

# 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

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

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

**SENATE PAPERS**

In Senate Chamber  
Thursday  
March 31, 1994

Senate called to Order by the President Pro Tem,  
Ruth S. Foster of Hancock.

Prayer by the Honorable John J. Cleveland of  
Androscoggin.

**SENATOR JOHN J. CLEVELAND:** Good morning. Let us pray that with the coming of Spring this Session shall soon end and that our long, hard labors of winter shall bountiful fruit for the people of Maine. Let us pray that when the people take stock of what we have sown that we shall be distinguished, not by the depth of the fertilizer we have spread, but by the abundance of the harvest we may have prepared. Amen.

Reading of the Journal of Wednesday, March 30, 1994.

**COMMUNICATIONS**

The Following Communication:

**STATE OF MAINE  
OFFICE OF THE PRESIDENT  
AUGUSTA, MAINE 04333**

March 30, 1994

The Honorable Joy J. O'Brien  
Secretary of the Senate  
State House Station 3  
Augusta, ME 04333

Dear Secretary O'Brien:

I am appointing Senator Ruth S. Foster of Hancock, as President Pro-Tem for session on March 31, 1994.

Sincerely,

S/Dennis L. Dutremble  
President of the Senate

Resolve, to Establish a Commission on the Future of Maine's Paper Industry (Emergency)  
S.P. 773 L.D. 1996

Presented by Senator **ESTY** of Cumberland  
Cosponsored by Representative **PINEAU** of Jay and  
Senators: **BALDACCI** of Penobscot, **BUSTIN** of  
Kennebec, **BUTLAND** of Cumberland, **CAHILL** of  
Sagadahoc, **CARPENTER** of York, **CIANCHETTE** of  
Somerset, **DUTREMBLE** of York, **HALL** of  
Piscataquis, **HANDY** of Androscoggin, **LAWRENCE**  
of York, **LUTHER** of Oxford, **O'DEA** of  
Penobscot, **PARADIS** of Aroostook, **PINGREE** of  
Knox, **VOSE** of Washington, Representatives:  
**AHEARNE** of Madawaska, **BRUNO** of Raymond, **CARROLL**  
of Gray, **CASHMAN** of Old Town, **CHONKO** of Topsham,  
**CLARK** of Millinocket, **COLES** of Harpswell,  
**DRISCOLL** of Calais, **GOULD** of Greenville, **GWADOSKY**  
of Fairfield, **JACQUES** of Waterville, **KERR** of Old  
Orchard Beach, **KONTOS** of Windham, **LARRIVEE** of  
Gorham, **LIBBY** of Buxton, **LORD** of Waterboro,  
**MELENDY** of Rockland, **MICHAUD** of East Millinocket,  
**O'GARA** of Westbrook, **PARADIS** of Augusta, **POULIN**  
of Oakland, **REED** of Falmouth, **ROTONDI** of Athens,  
**RUHLIN** of Brewer, **SWAZEY** of Bucksport, **THOMPSON**  
of Lincoln, **TOWNSEND** of Eastport, **TRACY** of Rome  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 24.

Committee on **HOUSING & ECONOMIC DEVELOPMENT**  
suggested and **ORDERED PRINTED**.

Which was, under suspension of the Rules, **READ  
TWICE** and **PASSED TO BE ENGROSSED**, without  
reference to a Committee.

Sent down for concurrence.

Bill "An Act to Encourage Electric Rate  
Stabilization"  
S.P. 774 L.D. 1997

Presented by President **DUTREMBLE** of York  
(GOVERNOR'S BILL) Cosponsored by Senator  
**CARPENTER** of York and Senators: **AMERO** of  
Cumberland, **BALDACCI** of Penobscot, **BEGLEY** of  
Lincoln, **BERUBE** of Androscoggin, **BUSTIN** of  
Kennebec, **BUTLAND** of Cumberland, **CAHILL** of  
Sagadahoc, **CAREY** of Kennebec, **CIANCHETTE** of  
Somerset, **CLEVELAND** of Androscoggin, **ESTY** of  
Cumberland, **GOULD** of Waldo, **HALL** of  
Piscataquis, **HANDY** of Androscoggin, **HANLEY** of  
Oxford, **HARRIMAN** of Cumberland, **LAWRENCE** of  
York, **LUDWIG** of Aroostook, **LUTHER** of Oxford,  
**MARDEN** of Kennebec, **PARADIS** of Aroostook,  
**PEARSON** of Penobscot, **SUMMERS** of Cumberland,  
**VOSE** of Washington, Representatives: **AIKMAN** of  
Poland, **CASHMAN** of Old Town, **CLARK** of  
Millinocket, **DONNELLY** of Presque Isle, **FARNUM** of  
South Berwick, **GOULD** of Greenville, **GWADOSKY** of  
Fairfield, **HOGLUND** of Portland, **HOLT** of Bath,  
**MARTIN** of Eagle Lake, **MORRISON** of Bangor, **MURPHY**  
of Berwick, **NADEAU** of Saco, **RUHLIN** of Brewer,  
**SMALL** of Bath, **SULLIVAN** of Bangor, **TARDY** of  
Palmyra, **TAYLOR** of Cumberland, **WHITCOMB** of Waldo

Committee on **UTILITIES** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

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The President Pro Tem requested that the Sergeant-at-Arms escort the Senator from York, Senator **DUTREMBLE** to the Rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Hancock, Senator **FOSTER** to her seat on the floor.

Senate called to order by the President.

Which Reports were **READ**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-970) **READ** and **ADOPTED**, in concurrence.

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

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

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#### COMMITTEE REPORTS

##### House

##### 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 \$7,000,000 for Training Equipment for the Maine Technical College System"

H.P. 1442 L.D. 1968

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-970).

Signed:

Senators:

PEARSON of Penobscot  
TITCOMB of Cumberland  
FOSTER of Hancock

Representatives:

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

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

Signed:

Representative:

REED of Falmouth

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-970)**.

##### Divided Report

Nine Members of the Committee on **JUDICIARY** on Bill "An Act to Amend the Laws Governing the Required Qualifications to Practice Law in the State"  
H.P. 1153 L.D. 1552

Reported in Report "A" that the same **Ought Not to Pass**.

Signed:

Senators:

CONLEY of Cumberland  
BERUBE of Androscoggin

Representatives:

CATHCART of Orono  
CARON of Biddeford  
FAIRCLOTH of Bangor  
SAXL of Bangor  
KETTERER of Madison  
COTE of Auburn  
FARNSWORTH of Hallowell

Two Members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-956)**.

Signed:

Senator:

HANLEY of Oxford

Representative:

PLOWMAN of Hampden

Two Members of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-957)**.

Signed:

Representatives:  
LIPMAN of Augusta  
OTT of York

Comes from the House with Report "C" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-957) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-957)**.

Which Reports were **READ**.

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

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**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 \$10,000,000 to Expand and Improve the State's Distance Learning Infrastructure" (Governor's Bill)

S.P. 717 L.D. 1939

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

Signed:

Senators:  
PEARSON of Penobscot  
TITCOMB of Cumberland

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-565)**.

Signed:

Senator:  
FOSTER of Hancock

Representatives:  
FOSS of Yarmouth  
MACBRIDE of Presque Isle  
CARROLL of Gray

Which Reports were **READ**.

Senator **PEARSON** of Penobscot moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **FOSTER** of Hancock, Tabled until Later in Today's Session, pending the motion by Senator **PEARSON** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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**SECOND READERS**

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

**Senate As Amended**

Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1994 and June 30, 1995" (Governor's Bill) (Emergency)

S.P. 699 L.D. 1897  
(C "A" S-562)

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

Sent down for concurrence.

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**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 (3/30/94) matter:

**Emergency**

An Act to Promote Managed Care and to Otherwise Facilitate the Cost-effective Delivery of Health Care in the State

S.P. 560 L.D. 1596  
(S "A" S-517 to C  
"A" S-502)

Tabled - March 30, 1994, by Senator **ESTY** of Cumberland.

Pending - **ENACTMENT**

(In Senate, March 24, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-502) AS AMENDED BY SENATE AMENDMENT "A" (S-517)** thereto.)

(In House, March 30, 1994, **PASSED TO BE ENACTED**.)

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.

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

Bill "An Act to Bring the Bureau of State Police, the Department of the Attorney General and the Maine Drug Enforcement Agency into Conformity with the Criminal History Record Information Laws"

H.P. 665 L.D. 903  
(C "A" H-953)

Tabled - March 30, 1994, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **HANLEY** of Oxford to **ADOPT** Senate Amendment "A" (S-564) to Committee Amendment "A" (H-953)

(In Senate, March 30, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-953)**, in concurrence. Subsequently, **RECONSIDERED**. Senate Amendment "A" (S-564) **READ**.)

(In House, March 29, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-953)**.)

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I saw my good friend from Oxford get up yesterday, very sheepishly offering an amendment and sort of quietly sit down and I know we are in spring training and it would not be unusual to expect a curve ball at this time of the year. I did take time to look at that amendment. I also know, of course, that the good Senator, because of his sheepish rising and falling, didn't really have time to apologize to the Chair or to the Senate staff for being mistaken yesterday about what happened with that good report in reference to this police records bill. I have had a chance to look at this amendment and I would like to direct the members of this body to take a look at this amendment. I was a little stunned. I looked at it and it really is starting to bear out to me the old theory that fact is stranger than fiction, because in looking at this amendment, there is a fiscal note on it in the amount of \$89,150. If you look at the end of this amendment, the good Senator from Oxford's name is actually at the end of it, signed to it. Now \$89,150 is pocket change for me around here. I could spend that between myself and the good Senator from Washington, Senator Vose, in a heartbeat and raise it again twice over before I got to the good Senator from Penobscot, Senator Pearson. No big deal for me. But \$89,000 for the good Senator in the corner, that's big dough. For a person who has never seen a tax cut he didn't like, to be able to put three positions over there in that Attorney General's

office is something that surprises me in no small way. But, I welcome his new found belief in government and their ability to get things done, and this bill would actually be doing that. These people would be over there shuffling through papers for press people coming over and requesting old reports, which is basically what this bill is all about whether you go with the majority report or the minority report. Essentially, I am sure the good Senator will get up and tell us, that what this amendment is all about is the minority report and that is what he would like to have you support and to send back to the other body for consideration.

The majority of the Committee, in reference to criminal records, decided that if we are going to bring the Attorney General's office into line with what all other law enforcement does here in this State, which is to release records reasonably related to the public interest, that we ought to do that prospectively. In other words from this day forward make the A.G.'s office comply with what other law enforcement people have been required to do in this State for some time. The reason we would not go retroactive with that release of information, which is what the good Senator from Oxford's amendment seeks to do, the reason we would not do that is based solely on the fact that the Attorney General, when they took statements from people, whether it was in the ballotgate case, the Haggerty case, or the investigation of the murder down at Thomaston and the trial they had some time ago in Piscataquis county for an inmate, all of those records, statements that they took from people at that time, the people were promised by the State that those comments would remain confidential. We, in the majority, believe that they should remain confidential because to change the rules now would be to violate the trust that we gave to these people, that the State extended to these people. I am hopeful that this body will not accept this amendment and go retroactive with this information. It will cost the State a fortune, if you look at things from Senator Hanley's eyes, it's really not all that much money if you are talking to me, but I do not think it is fair or appropriate. It is the breaking of our word to people who gave statements and hopefully the amendment will be rejected. Therefore, Mr. President, I move now that this amendment be indefinitely postponed. Thank you.

Senator **CONLEY** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-564) to Committee Amendment "A" (H-953).

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The amendment before you is in fact the minority report out of the Committee on Judiciary which went under the hammer during the heated discussions that have taken place in the last couple of days. Without me being able to stand up and give this chamber an accounting as far as why the minority report should have been accepted. The amendment before you, I would like to point out, there has been some type of error in the amendment itself in the transposing of the minority report into an amendment for the bill. The minority report fiscal note was a wash and this one, as far as the \$89,000, would have been made up by fees from people requesting information from the Attorney General's office. Any of that information would have been offset by a fee for copies or information and so forth. I really don't have an explanation as far as

why, in the amendment, they have revised that now so that the General Fund increase will only be \$41,000 rather than a wash. To that I would have to look into further and maybe if we can pass this amendment and put it on the bill we can find out exactly where the other \$47,000 has gone. Let's get to the basis though as far as what the main difference between the reports were. The main difference was that we felt there should be some consistency between the Attorney General's office, the Department of Public Safety and the Drug Enforcement Agency here in the State.

The good Senator from Cumberland is correct that if this amendment were to pass, the information that had been received during the ballotgate investigation would be made public and once and for all the people of the State of Maine would have an opportunity to review those documents. With the caveat, as with any of the freedom of information statutes, unless it was to put the person who had released the information in a deleterious position, that is set out in federal statute, it works at the federal level, I think that we can trust for it to work here at the state level. I think there should be consistency if we are going retroactive into the public safety and the Drug Enforcement Agency, those being departments of the executive branch, we should do the same for the Attorney General's office. I think it is a policy decision and I hope that you will support the amendment and vote against the pending motion to indefinitely postpone. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **CONLEY** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-564) to Committee Amendment "A" (H-953).

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 13 Senators having voted in the negative, the motion by Senator **CONLEY** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-564) to Committee Amendment "A" (H-953), **PREVAILED**.

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

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Off Record Remarks

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On motion by Senator **BRANNIGAN** of Cumberland, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

**Emergency**

An Act to Modify the Manufacture of Motor Vehicle Registration Plates

H.P. 1217 L.D. 1636  
(C "A" H-819)

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

Pending - **ENACTMENT**

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

(In House, March 24, 1994, **PASSED TO BE ENACTED**.)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with 1 Senator 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.

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

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Off Record Remarks

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Establish a Technical College in York County"

H.P. 1313 L.D. 1775  
(C "A" H-851)

In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-851)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-851) AS AMENDED BY HOUSE AMENDMENT "A" (H-989)** thereto, in **NON-CONCURRENCE**.

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

**Non-concurrent Matter**

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)  
S.P. 676 L.D. 1852  
(C "A" S-531)

In Senate, March 28, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-531).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-531) AND HOUSE AMENDMENT "A" (H-985) in NON-CONCURRENCE.**

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

**Non-concurrent Matter**

HOUSE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act to Reestablish a Mechanism for Review of Disputed Elections"  
H.P. 1418 L.D. 1932  
(C "A" H-885)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-885)**

Minority - **Ought Not to Pass**

In House, March 24, 1994, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

In Senate, March 25, 1994, 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-885) in NON-CONCURRENCE.**

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

On motion by Senator **ESTY** of Cumberland, the Senate **INSISTED AND JOINED IN A COMMITTEE OF CONFERENCE.**

Senate at Ease

Senate called to order by the President.

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

- Senator **LAWRENCE** of York.
- Senator **CAREY** of Kennebec.
- Senator **HALL** of Piscataquis.

The Secretary has so informed the Speaker of the House.

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

**COMMITTEE REPORTS**

**House**

**Divided Report**

The Majority of the Committee on **AGRICULTURE** on Bill "An Act to Amend the Harness Racing Laws"  
H.P. 1243 L.D. 1670

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-948).**

Signed:

Senators:

- PARADIS** of Aroostook
- PINGREE** of Knox
- MARDEN** of Kennebec

Representatives:

- TARDY** of Palmyra
- HUSSEY** of Milo
- HEESCHEN** of Wilton
- AHEARNE** of Madawaska
- STROUT** of Corinth
- SPEAR** of Nobleboro
- NASH** of Camden
- CROSS** of Dover-Foxcroft
- KNEELAND** of Easton

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

Signed:

Representative:

- ALIBERTI** of Lewiston

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-948) AS AMENDED BY HOUSE AMENDMENTS "C" (H-999), "D" (H-1003), AND "E" (H-1007) thereto.**

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 **EDUCATION** on Bill "An Act to Amend the Role of the State Board of Education"

H.P. 82 L.D. 112



Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-941)**.

Signed:

Senator:  
O'DEA of Penobscot

Representatives:  
NORTON of Winthrop  
PINETTE of Fort Kent  
PFEIFFER of Brunswick  
STEVENS of Orono  
OLIVER of Portland  
CLOUTIER of South Portland

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

Signed:

Senators:  
LAWRENCE of York  
AMERO of Cumberland

Representatives:  
MITCHELL of Vassalboro  
SMALL of Bath  
SIMONDS of Cape Elizabeth  
AULT of Wayne

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

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 **JUDICIARY** on Bill "An Act Regarding Disorderly Conduct" H.P. 969 L.D. 1300

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

Signed:

Senators:  
CONLEY of Cumberland  
BERUBE of Androscoggin  
HANLEY of Oxford

Representatives:  
CATHCART of Orono  
LIPMAN of Augusta  
CARON of Biddeford  
OTT of York  
FAIRCLOTH of Bangor  
SAXL of Bangor  
KETTERER of Madison  
PLOWMAN of Hampden  
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" (H-955)**.

Signed:

Representative:  
COTE of Auburn

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

Which Reports were **READ**.

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

**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act Amending the Discovery Rule for Damage Resulting from the Placement of Foreign Objects in the Human Body"

H.P. 1345 L.D. 1812

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  
OTT of York  
SAXL of Bangor  
KETTERER of Madison  
COTE of Auburn  
PLOWMAN of Hampden  
FAIRCLOTH of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-959)**.

Signed:

Representatives:  
FARNSWORTH of Hallowell  
CATHCART of Orono

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.

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 Ensure Appropriate and Equitable Penalties for Violation of Electoral Laws  
H.P. 1311 L.D. 1766  
(C "A" H-830)

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

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**Emergency**

An Act to Revise the Duties of the Superintendent of the Pineland Center (Governor's Bill)  
H.P. 1445 L.D. 1972  
(C "A" H-870)

Comes from the House **FAILING OF ENACTMENT**.

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with 1 Senator having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and signed by the President in **NON-CONCURRENCE**.

Sent down for concurrence.

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Senate at Ease

Senate called to order by the President.

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Off Record Remarks

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

**COMMITTEE REPORTS**

**House**

**Divided Report**

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act to Allow Firearms Dealers, Importers and Manufacturers to Comply with the Brady Handgun Violence Prevention Act" (Governor's Bill) (Emergency)  
H.P. 1450 L.D. 1979

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-971)**.

Signed:

Senators:

CAREY of Kennebec  
HANDY of Androscoggin

Representatives:

LEMKE of Westbrook  
BOWERS of Washington  
GAMACHE of Lewiston  
TRUE of Fryeburg  
ROBICHAUD of Caribou

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

Signed:

Senator:

HALL of Piscataquis

Representatives:

BENNETT of Norway  
DAGGETT of Augusta  
MICHAEL of Auburn  
STEVENS of Sabattus  
NASH of Camden

Comes from the House with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

On motion by Senator **HANDY** of Androscoggin, the Senate **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

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Senate at Ease

Senate called to order by the President.

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**ORDERS OF THE DAY**

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

Bill "An Act to Establish a Technical College in York County"

H.P. 1313 L.D. 1775  
(C "A" H-851)

Tabled - March 31, 1994, by Senator **ESTY** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-851)**, in concurrence.)

(In House, March 31, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-851) AS AMENDED BY HOUSE AMENDMENT "A" (H-989)** thereto, in **NON-CONCURRENCE**.)

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

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

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)  
S.P. 676 L.D. 1852  
(C "A" S-531)

Tabled - March 31, 1994, by Senator **ESTY** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 28, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-531)**.)

(In House, March 31, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-531) AND HOUSE AMENDMENT "A" (H-985)** in **NON-CONCURRENCE**.)

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

Senate at Ease

Senate called to order by the President.

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 **BUSINESS LEGISLATION** on Bill "An Act to License Athletic Trainers"

H.P. 536 L.D. 720

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-845)**.

Signed:

Senators:

CIANCHETTE of Somerset  
BUSTIN of Kennebec

Representatives:  
VIGUE of Winslow  
HILLOCK of Gorham  
THOMPSON of Lincoln  
REED of Dexter  
CLEMENT of Clinton  
LIBBY of Kennebunk  
HOGLUND of Portland

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

Signed:

Senator:

MARDEN of Kennebec

Representatives:

CAMERON of Rumford  
WINN of Glenburn  
ST. ONGE of Greene

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

Which Reports were **READ**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-845) **READ** and **ADOPTED** in **NON-CONCURRENCE**.

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

(See Action Later Today)

**Divided Report**

The Majority of the Committee on **UTILITIES** on Bill "An Act to Amend the Charter of the Passamaquoddy Water District"

H.P. 503 L.D. 661

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

Signed:

Senator:

VOSE of Washington

Representatives:

CLARK of Millinocket  
ADAMS of Portland  
CASHMAN of Old Town  
DONNELLY of Presque Isle  
MORRISON of Bangor  
AIKMAN of Poland  
TAYLOR of Cumberland  
HOLT of Bath  
KONTOS of Windham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-899).**

Signed:

Senator:

CLEVELAND of Androscoggin

Representative:

COFFMAN of Old Town

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

Which Reports were **READ**.

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

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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.

On motion by Senator **CLEVELAND** of Androscoggin, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

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

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass As Amended**

Senator **LAWRENCE** for the Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Consolidate and Streamline the Functions of Maine Government in Conformity with the Provisions of the Texas Low-Level Radioactive Waste Disposal Compact" (Governor's Bill) S.P. 730 L.D. 1951

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-567).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-567) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, 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**

HOUSE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act to Assist in Crime Prevention"

H.P. 1041 L.D. 1393

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-855)**

In House, March 29, 1994, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-855).**

In Senate, March 30, 1994, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

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

Senator **ESTY** of Cumberland moved that the Senate **ADHERE**.

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

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

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't know if everyone knows where we are at, we are on An Act to Assist in Crime Prevention. Just a quick update, this is the bill that would allow the court the discretion to suspend driver's licenses of convicted drug traffickers. 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 called my police chief on this, Chief Bourassa, who does not at all feel that this is a bill that will not really do anything. He is very much in favor of this bill, he thinks it is an important bill and my feelings today on this bill is after all, the police are the ones who are the experts in this field. While a difference of opinion makes horse racing, it seems to me if the police think this is a tool they will find helpful and useful then I see no reason not to vote in favor of this bill. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Today, under my name, there was a letter distributed from Jim Ferland who is the Chairman of the Maine Chiefs of Police Association. I had heard earlier that there was no police organization supportive of this legislation. I would ask you to read this letter. I believe the last paragraph of this letter certainly does enforce the law as it is presented and before voting I sincerely ask you to take a look at that because, as I said the other day, I think it is one more tool that we should supply our police with to enforce drug violations. 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 would like to pose a parliamentary inquiry please. If a member of the body wants to put an amendment on this bill, would he have standing over and above the motion to Recede and Concur to back the bill up and get the amendment on it at this time?

**THE PRESIDENT:** The Chair would answer that the motion to Recede would take precedence over the motion to Recede and Concur.

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

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **CAREY** of Kennebec to **RECEDE**.

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Off Record Remarks

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Senate at Ease

Senate called to order by the President.

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**Non-concurrent Matter**

Bill "An Act to Conserve Sea Urchin Resources"  
 H.P. 1459 L.D. 1984  
 (H "B" H-983; S "A"  
 S-547)

In House, March 29, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-983)**.

In Senate, March 30, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-983) AND SENATE AMENDMENT "A" (S-547) in NON-CONCURRENCE**.

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

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

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**ORDERS OF THE DAY**

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

Bill "An Act to Conserve Sea Urchin Resources"  
 H.P. 1459 L.D. 1984  
 (H "B" H-983; S "A"  
 S-547)

Tabled - March 31, 1994, by Senator **ESTY** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In House, March 29, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-983)**.)

(In Senate, March 30, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-983) AND SENATE AMENDMENT "A" (S-547) in NON-CONCURRENCE**.)

(In House, March 31, 1994, that Body **ADHERED**.)

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

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**Non-concurrent Matter**

Bill "An Act to Protect the Rights of Employees and to Ensure the Proper Expenditure of Public Funds"  
H.P. 1303 L.D. 1758  
(S "A" S-555 to C  
"A" H-865)

In House, March 25, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865)**.

In Senate, March 30, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865) AS AMENDED BY SENATE AMENDMENT "A" (S-555)** thereto, in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865) AS AMENDED BY HOUSE AMENDMENT "A" (H-1013)** thereto, in **NON-CONCURRENCE**.

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

(See Action Later Today)

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**House Papers**

Bill "An Act to Correct the Purchasing Laws to Delegate Small Purchases" (Governor's Bill)  
H.P. 1468 L.D. 1994

Committee on **STATE & LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**, in concurrence.

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On motion by Senator **CIANCHETTE** of Somerset, the Senate **RECONSIDERED** its action whereby it **RECEDED** and **CONCURRED** 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  
(H "A" H-1013 to  
C "A" H-865)

(In House, March 31, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865) AS AMENDED BY HOUSE AMENDMENT "A" (H-1013)** thereto, in **NON-CONCURRENCE**.)

(In Senate, March 30, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865) AS AMENDED BY SENATE AMENDMENT "A" (S-555)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending motion by same Senator to **RECEDE** and **CONCUR**.

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**HELD BILL**

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

Senator **CAHILL:** Thank you Mr. President, is the Senate in possession of L.D. 720?

**THE PRESIDENT:** The Chair would answer in the affirmative, the Bill having been held at the Senator's request.

Bill "An Act to License Athletic Trainers"  
H.P. 536 L.D. 720  
(C "A" H-845)

(In Senate, March 31, 1994, 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-845)** in **NON-CONCURRENCE**.)

(In House, March 31, 1994, Reports **READ** and the Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

On motion by Senator **CAHILL** of Sagadahoc, the Senate **RECONSIDERED** its action whereby the bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-845)** in **NON-CONCURRENCE**.

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

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**COMMUNICATIONS**

The Following Communication:

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

March 31, 1994

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

Dear Madam Secretary:

The House voted today to Insist and Join in a Committee of Conference on Bill "An Act to Require Disclosure of Minimum Bid Requirements at Mortgage Foreclosure Sales" (S.P. 567) (L.D. 1602).

Sincerely,

S/ Joseph W. Mayo  
Clerk of the House

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

**THE PRESIDENT:** In reference to the action of the Senate on March 30, 1994, whereby it **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE** on Bill, "An Act to Require Disclosure of Minimum Bid Requirements at Mortgage Foreclosure Sales" (S.P. 567) (L.D. 1602).

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

Senator **CIANCHETTE** of Somerset.  
Senator **MARDEN** of Kennebec.  
Senator **KIEFFER** of Aroostook.

**ORDERS OF THE DAY**

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Amend the Laws Governing the Required Qualifications to Practice Law in the State"  
H.P. 1153 L.D. 1552

Report **"A"** - Ought Not to Pass

Report **"B"** - Ought to Pass as Amended by Committee Amendment **"A"** (H-956)

Report **"C"** - Ought to Pass as Amended by Committee Amendment **"B"** (H-957)

Tabled - March 31, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF ANY REPORT**

(In Senate, March 31, 1994, Reports **READ**.)

(In House, March 31, 1994, Report **"C"** **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B"** (H-957) **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B"** (H-957).)

Senator **CONLEY** of Cumberland moved that the Senate **ACCEPT** Report **"A"** - **OUGHT NOT TO PASS** in **NON-CONCURRENCE**.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This bill we have before us was precipitated by the enormous public outrage that surrounded the case of Harvey Prager. A man who was convicted of smuggling 11 tons, I don't have idea, perhaps somebody could help me with what 11 tons of marijuana looks like, but I would suspect that it would take a good part of this room. Perhaps Senator Marden, who deals a lot in big truck transportation and moving stuff around, although I know he has never sold marijuana, might be able to tell us what 11 tons of hay, for example, would be. He was convicted of smuggling 11 tons of marijuana into this blessed state and never served a day in jail. He reached an agreement with the court that he would do some alternative work in an AIDS hospice in Portland, and never did that. Now he is attending law school. As I understand it he is a clerk at the law court. He may be admitted to the Maine Bar. I don't think that a person in Maine should serve as a lawyer under those conditions and that thought, I guess, has also been the thought of the Judiciary Committee with respect to dealing cards at a casino. They made it illegal to do that at a casino if you are a convicted felon, but they are not going to make it illegal to be a lawyer if you are a convicted felon. This bill attempts to address that particular problem. A lawyer is an officer of the court and should be held at least to standards high enough for someone dealing cards at a casino. I find it impossible to understand how the law profession in this State could lower itself to that point to allow someone like that to practice law in this state. Lawyers are disbarred if they are convicted of felonies in this state, the same type of crime, they are not allowed to practice any more, but there is nothing to say they can't enter the profession in the first place. Some people would say that's not really fair, people do rehabilitate themselves, people change, people are remorseful and should be given a second chance. I think they should too and this bill provides for that. In one of the sections of the bill there are three ways that you can rehabilitate yourself and become a lawyer after you have committed a felony like this. You can be pardoned by the Governor of course, if there are extraordinary circumstances surrounding the commission of the crime, or a reasonable amount of time has gone by since the applicant's conviction and the completion of the sentence and there is evidence of rehabilitation based on the applicant's subsequent history. I don't think that we should lower our standards to the point where we are letting these people become lawyers without having completed their sentence, being remorseful and showing that they have changed their behavior. This is not new you know, there are other states who do this. You can't become a lawyer if you are a convicted felon in Florida, Indiana, Pennsylvania, Mississippi, North Dakota, and Missouri. I don't know, time takes care of some things but the outrage that took place at the time that this happened, and the subsequent events

afterwards, have not been erased from my mind. I don't think they should be erased from your minds either and I urge that we pass this bill. Mr. President I would ask for the yeas and nays when the vote is taken.

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

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I won't say much more than the good Senator from Penobscot, Senator Pearson, has stated. I think he hit the nail right on the mark. As a member of the legal profession I certainly would like to do anything I can to improve the credibility and heighten the respect for the members of my profession. Just one point for this chamber to keep in mind, in a bill that is going to be coming before us very shortly, the casino bill, the report out of the Committee, on page 21, has a restriction for any employee of the casino, if it was to pass, they would not be able to work if they were a convicted felon. I guess I have a hard time coordinating that in my own mind, if someone can't deal cards because they are a convicted felon yet they can practice law. 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. After listening to my good friend from Penobscot, Senator Pearson, and my Committeemate, Senator Hanley from Oxford, I'm sure that the members of this body can see that this is an emotional issue. When we sit on Committees we are basically directed to go up, look at the bills, and try to separate fact from emotion, come back and make a recommendation to this body as to what would be in the best interest of the people of this State, no matter what the issue may be. Senator Pearson, from Penobscot, has only told you half the story on Mr. Prager. I'd like to tell you the other half because I don't disagree with one thing that he has said about Mr. Prager. As a matter of fact, if there was a special and private lobby for us to prohibit Mr. Prager from ever practicing law in this State maybe I would feel differently about it than I do about this bill. The other half of the story of Mr. Prager has to do with a guy by the name of Jim Henry. Jim Henry didn't have the chance to go to Bowdoin College. I have to tell you when I was here the other day and we were celebrating Bowdoin's 200th anniversary, Mr. Prager's name came to my mind. Mr. Prager took the good education that he got at Bowdoin College and went a long way on it, a long way down the wrong road and took a lot of people with him who also had gone to Bowdoin, to get him the type of treatment that he got before the Federal courts here in the State of Maine. Jim Henry grew up in my neighborhood. He happened to run a little motor boat back and forth to the mother ship that Mr. Prager was running. He would bring marijuana back and forth to the shore and get a fraction of the money that Mr. Prager got. Jim Henry got nine years in jail. That's what the guy from my neighborhood got out of that deal. He didn't go to Bowdoin College, he didn't have a great lawyer to go in and do a good job for him. Nine years, he is still serving time. Jim Henry will never become a lawyer. If I had my way Harvey Prager would never become a lawyer. It just isn't fair, he never had a chance.

Now, what has complicated things with Mr. Prager is a fellow appointed to this law court by the sitting Governor, decides that he will become a clerk for that court. Taking on a job that lots of kids in this State, who have never done a thing wrong, should be able to get or have an opportunity to apply for. They never will have that chance. Mr. Prager has further complicated things by causing this bill to be introduced. Nobody has ever complained about the Board of Bar Overseers in any other person they have ever let in to practice law or allowed to practice law in the State of Maine. As a matter of fact, I have a little application form here that showed up at our hearing, it is 30 pages long. It is the most detailed application anybody could ever submit for consideration to any profession. The standard in here, to be accepted to practice law in this State, is good moral character. We turned down a person to practice law in this State a couple of years ago because they had been shown to have sexually harassed people on the job here in state government. They never committed a crime, they didn't have good moral character. I would be willing to bet my life savings that Harvey Prager is never going to become a lawyer in this state. It's not because of this bill that we are considering here today. It's because he won't be allowed to. It is very difficult, when you look at issues that are presented to you in a Committee, and one person's name is identified with a piece of legislation. This is the Harvey Prager bill. It's more than I have ever been able to do with a bill up here, I have never been able to get my name on a bill. We should never pass a piece of legislation because of one person. If you reject the ought not to pass report you have got two choices here, both of them would allow convicted felons under certain circumstances to become lawyers sometime in the future. Right now we also do that, we do that for lots of other professions. Doctors, to name one, but you have to go before a Board and you have to be able to convince them pretty well that you have rehabilitated and done good with your life, good enough to allow you to go out and treat the people in this state. It has never ever been a problem with anybody being admitted, they have looked and said gee that was a bad decision. This bill is here only because of that one person and strangely enough, he has fled the state. Please do not let your emotions in reference to the person called Harvey Prager influence you on this bill. It is nothing more than a bill, submitted by a person who is running for Governor. It is a political issue and I will tell you, while we are here talking about Harvey Prager, my constituent, a person I grew up with is still doing time. 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 am a cosponsor of this bill. I am not running for Governor. The person who did sponsor this bill was not running for Governor when she thought of the idea because I was with her when she thought of it, which was a year ago. That characterization was unfair. I know it to be unfair because I was there when it happened. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **CONLEY** of Cumberland to **ACCEPT REPORT "A" OUGHT NOT TO PASS** in **NON-CONCURRENCE**.

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



A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEAS: Senators BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, MCCORMICK, PARADIS, PINGREE, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

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

ABSENT: Senators O'DEA, TITCOMB, WEBSTER

15 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 3 Senators being absent, the motion of Senator CONLEY of Cumberland, to **ACCEPT REPORT "A" OUGHT NOT TO PASS** in **NON-CONCURRENCE**, **FAILED**.

On motion by Senator HANLEY of Oxford the Senate **ACCEPTED** Report "B" - **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-956)** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-956) **READ** and **ADOPTED** in **NON-CONCURRENCE**.

Which was, under suspension of the Rules, **READ A SECOND TIME**.

Senate at Ease

Senate called to order by the President.

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

(See Action Later Today)

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

Senator HANLEY of Oxford was granted unanimous consent to address the Senate off the Record.

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

**ENACTORS**

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

**Emergency**

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

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

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

**Emergency**

An Act to Adjust the Dates for Distributions from the State Harness Racing Commission

H.P. 1202 L.D. 1611  
(C "A" H-925)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency**

An Act to Maintain State-staffed Crisis Programs

H.P. 1296 L.D. 1751  
(C "A" H-907)

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

**Emergency**

An Act to Rename Boarding Care Facilities and Expand Their Definitions

H.P. 1337 L.D. 1800  
(C "A" H-945)

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.

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**Emergency**

An Act to Amend the Equine Licensing Laws  
H.P. 1415 L.D. 1925  
(C "A" H-926)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 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.

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**Emergency**

An Act Relating to Pardons  
S.P. 747 L.D. 1976  
(C "A" S-496)

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.

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**Emergency Resolve**

Resolve, to Direct the Department of Environmental Protection to Collect, Review and Develop Information for Use in Implementing the Clean Air Act

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

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 1 Senator having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency Resolve**

Resolve, to Require a Study of Solicitation Sales Fraud

S.P. 670 L.D. 1838  
(H "A" H-932 to C  
"A" S-453)

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

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**Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 to Provide Funds for Assistance to Maine Businesses

H.P. 1148 L.D. 1547  
(C "A" H-949)

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

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**. (Roll Call Ordered)

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Off Record Remarks

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

**COMMITTEE REPORTS**

**House**

**Ought to Pass**

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Establish Fairness in the Placement of On-line Lottery Machines" (Emergency)

H.P. 1469 L.D. 1995

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1467).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

**Ought to Pass As Amended**

The Committee on **AUDIT & PROGRAM REVIEW** on Bill "An Act Regarding the Department of Corrections" H.P. 1454 L.D. 1982

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-993)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-993)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-993) **READ** and **ADOPTED**, in concurrence.

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

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

Signed:

Representative:  
TOWNSEND of Canaan

Which Reports were **READ**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-568) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

**ORDERS OF THE DAY**

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 Promote Flexibility in Health Care Delivery Systems" S.P. 592 L.D. 1651

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-568)**.

Signed:

Senators:

MCCORMICK of Kennebec  
CAREY of Kennebec  
KIEFFER of Aroostook

Representatives:

PINEAU of Jay  
HALE of Sanford  
TRACY of Rome  
CARLETON of Wells  
ERWIN of Rumford  
RAND of Portland  
KUTASI of Bridgton  
CAMPBELL of Holden  
JOSEPH of Waterville

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

Bill "An Act to License Athletic Trainers" H.P. 536 L.D. 720 (C "A" H-845)

Tabled - March 31, 1994, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

(In Senate, March 31, 1994, **PASSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**. Subsequently **RECONSIDERED**.)

(In House, March 31, 1994, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

On motion by Senator **CIANCHETTE** of Somerset, Bill and Accompanying Papers **INDEFINITELY POSTPONED**, in concurrence.

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 Assist in Crime Prevention"

H.P. 1041 L.D. 1393

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-855)**

Tabled - March 31, 1994, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **CAREY** of Kennebec to **RECEDE**.

(In House, March 29, 1994, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-855)**)

(In Senate, March 30, 1994, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.)

(In House, March 31, 1994, that Body **INSISTED**.)

Senator **CAREY** of Kennebec requested and received leave of the Senate to withdraw his motion to **RECEDE**.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **HANLEY**, of Oxford, to **RECEDE** and **CONCUR**. A Roll Call has been ordered.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Just so that there is no confusion. This is the bill that will give the court the discretion to suspend driver's licenses for convicted drug traffickers. Thank you.

Senator **BUSTIN** of Kennebec requested and received leave of the Senate to withdraw her request for a Roll Call.

On motion by Senator **LUTHER** 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 McCormick.

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have a question I would like to pose through the Chair. It is my understanding that this driver's license revocation will happen after the sentence is served. Is that true? Thank you.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. You are correct Senator McCormick. 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 want to stamp out crime as much as the next person does but it also seems to me that it is the purpose of our prison system, or it was the purpose of our prison system until we ran out of money, to rehabilitate people and I guess I have another question I would like to pose through the Chair. I'm wondering if this is antithetical to that. If a person can go to jail, serve ten years, hopefully learn their lesson and turn themselves around, it would seem to me they would need a driver's license in order to make a living. 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. To answer the gentlelady from Kennebec, Senator McCormick's, question, which is a very good one. The court currently, in the judicial system, imposes even after they have served their period of incarceration a period of parole occasionally and on that parole there are certain requirements and restrictions. Some of those restrictions, if it is a sexual abuse case, is to stay away from that particular individual or any children below a certain age. This is just another arrow in the quiver that the judge has in his or her discretion to say yes, in this instance the suspension of the license, based on the specific incidence of that crime, does merit a license suspension and yes, it would be after the period of incarceration. Much like any requirement of parole that is currently in the judicial system. 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 have another question. That was helpful but my next question is does the court, do judges impose any other license revocations after sentences have been served? I'd like to hear a response that it seems this has more of an economic impact then staying away from somebody, someone to whom you have done a crime. Particularly for we, the people, who are the innocent victims of crime having rehabilitated criminals be able to make a living in an honest way is in our interest, it seems to me. Thank you.

**THE PRESIDENT:** The Senator from Kennebec, Senator McCormick, 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 the good Senator's question, yes that ability of the judge does currently exist. There are a number of professional licenses that can be and are revoked in the specific instance of a daycare center, someone who had been operating a daycare center prior to, that would be revoked. With the bill that we just passed recently that is another area, as far as the practice of law, that could be revoked. There are a number of professional licenses. Some hinge on the jurists decisions, others depend on the professional licensing boards themselves to determine the qualifications of their members. Yes, there are

adverse pecuniary effects for people that have been convicted of drug trafficking and this could be one of them if it is in the jurist discretion that it is in the best interest of the people of the State of Maine to do so. Thank you.

On motion by Senator **BUSTIN** of Kennebec, Tabled until Later in Today's Session, pending the motion by Senator **HANLEY** of Oxford to **RECEDE** and **CONCUR**. (Roll Call Ordered)

An Act to Facilitate Government Investment in Mutual Funds  
H.P. 1439 L.D. 1965  
(H "A" H-888)

An Act to Amend the Probate Code to Provide Greater Due Process in Guardianship and Conservatorship Cases  
H.P. 1441 L.D. 1967  
(C "A" H-937)

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

On motion by Senator **ESTY** of Cumberland, **RECESSED** until 1:33 this afternoon.

After Recess

Senate called to order by the President.

An Act to Expand Protection to Persons with Mental Illness and Mental Retardation  
H.P. 347 L.D. 450  
(C "A" H-934)

Off Record Remarks

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

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 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)

An Act to Clarify the Requirements of Disclosure of Information Pertaining to Mentally Disabled Clients  
H.P. 759 L.D. 1026  
(H "A" H-930 to C "A" H-805)

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

An Act to Ensure Equitable Insurance Practices  
H.P. 789 L.D. 1062  
(C "A" H-943)

An Act to Improve Environmental Protection and Support Economic Development under the State's Land Use Laws  
H.P. 1100 L.D. 1487  
(C "A" H-942)

An Act Regarding Assumption Reinsurance  
H.P. 829 L.D. 1115  
(C "A" H-916)

An Act Concerning Rights of People Who Are in Default of Child Support Payment  
H.P. 1279 L.D. 1727  
(C "A" H-936)

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

An Act Relating to Retirement Benefits for the State Police  
H.P. 1363 L.D. 1842  
(C "A" H-891)

An Act to Modify the Taxation of Leases on Automobiles  
S.P. 545 L.D. 1570  
(C "A" S-527)

An Act to Promote Integrity in the Citizens Petition Process  
H.P. 1417 L.D. 1931  
(C "A" H-881; S "B" S-542)

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

An Act to Protect Maine Children from Child Pornography Contraband  
H.P. 1274 L.D. 1718  
(C "A" H-935)

An Act to Clarify Maine Election Laws  
H.P. 1201 L.D. 1609  
(C "A" H-947)

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

Senator **PEARSON** of Penobscot, moved to place on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**. Subsequently the same Senator requested and received leave of the Senate to withdraw his motion.

An Act to Promote Economic and Employment Growth in the Financial Services Sector  
S.P. 620 L.D. 1722  
(C "A" S-442)

On motion by Senator **CAREY** of Kennebec, the Senate **SUSPENDED THE RULES**.

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

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

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-947), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-557) to Committee Amendment "A" (H-947) **READ**.

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

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If the Senator could take just a minute to explain the amendment I would appreciate it because I have not had a chance to look at it. 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. For the good Senator from Sagadahoc I would point out that we left out the judges of probate and they don't have the ability to campaign. If they happen to be holding a probate office they really can't campaign if they are running for another office, they can't even campaign under the law to get re-elected to their own post. This would clear up that matter. Thank you.

On motion by Senator **CAREY** of Kennebec, Senate Amendment "A" (S-557) to Committee Amendment "A" (H-947) **ADOPTED**.

Committee Amendment "A" (H-947) as Amended by Senate Amendment "A" (S-557) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We are about to enact a bill that has for a title, "An Act to Promote Economic and Employment Growth in the Financial Services Sector". Nowhere in that bill do I find that it is assuring employment growth and economic development, nowhere in the bill. I think the title is a misnomer because it is a bill that essentially removes the cap on interest rates charged to credit card holders in this State. I personally think that it is an anti-consumer bill. We have heard that this is going to create hundreds and even thousands of jobs and yet the Maine Banker's Association flyer that was distributed a week or so ago clearly states that it may help but there is no assurance. We heard testimony here which was contradictory. One said that it would create these thousands of jobs and another said well there is hope that it may. I feel that if you are going to remove an 18% cap it could be unlimited and that could be disastrous for people who utilize, not randomly, but quite often use the credit cards. The thing that bothers me is that the interest would be charged from day one, that is the total purchase price, no matter if the person might have made a payment on the principal, and that bothers me because currently I think that is against the law. I have received, as have all of you, ads in the mail that say subscribe to this credit card or whatever and generally the interest indicated in anywhere from 10% to 14%, which is far below the State cap. So if they can make money with that why is it that we want to remove the caps on the interest rates? The other thing I guess I would ask a question of is will the cap, which is in existence now, on businesses, that is retail merchants, that carry their own accounts receivable, they are limited at 18% overall, they cannot charge interest on the full amount, only on the balance due after principal, will they also be included? If they are not why don't we consider amending the bill to include them as well?

The other evening I watched a program on television and there was a commercial that said live the American dream and it was wonderful. There was a ship on the blue Carribean Sea and it was just beautiful living. It said you can get it, you can live your American dream, by subscribing to whichever

credit card it was. That runs counter to what we heard here a week ago when it was said people do not use the credit card unless they are in dire straits or need it for an emergency. I would ask you to please consider this vote carefully. 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'll try to answer some of the questions raised by the good Senator from Androscoggin, Senator Berube. First of all, in answer to the question about interest rates. Currently interest rates are as you described, hovering at 6% to 12% depending on the card. The market is doing that, it is a highly competitive market, there is much churning and alliances being made. You are right, it is well under the 18% cap, which I think argues for this bill, our 18% cap is very arbitrary and the market is keeping interest as low as it can be. However, if you recall a couple of years ago, the prime was high, the prime was at 18% or 20% then banks were actually losing money under our 18% cap because they were loaning money out cheaper than they were able to get it themselves. No one can stay in business in that scenario. Your point about the lender credit cards versus the retail credit cards, we did not remove the 18% cap from the retail credit cards. We only made one change there and that was for parity sake. That change was in the late fees. We made the late fee calculation in both the balance calculation method which is used in 99.5% of credit cards. We felt that that was important because we didn't want to have what we did here place a bias on anyone using one credit card over another, say a bank issued credit card over a Sears card when going to purchase something. We felt that to not put that in parity would have done that. 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 will try to be brief, I will try not to repeat anything I have heard that has already been said. I will try to follow my floor leader's request to be nice. There are however some things that I feel very strongly about and one might even say emotional. This L.D. 1722 with its promise of 35,000 jobs nationwide cannot and does not promise one job for the State of Maine, nor can it even guarantee that all or even many new jobs will be realized in this nation. With the passage of NAFTA it is unquestionable that a third world country can do the backroom work cheaper than we can do it. All bills are political to one extent or another and this bill is very political in that it highlights how little different the party approach to legislation has become. This is not just because of hard times, this is an erosion of purpose and an erosion of purpose on the part of Democrats I do believe. I, like most Mainer's with any history of voting to speak of, know how to split a ballot. I have done so before and most likely will do so again. There is a general difference, I think, to how the party candidates sell themselves to voters. While all generalities are flawed, still generalities provide us with a rule of thumb. To me the rule of thumb used by Republicans is it is this good for business, how does the Chamber of Commerce and Industry like the direction which the country or state is going. That approach is okay with me because it is up front and it is loud and clear. I want to know where the person I am going to vote for stands, I think Republicans do a good job on letting us know where

they stand. There is an entirely different feel to the way Democrats sell themselves and their campaigns, or at least I have noticed that in the mill towns. It is not philosophy that is sold but family ties and we hear that I am one of you, my father worked in a paper mill, both my parents were immigrants, my brother lost his job in the strike, I'm a first generation American too, trust me, we drink from the same cup. So when Democrats promote to pass a bill like L.D. 1722 it is like pulling the rug out from under your heart. I thought the electorate wouldn't experience the results of this bill until next year, when Christmas credit card bills fall due, but that is not true. Parents get those credit cards out in August when they get their kids ready to go back to school, so well before election day in November, voters will know how much they pay in interest for their late charges. That is good. When campaigners come to the western mountains, be ready to expect how you voted on this bill and why you voted that way.

There are two more points I want to make here. The first is also a generality but it is one for which I know of no exceptions. People with big bucks are always looking at the big picture and people with little bucks are expected to pay for the big picture. The second thought I want to leave you with, and particularly the members of my caucus, is this, and I know it won't be too subtle for you. A new and fascinating character, albeit humorless, has emerged from American television to become as immortal as Long John Silver. I speak of the master of logic, Mr. Spock, First Officer of the good ship Enterprise. In one episode, with bulls eye accuracy he points out to Captain Kirk a difference that makes no difference is no difference. When the vote is taken I request the nays and yeas. Thank you.

On motion by Senator **LUTHER** 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 Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I will also try to be brief and I don't intend to debate this bill again. I do have a little problem with saying this is a partisan bill. The three Senators on this bill were all supportive of this bill in Committee, I think there have been times when I have differed with them on this particular bill. I have stated twice on this floor that this bill does not create any jobs, it creates the potential for the creation of jobs. From that standpoint I support it. I think it is wrong also to think that this is necessarily a bankers bill. I think the record will indicate that last year I was adamantly opposed to the banking position on the annuities bill, in this particular case I support this bill and you can call it a bankers bill if you want, but I don't think that is an indication of any side taking, I don't think it is a partisan issue, I think it has the potential to create some jobs in Maine and that is the reason why I am supporting it. Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

**Resolve**

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEAS: Senators AMERO, BEGLEY, BRANNIGAN, BUTLAND, CAHILL, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, ESTY, FOSTER, GOULD, HALL, HARRIMAN, KIEFFER, LAWRENCE, LUDWIG, MARDEN, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, SUMMERS, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

NAYS: Senators BERUBE, BUSTIN, HANDY, LUTHER

ABSENT: Senators BALDACCI, CONLEY, HANLEY, WEBSTER

27 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 4 Senators being absent, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve, Establishing a Study Concerning Parental Rights and Responsibilities in Cases of Domestic Abuse  
H.P. 1055 L.D. 1407  
(C "A" H-940)

Resolve, Authorizing the Department of Education to Study the Provision of Greater Access to Public Schools for Students Enrolled in Approved Equivalent Instruction Programs  
H.P. 1069 L.D. 1435  
(C "A" H-910)

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

Resolve, to Create the Blue Ribbon Commission on Hunger and Food Security  
S.P. 715 L.D. 1930  
(C "A" S-476; H "A" H-964)

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

An Act to Adopt the Uniform Interstate Family Support Act  
H.P. 1339 L.D. 1802  
(C "A" H-939)

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

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

An Act to Develop Standards for the Licensure of Hospice Programs  
H.P. 1355 L.D. 1821  
(C "A" H-946)

Bill "An Act to Prohibit the Use of Gill Nets in the Kennebec and Androscoggin Rivers" (Emergency)  
S.P. 710 L.D. 1918  
(S "A" S-525 to C "A" S-470)

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

In Senate, March 25, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-470) AS AMENDED BY SENATE AMENDMENT "A" (S-525)** thereto.

An Act to Reinstitute Stipends  
H.P. 1358 L.D. 1833  
(C "A" H-892)

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-470) AS AMENDED BY HOUSE AMENDMENT "A" (H-1010)** thereto, in **NON-CONCURRENCE**.

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

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



**COMMUNICATIONS**

The Following Communication:

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

March 31, 1994

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

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Require Disclosure of Minimum Bid Requirements at Mortgage Foreclosure Sales" (S.P. 567) (L.D. 1602):

Representative TRACY of Rome  
Representative TOWNSEND of Canaan  
Representative CARLETON of Wells

Sincerely,

S/Joseph W. Mayo  
Clerk of the House

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

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 **TAXATION** on Bill "An Act to Increase the County Share of the Real Estate Transfer Tax"

H.P. 464 L.D. 601

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "B" (H-996)**.

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

Which Report was **READ**.

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

Off Record Remarks

**ORDERS OF THE DAY**

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

HOUSE REPORTS - from the Committee on **UTILITIES** on Bill "An Act to Amend the Charter of the Passamaquoddy Water District"

H.P. 503 L.D. 661

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-899)**

Tabled - March 31, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 31, 1994, Reports **READ**.)

(In House, March 31, 1994, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

Senator **VOSE** of Washington moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. First I would like to correct something that occurred which I am unable to explain why. Senator Carpenter, from York, on our Committee was also on the Majority Ought Not to Pass Report and it should be recorded that way. This bill is a simple bill, it really is only a one sentence type of situation that requires that the property of the Passamaquoddy Water District become tax exempt, which quite frankly, all of the water districts that we now have do have that exemption. So the reason for that being taxable was back quite ways, when I was on the Utilities district in Eastport, and they voted not to buy this particular water company from the Philadelphia Water Works, much to my dismay quite honestly, therefore I asked the Passamaquoddy tribe if they would be interested in purchasing this, the reason being it was very attractive. The FMHA loan grant situation made, in my opinion, a real must to do so and they readily did so. In the mean time the town of Cary and the town of Eastport said fine, they would support such a move if the Philadelphia Water Works property remained taxable. Roger Putnam drew up the charter and the utilities committee, of which I was a member, allowed the charter to be ratified by the voters. It is a rather odd situation because the Passamaquoddy was a municipal district, the water district is only 100 acres, it is the reservation. At that time they were serving Cary and Eastport and that was the water supply. This worked fairly well for sometime until the district looked things over and said look, we could utilize this money that we are paying in taxes, for improvements on the lines.

That seemed like a pretty good idea, and quite frankly I thought it was, however, since we entered into an unwritten contract, it was an agreement between the towns, I said try to work it out and see whether or not you agree with this amendment. If this amendment had passed, or the bill had passed, that probably then would have become nontaxable and therefore, it would increase the school subsidy et cetera. I think you all know what would happen. They could not come to an agreement. In the meantime they asked me to present a bill. I said look, I'm representing the three people involved here and it is a real mishmash of interest for me to present this bill but why not ask one of the others to do so. I was very happy and gratified to see that the House Chair of this Committee and Senator Cleveland agreed to sponsor the bill and we brought the bill to Committee to look it over. I thought that was fine and had no problem with that. I want to commend Senator Cleveland in his efforts to look into the entire situation and get an Attorney General's opinion and other legal opinions. It seemed to indicate it is very possible that the legislation we passed is unconstitutional. The Committee, as well as myself, agree that that may very well be and felt that the thing to do was try to work it out vocally or go to court. I was very reluctant to change the charter even though that was the Attorney General's opinion and, incidentally Legal Analysis, which I have the greatest respect for, agree. The good Senator from Androscoggin will be telling you about that. So we voted ought not to pass figuring that they would go to court or agree to something and then come back to us. Also, I think that we should get a court opinion on this thing to see whether or not it is unconstitutional and perhaps next year enact a law that makes all quasi-municipalities tax exempt. Therefore, I would hope that you will support the ought not to pass report and I also would go on Record and hope that they get it ironed out back there and if not, then take it to court to get it resolved. I didn't feel that our Committee, at this time, should do so. 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 want to take a few moments of your time. If I could just have your attention on a relatively small matter but it is of importance, the significance that it has. I would like to explain why it happens that I am one of only two individuals who is on a small end of a report. I don't generally take those positions nor do I do it lightly. The reason that I find it necessary to do that is because I am absolutely convinced the preponderance of evidence is that if we should proceed with the majority report this legislature would be endorsing an unconstitutional activity within this State. That is the allowance of one water district, the Passamaquoddy Water District, the only one out of 130, we had our analyst look at every single charter this year, that allows all utility property to be taxed, every single dollar of it. It is the only one in the state out of 130. We asked for an opinion from the Attorney General so that we could better understand this. The Attorney General did give us an opinion, on March 7, 1994, and I refer to that in my remarks and I will give a copy to the Reporter so they can be incorporated completely within the remarks. In that opinion the Attorney General says that unless certain provisions or certain situations are met then this is unconstitutional. It is unconstitutional to tax individuals under the equal taxation provision, which

is Article IX, section 8 of the Constitution. What our Attorney General says quite clearly in his opinion is that unless there is rough equivalency in the amount paid in the water rates versus the amount you would have paid in taxes then it is unconstitutional, under Article IX section 8, to tax them. We have a situation where, in the town of Cary, there were only 22 customers. Because of the need to meet Federal Safe Drinking Water Standards and because the filtration plan and the water source and much of the expensive facility equipment is located in the town of Cary the water district decided it was simply easier and cheaper to drill wells for the 22 customers and let them have their own water source. That was the easiest and cheapest way to meet the Federal Safe Drinking Water Act, so there is now not a single rate payer from the utility in the town of Cary. Yet the town of Perry does now, and for all known facts, will continue to tax the other rate payers for that facility and will pay nothing in return for rates because there will be no rate payers. Under the Attorney General's opinion that is clearly unconstitutional, there is no question about that in his opinion. Furthermore, the Attorney General says there must be relative equivalency, that is what you would have paid in a property tax is relatively equal to what you pay in your water rates. In this particular charter that was never found. When it was originally adopted that provision was never found by any legislator or any body, it has not been found today by this Committee that there is rough equivalency and I would submit to you that it would be practically impossible to determine that. I would suspect that if you were to look at it that there would not be rough equivalency because only a portion of the town, those who are on the water rate, pay it, and all of the rest of the town does not. If that should give you any pause, that the Attorney General is perhaps misreading the law, we had our legal analyst, John Clark, also give us his opinion. He is a very able and capable attorney of the bar in Maine on the constitutionality. Mr. Clark says unequivocally that under the equal taxation provision there is no known circumstances that make this utility different than any other quasi-municipal district and therefore, under the Constitution, under Article IX section 8, it is unconstitutional to treat one entity different from another.

This particular issue, although not a water district, but a similar issue about equal taxation has gone before the courts in historic cases of the State versus Hamlin and the Brewer Company versus the inhabitants of Brewer. The court has ruled in similar issues, although not water districts, where there were difference in taxation but you have the same entity, it is unconstitutional in this State to do that. So we have two legal opinions that are quite clear about the unconstitutionality of the provision. The other issue that I think if you don't look at it from a constitutional perspective, look at the fairness perspective. Is it fair for the inhabitants of Perry, or any community, to tax a basic service of what is a utility, a water utility and transport that charge to the rates of other payers in other communities when they don't use the facility whatsoever, when no other water utility can do that. Would we accept that as a basic principal of fairness in this state? If we would, would we then be willing to extend it to any other water district or area in this state? Because if it is fair for the Passamaquoddy water district to be in this situation then it must also be fair for any other, is that what you would want in your own districts, in your own communities back home? I

don't think you need to be a legal scholar to understand the basic inequity and unfairness of this.

Finally, in a letter by the Public Utilities Commission in January of this year, when it was asked whether the Passamaquoddy water district meets all of the statutory qualifications and requirements to be a quasi-municipal, that is not for profit, water district, the Public Utilities Commission said unequivocally of course you are quasi-municipal. You are not for profit and you therefore should be treated the same as all other quasi-municipal water districts. Finally let me say one thing that I wish I had not to say. I think one of the other factors involved in here is that there is discrimination involved. There is a sense of historic animosity between the native population and the non-native population. Therefore, they treat each other disparitively. They do not treat each other equally under the law. Simply because a charter was made and a group of individuals in this state agreed to terms and it went to referendum and the majority of those voting were the non-native population who carried the majority vote, simply because that happened in this state does not mean that this state, or this Senate, should support actions that are clearly, in the opinion of the Attorney General, the opinion of our analyst, the court decisions, that are unconstitutional. We ought not to continue to support it. So, that knowledge being before me I had no choice but to make a decision based on the knowledge that is before me, even though I know it is uncomfortable, even though I know it will be disliked by those up in the Eastport area, but I feel an obligation to act on the consistency with the law and the constitutionality as I understood it, that I took an oath to uphold. So I had no choice but to bring this before you, to ask you to look into your own judgement and to look into your own heart and act and do the right thing that you think is to do by these people. Clearly it is in the interest of the rate payers and the people not to pay taxes, it is 9% or 10% of the cost of their rates, because they had to build new filtration facilities, new plants, new standpipes to meet federal and state drinking water criteria and now they must pay taxes on top of that. It really is poor public policy. I would ask you to vote against the majority ought not to pass report so that I might make a motion for the ought to pass as amended report and if you have an interest in that I will then stand and explain to you what it is, it is a very simple ought to pass provision. Mr. President, I would ask for a Division when the vote is taken. Thank you.

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

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

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I want to assure the good Senator from Androscoggin that this is one Eastporter who has no animosity towards the previous speaker, that is for sure. Thank you very much for doing such a great job. I also, though I do want to say that what he said is true as far as the opinions of the Attorney General's office and our very capable young lawyer, John Clark, who I have the greatest respect for, but I think it is a clear cut case that I think a court ruling in this should be had. I think this should go to court, or if we could convince the Attorney General to get a court opinion to put us more on solid ground. I am very hesitant once again, and I concur, we did make a deal which in

my opinion what caused the district to be in existence, now we are looking at something that we may have done wrong back at that time, I am not denying that because I don't know at this point in time. Therefore, I am in hopes that they will have time enough this summer and I also will go down and give my opinion to the manager and to the Council of Eastport that I personally think that they should adhere to what the district would like to have and then it could be worked out and put into being as I think the majority of the Committee would like to have done. For the mean time I would like to have you support the ought not to pass report. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to just take a moment with the indulgence of the Senate to make very clear that my good friend, the Senator from Washington county, has conducted himself without any discrimination and in the most honorable way in this. My remarks in regards to discrimination were meant only for activities that unfortunately occurred back in the Eastport area. That is unfortunate but I am pleased to have worked with my good colleague from Washington county who has found himself in a difficult spot but it the most fair and honorable gentleman in all regards. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **VOSE** of Washington to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

A Division has been requested.

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

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

17 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **VOSE** of Washington to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED.**

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Senate at Ease

Senate called to order by the President.

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**HELD BILL**

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

Senator **HANLEY:** Thank you Mr. President. Is the Senate in possession of L.D. 1552?

**THE PRESIDENT:** The Chair would answer in the affirmative, the Bill having been held at the Senators request.

Bill "An Act to Amend the Laws Governing the Required Qualifications to Practice Law in the State"  
H.P. 1153 L.D. 1552  
(C "A" H-956)

(In Senate, March 31, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-956)** in **NON-CONCURRENCE**.)

(In House, March 31, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-957)**.)

**THE PRESIDENT:** The Chair would inform the members that due to error earlier, this Bill was held to allow the Senator from Oxford, Senator Hanley, to reconsider his previous action. The Chair apologizes for any confusion on this matter.

On motion by Senator **HANLEY** of Oxford, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-956)** in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-956) in **NON-CONCURRENCE**.

On further motion by same Senator, Committee Amendment "A" (H-956) **INDEFINITELY POSTPONED**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ACCEPTED** Report "B" in **NON-CONCURRENCE**.

The same Senator moved that the Senate **ACCEPT** Report "C" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-957)**, in concurrence.

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

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We debated this issue not long ago and we talked about this bill that is principally caused by the activities of Harvey Prager. I hope that the Senate will continue to vote the same way it did before. I did notice with some interest that the Senator from Oxford, Senator Hanley, and the Senator from Cumberland, Senator Conley, went out to lunch with each other today so that neither one of them would be able to bring it up without the other one being in the chamber. The vote was that close. I also would like to tell the chamber that when I was talking a while ago about Senator Marden and his trucks and how much marijuana was in it, I don't know how many of you have seen the advertisement on television that is put out by one of the pizza companies that shows a guy going along in a convertible and there is a truck full of chickens in front of him. The truck hits a bump and all of the feathers fly all over the place. While I was talking about Senator Marden and how much marijuana could fit on a truck I had this vision of Senator Marden going down the road in the truck but I am sure he has never driven that kind of a crop before. This is a serious matter and I know that there are some people present here now who were not here this morning when we took up this bill. I am concerned about that. Here is a man who smuggled 11 tons of marijuana into Maine, never spent a day in jail, never fulfilled his agreement to run an AIDS hospice, became a clerk of the law court and is using the money of the people of

the State of Maine to go to law school so he could become a lawyer in this State. That is absolutely repugnant to me, and so repugnant was it to the Judiciary Committee that they said if you did that kind of an activity you couldn't deal cards at a casino. So this bill should pass. 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 just to try to correct an impression left by the Senator from Penobscot, Senator Pearson. That is first, that Senator Hanley and I didn't work out anything at lunchtime. Second, both of us figured for certain that this place would be pretty safe if we were both out of here since I don't think we have voted more than once or twice on the same side in the eight years that we have served together. It is still a testament that we can still go to lunch and have plenty to talk about, namely Senator Pearson. In reference to this bill though, the good Senator is right, it is a very important matter and the Senator is right, people cannot deal cards at the casino if we should approve the casino, hopefully with the good Senator from Penobscot's help, if they have been convicted of a felony. There are numerous other trades you cannot practice in this State if you have been convicted of a felony. The practice of law, the practice of medicine, and the far greater majority of professions you can practice if you go before a board and can show that you have been rehabilitated and jump through a lot of hoops to convince people that you actually are worthy of the profession you seek to perform. In this report, which ever one you decide to accept if you accept the bill, you could still apply to become an attorney, you would merely have to rebut a presumption after having been convicted of a felony. My argument to you is that the Board of Bar Overseers right now says you have to be of good moral character in order to become an attorney. If you have been convicted of a felony you have a couple of strikes against you in that category and it is highly unlikely, and certainly very unlikely for Mr. Prager that he would be allowed to become an attorney. He must be aware of this because he has left the State, and a fine deed he has done by leaving this bill in his wake, a bill that has been named after him. He will be long gone after you pass this bill, if you decide to do so.

The one thing I forgot to tell you this morning about Jim Henry, who is not only a constituent but someone I grew up with, the person who was actually ferrying the pot back and forth from Mr. Prager's 11 ton cache, when he got his nine years in jail, he turned himself in voluntarily. He came all the way from Alaska and turned himself in to the authorities here in Maine only to get nine years in jail. When Mr. Prager was caught, he was caught purely by luck, he had a passport in a bank in London. The bank burned down and they were going through the safety deposit boxes and found this passport and figured out that it was an American passport, they tracked down Mr. Prager to his apartment and that is how he was caught. From that point forward his Bowdoin reputation is what saved him from going to jail, got him a break to do an AIDS hospice program, which he did not do, and continued to get him further breaks in the system. This bill has nothing to do with Harvey Prager, and that is what the unfortunate thing is about this matter, and that is why I believe that this bill and all of its accompanying papers should be Indefinitely Postponed and would so move and request a Division. Thank you.

Senator **CONLEY** of Cumberland moved to **INDEFINITELY POSTPONE** Bill and Accompanying papers in **NON-CONCURRENCE**.

Same Senator requested a Division.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. While it truly was a pleasure to break bread with the Senator from Cumberland, Senator Conley, for once I will have to break with him on his motion here to Indefinitely Postpone this bill for two reasons. The first is we here as members of the Senate were elected to set public policy. What is being proposed here this afternoon is, in fact, setting public policy. As has been said many times before for various boards and commissions to review license applications, they give a framework. I guess what those of us who are supporting this bill say is okay there is good moral character qualifications but we would like to see a little bit stronger framework. We would like to see it put in statute that if you are a convicted felon you have to jump over a few hurdles before you can have your application be finally adopted. That is one, that you have to be pardoned by the Governor, two, you have to show extraordinary circumstances for your particular incident, or three, you have to have had a reasonable amount of time passed prior to being approved. That is a matter of public policy and one that we should be voting on here in this chamber and I hope you will vote against the Indefinite Postponement motion.

One point that the good Senator from Cumberland raised earlier this morning was that he would bet his life savings, I don't think Mary and Pat would like that too much, if in fact Harvey Prager ever did practice law. I would query the good Senator from Cumberland, if he ever would have thought Harvey Prager, after smuggling 11 tons of marijuana, would have been released with nary a slap on the wrist. I would surmise that no, in fact it would have to be incredible circumstances for Mr. Prager not to serve jail time like Jim Henry did. I would further query whether or not anyone would have suspected that Mr. Prager would be appointed clerk to our State's highest court. I certainly wouldn't have projected that, I don't think the good Senator from Cumberland would have projected it either. Now to make that next leap and say no, Mr. Prager will never practice law, after the track record that we have seen, I guess I question that. This is a matter of public policy. One that we should be voting on and that we should vote affirmatively on to put into statute. For those reasons I urge you to defeat the pending motion to Indefinitely Postpone. 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 am just like the gentleman from Penobscot, Senator Pearson, and associate this bill with Mr. Prager. It is interesting to me when we are told that he could never become a lawyer in the State of Maine, he has been able to become a law clerk for a Supreme Court Justice. If he can accomplish that the gentleman can accomplish anything, including becoming a lawyer. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **CONLEY** of Cumberland to **INDEFINITELY POSTPONE** Bill and accompanying papers in **NON-CONCURRENCE**.

A Division has been requested.

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

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

15 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **CONLEY** of Cumberland to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**, **FAILED**.

On motion by Senator **HANLEY** of Oxford, Report **"C" OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-957) ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "B" (H-957) **READ** and **ADOPTED**, in concurrence.

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

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

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Off Record Remarks

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**ORDERS OF THE DAY**

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 \$10,000,000 to Expand and Improve the State's Distance Learning Infrastructure" (Governor's Bill) S.P. 717 L.D. 1939

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-565)**

Tabled - March 31, 1994, by Senator **FOSTER** of Hancock.

Pending - Motion by Senator **PEARSON** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, March 31, 1994, Reports **READ**.)

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

Senator **FOSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would urge you not to accept the majority ought not to pass report so that you can go on and look at ITV systems for our schools in Maine. This might be a rather lengthy speech for me and I'm not noted for that, but I want to start with my own humble beginnings of school. I remember learning Latin in church because there was no other language taught and I thought that was a foreign language until someone told me that was the language of the dead and not to count it as a foreign language. My art consisted of that which my mother taught me, otherwise I would only have had trips to the library or the black house that was in the town I lived in. As my children came along conditions improved and they were learning to speak Spanish and French and I learned along with them and was always interested in what they were doing in school and promoting. That was fine and good, but when you become a grandmother, that is when you really look into what is being taught in schools and you listen. You don't tell anymore, you listen. I have two little grandsons, and when I talk to Jay and Jonathan I ask them how they learn. Oh, computers, televisions they say. When I ask them what about school, they say I like the teacher but boy those TV's when they come. Do you know that we would have everything on a TV in Holden, Maine if we had this, that they have in Portland and some other schools. I asked Jonathan what he thought was so great about interactive television. He said, Kiki, this is the wave of the future, you ought to be in on it. Then they proceed to tell you how wonderful the ITV system is.

We put ITV systems into the University and it has been the greatest tool. More people are taking ITV courses throughout this State and putting their money into getting their degrees when they can go to one of these very near their home. What does ITV do? It takes some of the poorest schools in the state and will put them on line with the very best schools in the state. I think it is the wave of the future and I am proud that as a grandmother of these two little boys, that they have allowed me the privilege of knowing how great it is and how much they want it. I want to thank Senator Pearson, because I just got this on my desk today, and it says George Connick, who is the father of ITV by the way, you know when we put ITV into the college system we didn't go through the Education Committee because we didn't think we could get the money. The Appropriations Committee put it in our budget to fund the ITV system, that was the start up of ITV in the State of Maine. We had some surplus money and we started it. I think it was one of the smartest things we ever did and we are not known for all of our greatness many times. George Connick, who is the father of ITV, has said in this press release, "The University of Maine Trustees want Maine to get on the information highway and be ready for millions of dollars in Federal funds that will be coming to States from the Department of Commerce. Trustees have asked George Connick, President of the University of Maine at Augusta, to present by July a plan that would link schools, businesses, hospitals, and other institutions into the ITV system. Recent Federal legislation will mean \$26 million in the coming year for technology and related projects for the 50 States. The Trustee's Resolution asks Connick to consult with University

officials and with those outside the University." I believe that with a bond issue going out in June to put our schools on the ITV system is truly the wave of the future. I ask you to reject the ought not to pass report, to accept the minority report, and to let the sponsor of the bill present an amendment that will present a way that we can do this for the best interest of Jonathan, Jay, your children, and the future of our children and the school system. 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. The reason that the majority of the Committee voted ought not to pass on this bill was twofold. One, of course not in number one and two priority, but we had reached a level where we thought we shouldn't go any further as far as our bonds were concerned, at least this year. More important than that was that the Committee was in possession of information that we had gotten from reports in the press, one of which was from Bell Atlantic. The headline says "Bell Atlantic Opens Data Highway to Schools" in which the telephone company in the State of Delaware had agreed that they were going to do all that this bond would call for in wiring the schools of the State of Delaware, 2600 public schools, for nothing. The Committee felt that it was possible that with the competition in the telecommunications field today that Maine might also be the recipient of the same kind of free communications help that Bell Atlantic was providing in the State of Delaware. We don't know that to be a fact but we do believe that the competition is so great that that could very well happen. In addition to that we were also aware that there was pending federal legislation in Washington to provide money to the various states to do what this bond issue call for, which has not yet passed, and then today while I was having breakfast I saw this article on the front page of the Kennebec Journal in which it says that the University of Maine system is asking one of its Presidents to look into the possibility of applying for grants through the Department of Commerce to do just exactly what we are talking about in this bond issue. If all of those things don't happen, and if we don't get it for free, so to speak, or with somebody else's money, the federal government's money, and I realize it is ours too, but we are going to be in competition for it. If we don't get that then maybe the bond that we are talking about today would be timely, and next year or the year after that, if we were not successful in getting money from the federal government or we were not successful in enticing the telephone companies to wire our schools, then perhaps we should address this because it is obvious to everyone, Republican and Democrat, this is the wave of the future and we must do it. We are just trying to make sure we don't spend our money on doing it if there is the possibility that somebody else will do it. The time is just not right just yet. In a year or two we will know the picture much clearer. 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 appreciate the comments of both of my colleagues who have spoken on this issue. I would like to clarify a few of the points as the primary sponsor of this piece of legislation. First of all, Nynex is already agreeing to pay for 75% to 80% of the fiber involved in this

project. The State is being asked to pick up between 20% and 25% of the cost. When this bond issue was presented to the Appropriations Committee I think the members of the Committee were very excited about the prospect of what could be offered by the ITV system to children throughout the State of Maine. As all of you know, we already spend over a half a billion dollars in trying to bring the best education we can to the children of Maine, but despite that effort we are not able, because of our sparse population and vast territory that we have to cover, to provide the same programs to all children in the State of Maine. ITV offers this promise. The \$10 million bond proposal that was made, and the one that we are voting on now, met some very good questioning from the Appropriations Committee. One of the questions that was raised was the high operating costs that this would encompass over the next ten years. I would urge you to reject the present motion so that we could look at another proposal, one that would bring down those operating costs to a great degree, and one that I think might be much more palatable to members of not only the Appropriations Committee but also to members of this body. The proposal would allow for a phase in, it would meet some of the concerns that Senator Pearson, of Penobscot, has already mentioned and I would like to have an opportunity for us to fully discuss that possibility. In order to do that we would need to vote against the pending motion. 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 reason to believe that it is possible that if we wait a while the operating costs, the tail that will go out in the future of \$10 million or \$15 million a year, may not accrue to the State, but I don't know that for sure yet and we won't know that for sure for a while. In another year I think the picture will be clearer, it just is not that clear yet but I have reason to believe that we might not have to pay for it if we wait just a little while. 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. In the Utilities Committee we held a number of hearings this year on proposals that were related to telecommunications and telephone industry. Let me tell you about two of those. First of all there was a proposal to charge a fee for any company that put fiber optics through a community that wasn't serving that community. We unanimously rejected that. All of the large telecommunications companies were represented there, both in and out of the state. What they told was if you do this you are going to keep us out of the state. We have invested hundreds of millions of dollars in putting fiber optics in your state, you are leading the states now, and we intend to invest hundreds of millions more. This is to your advantage. We have already planned those investments and all of the new line that we put up is fiber optic. We talked to a number of the in state telephone companies and they testified to us that all of the line that they put up is now fiber optic. It is equal to or less expensive than the old coaxial cable and can do a hundred to two hundred times as much transmission as the old, so it certainly makes sense to do it. We were told time and again by the executives that they are doing this, they are investing in it, it is in their best interest and

they are going forward with it, so we rejected the bill unanimously. So I suggest to you that the executives of the companies themselves have testified in this legislature that they intend to make those investments within this state. Secondly, let me tell you that we also voted for a bill that would change the rate regulations of telecommunications and set up alternate rate regulation mechanisms for services other than your basic telephone service. The reason that we did this was because they felt that if we provided some other incentive rate mechanism on these other kinds of services that are serviced by these optical fibers, that they would then be able to earn more money and make even greater investments at a faster pace within this state to bring us into the 21st century and continue to lead the country. I would suggest to you that we have already been told by the executives that they have the intention of making those investments, they have already made many of those investments and they may well continue to do so because it is in their best interest to do that and not to continue with the old coaxial fiber. Finally, I would ask you, even if we invested great public money in something that private industry is likely to do themselves without any investment, we currently don't have enough money to fund the schools to operate with their basic services. Who is going to pay to use these facilities, to maintain this equipment, to provide the teachers and the facilities and the classrooms on an annual basis to meet the operating cost? Shortly in this chamber we will be debating that issue on how to relieve some of our local communities. Where do you think they are going to get the money to do this year? I suggest to you that they are not, and to have a wire come to a school, into a classroom that is unable to use it makes little sense this year. So none of us object to the fact that this is the wave of the future and it ought to be done, but we will lose nothing by waiting a year or two to see what the market place does itself and I suggest to you let's give the market place a chance to do what it can do best and not let the government do what it doesn't do as well. I say this to you as a Democrat. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator O'Dea.

**Senator O'DEA:** Thank you Mr. President, Ladies and Gentlemen of the Senate. When I cast my vote this afternoon I will be voting in opposition to this proposal as it is currently structured, which is to say with the Senator from Penobscot, Senator Pearson. I have been an active proponent of putting an ITV system statewide in Maine schools for some time. I followed this proposal for more than a year but I have some very serious reservations about the way it is currently structured. When the bill was printed some time ago there was real concern on the Education Committee and elsewhere that the amount of \$10 million was not adequate to fund the project and that the State of Maine would be incurring some rather substantial lease costs as a result. It would be quite similar to the way each of you used to lease your telephone from the telephone company and now you own your telephone and you pay that fee one time. When the proposal was initially conceived it was thought that the State would own a great deal more of the system than is in this bill and there was some discussion about \$20 million or \$30 million being a more appropriate level to bond this at, thus running down the ongoing lease costs. Right now, as the bill is structured, there is also some question about how many high schools in the state would be served and if you look on the Committee Amendment, which is to say the minority report, there is discussion of criteria



and proposals that would be put in by school districts around the state as they competed to see who would have access to these services and who would not. I think that would go in the opposite direction of where we need to be going. This technology ultimately has the potential to be a great leveler and to provide access to many programs that students otherwise would not have access to. But if it is not going to every high school in the State then it misses that target by a wide measure. 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 from northern Maine I know fiber optics are just a wonderful invention and they are certainly the wave of the future and I certainly support the network throughout the school systems. Serving on the Economic Growth Council with me is Ed Dion, the head of Nynex New England, and Maine, he tells me, is now either first or second in the fiber optics network throughout the states and they are going forward as fast as they possibly can proceed with fiber optics. He tells me that from northern Maine to southern Maine the fiber optics are well ahead of the rest of the state and I'm really torn on this issue because I really think it is the wave of the future. I have a couple of questions that have come out here while we are discussing this. If Nynex at this point has decided to pay 75% or 80% of the installation cost of the fiber optic network, how far will that cost, as well as this \$10 million bond issue, go towards actually completing this system and what is the time frame involved? I have heard discussion here of one year out and two years out, is that a maximum figure here that we are looking at from the Committee or can we narrow it down to set a date certain of one year or two years, is that possible to do? I would ask permission to ask that of anyone who would care to answer. Thank you.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Of course you always worry when you get up to answer a question that you are doing it right and I hope that I am. My understanding is that that will wire it to the building. From there on in it will be equipment that will still be needed to be paid for and that would be followed by another bond issue. What I am maintaining is that that may be done for us by the telecommunications companies if you let the free market operate because there has got to be a reason why Nynex is willing to do the 75% in the first place. There has got to be an advantage to them to do that. As I said before, Bell Atlantic in Delaware has already done it, the University has said give it some time and we think we can get the federal money. I am saying just wait a year, maybe two at the longest, and you will see the picture clear up and we will find out whether or not our general fund has to pay for it or some other fund will have to pay for it, maybe some private enterprise. As I understand it, Nynex is the only one that has been participating in providing quotes, no other telecommunications company had been invited to submit any RFP's or anything like that. As we know there is a mad scramble on in the world today for business in communications. I get ads all of the time from MCI,

Sprint, all of them. Just give it some time and we will see how it will shake out. 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. The \$10 million bond issue that is before you would indeed purchase all of the equipment for the schools to go on line, it also will purchase part of the fiber and leases the rest of it, to hook up to whichever cable company does it. It is a total package, however, because we are only bonding \$10 million, there is a \$10 million annual operating cost once this goes on line which would be in two years. The proposal I would like to have us consider is one which would purchase outright without any lease the equipment and the fiber so that we could eliminate that leasing. That is why I am urging you to reject the bond issue before you because of the high cost of leasing over a ten year period, but it does include all of the equipment for the schools, there would not be another bond for the schools for equipment. I would also like to mention that if the state does not participate in bringing all schools into the ITV program then any cable company or telephone company would most wisely invest their money where the population areas are. It would take a long time before they would go to the remote areas of the State of Maine because it would not be very profitable for them to do that. That is why I think the State needs to play a role here so we can bring this cable and bring these opportunities to the distant and remote parts of the State of Maine. Also, a reminder that the longer you put this off, it takes two years from the time you get the funds to be able to make the system operational. So the longer we delay the longer we put off providing these opportunities for children across the State of Maine. 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 think the Senator's characterization of this is accurate, and mine was not completely. However, she said that if the free market were to operate perhaps they would only go to the populated areas in the State, and they may be how it shakes out, that may be how the free enterprise system will shake out. At that point if it doesn't go to where you and I come from, then we can bond and make sure it goes to where you and I come from, so that every child in this state has an equal opportunity for the information highway that is coming around the corner. I don't want to pay for it all if I don't have to pay for it all. 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 unfortunately to ask you to vote against the pending motion by my esteemed colleague from Penobscot, Senator Pearson, whom I admire greatly. I ask you to vote against him today because I believe that the State of Maine can't wait for the information highway to arrive, and we can't expect to have something for nothing because as we all know, there is no free lunch. We have to participate in some form or fashion, whether it is financially, logistically, or perhaps both, to help bring this crucial link to all of our communities throughout Maine. We keep talking about how it is going to go to the schools and we



naturally jump to the conclusion that this is for students, but what we are investing in here is something of value, something that creates value for all of Maine citizens. It begins to break down the geographical barriers that we constantly hear are reasons why Maine is not a great place to locate a business. It creates value to students and teachers alike to access new knowledge and new skills. It creates value for workers who can obtain the training and skills that we want them to have for the jobs that hopefully are going to be either coming into this State or expanding. There will be value to charitable and volunteer organizations, to network and communicate. The Interactive Television system, in my mind, brings us to the economic ballpark, not to sit in the bleachers, not to sit behind the first base side of the home team, but to suit up and get in the ball game, that is what we need to do. We need to demonstrate that we have the courage and the vision to do it. We need to do it now. 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 must clarify that the \$10 million is not paying the whole thing. Nynex is paying for 75%. Our share is \$10 million. So we are not picking up the whole ball of wax. If there was one bond issue that I put out this would have to be number one. I also want to go back and remember when we put the \$4 million into the ITV system for the colleges and universities and I truly believe that that one measure is why we are number one in the country now in this technology. There is no question in my mind, if we had not put \$4 million in about eight years ago, we would never be where we are today. We are a forerunner, we should maintain our position as that and we should continue. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator **O'DEA:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would concur with everything that the Senator from Hancock, Senator Foster said, especially the part about how we should continue to maintain our lead in this technology. For those of you who are unaware, Maine is the leader in this technology. Dr. George Connick from the University of Maine in Augusta is nationally respected in this area. We have put together a system here with very few dollars that is a one of kind and other states frequently send people here to look at it and to see how it works. I know how it works because my Committee has used it for a number of hearings over the course of the past couple of years and I can tell you that it is quite impressive. I am also concerned about a comment that was made by the Senator from Cumberland, Senator Harriman. I wish he were here right now because I wanted to reference his remark about how this brings us to the economic ballpark. What this bill as amended does is bring half of us to the ballpark and the other half stays home. If you look carefully on your amendment, section 9801, you will read that it says the learning link program is established in this piece and it allows schools around this State to put out proposals and to see what they can offer and why they need this system. It says that the criteria will be set for awarding these contracts. It talks about things like geographic distribution and everything else, but if you think that the technology is important because it has the potential to bring outlying school districts up and to make things

available at lower costs, then you must also understand that there is not much utility in only making it available to half the districts. Regardless of what the criteria are, there will still be a number of districts that are left behind. I am not part of the lowest common denominator crowd that runs around here saying we can't do this because somebody will be left behind, but this is one area where we should be trying to bring everybody up. This technology has the potential to bring everybody up, not incrementally but in a very substantial way. It is important, for my money, that we bring everybody along and not leave a fraction of the districts behind in our haste to implement this program. If I had my way and I could appropriate the funds my way I would probably do it at about \$30 million, I would have the State of Maine own the fiber system and I would put the State of Maine in the telecommunications business and I would let the State of Maine lease it back to the telephone companies and make money with it, and have a Telecommunications Authority and run it as a public/private partnership much like FAME does. But I'm not in charge so I will go back to my chair here in a minute. I am very committed to this idea but I am also very committed to the notion that it should be accessible to students all across the State, that means in Carrabassett and Caratunk and Calais as much as it does in some of the more urban population centers. I would reluctantly ask you to vote this bond issue down. 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. Coming into the chamber this afternoon I wasn't sure how I was going to vote and I am standing here right now still puzzled. I have looked at the overall bond proposal. I have also looked at the amount of debt the State is in and I have to make a decision somewhere along the line as to if I support any bond issue at all. I cannot guarantee you, as other speakers have, that this will revolutionize education. I was fortunate enough to be in education when educational TV came in and we were told at that time, by all means we will be in the 21st century in leaps and bounds. It didn't work that way and yet ETV was very helpful to those people who handled it very effectively. The same thing will be true of this. I wish I could say to the Education Committee and the education community, I wish this had been in your budget. I know full well your comments, my gracious we don't have enough in there now to do with. I still wish if you are saying what you are saying at the importance of this issue then it should be there and I agree with you, it should be there and it should be in there as a first concern. It is going to come. It will be effective but it will be effective only if the educator uses it and uses it wisely. Not administration, not the State Department of Education, but basically the local school districts and how they implement it in that respect. I probably am going to vote against the pending motion because of my priorities in general and I know now if that is the case that all of the other bond issues will not get my support, but that doesn't make any difference either. I do this primarily because education has lost considerably in the last few years and I do it reluctantly because I would much prefer that is was in the budget. Once again please keep in mind that this is an instrument and it is an instrument only in the effect of what people do with it and I believe that maybe we should pass the \$10 million bond issue in that respect. Thank you.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **PEARSON** of Penobscot to **ACCEPT** the Majority **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 **BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HALL, HANDY, LAWRENCE, LUDWIG, LUTHER, MARDEN, MCCORMICK, O'DEA, PEARSON, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

**NAYS:** Senators **AMERO, BEGLEY, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HANLEY, HARRIMAN, KIEFFER, PARADIS, PINGREE, SUMMERS**

**ABSENT:** Senator **WEBSTER**

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PEARSON** of Penobscot, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down 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 Authorize Department of Transportation Bond Issues in the Amount of \$19,800,000 to Improve Passenger and Freight Rail Facilities and Make Improvements at State and Municipal Transportation Facilities" (Governor's Bill)  
S.P. 697 L.D. 1895  
(C "A" S-478; S "A" S-540)

In Senate, March 30, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-478) AND SENATE AMENDMENT "A" (S-540)**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-540)** 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:

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on **HUMAN RESOURCES** on Bill "An Act to Implement the Recommendations of the Health and Social Services Transition Team"  
H.P. 1330 L.D. 1793

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1008)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1008)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1008) **READ** and **ADOPTED**, in concurrence.

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

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

**ORDERS OF THE DAY**

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

**HOUSE REPORTS** - from the Committee on **AGRICULTURE** on Bill "An Act to Amend the Harness Racing Laws"  
H.P. 1243 L.D. 1670

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-948)**

Minority - **Ought Not to Pass**

Tabled - March 31, 1994, by Senator ESTY of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 31, 1994, Reports **READ**.)

(In House, March 31, 1994, 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-948) AS AMENDED BY HOUSE AMENDMENTS "C" (H-999), "D" (H-1003), AND "E" (H-1007)** thereto.)

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

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Senate at Ease

Senate called to order by the President.

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

Bill "An Act to Increase the County Share of the Real Estate Transfer Tax"

H.P. 464 L.D. 601

Tabled - March 31, 1994, by Senator ESTY of Cumberland.

Pending - **ACCEPTANCE OF REPORT**

(In Senate, March 31, 1994, Report **READ**.)

(In House, March 31, 1994, Report **READ** and the Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

Which Report was **ACCEPTED** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "B" (H-996) **READ** and **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **EDUCATION** on Bill "An Act to Amend the Role of the State Board of Education"

H.P. 82 L.D. 112

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-941)**.

Minority - **Ought Not to Pass**.

Tabled - March 31, 1994, by Senator ESTY of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 31, 1994, Reports **READ**.)

(In House, March 31, 1994, Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

Senator O'DEA of Penobscot moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator O'DEA: Thank you Mr. President, Ladies and Gentlemen of the Senate. This bill, if passed, would permit the State Board of Education to select the Commissioner of Education. It is a bill that is among the bills that come before the legislature every session and meets with varying degrees of resistance, but one that I feel is very important nonetheless. We have had in the State of Maine, up until 20 years ago, a situation where the State Board of Education selected the Commissioner. Over the course of the past 20 or so years the Commissioner has been selected as all of the other executive appointments have, which is to say by the Governor. We all go back home during election years, and this is an election year and many of us are already thinking about November, and all of us and all of our counterparts in the other body and our counterpart down on the second floor will all talk about our commitment to education and everyone will give education a lot of play out on the campaign trail. But when it comes time to make the substantive policy changes in education we find as many times as not that leadership on the part of the Department of Education is somehow wanting. It has to do with who is going to set educational policy in the state. I believe very firmly in the legislative process, I believe in the Committee process, but I also recognize the limitations. We are a part time legislature here and we have created a situation where a great many of the policies in our schools, our statewide school policies, are being made by nobody because the legislature doesn't have the time and the resources to deal with it, nor does the State Board. If this bill were passed the Commissioner of Education would be hired by the State Board and would advocate on behalf of Maine students to the Governor and to the legislature. As the situation stands now the Commissioner of Education answers to the Governor first. I don't want to take anything away from our current Commissioner, or his predecessor, I think highly of both of them. I have worked with them, I have fought with them, and generally enjoyed their company but there is something very frustrating when you start talking about educational policy and things that affect the 220,000 kids in Maine schools and then you hear "Well, hold on a minute, let me call upstairs to the Governor and find out if I can say that." For my money I would rather have the Commissioner visiting and meeting with the State Board of Education and making some policy decisions and going from there.

If we don't enact this bill this year we will miss an opportunity for another four or eight years because it will appear to be an attack on one Commissioner or on one administration. We have heard a lot about legislative reform, and executive reform over the last couple of years, if we are going to pass a bill of this type now is the time. It would take effect with the new Governor, with a new slate of candidates for Commissioner, and would get us started on the right foot as we start looking into the 21st century. I would urge you to look very seriously at this L.D. and to consider it carefully before you cast your vote. 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 urge you to vote against this change in the manner which we select the Commissioner of Education in the State of Maine. I do so for several reasons. Having served for many years on the State Board of Education and having this bill come before us time and time again the State Board of Education has, each time it has been asked, opposed such a change. The reason the State Board of Education has opposed the change is that we feel it is better for education for the Commissioner to have the Governor's ear and to serve in the Governor's cabinet. After all we all know that education takes up more than a third of the State budget. The Governor has to run for election statewide, the Governor should have someone in his cabinet who answers to him and who promotes education. A Commissioner will have much more influence on education if they sit in the Governor's cabinet and can influence that Governor. There are many states in the United States where the Commissioner is appointed by the State Board of Education, and in those same states the Governor then appoints his or her own staffperson to serve as their advisor on education, so you have a dual system. The State Board of Education can be the independent group as each of those members are appointed by the Governor, but I would like to ask you to consider what would happen if this bill passed and we elect a new Governor, as we will in November, the present State Board of Education, all nine members are presently appointed by the sitting Governor, the new Governor would have no selection, no voice in who the new Commissioner of Education would be. It would be the nine members of the State Board of Education appointed by our present Governor who would make that decision. I don't think that is right. When a person runs for Governor, wins the majority of the votes, that person should select the Education Commissioner and I would urge you to do what the Portland Press Herald urged today. The Herald, on the editorial page said, "Bad ideas just don't die, they keep coming back to the legislature. So it is with a bill that would strip Maine's Governors of their power to appoint the State Commissioner of Education." I hope that we will put this bad idea to rest once again as many other legislative sessions have done. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator **O'DEA:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In order to facilitate a quick vote on this issue I would urge you to turn to House Paper 941, which is the majority report, the amended report out of the Committee. Turn your attention to section 251 in that where it talks about the appointment process. Contrary to the remark by

the Senator from Cumberland, Senator Amero, the Governor and his staff would be intimately involved in the appointment process. The State Board of Education, according to this amendment, shall include the Governor or his designee in the selection process and shall ensure that the Governor has an opportunity to meet and interview the candidate or candidates. Further, the Chair of the State Board shall consult with the Governor prior to the final selection by the State Board. The State Board shall consider the Governor's appraisal of the candidate or candidates prior to making the appointment. It further backs it up with a performance review on an annual basis by the State Board of Education, something that I can think of a couple of Commissioners when they might not have been wholly inappropriate, regardless of their selection process. Nonetheless, I would encourage you to look at the amendment very seriously and to make this much needed change in our educational policy. 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 urge you to vote against the pending motion on the experience that we have had. This idea has been batted around for quite a number of years with the intent to get the control within the State Board of Education. The State Board of Education, from my experience, has generally been very intelligent, very interested lay people from throughout the State, and we need them. We have to have that position stated and certainly in some control, however when you come down to the Commissioner of Education and look back at the Commissioners that we have had, those who have been the most successful are those that are unto themselves educators and are those that have lead the State through education because of their background. By getting some influence from the citizen State Board of Education that has been fine, but I do not want to turn that responsibility over to the lay people who are appointed to elect a Commissioner. It is, in my opinion as an educator, would have been in some cases detrimental. We did find some Commissioners that were not successful, they didn't last very long, thank goodness, but in general the Governor, regardless of who it is should have the right and the power to make that appointment. The previous speaker said we will be very gracious to the Governor, we will invite him into our deliberations, we will ask him to sit down and he may speak occasionally and then he can leave the room probably because he will not have a vote. To my way of thinking that is little or no influence on his part. I urge you to vote against the pending motion. Thank you.

On motion by Senator **O'DEA** of Penobscot, 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 **O'DEA** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEAS: Senators BALDACCI, ESTY, HANDY, LUTHER, O'DEA, PARADIS, VOSE

NAYS: Senators AMERO, BEGLEY, BERUBE, BRANNIGAN, BUSTIN, BUTLAND, CAHILL, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, CONLEY, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LAWRENCE, LUDWIG, MARDEN, MCCORMICK, PEARSON, PINGREE, SUMMERS, TITCOMB, WEBSTER, THE PRESIDENT - DENNIS L. DUTREMBLE

ABSENT: Senators None

7 Senators having voted in the affirmative and 28 Senators having voted in the negative, with No Senators being absent, the motion of Senator O'DEA of Penobscot, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**, **FAILED**.

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator **CARPENTER** of York, **RECESSED** until 5:15 this evening.

After Recess

Senate called to order by the President.

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

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass As Amended**

Senator **BERUBE** for the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Separate Cushings Island in Casco Bay from the City of Portland and to Create the Cushings Island Village Corporation as Part of the Town of Long Island" S.P. 454 L.D. 1421

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-569)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-569) **READ** and **ADOPTED**.

Off Record Remarks

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

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

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

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass As Amended**

Senator **LUTHER** for the Committee on **LABOR** on Bill "An Act to Establish a Self-employment Assistance Program" (Governor's Bill) S.P. 752 L.D. 1981

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-571)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-571) **READ** and **ADOPTED**.

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

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

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

**COMMUNICATIONS**

The Following Communication:

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

March 31, 1994

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

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Reestablish a Mechanism for Review of Disputed Elections" (H.P. 1418) (L.D. 1932):

Representative DAGGETT of Augusta  
Representative BOWERS of Washington  
Representative GAMACHE of Lewiston

Sincerely,

S/ Joseph W. Mayo  
Clerk of the House

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

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 **BANKING & INSURANCE** on Bill "An Act to Make Maine Law Consistent with the Federal Law Regarding the Omnibus Budget Reconciliation Act of 1993 and to Clarify Maine Laws Regarding Underwriting and Continuity" (Governor's Bill)  
H.P. 1451 L.D. 1980

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-1020)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1020) **READ** and **ADOPTED**, in concurrence.

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

Which was, under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Revise the Authorization of the Towns of Appleton, Camden, Hope, Lincolnville and Rockport to Form a Community School District" (Emergency)

H.P. 1474 L.D. 2002

Committee on **EDUCATION** suggested and **ORDERED PRINTED**.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**, in concurrence.

Which was, under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

Bill "An Act to Establish a Catastrophic Health Expense Program" (Governor's Bill)

H.P. 1473 L.D. 2001

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

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

Off Record Remarks

On motion by Senator **VOSE** of Washington, **ADJOURNED** until Friday, April 1, 1994, at 10:00 in the morning.