

# 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  
Tuesday  
June 15, 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:** Ladies and Gentlemen of the Senate, good morning. Because these last days of the legislative session can become quite stressful we must make an effort to bear in mind that for each of us, our primary duty is to glorify the Lord.

For this mornings mediation I wish to share with you a brief passage from The Fellowship of the Ring, by J.R.R. Tolkien.

"For a while the hobbits continued to talk and think of the past journey, and of the perils that lay ahead; but such was the virtue of the land of Rivendell that soon all fear and anxiety was lifted from their minds. The future, good or ill, was not forgotten, but ceased to have any power over the present. Health and hope grew strong in them, and they were content with each good day as it came, taking pleasure in every meal, and in every word and song."

Heavenly Father, let it be so with each of us. Amen.

Reading of the Journal of Monday, June 14, 1993.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Joint Orders**

The following Joint Order: H.P. 1164

ORDERED, the Senate concurring, that Bill, "An Act to Facilitate the Assessment and Collection of Municipal Property Taxes," S.P. 402, L.D. 1233, and all its accompanying papers, be recalled from the Governor's desk to the House.

Comes from the House **READ** and **PASSED**.

Which was **READ**.

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

**COMMITTEE REPORTS**

**House**

**Committee of Conference**

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature, on Bill "An Act Concerning Limits on Security Deposits"

H.P. 898 L.D. 1213

Have had the same under consideration and ask leave to report that they are **Unable to Agree**.

Signed on the part of the House:

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

Signed on the part of the Senate:

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

Comes from the House with the Conference Report **READ** and **ACCEPTED**.

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

**Committee of Conference**

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature, on Resolve, to Establish the Commission on the Status of Alleged Child Abusers (Emergency)

H.P. 991 L.D. 1322

Have had the same under consideration and ask leave to report that they are **Unable to Agree**.

Signed on the part of the House:

Representative ERWIN of Rumford  
Representative MELENDY of Rockland  
Representative MURPHY of Berwick

Signed on the part of the Senate:

Senator CLEVELAND of Androscoggin  
Senator CONLEY of Cumberland  
Senator BEGLEY of Lincoln

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

Comes from the House with the Conference Report **READ** and **ACCEPTED**.

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

Senator CIANCHETTE of Somerset was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator SUMMERS of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator SUMMERS: Thank you Mr. President, Ladies and Gentlemen of the Senate. Unfortunately my remarks are not as lighthearted as my friend from Somerset, Senator Cianchette's. I was somewhat dismayed to read in this morning's paper, in the local section of the Portland Press Herald, an article titled "Democrats say GOP is Targeting Francos". As most of you remember, when the debate went on in this chamber during the redistricting it became somewhat heated and my party was accused of trying to dilute the franco-american vote. At that time I said that I felt it was a very desperate move to take a debate of this sort into the gutter and I'd hoped that would end in this chamber. I can't tell you how disappointed I am to read that those representing the Democratic party, and the redistricting, have filed a brief with the Supreme Court suggesting that the Republicans are somehow trying to segregate and dilute the franco vote. Many of you know I represent a district that is heavily Franco-American and I am very proud to do that. I take it very, very personally when these types of allegations are made because I think that that absolutely again, takes this entire process straight to the gutter and I sincerely hope that no member of this body actually tries to put anything forth, when they leave this chamber, that would suggest anything to the contrary because that is an absolute falsehood. I think the Franco-Americans in this State are owed a great apology by those who would put forth such an argument. It is absolutely degrading to this process, degrading to them, and it serves to do nothing but try to divide and conquer and that is wrong. That is not what this process is about and I am ashamed to read this in the newspaper this morning and I certainly hope that each member of this body will do everything they can to try and rise above such accusation. Thank you.

Off Record Remarks

On motion by Senator HANLEY of Oxford, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

On motion by Senator SUMMERS of Cumberland, **RECESSED** until 1:20 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:

**COMMUNICATIONS**

The Following Communication:

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

June 15, 1993

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

Dear Madam Secretary:

House Paper 370, Legislative Document 473, AN ACT to Prevent the State from Discharging People from State Institutions without Adequate Provision for Alternative Services (EMERGENCY), having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the

question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Eighty-eight voted in favor and fifty against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,  
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**

June 15, 1993

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

Dear Madam Secretary:

The House voted today to insist and join in a Committee of Conference on Bill "An Act to Implement the Recommendations of the Special Commission on Electoral Practices" (S.P. 478) (L.D. 1477).

Sincerely,  
S/Joseph W. Mayo  
Clerk of the House

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

**THE PRESIDENT:** In reference to the action of the Senate on June 14, 1993, whereby it **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE** on Bill, "An Act to Implement the Recommendations of the Special Commission on Electoral Practices" (S.P. 478) (L.D. 1477)

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

Senator **HANDY** of Androscoggin.  
Senator **LAWRENCE** of York.  
Senator **CARPENTER** of York.

The Secretary has so informed the Speaker of the House.

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:

**Emergency Resolve**

Resolve, Directing Release of Investigative Records Related to Ballot Tampering  
H.P. 1003 L.D. 1349  
(C "A" H-657)

Comes from the House **FAILING OF FINAL PASSAGE**.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. There is an amendment being prepared for this particular piece of legislation and I would appreciate it if someone would table it until later in today's session. Thank you.

On motion by Senator **BUSTIN** of Kennebec, Tabled until Later in Today's Session, pending **FINAL PASSAGE** in **NON-CONCURRENCE**.

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

An Act to Reform and Reestablish the Commission on Governmental Ethics and Election Practices  
S.P. 225 L.D. 696  
(C "A" S-168)

In House, June 8, 1993, **FAILED OF ENACTMENT**.

In Senate, June 8, 1993, **PASSED TO BE ENACTED** in **NON-CONCURRENCE**.

In House, June 9, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-168) AS AMENDED BY HOUSE AMENDMENT "A" (H-647)** thereto, in **NON-CONCURRENCE**.

In Senate, June 14, 1993, **INSISTED**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Senator **CAREY** of Kennebec moved that the Senate **ADHERE**.

Senator **HANLEY** of Oxford moved that the Senate **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't know about the other members in this place but I do know that I'm getting a little tired of Committees of Conference. I can't remember which ones I'm on at this point because we are on so many. I would hope that the motion to Insist and Join in a Committee of Conference will be defeated so we can Adhere. Thank you.

The Chair ordered a Division.

On motion by Senator **BUSTIN** of Kennebec, Tabled until Later in Today's Session, pending the motion by Senator **HANLEY** of Oxford to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

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**ORDERS OF THE DAY**

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

An Act to Reform and Reestablish the Commission on Governmental Ethics and Election Practices  
S.P. 225 L.D. 696  
(C "A" S-168)

Tabled - June 15, 1993, by Senator **BUSTIN** of Kennebec.

Pending - Motion by Senator **HANLEY** of Oxford to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

(In Senate, June 8, 1993, **PASSED TO BE ENACTED** in **NON-CONCURRENCE**.)

(In House, June 9, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-168) AS AMENDED BY HOUSE AMENDMENT "A" (H-647)** thereto, in **NON-CONCURRENCE**.)

(In Senate, June 14, 1993, **INSISTED**.)

(In House, June 15, 1993, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Can I inquire which item we are on?

**THE PRESIDENT:** We are on Supplement 7, item 1-1. The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President. We are having a difficult time hearing because of the noise in the back. I know the doors are open because of the heat but if you would speak into your microphone it would be helpful. I'm asking you to go with the motion today to Insist and Join in a Committee of Conference because the motion to Adhere would kill the Bill and I think that these election

reforms are so important that we have to make every attempt, even if it is just the Senate making every attempt, in order to keep these Bills alive. I think if we do nothing else in this legislature during this session of the legislature we can have some very meaningful campaign and election reform. I think this is one of the Bills that does that and I hope that we can Insist and Join in a Committee of Conference. Thank you.

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

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would thank the good Senator from Kennebec for requesting a Roll Call because I think this is one of the very most important votes that is going to be faced by this chamber. When the good Senator from Kennebec says that he is tired of these Committees of Conference, I would ask the good Senator, regardless of how tired we are, do we not have a responsibility to restore the public's confidence in our electoral process and our election practices? This Bill goes a long ways towards doing that and I would urge you to support this motion. Thank you.

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Off Record Remarks

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Senator **CAREY** of Kennebec requested and received Leave of the Senate to withdraw his motion for a Roll Call.

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

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have been in this position before and the position that I am in is to get a Roll Call on a Bill that has that kind of a title so that it can be pointed out later on who voted for and who voted against election reform, with little or no regard for the contents of the Bill. I, for one, will not allow myself to be put in a position of voting for something that I do not believe has done as good a job as it should have done when it was put in, regardless of what the title says and the political advertisements that will follow from 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. The good Senator from Penobscot's comments are well taken. I would like to point out that this legislation was passed by the Senate. This chamber voted for this measure. This chamber voted for election reform. By Adhering we are voting to do away with any reform. The only

option we have now is to Insist and Join in a Committee of Conference, to iron out those differences. Both chambers have adopted this Bill in some form and I think it is irresponsible for us to say well we are going to Adhere and we are not going to do the people's business. You are right, it could be used and I would say it would be fairly used, if you're saying you're not going to give every chance for this Bill to live. The people's confidence has been decimated, they no longer have confidence when they go into the ballot box. We have got to do everything in our power to restore that, this is one slight measure. 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 would like to respond to the Senator from Oxford by saying I have already voted for more election reforms than he is going to. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I feel that this debate is getting personal and there is no reason why this debate should be personal. This debate should be about election reform and I think each and every member in this body has the right to their own opinion without us becoming personally involved in this. This particular piece of legislation, which is what I would like to debate right now, is about election reform. If everyone would be so kind perhaps as to look at their amendment, look at their Bill to find out what it does, this happens to be the Bill that would re-establish the Ethics Commission to the Judicial Branch of government. I think it is everyone's prerogative in this Senate, that is why each and every one of us, there are 35 of us and we are each elected by different people, it is each and every one of our prerogatives to vote any way we want on this particular piece of legislation. This is election reform and we have worked on a number of issues and so far I am fairly disappointed because it seems like all of the work and all of the good debate that this Senate has had has gone unnoticed in the other body. I'm very discouraged by that, I thought that we had several good vehicles and we could perhaps make some meaningful reform. I think we will get no where if we let the heat and our tempers get away with us and I think that everyone is entitled to vote without being accused of some political purpose on a philosophical difference of election reform. 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 think all of the Senators who have spoken have made some very good points. I personally disagree with this piece of legislation and will not be voting for it, however, I will be voting for the Insist and Join in a Committee of Conference motion. Simply because I think the points have been made that this needs to be given the same airing as every other Bill has been given. I don't have too much hope for it, I have to tell you, because I think all of the Committees of Conference we have had have had very few who are in agreement. I want that on the Record that I probably will be

voting against it, but I will certainly consider what the Committee of Conference comes up with and I hope would hope everyone else would join me in that vote. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **HANLEY** of Oxford to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

A vote of Yes will be in favor of **INSISTING** and **JOINING IN A COMMITTEE OF CONFERENCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

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

**NAYS:** Senators None

**ABSENT:** Senators HALL, MCCORMICK, TITCOMB

32 Senators having voted in the affirmative and No Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **HANLEY** of Oxford, to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**, **PREVAILED**.

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

Senator **HANLEY** of Oxford.  
 Senator **CAREY** of Kennebec.  
 Senator **BUTLAND** of Cumberland.

The Secretary has so informed the Speaker of the House.

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

#### PAPERS FROM THE HOUSE

#### Non-concurrent Matter

Bill "An Act to Strengthen the Public Disclosure of Lobbying Activities"

H.P. 1038 L.D. 1390  
 (H "A" H-593; S "A"  
 S-317 to C "A"  
 H-528)

In Senate, June 9, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-528) AS AMENDED BY HOUSE AMENDMENT "A" (H-593) AND SENATE AMENDMENT "A" (S-317)** thereto, in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-528) AS AMENDED BY HOUSE AMENDMENTS "A" (H-593) AND "B" (H-668) AND SENATE AMENDMENT "A" (S-317)** thereto, in **NON-CONCURRENCE**.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I haven't had a chance to check these amendments to find out why this Bill is in Non-concurrence. I do apologize. If we could Table it just for a minute, I'd be happy to look at them. Thank you.

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

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

**HOUSE REPORTS** - from the Committee on **LEGAL AFFAIRS**, pursuant to Joint Order H.P. 1135, on Bill "An Act to Reduce the Influence of Money in Elective Politics"

Majority - **Ought to Pass** (H.P. 1150) (L.D. 1550)

Minority - **Ought to Pass** (H.P. 1151) (L.D. 1551)

In House, June 9, 1993, the Majority **OUGHT TO PASS (H.P. 1150) (L.D. 1550)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "B" (H-654) AND "C" (H-658)**.

In Senate, June 14, 1993, Reports **READ** and Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **HANDY** of Androscoggin, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE**.

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

- Senator **HANDY** of Androscoggin.
- Senator **BUSTIN** of Kennebec.
- Senator **SUMMERS** of Cumberland.

The Secretary has so informed the Speaker of the House.

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

**COMMITTEE REPORTS**

**House**

**Committee of Conference**

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature, on Bill "An Act to Protect Private Property" H.P. 514 L.D. 672

Have had the same under consideration and ask leave to report that they are **Unable to Agree**.

Signed on the part of the House:

- Representative **COTE** of Auburn
- Representative **FARNSWORTH** of Hallowell
- Representative **STROUT** of Corinth

Signed on the part of the Senate:

- Senator **BERUBE** of Androscoggin
- Senator **CIANCHETTE** of Somerset
- Senator **CARPENTER** of York

Comes from the House with the Conference Report **READ** and **ACCEPTED**.

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

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

**COMMUNICATIONS**

The Following Communication:

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

June 15, 1993

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

Dear Madam Secretary:



The House today failed to recede and concur on 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).

Sincerely,

S/Joseph W. Mayo  
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

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**ORDERS OF THE DAY**

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

**Emergency Resolve**

Resolve, Directing the Release of Investigative Records Related to Ballot Tampering.

H.P. 1003 L.D. 1349  
(C "A" H-657)

Tabled - June 15, 1993, by Senator BUSTIN of Kennebec.

Pending - **FINAL PASSAGE**

(In Senate, June 9, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657)**, in concurrence.)

(In House, June 15, 1993, **FAILED OF FINAL PASSAGE.**)

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It is my understanding that the Senator from Oxford, Senator Hanley, is having an amendment prepared for this. I would ask that perhaps this be tabled until that amendment is ready. Thank you.

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

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Off Record Remarks

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

Bill "An Act to Strengthen the Public Disclosure of Lobbying Activities"

H.P. 1038 L.D. 1390  
(H"A" H-593; S"A" S-317 to C"A" H-528)

Tabled - June 15, 1993, by Senator ESTY of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, June 9, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-528) AS AMENDED BY HOUSE AMENDMENT "A" (H-593) AND SENATE AMENDMENT "A" (S-317)** thereto, in **NON-CONCURRENCE.**)

(In House, June 15, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-528) AS AMENDED BY HOUSE AMENDMENTS "A" (H-593) AND "B" (H-668) AND SENATE AMENDMENT "A" (S-317)** thereto, in **NON-CONCURRENCE.**)

The Senate **RECEDED** and **CONCURRED.**

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Senate at Ease

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Centralize Licensing for Retail Businesses"

H.P. 399 L.D. 512  
(S "A" S-328 to C "A" H-367)

In House, June 14, 1993, **PASSED TO BE ENACTED.**

In Senate, June 14, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-367) AS AMENDED BY SENATE AMENDMENT "A" (S-328)** thereto, in **NON-CONCURRENCE.**

Comes from the House, that Body **ADHERED.**

On motion by Senator BUSTIN of Kennebec, Tabled 1 Legislative Day, pending **FURTHER CONSIDERATION.**

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

**Emergency Mandate**

An Act Requiring Public Schools to Purchase Insurance through a Competitive Bidding Process  
H.P. 1162 L.D. 1560

In House, June 9, 1993, **PASSED TO BE ENACTED.**

In Senate, June 14, 1993, **FAILED OF ENACTMENT** in **NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED.**

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

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**COMMUNICATIONS**

The Following Communication:

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

June 15, 1993

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

Dear Madam Secretary:

House Paper 603, Legislative Document 818, AN ACT to Modify the Fuel Clause for Electric Utilities, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Eighty-one voted in favor and fifty-four against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,

S/Joseph W. Mayo  
Clerk of the House

Which was **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 think it is appropriate and necessary to rise and make a few comments as we read and accept this communication I do so for two purposes. The first is that I would like to take the opportunity to reassure you about the good, careful, and thoughtful work the Utilities Committee does. Secondly, to provide an opportunity for you to understand this issue a little more. I suggest to you that it will not end here, that it will be back before you again and it will be important that you understand this issue so that you may make informed judgements. I think part of the process that is critical is that we, as policymakers, understand as best as we can the issues before us. I want to take just a few moments to share some information with you on these two points. Secondly, I also want to speak to the Governor's concern in his veto message before you. I have had distributed for your benefit a copy of the Governor's veto message and two communications from the Public Utilities Commission. One dated May 5, 1993 and the second dated March 29, 1993, both of which I have annotated for your convenience so you may look at some relevant aspects of those communications and for your edification as well. Let me speak for a moment about this Bill and the work that the Committee did. This Bill came to our Committee in early March, we worked on it all of March, all of April and into early May, reviewing it several times, bringing it back for further comment, debating it, listening to all sides carefully, being concerned both for the impact on the Utilities and the rate payers and trying to find a reasonable balance. Through that public process we had an 11 - 2 bipartisan vote in support of the Bill and it passed both bodies of this legislative institution.

Let me tell you a little bit about the fuel adjustment clause, and incidentally the only opponents during that entire process were the public utilities themselves, they raised the concern about the impact on their bond rating and the downgrading and the cost to rate payers and therefore the shareholders and therefore the rate payers. We asked them to come back, to bring information that we could substantiate that that would occur, because we did not want that to occur. We asked them on two occasions to do that. What they brought back to us was a photocopy of a trade article, that's all. They said they had a letter from the bond rating agency that said that this would be a detriment and may raise the rates. We asked them to produce it and they were unable to produce it. They said they had it but they did not come forward. We asked them to produce an individual from a bond rating agency that could confirm their concerns, they were unable to do that as well. Acting on a lack of evidence and production of it we did the best we could to make the best judgement. We did not ignore this issue, we asked them to substantiate it and they were unable to substantiate their concerns. All they did was express it. Many interest groups from all sides of the spectrum often express concerns that are unsubstantiated and that are not a basis on which a governmental body should act.

Let me tell you for just a moment about what this fuel clause adjustment mechanism is. It was instituted in 1975 because of the volatility of oil prices and because at that time the Utilities were spending about 40% of their expenditures on oil and they were fluctuating dramatically, even doubling sometimes. So to protect both the Utilities and for the benefit of the rate payer it was instituted. Those circumstances have changed. They are now down

to about 10% of their total fuel is by oil, the price of oil has been stable for most of the 1980's, and most of their fuel costs are fixed fees by contract. So the circumstances under which it was initiated no longer exists. Under the testimonial read from the Public Utilities Commissioners themselves, they stated, "it is overwhelmingly clear an overriding evidence that the circumstances that justified this no longer exist." That is from the commissioners themselves. The reason to act is overwhelming and there was a lack of evidence not to so we proceeded.

Let me give you a sense of the numbers and how it impacts individual rate payers. In the last 5 years \$174 million in rate increases went through the fuel clause adjustment mechanism. 70% of the entire rate increases to our consumers at Central Maine Power went through that summary review, three months or less, cursory review of those expenses. CMP itself reports that as of today, \$425 million of their expenses go through the fuel clause. Nearly half of them. What we have done is set aside, taken off the table for substantive review, nearly 50% of the total cost, 70% of the rate increases that go to our constituents and our rate payers. They are not even looked at in a comprehensive way. When you take that amount of the expenses off the table for careful review, is it any wonder the Public Utilities Commission's hands are tied in its efforts to deal with the dramatic rate increases. It is also similar for Bangor Hydro, which is 50% and Maine Public Service, which is a significant portion of their expenses as well. So this is not a minor issue. Huge portions of the total cost to rate payers go through this mechanism and receive nothing but a cursory review.

Let me talk for just a moment about the Governor's concerns, two of which he has raised. One is that he wishes the new Chair of the Commission to be more involved in the process and two, his concerns about bond rating. Let me tell you that what the Bill does, it is permissive, it has no particular time schedule. It simply allows discretion on the part of the Commission either to modify, not to modify, to do nothing at all, or to do it in whatever time frame they want, and for the current Chair to be fully involved. It is simply discretionary. It doesn't mandate anything, it doesn't change any policy immediately, it doesn't set any time table for that policy to be changed, it simply allows the discretion of the Public Utilities Commission to examine this particular mechanism and to take whatever action they think is appropriate if any, fully involving the current Chair. Without the Bill you tie their hands and they can't do it, again. It is interesting and curious to me that the Governor expresses his concern and desire for the Chair to be involved, yet he has been on the job for three weeks and the Governor has yet to contact the Chair and even ask for a meeting to discuss it. He has yet to contact him. The two other Commissioners asked for a meeting with the Governor, a meeting was scheduled but the Governor was unavailable for the meeting so that he could even talk to his Commissioners about the reason for their concern, or about the reasons why they were supporting this so they could have a dialogue. He was unavailable to discuss it with them, yet he expresses his concern. It raises the question to me of what kind of confidence he has in his own nominees that he is afraid to allow them discretionary authority. He does not trust them, apparently, to make the proper decisions, because that is all the Bill does to allow them to do that.

Let me talk for a minute about the bond rating issue. If you look at the May 5th communication with the Public Utilities Commission, at the bottom of the first page, the annotated section, the Commissioner's say, "The Commission would like to take this opportunity to reassure this Committee, as well as those who think L.D. 818 either goes too far or doesn't go far enough, that if L.D. 818 is enacted the Commission will do everything in its power to properly balance the concerns of both rate payers and shareholders regarding the existence and operation of a cost of fuel adjustment purchase power mechanism." In that second full paragraph at the bottom it says, "We will do what we can to insure that Wall Street continues to view Maine regulators as responsible." History shows they have a high level of confidence in the regulatory process in Maine and so take the appropriate action there. Clearly, what this does is shift the risk from the shareholder directly onto the rate payers who will pay the cost on a one to one basis, dollar for dollar, guaranteed, to the Utilities. Without any incentives to try to reduce those costs. \$425 million guaranteed, and the risk is put on the little residential household on a fixed income. I'm concerned because issue after issue comes up regarding Utilities, the result seems to be rate payers lose, Utilities win. It ties the hand of the Public Utilities Commission to adequately review and protect and regulate the utilities and to safeguard the rate payer. I see an ever growing, undue influence of the Utility lobby on this legislative process that is disturbing to me. That even after the Committee vote there is enormous effort to have the Bill reviewed and recalled, even after the Bill comes up to the floor there is activity to withhold and hold the Bill over, and if that doesn't succeed we go to the Governor's office and we get him to veto it. Bill after Bill after Bill.

I guess we will all have to be the judges of that. As the months roll ahead and the Public Utilities Commission is forced to act on rate requests from the utilities, let's see who wins and who loses. Let's see if we have adequately given them the tools to protect the rate payer or if rates continue to go up. You can all be the judge of that as the months roll ahead. I can assure you our constituents and the rate payers at home will be a judge as well. Thank you.

Which was **ORDERED PLACED ON FILE.**

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

#### **PAPERS FROM THE HOUSE**

##### **Non-concurrent Matter**

Bill "An Act to Set Voluntary Limits for Campaign Spending"

H.P. 1149 L.D. 1549  
(S "D" S-329; S "E"  
S-332)

In House, June 4, 1993, **PASSED TO BE ENGROSSED.**

In Senate, June 14, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "D" (S-329) AND "E" (S-332) in NON-CONCURRENCE.**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "D" (S-329) AS AMENDED BY HOUSE AMENDMENT "A" (H-666) thereto, AND SENATE AMENDMENT "E" (S-332) in NON-CONCURRENCE.**

Senator **CAREY** of Kennebec moved that the Senate **ADHERE.**

Senator **HANLEY** of Oxford moved that the Senate **RECEDE and CONCUR.**

The Chair ordered a Division.

On motion by Senator **HANLEY** of Oxford, 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 Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I realize that we are winding down here, waiting for an opportunity to let the Appropriations Committee go and do their business. I would hate to see, in the last couple minutes of this afternoon's session, this Bill just kind of all of a sudden die by not voting to Recede and Concur and go along with the other body. As we have spoken before, a lot of election reform Bills have been put forward in front of the legislature this session and rightfully so. Not only because of the ballot tampering but also because of the need for election reform, campaign finance reform has been so desperately needed and desperately called for by the people of the State of Maine. All of us throw up our hands and say the cost of running a campaign is just becoming astronomical and when we have the cost of House and Senate campaigns rising at an expeditious rate this Bill fashioned, and I was a sponsor as was a number of other people who have sponsored legislation, to track what other states have done, New Hampshire and Vermont specifically, to set voluntary spending limits. I would argue to the members of this chamber that the Legal Affairs Committee spent many many hours on this, I know in speaking with the good Senator from Piscataquis, Senator Hall, he would continually update our caucus as far as the work and the effort being put in by the Legal Affairs Committee to address this particular issue. I admire the work of the Legal Affairs Committee to combine and get a consensus and I would like to think that we are least going to try and enact some sort of campaign finance reform before this session ends. If we are not to Recede and Concur and just go to Adhere, basically we are saying we are just going to kill the Bill because then the House will be voting against us and so on and so forth. I think what has been fashioned here is responsible, I think it is a step in the right direction and I would urge you to support the motion to Recede and Concur.

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

Senator **ESTY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It seems to me that the good Senator from Oxford, Senator Hanley, has misinterpreted the motion at hand. In fact the Adhere motion says that we think our position is a

strong one. I support the Bill, I think that the Bill as Amended in the Senate is a much better Bill than the Bill that came from the other body with amendment H-666, that guts out some of the penalty provisions. I think we should pass this legislation, we should stick to our guns and have a good strong Bill on voluntary limits. In fact, when it goes back to the other body they then can Recede and Concur on our position. I stand here to submit to you that by supporting the Adhere motion we will be standing for a stronger Bill on voluntary limits, not a weaker Bill that would be supported if you support Receding and Concurring. 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. As a member of the Legal Affairs Committee I join with my good Majority Leader, Senator Esty, from Cumberland in urging us to support the Senate's version of this legislation. I think that is the best that we can do this session of the legislature. We have seen, as I have said in earlier debate, an increase of 358% in the amount of money that is spent in campaigns, that is over the last three election cycles. 77% of that money has been in contributions of over \$100. This legislation is voluntary. If you choose not to subscribe to the points set forth in this legislation, should it become law, then you fall into the same category as you fall now. The current law for disclosure, the current limits take effect. No one is compelled to abide by the voluntary limits as they are just that, voluntary. I would urge you to go along with the good Majority Leader and support the Senate's version of this Bill. Thank you.

Senator **HANLEY** of Oxford requested and received Leave of the Senate to withdraw his motion for a Roll Call.

The same Senator requested and received Leave of the Senate to withdraw his motion to **RECEDE and CONCUR.**

On further motion by same Senator, the Senate **RECEDED.**

On further motion by same Senator, the Senate **RECEDED** from its action whereby it **ADOPTED** Senate Amendment "D" (S-329).

House Amendment "A" (H-666) to Senate Amendment "A" (S-329) **READ.**

On motion by Senator **HANLEY** of Oxford, House Amendment "A" (H-666) to Senate Amendment "D" (S-329) **INDEFINITELY POSTPONED in NON-CONCURRENCE.**

The same Senator moved to **INDEFINITELY POSTPONE** Senate Amendment "D" (S-329).

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **HANLEY** of Oxford to **INDEFINITELY POSTPONE** Senate Amendment "D" (S-329).

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**ORDERS OF THE DAY**

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

Off Record Remarks

JOINT ORDER - relative to recalling Bill "An Act to Facilitate the Assessment and Collection of Municipal Property Taxes" (S.P. 402) (L.D. 1233) from the Governor's desk to the House.

H.P. 1164

Tabled - June 15, 1993, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE**

(In Senate, June 15, 1993, **READ**.)

(In House, June 14, 1993, **READ** and **PASSED**.)

Which was **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

**Emergency Resolve**

Resolve, Directing Release of Investigative Records Related to Ballot Tampering

H.P. 1003 L.D. 1349  
(C "A" H-657)

Tabled - June 15, 1993, by Senator **ESTY** of Cumberland.

Pending - **FINAL PASSAGE**

(In Senate, June 9, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657)**, in concurrence.)

(In House, June 15, 1993, **FAILED OF FINAL PASSAGE**.)

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

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

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

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On motion by Senator **HARRIMAN** of Cumberland, **ADJOURNED** until the call of the President of the Senate and the Speaker of the House when there is a need to conduct legislative business pursuant to the Joint Order Passed Monday, June 14, 1993.