

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Sixteenth Legislature
OF THE
State Of Maine

VOLUME VI

SECOND REGULAR SESSION

Senate
January 5, 1994 to April 6, 1994

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

In Senate Chamber
Monday
March 28, 1994

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

Prayer by the Honorable Judy A. Paradis of Aroostook.

SENATOR JUDY A. PARADIS: Bonjour, Monsieur le President chers members du Senate. Let us pray. God be with us today as we do the people's work. Give us the energy, wisdom and stamina to discharge our responsibilities fairly, equitably and with justice. Inspire us to discern what is right, honest, fair, humane and doable for the people of the State of Maine. Amen.

Reading of the Journal of Friday, March 25, 1994.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 769

116TH MAINE LEGISLATURE

March 25, 1994

Senator Gerard P. Conley, Jr.
Rep. Constance D. Cote
Chairpersons
Joint Standing Committee on Judiciary
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated the following:

Pursuant to the Constitution, Article V, Part 1, Section 8:

John R. Atwood of Damariscotta for appointment as a Justice of the Maine Superior Court.
Samuel W. Collins, Jr. of Rockland for appointment as an Active Retired Justice of the Maine Supreme Judicial Court.

Pursuant to Title 4, MRSA Section 6:

Kermit V. Lipez of South Portland for appointment as a Justice of the Maine Supreme Judicial Court.

These nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

Which was **READ** and referred to the Committee on **JUDICIARY**.

Sent down for concurrence.

The Following Communication:

**DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
STATE HOUSE STATION #45
AUGUSTA, MAINE 04333**

March 10, 1994

The Honorable Dan A. Gwadosky
Speaker of the House
State House Station #2
Augusta, Maine 04333

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

Dear Speaker Gwadosky and President Dutremble:

I am pleased to submit, in accordance with M.R.S.A. Title 26, Section 1724, the annual report of the Maine Chemical Substance Identification Program.

The 1993 program year was very active. Program staff are to be commended on their efforts in maintaining a high standard of response to evolving needs.

Please do not hesitate to contact me directly with any questions or comments regarding this program or the report.

Sincerely,

S/William A. Peabody
Director

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

The Following Communication:

**COMMITTEE ON ENERGY AND NATURAL RESOURCES
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 24, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Energy & Natural Resources has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 796 An Act Regarding the Motor Vehicle Emission Inspection Program

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mark W. Lawrence Senate Chair
S/Rep. John L. Martin House Chair

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

The Following Communication:

**COMMITTEE ON TAXATION
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 24, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1937 An Act to Provide Incentives for Businesses to Create Jobs in the State

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John E. Baldacci Senate Chair
S/Rep. Susan E. Dore House Chair

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

The Following Communication:

**COMMITTEE ON UTILITIES
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 24, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Utilities has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1037 An Act to Cause the Renegotiation of Utility Contracts for Electric Power Generated at Private Facilities

L.D. 1975 An Act to Encourage the Processing of Off-grade Potatoes in Aroostook County

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Harry L. Vose Senate Chair
S/Rep. Herbert E. Clark House Chair

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

ORDERS

Joint Resolution

On motion by President **DUTREMBLE** of York (Cosponsored by: Speaker **GWADOSKY** of Fairfield) the following Joint Resolution:

S.P. 768

JOINT RESOLUTION IN APPRECIATION AND RECOGNITION OF THE STATE'S TWELVE COUNTY PRIVATE INDUSTRY COUNCIL

WHEREAS, the United States Job Training Partnership Act, 29 United States Code, Sections 1501, et seq., established private industry councils and charged them with the responsibility "to provide policy guidance for, and exercise oversight with respect to, activities under the job training plan for its service delivery area in partnership with the unit or units of general local government within its service delivery area"; and

WHEREAS, the United States Job Training Partnership Act directs that each private industry council must consist of:

"(1) representatives of the private sector, who shall constitute a majority of the membership of the council and who shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management of policy responsibility; and

(2) representatives of educational agencies (representative of all educational agencies in the service delivery area), organized labor, rehabilitation agencies, community-based organizations, economic development agencies, and the public employment service."; and

WHEREAS, the Twelve County Private Industry Council has successfully implemented federal training initiatives and the State has utilized the Twelve County Private Industry Council for delivery of state initiatives such as Strategic Training for Accelerated Reemployment (STAR), Additional Support for People in Retraining and Education (ASPIRE) and the Maine Training Initiative; and

WHEREAS, the Twelve County Private Industry Council has provided the infrastructure that creates the bridge for a meaningful partnership between the public and private sectors in the design, implementation and oversight of training programs; and

WHEREAS, thousands of residents of the State annually receive high quality employment and training services provided through the Twelve County Private Industry Council job training system; and

WHEREAS, the quality and performance of employment and training programs under the Twelve County Private Industry Council has consistently surpassed federal performance standards and has achieved the highest placement rate in New England; and

WHEREAS, the provision of quality employment and training services is critical to the economic well-being of citizens of the State and the economic vitality and competitiveness of businesses of the State on a regional and national basis; and

WHEREAS, the Twelve County Private Industry Council provides fully staffed and comprehensive employment and training services at offices located in each county of its 12-county jurisdiction; and

WHEREAS, the Twelve County Private Industry Council is leading the way in developing means and strategies to cope with employment and training problems ranging from high unemployment to labor shortages; and

WHEREAS, the Twelve County Private Industry Council has demonstrated its commitment, dedication, effectiveness and leadership in addressing the State's employment and training needs of today and planning for the needs of tomorrow; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Sixteenth Legislature, now assembled in the Second Regular Session, on behalf of the people we represent, pause to honor and give recognition to the State's Twelve County Private Industry Council in appreciation of its outstanding dedication, leadership and provision of employment and training services for the citizens and businesses of the State since 1983; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the State's Twelve County Private Industry Council.

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

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **BANKING & INSURANCE** on Bill "An Act to Require Insurers to Obtain Written Consent from the Policy Owner before Transferring a Policy to Another Insurer"

H.P. 829 L.D. 1115

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-916)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-916)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-916) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BANKING & INSURANCE** on Bill "An Act Related to Multiple-employer Welfare Arrangements" (Governor's Bill)

H.P. 1122 L.D. 1521

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-917)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-917)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-917) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION** on Bill "An Act to Revise the Laws of Maine to Incorporate the Office of Rehabilitation Services within the Department of Education" (Governor's Bill) (Emergency)

H.P. 1431 L.D. 1956

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-909)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-909)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-909) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY & NATURAL RESOURCES** on Resolve, to Preserve the Competitiveness of Maine's Existing Business and Industry and to Preserve the Ability of the State to Attract New Investment by Petitioning for Removal from the Ozone Transport Region (Emergency)

H.P. 1193 L.D. 1590

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-911)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-911)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (H-911) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act to Eliminate the Sales Tax on Snack Foods"

H.P. 560 L.D. 757

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-833)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-833) AS AMENDED BY HOUSE AMENDMENTS "A" (H-927) AND "B" (H-929) thereto**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-833) **READ**.

House Amendment "A" (H-927) to Committee Amendment "A" (H-833) **READ** and **ADOPTED**, in concurrence.

House Amendment "B" (H-929) to Committee Amendment "A" (H-833) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-833) as Amended by House Amendments "A" (H-927) AND "B" (H-929) thereto, in concurrence.

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

Divided Report

The Majority of the Committee on **AGING, RETIREMENT & VETERANS** on Bill "An Act to Clarify Mandatory Coverage Requirements for Participating Local Districts within the Maine State Retirement System"

H.P. 785 L.D. 1058

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

Signed:

Senators:

TITCOMB of Cumberland
MCCORMICK of Kennebec

Representatives:

WENTWORTH of Kennebunkport
JALBERT of Lisbon
CATHCART of Orono
HATCH of Skowhegan
BARTH of Bethel
CLUKEY of Houlton
JOY of Island Falls

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-913).**

Signed:

Representatives:

VIGUE of Winslow
BIRNEY of Paris
TUFTS of Stockton Springs

Comes from the House with the Majority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

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

Divided Report

The Majority of the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act to Maintain State-staffed Crisis Programs" (Emergency)
H.P. 1296 L.D. 1751

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-907).**

Signed:

Senators:

PEARSON of Penobscot
TITCOMB of Cumberland

Representatives:

CHONKO of Topsham
RYDELL of Brunswick
HICHBORN of LaGrange
CARROLL of Gray
MICHAUD of East Millinocket
KERR of Old Orchard Beach
REED of Falmouth
POULIOT of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-908).**

Signed:

Senator:

FOSTER of Hancock

Representatives:

FOSS of Yarmouth
MACBRIDE of Presque Isle

Comes from the House with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-907)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-907).**

Which Reports were **READ**.

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

Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Clarify the Application of Nursing Facility Admissions Criteria" (Emergency)
H.P. 1230 L.D. 1650

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-922).**

Signed:

Senator:

PARADIS of Aroostook

Representatives:

TREAT of Gardiner
BRENNAN of Portland
BRUNO of Raymond
PENDLETON of Scarborough
FITZPATRICK of Durham
JOHNSON of South Portland

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

Signed:

Senator:

HARRIMAN of Cumberland

Representatives:

CARR of Sanford
GEAN of Alfred

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-922).**

Which Reports were **READ**.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Protect the Rights of Employees and to Ensure the Proper Expenditure of Public Funds"
H.P. 1303 L.D. 1758

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-865)**.

Signed:

Senators:
HANDY of Androscoggin
LUTHER of Oxford

Representatives:
CHASE of China
LIBBY of Buxton
CLEMENT of Clinton
RUHLIN of Brewer

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

Signed:

Senator:
BEGLEY of Lincoln

Representatives:
AIKMAN of Poland
LINDAHL of Northport
CARR of Sanford

(Rep. COFFMAN of Old Town ABSTAINED)

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-865)**.

Which Reports were **READ**.

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

Divided Report

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act to Clarify Reporting Requirements for Party Committees"

H.P. 1244 L.D. 1671

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

Signed:

Senators:
CAREY of Kennebec
HALL of Piscataquis

Representatives:
GAMACHE of Lewiston
STEVENS of Sabattus
BENNETT of Norway
NASH of Camden
ROBICHAUD of Caribou
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-918)**.

Signed:

Senator:
HANDY of Androscoggin

Representatives:
BOWERS of Washington
DAGGETT of Augusta

Comes from the House with the Minority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-918)**.

Which Reports were **READ**.

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

Senate

Ought to Pass

Senator **PINGREE** for the Committee on **HOUSING & ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Date of Repeal of State Increment Financing Districts and to Allow the Finance Authority of Maine to Issue Revenue Refunding Securities" (Emergency)
S.P. 767 L.D. 1987

Reported that the same **Ought to Pass**, pursuant to Joint Order (S.P. 765).

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

The Bill **READ ONCE**.

The Bill **LATER ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

Senator **CONLEY** for the Committee on **JUDICIARY** on Bill "An Act to Permit Collection of Public Assistance Overpayments by Administrative Process" (Governor's Bill)
S.P. 471 L.D. 1463

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-532)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-532) **READ** and **ADOPTED**.

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

Senator **CONLEY** for the Committee on **JUDICIARY** on Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)

S.P. 676 L.D. 1852

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-531).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-531) **READ** and **ADOPTED**.

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

Senator **HALL** for the Committee on **LEGAL AFFAIRS** on Bill "An Act to Make Changes in the Manufactured Housing Laws" (Emergency)

S.P. 461 L.D. 1453

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-530).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-530) **READ** and **ADOPTED**.

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

Divided Report

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act to Amend the Private Security Guards Act"

S.P. 599 L.D. 1658

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

Signed:

Senators:

CAREY of Kennebec
HANDY of Androscoggin
HALL of Piscataquis

Representatives:

DAGGETT of Augusta
LEMKE of Westbrook
BENNETT of Norway
MICHAEL of Auburn

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-526).**

Signed:

Representatives:

BOWERS of Washington
GAMACHE of Lewiston
NASH of Camden
TRUE of Fryeburg
ROBICHAUD of Caribou
STEVENS of Sabattus

Which Reports were **READ**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Modify the Taxation of Leases on Automobiles"

S.P. 545 L.D. 1570

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-527).**

Signed:

Senators:

BALDACCI of Penobscot
CAREY of Kennebec
SUMMERS of Cumberland

Representatives:

TARDY of Palmyra
DORE of Auburn
SIMONEAU of Thomaston
RAND of Portland
HOGLUND of Portland
DIPIETRO of South Portland
NADEAU of Saco
SPEAR of Nobleboro
FARNSWORTH of Hallowell

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

Signed:

Representative:

MURPHY of Berwick

Which Reports were **READ**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-527) **READ** and **ADOPTED**.

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the Tabled and Later Assigned (3/25/94) matter:

SENATE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Strengthen the Coordinated Delivery of Substance Abuse Services in the State"

S.P. 655 L.D. 1824

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-508)**

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-509)**

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 24, 1994, Reports **READ**.)

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

The Chair laid before the Senate the Tabled and Later Assigned (3/25/94) matter:

Bill "An Act to Promote Integrity in the Citizens Petition Process"

H.P. 1417 L.D. 1931
(C "A" S-881)

Tabled - March 25, 1994, by Senator **ESTY** of Cumberland.

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

(In Senate, March 25, 1994, **READ A SECOND TIME**.)

(In House, March 24, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-881)**.)

On motion by Senator **HANLEY** of Oxford, Senate Amendment "A" (S-529) **READ**.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. May I pose a question through the Chair? Would the good Senator from Oxford, Senator Hanley, please explain this proposed amendment? 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 Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To answer your question Senator Handy, this amendment would basically do two things. The most important thing that it would do is make it illegal, prohibit paying someone for their signature. Not paying someone to gather the signature but if I were to go over to Senator Handy and say I would like you to sign this petition and I will give you ten dollars if you sign it. That is currently legal. I have a problem with that and if we are going to get at the issue of gaining signatures for petitions I think there is something that smells awful to pay people for their signature. I don't think there is a problem with having people receive remuneration to collect signatures and that goes to the second portion of this amendment. It has a reporting requirement that any group that wants to gather signatures for a petition that they would have to disclose and report how they are going to go about paying for the signatures, either if it is going to be hourly or on a per signature basis. That must be disclosed and reported to the Commission. Those are the two basic components of the amendment. I feel they are very important and I applaud the initiative to clean up some of the areas around the petition gathering process. I think this amendment goes far to clean up that problem. Thank you.

Senator **HANDY** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-529).

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The Legal Affairs Committee considered an amendment that would in effect cause for the disclosure as to whether one is soliciting for signatures as to whether they are a paid employee when they are doing the solicitation on an initiative or referendum petition. One of the cosponsors of the legislation from the other body, Representative Adams, proposed the amendment to the Committee and the Committee considered the amendment and dismissed it as not really getting to the crux of the issue which is a payment per signature to one who makes solicitation for the signatures. It is viewed as nothing but bounty hunting. The fundamental principal of our democracy is that it is made up of people who care and if one cannot obtain signatures based upon the premise offered in a particular petition that is being passed, it is the considered opinion of the members of the Legal Affairs Committee, who considered this amendment and ultimately rejected it in Committee, that perhaps that isn't a petition that ought to be pursued. I would hope that you would support the Indefinite Postponement of this amendment and go with the amended Committee version of this Bill which would prohibit the payment on a per signature basis for the gathering of names on a petition. 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. This new amendment that has been offered to us clearly makes much more sense to me for the simple reason that many people that I talked to about this very situation back home, four out of five of them thought that this is what the paper meant went somebody was paying for signatures. That they were paying the voters to sign the petition. Very few of them had it the correct way around. This would indeed, and they were opposed to that as I am opposed to that, this amendment surely would clear up that cloudy area. Basically, whether you pay someone to collect signatures, whether you pay them by the hour or by the signature that they obtain, to me that is no different than working in a factory and getting paid for piecework. The harder you work, the faster you work, the more money you make. An argument was made in front of the Legal Affairs Committee that if you paid someone so much an hour to collect signatures that they surely knew they were going to get paid so much for the time worked and therefore probably wouldn't care. They might just sit up a card table in a shopping center and really not care whether anyone stopped to sign their petition or not, because they were going to get paid for an eight hour day regardless of any or how many signatures they collected. So I would urge you to vote against the postponement of this amendment. 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. I wasn't going to rise again, but when the good Senator from Piscataquis, Senator Hall, related that example about the person sitting at the supermarket it really brought to light what the issue here is. One should be committed to the principals of democracy by supporting the principal outlined on a petition and not motivated by what one is going to get by means of remuneration. We had testimony before the Legal Affairs Committee, and I just want to share with you a couple of quotes. One person who testified in opposition to this legislation made this statement, "This is the way we do business, to pay by signature". That came from a gentleman who was trying to gain support for the Libertarian party in the State of Maine. Another statement was made by the same individual, "We can't effectively manage people if they are paid by the hour." Those should be two very telling statements about the incentive that pay for signature offers to individuals. That is not the fundamental principal of our democracy, the fundamental principal of our democracy is to get behind an issue and support the issue and whatever benefits come from supporting that issue, let that be the incentive, not pay per signature. Thank you.

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

Senator **LUTHER**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I guess I want to be on Record on this one. I think the motivation behind this bill is sour grapes. The people brought forth a decree that they liked term limits and people do not like it. Now when the next ballot goes before the people in November they are going to like term limits again. If we want to be appalled about money and politics let's start being appalled by what people pay for their campaigns to get elected here. There is a lot to be appalled about with money and politics. I understand there is a support group for

that now. I am going to support the amendment offered by the good Senator from Oxford, because it is closer to what we want to do to make sure that this is done right. If this were just sour grapes it would not be a major thing but it could be seen as the first effort to restrict the people's right to go to referendum at all. Thank you.

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

Senator **CLEVELAND**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would urge you as well not to support this amendment and I would do so for two reasons. First of all, any time that an individual is paid on the number of products they produce, in this case the number of signatures that they gather, it introduces a tremendous incentive for abuse and corruption of the process. I, like I think many of you here, have been approached by individuals who are getting signatures. If you ask them anything about the process, as I have, why are you collecting signatures, what is the issue, why do you think I ought to support that, what I have found in almost every single incidence, and particularly in those where they are getting paid by the signature, that they misrepresented the issue. They would often say to those whom they approached those things that they thought would get them to sign it because it meant they had a fatter paycheck. I don't think we ought to encourage that in our political system. It is paramount that the public have honest, clear information about what it is they are asking to be doing. When you ask people to be remunerated on a basis of how many signatures they collect there is enormous incentive for them not to be straightforward and honest because it will affect their paycheck. Secondly, it disturbs me because what we have now introduced is politics by the biggest pocketbook. Any group, organization, or special interest that has a fat wallet simply has to hire people and pay by the signature to get their issue before the public. It seems to me that skews the process, that the intent of the initiative process and the referendum process is to allow those citizens who are clearly motivated by interest and concern and connection with an issue to have the public's point of view heard. I think it is very disruptive to the political process and we ought not to allow it so I would urge you not to support this amendment and vote for indefinite postponement. 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 think it is important that we get back on track. I think the good Senators from Androscoggin have missed the boat just a little bit as to what the primary reason behind this amendment is. When the good Senator from Androscoggin, Senator Handy, says this goes against the principles of democracy I say what this amendment does is reinforce the principles of democracy. How can you say I am going to pay Senator Butland five dollars to sign my petition? That's wrong, that goes totally against what the citizen's initiative petition process is about. Paying someone to sign a petition for your cause is wrong. If the person, of their own judgement, thinks it is a meritorious idea then they will sign the petition, but don't pay them to sign the petition. You talk about bounty hunters, the good Senator from Androscoggin, Senator Handy, pointed out that this is nothing but bounty hunting if you allow the gathering of signatures on a per signature basis or an hourly basis. I think it is

the antithesis as far as if you are paying someone to sign that. Currently you can, I can go out and be paid two dollars per signature and say what's in it for you. As the good Senator from Androscoggin, Senator Cleveland, said what's in it for me, well currently there is a dollar in it for you, sign it and I'll give you a dollar. I don't even have to represent what the petition says. If I stand in front of the Shop 'n Save with a big sign that says a dollar for every signature that gets put in and give them a voucher to have them pick it up in a week's time, that's wrong. The law currently allows that. That is bounty hunting, that is undermining the principles of democracy. I urge you to vote against the pending motion as well. 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. The good Senator from Oxford, Senator Luther, was somewhat incorrect when she said this really was after term limits. The term limit thing has gone by, they have been certified, that is no longer the problem. If the good Senator from Oxford, Senator Hanley, feels so strongly about his measure, maybe we can get this bill tabled and we will prepare an amendment which will include the fact that you cannot pay people for their votes as well as not pay the circulator. Then we will have covered all of the bases. Thank you.

On motion by Senator **BUSTIN** of Kennebec, Tabled until Later in Today's Session, pending the motion by Senator **HANDY** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-529).

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

SENATE REPORTS - from the Committee on **AGING, RETIREMENT & VETERANS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System

S.P. 653 L.D. 1822

Report **A** - Ought to Pass as Amended by Committee Amendment "A" (S-515)

Report **B** - Ought to Pass as Amended by Committee Amendment "B" (S-516)

Report **C** - Ought Not to Pass

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF ANY REPORT**

(In Senate, March 24, 1994, Reports **READ**.)

Senator **TITCOMB** of Cumberland moved that the Senate **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-515).

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 ask you to oppose the current motion. If you read the bill itself you will see that what it does is amend the Constitution to say that there is a contractual arrangement between the employee and the State from the moment of employment. A position which I believe is not only unreasonable but not prudent use of our tax dollars. I use the example of a teacher who goes to work for the school system. The teacher has to gain tenure before they are guaranteed anything. It's that simple, until you are actually in the system for a period of time you have no guaranteed benefits. I believe it is imprudent to obligate our tax payers to, from the moment someone goes to work for the State, to have to be obligated to pay benefits under the retirement system until they are tenured. I believe until the employee is vested it is unreasonable to expect the taxpayers to have to guarantee anything. You could argue against amending the Constitution. This amendment actually would apply to only three or four percent of the population. That is a different argument than someone else can give. I'm willing to support an amendment to the Constitution assuming that it is something that the taxpayers can afford to pay for. It seems to me that once you are vested in the system your benefits should be guaranteed and protected but I can't philosophically support this kind of obligation to the taxpayers that Committee Amendment "A" would do. For that reason I would ask you to oppose this motion and let me offer my amendment. 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. Certainly the whole issue of security in the Maine State Retirement System is not a new one to anyone in this room and certainly to very few people in the State. One of the greatest concerns that the people of this State have had over the last several years is the apparent lack of commitment on the part of the State to honor the promises that were made to State employees and to teachers concerning the Maine State Retirement System. There has been a great deal of fear and in many cases a certain degree of injustice, the treatment of Maine State employees. What this proposal seeks to do is to declare that at the time when someone is hired, and the State makes a commitment to that individual as to what their retirement will be, that we keep that commitment. That is not to say that over the next several years that we may not broaden the retirement plan, that we may not offer alternatives to that plan, but the basic premise is that when you make a commitment to someone that you hire, that you keep the commitment. If you can't keep the commitment then you shouldn't make it. The Monk's report came back to us with some very important messages. I would remind you that the Monk's Commission was appointed by bipartisan leadership in this State. They came back with the very clear message that the benefits that we are offering State retirees are by no means elaborate. In fact, one of their greatest concerns was that State employees, upon their retirement, don't have the benefit of being able to depend on Social Security, they must depend on the retirement that we have promised them. The other issue that they brought back to us was that the insecurity in the retirement system had nothing to do with the benefits that we were giving, but in fact had a great deal to do with the fact that every time we needed extra cash we would go after the cash cow, which was the Maine

State Retirement System fund. Our Committee worked through the Monk's Report and have in place plans to move to what we call Son of Monk's, which is a new Commission that is going to begin to move on the recommendations, look at the recommendations that this recent study put forward. There clearly are needs for change, this does not preclude those needs for change. It does not deny us the opportunity to change the methods that people ensure their State retirement. It certainly will look at Social Security as an option. It will look at a defined contribution plan versus a defined benefit plan. The table is open but what is says is that after we have made all of the cuts that we have made, and we have made plenty, do not misunderstand that. Over the last couple of years we have made some changes that are very positive and were needed, we also made some changes under the court ruling that the Monk's Commission felt allowed us to go too far. This Constitutional amendment would be a proposal sent to the people. They would make the decision. Our decision today is to whether we ask the people of Maine if they are bound by the honor of the State's word when it hires a State employee. It simply says that the day we hire you we will tell you what you can expect in your retirement and it simply provides that at some point in time, when the checkbook goes red, that we don't decide that we are going to change our word. It is a matter of honor and commitment and I encourage everyone to accept the motion. Thank you.

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

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I think it is appropriate at this time to indicate my disgust with the manner that the MEA has approached this issue. I have been in this legislature for a long time, I have a lot of friends in Franklin County, people in my home town, and last Sunday I went to breakfast at a local restaurant and a little old lady, a retired school teacher, approached me literally in tears afraid that somehow she was going to lose her benefits because of actions of this legislature on this issue. This bill, this amendment, a Constitutional amendment to be presented to the voters, regardless of whether this bill passes or fails, no one in this State will lose benefits. Particularly people who are retired. I hate the process, it doesn't matter who it is, whether it is the labor unions or business, when they mislead the people of this State to pass an issue I find it offensive and I think the members of this body ought to find it offensive. When I had this little old lady come up to me I couldn't believe it. I had five people call me who were completely misled as to what this bill does. No retired person in Maine has lost any benefits, or will lose any benefits, under our retirement system whether this bill fails or passes. It is an example of the kind of things that shouldn't go on in politics and it is frustrating to me and I know it is frustrating to other members of this Senate. This legislation, if it fails, would have no adverse effect on anybody in the retirement system who is vested. My position is, if you are not vested you have not put the time into the system, I'm not willing to guarantee that you will have every benefit going. Let me give you an example, most of us have heard about and been frustrated with the problem where many administrators were taken extra jobs and doing extra things in the last three years before retirement so they could balloon their benefits. They worked for three years at higher levels to make more money and really take money out of the system that they didn't deserve. This is a problem that

this legislature dealt with last year. If this amendment had been law we could not have changed that, it would have been a change in law. It seems to me that we ought to think about that. I feel very strongly that until someone has tenure, until they are vested they ought not to expect us, the taxpayers of Maine, to guarantee them things that no one else in the private sector has. For that reason I would ask you to vote against Amendment A and support Amendment B. 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 think one point that the Senator from Franklin made that is very true is that we did deal with such things as ballooning last year. In fact, we dealt with such things as ballooning considerably over the last couple of years. We looked at just about every imaginable abuse that could possibly take place and more in the Retirement system. It is not that we have not dealt with the major problems, the glaring problems in the system, and in fact the Monk's Commission did not come back with any recommendation that we should further erode benefits, in fact we have eroded them considerably beyond what many individuals feel we should have, including recommendations that came from the Monk's Commission. I think it is very important to note that no one has tried to frighten the little old ladies who are retired. I think the biggest fear to some of our elderly people who are presently retired is that they have seen us so directly and aggressively go after the funds that are in the Maine State Retirement System that their biggest fear is that the money might not be there, not because we are overly generous but because we have been overly aggressive in taking those funds to balance the State budget. That is the issue with the retirees that are presently not in State service. I think there is another point to make. Some of the individuals in this room, and I certainly don't separate myself from this, in fifteen years will be those little old ladies and men. The only little old ladies in this world are not the ones that are presently little old ladies, they are the future of State employees in this State. Everyone at some point will be a retiree, the question is what sort of quality of retirement will we have promised them and then delivered to them. The bottom line is keeping your word the day they are hired and keeping it the day they retire. I don't think that is too much to ask. Thank you.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **TITCOMB** of Cumberland to **ACCEPT** Report **"A" OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-515)**.

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

Bill "An Act to Increase the Efficiency of the Appointment Process for Occupational or Professional Regulatory Boards"

S.P. 734 L.D. 1960

Tabled - March 25, 1994, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED**

(In Senate, March 24, 1994, Motion to **INDEFINITELY POSTPONE** Bill and Accompanying Papers **FAILED**. **ADOPTION** of Senate Amendment "A" (S-482) **FAILED**.)

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I move to Indefinitely Postpone this bill and all of its accompanying papers and once again apologize in some way for the John and Chuck show on this bill. It again is a position we are trying to regulate and compromise without one party having some say in this. You are again in the position of who is going to have the power, the legislative branch or the executive branch. If we can get the two together I think we can benefit greatly with the possibility of coming up with a solution. Thank you.

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

On motion by Senator **CIANCHETTE** of Somerset, Senate Amendment "B" (S-523) **READ**.

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I wish I had this recorded, it would save me some time and you some time. I move to Indefinitely Postpone the amendment. Thank you.

Senator **BEGLEY** of Lincoln moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-523).

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would again urge you to vote against the indefinite postponement of this and let me tell you why. If you remember the debate the other day we have some two hundred commissions and committees and so forth appointed by the Governor to do the people's business. Many of those committees and commissions are understaffed with members. This needs to be, and I think we all agree, if you remember the Senator from Lincoln, Senator Begley said that we need to do something to correct the situation. When we ran this bill before we asked that if a commission lacked twenty percent of its members for eight months then that commission could not function until it was re-established. When we got to thinking about that twenty percent, some commissions have five members, so if one member was missing then that meant that that commission couldn't meet, so we changed that to twenty five percent so that a commission of up to eight people would require two people to be missing for eight months before that commission could not meet. There are many of these commissions that I think many of us believe are unnecessary, cumbersome, not doing a function, and I believe the administration feels the same way and they just don't feel the importance of going out and finding people to serve on these commissions. We need to do something about that folks, this bill

would force some action. The next administration, who this bill would affect, would have to look at these commissions and say are they necessary. If they are not necessary enough to appoint people to then we probably don't need them. We have over two hundred of these commissions, I don't think we need them yet they are on the books. The administration are the best people to understand and to make the recommendations as to whether or not we need these commissions. This would force that action and if a commission that was necessary was not allowed to act because of this legislation there would be plenty of pressure from the public to get some action and clean up the mess we have with these commissions. I saw a number of these instances as Chairman of the Business Legislation Committee where people were coming in and complaining that their commissions didn't meet, they didn't have a quorum, they didn't have enough people to do it and there were actions not taking place. We need this and I would urge you to vote against the pending motion and adopt this amendment and let's get on with it. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We have stated previously that you are giving away power to any Governor, I don't care whether it is the current Governor or the Governor's who are coming in later, you are giving away your power in some ways to the executive branch because that executive branch could simply sit there and say I am not in favor of this particular commission or board therefore I will not make the appointment, therefore I will stymie that and you will be stuck and come back here in several years and try to avoid that and you will say gee whiz they are doing it to us again. You ought to be very careful about what you are doing with your power before you vote it. Insofar as the number of cases of concern from the public that is not as large as most people report it to be. The commissions and the boards have functioned and have done fairly well. There are, undoubtedly, vacancies and sometimes that it because of trying to find people who will serve. Asking any number of five, six, or seven who turn you down and you still struggle with it. Please be careful of how you handle this for any administration or any future legislature. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I certainly am reassured today to hear that the Governor is so concerned about the legislature that he would not want us to give away our power to him. He's protecting us from ourselves because certainly no Chief Executive in this form of government would want to have more power than the legislature. I'm very reassured that that is a major motivating factor of this administration, to protect us from ourselves. Let me tell you a little bit about how we came about this and the assertion that if you just give us a little time, if you just allow a little opportunity for discussion, if you just allow a little compromise you are going to get a resolution. The original proposal was developed by the Audit and Program Review Committee in a unanimous proposal to address this issue in which the good Senator from Lincoln, Senator Begley, was a major participant in that. Our bill went to public hearing, we held a full public hearing on this issue, not one word of opposition came from the administration at the public hearing.

Incidentally let me just add that before we developed it, we asked Sandy Tuttle, who is the Governor's Executive Secretary for appointments, to participate with us in developing a proposal or dealing with an issue. Not in any way to be derogatory but simply to say that clearly there is a major problem, no one has denied that, but how can we all address it? Not one constructive recommendation from the Executive Secretary, not one. After the public hearing amazingly there was a different point of view from certain members of the Committee so that now a compromise that was unanimous is no longer acceptable after having further discussions with the Executive branch. So we asked Abbie Holman, the Governor's Representative, to come before us and give us some suggestions as to how we might approach this issue. Not one constructive suggestion, not one. So we have come forward with our own constructive suggestions because we think the people of Maine and this institution ought to be supported. So if there is an interest in constructive dialog I am not sure what the hold up has been to it up to this point since we have tried repeatedly to get constructive discussion going forward and we have been stonewalled and presented with no dialog that was helpful at all.

Let me give you an example, by the way, of why this is so important. You have before you a bill that you are going to vote on, it is the bill to deal with the Commission on Biotechnology and Genetic Engineering. Take a look at the composition of that board, it details four representatives of the industry, including one person who has practical experience and knowledge in agricultural procedures, a person who represents the food processing industry, a person who represents the biotechnology industry, a person who represents the marine fisheries liability, four representatives from the academic community, four representatives from the public including one person who represents a non-profit. It is very detailed on who ought to be on there. What happens when the Governor chooses to leave certain positions vacant because he doesn't support certain members or certain representatives to be on there. The intent of the legislature is frustrated. The legislative intent. This is a reassertion of legislative authority, not taking it away from it. I assure you that if it was a taking away of legislative authority the executive branch would not hesitate for a second to support this bill. Let me just give you an idea on the numbers, which is also important. If there is a committee currently made up of one to eight members, you would have to have two vacancies before this rule would occur. Committees are appointed on a staggered basis so that would mean, usually there is a five year term, it would be two to three years that vacancies could occur before this rule would even become involved because you would have to wait for the second vacancy and then you would have to wait for another eight months after that before this new authority would come forward. If the committee has between nine and twelve members you would have to have more than three vacancies. If the committee has thirteen to nineteen members you would have to have more than four vacancies on the committee. You would have to have more than a quarter of that commission or board vacant for years before this would take place. This is an enormously modest proposal to provide accountability and to assert legislative authority for the intent of the commissions. I certainly hope, once again, that you will reject the motion to Indefinitely Postpone. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-523).

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.

12 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion of Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-523), **FAILED**.

Senate Amendment "B" (S-523) **ADOPTED**.

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

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

Off Record Remarks

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **AMERO, BEGLEY, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, LUTHER, PEARSON, SUMMERS, WEBSTER**

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

ABSENT: Senators **BALDACCI, BRANNIGAN, MARDEN, MCCORMICK**

16 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **BEGLEY** of Lincoln, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **PREVAILED**.

Sent down for concurrence.

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

COMMUNICATIONS

The Following Communication: S.P. 770

116TH MAINE LEGISLATURE

March 28, 1994

Senator John J. O'Dea
Rep. Elizabeth H. Mitchell
Chairpersons
Joint Standing Committee on Education
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Ronald P. Milliken of Farmington, David W. Brown of Bar Harbor, Walter H. Moulton of Brunswick and Natalie Graceffa of Augusta for reappointments to the Maine Educational Loan Authority.

Pursuant to Title 20A, MRSA Section 11415, these nominations are currently pending before the Joint Standing Committee on Education.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

Which was **READ** and referred to the Committee on **EDUCATION**.

Sent down for concurrence.

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

COMMUNICATIONS

The Following Communication: S.P. 771

116TH MAINE LEGISLATURE

March 28, 1994

Senator John J. O'Dea
Rep. Elizabeth H. Mitchell
Chairpersons
Joint Standing Committee on Education
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Walter H. Moulton of Brunswick, Natalie Graceffa of Augusta, David W. Brown of Bar Harbor and Ronald P. Milliken of Farmington for reappointments to the Maine Educational Loan Authority.

Pursuant to Title 20A, MRSA Section 11415, these nominations will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

Which was **READ** and referred to the Committee on **EDUCATION**.

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Abolish Secrecy in the Courts on Matters of Public Health or Safety"

S.P. 439 L.D. 1369

Reported that the same **Ought to Pass**.

Signed:

Senator:
CONLEY of Cumberland

Representatives:
CARON of Biddeford
KETTERER of Madison
COTE of Auburn
LIPMAN of Augusta
FARNSWORTH of Hallowell
CATHCART of Orono

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

Signed:

Senators:

BERUBE of Androscoggin
HANLEY of Oxford

Representatives:

OTT of York
SAXL of Bangor
PLOWMAN of Hampden
FAIRCLOTH of Bangor

Which Reports were **READ.**

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

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Define the Liability of Gas Utilities and Natural Gas Pipeline Utilities"

S.P. 396 L.D. 1227

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

Signed:

Senators:

CONLEY of Cumberland
BERUBE of Androscoggin
HANLEY of Oxford

Representatives:

LIPMAN of Augusta
CARON of Biddeford
KETTERER of Madison
COTE of Auburn
FARNSWORTH of Hallowell

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-534).**

Signed:

Representatives:

OTT of York
FAIRCLOTH of Bangor
SAXL of Bangor
PLOWMAN of Hampden
CATHCART of Orono

Which Reports were **READ.**

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED.**

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for the Remediation and Closure of Municipal Solid Waste Landfills" (Governor's Bill)

S.P. 696 L.D. 1894

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-535).**

Signed:

Senators:

PEARSON of Penobscot
TITCOMB of Cumberland

Representatives:

CARROLL of Gray
HICHBORN of LaGrange
MICHAUD of East Millinocket
KERR of Old Orchard Beach
POULIOT of Lewiston
CHONKO of Topsham
RYDELL of Brunswick

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-536).**

Signed:

Senator:

FOSTER of Hancock

Representatives:

FOSS of Yarmouth
REED of Falmouth
MACBRIDE of Presque Isle

Which Reports were **READ.**

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

Senate at Ease

Senate called to order by the President.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, sent down forthwith for concurrence.

Senator **ESTY** of Cumberland 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.

Off Record Remarks

On motion by Senator **PEARSON** of Penobscot, **RECESSED** until 3:30 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:

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **BANKING & INSURANCE** on Bill "An Act to Clarify the Maine Banking Code as it Pertains to Service Corporation Serving Credit Unions"

S.P. 555 L.D. 1591

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-537)**.

Signed:

Senators:

MCCORMICK of Kennebec
CAREY of Kennebec
KIEFFER of Aroostook

Representatives:

PINEAU of Jay
CARLETON of Wells
KUTASI of Bridgton
CAMPBELL of Holden

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

Signed:

Representatives:

HALE of Sanford
TRACY of Rome
ERWIN of Rumford
RAND of Portland
JOSEPH of Waterville
TOWNSEND of Canaan

Which Reports were **READ**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-537) **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:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Clarify the Requirements of Disclosure of Information Pertaining to Mentally Disabled Clients"

H.P. 759 L.D. 1026
(C "A" H-805)

In Senate, March 22, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-805)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-805) AS AMENDED BY HOUSE AMENDMENT "A" (H-930)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Bill "An Act to Establish the Door-to-door and Telemarketing Consumer Solicitation Sales Act"

S.P. 670 L.D. 1838
(C "A" S-453)

In Senate, March 22, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-453)**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-453) AS AMENDED BY HOUSE AMENDMENT "A" (H-932)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Resolve, to Create the Blue Ribbon Commission on Hunger and Food Security

S.P. 715 L.D. 1930
(C "A" S-476)

In Senate, March 22, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-476)**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-476) AND HOUSE AMENDMENT "A" (H-964)** in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **AGRICULTURE** on Bill "An Act to Adjust the Dates for Distributions from the State Harness Racing Commission"

H.P. 1202 L.D. 1611

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-925)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-925)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-925) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **AGRICULTURE** on Bill "An Act to Amend the Equine Licensing Laws"

H.P. 1415 L.D. 1925

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-926)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-926)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-926) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION** on Bill "An Act to Guarantee Equal Access and Nondiscrimination to All Students Enrolled in Approved Equivalent Instruction Programs"

H.P. 1069 L.D. 1435

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-910)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-910) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

Eight Members of the Committee on **LABOR** on Bill "An Act to Reconstitute Stipends for Professional Staff at State Mental Health Institutions"

H.P. 1358 L.D. 1833

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-892)**.

Signed:

Senators:
HANDY of Androscoggin
LUTHER of Oxford

Representatives:
 RUHLIN of Brewer
 ST. ONGE of Greene
 CHASE of China
 CLEMENT of Clinton
 SULLIVAN of Bangor
 LINDAHL of Northport

Three Members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-893).**

Signed:

Representatives:
 COFFMAN of Old Town
 CARR of Sanford
 LIBBY of Buxton

Two Members of the same Committee on the same subject reported in Report "C" that the same **Ought Not to Pass.**

Signed:

Senator:
 BEGLEY of Lincoln

Representative:
 AIKMAN of Poland

Comes from the House with the Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-892) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-892).**

Which Reports were **READ.**

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The bill before you, "An Act to Reconstitute Stipends for Professional Staff at State Mental Health Institutions", is another one of those bills that is saying to us that there are special cases and in some cases there probably are, but once again we are discriminating against much of the labor force across the board and we are being asked to go into competition when, in many respects, they have to themselves negotiations and various stages of employment and compensation for those stages. It seems rather strange at times that we allow much of this or request that it go through, and sometimes it is not to the benefit of all of the employees of the State. Thank you.

Senator **HANDY** of Androscoggin moved that the Senate **ACCEPT** the Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-892),** in concurrence.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This bill reinstates the provisions of Chapter 720 of P.L. 1986 which sunsetted on July 1 of 1992. The provisions allow the State to provide a recruitment or retention salary adjustment and the recruitment or retention

salary adjustments are necessary to allow the State to adjust the salaries of some occupations that meet extreme labor market shortages. This language that is embodied in the Committee Amendment representing the Majority Report, Committee Amendment "A", was proposed by the administration and strongly supported as well by the State Employees Union. Recruitment and retention salary adjustments address these unusual circumstances by authorizing the Director of Human Resources to upwardly adjust the salaries of the affected classifications when it can be demonstrated that the State salaries are sufficiently below the competing labor market to create high turn over or long term vacancies. The provisions of this L.D. as amended by the Committee Amendment would require documented evidence of both the labor market disparities and severe turn over or retention problems before any stipend could be implemented. Mr. President, I urge the Senate to adopt Committee Amendment "A". Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HANDY** of Androscoggin, to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-892),** 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.

16 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **HANDY** of Androscoggin, to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-892),** in concurrence, **PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "A" (H-892) **READ** and **ADOPTED,** in concurrence.

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

Senate

Ought to Pass As Amended

Senator **FOSTER** for the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$21,000,000 to Provide Funds for Improved Access to State Facilities for Disabled Citizens and Employees, for Safety Improvements at the Baxter School for the Deaf and for Long-term Lease Cost Savings" (Governor's Bill)

S.P. 700 L.D. 1898

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-538).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-538) **READ** and **ADOPTED.**

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

Divided Report

The Majority of the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,299,667 to Improve the Academic Facilities of the University of Maine System" (Governor's Bill)

S.P. 718 L.D. 1940

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-539).**

Signed:

Senators:

- PEARSON of Penobscot
- TITCOMB of Cumberland
- FOSTER of Hancock

Representatives:

- CARROLL of Gray
- HICHBORN of LaGrange
- MICHAUD of East Millinocket
- KERR of Old Orchard Beach
- POULIOT of Lewiston
- CHONKO of Topsham
- MACBRIDE of Presque Isle
- RYDELL of Brunswick

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

Signed:

Representatives:

- FOSS of Yarmouth
- REED of Falmouth

Which Reports were **READ.**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-539) **READ** and **ADOPTED.**

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

SECOND READERS

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

House As Amended

Bill "An Act to Eliminate the Sales Tax on Snack Foods"

H.P. 560 L.D. 757
(H "A" H-927; H "B" H-929 to C "A" H-833)

Bill "An Act to Require Insurers to Obtain Written Consent from the Policy Owner before Transferring a Policy to Another Insurer"

H.P. 829 L.D. 1115
(C "A" H-916)

Bill "An Act Related to Multiple-employer Welfare Arrangements" (Governor's Bill)

H.P. 1122 L.D. 1521
(C "A" H-917)

Resolve, to Preserve the Competitiveness of Maine's Existing Business and Industry and to Preserve the Ability of the State to Attract New Investment by Petitioning for Removal from the Ozone Transport Region (Emergency)

H.P. 1193 L.D. 1590
(C "A" H-911)

Bill "An Act to Revise the Laws of Maine to Incorporate the Office of Rehabilitation Services within the Department of Education" (Governor's Bill) (Emergency)

H.P. 1431 L.D. 1956
(C "A" H-909)

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

Senate

Bill "An Act to Amend the Date of Repeal of State Increment Financing Districts and to Allow the Finance Authority of Maine to Issue Revenue Refunding Securities" (Emergency)

S.P. 767 L.D. 1987

Which was **READ A SECOND TIME.**

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislate Day, pending **PASSAGE TO BE ENGROSSED.**

Senate As Amended

Bill "An Act to Make Changes in the Manufactured Housing Laws" (Emergency)

S.P. 461 L.D. 1453
(C "A" S-530)

Bill "An Act to Permit Collection of Public Assistance Overpayments by Administrative Process" (Governor's Bill)

S.P. 471 L.D. 1463
(C "A" S-532)

Bill "An Act to Modify the Taxation of Leases on Automobiles"

S.P. 545 L.D. 1570
(C "A" S-527)

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)

S.P. 676 L.D. 1852
(C "A" S-531)

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

Sent down for concurrence.

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 Require Risk-based Capital Standards and Standard Valuation to Ensure Continued Accreditation for the Bureau of Insurance

S.P. 701 L.D. 1899
(C "A" S-464)

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

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

ORDERS

On motion by Senator **HANLEY** of Oxford the following Senate Order:

ORDERED, that the Senate Rules be amended by adding a new Senate Rule to read:

28-A. A Senator who is absent by leave of the presiding officer and who has notified the presiding officer of the Senator's intent to pair the Senator's vote may join in voting for or against a measure with another Senator present at the time of the vote who stands on the opposite side of the question, provided that the absent Senator has submitted in writing the request for pairing and has received approval in writing by the President. The votes of the absent

Senator and the Senator with whom that Senator is paired do not become part of the total number of votes causing passage or rejection of the measure.

Which was **READ.**

Senator **ESTY** of Cumberland moved to **INDEFINITELY POSTPONE** the Senate Order.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If I could direct your attention to the Senate Order in front of you, the genesis of this order came about during some debate last week where some pairing took place. In our caucus we talked about the issue of pairing and as this body is well aware the Republican caucus took the position initially that they would not pair. Based on the actions that took place in this chamber last week I took the liberty of taking a closer look at exactly what the rules, the Joint Rules, of the legislature are as well as the rules of the Senate and the House. I looked at the rules of the House and sure enough Rule 7 of the House deals specifically with pairing and is identical or extracted to mesh exactly with the order before you. I turned to the Senate rules because there is no rule in the Joint Rules addressing the issue of pairing, so I turned to the Senate rules expecting to see some sort of explanation as to how pairing was to be conducted here in this chamber. To my surprise there was no rule in the Senate rules regarding the issue of pairing. So I was asking myself if there was no rule as far as how pairing was to be conducted, what governs this body? If we have no set rule, as the other chamber does, with respect to pairing, how can this body conduct itself and be treated equitably so that everyone knows what the rules are without having a rule in place. The only thing I could find in the Senate rules is rule 42 which directs the Senate's attention, if there is a question, to Mason's Rules. Men and women of the Senate I have Mason's Rules. I thought that's fine, you can't have Senate rules addressing every potential question that comes up so we have to have another body, another frame of reference, to point to. So I took a look at Mason's. Section 538 of Mason's deals with pairing, absentee voting. For those of you who are not intimately familiar with the language, if you will just bear with me and let me read this to you so you can assimilate this and see whether or not Mason's articulately enough describes how pairing should be handled. As stated this is section 538 in Mason's. "In a Legislative body it is a rule that no member can vote who is not present when the question is put, but 'pairing' which is a type of absentee voting by which a member agrees with a member who would have voted opposite to the first member not to vote, has long been used in Congress and some of the States and has been recognized by the courts. Each House of the legislature, under the authority of the Mason's Rules for its own government, has power to recognize what are called 'pairs' in determining the vote necessary to pass the legislation. When a majority vote of those present is required the 'paired' members may be treated as absent." Men and women of the Senate that is Mason's in its entirety on pairing, on absentee voting. Let me direct your attention to that one sentence that I think is the only one that really applies here. It says that each house of the legislature, under the authority to make rules for its own government, has power to recognize what are called pairs. That's it men and women of the

Senate. If we are going to have a fair operation here in this chamber we have to have rules that we know we are operating under. I guess at this point in time I would like to pose a question to any member of this Senate, what is the rule, where can I go to find out what the rule is concerning pairing for this chamber? 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. This is the first time that I have seen this order. I am Senate Chair of the Joint Rules Committee so it doesn't involve just the Senate rules but I guess I would have appreciated some knowledge that this was going to come before the body so I would have had a chance to discuss it with the members. I think at this late date, with everything else that we have to handle, it probably isn't the appropriate time. The Rules Committee does meet during the summer to propose new rules for the coming legislature, I think that would be an appropriate time to handle this. As to the question about where in writing is there anything about pairing. I don't know the answer to that question but I do know something about what happens when you don't have language and that is called past practice. The past practice of this body has been just as we have been doing during this session and that is that you get people to pair, you go to your appropriate leader and ask them to pair you with somebody when you are not going to be there so that your vote can be recorded. Further than that we don't have anything. We would be more than willing to consider it but I think this is an inappropriate time to take the time of the body to do that. 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. In all due respect to the Senator from Kennebec, your answer rings hollow. It rings hollow to me and I would hope that it would ring hollow to the other members of this chamber. It is very important that when we conduct ourselves as policy makers that we have rules in front of us by which to abide. Rules that will conduct the conduct of this chamber. For us to just assume that a certain practice will be allowed and at the whim of leadership can be changed goes, as my good friend and colleague from Androscoggin, Senator Handy says, to the underpinnings of our democracy. If we do not have rules which govern this body how can we, in good conscience, govern the citizens of the State who elected us to this office. Now I may have a little bit more understanding if not for the fact that the House, the other chamber rather, operates under the same rules that is proposed in the Order before you. All I'm asking for is some indication of how this place should operate when absentee voting is allowed. I would like to know exactly what that position is and I would like to have it in writing and I think it should be in the Rules. As pointed out last week there was some important policy issues that were decided by the basis of pairs in this chamber. If we are not going to have rules, and we are going to allow policy decisions to be made willy nilly and not have a set of rules, I think that calls into question this chamber and the public policy making process we are involved in. I do not see this as something that should be passed over just because it is close to the close of the session. Maybe I will take some

responsibility, just having assumed that this body operated under the same parameters as the other chamber, I will assume that responsibility. But now, having targeted this and seen it as a hole in our rules, I feel duty bound to bring it in front of this chamber and have this chamber vote on it. If we are going to govern without rules, if we are going to pass judgment on policy decisions without rules, as far as exactly how these are to be handled, I think that calls into serious question the integrity of the process. I rise this afternoon to protect that integrity, to have something in writing, that is all I ask. If you don't like the Order in front of you and you would like to have some changes, let's have them in writing so they can't be changed. If we keep relying on past practice, past practice can change from day to day. That concerns me and I think it should concern every member of this chamber. 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. I rise because I feel that this body is an honorable body. I take issue with the good Senator from Oxford questioning the integrity of this body. The rules, though there is not one written in reference to pairs, have been the same for the last 175 years. This body is much different than the other body, a body that I might note that the good Senator from Oxford, until this date on the Record, has complained about frequently. I find it interesting that at this time he would now turn to them for guidance on this issue. The Senator from Oxford is aware that his own caucus has decided what to do in reference to pairs. If his caucus chooses not to use pairs that is their right. This body has used pairs in the way that it has for as many years as it has because the members of this chamber respect one another. We trust one another, we don't need to have something in writing on something as basic as what your position is on this issue or that issue. So I take serious objection to this rule, particularly as it is introduced in this Order. There is a process around here, we set up a Rules Committee specifically to look at issues such as this one and apparently the good Senator from Oxford feels he should just have it come forward without having to go through the Committee process. That is not the way we have done things around here and I would hope that the body unanimously will reject 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. Seeing as it is my pair with the good Senator from Androscoggin, Senator Cleveland, that seems to have brought about this problem, I saw nothing wrong with having my leadership come over and ask me to pair seeing as I knew very well the way Senator Cleveland would have voted and I was perfectly willing to do that. However, seeing as this language exactly follows the way the other chamber does this I don't really see any problem with that either. So if we are really adamant about this I guess I would ask somebody to table it so we could discuss it, because I really don't see the problem with this. Thank you.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by the same Senator to **INDEFINITELY POSTPONE** the Senate Order.

Off Record Remarks

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

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

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

SENATE ORDER - relative to establishing Senate Rule 28-A regarding a written method for pairing votes.

Tabled - March 28, 1994, by Senator **ESTY** of Cumberland.

Pending - Motion by same Senator to **INDEFINITELY POSTPONE**

(In Senate, March 28, 1994, **READ.**)

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Not having been here before I would like a question because I heard a speaker previously say that there is a time honored policy that we follow. I would be curious as to what that policy is. 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 have the dubious distinction of being the longest serving person in the legislature in the Senate. Never have we ever had any questions of pairing ever asked in either body that I have ever served in. It has always been, for the nineteen years that I have been here, a request to pair has always been granted, nobody has ever questioned it. We have operated in the Senate just as it has been described. A person

asks for pairing, it is put under unanimous consent, the gavel goes down and the pair is granted and then the pairing vote is announced, I would pair with the gentleman from so and so who would vote yes and I would vote no. 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 hadn't intended to get involved in this debate but I just wanted to bring to the Senate's attention that in my recollection of the fourteen years that I have served here that has not always been the policy, a member of the Republicans were denied the right to pair in the other body a number of years ago, but it did happen a number of years ago. I think that I might say.

THE PRESIDENT: The Chair would interrupt proceedings to try to have members refrain from actions in the other body. I say that for everyone.

Senator **CAHILL:** Thank you Mr. President. Some of the members of our caucus were concerned last week when pairing occurred and it was on a very emotional issue as I recall. They asked me what the policy of pairing was. I went to the presiding officer and asked him, he referred me to what has already been stated, that the policy of pairing in the Senate was up to the leadership. We proceeded to have a discussion in our caucus for well over an hour on pairing and there were concerns raised that there was not a written rule regarding pairing. That is why this Order is before you. 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. In my years I never recollect having had a discussion on this subject matter. That is my recollection and it is an honest one. I will say this, the good Senator from Sagadahoc, and she is a good Senator, I say that in no condescending way at all because she is a good Senator, I do not believe that this issue on pairing is up to leadership. It is a matter of precedent and it has always been that way. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I certainly would not stand here and try to say that anybody's honor should be called into question. That was not my intent and nor would it ever be. It was done honestly and sincerely on that part of the aisle. Personally I would like to see a rule where there would be no pairing in this body by either side because I am of the opinion that the public deserves the right for their Senator to be in attendance on those votes, if not recorded as absent and not necessarily a pair. In regards to the policy of whether or not we should have one, in my opinion there should be something stated one way or the other. 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 cannot vote for this. Were I not able to return here today, I was going to call daily so that I could perform my

duties as a Senator even though I wanted to be with my mother and I was going to tell Senator Esty what was going to be the votes and what my position was going to be and would he please find a pair. If we pass this I would have had to bother the Loveless Medical Center, which I cannot say enough good about at this time, I would have had to find their fax machine everytime, I just cannot see this working. I think there are times when we have to be away and we still ought to be able to perform our duties here. We are a citizen legislature, some of us have to work, some of us have personal crises and I have not been here for eighteen years but I have been here for three years and it has always been that you try to keep up with your work and if you can't be here you tell the Majority Leader your position and they try to find a pair. I don't see why we can't just all get along. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I apologize for causing such a stir when I wasn't even present in the chamber. I wanted to say two things for the Record. First of all, this is a citizen's legislature and those of you who know me at all know that I would never be away unless there was no other alternative for being here. So my absence was an absolute necessity of which I had no choice, as a result of this being a citizen's legislature and the need to attend to other business. The second, let me make it clear for the Record, I requested the pair on those issues, I communicated that request to my leadership and the pairs were cast exactly as I had requested them to be. They were done on exactly the issues that I asked. I am very grateful to the Senator from Oxford, Senator Luther, for extending that courtesy to me and I am glad that we had the opportunity to do that. 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. First, I made some notes here as the speakers have gotten up, to the good Senator from Penobscot as far as it never having come into question. I don't think I have ever been charged with following the status quo during any of my tenure here in the legislature. I don't intend to start now. I think my constituents voted for me to come up here and ask questions and raise questions if I thought that the process wasn't being appropriately handled. As far as the integrity of the process, as the good Senator from Kennebec and the good Senator from Cumberland have raised, why didn't I take this through channels. The timing as it is is such that we are on the tail end of the session. There isn't a lot of time to have the Joint Rules Committee called, but let me remind this chamber that I think that I was the most prolific introducer of changes to our rules and I think the good Senator from Kennebec, Senator Bustin, will bear me out on this, that I presented a lot of rule changes through the process. Very few of which got passed through admittedly, but I was probably the most prolific introducer of amendments to change the way this legislature operates. Men and women of the Senate I direct your attention to actions taken by past legislatures. Specifically those of ethics rules. Members of the other chamber as well as this chamber stood and stated why do we need to have all of these ethics rules, there is no impropriety going on in either chamber. Why do you have rules? You

have rules to set standards. For ethics they are prophylactic rules, to prevent people from entering into any course of conduct that would create an appearance of impropriety. Men and women of the Senate this is a very fluid process we are involved in. On any one issue there can be a half dozen procedural votes. All having their own implication. I guess if I had my druthers I would prefer that there be no pairing here in this chamber or the other chamber. The fact of the matter is pairing is allowed and is a time honored tradition. Having said that the only thing I ask of this chamber is to put that in writing so that every member of this chamber and the public, most importantly the public, will know by what rules this body conducts itself. That is all I ask. I don't think that that is an unreasonable request of this chamber for the members of this chamber and for our constituents. For that reason Mr. President, I request a Roll Call when the vote is taken. Thank you.

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 Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have been told by the good Senator from Oxford, Senator Hanley, that my response rang hollow. I don't have the training of the legal profession, I don't have the presence to present an argument before a court of law, all I am is a citizen legislator from the County of Kennebec, the City of Augusta, trying to represent my constituents. Quite frankly right now I have righteous indignation. Righteous indignation, I may not have legal presence, I may not have legal arguments, but I do have that because what you are questioning right now is my integrity. I happen to be the leader who went to the Senator and asked for her willingness for a pair. I happen to be that legislator and that leader who, throughout my service of fourteen years to this legislature, has been involved in the pairing process in this body, this body that we are talking about, and I have never once known that pairing system to be maligned this way. I have always understood, from the very beginning, that each caucus, as they choose, choose to pair or not to pair. I have always understood that it is at the graciousness of the Senate that am I able to do that pairing. I have always understood that. I guess I am a little upset, with my righteous indignation, that we have spent from January 1, with a new President of the Senate, working with everyone, trying to come to compromises here without having this kind of a confrontation. To think that this is being brought before this body at this late date with a number of important decisions that we have to make, I don't want to act as if this is something important. If it's important to the good Senator from Oxford, Senator Hanley, then it's important to all of us, but I think this is a very very bad way to bring it before this body in this kind of a way, especially since we have been trying to build that kind of a compromise with all of the issues presented to us. It was never even once presented to me in any way, shape or form. Common decency and common courtesy would tell you that you might want to speak to me at least. I cannot believe that we are spending any amount of time, nor do I care to be up here speaking in this manner, but I am righteously indignant on this and I hope that we proceed with the vote posthaste and vote this one down. 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. A few days ago the Lewiston paper ran a listing of its area Senators and how they had attended the session in January and February. Most of the people had a record of 99%, and it was all based on the Roll Calls. I had a very dismal record of 33%, the reason my record was at 33% was because as many of you know I was recovering from a heart attack and I am deadly opposed to pairing for myself. I have absolutely no objections to anyone else pairing. I was asked by the good Senator from Kennebec, Senator Bustin, on that day if I would pair my vote with Senator Cleveland. I informed her that I didn't pair and she went on to find someone else. In fact she asked Senator Luther to ask her if she would pair. So, in fact, Senator Luther was asked about pairing and obviously consented to it. To say that we can't pair is strictly a personal decision I feel. 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. If this were not a terribly emotional issue, which it has become, I really see nothing wrong with this. It is probably a better way to have things in writing. I am also persuaded that if this is the way that you have done it for 150 years then there is nothing wrong with going through the general process either. But, because obviously, somebody's integrity has been called into question here it is a highly emotional issue. Certainly I hope it's not me or the good Senator Cleveland, but it should not be the good Senator Bustin either. We do damage to the whole institution with this petty argument. I'm sure everybody knows that I would not have paired my vote if I had not been asked to pair. 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. If I could just make two points. The first is I did not, when I presented this Order, call into question anyone's integrity. All I am asking for is to have the rule placed in writing. Thank you.

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

Senator **ESTY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We have a great deal to do in the next few days. It's time for this debate to end. We need to get to health care, we need to get to the budget, we need to get to casino gambling, we need to get to tort reform. I don't need to go on and on and on, we have a great deal of business for the State in the short time remaining. Let's get going with the issues at hand, vote on this matter and get a few items resolved today. Thank you.

Off Record Remarks

THE PRESIDENT: The pending question before the Senate is the motion by Senator **ESTY** of Cumberland to **INDEFINITELY POSTPONE** the Senate Order.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senators BALDACCI, BRANNIGAN

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **ESTY** of Cumberland, to **INDEFINITELY POSTPONE**, **PREVAILED**.

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:

Mandate

An Act to Establish the Somerset County Budget Committee

H.P. 1406 L.D. 1915
(C "A" H-852)

This being a Mandate and in accordance with the provisions of Section 21 of Article IX of the Constitution, and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Underground Oil Storage Tank Replacement Fund

H.P. 681 L.D. 923
(C "A" H-868)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

projects from being subdivided in order to fall under the nine unit cap on the sides of projects that qualify for full tax exemptions. The requirement that projects be owned by 501 (C)3 Corporations is intended to ensure that the house receiving tax exemptions is truly served in low income, not moderate income, tenants. I certainly hope that there are no questions. Thank you.

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act Concerning Commercial Divers

H.P. 973 L.D. 1304
(C "A" H-835)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Authorize an Increase in the Holdings of the Farmington Home for Aged People

H.P. 1398 L.D. 1907

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senators having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Preserve Productive Forests

H.P. 1309 L.D. 1764
(C "A" H-846)

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

Emergency

An Act to Allow for Reciprocal Licensure for Electricians in the State

H.P. 1400 L.D. 1909
(C "A" H-847)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Clarify the Tax-exempt Status of Nonprofit Rental Housing

H.P. 1320 L.D. 1782
(C "A" H-831)

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Inadvertently the intent of the Bill is not as clear as it should be and so I have asked the Senate if they will give me a little leeway and I will read into the Record the intent of this particular piece of legislation. The language in this bill, located on one parcel of land and held in common ownership, is intended to prevent

Emergency Mandate

An Act to Create the Mount Desert Water District

H.P. 1269 L.D. 1696
(C "A" H-841)

This being a Mandate and in accordance with the provisions of Section 21 of Article IX of the Constitution, and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Mandate

An Act to Amend the General Assistance Standard of Need

H.P. 1396 L.D. 1905
(C "A" H-863)

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

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the Tabled and Later Assigned (3/25/94) matter:

Bill "An Act to Define Responsibilities of the Commission on Biotechnology and Genetic Engineering"
H.P. 1015 L.D. 1361
(C "A" H-877)

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

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

(In Senate, March 24, 1994, **READ A SECOND TIME**.)

(In House, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-877)**.)

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions"
S.P. 293 L.D. 880

Majority - **Ought Not to Pass**

Minority - **Ought to Pass**

Tabled - March 25, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of the Minority **Ought to Pass** Report

(In Senate, March 23, 1994, **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report **FAILED**.)

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I think when the merry-go-round stopped last time we ended up on the Ought to Pass Minority Report and I think that is what is before the body, because of the way the chamber sort of revolved. Therefore, I would be urging the body not to accept the Ought to Pass Report. It's very confusing argument but I know my friend from Somerset, the good Senator Cianchette, will figure it out. All you have to do is look at the good Senator from Oxford and he'll tell you that you are doing the right thing. In fact, we have had, in the ensuing recess it was taken up some three days ago and it is very easy to forget what goes on around here in three days, thank God. We have had multitudes of paper distributed to the chamber which I promise I will not get into in detail. One is the blue sheet from Senator Cianchette and one is the white sheet distributed at the request of Senator Conley, unfortunately mine has three sheets which

reduces in exponential form the chances that someone will read it. Basically I would ask that the members of this chamber continue with their support against caps in any form. Maine juries have always been fair, we ought not to turn our backs on Maine juries, we ought not to impose some artificial limit that will injure our most vulnerable citizens. I believe the reason these sheets have been distributed, the good Senator from Somerset, Senator Cianchette, would like to have you believe that if we impose caps that premiums for doctors in this State will in fact fall. The sheet that I have handed out to you should establish firmly, for anybody who would care to read them, that in fact that is not the case. If you look at sheet one, which describes the rest of the story, although the medical community handout would indicate that their rates have gone up by 1.3% in 1993, in fact if you look at the first sheet because of their dividend returns, it is a mutual company, Maine Mutual, their dividend returns which were then used as credits against the next year's premium payments have been substantial. Doctors are paying, in real terms, about 50% less now than they did in 1984, at the height of the last tort crises. For verification of how well they are doing I would ask you to turn to a letter dated July 1, 1993 from Doctor Maxwell, who apparently is the Chief Surgeon on the Medical Mutual Board for the Doctors. He is raving about their successes and how they are able to turn back their premiums in the forms of credits towards their payments for the year of 1993. Finally, I would just ask you to look at the graph in reference to where Maine stands in reference to premiums on an average. You will see that Maine is well near the bottom, particularly when compared to a State like California which has caps some three and half times greater than Maine premiums. With that I would ask you to reject the Minority Ought to Pass Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I do think that we ought to give the Senator from Cumberland, Senator Conley, some credit for some economic development in the State of Maine, for producing all of this paper that we have been getting for the last few days. You notice that I gave one sheet, but being more generous he gave three sheets so he certainly deserves credit for that. I would like, although I have no degree in anything, would like to give a quick economic lesson that I think will take about 15 seconds. Insurance companies insure risk. When they have an unlimited risk they are going to charge more money for your policy than they would if they had a limited risk. Pretty basic, pretty simple. I don't care what kind of figures anybody shows, those economic facts are the truth so we are asking insurance companies in this State to give unlimited risk, and when they sell policies they get a bigger margin of profit for the bigger risk, just like any business in the world would do. They are making big money off this, and who is paying? It's you and I and everybody else who buys liability insurance. When we go to the doctors, when we go to the hospitals, we pay and we pay and we pay. Ladies and gentlemen that's what it is about and if you will accept the ought to pass report then I would be very happy to submit an amendment after the first reading that would give a more generous cap than we had before. So I would ask you please to accept the ought to pass report and allow me to introduce the amendment. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. A simply hypothetical occurred to me when I was driving home after discussing this bill. What occurred to me, even with the proposed amendment, should we accept the report, of Senator Cianchette, what could happen to someone going in for an operation. Someone goes in for an operation, and let's say the Doctor happens to be intoxicated, some kind of negligence and gives the incorrect injection to the patient and the patient has a seizure and falls off the examination table. They fall onto their spine and fractures a cervical vertebrae. Let's say the doctor, after the operation, leaves and is out driving on the road and gets hit by the patient's wife in a car accident and has a fractured cervical vertebrae. The doctor can sue the patient's wife and have unlimited ability to recover noneconomic damages but the patient is capped if we adopt this. I would ask you to consider that in this vote. 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. Back in 1987, St. Paul Insurance Company, the country's largest insurer of medical malpractice coverage wrote to the Trafton Commission here in Maine a letter which I have a copy of. I think it is really germane to read a couple of sentences from it. The letter states, "The St. Paul has not joined other insurance companies or insurance trade associations in their promotion of changes in the civil justice system. In fact, we have urged fellow insurers, and trial bar leadership, to examine whether their roles in the current debate are truly appropriate. Although we cannot speak for those insurance companies which have lobbied for tort reforms, the St. Paul has always made it clear that it is impossible to conclusively price any given reform. While passage of proposed reforms may ultimately have an impact on loss costs, if simply is not possible to predict -- with any reasonable degree of accuracy -- the extent of dollar savings which might result from any given change in the tort system - or when that savings might be realized." Further on the St. Paul states, "Whether or not any resulting reduction in recoveries will be sufficient to produce an actual rate reduction, over time, is uncertain." This letter comes from Shirley A. Brantingham, Senior Government Affairs Manager at the St. Paul Companies. In keeping with that philosophy, the St. Paul, in 1992, filed a rate increase request with our Bureau of Insurance. The St. Paul, in its request, failed to indicate that any of the reforms thus far enacted in tort reform had had or would have any beneficial effects in terms of premiums. In his Order, Brian Atchison, the Superintendent of Insurance, determined that cumulatively the reason tort reform initiatives in Maine had a 3.5% impact on rates, and if you recall those reforms were for the change in the collateral source rule, the changes in the statutes of limitations, the pre-litigation screening panels, and the establishment of practice parameters, the total percentage of reduction in premiums for all of those four changes was 3.5%.

Finally, the other day, in a very eloquent rebuttal to Senator Cianchette, the good Senator from Hancock, my seatmate here, Senator Foster said that the victims are not to blame. She said that full recovery should be decided by a jury of our peers and she said that the wrong doer should pay the cost. I cannot say that anymore passionately or eloquently

than she did, but I agree wholeheartedly with her that we should not change the civil justice system which we have inherited from our forefathers without very substantial justification. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to respond to the Senator from York, Senator Lawrence's, nightmare while he was driving home the other night. I think he should have been paying attention to his driving but I will make a deal with him. If we go along and accept this report and then go back and recall a couple of bills we killed last week then he can have the best of both worlds. Thank you.

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

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

Senator **CLEVELAND** 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, BERUBE, BUTLAND, CAHILL, CAREY, CARPENTER, CIANCHETTE, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER**

NAYS: Senators **AMERO, BUSTIN, CONLEY, ESTY, FOSTER, HANDY, LAWRENCE, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

ABSENT: Senators None

PAIRED: Senators **BALDACCI, BRANNIGAN, CLEVELAND, LUTHER**

16 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 4 Senators having paired their votes and No Senators being absent, **ACCEPTANCE** of the Minority **OUGHT TO PASS** Report, **PREVAILED**.

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

On motion by Senator **CIANCHETTE** of Somerset, Senate Amendment "A" (S-524) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

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 Facilitate Government Investment in Mutual Funds" H.P. 1439 L.D. 1965

In Senate, March 23, 1994, **PASSED TO BE ENGROSSED**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-888)** in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

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 Laws Concerning Emergency 911 S.P. 452 L.D. 1419 (C "A" S-452)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Enable the Creation of the Volunteer Social Workers Project

H.P. 1106 L.D. 1493
(C "A" H-848)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Clarify Certain Provisions of Maine's Hospital Payment System

H.P. 1188 L.D. 1585
(C "A" H-834)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act Regarding Insurance Coverage for Mental Illness

H.P. 1218 L.D. 1637

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Amend the Petroleum Market Share Act

S.P. 596 L.D. 1655
(C "A" S-455)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Study Eagle Mortality in Maine

H.P. 1235 L.D. 1662
(C "A" H-844)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Permit Electric Utilities Greater Flexibility in Adjusting Electric Utility Prices to Meet Changing Market Conditions

H.P. 1239 L.D. 1666
(C "A" H-862)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Provide Assistance to Homeowners Who Have Faulty Septic Systems

H.P. 1245 L.D. 1672
(C "A" H-866)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Revise the Eastport Port Authority Charter

H.P. 1266 L.D. 1693
(C "A" H-860)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Amend the Laws that Deal with the Protection of Natural Resources

S.P. 619 L.D. 1721
(C "A" S-447)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Establish the Public Access to Maine Waters Fund

H.P. 1312 L.D. 1767
(C "A" H-879)

On motion by Senator **PEARSON** of Penobscot, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act to Prevent Damage Claims against the State Due to the Installation of Drinking Water Wells in Areas of Possible Hazardous Substances and Oil Pollution

H.P. 1328 L.D. 1791
(C "A" H-878)

On motion by Senator **PEARSON** of Penobscot,
Tabled until Later in Today's Session, pending
ENACTMENT.

An Act to Strengthen the Maine Bottle Deposit Laws
H.P. 1343 L.D. 1810
(C "A" H-839)

On motion by Senator **PEARSON** of Penobscot,
Tabled until Later in Today's Session, pending
ENACTMENT.

An Act to Amend the Laws Concerning Set-back
Variances
H.P. 1369 L.D. 1853
(H "A" H-875 to C
"A" H-827)

On motion by Senator **PEARSON** of Penobscot,
Tabled until Later in Today's Session, pending
ENACTMENT.

An Act to Clarify and Expand the Driver Education
and Evaluation Programs in the State
H.P. 1381 L.D. 1868
(C "A" H-869)

On motion by Senator **PEARSON** of Penobscot,
Tabled until Later in Today's Session, pending
ENACTMENT.

An Act Concerning Municipally Owned and Operated
Solid Waste Incinerators
S.P. 690 L.D. 1876
(C "A" S-481)

On motion by Senator **PEARSON** of Penobscot,
Tabled until Later in Today's Session, pending
ENACTMENT.

An Act to Clarify the Appropriate Acknowledgment
of Religious Holidays in Maine Schools
S.P. 704 L.D. 1901
(C "A" S-459)

On motion by Senator **PEARSON** of Penobscot,
Tabled until Later in Today's Session, pending
ENACTMENT.

An Act Regarding Registration for the Provision
of Substance Abuse Counseling Services
S.P. 705 L.D. 1902
(C "A" S-479)

On motion by Senator **PEARSON** of Penobscot,
Tabled until Later in Today's Session, pending
ENACTMENT.

An Act to Designate Certain Lands under the
Constitution of Maine, Article IX, Section 23
H.P. 1428 L.D. 1953
(C "A" H-858)

On motion by Senator **PEARSON** of Penobscot,
Tabled until Later in Today's Session, pending
ENACTMENT.

An Act to Create the Blaine House Commission
(Governor's Bill)
H.P. 1440 L.D. 1966
(C "A" H-840)

On motion by Senator **PEARSON** of Penobscot,
Tabled until Later in Today's Session, pending
ENACTMENT.

On motion by Senator **CAHILL** of Sagadahoc,
RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

An Act to Amend the Laws Concerning Emergency 911
S.P. 452 L.D. 1419
(C "A" S-452)

Tabled - March 28, 1994, by Senator **PEARSON** of
Penobscot.

Pending - **ENACTMENT**

(In Senate, March 22, 1994, **PASSED TO BE
ENGROSSED AS AMENDED.**)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act to Enable the Creation of the Volunteer Social Workers Project

H.P. 1106 L.D. 1493
(C "A" H-848)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act to Clarify Certain Provisions of Maine's Hospital Payment System

H.P. 1188 L.D. 1585
(C "A" H-834)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act Regarding Insurance Coverage for Mental Illness

H.P. 1218 L.D. 1637

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act to Amend the Petroleum Market Share Act
S.P. 596 L.D. 1655
(C "A" S-455)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 22, 1994, **PASSED TO BE ENGROSSED AS AMENDED.**)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act to Study Eagle Mortality in Maine
H.P. 1235 L.D. 1662
(C "A" H-844)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act to Permit Electric Utilities Greater Flexibility in Adjusting Electric Utility Prices to Meet Changing Market Conditions

H.P. 1239 L.D. 1666
(C "A" H-862)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED**.)

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

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

An Act to Provide Assistance to Homeowners Who Have Faulty Septic Systems

H.P. 1245 L.D. 1672
(C "A" H-866)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED**.)

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

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

An Act to Revise the Eastport Port Authority Charter

H.P. 1266 L.D. 1693
(C "A" H-860)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED**.)

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

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

An Act to Amend the Laws that Deal with the Protection of Natural Resources

S.P. 619 L.D. 1721
(C "A" S-447)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 22, 1994, **PASSED TO BE ENGROSSED AS AMENDED**.)

(In House, March 28, 1994, **PASSED TO BE ENACTED**.)

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

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

An Act to Establish the Public Access to Maine Waters Fund

H.P. 1312 L.D. 1767
(C "A" H-879)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 24, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED**.)

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

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

An Act to Prevent Damage Claims against the State Due to the Installation of Drinking Water Wells in Areas of Possible Hazardous Substances and Oil Pollution

H.P. 1328 L.D. 1791
(C "A" H-878)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 24, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED**.)

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

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

An Act to Strengthen the Maine Bottle Deposit Laws

H.P. 1343 L.D. 1810
(C "A" H-839)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED**.)

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

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

An Act to Amend the Laws Concerning Set-back Variances

H.P. 1369 L.D. 1853
(H "A" H-875 to
C "A" H-827)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 24, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED**.)

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

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

An Act to Clarify and Expand the Driver Education and Evaluation Programs in the State

H.P. 1381 L.D. 1868
(C "A" H-869)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED**.)

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

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

An Act Concerning Municipally Owned and Operated Solid Waste Incinerators

S.P. 690 L.D. 1876
(C "A" S-481)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**.)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act to Clarify the Appropriate Acknowledgment of Religious Holidays in Maine Schools

S.P. 704 L.D. 1901
(C "A" S-459)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 22, 1994, **PASSED TO BE ENGROSSED AS AMENDED.**)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act Regarding Registration for the Provision of Substance Abuse Counseling Services

S.P. 705 L.D. 1902
(C "A" S-479)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED.**)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act to Designate Certain Lands under the Constitution of Maine, Article IX, Section 23
H.P. 1428 L.D. 1953
(C "A" H-858)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

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

An Act to Create the Blaine House Commission (Governor's Bill)

H.P. 1440 L.D. 1966
(C "A" H-840)

Tabled - March 28, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1994, **PASSED TO BE ENACTED.**)

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

Resolve

Resolve, to Establish Minimum Standards for Adult and Family Shelters in the State

H.P. 1383 L.D. 1882
(C "A" H-829)

Resolve, to Enhance the Development of Alternative Uses of Maine Agriculture and Forestry Products

H.P. 1437 L.D. 1963
(C "A" H-874)

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

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 **AGRICULTURE** on Bill "An Act to Require Licenses and Fees for BST Manufacturers and Dealers" (Emergency)

H.P. 1384 L.D. 1883

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-950)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-950) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BANKING & INSURANCE** on Bill "An Act to Ensure Equitable Insurance Practices"

H.P. 789 L.D. 1062

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-943)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-943)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-943) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Improve Environmental Protection and Support Economic Development under the State's Land Use Laws"

H.P. 1100 L.D. 1487

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-942)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-942)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-942) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HOUSING & ECONOMIC DEVELOPMENT** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 to Provide Funds for Assistance to Maine Businesses"

H.P. 1148 L.D. 1547

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-949)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-949)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-949) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HUMAN RESOURCES** on Bill "An Act to Rename Boarding Care Facilities and Expand Their Definitions" (Emergency)

H.P. 1337 L.D. 1800

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-945)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-945)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-945) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act to Develop Standards for the Licensure of Hospice Programs"

H.P. 1355 L.D. 1821

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-946).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-946).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-946) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Expand Protection to Persons with Mental Illness and Mental Retardation"

H.P. 347 L.D. 450

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-934).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-934).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-934) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act Concerning Primary Care and Parental Rights and Responsibilities in Cases of Domestic Abuse"

H.P. 1055 L.D. 1407

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-940).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-940).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-940) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Protect Maine Children from Child Pornography Contraband"

H.P. 1274 L.D. 1718

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-935).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-935) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Affect the Credit of People Who Are in Default of Child Support Payments"

H.P. 1279 L.D. 1727

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-936).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-936).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-936) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **JUDICIARY** on Bill "An Act to Adopt the Uniform Interstate Family Support Act"
H.P. 1339 L.D. 1802

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-939)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-939)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-939) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Establish the Right of Grandparents to Act as Foster Parents for Their Grandchildren"
H.P. 1352 L.D. 1818

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-938)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-938)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-938) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Amend the Probate Code to Provide Greater Due Processing in Guardianship and Conservatorship Cases"
H.P. 1441 L.D. 1967

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-937)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-937)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-937) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Clarify Maine Election Laws"
H.P. 1201 L.D. 1609

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-947)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-947)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-947) **READ** and **ADOPTED**, in concurrence.

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **AGING, RETIREMENT & VETERANS** on Bill "An Act Relating to Retirement Benefits for the State Police"
H.P. 1363 L.D. 1842

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-891)**.

Signed:

Senator:
WEBSTER of Franklin

Representatives:
JALBERT of Lisbon
CATHCART of Orono
VIGUE of Winslow
CLUKEY of Houlton
JOY of Island Falls
BIRNEY of Paris
TUFTS of Stockton Springs

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

Signed:

Senators:

TITCOMB of Cumberland
MCCORMICK of Kennebec

Representatives:

WENTWORTH of Kennebunkport
HATCH of Skowhegan
BARTH of Bethel

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-891)**.

Which Reports were **READ**.

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

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Create an Income Tax Stabilization Program" (Governor's Bill)

S.P. 744 L.D. 1973

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

Signed:

Senators:

BALDACCI of Penobscot
CAREY of Kennebec

Representatives:

DORE of Auburn
HOG LUND of Portland
NADEAU of Saco
TARDY of Palmyra
SIMONEAU of Thomaston
DIPIETRO of South Portland
RAND of Portland
FARNSWORTH of Hallowell

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-545)**.

Signed:

Senator:

SUMMERS of Cumberland

Representatives:

MURPHY of Berwick
SPEAR of Nobleboro

Which Reports were **READ**.

Senator **CAREY** of Kennebec moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **CAREY** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

HOUSE REPORTS - from the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act to Maintain State-staffed Crisis Programs" (Emergency) H.P. 1296 L.D. 1751

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-907)**

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-908)**

Tabled - March 28, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 28, 1994, Reports **READ**.)

(In House, March 25, 1994, Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-907)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-907)**.)

On motion by Senator **PEARSON** of Penobscot, the Senate **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-907)** Report, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-907) **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 **HUMAN RESOURCES** on Bill "An Act to Clarify the Application of Nursing Facility Admissions Criteria" (Emergency) H.P. 1230 L.D. 1650

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-922)**

Minority - **Ought Not to Pass**

Tabled - March 28, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 28, 1994, Reports **READ**.)

(In House, March 25, 1994, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-922)**.)

Senator **PARADIS** of Aroostook moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, 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. We have been very sensitive to the issues of the elderly in our State and this amendment is allowing a demonstration to continue forth until October, since January we have been trying out different models to assess elderly people to see where they would be better served. It has been working very well. These models are being reviewed by the Department and in October we will see if this should continue, if they have worked or if they have not worked. 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 to ask you to reject the pending motion. As the good Senator from Aroostook, Senator Paradis, just mentioned we have spent a lot of time trying to facilitate and design to evaluate the needs of our elderly citizens for long term care. In the last session we spent a lot of time on a bill called L.D. 418, which was designed to insure the maximum independence of our older citizens and essentially to give them a choice other than nursing homes to reside in. One of the key pieces to that legislation, and I want to emphasize that it was a key piece to the legislation, was that the people who would be doing the evaluations have no pecuniary interest in the outcome. Whether it was suggested for people to go to a boarding home, congregate care, assisted living, or nursing homes, someone without a vested interest in the decision will be making that call. The pending motion before you removes that. It will put into place a system where, arguably, people will be making determinations on the best source of placement for our citizens who may have a vested interest in the outcome. It doesn't make sense to me and I hope it doesn't make sense to you. I urge you to vote no on the pending question. 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 have two elderly parents who are in failing health right now. They are 81 years old and they have been doing fairly well but just over the winter I have seen the deterioration. This amendment could possibly seriously impact their lives, so you men and women of the Senate can rest assured that I would not allow anything that would put anyone in jeopardy. The pecuniary issue that Senator Harriman is referring to, we have decided with the Department to delay until October, to suspend until October 1. I was very leery of the fact that there were no agencies

out there in place to do these evaluations. We would have had to go to a whole new process with people from out of State. That, I felt, would have been very destabilizing to our population. I have been watching very closely and when members of either body have approached me with issues dealing with the elderly it was not appropriate but I dealt with it. It didn't happen very often, this is a temporary situation, it is a demonstration project. The evidence will be in in October and then we will make the proper decisions. If, indeed, this was inappropriate I think it would have shown up by now, I think we can do something to change it. I hope we don't change something that is working presently. 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. The good Senator from Aroostook is correct that this program is currently in place. The legislation was needed because they wanted to remove the wording that required them to do what this legislature said in the last session that they should do. They have come to us to be excused from what you told them they should be doing. The second point that I think is worth noting is that the people involved in the screening process are involved in area agings, congregate care, and assisted living, but no one under this demonstration project operates a nursing home. Why is that? It just seems to me that we ought to, as we go forward with this new approach to delivering long term care, which is working and saving money and which is proving to people that they have options in the later stages of their life, ought to have a neutral, unbiased, third party assessment that you and I would want. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **PARADIS** of Aroostook, 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.

11 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **PARADIS** of Aroostook, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **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 **LABOR** on Bill "An Act to Protect the Rights of Employees and to Ensure the Proper Expenditure of Public Funds"

H.P. 1303 L.D. 1758

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-865)**

Minority - **Ought Not to Pass**

Tabled - March 28, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 28, 1994, Reports **READ**.)

(In House, March 25, 1994, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865)**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE OF EITHER REPORT**.

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

HOUSE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act to Clarify Reporting Requirements for Party Committees" H.P. 1244 L.D. 1671

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-918)**

Tabled - March 28, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 28, 1994, Reports **READ**.)

(In House, March 25, 1994, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-918)**.)

Senator **HANDY** of Androscoggin moved that the Senate **ACCEPT** the Minority **OUGHT 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 particular bill, the amendment does take out part of what I was concerned about, making the candidates or the party reporting any advertising they might do for candidates because in our election laws that has to be reported anyway by the candidate. I am still concerned with this amendment, mainly because of the fact that I am afraid that it will hurt the parties in the small communities if they have to report anything that is spent on any type of cause. The cause could simply be to get out the votes, which quite often our local small communities do spend a little money doing that. This will create an awful lot of reports that will have to be turned in. I

think it is very unnecessary. I don't think there is a lot of money spent on that now and to me some of our political parties in our communities now are very weak, they have trouble raising money to begin with or even staying organized and I think the grass roots campaign is ultra important and that we should be doing everything in our power to prolong and promote their existence. I feel that this particular amendment would do just the opposite so I am going to encourage you to vote against the pending 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. This bill, the amendment coming in the Minority report, narrowly construes the original legislation that was presented to the Legal Affairs Committee in that those of us who signed that report feel that disclosure is appropriate when a political party makes an expenditure on behalf of a particular cause. You may recall over the last year, one of the major parties in this State waged a campaign against a member of the other body in which they were under no legal obligation to make disclosure of those expenditures. By the same token we are all aware that President Clinton has advanced the health care program, which the Democratic party has embraced, and they too are making expenditures to advance that cause. Likewise those kinds of expenditures that seek to influence the public in the public political arena ought to be disclosed. It's as simple and as straightforward as that. This Minority report that calls for the disclosure, a campaign finance report, just as everyone of us disclose our expenditures, every single expenditure we must disclose, this would make a similar requirement on the party committees. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HANDY** of Androscoggin to **ACCEPT** the Minority **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.

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **HANDY** of Androscoggin, to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-918) **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:

SENATE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Strengthen the Coordinated Delivery of Substance Abuse Services in the State"

S.P. 655 L.D. 1824

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-508)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-509)

Tabled - March 28, 1994, by Senator ESTY of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, March 24, 1994, Reports READ.)

Senator HARRIMAN of Cumberland moved that the Senate ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-509) Report.

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

Senator PARADIS: Thank you Mr. President, Ladies and Gentlemen of the Senate. I urge you to vote against this amendment. Again, we have worked very hard in Committee and came up with a Majority Ought to Pass Report that I should have moved before Senator Harriman got ahead of me, but that is fine. Again, we would be interrupting a process that is in its infancy in terms of providing services. We would like to let the procedure go forth. To not do so could be a very expensive proposition for us. 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 urge you to support the Minority Report. Let me begin by clarifying that this bill has two separate yet equally important recommendations for your approval. The first part of the language will complete the journey that we embarked on in the last session to consolidate the activities of the Office of Substance Abuse and all of us involved in that piece of legislation worked hard, and through a collaborative effort, we were able to combine and streamline the services. We protected and preserved many State employees jobs and we absorbed a \$500,000 budget cut. What this portion of the bill seeks to do is to complete that process by coordinating some of the activities of the National Guard, Education, and another Department which escapes me right now. The second part of the bill does not have a fiscal impact attached to it now but if this pending motion does not succeed, I predict that in subsequent sessions of the legislature it will have a financial impact. Allow me to explain. Between the first session of the legislature and this one, the President of the Senate appointed me to a special task force to look at the administrative cost of contracts that the State enters into. The goal was to find ways to cut down administrative costs. The task force discovered some fascinating facts about the way your tax dollars and certain human services are spent. Let me give you a glimpse of what I mean. Essentially today the State of Maine enters into contracts by telling providers that, for example, we have X millions of dollars to spend and we would ask them to submit a proposal that tells us what services they could

provide for that money. As you can imagine the whole process is quite enormous. The resources on the State of Maine and on the part of the State agencies to evaluate the proposals they are asked to submit. After the proposals come into the State we often discover that there is only one bidder. When there is more than one someone usually appeals, requiring more time, money, and lawyers to resolve the appeal. On top of that we have no way of knowing if the services you pay for are truly meeting the needs of the individual citizens we seek to serve. One of the participants of this task force was the Office of Substance Abuse and we learned first hand how they have implemented performance based contracting, which appeared to solve the problems I have just described. It enabled the Office of Substance Abuse to concentrate on assuring the necessary services and allowed providers to spend more time in front of clients. All of us, without exception, were very impressed with the work they have done, which was the foundation upon which our study was transformed into legislation to accomplish these goals. Unless we pass the pending motion the Office of Substance Abuse is about to begin the request for proposal process that will undoubtedly put them in the same bureaucratic strangle hold that Mental Health, Mental Retardation, and the Bureau of Children with Special Needs is moving away from. The bill that I have just mentioned that came from the Administrative Task Force has already whistled its way through the Legislative process and is on enactment. Why then would we want to pass a law to move one area of Human Services to an Administrative process that we are telling another to move away from? This is the sort of decision making that goes on at times that doesn't make sense to me and I'm sure that it would not make sense to the average Maine citizen. If the pending motion is not passed I predict the Office of Substance Abuse will be asking for money to pay for people to administer the request for proposal process and their ensuing disputes, rather than building on the pioneering efforts that focus on the needs of the people that truly need our help. 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. One of the handouts that was placed on your desk last week was the cost of one hour of service for substance abuse counselling, for example, was \$90.00. I'm sure the counselor doing the work was not getting \$90.00 and one of the things we would be doing here, if we vote for this amendment, is we would be freezing that amount. This way we are continuing the process to be opened up to different providers and bidding, therefore saving us some money. This is a very expensive part of our budget. The Office of Substance Abuse, under Marlene Pulsifer, has been doing a fantastic job in supporting the Majority opinion so I would urge your opposing this amendment. 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. I rise to support the good Chair of the Human Resources Committee on this opposition to the Minority Ought to Pass Report. Although I have appreciated many of the new ideas that the good Senator from Cumberland has brought to our attention in his first session here in the legislature, this particular idea happens to be one of mine that he would like to change. It

actually is not an idea that I had it was an idea that, when I was the Chair of the Human Resources Committee two years ago, was worked very hard by Representative Don Gean on that Committee. What Don Gean was able to convince us to see is not that we would be spending money reviewing RFP's, but that we would be saving money for the tax payers in this State in insuring that we get the lowest bid for the best services. That is the way we worked every contract when it comes to things dealing with highways or any other thing that is of importance to this State. We want the lowest price for the best quality service. To accept the good Senator from Cumberland's motion would set us back two years from something that we fought very hard for and hasn't even had a chance to get off the ground. So I hope that you will support the good Senator from Aroostook, Senator Paradis. 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 appreciate and respect the comments of my very good friend, the Senator from Cumberland, Senator Conley, whom I have grown to admire and respect. I rise to object to his comments simply because the process that is going on the Substance Abuse Office right now is a performance based contract. They are already entering into contracts that tell providers these are the results that we are trying to see and have you achieve as our provider. The good Senator from Aroostook, Senator Paradis, also mentioned that some of the State agencies, some of the providers that the State contracts with, have what appears to be unreasonably high costs per hour for counselors. One of these that was mentioned in that document that Senator Paradis referred to is in my district. Shoreline Community Mental Health Services a few years ago was on the verge of going out of business. Today, without a question at least in my view, they are a model of the way mental health, mental retardation, and substance abuse services should be provided. So I contacted them to ask them about the statement that was presented to us that they were charging \$74 an hour, yet paying their counselors only \$20 an hour. What I discovered was that \$5 of that charge per hour is for medical record services, \$17 an hour is for liability, rent, and workers' compensation, \$12 an hour is for general and administrative costs like accounts receivable and payable, and management staff, and \$9 an hour was attributable to part time clinical psychologists and psychiatrists. They operate out of six different geographical locations coordinating all of these activities. The most recent request for proposal that they have responded to, they estimate cost them \$12,000, just to respond to the request for proposal and they were the only bidder.

Let's continue on on this journey, let's make sure that we are getting into contracts like we do as the good Senator from Cumberland, Senator Conley, suggested that if we are going to buy things we want the lowest price. We are not buying trucks, snowplows or heating oil, we are buying services to help the people in this State who need our assistance. The next step, in my view, if we can implement performance based contracting as a way of providing social services, is to go to a voucher system and give the citizen the voucher and let them determine where they want to get their services based on people who can prove to us that they are living up to our performance standards. The pending motion would help us do that. I urge your support. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HARRIMAN** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-509)** Report.

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.

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **HARRIMAN** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-509)** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "B" (S-509) **READ** and **ADOPTED**.

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

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

Bill "An Act to Promote Integrity in the Citizens Petition Process" H.P. 1417 L.D. 1931 (C "A" S-881)

Tabled - March 28, 1994, by Senator **BUSTIN** of Kennebec.

Pending - Motion by Senator **HANDY** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-529)

(In Senate, March 28, 1994, Senate Amendment "A" (S-529) **READ**.)

(In House, March 24, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-881)**.)

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HANDY** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-529).

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.

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **HANDY** of Androscoggin, to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-529), **PREVAILED**.

On motion by Senator **HANDY** of Androscoggin, Senate Amendment "B" (S-542) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

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

SENATE REPORTS - from the Committee on **AGING, RETIREMENT & VETERANS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System

S.P. 653 L.D. 1822

Report A - Ought to Pass as Amended by Committee Amendment "A" (S-515)

Report B - Ought to Pass as Amended by Committee Amendment "B" (S-516)

Report C - Ought Not to Pass

Tabled - March 28, 1994, by Senator ESTY of Cumberland.

Pending - Motion by Senator TITCOMB of Cumberland to ACCEPT Report "A" Ought to Pass as Amended by Committee Amendment "A" (S-515)

(In Senate, March 24, 1994, Reports READ.)

On motion by Senator TITCOMB of Cumberland, 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 Harriman.

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Before the roll call is taken I would like to say just a few words if I might. First, I want all of you to know that I have great empathy for teachers and state employees who justifiably feel that the state budget has been balanced at the expense of the financial integrity of the Maine State Retirement system over the last several years. Yet we have all taken a solemn oath to uphold the Maine Constitution that protects all of the approximately 1,250,000 citizens of Maine. In part the Constitution says to promote the common welfare. This bill, if adopted, would protect approximately 45,000 citizens who happen to be participants in the Maine State Retirement system. We also need to know and remember that approximately 30,000 Maine people have lost their jobs over the last few years. Therefore, not having any pension, profit sharing, or retirement savings plan at this point in time. Those who have been fortunate enough to keep their jobs have also experienced major changes in their retirement plans by our elected

officials in Washington. For instance, a change in the tax treatment of individual retirement accounts was a popular financial planning tool. The Social Security system has been amended many times. Social Security normal retirement, which used to be age 62 for some, will now be age 65 for some and for others age 67. We must also face the fact the the Social Security Trust Fund is not filled with the tax deposits that you and I have made, nor the interest the the trustees have made on investing that money, but rather it is filled with promissory notes of the Federal Treasury because Washington is constantly starved for cash. I ask respectfully, most respectfully, how many of you are supporting this piece of legislation who voted for the budgets that created the problem. If we continue to amend the Constitution, as we have done in years past, for Inland Fisheries and Wildlife, before that for Transportation, and perhaps this one, we will no longer need people like you and me to come here and do the people's work because it will all be cast in Constitutional concrete.

As I commute back and forth to the State House from my district I often wonder how much better the citizens of Maine would be if this legislature had the ability to prioritize all of the revenues that come into the State of Maine, all of the revenues. We are not free to do that, we come here and argue over \$3 billion to take care of the state's most pressing problems when, in fact, the state receives over \$8 billion in revenues. We can only deal with \$3 billion because of Constitutional amendments and statutory laws. The Maine State Retirement system, I would admit to you, is in need of major, major improvements. I say improvements. If I am fortunate enough to be a member of the 117th session of the Maine Legislature, I commit to all of you who hear these words that I will enthusiastically support legislation to implement the recommendations of the Maine State Retirement System Study Committee. Teachers and state employees deserve better servicing of their plan so that each participant can get simple questions answered instead of threatening legal action, as is often the case. We need to remove the portion of the law that tells the actuaries, who determine the soundness of our plan, that they should use the actual investment results rather than the 8% they are required to use as an investment assumption because we put it into law. We need to offer portability to our state employees who do not stay here for the long run. We need a shorter vestment schedule. We need to offer participants a chance to be in Social Security and other similar retirement plans, as offered in the private sector. We should require that participants name their spouse as the beneficiary of their pension plan benefits, like they are required to do in private pension plans, so that no widows are children are unsuspectingly disinherited from a retirement plan.

I could go on and on with other suggestions and I am sure you will appreciate that I am not going to do that. The question is that we need to restore financial integrity, and confidence. We need to prove to people that we want to attract and retain key State employees, but Ladies and Gentlemen of the Senate, the pending motion does none of these things. 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 say that if we looked back over the records of our votes over

the last couple of years we would note that a number of us had voted repeatedly on Constitutional amendments, so it certainly is not a new, ice breaking issue. I would like to, in the aftermath of the comments made by the good Senator from Cumberland, Senator Harriman, read from the section of the Constitution that was not included in his reading. "We the people of Maine, in order to establish justice..." If there is one thing that has been missing in this debate over the last several years as we have pilfered the funds from the Retirement system to pay the debts of the State, has been justice. I am deeply concerned that we cannot confuse the changes that all of us readily embrace that are needed in the Retirement system, that we not confuse that real mission with the fact that there must be an underlying trust of basic benefits that we give to our employees upon their hiring and that we honor when they retire. I think it is very important to note, as well, as we cite the specifics of pension systems in the private sector that an employee cannot change the Federal laws that protect the retirement of people in the private sector. We, as lawmakers and employers, seem to be the only ones able to do that. This is not asking for anything elaborate. Certainly we removed much of what was elaborate, or considered elaborate, over the last several years. This is simply stating the very basics of a promise and committing ourselves to keeping that word. I do not think that flies in the face of what the people of Maine believe in. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise because I will be supporting the amendment this evening. I do so because I feel strongly that we must keep our commitments that we make, particularly to our elderly. That is also one of the reasons why when the biennial budget was presented to us I did not support it, because we did not keep our obligations. I, in good faith, could not do that. I will support this because it is important that we keep those obligations. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would speak in opposition to the motion. I am a retired member of the education profession and am taking the benefits of the Retirement system. I have not, in any fashion, been afraid of what that system will do for me until, I am sorry to say, I will be here no more. I have stood before you in several instances and said that the Constitution should not protect small interest groups. My group, with the Maine State employees, represents approximately 40,000 employees. They do not, in my opinion, deserve the protection of the Constitution change and yet, at the same time, they deserve the protection that the State has given them this many years. I have no fear that the money will not be there when it is said for my retirement or any of the others. I have talked with many people on the phone and they have asked the same questions, will the money be there? They are not concerned about the Constitutional amendment, many of them. Will the money be there? I have asked them if they know of anybody who has not received the benefits due and the answer, so far, is 100% no. People will say that has nothing whatsoever to do with the contract, in my opinion it does because the contractor said that you will receive this in this

fashion and in good faith. We passed legislation in the past, and I have fought very strenuously for the position finally that those people with a vested interest should receive. The people without vested interest have time and I believe honestly have time to work out a program for retirement in all good faith and in all good faith their money will be there. There is no doubt in my mind that that is going to be the case, you cannot prove to me otherwise, at least up to this point, that it hasn't been the case and the sun may fall sometime but it hasn't yet and I do not believe that a Constitutional amendment should be passed in favor of a special interest group. 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 rise today to ask you to consider the deliberations of the Monks II Blue Ribbon Commission, which looked into the specifics of our Maine State Retirement System. I had an opportunity to speak with one of the members of that Commission, a member who was appointed by the Speaker of the House, and asked him if this issue had been addressed by the Monk's Commission, that is the issue of putting into the Maine State Constitution, a protection of benefits for people in the system. He said that yes, the Commission has discussed the possibility of doing this. However, they rejected it, saying that it was really an over reaction to the Spiller Decision which many of the Monk's Commission people felt also went too far. They felt that putting into the Constitution an amendment of this type was not good State policy, that there were other ways to address the issue in a more realistic manner and in a manner which would not tie future legislators or the executive branch. That was to create a Commission, an ongoing Commission, to look at the benefits package. That Commission would consist of representatives of the Retirement System, representatives of the Executive branch and a public member. So I ask you tonight to reject this Constitutional amendment and in its place put in a Commission which would be ongoing and which would look at ways to better protect the benefits of the members of our Maine State Retirement System. 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. In looking through the Constitution, the Declaration of Rights states that all Maine people are created equal. I would like to pose a question to anyone in this chamber who would like to answer or who could answer, what are the 95% of the other employees throughout our State, and the retirement systems that they are currently involved in, are they protected under our Constitution? Thank you.

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

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In response to the question, the other 95% of the population has no such protection as this amendment would offer those people employed by the State. Let me just remind you that this vote is one of many that this body will

have. I can assure you that this is not the final version and I can assure you that once this vote is taken, perhaps those people who are so vehement for this bill will be willing to do what we all do in this process and that is listen to someone else's opinion besides their own. I want to commend, at this point, the Senator from Cumberland, Senator Titcomb for her hard work on the Committee and her strong belief on this issue. I commend her for doing what she believes is right. I simply happen to disagree with her on this issue. When the Spiller decision came about and the court ruled that employees of the State had no guarantees, many people were concerned and this is a result of that concern. The problem is that in our process of compromise and give and take other people's opinions matter. I have said all along that I felt that people who went to work for the State of Maine, either as teachers or as State employees, ought to have their benefits protected. The question is at what point. I happen to feel that once they are vested, once they have made a long term commitment to their job, once they have served their time, then their benefits should be forever protected. Unfortunately, in the private sector there is no guarantee that once you go to work that your benefits will be forever protected. If you go to work under Social Security Congress can change at whim any time your retirement benefits. I am willing to support a different version than what you have before you. If this legislature is serious and those people who purport to represent the working State employees and teachers and are willing to work with us I think we can come to an agreement. Otherwise the people that they suggest they represent will find and receive nothing from this legislature. 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. Just a couple of very quick comments. One is that in my review of all of the meetings of the Monk Commission, and in discussing this issue with members of the Monk Commission, in the aftermath of that I was surprised to hear that it was a point of discussion in the official meetings of the Commission because that was never part of the Record. I'm sure there were strong feelings, I have heard some strong feelings from some members of the Commission, not on this particular issue, but on Constitutional amendments in general, that one particular member does not support Constitutional amendments. I think that is a considerable distance from not supporting this particular issue as a Constitutional amendment. My last comment would be, before we vote, is that some of us do have very strong feelings, myself included, as to what our responsibility is as a State, as a government, to the people that we make a commitment to. There is a great deal to be said about the honor of the State keeping its word. I would go beyond that in saying that I don't think I speak just for myself or for a very limited number of people as I embrace this feeling. As you recall two years ago the voters of this State, by an overwhelming margin, voted their voice as to how they felt we should honor the commitment made to State retirees. This is not just the voice of a special interest. It was made very clear by the voters of Maine that they just plain didn't want us meddling in those funds and in those commitments that we had made to State employees. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **TITCOMB** of

Cumberland to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-515).**

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 BERUBE, BUSTIN, CAHILL, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, GOULD, HALL, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

NAYS: Senators AMERO, BEGLEY, BUTLAND, CARPENTER, FOSTER, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER

ABSENT: Senators BALDACCI, BRANNIGAN

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **TITCOMB** of Cumberland, to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-515), PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-515) **READ** and **ADOPTED.**

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

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

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Abolish Secrecy in the Courts on Matters of Public Health or Safety" S.P. 439 L.D. 1369

Majority - **Ought to Pass**

Minority - **Ought Not to Pass**

Tabled - March 28, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 28, 1994, Reports **READ.**)

Senator **HANLEY** of Oxford moved that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

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

Senator **CONLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't know what it is about this feeling, but I think it's going to be one of those days. I would ask you to oppose the motion of the good Senator from Oxford, Senator Hanley, and go on to accept the Majority Ought to Pass Report of the Committee. In arguing for you to support my position in this matter, it really is a pretty short bill, I know it's kind of hard sometimes to dig out those big books, they get kind of heavy this time of night, but it is one of the carry over bills and it is L.D. 1369. The title of the Bill is "An Act to Abolish Secrecy in the Courts on Matters of Public Health or Safety". Who can be against an idea like that? I'm sure we will find out. The fact of the matter is that this bill is about a paragraph long and really what it deals with is something very basic and very, very simple. Right now in a product liability case what typically happens is the victim is hurt and the way a company gets that victim to settle is they put money on the table and they will increase that money on the table to the point where they get that person to sign an agreement making those documents secret. Barring anybody else from the public from having access to those documents. People here would be familiar with a bunch of different product liability cases that they found out about in the news. The only time you find out about these cases is after there has been some sort of a leak or the problem becomes so wide spread, and people are being hurt at such a rate that the news breaks out. The first example I give is the silicone breast implants. Those cases started off as isolated issues where people who had these implants had things going wrong with them. Finally somebody brought a suit. That suit was settled and it was settled only because the woman involved in the case agreed to have that court document sealed up. It was only after it was sealed that the information actually got out, by mistake, and other women were coming forward across the country and finally the information was made known to the public at large. What this bill seeks to do, and it would help in the case of the Pinto automobiles, another perfect example where records were sealed and people never had access to those records, same thing with the saddle bag gas tanks on pickup trucks. It took a long time for people to find out about the problems with those gas tanks because those cases were sealed. Essentially this bill would prohibit, in cases only of public health or safety, allowing those records to be sealed. How does this help the public? What it does is it allows access by an injured person to the very information which is damaging to the company on the product that it has produced. It allows access to that information so they don't have to go through the lengthy discovery process that everybody has to in these matters, so they can get to the point where they can prove that a product is defective. This bill makes good public sense, it is for the benefit of each and every one of the constituents in this room and I hope that you will reject the Minority report. 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 Cumberland raised a rhetorical question as far as the title of this bill. I would direct his attention to a certain piece of legislation, "An Act to Increase the Efficiency of the Legislative Process and Retain a Citizen's Legislature", which I could not believe anyone would have voted against but in

fact my good colleague from Cumberland did. The proof is in the pudding. Let's take a look at exactly what the bill does, not what the title says. If I only had to vote on titles this process would be a lot easier. It would save me a lot of problems as far as reading through bills. What exactly does this bill do and how exactly is it treated now? Currently, if you are involved in litigation and you have proprietary information, or your business does, information that you have invested hundreds, thousands, tens of thousands, or hundreds of thousands of dollars in developing that is proprietary and you are brought in on a product liability law suit, through the discovery process they can get into every nook and cranny that has a bearing on the case. All of that information is available to them and I don't think the good Senator from Cumberland would deny that. One of the aspects though in this whole process is that the judge, and it's kind of interesting that this chamber at once has all the faith in the world in our jurists and juries that they can make all of the important decisions, yet in this case when we ask a judge to make a decision as far as whether or not it is in the public's best interest to issue a protective order, to protect the proprietary interest that a defendant might have in some information, the judge has an ethical obligation to make a determination whether or not that information has a greater public interest in being released, and if that greater public interest out weighs the private proprietary interest. Men and women of the Senate it is a judgment call, a judgement call that we leave to the jurists in this State. Jurists that are appointed by the Executive branch, that testified before our Joint Committees and finally come before this body for confirmation. I have faith in our jurists to make that determination. To make that case by case judgment call. What is at risk, you may ask, why don't we just pass this thing through like we do all sorts of things, just pass it through and we will deal with it tomorrow, well some businesses have already seen through the very interesting description of this bill. Let me read you just a portion of a letter from Pratt and Whitney. They recently had a trial in Minnesota where the judge ordered Pratt and Whitney to produce their design manual for one of their main engines, the JT9D, under a strict protective order. If this manual hadn't been protected their competitors would have had access to engine technology that cost well over \$1 billion to develop. In such a case Pratt and Whitney would be forced, (as a trial lawyer well knows) to capitulate to almost any demand by the plaintiff. There is no way Pratt and Whitney, or for that matter, their competitors, GE or Rolls Royce, could ever produce such a document without assurance that it would be protected. Men and women of the Senate this comes down to whether or not you have faith in the jurists to balance off the public benefit against the private benefit. We ask them to do this on a daily basis. I don't think it is up to us at this point to tread on this very sensitive area, an area that would have very devastating impacts on Maine businesses trying to scratch a living out, as we have currently seen, without this in place. Men and women of the Senate it can be a complex, complicated issue, I just hope that you will take the time to see through it for what it is and to see where the checks and balances currently lie. 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. Briefly, I promise, in response to the good Senator from Oxford I would respond in this fashion. Number one, the types of cases that are sealed right now are those cases which people are going to settle in a product liability case and it is routinely done, the judge does not have any judgement call over it. In the types of cases where you are worried about whether or not somebody is going to get into somebody's work product, or the design of a particular piece of machinery, it does not apply unless there is public health or safety involved. It is only in that instance that a judge would be barred from sealing the records. Thank you.

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 pending question before the Senate is the motion of Senator **HANLEY** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CAREY, CARPENTER, CIANCHETTE, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LAWRENCE, LUDWIG, MARDEN, O'DEA, PEARSON, SUMMERS, WEBSTER, THE PRESIDENT - DENNIS L. DUTREMBLE**

NAYS: Senators **BUSTIN, CLEVELAND, CONLEY, ESTY, HANDY, LUTHER, MCCORMICK, PARADIS, PINGREE, TITCOMB, VOSE**

ABSENT: Senators **BALDACCI, BRANNIGAN**

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **HANLEY** of Oxford, to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for the Remediation and Closure of Municipal Solid Waste Landfills" (Governor's Bill)
S.P. 696 L.D. 1894

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-535)**

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-536)**

Tabled - March 28, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 28, 1994, Reports **READ**.)

Senator **PEARSON** of Penobscot moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-535)** Report.

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

Senator **FOSTER**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I feel this is a very important Bond issue and I was concerned about the voters passing a Bond issue for \$20 million this year. So the Minority report puts it out for \$10 million. I leave it in your good hands to decide how you think they will react to that. I just wanted you to know that there is a Minority report for \$10 million. We are retiring this year Bonds from the General Fund of about \$49 million and about \$13.5 million from Transportation and with a smaller Bond package I thought they might vote for it. I also will call your attention to something that we will have a better handle on tomorrow but the State of Maine is bonded in debt now, if you include all of the Bond issues that we voted on going out, is \$615,985,000, general obligation bonds are guaranteed at \$62,582,000, moral obligation and the revenue obligations of the State agencies are \$3,306,463,465. Ladies and Gentlemen of the Senate, we are nearing \$4 billion with the combination of general obligation bonds, moral obligation bonds, and revenue obligation bonds. I think that we must proceed very cautiously and pick the bonds that we really think are important to pass. I do believe this is one and I would ask you to talk about it in caucus, make sure we have the votes for either the \$20 million or the \$10 million. I just wanted to put that on the Record. 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 share the concerns of the good Senator from Hancock. I'm not one that wants to bond a lot and I am not one who wants to spend a lot. Frankly, if I could figure out a way, the bond package would be smaller than what it is. However, having said that and having tried to do that myself, personally, I need to tell you that I think this particular bond issue, dealing with dumps, is one of the ones that is most favorably received by Maine voters and I have every confidence that they will pass this particular bond issue. I might be a little more questionable on some of the others but I think this one is one that Maine people want and they understand. We had testimony from the people from the Department of Environmental Protection that said that they thought that the total bill for dealing with our solid waste problems, the dump problems in the State, was somewhere around \$116 million. This is of course, only a partial payment of that. Many communities in Maine have already spent the money for capping their dumps, their landfills, we owe those

communities money already. As a matter of fact, the person who appeared before us told us that by the time that this Bond issue is issued we will probably, at that point, owe \$20 million to municipalities in the State. Owe it already, so we are not even getting ahead of the game here. We have told municipalities all over the State, you do it, it is required by law, the Federal government requires the State, the State requires the towns and the towns have put up the money. This is our attempt to pay them for what they have, or will have done by the time this issue is passed. 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. I represent the small community of Belgrade as a municipal official. We went through the landfill closing idea, with the promise that we would get paid. In spite of the fact that many were not getting paid. We, at this point, are owed well over \$400,000. It is my understanding from meetings with the DEP that they will attempt to pay off those people who have already committed themselves to closing their landfills. At first they said they were going to be paying the interest for us, I think that is a bill that the Legislature passed a couple of years ago, that since they couldn't fulfill their commitment that the DEP would pick up the interest costs on their share. It's my understanding from several letters that we have received from the DEP that they are now having a change of heart and they want to forego that kind of stuff. I don't know if that has gone through the Natural Resources Committee or if it is something that they are sitting on but I can tell you that in my area the bond issue for \$20 million will pass very easily. 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 to ask you to support the pending motion as the good Senator from Penobscot, Senator Pearson, has already so eloquently stated. This is a promise that we have made to the municipalities in the State of Maine. I was the prime sponsor of this bill that was presented to the Appropriations Committee and as part of the testimony I brought a map of the State of Maine, a large map of the State of Maine, probably about three feet tall and two feet wide. On that map were red dots that signified all of the landfills around the State of Maine that need to be capped or closed. Distinguished colleagues, that map looked like it had a case of the chicken pox. There are hundreds and hundred of these sites all over the State of Maine. \$20 million is a lot of money but it is only a very small percentage of the obligation we have to our municipalities, and more importantly, to our environment. My personal philosophy on bond issues is that you shouldn't borrow money unless you are going to do something with it to create value. The pending question will create value for the long run, it will help us clean up our water tables, it will help us protect environmentally sensitive ecosystems, and, as the Senator from Penobscot, stated, it is only a drop in the bucket of what we need to live up to. I urge you to pass the pending question. 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. I truly believe that we do need this landfill bond issue. I must say, as a member of the Committee, I was appalled when we learned that to date we have supported bond issues totalling \$29 million, do you know there was about \$5 million that they haven't even put out, that the DEP had not issued for those bonds. What were they waiting for, they had bills. They say it has taken time because they have had to review the cases and there is a list of unknown costs. I can't understand, having been approved by the voters, haven't been issued. The other thing, the Natural Resources Committee, from what I understand, is looking at the reimbursement, right now we are reimbursing at 75%, I have heard that they want to change that reimbursement. I have heard that there are other changes that they are making in regards to these landfills. My feeling was that if we could get the \$10 million and get voter approval of that, see what the Natural Resources Committee is doing in regards to reimbursement, then that would be the way to go. I would ask someone from the Natural Resources Committee to tell us if they are changing the reimbursement, from 75% to something else in this session of the legislature. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I appreciate the question from the good Senator from Hancock, Senator Foster. I understand her point of view on this bond issue. The view of the Energy and Natural Resources Committee, or my view as a member of the Energy and Natural Resources Committee on this bond issue is that it is money that we need now because so much has already been done on the municipal landfill closures and there is so much money owed out there now that it is money that we need to appropriate now. Even if we did do as the Energy and Natural Resources Committee has suggested, propose a different type, a shorter, simpler version of landfill closure, then the complete closure that has been done in the past, still that procedure of capping, instead of complete landfill closure, will only be reimbursed under that legislation under a 50/50 reimbursement rather than a 75/25. Many municipalities are still going to incur a certain amount of costs and the State will then still have to reimburse those municipalities. So, in my humble opinion, this money is certainly not all that we are going to need but it is definitely all needed for the landfill closure process. 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. Being a former municipal elected official I certainly sympathize with all of the municipalities that have not received payment under their dump closure procedures. Ours was one of the several that fell into the same category, and I'm sure each of you have the same stories to tell. I certainly am very supportive of this bond issue, however I also feel that if we were to bond \$100 million for the next twenty years we could not keep up with the DEP regulations. I don't know what good it is going to do for us to continue to fund these until some type of changes are made in their process. In our particular case we closed an old dump, we joined with three other communities and

built a new dump, and it wasn't very long before they came in and wanted that dump closed and we have now received notification on that. How they arrived at that was that when this new dump was built they dug test wells eight hundred feet around the perimeter of that dump. After four years there was nothing in those wells, so they said they are out too far, you have to move them in. So we did and we moved them in four hundred feet. After another four years there was nothing there so they came back and said they are out too far. We dug a couple right in the middle of the dump and by golly we found that right below that there was a dump. That upsets me bad. I am certainly supportive of the bond issue to pay the municipalities for what costs we have required them to incur, but I think somewhere along the legislation route, I think it is the responsibility of this body to take a look at exactly what is going on out there. 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 will not belabor this issue, I just have a couple of points that I would like to make. I think the dump issue is the one that is probably the most personalized of all pollution issues because it hits every one of us in our communities. The one thought I would like to leave you with is something that we go over and over and over again when we are dealing with pollution prevention is that it is a darn sight cheaper to afford prevention than it is to do clean up. Thank you.

On motion by Senator **PEARSON** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-535)** Report **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-535) **READ** and **ADOPTED**.

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

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

HOUSE REPORTS - from the Committee on **AGING, RETIREMENT & VETERANS** on Bill "An Act Relating to Retirement Benefits for the State Police"
H.P. 1363 L.D. 1842

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-891)**

Minority - **Ought Not to Pass**

Tabled - March 28, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 28, 1994, Reports **READ**.)

(In House, March 28, 1994, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-891)**.)

Senator **TITCOMB** of Cumberland moved that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

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 say just a few brief words on this L.D. There are two issues that I think are very important for us to look at when we are reviewing this L.D. This is a bill that proposes to remedy a great inequity on the part of State Police relative to their retirement systems and the rest of State employees. It is a bill that brings forward an absolutely legitimate issue. As Chair of the Aging, Retirement and Veterans Committee, I found myself in a catch-22. The first side of it was totally agreeing with everything that the State police were asking for, and that is an opportunity to be able to buy, with their own dollars, a fair and equal opportunity for retirement after 25 years of service and at 55 years old, which is not the case now. I can only tell you that in substance of the proposal it is totally fair. As Chair of the Aging, Retirement and Veterans Committee, and I know you have heard me say this on several occasions, there was great concern that we not start nitpicking into the inequities of the system, the specific inequities in the system until the Monks Commission III, or Son of Monks, had a chance to look at them all together. I would suggest that the most responsible way to deal with the inequities in the State police retirement system is to wait until after that study committee comes back with a full broad set of recommendations on a variety of inequities. As for this case, the State police are correct, what they are asking for will not cost the system money and it is very fair. The judgement is yours as to whether or not we should do it now before we look at the big picture or whether we should do it later. 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. This is, I think, a reasonable proposal brought forth by the State Troopers. It simply allows them to retire at an earlier age, assuming they are willing to pay for it. It seems to me like it is a reasonable proposal. I feel very strongly about the issue. I understand the good Senator's position regarding the fact that we should look at the whole picture. I was here in 1984 when the law was changed, they used to be able to retire after 20 years, we changed it to an older age, we took it to 25. It seems to me that if the Troopers are willing to pay for the extra retirement with their own money then they ought to be able to do that. I think this is a fair bill and even though I understand the position of the Senator from Cumberland, it seems to me that since the tax payers are not bearing the burden for this additional early retirement for the Troopers that we ought to give them the option to purchase it if they so wish. 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. There is only thirty minutes left until 9:00, until we would have to vote, and I could talk on this issue for at least an hour and a half without hardly taking a breath and I would leave out half of what I need to tell you. So I am going to try and make it real short. As has already been mentioned, this is a cost neutral bill. It is not going to cost the tax payers or the general fund any money whatsoever to do. The State Police need this, especially for their recruiting, because there are other places where young men and women can go into law enforcement and retire after twenty or twenty five years of service, regardless of age. I am going to urge you to vote against the Minority report so that we can move the Majority report on this particular bill. If we are not successful with that then I will have a long presentation to give you in the very near future. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **TITCOMB** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-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.

12 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator **TITCOMB** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**, **FAILED**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-891) **READ** and **ADOPTED**, in concurrence.

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

Senate at Ease

Senate called to order by the President.

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

SENATE REPORTS - from the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Increase Access to Primary Care by Redefining the Practice of Advanced Nursing"

S.P. 390 L.D. 1185

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-454)**

Minority - **Ought Not to Pass**

Tabled - March 25, 1994, by Senator **ESTY** of Cumberland.

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

(In Senate, March 22, 1994, Reports **READ**.)

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

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

On motion by Senator **MCCORMICK** 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 Somerset, Senator Cianchette.

Senator **CIANCHETTE**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would hope that you would vote for this motion so we can put the proper action on amendments and keep this bill going to find out what we are really going to do with it. Please accept the ought to pass report. Thank you.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **CIANCHETTE** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Ordered.)

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

Senate at Ease

Senate called to order by the President.

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

SENATE REPORTS - from the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Increase Access to Primary Care by Redefining the Practice of Advanced Nursing"

S.P. 390 L.D. 1185

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-454)**

Minority - **Ought Not to Pass**

Tabled - March 28, 1994, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **CIANCHETTE** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Ordered.)

(In Senate, March 22, 1994, Reports **READ**.)

Senator **MCCORMICK** of Kennebec requested and received leave of the Senate to withdraw her motion for a Roll Call.

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

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

A Division has been requested.

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

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

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **CIANCHETTE** to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-454) **READ**.

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "A" (S-507) to Committee Amendment "A" (S-454) **READ**.

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The amendment I have just introduced will hopefully complete the long journey that has followed this bill. As you are, I'm sure, well aware, this bill has been held over since the First Regular Session. The goals of this bill are admirable, ones that I wholeheartedly support. The goal of creating more access to primary care, the goal of having more people who are covered by Medicaid have providers who are willing to see them, the goal of people needing services in rural areas are all the sorts of things that this legislature should be encouraging and this bill does all of that and hopefully more. The amendment I have before you does two things, it removes from the legislation the nurse anesthetist, which will be dealt with through cooperative efforts of their Board, and seeks to clarify the liability language. The language makes it clear that there will be a corridor between the nurse practitioner and the doctor over the question of liability. The amendment simply says that when a nurse in advanced practice and a doctor collaborate that the collaboration must be memorialized, whether it is in writing, via a fax machine or a computer network, or is a mutually understood recorded phone call, whatever the case may be, to document the collaboration. With this wording this bill can successfully move on its journey through the legislative process. I hope that you will recognize that the hard work that has gone into this bill for

so long is dependent upon us reaching a consensus with the other body and the executive branch. I am confident that this language will do that and I hope that you will support the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I will give you a little history of this bill. The Business Legislation Committee spent days and days and hours and hours working through this bill. We heard lots and lots of information. We have boiled this bill down to something that I think is quite responsible and as the Senator from Cumberland, Senator Harriman, has said, that we are close. The only difference I think we have on this bill at this time is this idea about memorialization of the information between the collaborating physician and nurse practitioner. If you could just visualize what could happen and what might likely happen when you talk about memorializing the response. Memorializing means it's either in writing or by comparable electronic means. Here is the nurse practitioner, off in the willy wags with a patient that really doesn't know how to diagnose and how to treat and how to prescribe proper treatment, so this nurse practitioner calls the collaborating physician. They talk about this and, I'm not a doctor, I'm not a nurse, I don't know all the conversation that could possibly go on but let your imagination wander just a bit and understand that a lot of this stuff gets very technical and very complex. This is going to be to protect the physician against his bad advice, we are going to make him immune unless this conversation is memorialized in some form that will be accepted by a court of law. I believe that the physicians are asking for something that is practically impossible. I just can't picture that process working.

If you will go along with me and vote against this amendment of Senator Harriman's, from Cumberland, I will offer Senate Amendment "B", which will be the same thing. Let me read to you what my amendment will say if you accept it on negligence.

THE PRESIDENT: The Chair would remind the Senator that we are on Senate Amendment "A" (S-507).

Senator **CIANCHETTE:** Thank you Mr. President. That is right. But in order to make my point on why you should vote against Senate Amendment "A" you really need to know what the alternative is. If that is appropriate Mr. President, I will continue.

THE PRESIDENT: The Chair would remind the Senator that we are on Senate Amendment "A" (S-507).

Senator **CIANCHETTE:** Thank you Mr. President. As we vote against Senate Amendment "A" you will need to know what we are going to be doing when we vote for the next amendment. Senate Amendment "A" says that this conversation must be memorialized, I just ask you, what in the world does that mean and who else would know what that means? We don't need that and a physician needs to be responsible for their own acts. This removes the physician's need to be responsible for his own acts. I don't think that is what you want. I would ask that you join me in voting against this Senate Amendment "A" so that we can vote for Senate Amendment "B", if that would please the Senate. I would request that if any member of this Senate has any questions about what I have said that they ask the questions and I would be glad to answer them. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I hope you will agree with the good Senator from Somerset, Senator Cianchette, and defeat this motion. I know I am dying to hear his rendition of Senate Amendment "B", which I am sure if he just read the first sentence of Senate Amendment "A", which may be the same as Senate Amendment "B", maybe we could get there. I would urge you to vote against the pending motion because I have read the wording in Senate Amendment "A" and I can't see how it is going to be workable in a court of law. All I can say is I hope there are a lot of fax machines on golf carts because I don't know how else this is going to work. It leaves a lot open to interpretation. I don't see it from an evidentiary standpoint working at all and I hope you will defeat this amendment. 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. The issue before us is how do we put into the law the opportunity for nurses in advanced practice to provide the services that most of us believe are needed, necessary and appreciated. The question before us requires in those situations, and as I understand it it will vary from one practitioner to another, and admittedly I have only spoken personally with a handful over the last few days, but in doing so what I have discovered is the types of situations where there is a question, a legitimate concern about whether or not a patient should be treated by a nurse in advanced practice or by the doctor is few. One told me maybe three times a year. So what I have said is that if we need to collaborate, what incentive or motivation is there for a doctor to collaborate with someone who is not under their supervision, who, if something goes wrong in one or two or three of those situations, and we end up in a lawsuit, the doctor is going to have a net thrown over her and be brought into the lawsuit, why would the doctor want to collaborate? The language before you, while it may be unacceptable because of the unworkability perception in some people's mind, enables this legislation to go forward, enables the 95% of the time when the nurse practitioner is not going to collaborate with the doctor so that we can get on with providing the services that we want to provide to people. I submit that we are going to have a challenge to get a majority vote, let alone a two thirds vote to override. This language will help us to accomplish the goals that everyone is trying to achieve. Maybe not to everyone's best satisfaction, but one that we can begin to work with. I urge you to support my pending motion. 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. At last the moment for this bill is here. I think we need to understand that were we to pass this bill we would be joining 24 other states that allow nurses in advanced practice to practice up to their educational level. 24 other states allow either independent practice, which this bill does not allow, or collaborative practice. Two of those States are our neighbors. Collaborative practice is allowed in Massachusetts and independent practice is allowed in New

Hampshire. In these 24 states that allow this kind of practice there is no difference in liability treatment at many levels. There are no more complaints, there are no more suits filed, and there is no need for any language like that that we are finding ourselves tied up into knots about. There is no need for any special liability exemptions for doctors in any of those 24 states. If we pass this language, this sentence in Senator Harriman's amendment, we will be the first to do that. We will be making tort history I bet and not in a good way. Let me give you one example. The definition of collaboration that the Committee chose to include in the Committee Amendment was taken from the District of Columbia. In the District of Columbia, after that collaboration statute had passed, the liability insurance company that covers nurses in advanced practice filed with the Superintendent of Insurance a surcharge, a rate hike, saying exactly what every body is worried about here, if we let nurses in advanced practice collaborate then liability for doctors is going to go up and therefore we are going to have to charge them more. The Superintendent of Insurance found that was not the case. The Superintendent of Insurance, which there is called the Commissioner, rolled back that surcharge, rolled it back after a two year study when they found no evidence of increased risk. I mention this because if we want to do anything here we ought to base it on the facts. The sentence that separates the two amendments is a sentence that would imply that there is a problem with increased liability for doctors if nurses practice collaboratively with them. I am telling you that in several states, actual rate hearings by Commissioners of Insurance have found that there is no increased liability.

Secondly, I think you should know that nurses in advanced practice and doctors carry the exact same amount of liability insurance. They do not pay the same for it, I will grant you that, but each is insured for \$1 million to \$3 million. Several people will say that still the doctor is the deep pocket, that is a phrase that you hear when you are talking about liability. But that really has nothing to do with the coverage. They are covered for the same amount and when you talk to some of the lawyers that we have serving in the legislature you will see that when a mistake is made blame is apportioned between parties. In the original language in the Committee bill we tried to address that. It has always been the position of nurses in advanced practice that everyone should be responsible for their own mistakes. Don't you think that is rather reasonable. Nurses in advanced practice have never shrunk from that.

THE PRESIDENT: The Chair would ask the Senator to defer. It is 9:00 and pursuant to Joint Rule 12 a two-thirds vote is necessary to extend.

Off Record Remarks

THE PRESIDENT: Pursuant to Joint Rule 12, the affirmative vote of two-thirds of the members present and voting is necessary to transact business after 9:00 p.m. 24 Senators having voted in the affirmative, and 8 Senators having voted in the negative, and 24 being more than two-thirds of the Membership present and voting, the Rules were suspended and the following proceedings were conducted after 9:00 p.m.

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have to remember where I was now. I think I was explaining how nurses in advanced practice carry the exact same liability amounts as doctors. As some of you may not know, when I began my work on this bill, that every single nurse in advanced practice has his or her own liability insurance and malpractice insurance. Everyone here will be covered. Many people have worried that if this bill passes nurses in advanced practice will be practicing independently, and that, I can assure you is not the case. They, as I have said in this bill, will be practicing collaboratively with doctors. In fact, it will be required of them to be policed by the Board of Nursing, required of them that they have a collaborative relationship with a doctor. The statute that governs nurses in advanced practice was passed in 1978, that is 15 years ago, it is way out of date. It is quite onerous and serves neither the interest of doctors or nurses. It is time for us to bring it up to date and that is the purpose of this bill. In fact, in those 15 years since we passed that statute, and since the rules were enpaneled, nurses and doctors have begun to practice much more collaboratively, nurses in advanced practice and doctors. What we would be doing by passing this bill is to bring the statute up in parallel to present day practice.

Another question that people ask about this bill is will the quality of care be diminished if we pass this bill. The answer is there have been many studies on this. Study after study shows that the answer is no. In fact, nurses in advanced practice usually do less testing, have fewer hospitalizations and have faster recovery times with their patients. Also I have heard people worry what if nurses in advanced practice don't refer when they should. I remind people that, and I think the good Senator from Androscoggin, Senator Cleveland, described in his Audit and Program Review bill, that there is a new mission statement for all boards of licensure and that is that they are there solely to protect the consumer. The Board of Nursing can, and will under this bill, still have the ability to revoke a license of any nurse in advanced practice that does not obey the rules. Another question that is asked about this bill is will nurses in advanced practice, with only three years of schooling, be able to practice independently. The answer is absolutely not. This bill has been through many permutations and that one, because of the insistence of many members on the Committee, only people with Master's degrees will be allowed to practice collaboratively and even then they must have served under the supervision of a doctor for three years.

So I urge you now to vote against Senator Harriman's amendment so that we might get onto an amendment that definitely does address the liability issue but does it in a way that is more workable. 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 of Senator **HARRIMAN** of Cumberland to **ADOPT** Senate Amendment "A" (S-507) to Committee Amendment "A" (S-454).

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

A vote of No will be opposed.

Is the Senate ready for the question?

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

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators AMERO, BEGLEY, BUTLAND, CAHILL, GOULD, HARRIMAN, WEBSTER

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

ABSENT: Senators None

PAIRED: Senators BRANNIGAN, LUTHER

7 Senators having voted in the affirmative and 26 Senators having voted in the negative, with 2 Senators having paired their votes and No Senators being absent, the motion of Senator **HARRIMAN** of Cumberland, to **ADOPT** Senate Amendment "A" (S-507) to Committee Amendment "A" (S-454), **FAILED**.

On motion by Senator **CIANCHETTE** of Somerset, Senate Amendment "B" (S-513) to Committee Amendment "A" (S-454) **READ**.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CIANCHETTE** of Somerset to **ADOPT** Senate Amendment "B" (S-513) to Committee Amendment "A" (S-454).

A Division has been requested.

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

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

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **CIANCHETTE** of Somerset to **ADOPT** Senate Amendment "B" (S-513) to Committee Amendment "A" (S-454), **PREVAILED**.

Committee Amendment "A" (S-454) as Amended by Senate Amendment "B" (S-513) thereto, **ADOPTED**.

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

The President appointed the Senator from Sagadahoc, Senator **CAHILL** to serve as President Pro Tem for the session on Tuesday, March 29, 1994.

Off Record Remarks

On motion by Senator **CARPENTER** of York, **ADJOURNED** until Tuesday, March 29, 1994 at 9:00 in the morning.