

MAINE STATE LEGISLATURE

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

VOLUME VI

SECOND REGULAR SESSION

Senate
January 5, 1994 to April 6, 1994

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

In Senate Chamber
Friday
April 1, 1994

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

Prayer by the Honorable Charles E. Summers of Cumberland.

SENATOR CHARLES E. SUMMERS: Thank you. Before I begin my invocation I would like to offer these thoughts from the novelist Tom Robbins.

"Deep down all of us are probably aware that some kind of mystical evolution is our true task. Yet we suppress the notion with considerable force because to admit it is to admit that all of our political gyrations, religious dogmas, social ambitions, and financial ploys are not merely counterproductive but trivial. Our mission is to jetison those pointless preoccupations and take on, once again, the primordial cargo of inexhaustible ecstasy, or barring that, to turn out a good, juicy cheeseburger and a strong glass of beer."

Dear Lord, please give us the wisdom, courage, and insight to deal with the matters that come before us. Amen.

Reading of the Journal of Thursday, March 31, 1994.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Amend the Adoption Laws"
S.P. 309 L.D. 942
(C "A" S-495)

In Senate, March 24, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-495).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-495) AS AMENDED BY HOUSE AMENDMENT "A" (H-1014)** thereto, in **NON-CONCURRENCE.**

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

Non-concurrent Matter

SENATE REPORTS - from the Committee on **BANKING & INSURANCE** on Bill "An Act to Clarify the Maine Banking Code as it Pertains to Service Corporation Serving Credit Unions"

S.P. 555 L.D. 1591
(C "A" S-537)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-537)**

Minority - **Ought Not to Pass**

In Senate, March 29, 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" (S-537).**

Comes from the House Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

On motion by Senator **ESTY** of Cumberland, the Senate **INSISTED.**

Sent down for concurrence.

Non-concurrent Matter

Bill "An Act to Create Retirement Alternatives" (Emergency)

H.P. 1362 L.D. 1841
(C "A" H-867)

In Senate, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-867),** in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-867) AND HOUSE AMENDMENT "A" (H-972)** in **NON-CONCURRENCE.**

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

On motion by Senator **CAHILL** of Sagadahoc, the Senate **RECONSIDERED** its action whereby it **RECEDED** and **CONCURRED.**

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

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I understand that there is an amendment to be offered to this particular piece of legislation by the Senator from Cumberland, Senator Amero. I'm not sure if she is ready to do that. Thank you.

COMMITTEE REPORTS

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

House Amendment "A" (H-972) **READ** and **ADOPTED**, in concurrence.

On motion by Senator **AMERO** of Cumberland, Senate Amendment "A" (S-573) **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **AMERO** of Cumberland to **ADOPT** Senate Amendment "A" (S-573).

Non-concurrent Matter

Bill "An Act to Require Licenses and Fees for BST Manufacturers and Dealers" (Emergency)
H.P. 1384 L.D. 1883
(C "A" H-950)

In Senate, March 29, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950) AS AMENDED BY HOUSE AMENDMENT "A" (H-1030)** 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 Authorize a General Fund Bond Issue in the Amount of \$10,299,667 to Improve the Academic Facilities of the University of Maine System" (Governor's Bill)
S.P. 718 L.D. 1940
(C "A" S-539)

In Senate, March 29, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-539)**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-539) AS AMENDED BY HOUSE AMENDMENT "A" (H-1012)** thereto, in **NON-CONCURRENCE**.

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

House

Ought to Pass As Amended

The Committee on **UTILITIES** on Bill "An Act Regarding Cable Television"
H.P. 1096 L.D. 1483

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-836)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-836) AS AMENDED BY HOUSE AMENDMENT "B" (H-982)** thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-836) **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-836).

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Amend the Maine Health Security Act"
H.P. 86 L.D. 116

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-952)**.

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
LIPMAN of Augusta
FARNSWORTH of Hallowell

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

Signed:

Senator:

HANLEY of Oxford

Representatives:

OTT of York
PLOWMAN of Hampden

Comes from the House with the Reports **READ** and the Bill and Accompanying Papers **RECOMMITTED** to the Committee on **JUDICIARY**.

Which Reports were **READ**.

Senator **BUSTIN** of Kennebec moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

On motion by Senator **CONLEY** of Cumberland, Bill and Accompanying Papers **RECOMMITTED** to the Committee on **JUDICIARY**, in concurrence.

ENACTORS

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

An Act to Amend the Laws Governing Municipal Elections

H.P. 1110 L.D. 1506
(H "A" H-921 to C
"A" H-901)

An Act to Establish the Maine Surplus Energy Auction Program (Governor's Bill)

S.P. 707 L.D. 1904
(C "A" S-491)

An Act to Implement the Recommendations of the Maine Dairy and Nutrition Council and the Maine Dairy Promotion Board

H.P. 1434 L.D. 1961
(H "A" H-965 to C
"A" H-861)

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

An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services

S.P. 356 L.D. 1070
(C "A" S-505)

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

An Act to Establish Limited Liability Companies

H.P. 1123 L.D. 1522
(C "A" H-980)

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

An Act to Promote Fairness Among Various Types of Counselors

H.P. 1209 L.D. 1628
(C "A" H-905)

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

Resolve

Resolve, Authorizing the State to Release its Interest in Certain Real Property in Belfast

H.P. 1397 L.D. 1906

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

Emergency

An Act Imposing Real Estate Transfer Tax on Nongovernmental Entities in Transactions Involving Governmental Entities

H.P. 1333 L.D. 1796
(H "A" H-928 to C
"A" H-814)

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.

(See Action Later Today)

Emergency

An Act to Improve Licensing Procedures at the Bureau of Insurance (Governor's Bill)

H.P. 1414 L.D. 1924
(C "A" H-884; H "A"
H-931)

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.

(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**.)

(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 31, 1994, **RECEDED and CONCURRED**. Subsequently, **RECONSIDERED**.)

On motion by Senator **HARRIMAN** of Cumberland, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENACTED**, in concurrence:

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

An Act Imposing Real Estate Transfer Tax on Nongovernmental Entities in Transactions Involving Governmental Entities

H.P. 1333 L.D. 1796
(H "A" H-928 to
C "A" H-814)

(In House, March 31, 1994, **PASSED TO BE ENACTED**.)

The Chair laid before the Senate the Tabled and Later Assigned (3/31/94) 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 House, March 30, 1994, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-948) AS AMENDED BY HOUSE AMENDMENTS "C" (H-999), "D" (H-1003), AND "E" (H-1007)** thereto.)

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

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

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 (3/31/94) 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)

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

Pending - Motion by Same Senator to **RECEDE and CONCUR**

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

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 **STATE & LOCAL GOVERNMENT** on Bill "An Act to Correct Certain Inconsistencies in the Laws Relating to the Commission on Governmental Ethics and Election Practices"

H.P. 1380 L.D. 1867

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1026).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1026).**

Which Report was **READ**.

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

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Relating to this item. I was looking at the Committee Amendment which has a number of H-1026, and part of that Committee Amendment, on the third page, says that a state employee or state agency employee whose job description includes any lobbying activity during the legislative session shall five days from the convening of the legislative session register at the office of the Elections and Ethics Commission as a lobbyist. It seems to me that part of the job of the executive branch of the legislature is to lobby, especially their pieces of legislation and I know that this issue was taken up and debated a length in the last session of the legislature. Is there some evidence that we need this added to the law now? I would like to have some discussion before we simply accept this amendment. Thank you.

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

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This helps to clarify last years law which included certain categories of state employees who were here as legislative liaisons whose duties were simply to lobby. This does not address those department people who have to come in to explain bills to Committees in public hearings or are requested to come here to enlighten us on certain issues. This clarifies that and I would also add that this was a unanimous Committee report. Thank you.

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

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a question. With all due respect, I'm not sure that this is exactly what this language says and I would draw the good Senator's attention to the amendment. It says "A state employee or a state agency employee, whose job descriptions require lobbying activities must register with the Department of the Commission on Governmental Ethics". It says that and it seems to me that that would imply that people from the executive branch of government that are lobbying particular pieces of legislation would have to register as a lobbyist. I don't know if we want to expand the law like that. Was that the intent? If I am reading this wrong then I certainly am willing to correct myself. Thank you.

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

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It was not our intent obviously to categorize state employees as

Lobbyists but there are certain categories, it is our understanding, that do this and it was simply to get them on the record, as other people who lobby for issues, should be recorded. Thank you.

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

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

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

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

Off Record Remarks

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

Off Record Remarks

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

Senator **VOSE** of Washington was granted unanimous consent to address the Senate off the Record.

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

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the Tabled and Later Assigned (3/31/94) 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 **BUSTIN** of Kennebec.

Pending - Motion by Senator **HANLEY** of Oxford to **RECEDE** and **CONCUR**

(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.**)

On motion by Senator **HANLEY** of Oxford, the Senate **RECEDED** and **CONCURRED.**

ORDERS

Joint Order

On motion by Senator **BUSTIN** of Kennebec the following Joint Order:

S.P. 775

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, April 5, 1994, the House to convene at three o'clock in the afternoon and the Senate to convene at five o'clock in the afternoon.

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

Sent down for concurrence.

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

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

COMMUNICATIONS

The Following Communication:

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

April 1, 1994

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

Dear Madam Secretary:

The House voted today to adhere to its former action whereby the Bill and accompanying papers were indefinitely postponed on Bill "An Act to Increase the County Share of the Real Estate Transfer Tax" (H.P. 464) (L.D. 601).

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:

ORDERS

Joint Order

On motion by Senator **BERUBE** of Androscoggin the following Joint Order:

S.P. 777

ORDERED, the House concurring, that Bill "An Act to Clarify the Application of Nursing Facility Admissions Criteria" (Emergency) H.P. 1230, L.D. 1650, and all its accompanying papers, be recalled from the Legislative Files to the Senate.

Which was **READ**.

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

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 **STATE & LOCAL GOVERNMENT** on Bill "An Act Authorizing the Kennebec County Commissioners to Issue Bonds in the Amount of \$1,500,000 for Renovation of the County Court House in Augusta" (Emergency)

H.P. 1449 L.D. 1978

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1024)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1024)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1024) **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.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Encourage Municipal Investment in Local Economic Development Projects" (Emergency) S.P. 647 L.D. 1806 (C "A" S-468)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-468)**

Minority - **Ought Not to Pass**

In Senate, March 22, 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" (S-468)**.

In House, March 28, 1994, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

In Senate, March 29, 1994, **INSISTED**.

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**.

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

- Senator **DUTREMBLE** of York.
- Senator **SUMMERS** of Cumberland.
- Senator **CAREY** of Kennebec.

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 **MARINE RESOURCES** on Bill "An Act to Rejuvenate the Lobster Population in the Gulf of Maine"

H.P. 1262 L.D. 1689

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-973)**.

Signed:

- Senators:
- VOSE** of Washington
- PINGREE** of Knox
- GOULD** of Waldo

Representatives:

MITCHELL of Freeport
 COLES of Harpswell
 LEMONT of Kittery
 CONSTANTINE of Bar Harbor
 SKOGLUND of St. George
 SWAZEY of Bucksport
 FARREN of Cherryfield
 HEINO of Boothbay

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

Signed:

Representatives:

TOWNSEND of Eastport
 LOOK of Jonesboro

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-973) AS AMENDED BY HOUSE AMENDMENT "A" (H-1017)** thereto.

Which Reports were **READ.**

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

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

ENACTORS

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

An Act to Clarify Reporting Requirements for Party Committees

H.P. 1244 L.D. 1671
 (C "A" H-918)

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

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 Androscoggin, Senator Handy.

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This bill is An Act to Clarify Reporting Requirements for Party Committees. This bill came out of the Legal Affairs Committee in order to provide some parity in terms of the reporting requirements. Those reporting requirements imposed upon those of us who run for public office as well as the party Committee. Under the current law we, as candidates, must report all expenditures that we make in our campaigns through our political committees. However, the Party Committees in this state are not required to report every expenditure

that they make. This would require that the expenditures that they make to advance an issue or a cause, or to defeat an issue or a cause, are accounted for in terms of public disclosure. I hope that you will support this bill and its enactment. 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. As it was reported, if you are talking about a candidate in a fairly large party then of course that is probably true but when we look at the State of Maine and we see all numbers of small party committees, generally controlled and run by volunteers who are exerting themselves either on the Democratic or Republican side. They are doing it gratis, interested and generally very honest. There is little or no possibility of running away with much money or putting it in the wrong position. This bill would force all of those people to report every thing that was going on in a situation that is being handled very nicely today. I hope that you will defeat this. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The gentleman from Lincoln, Senator Begley, brings up a good point. There would be absolutely no safeguards against a large party committee from getting little satellite committees to hide what they are doing. That is what we are trying to do, to prevent anyone from trying to hide anything. 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. Knowing pretty well the situation of those large parties, the other party is watching very closely as to what is happening and that is rightfully done and it makes the competitive spirit that much livelier without encumbering those many other organizations that just are not going to do it. Thank you.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. While I think it is great that we have one party watching the other, this bill is not for either party. This bill is for the public's interest. Make no mistake about it, every member of the public is not involved as intimately as the people in this chamber are in their political parties. Sure, we are watching, we are held to a standard of accountability too, but when a party committee can go ahead and make the kind of expenditures, thousands of dollars, that they have made in the past year, without being held accountable in terms of disclosure, and that is what we are talking about, we are not talking about any kind of limit on that expenditure that doesn't currently exist, that is in the public interest. It rises above anything else and I think that is totally proper. We should enact this bill today. 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?

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, HANDY, LAWRENCE, LUTHER, O'DEA, PARADIS, PEARSON, PINGREE, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

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

ABSENT: Senators MCCORMICK, TITCOMB

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 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.

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 **JUDICIARY** on Bill "An Act to Implement the Recommendations of the Commission to Study the Future of Maine's Courts" H.P. 1008 L.D. 1354

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1000)**.

Signed:

Senators:
CONLEY of Cumberland
HANLEY of Oxford

Representatives:
PLOWMAN of Hampden
OTT of York
FAIRCLOTH of Bangor
FARNSWORTH of Hallowell
COTE of Auburn
KETTERER of Madison
LIPMAN of Augusta
SAXL of Bangor
CATHCART of Orono
CARON of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-1001)**.

Signed:

Senator:
BERUBE of Androscoggin

Comes from the House with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1000)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1000) AS AMENDED BY HOUSE AMENDMENT "A" (H-1015)** thereto.

Which Reports were **READ**.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Encourage Electric Rate Stabilization" (Governor's Bill) S.P. 774 L.D. 1997

In Senate, March 31, 1994, referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1029)**, without reference to a Committee and **ORDERED PRINTED in NON-CONCURRENCE**.

The Chair moved that the Senate **RECEDE** and **CONCUR**.

Senator **ESTY** of Cumberland moved to Table until Later in Today's Session, pending **RECEDING** and **CONCURRING**.

Senator **ESTY** of Cumberland requested and received leave of the Senate to withdraw his motion to Table until Later in Today's Session, pending **RECEDING** and **CONCURRING**.

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

ORDERS OF THE DAY

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

Bill "An Act to Create Retirement Alternatives" (Emergency)

H.P. 1362 L.D. 1841
(C "A" H-867)

Tabled - April 1, 1994, by Senator ESTY of Cumberland.

Pending - Motion by Senator AMERO of Cumberland to ADOPT Senate Amendment "A" (S-573)

(In Senate, April 1, 1994, RECEDED from PASSAGE TO BE ENGROSSED AS AMENDED. House Amendment "A" (H-972) READ and ADOPTED. Senate Amendment "A" (S-573) READ.)

(In House, March 31, 1994, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-867) AND HOUSE AMENDMENT "A" (H-972) in NON-CONCURRENCE.

On motion by Senator ESTY of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator AMERO of Cumberland to ADOPT Senate Amendment "A" (S-573).

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

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

H.P. 1384 L.D. 1883
(C "A" H-950)

Tabled - April 1, 1994, by Senator ESTY of Cumberland.

Pending - FURTHER CONSIDERATION

(In Senate, March 29, 1994, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950), in concurrence.)

(In House, March 31, 1994, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950) AS AMENDED BY HOUSE AMENDMENT "A" (H-1030) thereto, in NON-CONCURRENCE.)

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

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

Bill "An Act Regarding Cable Television"

H.P. 1096 L.D. 1483

Tabled - April 1, 1994, by Senator ESTY of Cumberland.

Pending - ADOPTION of Committee Amendment "A" (H-836)

(In Senate, April 1, 1994, Committee Amendment "A" (H-836) READ.)

(In House, March 31, 1994, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-836) AS AMENDED BY HOUSE AMENDMENT "B" (H-982) thereto.)

On motion by Senator ESTY of Cumberland, Tabled until Later in Today's Session, pending ADOPTION of Committee Amendment "A" (H-836).

The Chair laid before the Senate the Tabled and Later Today Assigned 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)

Tabled - April 1, 1994, by Senator CIANCHETTE of Somerset.

Pending - Motion by Senator ESTY of Cumberland to RECEDE and CONCUR

(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.)

(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 31, 1994, RECEDED and CONCURRED. Subsequently, RECONSIDERED.)

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

Senator CIANCHETTE: Thank you Mr. President, Ladies and Gentlemen of the Senate. As you can see on the calendar there have been several attempts to amend this bill and for whatever reasons the amendments didn't appear to be correct and I have another amendment which will hopefully correct the bill.

On motion by Senator CIANCHETTE of Somerset, the Senate RECEDED from its action whereby the Bill was 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 further motion by same Senator, the Senate RECEDED from its action whereby it ADOPTED Committee Amendment "A" (H-865) as Amended by Senate Amendment "A" (S-555) thereto, in NON-CONCURRENCE.

House Amendment "A" (H-1013) to Committee Amendment "A" (H-865) READ.

On further motion by same Senator, House Amendment "A" (H-1013) to Committee Amendment "A" (H-865) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from its action whereby it **ADOPTED** Senate Amendment "A" (S-555) to Committee Amendment "A" (H-865).

On further motion by same Senator, Senate Amendment "A" (S-555) to Committee Amendment "A" (H-865) **INDEFINITELY POSTPONED**.

On further motion by same Senator, Senate Amendment "B" (S-575) to Committee Amendment "A" (H-865) **READ**.

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I wonder if the good Senator from Somerset, Senator Cianchette, might take just a moment to explain this amendment. Thank you.

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

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This bill, "An Act to Protect the Right of Employees and to Ensure the Proper Expenditure of Public Funds", I think has a very appropriate purpose. If the State is paying money to help healthcare facilities I think that that Department of State should have the right to audit the books of the firms that are receiving money in the state. As this bill started out, it made the records of any health agency in the State receiving money from the State to make their records public information. That included the public records of personnel files. The first amendment that we presented was to exempt personnel files from public disclosure, what we found was that when that amendment was scrutinized that that amendment only exempted classified state employees records. It did not prevent anyone else's personnel records from becoming public information. The second amendment to that then dealt with all employees records, they would not be subject to scrutiny. As these things were discovered they were all agreed upon but then we went back and looked at the whole disclosure section and what it meant was, and what I think a literal interpretation was, was that any Tom, Dick, or Harry could walk into anybody's office and scrutinize their files. That really wasn't anybody's intent, I believe, and so this present amendment says this, "In response to a complaint or information obtained through normal auditing procedures, a Department that provided State funds or State administered funds to an employer or an employer organization subject to this section shall investigate whether this section has been violated. The employer or employer organization shall make available to the Department records relating to a program or position funded by State funds or State administered funds." Then it goes on to say that records that are exempt from this section are personnel records for everybody so that the Department may audit and if they find a problem that they have access to the records, other than personnel records, of that organization. I think that makes sense. I hope that answers your question. Thank you.

On motion by Senator **CIANCHETTE** of Somerset, Senate Amendment "B" (S-575) to Committee Amendment "A" (H-865) **ADOPTED**.

Committee Amendment "A" (H-865) as Amended by Senate Amendment "B" (S-575) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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

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 - April 1, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

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

(In House, March 30, 1994, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-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**.

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

HOUSE REPORT - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Correct Certain Inconsistencies in the Laws Relating to the Commission on Governmental Ethics and Election Practices"

H.P. 1380 L.D. 1867

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-1026)**

Tabled - April 1, 1994, by Senator ESTY of Cumberland.

Senate at Ease

Senate called to order by the President.

Pending - **ACCEPTANCE OF REPORT**

(In Senate, April 1, 1994, Report **READ**.)

(In House, April 1, 1994, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1026)**.)

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

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 Implement the Recommendations of the Commission to Study the Future of Maine's Courts" H.P. 1008 L.D. 1354

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1000)**

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-1001)**

Tabled - April 1, 1994, by Senator ESTY of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, April 1, 1994, Reports **READ**.)

(In House, April 1, 1994, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1000)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1000) AS AMENDED BY HOUSE AMENDMENT "A" (H-1015)** thereto.)

Senator **CONLEY** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1000)** Report, in concurrence.

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

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would ask that you consider the minority ought to pass report and with your permission I would like to briefly explain what it does. Either way, it has come to us from the other body with my minority report attached on what they have sent to us. What this court bill does is remove the administrative court issues and places them squarely in the Department of the Superior court. Currently, all 45 licensing board issues, and problems are resolved by the current administrative court. They are knowledgeable, they have a lot of experience in those issues that relate to licensing boards. Generally the problems are resolved in anywhere from 30 days to 3 months and that is very good because it helps the small mom and pop stores who sometimes have licensing difficulties with alcohol and that sort of thing. If it goes to Superior court, where they have major issues, I am sure that although they would be well meaning, they would be unable to logistically address these issues in a timely fashion. If they had a major case before them they certainly would not put that aside in order to take time to hear a licensing concern. So the issues could take two or three years to resolve and that would place a tremendous burden on people who rely on licenses to operate a small business. That

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

COMMITTEE REPORTS

Senate

Committee of Conference

The **Committee of Conference** on the disagreeing action between 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
(C "A" S-486)

Majority - Ought Not to Pass

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-486)

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

Signed on the part of the Senate:

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

Signed on the part of the House:

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

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

Sent down for concurrence.

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

was my reason for coming out for the bill indeed, but for the minority report, so I would ask that you consider that very carefully. 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. Indeed the Committee worked very hard on this issue. This bill reflects a report done by the Future for Maine's Courts Commission. We accepted by and large almost all of the recommendations that were made by that Commission which was put together by the Governor, the President and the Speaker. In fact, the Committee agreed on everything in reference to the bill except the one issue which the good Senator from Androscoggin has outlined for the chamber, that being what the future of the administrative court would be for the State of Maine. In fact, the good Senator from Androscoggin is correct, the little mom and pop stores and bars, the hospitality industry, has been lucky enough to have all of their cases processed through the administrative court, that all came about back in the old days when Judge Robinson was the first administrative court judge, back when liquor matters were taken very seriously in this State. This of course being the birthplace of prohibition. Over time the place for the administrative court and its importance has really dwindled, in fact all the administrative court does now is liquor cases. The Chief Justice has taken the administrative court and turned it into a family court, which is what it really spends 90% of its time doing, the administrative court very infrequently deals with these very cases. I don't know if people in this chamber have heard of the other John Martin in State government, Chief John Martin, who works for the Liquor Enforcement, now with the lottery rolled into it, but in my opinion he is actually the most powerful John Martin in the State and has done a good job with liquor enforcement. He has singlehandedly been out there working this issue harder than any person who has ever worked any issue and I give him credit. He believes in the administrative court and he ought to because he kind of runs that place when liquor cases come up and he does a good job. To be frank with you, the bill that the majority of the Committee is on, and I think the good Senator from Androscoggin would agree, there is language in there which will direct the new court to take liquor cases and prioritize them. The Chief Justice of the court in this state met with Chief Martin, so the two chiefs got together, and he is aware of Chief Martin's concerns and has tried to address them. I am hopeful that this body will accept the majority report and believe the majority of my Committee that we have not overlooked these liquor cases, that they will be taken care of.

There is yet another important issue that was dealt with in the majority report that will be seriously affected if you accept the minority report. We have recently confirmed two appointments made by the Governor, Joyce Wheeler is now on the administrative court and Roland Bowdoin is still on the administrative court, we made him the Chief of the administrative court and Joyce Wheeler is the deputy. If the minority report is accepted that is where they will stay. It was the understanding of the majority that we would change these courts whereby Joyce Wheeler would become a Superior court judge and Roland Bowdoin would become a District court judge. That will happen if you accept the majority report. That was the understanding of the Committee when we worked on their appointments, it

would certainly reverse what their expectations would be and what the Governor's expectations would be. Thank you.

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

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. With your permission I would like to respond a little bit to my Senate Chair. He is indeed right that most of the cases currently before the administrative court deal with alcohol or liquor licenses, but by statute, by law they are supposed to deal with the other 44 licensing boards that are currently in our statutes. What happens is that those cases, instead of going to the administrative court, are currently sent to the district court thereby overburdening them, and that shouldn't be. I'm very concerned with that prospect. The other thing that I am concerned with is the prospect that he says we have been given assurance verbally that those liquor violation bills will be heard in a priority manner. Just think about that for a moment. If you have a mass murder case that is before the Superior court or if you have a case of sexual assault or whatever case comes before a court do you think they would drop everything in order to address a small liquor issue? That is a concern to me and I doubt that that would happen. Also, we did indeed, as it was correctly stated, approve the nomination of two judges, one who will be the Chief of the District court and the other person, who I voted for as did all of the other members of the Committee, will now become a Superior court judge. Maybe they should have presented those individuals as prospective members of the District court and Superior court if they had this intention in mind. I ask for you to please at least consider the minority report. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Just a comment. This was a 12 - 1 Committee Report. Of all of the Divided Reports I think this is the first time brother Conley has been on the same side as myself on a Divided report. The reason behind that is that the future of the Maine's Court has been working on the whole aspect of our judicial system for over two years. In dealing with this they had to make many compromises over the course of time and many adjustments that all interlocked and all fit into place. This is one of those pieces and I think it is very important that we keep in consideration that a lot of work went into this Committee. It was a Committee represented by all aspects of the court, public members and private members as well. For that reason I hope you will support the Chair of the Committee on the motion before you. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CONLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1000)** Report, in concurrence.

The Chair ordered a Division.

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

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

21 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **CONLEY** to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1000)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1000) **READ**.

House Amendment "A" (H-1015) to Committee Amendment "A" (H-1000) **READ**.

Senator **CONLEY** of Cumberland moved to **INDEFINITELY POSTPONE** House Amendment "A" (H-1015) to Committee Amendment "A" (H-1000) in **NON-CONCURRENCE**.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't often have a chance to get up on the floor on a bill from the Judiciary Committee in order to help out my good friend and colleague, Senator Conley from Cumberland, but I am really pleased to do that today but I am going to urge that you oppose his motion of Indefinite Postponement which would save the portion of the Bill that the Committee worked so hard on but yet retained the administrative court. On the Legal Affairs Committee, many people who came before that Committee with concerns about liquor licenses and the process whereby they make appeals with respect to their denial of a liquor license, when it comes to a matter that we recently dealt with in this chamber dealing with the placing of lottery machines, the Committee recently passed legislation to set in place a process whereby the mom and pop store that may not be able to get one of these machines can go through an appeals process that would include the administrative court. One might ask the question why the administrative court, what is the great thing about the administrative court, the administrative court is more conducive to not having high powered attorneys representing them, where the individual can go and participate in the judicial process and make their appeal for themselves without incurring the cost of having to hire an attorney. The administrative court is kind of the people's court of Maine State Government. We think that ought to be retained so that people will have as much access as possible and as much access to the process whereby they can advance their cause in a manner that may not be as imposing as the Superior court. I would hope that you would adopt the amendment put on in the other body and oppose the motion of the good Senator from Cumberland, Senator Conley. 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. This is basically a turf battle between the organized District court system and the administrative court. It has already cost us a very excellent Chief judge within the administrative court system. We would hope that it doesn't deteriorate any further than that. The Legal Affairs Committee is very strongly supportive of the Administrative court, this is where our liquor battles are fought, whether it is a mom and pop store or a distributor or a bar. Interestingly enough, in this report A, and I haven't seen what the minority report does, but I notice that we are increasing the judgeship. The gentleman from Cumberland, Senator

Conley, was right about one of them would move up to be a Superior court judge and another one would move over to become a District court judge. The problem with that is that it is hidden in here to create really more judgeships. I would prefer to see those things standing by themselves. I would hope that you support passage of this thing and go against the motion to kill the amendment. Thank you.

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

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I, too, agree that we should keep the administrative court. We have heard a lot of comments that the district court is overburdened with work and so on and so forth. This is a good example of how if they should use the administrative court more, which provision is there, then they would not be quite so overburdened. I am going to urge you to vote against the present motion of Indefinite Postponement of the House amendment. Thank you.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. These fellows from the Legal Affairs Committee are right next door to us up there in Judiciary and they were always so friendly before today, I don't understand this. They're kind of ganging up on us. The fact of the matter is, just in case there is any confusion here, this is exactly the same thing we just voted on two seconds ago which got on down in the House by way of an amendment. I know it's hard sometimes to get in there and read these things but they have sort of staggered their attacks in waves and I just want the people in the body to understand that this is the very same issue that we just dealt with. The House amendment that I moved to have Indefinitely Postponed would be the minority report so ably argued by the good Senator from Androscoggin, Senator Berube, and now her three friends. I hope that you stick with your vote as you made so clear to this chamber earlier. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CONLEY** of Cumberland to **INDEFINITELY POSTPONE** House Amendment "A" (H-1015) to Committee Amendment "A" (H-1000) in **NON-CONCURRENCE**.

The Chair ordered a Division.

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

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

18 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **CONLEY** of Cumberland to **INDEFINITELY POSTPONE** House Amendment "A" (H-1015) to Committee Amendment "A" (H-1000) in **NON-CONCURRENCE**, **PREVAILED**.

Committee Amendment "A" (H-1000) **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.

Off Record Remarks

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

Off Record Remarks

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

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

JOINT ORDER - relative to recalling from the Legislative Files to the Senate, Bill "An Act to Clarify the Application Of Nursing Facility Admissions Criteria" (Emergency) H.P. 1230, L.D. 1650, and all its accompanying papers.
S.P. 777

Tabled - April 1, 1994, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE**

(In Senate, April 1, 1994, **READ.**)

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

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

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This order is simply to recall a bill to bring it back to the Committee of jurisdiction so that they can address some of the concerns of the area agencies on aging. Before I did this I consulted with both Chairs, our Senator Paradis, and the Chair from the House, and they agreed that it would be alright to bring it back to the Committee for review. I also discussed it with a member who had opposed it and maybe together they can come up with a resolution. I would urge that you allow this bill to be recalled. Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BUTLAND, CLEVELAND, CONLEY, ESTY, HANLEY, HARRIMAN, LAWRENCE, LUTHER, O'DEA, PARADIS, PINGREE, VOSE, WEBSTER, THE PRESIDENT - DENNIS L. DUTREMBLE**

NAYS: Senators **AMERO, BEGLEY, BRANNIGAN, BUSTIN, CAHILL, CAREY, CARPENTER, CIANCHETTE, FOSTER, GOULD, HALL, HANDY, KIEFFER, LUDWIG, MARDEN, PEARSON, SUMMERS**

ABSENT: Senators **BALDACCI, MCCORMICK, TITCOMB**

15 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 3 Senators being absent, and 15 being less than two-thirds of the membership present and voting, **PASSAGE, FAILED.**

Sent down for concurrence.

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

ENACTORS

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

Emergency

An Act to Make Changes in the Manufactured Housing Laws

S.P. 461 L.D. 1453
(H "A" H-992 to C
"A" S-530)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with No Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Hazardous Materials and Solid Waste Control
H.P. 1302 L.D. 1757
(C "A" H-995)

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

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

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

ENACTORS

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

Emergency

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

S.P. 767 L.D. 1987
(S "A" S-546)

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

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

Off Record Remarks

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

ENACTORS

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

Emergency Resolve

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1994

H.P. 1463 L.D. 1989

Emergency Resolve

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1994

H.P. 1464 L.D. 1990

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

ORDERS OF THE DAY

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

Emergency

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

S.P. 767 L.D. 1987
(S "A" S-546)

Tabled - April 1, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 29, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-546)**, without reference to a Committee, in concurrence.)

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

Senate at Ease

Senate called to order by the President.

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **PEARSON** of Penobscot, **ADJOURNED** until Tuesday, April 5, 1994, at 5:00 in the afternoon.