on **JUDICIARY** on Bill "An Act Establishing an Indigent Defense Reimbursement Fund" S.P. 174 L.D. 588

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

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-214) **READ** and **ADOPTED**.

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

Sent down for concurrence.

---

Senator **CONLEY** for the Committee on **JUDICIARY** on Bill "An Act to Amend the Maine Human Rights Act to Include Provisions Concerning Employment Discrimination" S.P. 214 L.D. 685

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-215)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-215) **READ** and **ADOPTED**.

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

Sent down for concurrence.

---

Senator **CONLEY** for the Committee on **JUDICIARY** on Bill "An Act to Amend the Laws Governing the Effect of a Tender in Foreclosure Actions" S.P. 291 L.D. 861

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-216)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-216) **READ** and **ADOPTED**.

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

Sent down for concurrence.

---

Senator **CONLEY** for the Committee on **JUDICIARY** on Bill "An Act to Clarify Mandatory Waiver Authority Concerning Construction Requirements" S.P. 292 L.D. 862

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-217)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-217) **READ** and **ADOPTED**.

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

Sent down for concurrence.

---

Senator **CONLEY** for the Committee on **JUDICIARY** on Bill "An Act to Amend the Maine Civil Rights Act Regarding Violations of Constitutional Rights" S.P. 425 L.D. 1334

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-218)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-218) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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**ORDERS OF THE DAY**

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

Bill "An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke"  
H.P. 666 L.D. 904  
(C "A" H-358)

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

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

(In Senate, May 26, 1993, **READ A SECOND TIME**.)

(In House, May 24, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-358)**.)

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

---

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

Bill "An Act Concerning Duplicate Fees Required by the Department of Environmental Protection"  
H.P. 1023 L.D. 1375  
(C "A" H-411)

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

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

(In Senate, May 26, 1993, **READ A SECOND TIME**.)

(In House, May 25, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411)**.)

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 Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING & INSURANCE** on Bill "An Act to Authorize Maine Financial Institutions and Credit Unions to Sell Annuities"

H.P. 778 L.D. 1051

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-399)**

Minority - **Ought Not to Pass**

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

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

(In House, May 25, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-399)**.)

Senator **MCCORMICK** of Kennebec moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Could one of the pages come around and pass out some of the handouts that I have? Thank you.

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Off Record Remarks

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We have before us today a Bill that I opposed not a year ago and this year I stand up to support it and I will tell you why. It is a Bill that would allow for a separate license for the selling of annuities. Some people call this the Bill that will allow banks to sell annuities and indeed it will. I opposed that last year because the banks were in a different situation, because I was confused by the issue, and this year the Bill is written very clearly, it is a licensing issue, it is a consumer access issue, and it gained my support for those reasons. Also, sitting on the Banking Committee I realized that it is a parity issue. I don't know if you know this or not but currently banks can sell annuities, that is the sheet that I just passed out to you, from Doyle and Nelson. This is a summary of the Comptroller of the Currency's decision that allows national banks to sell annuities, both fixed and variable rate annuities. It is a little bit legalsque in its wording but if I could just summarize it for you it basically says that banks can sell annuities and even

the banks that before, for the last 80 or so years, both the national banks who could sell annuities in communities of 5000 and under, they can now sell annuities to any kind of community. In this country there has been the theory of parity, meaning that whatever the national banks get to do, the State chartered banks ought also to get to do so they are not at a competitive disadvantage. We have this philosophy in Maine and that is one of the main reasons why this Bill is before us now. Vermont national banks have already started to sell annuities, Maine national banks have already started applying to the Superintendent of Insurance for the ability to sell annuities and it is important to let State chartered banks and credit unions also sell annuities.

There is a jobs aspect to this Bill. Let me give you an example, Key Bank is located in nine States. Of those nine States, Key Bank is a state chartered bank, eight of those states allow state chartered banks to sell annuities. Guess which state is the one that does not, yes you guessed it, it's our State of Maine. All analysts expect the annuities business to balloon, to expand, and therefore it is estimated that all financial institutions that sell annuities, whether they be insurance or financial institutions or credit unions, will see an explosion of jobs. The issue is where will those jobs go. Will Maine get a chance to compete for those jobs by having its laws friendly to the location of a backroom operation or an operation center that would deal with the processing of annuities in this State or will it not. The credit union issue is a direct parallel. Last year we dealt with that. Banks tend to locate their credit union jobs in States that are friendly to credit union business and I think the analogy definitely holds true in this case. Banks and credit unions will locate their operation centers in States that allow state banks to sell annuities.

This also is an issue of consumer choice. Currently consumers have only one place to go for annuities and that is to insurance agents. Currently a bank could have a client for twenty years, eighty years, fifty years, and not be able to give full service to that client when the client needs an annuity. That would send that referral, that the bank or credit union does now, to an insurance agent. It's actually referring a person to a full service financial institution because that, in fact, is what insurance companies are. Insurance agents can now issue home mortgages, can give you IRA's, can do financing of all sorts and do, in fact, do that. Therefore, the referral that I speak of, loses the bank a lot. I have here in my hand a prospectus from Prudential Insurance, with the card of a Prudential agent in the corner, it asks would you mind just completing the information below so that we may furnish you with complete facts on the programs which may be of interest to you. Then down at the bottom it says investment plans, mutual funds, CD's, check offs, certificates of deposit, first mortgages, home equity lines for credit, credit cards, IRA's. This is not a bank, this is not a mailing from a bank, this is a mailing from a Prudential agent. In fact, the turf issue that has been raging out in the halls, is one that I pose to you is quite blurred because, in fact, currently almost every product that a bank has traditionally offered is offered either by an insurance company or others. Think of you friendly Sears store, they now have one of the largest credit card operations, the Discover Card. Think about GMAC, it is now the largest mortgage lender.

Some people have worried about abuse of this move, the inherent opportunity for abuse and the Committee has addressed that in the Committee amendment which is actually what you have before you. I want to address the issue of abuse which is both coercion, will banks and credit unions coerce their clients into purchasing annuities, and will they play loose with information. Title 9B of the Banking Code deals with confidentiality and prohibits the transfer of information that is not authorized by any of us, the clients. That deals with the whole issue which has become a concern lately that will the information that banks have about their lenders be siphoned off into the insurance community and somehow give some agents an unfair advantage over others. That is illegal now and our amendment restates that. Secondly, the issue that is very key to this bill in terms of fairness of large state chartered banks and small state chartered credit unions and banks is one that we addressed which actually has caught the interest of the insurance community. That is one that allows insurance agents to be hired by banks on contract to come in one or two days a week to the bank to offer annuity service. If you look on your amendment, on page two at the bottom, here again the Committee has tried to address the transfer of information, keeping the information in the bank and addressing the concerns of the insurance agents who have said that they do not want to be at a competitive disadvantage with an agent who has this contract with a bank to sell annuities for two days a week. The language is as follows, "If the agent sells any insurance product other than annuities", that is the agent that is contracting with the bank, "in each instance the agent shall provide a written disclosure to the party purchasing the insurance product. The disclosure must state that in making this sale the agent is acting as an independently licensed insurance agent and not as a agent of the financial institution."

The last thing I want to bring up to you is some studies that have been done in other states. There are many states who currently allow state chartered banks to sell annuities and we can learn from them that there has been no diminishment of either the number of insurance agents, or the number of insurance agencies. In fact, for example, as a part of the legislative discussion that led to the approval of Virginia banks being allowed to sell annuities, a study of the impact of banks being allowed to sell insurance products, including annuities in North Carolina, was done. The study found no evidence that permitting banks in North Carolina to sell insurance products, including annuities, resulted in fewer insurance agencies or insurance agents. In fact what has happened is that allowing banks and credit unions into the annuity market increases consumer interest in this product because, to date, insurance agents who have been selling annuities have focused only on the high end segment of the market. What happens when you allow banks and credit unions into the annuities market it expands consumer choice, it expands the market, it expands the market down lower into the middle class and that is good for business and everybody gains. So I urge you to support the Committee Amendment "A", it is a bipartisan report, we put a lot of time and energy into it and I will listen to your comments. Thank you.

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

Senator **PEARSON**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a question through the Chair to anybody who may care to answer. If this Bill were to pass would it allow banks or credit unions to sell property and casualty insurance? Thank you.

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

Senator **MCCORMICK**: Thank you Mr. President, Ladies and Gentlemen of the Senate. No it absolutely would not. That would take a change of the insurance and banking code. It would take a vote of this body.

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

Senator **PEARSON**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a further question. Why is it that the lobby for the insurance industry claims that that is the case? Is that something that has been discussed before the Committee before. Could you give me a run down on why that is? Thank you.

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

Senator **CAREY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would say that yes, in fact that subject matter did come up in Committee and it was a very major concern of mine that while the person would in fact be licensed really just for that particular establishment to handle annuities and would not be able to discuss anything else, he or she might gain enough information to just say to the client who they were selling the annuity to that I'll see you at your house tonight and we can talk about your car insurance and your other insurances. I do have to remind you, too, that I am on the Ought to Pass Report. Thank you.

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

Senator **KIEFFER**: Thank you Mr. President, Ladies and Gentlemen of the Senate. As you know, I also serve on the Banking and Insurance Committee and this Bill came out of Committee with a vote of 7 to 6 Ought to Pass. I am on the Minority Report of that Committee. This has been, without any question, the toughest decision that I have had to make since I have been down here because of my long standing association with both the banking business and the insurance business. As the letter, which I circulated to you, points out, I served for about 19 years as a bank director and I own stock in the new bank that was recently formed in Presque Isle. The bank is doing very well. When I finally came down to the last day in making the decision, it certainly is a no win situation, whichever way I went I was going to lose some good friends I'm sure. I didn't come here to make friends I came here to make some hard decisions and this certainly is one of them. I don't believe that this is an annuity bill, that's the primary objection that I have to this Bill. I believe that it is nothing more than a foot in the door type of bill, it's the old story about the

camel in the feed tent. First is head is under the edge of the tent, next his shoulders are under there and next he's standing flat footed, all four feet, in the middle of the feed tent and he is pretty hard to get out. I think with the knowledge and personal relationship that exists, and that must exist, between bank customers and banks, for them to go out and market a product with the information that they have readily available at their fingertips. Any clerk in that bank can push a computer button and decide which of you have made any deposits during that week. I think that is not only a very unfair position to be in I think that it's unethical. I object to that. Personally if I ever received a call like that from my banker, which I could fully expect to, I'll change banks. I feel that strongly about the relationship that must exist to keep that personal relationship strong. I think it especially applies to the elderly. The elderly people implicitly trust their local banker. If this bill is passed you will just see these accounts rolled over and I'm afraid that they will not be adequately explained to the elderly in the community. An annuity is different than a savings account, it has an early withdrawal penalty as many of you know. Generally it's five years, sometimes it's longer than that. I just think it is a very, very bad relationship to establish even though it is limited at this time to annuities.

I'd also like to point out the fact that anyone's savings accounts or CD's that are in banks today are insured by the FDIC. That is not the case on annuities. I think that's a very important issue. There's also another important issue that I would like to point out to you and that is the regulatory nightmare that this Bill is going to create. Here we've got an admitted insurance product that's going to be handled by the banks. The Banking and Insurance Department is going to be faced with a problem here that they haven't been faced with before. Are we going to end up funding an additional ten or twenty or thirty employees over there in an effort to try to police this? I don't know the answer to that at this point and I don't know that anyone does. As far as small banks are concerned in this issue, I've talked to the two in my community. The big banks are no question, they are very much in favor of this Bill, the small banks are not necessarily so. That concerns me. This annuity money, whether it's sold by a life insurance agent or whether it's sold by a bank employee, is going out of state. There isn't any question about that. The only difference is is if the banks take all of these deposits and send them out of state for the purpose of a one time commission, where is their local money going to come from for the purposes of loans? Money, to a banker, is a renewable resource. It's loaned out over and over and over again. Once that money is taken out of an elderly person's savings account and rolled into an annuity it's not going to be withdrawn without penalty for a period of several years and it has gone out of the local community from an investment standpoint. I urge you to vote against the Majority Ought to Pass Report. 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. Senator Kieffer, from Aroostook, does not address in his comments the many studies that were presented to the Banking and Insurance Committee that noted the following: that consumers have benefited when banks

and credit unions have been allowed to sell annuities, that national groups and organizations like the Consumer Federation of America and Consumer Report support this issue, that no coercion or credit tie-in problems have occurred in the states where banks and credit unions are selling annuities, that Maine law and Federal law prohibit coercion or credit tie-ins as I have previously stated, that national studies have concluded that banks or credit unions have in no way abused consumer information or relationships, that allowing banks and credit unions to sell annuities has not led to a loss of insurance agent jobs or reduction in insurance firms, that allowing banks and credit unions to sell annuities does not result in banks and credit unions being able to sell traditional lines of insurances like life, health, auto and property, that no evidence or study suggests any problems in the 26 States where banks and credit unions are currently selling annuities, that allowing banks and credit unions to sell annuities has expanded the opportunities for small investors and middle income consumers for the purchase of an annuity, and that banks and credit unions last year sold \$12 billion worth of annuities out of a total of \$79 billion, that millions of consumers in other states had a choice of where they were able to buy annuities, that national banks in Maine and across the nation have already been authorized to sell annuities, and that L.D. 1051 will allow Maine's state chartered banks and credit unions to sell annuities, that L.D. 1051 is a parity issue, and that Maine consumers will benefit with the passage of this Bill. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm not aware of all of the figures that have been named off but I do know this, we have not had one consumer group or consumer organization appear before our Committee to say that there is a need for this Bill. I totally, totally disagree with that. 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. I, too, have been against this Bill for many years. It is with great trepidation because bankers are my friends, I don't know how many people would say that, but I have a lot of people in banking who I consider to be my friends and who I don't like to disappoint. I have to disappoint them once again because I will be voting against this Bill and for the very reasons that the good Senator from Aroostook, Senator Kieffer, has articulated so well. I considered not getting up at all because he had all of my arguments. The basic argument which you have heard is that it is an arms length transaction decision that we are making here. I understand that the good U. S. Senator, George Mitchell, still is on this same side. I checked that out again to make sure that he had not changed his position on banks selling annuities and to my knowledge he has not. The argument that he has always used is the arm's length argument. Further than that there are a lot of other things that are going on here. I have a list and you have to understand that I am no longer on the Banking and Insurance Committee so I'm not privy to the current arguments that are being put forth up in the Committee. I do have a list here of the States that are permitted to engage in insurance activities and I think there are like 22, but there

are 10 of those 22 who are permitted only in towns of fewer than 5000. I think anybody in this chamber can figure that out real quick and that's because there may not be enough agents in those towns of less than 5000 to make the availability there. What we are doing here is another turf battle. We always have turf battles in this legislature and this is another one of those turf battles. I have before me a communication that was sent out by the banks, successful life insurance and annuity distribution and marketing for banks. I don't deny anybody who is running a business and who has a product to sell from pushing that product but you have heard about our fears of less than arm's length transactions. What they have done is at 10:30 on May 24th, Monday, that had a seminar on distribution. How to leverage booming annuity sales to capture an increasing share of life insurance markets. Then you can go down through all of the things they were going to present. Strategies to penetrate the bank customer base, managing the bank customer interface in the moment of truth, instituting reciprocal referral programs with private banking and mortgage departments. I can go on but this says to you that this is a very aggressive push on, by the banks, to make sure that they capture as much of the annuities sales that they possibly can. The fear that I have is that that will cause the coercion of bank customers in order to get loans or be able to participate in other bank products. That's always something that everybody says will happen, I don't know whether that will happen or not but it certainly the potential is there for that to happen as well as the ability of banks to have an edge on the market that has been a traditional business, I suspect, since the 1700's, it probably started in England in the insurance business, and gone forward since then. What we are really doing is trying to displace one business in favor of another business which already has a very large business base. You're asking individuals who may, in fact, be private for profit entrepreneurs, who are selling these products now as licensed agents, now they are going to have to compete with licensed agents within a bank with a captive audience. I'm not sure that that is really fair.

The other issue that has been brought up is that national banks in Maine can also sell this product. That's true, they can, but the fact of the matter is that they don't because in Maine, under current law, and this law would change that, is that you have to be a licensed insurance agent in order to do that. The national banks as I understand it, correct me if I'm wrong, have not been willing to do that up to now. They want this bill in order to do that. Although I'm distressed at having to go against my good friend and fellow Senator from Kennebec, Senator McCormick, I wish she had stayed on my side. 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, too, and I assume it's probably the same with all of us, have friends who are bankers and friends that are insurance agents. I certainly understand the intent of this Bill from the banker's position, ever since CD interest rates have been dropping and dropping and dropping people that have money have been removing it from the banks and placing it in other places, such as the stocks, in an attempt to create some more income. I certainly don't blame the banks for searching for a way to hold the money, and this

is one of the ways and I guess I feel that it would be nice if I could support it. Like I said I do have a number of bankers who are good friends. I also have a lot of friends who are in the insurance business. For me to make up my mind exactly how I was going to vote on this Bill I asked a few questions. To some of my banker friends I asked how much more money would you make if I allowed you to sell annuities. They said well I'm on a salary, I don't have to go sell. I earn X number of dollars a year and I get a raise every year. So I went to my insurance friends and I said if I added competition to your occupation by allowing banks to sell annuities how would it affect you? Well it was difficult, of course, for them to say exactly how it would hinder them but the general opinion is that they work on commission. They do not receive a salary, they have to knock on doors and make calls and it seemed that for them to earn their income was an awful lot more work as far as the annuity sales then it would be if banks were allowed to sell annuities. I made my decision in that form, whether it's right or wrong, and I urge you to support the Minority Ought Not to Pass motion. Thank you.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In the past, as a member of the other body, I voted against this Bill and I know it's been lobbied rather heavily on both sides and I've told everyone that I have spoken with that I come to this session with an open mind. I've listened to the debate, it's been quite an educational experience, I do have a few questions that I would like to have addressed. If I may Mr. President, I have a series of questions that I would like to pose through the Chair to anyone who may care to respond. The Senator from Kennebec, Senator McCormick, referred to the potential for jobs and as the Chair for the Labor Committee I'm certainly interested in doing all that we can to provide for a greater number of high quality jobs in this State. Can she provide me with some information or is this more speculative than concrete? Can you give me some indication as to what the entry wage would be for any of these new jobs that are created? Secondly, with respect to someone coming into a bank where there is an insurance person there, maybe contracting with the bank for this purpose, could that person then use the information they garner directly from the prospective clients to then go to that client at some later date to pursue the sale of other insurance products? Lastly, during the course of the last several days I remember someone, I don't remember which side it was on, raised the issue of the matter of annuities and whether or not it is an insurance product or a bank product being under consideration in any number of judicial settings. If the good Senator from Kennebec or anyone else might have the responses to those questions I would appreciate hearing them. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would be glad to answer the good Senator from Androscoggin's question. Taken in the order that they were asked, the jobs issue first. There are two aspects to the jobs issue. The first is that, I don't know if you

have noticed this, but this Bill has been less heavily lobbied by the insurance industry this year than last, in my opinion. Last year I felt like a ping pong ball, I don't know how you felt, but I was sort of batted back and forth between the bankers and the insurance agents and I think that one of the reasons why you see fewer insurance agents here is because the way this Bill is written there is job opportunity here for insurance agents to contract with the small banks and credit unions who don't have the number of employees to train in order to get an annuities license. For instance, in my town I have the Monmouth Credit Union down in the center of town and it has very few employees that very well might, I expect, contract with the Davis Agency down the road and ask one of the insurance agents, who has an annuity license, to come in one day a week or two days a week and handle their annuities business if this were passed. In fact, let me give you an example, the Skowhegan Savings Bank, which has six branches in six different towns, is considering having contracts like that with six different agents. Six different agents spread around their business, so that is one example of opening up jobs and business just within that industry itself.

The other issue that I think you are referring to, which is as this annuity business grows, as banks and credit unions get into the business, which they are doing by the way, remember national banks will soon be selling annuities right here in our State, so let's not forget the parity issue, as they get into business and annuities reach farther and farther down into the middle class as a product that more consumers know about and understand, you are going to see a ballooning of the business that will create more jobs and that will probably create the need for operation centers for processing these products, similar to what we saw in the credit card industry. We had testimony from Richard Molineau, of Key Bank, who made that analogy and just made it very well. I'll just quote to you from some of his testimony, he says, "Because of competitive pressures, annuities backroom operations, which is paperwork processing, will be centralized somewhere just like it was with the credit cards. It doesn't make sense that we process credit cards in nine different States. If Maine wants to compete for those jobs, to maybe be a processing center we need to have our State laws in parity with the national laws, allowing State banks and credit unions to do what national banks do." Then he goes on to make analogies which I won't go over about how many credit card jobs were created just in the processing and so what we need to do, I think, is to pay attention to the climate that we have and whether we have a banking regulatory climate that is open to having Key Bank consider Maine a place where it might want to locate an annuities processing operation.

The second question that you posed was can agents, as I just described, who banks and credit unions contract with, can they use that information that they might gain in their work at the bank to their advantage in selling their insurance products once they put their insurance hat back on. The answer to that, as I quoted before in our Committee Amendment, that no, they have to disclose the fact that they are an agent to a bank. They also cannot take any information out of the bank, they can't take it with them, that is illegal. The more subtle question, I suppose, you might ask is if an insurance agent who has contracted with a bank happens to remember that someone dealt with an annuity they might want to offer car or property and

casualty products, that is probably a gray area and would be a restraint of trade if we were to try and curtail that. The relationships that people have, whether they be running into at the supermarket or whatever, is another issue. For instance, currently insurance agents who prospect regularly for customers for their annuity products go to court houses and look at mortgage closures and remortgaging of deeds. There are locations of date that people who sell annuities regularly go to to prospect, so that is currently happening.

Lastly, your question was is an annuity an investment product or is it an insurance product, and I would just like to read you, or maybe borrow from Richard Molineau again, since as you can see, I loved his testimony. I thought it was quite powerful and I was impressed that he came to speak to our Committee. He says that an annuity is a cross between a certificate of deposit and an IRA, because it is tax deferred. The IRS intends annuities to be used for retirement and imposes a 10% Federal excise tax on all annuities withdrawals made prior to the age of 59 1/2. Then he names other people, other entities, who think annuities are investment products, the comptroller of the currency thinks that it is an investment product and has stated, "Annuities are primarily financially investment instruments because they lack the basic insurance characteristics of indemnification against risk of loss." The U.S. District Court for the southern district offices also thinks that annuities are investment products and said that the Comptroller had made a reasonable interpretation when it determined that annuities are primarily financial investments. 26 other States seem to think that annuities are investment products because they allow the State banks and credit unions to sell annuities. USA Today thinks that annuities are investment products and referred to them as "One of the best selling investments at banks these days is an annuity". That's national banks in this State, not the 31, I bring up the parity issue. I guess that's the end of my answers to your questions. I'm sure they have engendered more. Thank you.

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Off Record Remarks

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I appreciate the good Senator from Kennebec, Senator McCormick's, response to my questions. I didn't quite pick up Senator McCormick on actually whether this was under consideration in any judicial setting. I heard some remarks about certain previous cases have made determinations but as I said earlier, I seem to recall someone in the hall mentioning to me that there are three jurisdictions that this is under consideration is and it comes to mind right now that one of those was the United States Supreme Judicial Court has a case pending where this issue of annuities and whether they are an insurance product or an investment product is to be determined. If that is not the case, or if you could clarify that I would appreciate it. You did touch upon the use of

information and it not being removed from the bank. Would that also include Jane Doe coming to the insurance agent under contract with the financial institution and saying my husband passed away and I have X number of dollars in insurance money coming to me. Sure, they say, here is our annuity plan and so forth, can that person, knowing who that person is because perhaps they go into that bank or they are well known around the community, then go to that person off hours, as it were, and say we're glad you bought the annuity, we think that there are some other opportunities that you might want to avail yourself of, or are you covered in terms of your own insurance needs, be they property, casualty or life insurance. Can that person use that information which may not be moved in any concrete terms from the bank and used elsewhere but simply in the mind or the notations of the agent. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If I may I would like to further expound perhaps on the jobs question from the good Senator from Androscoggin. As far as jobs are concerned I think in this particular case anything that is said is purely speculation and I don't see how it can be any different when it's very difficult in the unsettling times that banks have gone through in the past five or six years that you don't even know who you might be dealing with. How do you project jobs growth with the turnover that has existed in the banking industry. One bank that is there today may sell annuities if this Bill passes, next year, when they are either absorbed, or merged, or go broke, what is their successor going to be. I might point out to you that in the large bank that is in downtown Caribou, where I served on the Board, originally the sign, and you can still see it to this day, it reads Aroostook Trust Company and it has been painted over with a coat of white paint. Then, and this has occurred within about the last five years, then the name Maine National Bank went up. That was there for a little while and there was a white coat of paint put over that and you can see that today. Then, a short time later, Bank of New England went up, and I guess we all know the horror story about the Bank of New England. That was wiped out and you can still see that through the third coat of paint and today it says Fleet Bank. My good friend, Robin Grass, the Manager was here yesterday and I said the sign looks so bad it seems to me that you ought to design a sign there that could be put on and taken off with a zipper. I think it would be more appropriate. I'm concerned with that and I object to anyone who thinks that they can project job growth under those conditions.

Secondly, as far as whether an annuity is a banking or an insurance item, I think is really an academic question at this point. Annuities in Maine are regulated by the Insurance Department. Both the licensing and policing of them and regulations of annuity sales persons in Maine today are handled by the Insurance Department. 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. Just briefly, I would be remiss if I didn't tell you that both the Bureau of Insurance and the Bureau of Banking participated in the writing of the Committee

Amendment, they are both willing and able to cooperate in regulating the sale of annuities by banks, and credit cards, and to my good friend, the Senator from Androscoggin, I would have to relay you back to lines 39 through 48 of the Committee Amendment which, as I just said, the two Bureaus participated in writing. It is our best effort at keeping the playing field level when, in the case of insurance agents being contracted by banks to sell annuities. The reason why this is an important part of the Bill is parity with the small credit unions and banks. Small credit unions and banks are not going to be able to devote a whole training program, or a whole person, to selling this product and it is very important that they be able to contract with the insurance agents in town and that is why we have tried as best we can, and the two Bureaus have tried as best they can, to lessen any competitive disadvantage that those individuals might have when they go out back to put their insurance hat on. 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 pending question before the Senate is the motion by Senator **MCCORMICK** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in 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?

Senator **HARRIMAN** of Cumberland requested and received leave of the Senate to be excused from voting due to the appearance of a conflict of interest.

Senator **BUSTIN** of Kennebec who would have voted **NAY** requested and received Leave of the Senate to pair her vote with Senator **BRANNIGAN** of Cumberland who would have voted **YEA**.

Senator **HANDY** of Androscoggin who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **BALDACCI** of Penobscot who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

- YEAS: Senators **BEGLEY**, **CIANCHETTE**, **CLEVELAND**, **CONLEY**, **ESTY**, **FOSTER**, **GOULD**, **LAWRENCE**, **LUDWIG**, **MARDEN**, **MCCORMICK**, **PINGREE**, **SUMMERS**, **TITCOMB**, **VOSE**, **THE PRESIDENT** - **DENNIS L. DUTREMBLE**
- NAYS: Senators **AMERO**, **BERUBE**, **BUTLAND**, **CAREY**, **CARPENTER**, **HALL**, **HANLEY**, **KIEFFER**, **LUTHER**, **O'DEA**, **PARADIS**, **PEARSON**, **WEBSTER**
- ABSENT: Senator **CAHILL**
- EXCUSED: Senator **HARRIMAN**
- PAIRED: Senators **BALDACCI**, **BRANNIGAN**, **BUSTIN**, **HANDY**

16 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 4 Senators having paired their votes and 1 Senator being absent, and 1 Senator being excused, the motion by Senator **MCCORMICK** of Kennebec, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-399) **READ** and **ADOPTED**, in concurrence.

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

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

HOUSE REPORTS - from the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes" H.P. 1060 L.D. 1428

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-430)**

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

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

(In House, May 25, 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-430) AND HOUSE AMENDMENT "A" (H-427)**.)

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Amend State Law Regarding HIV Testing" H.P. 744 L.D. 1002

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-415)**

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

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

(In House, May 25, 1993, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**)

Senator **PARADIS** of Aroostook moved the **INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers, in concurrence.

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

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. With all that we have on our plates presently we don't need to take on something that is not broken. The government failed very very badly when it came to warning the American people about the outbreak of this deadly virus. Let's not compound our error by messing around with something that is not broken. We don't want to send the message out that we are turning back the clock and passing something that has the potential of discouraging people from getting the HIV test when they suspect that they have possibly contacted this disease. We want to continue slowing down this disease and we must encourage people to be tested. Our Bureau of Health is supporting us in this position. Right now they have done a wonderful job about warning us about a possible rabies outbreak so I urge your following our Majority Report. Thank you.

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. While I agree with the sentiments of my esteemed colleague on the Human Resources Committee, the Senator from Aroostook, Senator Paradis, I rise to ask you not to support the pending motion for a couple of reasons. The spread of the HIV virus is, indeed, one of the most difficult social issues of our time. I understand the people that she seeks to serve through her motion and I agree with her, but there are other people involved in this issue. If you read the Bill you will see that we are trying to help people who are accidentally exposed to blood or other body fluids, and it simply asks that if someone thinks they have been exposed that a test be done. In an effort to protect our firefighters, our police officers, our health care workers and others I don't think that is unreasonable to ask.

Second, it asks that if you have ever had a test for HIV or if you have ever applied for life insurance, it is generally part of a blood test that is done to check for other diseases as well as the HIV virus, there is a very lengthy process that you must go through to be informed. Indeed, State law requires that someone be given written, and indeed you must read it to the person, to make sure that they understand about the test. Second, you are required to give them counseling before the test, and in my case in the insurance industry, we are required to pay for it. Third, after the test is performed you are required to do post test counseling. In many cases people are irritated that you must perform these duties, they don't want you to read to them. They are fully capable of understanding the tests and what it seeks to do. Further, I think it is important that you understand that currently separate and distinct medical records must be kept and that in order for someone's medical

records to be transferred, to another doctor perhaps, the patient must sign two separate and distinct release forms, one for their medical records and one regarding their HIV testing. The penalty still exists for violations of confidentiality. No one is trying to impede someone's right to privacy in their medical affairs. Lastly, I would point out that all of the testing that has been done, particularly in the insurance industry, has not eliminated the fact that Magic Johnson found out that he was infected by the AIDS virus because he applied for life insurance. He was the one who brought it to the public's attention. There was no violation of his personal rights, no release of confidential information, he was able to make the statement himself.

While I fully understand and empathize with the goals of my colleague, Senator Paradis from Aroostook, I ask that you think of the other people who are involved in this issue. The firefighters, the police officers, other health care workers. I ask you not to support the Indefinite Postponement. 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. This week we had an interesting time adding to the moose permits and one of the points that was made that I bought was that we hire and pay good dollars to very experienced biologists to make those decisions, and most of us went along with those biologists recommendations. We have a Bureau of Health that is headed by one of the best people in the country. People are always trying to hire her away from us, they think this stinks. To respond to the issue of our health practitioners, we treat HIV prevention in Kindergarden, and how do we do it? We talk about infection, we talk about the virus, very simply. All of our health practitioners, at this point, are supposed to be treating every patient as if they are HIV infected. There is no reason to put HIV status on medical records automatically. We will be doing serious damage to a program that is working very well. We are not talking about heart disease or cancer or anything like that. We are talking about a situation here that, if it happened to any one of us, we would be dead meat tomorrow. We would not survive somebody saying that we were HIV positive. Do we want to start putting this information out to everybody? We have had incredible testimony from attorneys who said that if this information came out on their clients that they would automatically persona non grata, give up the case because you're going to be dying anyway so why should we even be talking to you. Again, I urge the Indefinite Postponement of this horrible Bill. 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 just rise to support the good Senator from Aroostook's motion. I will be voting in favor of Indefinite Postponement and I just want to raise one issue. This Bill is called the Dracula Bill, for good reason, while it has been pared down there is a very real rural issue that I want to raise for those of you who may represent rural districts like I do. Currently it is the public health policy of this State to encourage testing for HIV. We do that by having 9 anonymous test sites. It is important, it has been

shown in other States, it has been shown here, that people come to anonymous test sites because of the very social stigma that the good Senator from Cumberland has pointed out. In Aroostook county and in the rural areas it is very hard to get to an anonymous test site so people who want to be tested for HIV usually go to their doctor. If we put this new requirement that release of their HIV records happens without a special written consent, you will have a chilling effect on the number of people who go to their doctors in rural areas to get HIV testing and that is exactly what we need them to do. The Public Bureau of Health is opposed to this Bill, they have consistently asked and proposed policies that keep the avenues open for HIV testing and for anonymous testing. It has worked in other States, it has worked here. Please vote to Indefinitely Postpone this Bill. Thank you.

**THE PRESIDENT:** the pending question before the Senate is the motion by Senator **PARADIS** of Aroostook, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, in concurrence.

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.

25 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **PARADIS** of Aroostook, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, in concurrence, **PREVAILED**.

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

HOUSE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act to Regulate the Use of Aircraft for Surveillance Purposes by Law Enforcement Agencies"

H.P. 889 L.D. 1203

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-425)**

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

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

(In House, May 25, 1993, Minority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-425)**.)

Senator **HANDY** of Androscoggin moved that the Senate **ACCEPT** the Minority **UGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This Bill, when it came into Committee, disturbed me very much, coming from a law enforcement background. If you have read the whole Bill, which I would hope you have, it should upset you. I urged them to leave the Bill exactly the way it was but they decided not to, they decided to put an amendment on that would truly water this Bill down. There has been cases go before the U.S. Supreme Law Court and the U.S. Supreme Law Court has ruled that the open sky policy, open space, that it is legal for aircraft to do surveillance, to look over anything, any illegal activity, from the air without a search warrant. We were told that this Bill was brought before us because of several instances of helicopters blowing shingles off someones roof, scaring livestock and so on and so forth. When I looked around in the Committee meeting room, and people are there wearing T-shirts that say "Legalize Marijuana" I question the motive of the Bill, or the motive of the people who are there. This Bill now stands that without sufficient evidence that law enforcement would have to have a search warrant to fly below 400 feet. I can assure you that probably law enforcement is not that concerned, though if you had enough evidence to obtain a search warrant you could go in on foot, you wouldn't have to be flying around anyway. What would happen if this law is passed is the complaints that come in will skyrocket. People have a hard enough time measuring distance by eye on the ground, how far is 400 feet, you can ask 6 people, pick any number you want, to point out an object in the distance and you would probably get 6 different answers. I can assure you that it is twice as hard to determine the distance when you are looking up. I find it difficult myself and tell you or anyone else what is 400 feet and I don't believe any people are going to be able to. Therefore, when they see a helicopter coming over they are going to call up and say look the helicopter is over my land, it's within that 400 foot section, I want you to do something about it. It will be a big problem.

The law enforcement in this State have done a tremendous job at stopping the growth of marijuana in this State. One of the big reasons why they have been so successful is the use of aircraft, and especially helicopters. With the hovering capability and with binoculars, marijuana from the air, has a distinctive color. We have actually driven the marijuana growers inside because they fear these helicopters coming over head and having us in their crop that they worked so hard to produce all summer long. To me this would be a direct insult to all the law enforcement officers in the State to pass such a foolish Bill and I will urge you to vote against the Minority Report and put this Bill down where it ought to be. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We have been assured by the Chief of the State Police, who was just confirmed today, that if certain things were eradicated from this particular Bill he would have no objections to its passage. While that may clear up some of his objections it really doesn't clear up mine. We do have a problem with marijuana. To my knowledge it is still illegal in the State of Maine. It used to be that we could find these areas because they were growing in reasonably large areas, they were growing on other people's property, it

really gives you a problem as to who you might serve with a warrant if, in fact, the owner is not really aware of what is on his land. One of the things that really got me to thinking about voting Ought Not to Pass on this Bill, which I did, was the fact that the growers themselves appeared before us and said, because of the problems we are having, we had 180 plants out we have now had to start cutting it down into three fields of 60. So that if the cops found out that we had 60 plants some place we would still have a 120 plant reserve. They even went on to tell us how much smoking material you can get out of one plant and they thought that maybe five or ten pounds was reasonable for a person to have in his own possession. I would support the Senator from Piscataquis, Senator Hall. Thank you.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Let me say at the outset that those people who appeared at the public hearing on this legislation vehemently oppose this Bill and its amended cousin. Furthermore, an attorney representing the Maine Drug Enforcement Agency, worked to craft the amendment. In addition to that, Lt. Colonel Alfred R. Skolfied, whom this body just confirmed as the new Chief of the Maine State Police, offered this letter to the Chairs of the Legal Affairs Committee. "I am writing in regard to L.D. 1203, "An Act to Regulate the Use of Aircraft for Surveillance Purposes by Law Enforcement Agencies", the Bureau of State Police support enactment of L.D. 1203 as amended by the Committee Amendment "A", provided the amendment contains the changes we requested in the part designated Section 1, subsection 4. That portion of the Bill outlines limitations on law enforcement officers participating in marijuana eradication. If you have any questions please contact me. Sincerely, Lt. Colonel Alfred R. Skolfied, Deputy Chief". Below 400 feet is pretty low and that does get into an area where I think individuals have a right to invoke their constitutional rights to unreasonable search and seizure, therefore requiring law enforcement agencies to procure a search warrant for flights below that.

There are clearly exceptions made in the Committee Report. Flights may be made for emergency purposes, they may be made lower than 400 feet without a search warrant. They may be made for search and rescue operations below 400 feet without a search warrant. They may be made by law enforcement officials who are seeking to track down these people who grow marijuana lower than 400 feet if they can't get to that place by any other means. There are enough safeguards in this Bill from the standpoint of protecting an individual's rights as well as protecting those citizens who find this illicit practice going on. It doesn't impede the drug enforcement agencies or any other law enforcement agency, in fact, they believe it helps them. I urge your support of the Ought to Pass Report. Thank you.

On motion by Senator **CARPENTER** of York, 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 Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I just want to make sure that members of the Senate understand that the person we did confirm here this afternoon, whom I have tremendous respect for, has signed off on the language of this amendment. He has circulated a letter supporting this amendment. It is not often that you get law enforcement authorities to go along with curtailing their activities by way of putting something into statute to curtail them. Why did he agree to it? He agreed to it because he knows that there are many citizens out there who felt their ability to quietly enjoy their land, law abiding citizens, was being interfered with. We entrust law enforcement with very special responsibilities. In a free state we ought to look over those responsibilities very carefully. In the name of trying to eradicate crime, or eradicate marijuana in this instance, someone can hold up almost any reason to allow any type of activity. It was not long ago that the citizens of this state said they didn't want test missiles flying over this State. It's good for the Navy or for the Defense Department to fly those missiles to see if they work well, but the citizens of this state said they didn't want those types of projectiles flying over their land and interrupting their ability to quietly enjoy their land. We ought to be able to expect some sort of privacy here in this State and Mainer's stand up, as independent people, who take pride in their privacy. These regulations are very reasonable and if they weren't Colonel Skolfied would not have agreed with them to begin with. We ought to go along with the Minority Report here. 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. I'd like to address this letter, I also have one in front of me. I would also like to remind the members that quite often when a Bill comes before the legislature that different departments look at it and just in case it should happen to pass then it is best to change it if we can with an amendment, so as not to tie anybody up too tight. I don't see the Colonel here so I am not able to ask him if that was indeed his intent, in my mind that was his intent, in case it passes let's make it as weak as possible and I am going to urge you not to let that happen at all. I will remind you that there are many police chiefs out there, County Sheriffs, and I don't think that we want to be sending the wrong message across this great State. I will urge you to vote against the Minority, I remind you, the Minority Report. Thank you.

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

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

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

- YEAS: Senators BUSTIN, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PINGREE, TITCOMB, VOSE
- NAYS: Senators AMERO, BEGLEY, BUTLAND, CAREY, CARPENTER, CIANCHETTE, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, PARADIS, PEARSON, SUMMERS, WEBSTER, THE PRESIDENT - DENNIS L. DUTREMBLE
- ABSENT: Senators BALDACCI, CAHILL
- PAIRED: Senators BERUBE, BRANNIGAN

12 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 2 Senators having paired their votes and 2 Senators being absent, the motion of Senator **HANDY** of Androscoggin, to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act to Amend the Occupational Disease Law  
S.P. 216 L.D. 687  
(C"A" S-92; H"A" H-365)

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**

(In Senate, May 21, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-92) AND HOUSE AMENDMENT "A" (H-365)**, in concurrence.)

(In House, May 25, 1993, **PASSED TO BE ENACTED**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act Authorizing a Referendum to Ratify the Texas Low-Level Radioactive Waste Disposal Compact with Maine and Vermont and Approving the Compact's Terms" (Governor's Bill) (Emergency) H.P. 1141 L.D. 1541

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

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

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

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on **HUMAN RESOURCES** on Bill "An Act to Improve Child Care Services in the State" H.P. 565 L.D. 762

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-435)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-435)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-435) **READ** and **ADOPTED**, in concurrence.

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

Under suspension of the rules, ordered sent forthwith to the Engrossing Department.

**ORDERS OF THE DAY**

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

HOUSE REPORTS - from the Committee on **UTILITIES** on Bill "An Act to Amend the Laws Governing the Conversion of Fuel Systems" H.P. 284 L.D. 371

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-348)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-349)

Tabled - May 25, 1993, by Senator ESTY of Cumberland.

Pending - ACCEPTANCE of Either Report

(In Senate, May 24, 1993, Reports READ.)

(In House, May 21, 1993, Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-348) Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-348).)

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:

**Emergency**

An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 1993-94

H.P. 859 L.D. 1168  
(C "A" H-310)

Tabled - May 25, 1993, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In Senate, May 21, 1993, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-310), in concurrence.)

(In House, May 24, 1993, PASSED TO BE ENACTED.)

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

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

**Mandate**

An Act to Ensure Compliance with Existing Energy Efficiency Building Standards

S.P. 241 L.D. 734  
(H "A" H-323 to C "A" S-102)

Tabled - May 25, 1993, by Senator ESTY of Cumberland.

Pending - ENACTMENT in NON-CONCURRENCE

(In Senate, May 18, 1993, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-310) AS AMENDED BY HOUSE AMENDMENT "A" (H-323) thereto, in concurrence.)

(In House, May 24, 1993, FAILED OF ENACTMENT.)

On motion by Senator CLEVELAND of Androscoggin, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED its action whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

On further motion by same Senator, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (S-102) As Amended by House Amendment "A" (H-323) thereto, in concurrence.

On further motion by same Senator, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED its action whereby it ADOPTED House Amendment "A" (H-323) to Committee Amendment "A" (S-102), in concurrence.

On further motion by same Senator, House Amendment "A" (H-323) to Committee Amendment "A" (S-102) INDEFINITELY POSTPONED in NON-CONCURRENCE.

On further motion by same Senator, Senate Amendment "A" (S-223) to Committee Amendment "A" (S-102) READ.

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

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. I appreciate the opportunity to speak briefly on the motion to what I have done. What I have done is I have taken off House Amendment "A" to Committee Amendment "A". House Amendment "A" was a mandate preamble that was interpreted that there was a mandate to local municipalities. I've removed that and I have substituted language in Senate Amendment "A" that would remove any question that there is any mandate on the local municipalities. What the Bill simply does is provide an enforcement mechanism for already existing standards for energy efficiency in commercial buildings. They have been there since 1988 or so but there has never been a mechanism to see that they are enforced and quite frankly, we have information that they have been regularly not abided by. We have included both commercial and institutional because that was the original language of the Bill when it was passed and it has been interpreted that institutional is a mandate on the local municipality, I removed that provision so that we are just dealing with commercial and institutional buildings that are not owned by any local unit of government. I'd be glad to answer any further questions if there are any. 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 pose a question through the Chair. The way I would interpret this amendment is it is okay to mandate on

everybody else but not on the municipalities. Is this what this amendment says?

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

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This Bill doesn't mandate anything on anyone. As I said before, these are standards that are in statute, they are currently there and they are supposed to be abided by. There hasn't been a mechanism to ensure that people abide by them. The standards would still apply for municipalities, or any other locality, those statutes haven't been changed and will not be changed. However, since the enforcement mechanism, which is simply the signing of a certificate by the owner saying that yes, the building has been constructed and built to meet those energy design criteria, will not be required of any municipality to sign that certificate, they will still be obliged to abide by them like we all are.

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

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I like to ask another question. Assuming that this homeowner, a contractor or a homeowner, does not have this certificate, what would the impact of that be on the resale of the property or future expansion. How much government regulation are we going to force upon these people to force them to sign some certificate. I'd like to know more about this, most of us are probably not any more aware of this than I am, I would just like to know what we are doing here that is necessary and is not already covered by law.

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

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This does not apply to any homeowner, this deals only with commercial buildings, it does not deal with residential buildings at all. These are simply standards for commercial buildings, they are standards that are already in statute, have been in statute since the late 1980's, they apply to what is known as the Ashray Standards, which is a national standard for heating and air conditioning engineers. These standards are nothing new, they don't apply to homeowners or private homes or contractors. What it simply says is when a new building is to be built, according to the statutes, they are to be built according to the Ashray Standards, which is the normally accepted national standards for energy conservation in commercial buildings. What this would require is that before permanent electrical service could be provided to the facility, that the utility would receive from the owner of the property a piece of paper that says that the owner confirms that, yes, the building has been designed and built to those standards. Then that would be filed at the Department of Economic and Community Development, in their Energy Department, and it would be on file there. It creates no new bureaucracy, no new positions anywhere within the system, and any modest fees that may be required to make sure that the

utilities kept hold for the services that were required, and asking for this certificate from the owner of the building, would be signed and sent forward. That is simply all that this Bill does. 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. It would seem to me that this is one addition hoop that someone somewhere would have to jump through to expand or build a building or try to create some more jobs in Maine. For that reason I would move the Indefinite Postponement of this amendment.

Senator **WEBSTER** of Franklin moved the **INDEFINITE POSTPONEMENT** of Senate Amendment "A" (S-223) to Committee Amendment "A" (S-102).

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Senator Cleveland and myself discussed this amendment and, this Bill incidentally had a unanimous Ought to Pass Report from our Committee, I would think that everyone in this body would want the builder, the architect, whoever is involved, to adhere to the energy standards that we now have. We have had no way of assuring that that was done. This is simply a method to assure people and put on record that these particular efficiency requirements were adhered to. It's a good Bill, it really is, and I hope that you will vote against the pending motion. 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. This is my Committee, Utilities, the Bill has been in effect for a number of years and I also urge that you vote against Senator Webster's, of Franklin, motion. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **WEBSTER** of Franklin, to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-223) to Committee Amendment "A" (S-102).

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.

5 Senators having voted in the affirmative and 24 Senators having voted in the negative, the motion of Senator **WEBSTER** of Franklin, to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-223) to Committee Amendment "A" (S-102), **FAILED**.

On motion by Senator **CLEVELAND** of Androscoggin, Senate Amendment "A" (S-223) to Committee Amendment "A" (S-102) **ADOPTED**.

Committee Amendment "A" (S-102) As Amended by Senate Amendment "A" (S-223) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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

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

Bill "An Act Regarding Certain Property of the Department of Mental Health and Mental Retardation"  
H.P. 250 L.D. 329  
(C "A" H-389)

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

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

(In Senate, May 25, 1993, **READ A SECOND TIME.**)

(In House, May 24, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-348).**)

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

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

Bill "An Act Regarding the Department of Environmental Protection Rulemaking"  
H.P. 861 L.D. 1170  
(C "A" H-317)

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

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

(In Senate, May 21, 1993, **READ A SECOND TIME.**)

(In House, May 19, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-317).**)

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

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

Bill "An Act Related to the Adoption of Municipal Ordinances and Comprehensive Plans and to Revise Notice Requirements for Certain Zoning Changes"  
H.P. 864 L.D. 1173

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (H-343), in concurrence

(In Senate, May 21, 1993, Committee Amendment "A" (H-343) **READ.**)

(In House, May 20, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-343).**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ADOPTION** of Committee Amendment "A" (H-343), in concurrence.

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

HOUSE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Require that the Clerk-of-the-works on State Construction Projects be Employed by the Owner, not the Architect"  
H.P. 219 L.D. 287

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-382)**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**

(In Senate, May 25, 1993, Reports **READ.**)

(In House, May 24, 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-382).**)

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE.**

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

HOUSE REPORTS - from the Committee on **UTILITIES** on Bill "An Act to Ensure Economic Benefits from Purchases by Generators of Nuclear Power"  
H.P. 289 L.D. 376

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-347)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 24, 1993, Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-347)**.)

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:

SENATE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act Establishing Weapons License Reciprocity"

S.P. 388 L.D. 1183

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-209)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Majority **UGHT TO PASS AS AMENDED** Report

(In Senate, May 25, 1993, Reports **READ**.)

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I didn't want to go on record as the single signer of the Minority Ought Not to Pass Report. Fundamentally I have one problem with the Committee report, it does deal with reciprocity for law enforcement officers, and I have no difficulty with that provision, however, the problem I do have with the Committee report is the last provision in the Bill which provides for reciprocity for anyone who holds a concealed weapons permit from another State in New England coming into the State of Maine. Given that, I cannot support this Bill and that is why I signed the Minority Ought Not to Pass Report and request a Division.

Senator **HANDY** of Androscoggin requested a Division.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a question through the Chair. In looking at the amendment it appears that there is a fiscal note, or a loss of revenue to the State, over the biennium. Is that accurate? Could someone answer that question?

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

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In answer to the question that amount of money would be correct if all States, or all persons in all States, who buy a non-resident, out of state permit to carry a concealed weapon in this State. That is not the case because now this Bill has been amended to include only New England States. The only other States, New Hampshire and Massachusetts Legislatures, both have these Bills before them. It has passed in the House and Senate in New Hampshire. Vermont does not have such a program, so anyone from Vermont coming into Maine wanting a permit will continue to buy one. I have not heard how it is going in Massachusetts. I'm not 100% sure that it will be signed by the Governor or what the final outcome may be in New Hampshire. To answer your question, that figure is high. That is extremely high. That would be if all the States had done the same thing that we are doing now, which of course is not going to be the case. Thank you.

**THE PRESIDENT** The pending question before the Senate is **ACCEPTANCE** of the Majority **UGHT 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.

26 Senators having voted in the affirmative and 6 Senators having voted in the negative, **ACCEPTANCE** of the Majority **UGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-209) **READ** and **ADOPTED**.

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

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

HOUSE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Eliminate the Prescription Requirement for Hypodermic Syringes" H.P. 587 L.D. 791

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-388)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 25, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-388) AS AMENDED BY HOUSE AMENDMENT "A" (H-418)** thereto.)

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

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This is another Bill that is a very important prevention piece to our whole Human Resources Committee agenda this year. This would remove the requirement that a person have a prescription, or be an authorized user of needles, to obtain a hypodermic apparatus. This Bill allows a person who is 18 years of age or older to purchase hypodermics from an authorized seller, like a pharmacist or manufacturer. Again, we feel this public health policy is important and we had the backing of about 300 public health professionals who told us that throughout the State we have a strong commitment to maintaining and improving the health of Maine's people. Sharing needles and syringes is the second most common route of HIV infection and is also a significant factor in the transmission of Hepatitis B and in serious, life threatening infections such as Endocarditis. There is no evidence from other States to suggest that removal of the prescription requirement of syringes would encourage drug use or crime. Instead, there is evidence that a barrier of this sort does not reduce illicit drug use. Drug users share needles because they cannot legally buy them without a prescription. The enactment of this proposal could result in a decreased rate of HIV among intravenous drug users, as has occurred in other States. In Maine, drug users are the second largest group of AIDS patients. We also know that sharing needles is the predominant mode of transmission of HIV to women and their children. 70% of the women and the babies acquiring HIV do it because of an infection they pick up from somebody who was infected because of the needles. The cost, financial and otherwise, of HIV, AIDS, Hepatitis B, and other serious illnesses, in which contaminated needles may be a factor are considerable. We believe that these costs far outweigh the hypothetical risks posed by removing the prescription requirement. The State of Connecticut found themselves to be the highest rate of AIDS cases because of IV drug use in the United States. After conducting a pilot needle exchange in New Haven, new HIV infections decreased by 33%. Connecticut lawmakers voted to remove the prescription requirement for hypodermic needles last year. I urge you, as a major public policy issue, none of the evidence that we saw in all of the communities that have gone this way, have seen any increase in drug use. However, they have found this incredible savings in public contamination and the financial health care savings as a result. I move for this Bill and I appreciate your support. Thank you.

Senator **ESTY** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm following this with a good deal of interest and I am perplexed. I think I understand the gist of the

argument, that if it is made available they won't be using other people's needles and therefore there will be less risk of the spread of disease. I understand what the good Senator from Aroostook said with regard to the New Haven project, and I was familiar with that, what I would like to know is, when the Committee took this up, did they consider if Maine did it how would it impact Quebec, New Brunswick, New Hampshire and Massachusetts. Do they allow nonprescription needles or not, because if we do do this, and we are the only ones that do, people from other States and Provinces will be coming in and getting needles. I know that this is a problem because, as I have told you so many times before, my father was a doctor and he was one of those that made calls. He used to have a little black bag in his car and it got stolen for the needles. We had to take it into the house every night after that, when the world began to change. So I know there are people who want needles real bad. As a matter of fact, my family has a box of them in the cellar because when he died we didn't know what to do with them, because we knew it was illegal to have them in our possession. My father was a doctor and he had some left over when he died and it has been one of those things that we have always kind of tried to figure out what we were supposed to do with them. 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. I do have tons of material on this but there is nothing that speaks specifically to our neighbors. Connecticut is doing it, and some other States, Hawaii, California, a lot of communities like Chicago, Indianapolis, Boston. That never, in all the hearings that we had, never came up as an issue that people would come in from elsewhere. We were told that another problem with syringes is the fact that they were disposed of in the streets and people would find them all over and it was very unhealthy for children. They found that once you allow people to buy them at a pharmacy they dispose of them appropriately. Another issue that came up is some of the young people who are diabetics and who have syringes at this time, they are often in a lot of trouble with people, you know they are in college dorms, and people are raiding them. All the evidence we saw pointed to the fact that it does not exacerbate a problem that we are concerned about but it did make everything else a lot better. Thank you.

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise in opposition to the pending motion for one basic reason and that is the public policy statement that this Bill presents. Let me say at the onset of my remarks that, once again, I agree and concur with my colleague on the Human Resources Committee, the Senator from Aroostook, Senator Paradis, about the goal we are trying to accomplish here. What you haven't heard, which was significant to me, was that the undercover police officers who testified, the people who work the streets who testified, who said to us why would these people who use intravenous drugs go and spend the money to buy syringes when they can clean their needles by using household bleach, which is significantly cheaper. I have to ask you, are we really creating a way for people to do things safer? The second thing that struck me was that while we sought to talk about proper disposal of these needles, I don't recall a good solution that

came from it so that again, children or waste haulers or law enforcement officials or what have you, who may come into contact with these used syringes would be protected. I agree with the goals in the Bill, I'm opposed to the philosophy of what this public policy message is that we are sending. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It would occur to me that if someone had to have a prescription for needles and hypodermic apparatus, that would mean that they would also need a prescription to use in that apparatus. Therefore, they would not mind having a prescription, because one goes with the other, I would assume. If you then say you don't need the prescription, the only people then that would be buying this apparatus would be those that don't have a prescription for anything and would be using it for a different reason. Does that make sense? It really kind of makes sense to me. That if you, indeed, have to use a hypodermic syringe and needles, you do have to have a prescription to go with them. Those people aren't complaining that they have to have a prescription. Are they complaining? Have I missed something? I don't understand why others that don't need a prescription need to have the syringe and the needles. I think I know why but I don't think that is the reason why they should get them without a prescription. Thank you.

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

Senator **GOULD:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't want to prolong this debate because I am in favor of this Bill. One of the reasons why I am in favor of it is because we have got diabetics out there who don't need a prescription for their insulin. It seems ludicrous to me that people who come from out of state into the State of Maine with their insulin and forget their syringes, and it has occurred in my pharmacy over and over, then I would have to send that patient to the Waldo County Hospital or a hospital or a doctor to get a prescription. I could call New Hampshire, or Rhode Island, or Connecticut and ask them if they have the prescription on file. Some states don't require a prescription for syringes. It was perceived, some years ago, back when this was passed, that it would stop drug use. We all know it did not stop drug use. I'm saying I'm in favor of this Bill, the people that voted for this Bill, you've got two RN's there and you've got me as a pharmacist and you've got Joe Bruno as a pharmacist. 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. Just on the testimony that we received from police departments, we had one officer who came and said that he read an article in the Boston Globe once and saw a TV program, 60 Minutes, dealing with this issue. He had no specific information and it didn't go over well with the Committee. One concern that we had from another police department was when you are patting down people, if these people are carrying a hypodermic needle you might get pricked by it, but I don't see that that was relevant at all to our issue. Thank you.

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

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.

24 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **ESTY** of Cumberland, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-388) **READ**.

House Amendment "A" (H-418) to Committee Amendment "A" (H-388) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-388) As Amended by House Amendment "A" (H-418) thereto, **ADOPTED**, in concurrence.

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

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

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

**HOUSE REPORTS** - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Promote Financial Responsibility and Family Planning" (Governor's Bill) H.P. 1115 L.D. 1510

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-414)**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **HARRIMAN** of Cumberland to **ACCEPT** Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 25, 1993, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

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

Senator **PARADIS**: Thank you Mr. President, Ladies and Gentlemen of the Senate. This issue came up repeatedly during our deliberations. Much as I have been very delighted for the past couple of days when we passed the seatbelt law and we passed the smoking bill that would restrict a lot of problems that would cause us to spend a lot of our precious health care dollars, I find that this Bill is absolutely not one that would be much of a cost saving measure. As Associated Press reporter, Francis Quinn, says, it's probably one of those bills that is a 'feel good' bill. It might play well at home. We are sending very, very serious messages with our welfare reform package that we have in our Committee. We chose not to use this one because it's really a very specious argument. We found, for example, that limiting the women on welfare to one child and if they got pregnant again we would now remove the \$100 a month you get for each child, it would be virtually unenforceable. She would be brought in to speak to an administrative officer who would determine when the act of intercourse happened and if it was an act of violence or an inappropriate type of happening that is not reportable but was beyond her control, or if it was simply a contraceptive failure. I can assure you that just cause would be found and that is the thing in the Bill but if you can prove to a bureaucrat that there is just cause this will not be held against you, this pregnancy.

We also had testimony that this would definitely lead to more abortions. I'm sure that is something that we don't want. Some of us legislators had children when we were children and we would hate to have had somebody, at that time in our lives, just be so invasive of a situation that is not very pleasant. We have thought very seriously about this problem and that is one issue that we are working very closely with the Education Department on. For many cases when these children are getting pregnant they are children, so we have some extensive work we are doing with at risk students to try to prevent this from happening. The numbers are plummeting as we speak. The average AFDC family now has 1.8 children. So 8.8 had another child while they were on AFDC so we do not see it as the problem that it is purported to be. Again, I hope you will not vote for the Minority Report. 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. Most of us who serve here spend time campaigning throughout our districts, talking to constituents, to voters, asking them what they are concerned about, what we should do as legislators and anyone who represents a rural area in the State heard the things I heard. People in this State are, indeed, frustrated, as they should be, many people who live outside of Maine consider Maine the Welfare State, a place where if you are on a government program you are better off than if you're working in a factory. It ought to be a concern to us as legislators, the kind of message we're sending to people outside of this State. People I represent who work in factories, frankly, would be better off, instead of making \$6.70 or \$7.20 an hour or whatever they're making, they'd be better off on a government program because of the current welfare structure we have here in this State. This is a very important issue to a lot of people in rural Maine, it may indeed be only a sugar coating kind of bill, it may not do what the public out there thinks

it will do, but it's a very, very, very important issue. The people in this State, who are working hard to pay their taxes, to pay their mortgage, to take their wife or their husband out to supper once in a while, this is a big issue with real people. People who don't have time to come and testify in front of the Human Services Committee. People who don't have time to come here to the legislature. I challenge any member of this legislature, House or Senate, Republican or Democrat, to tell me that if they've gone out and campaigned in this State that they have not heard that this is a problem. Not this one issue, but the whole welfare situation in Maine. This is one step in the right direction and I want to be recorded in favor of this Bill. I commend the Senator from Cumberland, Senator Harriman, for standing up and representing people in his area on this issue and I would ask for a Roll Call. Thank you.

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 Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise to ask you not to support the Minority motion on this Bill. When the good Senator from Franklin, Senator Webster, speaks I always try my hardest, and sometimes it is difficult for me, to find a gem of truth in what he is saying. I must agree that as I campaigned, many of my constituents or would-be constituents mentioned to me their concern about the welfare system. Their concern was that this often becomes a family legacy. That people get involved in the system and their children then get involved in the system and that it's very difficult for them to get off from AFDC at any time in their lives. I think that's something we need to address. I applaud the efforts of the Human Resources Committee and look forward to any legislation they may be putting on the table in regards to welfare reform. I am concerned though that this Bill does not address welfare reform. I think that we send the wrong message to our constituents by supporting this Bill because I think it is a 'feel good' measure that says yes we did something about welfare reform, we asked women to be more responsible. In fact we are doing very little and causing a lot of damage, I think, by this Bill.

The figures that I have heard is that this will save the State about \$118,000 over the next two years. This represents \$112 a month that these mothers will get if they have an additional child. I think that the real questions in the AFDC issue, or welfare issue, are about job training and health care. The women I met, when I campaigned or who I have talked to since I've been a Senator, who are concerned and are on AFDC say to me, I would like to have a job, I would like to have a job that would pay me enough so that I can get off of welfare and I would like to have medical benefits so that I don't have to worry about taking care of my one or two children, or how ever many children that they have. No mother today is going to give up her Medicaid card if she knows that she puts her children at risk. I think those are the real issues around welfare reform and the real questions that we have to be considering today.

I think the other problem about this Bill is it makes women the scapegoats and says that it's all their fault. If they would just stop having all

those babies and do something everything would be all better. I think that we have to look at this system and think about it in a different way. I believe that now is the time to ask people to be more responsible but I would much prefer to ask people to get involved in job training and go back to work rather than to do what we are asking for in this Bill. I have to say if we're going to ask people to be responsible are we going to ask men to take responsibility? Are we going to make sure that we tighten up the laws about deadbeat dads? I would suggest, if this kind of bill is appropriate, then why don't we say every man who has fathered a child who then becomes an AFDC recipient should have a vasectomy? I think that we have to look at both sides of the coin and it is very unfair to place all of the burden on women. The fact is, in the end, it's the children that we hurt and I think we have to take that into consideration and I ask you not to support the Minority Report. 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 wasn't planning on this but I rise today for my constituents but also the waitresses that serve me coffee at 6:00 a.m. at the Senator Inn. They are very politically aware women. I come in in the morning at 6:00, have my newspaper and they ask questions and they ask very difficult questions for me to answer. This morning, specifically, one even sat down when she had a moment, it was before they open up so I guess it was permissible, and she told me that she is a single parent with three children. She works 40 to 60 hours a week and she makes do. Yet some of her acquaintances and people that she knows around town are collecting welfare and having more children and getting more money and telling her that she ought to quit working and start collecting. This is not just one of the waitresses up there, all of them are hard working and they all have acquaintances that they feel are milking the system. I understand that it maybe doesn't save an awful lot of money but the public perception of this practice is very, very widespread. Whether what one side says is absolutely correct or what the other side says is absolutely correct I'm not sure, but I tell you these women are sure. They say the system is being ripped off big style. Thank you.

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise as a member of the Human Resources Committee, once again, who supported this Bill. I ask you to do the same because supporting the Minority Ought to Pass Report will be part of a much needed change in public perception of people who need our help in the form of Aid to Families with Dependent Children. Indeed society, our society, has stigmatized our citizens who need this assistance. Public policy makers who have developed this entitlement program have to share some of the responsibility for this impression the public has. I've learned that it is practically impossible to break away from the AFDC program. If a recipient does try to go back to work, the first thing this program does is to remove them from the Medicaid Insurance program. If they earn over a certain dollar amount per month do you know what the reward and encouragement is from us, as public policy makers? The entire elimination of their entitlement.

On the other hand public policy says we understand and support the notion that you can have more children, and as a result we will increase your entitlement. Please don't misunderstand, this Bill does not say you cannot have any more children, this Bill does not say you must become sterile. I seek your support for this Bill today not because it seeks to harm those who need this entitlement, but to help change public policy and promote responsibilities. Opponents of this Bill will purport that we do not have the ability nor the right to intrude into their private, intimate lives to determine how they came to have another child. To me that's not the issue. Take a step back, way back, before that child is even conceived. Instead, picture the person who needs our help. As part of the assistance process, recipients need to know that we are there to help them and in turn they need to help themselves by recognizing that having another child is not in their best interest at this point in their life. This Bill has built-in empathy, or safeguards if you will. For example, if someone adopts a child we will take care of it, if a recipient does have a child they can come back a year from now and reapply and they will be covered, third, the Department of Human Services is given discretion in circumstances that may be truly unique to that individual, perhaps religious convictions to name but one. You should also know that we have a program in Maine that says if you are at 185% of Federal poverty or below, we will pay the cost of your prenatal, your delivery, and your postnatal care at no cost to you. Clearly, we will not be affecting the ability for poor people to get proper medical care for themselves and their child. In addition, the Food Stamp program would enable AFDC recipients who have additional children to receive more food for the nutritional needs of their children.

Although I did not have a chance to listen to the radio this morning I understand this was a subject of much discussion on the local radio station, as a result a constituent of mine from Durham, Joan Boucher, called me. Joan is a medical assistant, she works in a primary care physicians office in Portland. 80% of the patients they serve are on Medicaid. She called to tell me how much she appreciated this Bill because it's needed, that, indeed, this is a matter that the public policy should change. If we're really interested in changing public perception and truly assisting these needy citizens, then we must realize that there are as many, and perhaps even more, working poor people in our State who do not have the same opportunities for additional children. Indeed, they must take into account their ability to pay. The deductables, the co-payments, the postnatal care and so forth. The diapers, the food and so on. We must be thinking of them. How many of you who are here in this chamber or who may be listening to my remarks outside of this chamber got a pay raise every time you had an additional child? Shouldn't we recognize that we all have to assume responsibility for the choices we make? This Bill does that. It also restores integrity and mutual respect for the people these programs seek to serve. 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. In response, first of all, to the comments of the good Senator from Knox, Senator Pingree, no one has convinced me yet that this legislature will pass anything meaningful in this area. I am hopeful, not optimistic, that we're going to do anything

meaningful to change the welfare system here in the State. I think this may be our only chance and I hope you will support this. As I travel and talk to people in the State and in my district they ask me how Maine's budget became so out of whack with our revenues. I share with them a simple story which I shared with the Senate back when the good Senator from Cumberland, Tom Andrews, was here who, as many of you know, now serves in Congress. I shared the story with him then and I'm going to share it with the Senate at this time. The problem with Maine is that we have changed. The legislature, the views of legislators, has changed over the last ten years. Ten years ago we knew, just like everybody in Maine knew and in most New England States knew, that it was not a good policy to send a fire department out to get a cat out of a tree. We knew that no one had ever seen a skeleton of a cat in a tree. In Maine things have changed. Ten years have passed. Today we think that we're different than New Hampshire and Vermont and Massachusetts, and most New England States. We have a different philosophy. Now we believe that if the cat climbs up the tree that we should go get him. If he climbs up a second time we believe that we should go back and get him a second time. Ladies and Gentlemen, if this cat climbs up a tree a third time we go and we build him a house and we feed him. Ladies and Gentlemen, we have to begin to look at what government does. We're doing more than our taxpayer base can afford, it's that simple. When the good Senator from Knox, Senator Pingree, made reference to the fact that people can't get off welfare I need to tell you that I have several thousand people in my district who don't have health insurance, who aren't able to eat the way many people who are on government programs can eat. They get up every day at 5:30 and they go and cut shoes and they're proud Maine workers. I also represent several thousand people, as do others in this chamber who represent the rural parts of Maine, who work in wood turning factories who have no health insurance. They get up every day and go to work and are worse off than people who don't have to get up in the morning. There's something wrong with the way we're looking at our programs when working people, men and women, who work as secretaries, who work as waitresses at the Senator Inn or where ever they work, would be better off on a government program than they are working. Something has got to change. The philosophy still holds true, that cat will not die in the tree. No one has ever seen a skeleton of a cat in a tree. When the cat gets hungry he'll come down. It's a simple little message but it's a message this legislature has to go back to if they're going to straighten out the budget problems we're faced with in this State. 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 rise in support of my good friend and colleague from Cumberland County, Senator Harriman. I think that it is incredibly important that an example be set in this particular instance because honestly my heart goes out to the children on this particular issue, certainly the children did not put themselves in this situation of being conceived or of being born. I think that we have to draw the line somewhere and set an example and lead by example. The Senator from Knox, Senator Pingree, mentioned a few minutes ago about the deadbeat dad issue. I agree with her whole heartedly because I introduced legislation this session that would have added the social security number of the father to the birth certificate, which

unfortunately went nowhere. I also introduced legislation which would have taken care the so-called 'man in the house' situation where a 'family' living in a house, if another individual is living in that house, their income would be considered in terms of welfare eligibility. That bill, too, did not go anywhere. I will rise to fight again on this Bill because I think, again, it's important that we say to the individual that we are willing to help for a period of time but we're not willing to be fleeced in the process. It's my understanding that even if an individual's AFDC payments are reduced after they have a child that that child still is eligible for pre and postnatal care, and still is eligible for Food Stamps and right on down the line. This may be a 'feel good' Bill but it's a start and I urge the members of this body to support it. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Each one of us enters this chamber with certain baggage. Our own life experiences have formed our perspectives, our values, and yes, our biases. Personally my wife and I would like to have kids and at some point we probably will. One of the determinations we have made though, aside from the ungodly hours that are required of you in the legislature, is one of cost. There's a financial cost. I then look to my younger brother Carl and his wife Sue, who just had a baby a year ago. He's a carpenter and as most of you are aware there's a real slow down in construction work. I could not think of a better individual to be a father for his kids, for his current little girl. They want to have more kids and they would like to have kids now but they're not having kids now. Why are they not having kids? They don't have the money. They don't have the money to provide for another child. They would like to but they don't have the money. That's a choice that they have had to make. Why is it fair for some members of our society not to be burdened as strongly by that requirement. I don't think that's fair. I had a letter from a constituent, unfortunately I didn't bring it with me but he was very concerned. He has a 15 year old stepdaughter. In his letter he said he sat down with his stepdaughter the other night and asked her, because she hadn't been studying in school and hadn't been working very hard, she hadn't been very motivated, he asked her what she planned on doing once she graduated from High School. Oh I'll just hang around, have some kids, I can get paid for doing that you know. I have the letter. That's him talking to his 15 year old stepdaughter. He asked me what in the world is going on here. What in the world is going on, what type of society are we living in today. I haven't responded to him yet. I don't know what to write to him. When are we, as a legislature, going to respond. Is it fair that my brother, and I agree I probably have a bias, who is probably the best father in the State, or one of the top ten, why he can't have more kids right at this time and yet other people can. I'm not saying that they are bad parents but I am just saying that I hold out one example of a person who is a wonderful parent, who would like to have more kids, but has made a determination not to solely because of money.

I'm starting to wonder whether or not the people I represent are normal, or whether or not I am normal. I cannot see the rationale for not passing this legislation. Why some people have to be constrained by cost before they make a determination and others not. To me it is a question of fairness.

It's a question of fairness to all of the people of our State. It's a question of fairness to myself, to my brother, and to the man who sat down with his 15 year old stepdaughter who said she doesn't have to worry about it because she will be taken care of after High School, the State will take care of her and if she has kids they will be taken care of too. That is a terrible message for us to send and Ladies and Gentlemen of the Senate, that is the message we are sending. You can laugh, you can wonder well maybe it's not the message I'm sending but you darn well better listen up because that is the message. That is the message loud and clear. 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. Ever since the good Senator from Knox dropped the word vasectomy, men have been popping up around here like jack-in-the-boxes. She seems to have hit some sort of a nerve. I think we should get back on the topic here which is the Bill which is before the body. There has been a handout given to the members of the body and this particular proposal, just to refresh people's memories, is not new. It came up last session, every major newspaper in the State opposed this Bill, every major newspaper. The Director of the Department of Human Services Bureau of Income Maintenance, one of the most respected people up here in the State House, Sabra Burdick, resigned as a result of the Governor's policy in this area. It is wrong, dead wrong, as the good Senator from Knox has said, that we penalize children for any mistakes that any adults make. Thank you.

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

Senator **AMERO:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I agree with the Senator from Portland, Senator Conley, when this idea came out two years ago I felt it was a very poor idea basically because it affected children. All of the arguments that were put forward at that time I think are valid arguments, however I have to tell all of you that when I sent out my survey a month ago, and I asked this question to my constituents, who mostly live in urban areas, the response from approximately 2000 people was near unanimous in opposing increasing subsidies to moms who have additional children while on welfare. To me that return was shocking. I feel today that I must go with the Minority Report, not because I think it's right to cut off additional monies to new children being born to women of AFDC, but because I feel we will never get to the major issues that Senator Pingree talked about. That is the job training issue, the education issues, they will never have the support for that kind of expensive welfare reform if we do not make changes that the public feels have to be made. I think this is a minor change, it will not have a great influence except that it may garner more public support for true reform of the welfare system. 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. I have heard this argument since I was a babe. I'd like to answer some of those. Number one, we are talking about kids, not cats. Kids, not cats. Number two, as you all know I am one of sixteen children. I am proud to say we never went on welfare. I am discouraged to

tell you that our health care was nothing. How we treated pneumonia was with a poultice of lard and turpentine. Has anybody else here had a poultice of lard and turpentine, except for my good peer from Standish? That's how we treated those things. How we treated ulcerated teeth was to let them get out to as far as they could get, hope that tobacco juice might help it and then rush you to a dentist who might be willing to take you and take that tooth out. That's how we got our health care, is that what we want to go back to? That's probably why the Federal government decided that Medicare and Medicaid might just be a good thing. That's why they did that. I'll tell you one more thing, and it's a family secret, it didn't take just one parent to have those sixteen children. It took two parents. I know the family secret of why there are sixteen, do you? Of course you don't, nor do you know the family secrets of why those awful AFDC mothers, who are receiving adequate health care, who may in fact be housed, not in a tarpaper shack, but in some decent apartments, and I say some because they aren't all. I would like to see any of you try to raise children on AFDC payments. Yes, it's engaging to get a report back from the voters saying cut off the AFDC, that's very engaging to do, you look at it and you say well everyone wants that, except perhaps the people who need it. Except perhaps, I bet there wasn't one child who signed that who's on AFDC and who gets the Medicare or Medicaid. It's incredible to me that in this day in age, in 1993, that we have the audacity, the audacity to treat children that way. The only birth control method that I know of that is 100% effective is abstinence, is that what we're advocating here? Is that what you want? Then pass a law that says everybody who is on AFDC has to abstain, because that's the only way it's going to happen.

Maybe the men in this chamber do not understand how women become pregnant. I tell you what, we have been able to get family planning clinics in and I'd be happy to refer you to any of them in the State if you do not understand that. Since we have children and since it is biologically possible to have children, and since women are the only ones who can have those children, until some creator changes that, we have to take care of the children. For whatever reason they come here we have to take care of them. I am more than willing, I will work with you until midnight of every day to come up with programs that will teach people to be more responsible, how to be educated, how to get jobs, how to support their own families. I will be more than happy to do that. I would like you to do one thing for me this legislative session. I would like you to pass a universal health care bill, because then you won't have to talk about Medicaid, then you won't have to talk about which child can be covered under health care and which one cannot, then I won't have to choose, as the two women who went to Solomon asked him to choose. I will be able to give children what children need. I am appalled that we would even consider such a bill. 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. I think what people want is for the person, the male of the species, to pay the bills. If you are going to have the fun you ought to pay for the fun. The taxpayers are getting darned tired of paying for it. I think that is all they are asking. I also asked this question on my questionnaire that I mailed out. My voters sent me

down here to make sure that their voice was heard and that's why I'm on my feet right now. The results was 91% that said no, stop paying. 91%, and their message has been delivered. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would just like to thank the good Senator from Kennebec, Senator Bustin, for the invitation to stay until midnight throughout the summer. I'd just like to say I don't think we have to stay until midnight, in fact probably five more minutes will be all because you asked to come forward with a program that will instill some responsibility. I take you back to that letter that I received from the man who sat down with his 15 year old stepdaughter who said I don't really have to work in school, I don't have to have motivation, I don't have to work after school because after I'm out of school the State will take care of me and if I have kids the State will take care of them. Now you're talking about the adult that has to be responsible. It's very easy, in this chamber and in the other chamber, to say well we're doing this for kids. What about the parents who begot the kids? That's where it starts, that's where the responsibility has to begin and it has to begin by giving them direction as far as exactly what their responsibilities are if they are going to conceive. If they are going to bring children into this world. That's responsibility. You're not going to teach responsibility by continuing a program that continues to discount responsibility, it's not going to happen people, it's just not going to happen. We don't have to stay here until midnight, we can stay here for five more minutes, pass this and at least we have taken the first step for accountability and responsibility on the part of the parents. I don't want to blame the kids either, I do want to hold the parents accountable. 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. In reference to the remarks of the Senator from Kennebec, Senator Bustin, my good friend, she asked the question of what we're asking today, is this what it has come to. I think we're just asking for some responsibility. That is not a bad thing. I whole heartedly agree with her that we have a responsibility to the children, absolutely. I support planned parenthood, I think it's a wonderful organization, I think that you need to show people how to be responsible, but I have to ask the question are you, and when I say you I'm talking about the generic you, all of us in this chamber and who represent this State, are you promoting responsibility by allowing an individual to continually practice irresponsibility without fear of any consequence.

The Senator from Oxford, Senator Hanley, brought up a very good point. He mentioned about his brother and his decision not to have additional children. Many of you today saw my daughter here with the other members of my basketball team and I know you have seen my son. To me, and I happen to be a very proud father, I think they are pretty cute little rascals and I'd love to have a zillion of them, but my wife and I have decided we can't afford it. Have I been denied a right because I've come to the decision that I can't afford to have additional children? I don't

think so. Again, what this bill is asking is not to hurt children, it's asking the parents to abide by the same rules that most of us in this chamber have to abide by, I would assume all of us. I think, if nothing else, this is a children's Bill and I urge the members to support it. Thank you.

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

Senator **TITCOMB:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to hear from the man who sits down with his 15 year old son and talks to him about responsibility, or sits down with his 17 or 18 year old son and talks about responsibility. This is not an issue that one should even imply should be laid at the doorstep of the young women or the older women of this State. I was curious, listening to the discussion about the married couple with the children who cannot afford to have more children right now. I have to ask myself, what would happen if the wife accidentally got pregnant, would those same options be open to her or would she be forced to have an abortion that perhaps is not consistent with her ethical or moral or social or philosophical standards. What option would she have that a young woman on welfare might not have? I've seen questionnaires that have gone out and I can tell you I can send a questionnaire out and I can get just about any answer I want. If I want to lead the question, if I want to ask it in such a way that I direct the person who answers in the direction I want, I can word that question. I find questionnaires very difficult to base my decisions on. I find full, complete, adequate information much more effective in getting a full, fair, and responsible answer. I think that it's a very big mistake if we base our actions in this body on the questions that a handful of individuals send out to a public that very clearly, and very understandably, is concerned about the finances of the State. I think that this Bill is a symptom of the public discontent with our welfare system and I think that is very justified. I think we should see it as a symptom and not as a solution. I think that what we need to do is deal with those very real welfare reform issues that have been proposed tonight and not punish our children. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Gosh sakes, to be honest with you as I was growing up I gave this some deep, profound and philosophical thought and realized I couldn't add anything that would change any vote.

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to thank the Senator from Washington for that comic relief in what has been a very painful and paternalistic dialogue here today. The issue continually brought up by the Senator from Oxford, and others, about responsibility and yet it seems that we are ignoring the facts. The facts are that almost all of the women on AFDC are acting in the responsible way that you would like them to. The issue, if you would listen to the facts, is that 8% of people either have their contraceptives fail or whatever. I have never heard so much talk about responsibility in such a paternalistic way I have to tell you, and it's real discouraging. When you know

that the facts are that everyone is acting responsibly and you know what kind of responsible behavior would encompass a complete welfare reform policy which the Senator from Knox outlined, which is requiring responsibility of getting training or requiring responsibility of going to work. I run a job training program, I deal with these women that you probably have only read about in letters. Let me tell you that people are dying to get a job, they are going through hell to get a job, they are driving 300 miles a week to get a job and sit through the Women Unlimited training program so that they can get off welfare. One of the biggest reasons why it is hard for them to make the transition to work is health care. Absolutely the major reason is health care, the lack of health care in most entry level jobs. If you want to deal with getting people off welfare, if you really want to affect the welfare budget then let's deal with the real issues, let's deal with job training, let's fully fund Aspire, which is only dealing with about 5% or 10% of the people who want to get on Aspire. You've got waiting lists lined up to get training to get off welfare. They are lined up, they are literally cued up and you're talking about a feel good, fuzzy wuzzy bill like this that would save \$118,000. I'm ashamed.

How are you going to enforce this Bill? Let's just play this out. What are you going to ask the income maintenance worker to do, what kinds of questions are they going to ask? Did your contraceptives fail? How did you get that child? Were you responsible? Prove it to me, can I see the proof that your contraceptives failed? I want to be there, I tell you, I want the serial rights on that. The good Senator from Cumberland, Senator Summers, did you know that you are paid \$2300 every year for every child that you have? The taxpayers pay that, I'm paying that. I do not have any kids and I'm paying you that much money. It's your tax deduction and we're paying Senator Harriman from Cumberland the same and we're paying everyone of you who have kids the same amount. The taxpayers are paying that and it is for the children. We have decided, in our wisdom that that is the public policy of Maine, that we should help support Senator Summers' family, I hope he has one family, if his contraceptives fail he might have more.

**THE PRESIDENT:** The Chair will interrupt and remind Senators to please stay on the subject.

Senator **MCCORMICK:** I'm sorry Mr. President. I apologize to the Senator, I did not intend anything unintended. My point is that our policy is to support your children and to help you support them by giving you a tax deduction of \$2300 off your taxes for every kid you have. The policy is also to help poor women support their kids by giving them half that much. They only get half that much to support their kids. Is that the public policy of this State or not, do we want to help families support their kids or don't we. You're already getting twice as much to support your kids, what do you want? Do you want a pound of flesh. Well you're getting it. 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. There really is no need to prolong this debate, it's gone on too long now. There seems to be no end to it so I want to get on the Record too and I think what I want to get on the Record are the words of Sarah Burdick, who

resigned over this Governor's policy, and I think she was eloquent in her reasoning and I think we ought to listen to some of what she had to say. I'm quoting from her letter, "There are other reasons to oppose such policies. I have serious concerns about the ability and the authority of the State to determine good cause for birth. I am also deeply concerned about the seeming lack of attention to the other partner in pregnancy, the father, and finally, it seems to me profoundly wrong for the State to knowingly penalize children for the actions of their parents." She goes on to say, "I urge my colleagues, legislators and the public, to reject popular, but ill conceived, policies that ultimately do nothing more than hurt children." It is always a surprise to me, a pro-lifer, to stand with other pro-lifers and then, on an issue like this, which is to ensure that children get the minimum of care, to be toe to toe with the pro-choicers. Something is not right here. Thank you.

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Off Record Remarks

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I hope that my remarks will get us back to logic and minimize emotion. I stand here humbly. I'm a father, I have three young children who I love beyond words and this discussion has centered around the fact of what this Bill, that has my support behind it, is doing to children. We're not taking Medicaid away from anybody. We're not saying we're not going to pay for children who need medical care. What we are saying is that it's time for the public, the people that you and I serve, to stop stigmatizing these people. The reason they are stigmatized is because of our public policy. Ladies and Gentlemen of the Senate, what we're trying to say today is that if you are on AFDC we are here to help you, the State cares about you and your children, but you have to appreciate the fact that you have to assume responsibility for no additional children. This is not a matter of fiscal notes, which I don't know what the exact number is but it's significantly more than \$118,000, and it's not about credit on your income tax which is, to be accurate, the income tax savings on a standard deduction of \$2300, the taxes on \$2300. The good Senator from Knox, Senator Pingree, said something earlier about deadbeat dad's, she's absolutely right and their is other pending legislation, indeed, the Human Resources Committee has spent a great deal of time on this issue, it is in the Bill. It is time for fathers to recognize that they have responsibilities and we are going to work hard to make sure that they do.

I ask you, remember the working poor person. The working poor person doesn't have the same advantages as the people who are on AFDC. Rather than creating reasons for people to look at AFDC as an alternative the good Senator from Kennebec, Senator McCormick, is right, we have to look at ways to create opportunities to get off AFDC. I would respectfully submit to you that having another child on AFDC is not going to accomplish that goal. 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'm sure you are all surprised that I feel the need to stand at this point. Lots of times words that are spoken in anger are ill conceived but they bring out true feelings. We discuss a lot of matters in this body, we've discussed many, many social issues, and on several of those issues I have held very deep convictions and I felt the need to make my feelings known. Probably most of the members in this body have had opposite opinions on the issues, but I have always respected their opinion because the debate was always on the high road. A few minutes ago the Senator from Kennebec, Senator McCormick, let her true feelings be known, and that's all right. I tended bar for a few years and I heard a lot of true feelings probably some that I shouldn't have heard, but I did learn that when a debate is lowered to a personal level it usually means that I am on the right side of the issue, because the people are running out of reasons to oppose me. I really don't want to get up and beat my chest and say I'm right on this issue and everyone else is wrong, I think that there are many avenues to come from when we're discussing this, or any other, issue. For me what it boils down to is an issue of a decision, a decision that myself and my wife have made that we will not have additional children because we are unable to afford it. If the Senator from Kennebec, Senator McCormick, feels that that is asking for a pound of flesh from someone then I disagree. If she is really as concerned as she says she is about reforming welfare and so forth then I would think she would probably have been there to support the legislation that I mentioned previously about deadbeat dads, about the man in the house rule, and so forth. I guess it bothers me that this has been made out to be an issue that is directed solely at women, obviously women are the only human beings that will bear children so it is, to a very large degree, a woman's issue, but when you're talking about a position and a stance it is everybody's issue. It's my issue as a male, it's my wife's issue, it's all of our issues. In closing I just want to say that I am extremely disappointed at the tactics that were employed and I hope that if we continue this debate that the debate is one of a high level. Once again Mr. President, I urge the body to support this piece of legislation. Thank you.

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Off Record Remarks

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

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I too, have been very disappointed because this body has been very very supportive of the hard work that our Committee has put in and because I got a sense from you that you believe that we did tackle this problem hard every day. I was very disappointed that many of you, that I knew felt very strongly about welfare reform, did not come to our many seminars, hearings, or workshops. I felt that maybe you would have had

expertise to give us for us to do a better job. I took that, the absence of these individuals, that you were trusting us to cover all of the bases. We chose not to use this piece because I personally feel that we would be the laughing stock of this State if we put out a little piece that is about \$150,000 a year when you're considering the budget of DHS is like 30% of the entire budget, and that we have staked our welfare reform on this one piece. Is this the message we want to send? There are serious, serious problems out there and I don't see that we are going to be able to handle them tomorrow, they didn't come around yesterday and they won't go away tomorrow. We are building a very strong, positive system that is going to help the situation and that is why I am totally opposed to this. It's a joke that because we want people to perceive that we are doing something that we're not doing. This is not even beginning. I'm afraid a lot of you will feel that this is it and go away and not continue helping us with our major health care reform.

I was raised in an area where I didn't know a person who received welfare. I've seen now the deterioration a little bit, not to the degree that the degeneration has happened in this area, the family law still reigns supreme and people still have pretty much a say into the lives of their children, and it's making all the difference. We've got to get back to the family law. By beating up on the little girls who are involved in situations where they tell the adults in their lives, I wonder what the dinner conversations are that this young woman has not picked up the values of the family that she has been living with all these years. My mission was to take care of some of these problems but I didn't realize I had to kill the cat. Thank you.

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

Senator **PINGREE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I will be brief. I am sorry that this is an emotional issue but I am not surprised. I am sorry if anything that I said in my initial remarks made this a more personal conversation then it might otherwise have been but I don't regret that we did bring up the issue of a man's responsibility as well as a woman's responsibility. I just want to address one question that I think is critical in this whole issue and that is our responsibility as Senators. I represent 19 towns where there are many hard working people, many of whom work for wages lower than they should receive, many of whom cannot afford health care. They have many serious, deep concerns that I am here to address. Things like the economic troubles of this State, the state of our health care system, and certainly welfare reform, I hear about this all of the time. I know that if I sent out a questionnaire and asked my constituents about this question they would respond similarly to the way many of you have spoken of the way your constituents responded. I think I have a deep responsibility as their State Senator and that is to be honest with my constituents about what is meaningful welfare reform, I need to vote in an honest way and I need to stand up for my votes and tell my constituents why I voted. I do not believe this is meaningful welfare reform and I think I would be supporting a sham that will only fuel the public fire that there is a scapegoat in this issue and that there is a simple solution. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise this evening in support of "An Act to Promote Financial Responsibility and Family Planning". I listened, earlier this evening, when the good Senator from Kennebec, Senator McCormick, spoke on a different issue and she said the prime issue at hand was parity. I think that can be applied here, parity. Parity for all of Maine's people, not only those on AFDC but, representing 26 towns in rural Maine where people work very hard for very little money, where they are just beyond AFDC and welfare, that they have to make a determination whether or not they are going to have another child because that's going to have a dramatic impact on how they pay their bills. The good Senator from Aroostook, Senator Paradis, asked where were you, where were you when she was having the workshops on meaningful welfare reform? For a portion of it I was down in the Labor Committee with meaningful welfare reform. I guess yesterday I would have disagreed with the good Senator from Franklin, Senator Webster, when he stood up and said you don't know what meaningful welfare reform is because you don't have the guts to pass it. Yesterday I was proud to be a member of this body when we passed the full employment pilot program through this chamber, we gave it its second reading today and I was encouraged, I said yes, people are starting to put there money where there mouth is. As far as the retraining, people in line for the retraining, that bill would have put all sorts of people into a training program at no cost to the employer but in a mutual employer employee relationship. What happened to meaningful welfare reform? When it got into the other chamber two members of the Majority Report peeled off in what I have learned was just an attempt to embarrass the sponsor of the legislation and now that legislation is dead. I guess I now concur with the good Senator from Franklin that there is no meaningful welfare reform. That we are not really looking at all of the possibilities because that's the way this place operates, you kill the good stuff, the bad stuff you just let ride through and you don't judge things on their merits. I did listen to the facts, and I listened to my constituents and my constituents have said enough is enough, let all people of the State of Maine be treated equal, let all people of the State of Maine be financially responsible for their actions. Thank you.

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Off Record Remarks

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to apologize to the good Senator from Cumberland if I offended him earlier. I think I made a slip of the tongue into a humorous statement at his expense and I apologize. I think that what has bothered me about this discussion is, if I can direct my remarks again to the good Senator from Cumberland and also from Oxford, that this responsibility that you all feel, that you have applied to your family planning, that you also cannot imagine that women on welfare also strive and do and live that kind of responsibility, that is what I found bothersome. We must doubt, we

must think that we live on a higher plane, those of us here in this body, than people who are struggling on \$4000 a year, because that is what an AFDC check is and that is what I found troublesome about our discussion and that is what brought out my emotion. I believe in my heart, because I know many women on welfare, that they are just as responsible as we are, they care for their children just as much as we do, they want the best for their children just like we do, and their kids deserve just as much as our kids and that ought to be the public policy of our State. 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. Over the last couple of years, having been through a State shutdown, having served in the legislature here for a long time, but particularly over the past two years, I have attacked this institution, this body, this legislature in general because I felt that this legislature was not in touch with the people of this State. We are not listening to the views of the majority, this is a representative form of government and I believe that and I have voted over the years with things I didn't agree with because I felt my duty, and my responsibility as a member of this chamber was to vote for the interests of the people that I represent. I apologize to the members of this body for attacking this institution which I love so dearly. As far as I can see this issue is very simple, the vote we are going to take right here, right now, when we take it is a vote, simply to represent the views of your people. The reason I asked for a Roll Call is because I believe very strongly about this issue and I am absolutely convinced the majority of Maine people, whether they live in the city or the country, whether they live in the most rural parts of this State or on the coast, they feel we should do something in this area. This is the Bill we have before us. I'm convinced that if you represent the views of the people in your district then vote which ever way you want but I believe that this is an important issue. It's the only welfare reform we're going to have, we might as well admit that right up front because if we can't pass this basic little issue surely we're not going to pass anything meaningful. I want a recorded vote because I want the people in Maine to see how we vote and we'll let them decide which vote is appropriate and which vote isn't. Thank you.

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

Senator **TITCOMB:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I did not intend to follow up my first comments with more comments but I didn't want to not say a few things which I think fit into this discussion we are having on "An Act to Promote Financial Responsibility and Family Planning" which has beside it 'Governor's Bill'. It was another Governor's Bill that we had presented to us, unofficially, in the Appropriations Committee earlier this year, some people call it the Deadbeat Dad's Bill. Frankly, anybody who has been in on those discussion will know that I don't happen to like the term 'deadbeat dad' I call it 'deadbeat parents' because I think it's very inappropriate to point a finger at one or the other. That bill would have held accountable a nonsupportive parent. We were told that we had that bill before us to figure into our budget for the year because it presented significant savings, savings that we dearly needed.

That Bill has just been printed a short time ago. This Bill is before us now to vote on. We are looking at a proposed budget cut from the same administration of 43% statewide in family planning. The message is "An Act to Promote Financial Responsibility and Family Planning" and frankly it just does not seem consistent with the theme. We have this bill before us today and we seem to have walked away from those other important responsibilities. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **HARRIMAN** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** 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 **AMERO, BEGLEY, BUTLAND, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER**

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

**ABSENT:** Senators **BALDACCI, BRANNIGAN, CAHILL**

14 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 3 Senators being absent, the motion of Senator **HARRIMAN** of Cumberland, to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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

**RECALLED FROM ENGROSSING**

Bill "An Act Concerning the Operation of Aircraft under the Influence of Intoxicating Liquor or Drugs" H.P. 1084 L.D. 1450 (C "A" H-400)

(In Senate, May 26, 1993, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(**RECALLED** from Engrossing, pursuant to Joint Order S.P. 514.)

On motion by Senator **VOSE** of Washington, 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 "A" (S-222) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This is nothing but a technical amendment to the Bill. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-222) **ADOPTED**.

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

Sent down for concurrence.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Encourage Implementation of Total Quality Management Procedures in the Executive Branch of State Government" (Governor's Bill) (Emergency) H.P. 1142 L.D. 1542

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

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

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

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass As Amended**

Senator **CAREY** for the Committee on **TAXATION** on Bill "An Act to Develop and Expand Markets for Recycled Materials"

S.P. 229 L.D. 700

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-226)**.

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-226) **READ** and **ADOPTED.**

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

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

#### ENACTORS

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

An Act to Improve Child Care Services in the State  
H.P. 565 L.D. 762  
(C "A" H-435)

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

#### ORDERS OF THE DAY

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

Bill "An Act Concerning Duplicate Fees Required by the Department of Environmental Protection"  
H.P. 1023 L.D. 1375  
(C "A" H-411)

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

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

(In Senate, May 26, 1993, **READ A SECOND TIME.**)

(In House, May 25, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411).**)

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

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

Bill "An Act Regarding the Department of Environmental Protection Rulemaking"  
H.P. 861 L.D. 1170  
(C "A" H-317)

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

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

(In Senate, May 21, 1993, **READ A SECOND TIME.**)

(In House, May 19, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-317).**)

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

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

**HOUSE REPORTS** - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Require that the Clerk-of-the-works on State Construction Projects be Employed by the Owner, not the Architect"  
H.P. 219 L.D. 287

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-382)**

Tabled - May 26, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**

(In Senate, May 25, 1993, Reports **READ.**)

(In House, May 24, 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-382).**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE.**

**THE PRESIDENT:** In reference to the action of the Senate on May 25, 1993, whereby it **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE** on Bill "An Act Concerning Limits on Security Deposits" (H.P. 898) (L.D. 1213)

The Chair appointed as conferees on the part of the Senate:

Senator **O'DEA** of Penobscot.  
Senator **CAREY** of Kennebec.  
Senator **HANDY** of Androscoggin.

The Secretary has so informed the Speaker of the House.

**THE PRESIDENT:** In reference to the action of the Senate on May 25, 1993, whereby it **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE** on Bill "An Act to Improve Communication between the Executive and Legislative Branches" (H.P. 419) (L.D. 538)

The Chair appointed as conferees on the part of the Senate:

Senator **BERUBE** of Androscoggin.  
Senator **BUTLAND** of Cumberland.  
Senator **HARRIMAN** of Cumberland.

The Secretary has so informed the Speaker of the House.

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

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Off Record Remarks

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On motion by Senator **CIANCHETTE** of Somerset, **ADJOURNED** until Thursday, May 27, 1993, at 4:00 in the afternoon.