

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 7, 1994 to April 27, 1995

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

In Senate Chamber
Thursday
January 12, 1995

Senate called to Order by the President, Jeffrey H. Butland of Cumberland

Prayer by Reverend Trueman Bray of Penny Memorial Baptist Church in Augusta.

REVEREND TRUEMAN BRAY: Let us bow together in prayer. Oh Eternal God, God of mercy, grace and truth, we pause before you to thank you for this new day. Recognizing that before all important things we need to acknowledge your greatness and goodness and seek your divine guidance and direction. So, we ask for this day, that in the sessions of this chamber, both great and small decisions may be made with a sense of your guidance and approval. We commit this day to you and pray that we may walk in it in a manner that is well pleasing. Bless these Senators, men and women who have committed themselves to the Leadership of this State. Grant them a devotion to truth and fairness in the exercise of their office. Grant them wisdom to understand the complexities of the issues before them. Bless their families from whom they may be separated for extended periods of time and keep them in thy care and love. When this long day is over I pray that none of us will have said or done anything that would compromise our office, our faith, or our convictions. May we rest in your peace and blessing, for in the name of our Lord we pray. Amen.

Reading of the Journal of Tuesday, January 10, 1995.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Grant an Extension of Time to Holders of Sea Urchin Licenses Who Have Attempted to Comply with the Requirement to Take a Competency Course" (Emergency)

S.P. 16 L.D. 3
(S "A" S-2)

(In Senate January 10, 1995, under suspension of the rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-2).**)

Comes from the House **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion by Senator **KIEFFER** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

House Papers

Bill "An Act to Continue the Fee on the Handling of Milk" (Emergency)

H.P. 10 L.D. 4

Reference to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** 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.

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **REFERENCE**.

Joint Orders

Expressions of Legislative Sentiment recognizing:

Marion Nutting, of Kittery, who was named Volunteer of the Year by the Friends of the Public Library and Citizen of the Year by Kittery residents. We extend our congratulations and very warm wishes;

HLS 19

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

Which was **READ**.

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

Senate at Ease

Senate called to order by the President.

Joint Orders

The following Joint Order: H.P. 6

ORDERED, the Senate concurring, that the Joint Rules of the 116th Legislature shall be the Joint Rules of the 117th Legislature except that Joint Rule 13-B shall be repealed and replaced to read:

13-B. Joint Select Committee on Rules. There shall be a Joint Select Committee on Rules. The 10 House members shall be appointed by the Speaker of the House. The 5 Senate members shall be appointed by the President of the Senate. The first-named House member shall be the House Chair. The first-named Senate member shall be the Senate Chair. The committee shall make recommendations to the House and the Senate. The committee shall, in addition to other changes, determine changes necessary to incorporate gender-neutral language in the rules.

No Joint Rule or Joint Order shall be altered or repealed, nor shall any new standing rule or order be adopted, unless one day's previous notice thereof be given in each case, and such notice shall be entered on the journal of each House. Notwithstanding Joint Rule 9, reports of the committee that propose amendments to the rules may be adopted by majority vote in each House, until and including the end of the session on the third Friday in January.

Comes from the House READ and INDEFINITELY POSTPONED.

Which was READ and INDEFINITELY POSTPONED, in concurrence.

COMMUNICATIONS

The Following Communication: (S.C. 38)

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF CONSUMER CREDIT PROTECTION
STATE HOUSE STATION 35
AUGUSTA, MAINE 04333-0035

TO: Jeffrey H. Butland, President, Maine State Senate
Dan A. Gwadosky, Speaker, Maine House of Representatives

FROM: Will N. Lund, Superintendent
Bureau of Consumer Credit Protection
RE: Report Pursuant to PL Chapter 268 (1993).
"An Act Related to Mortgage Companies"
DATE: December 30, 1994

Enclosed please find a report detailing resource expenditures and revenue sources for the Bureau of Consumer Credit Protection, as requested by the Joint Standing Committee on Banking and Insurance in Section 3 of PL Chapter 268 (1993), "An Act Related to Mortgage Companies."

I am proud of the excellent work done by Bureau staff in assisting Maine consumers in their credit dealings with Maine mortgage companies, banks, credit unions, credit reporting agencies, collection agencies, loan brokers and retail creditors, and I look forward to the opportunity to personally present this information to the Committee.

Which was READ and referred to the Committee on Banking and Insurance.

Sent down for concurrence.

The Following Communication: (S.C. 39)

STATE OF MAINE
DEPARTMENT OF THE SECRETARY OF STATE

I, the Secretary of State of the State of Maine, do hereby Certify that the paper to which this is attached is a true copy from the records of this office.

In Testimony Whereof, I have caused the Great Seal of the State to be hereunto affixed. GIVEN under my hand at Augusta, this Ninth day of January in the year of our Lord one thousand nine hundred and ninety-five.

S/Bill Diamond
Secretary of State

RESOLUTION
NUMBER 06-08-94-01
OF THE PENOBSCOT NATION

WHEREAS, the Penobscot Nation is a federally recognized Indian Tribe; and

WHEREAS, the Penobscot Tribal Governor and Council is the duly authorized and elected governing body of the Penobscot Nation;

WHEREAS, the Penobscot Nation held a General Meeting June 8, 1994, for the purpose of approving or disapproving legislation that was enacted by the 116th Legislature for the State of Maine;

THEREFORE, BE IT RESOLVED, that the Penobscot Nation approved Resolution 06-08-01: H.P. 1368 - L.D. 1851 An Act Related to Periodic Justification of Departments and Agencies of State Government Under the Maine Sunset Act.

CERTIFICATION

I, Lorraine Dana, hereby certify that I am the Tribal Clerk of the Penobscot Nation and official custodian of certain records, including Minutes of the Meetings of the Penobscot Indian Nation, a federally recognized and sovereign Indian Tribe duly organized and existing under the Laws of the United States, and that the foregoing is a true, accurate and compared transcript of resolutions contained in the Minute Book of the Nation, adopted at a General Meeting of said Nation, duly held on the 8th day of June, 1994, and that the proceedings of said Nation, and that the said resolutions have not been amended or revoked and is in full force and effect.

S/Reuben Phillips
Lt. Governor

S/Lorraine Dana
Tribal Clerk

Which was READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 40)

**STATE OF MAINE
DEPARTMENT OF STATE**

I, the Secretary of State of the State of Maine, do hereby Certify that the paper to which this is attached is a true copy from the records of this office.

In Testimony Whereof, I have caused the Great Seal of the State to be hereunto affixed. GIVEN under my hand at Augusta, this Ninth day of January in the year of our Lord one thousand nine hundred and ninety-five.

S/G. William Diamond
Secretary of State

**RESOLUTION OF THE JOINT TRIBAL COUNCIL OF THE
PASSAMAQUODDY TRIBE, ADOPTED AT A MEETING
HELD AT PLEASANT POINT RESERVATION
ON MAY 11, 1994**

WHEREAS, the Legislature of the State of Maine has passed "An Act Relating to the Definition of Passamaquoddy Indian Territory," which was

approved by the Governor of Maine and designated P.L. 1993, c. 713, and which includes an amendment to the Maine Indian Claims Settlement Act (the "Maine Implementing Act");

WHEREAS, Section 2 of P.L. 1993, c. 713 provides that it will not become effective unless it is approved by the Joint Tribal Council of the Passamaquoddy Tribe and a certification thereof is filed with the Maine Secretary of State within 60 days of the adjournment of the Maine Legislature;

WHEREAS, Title 25, Section 1725(e) of the United States Code grants the consent of Congress to any amendment of the Maine Implementing Act affecting the Passamaquoddy Tribe when the amendment relates to "the enforcement of application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe...and the State within their respective jurisdiction," or to "the allocation or determination of governmental responsibility of the State and the tribe...over specified subject matters...including provision of concurrent jurisdiction between the State and the tribe..." provided the amendment is made with the agreement of the Passamaquoddy Tribe;

WHEREAS, P.L. 1993, c. 713 authorizes taking land in Calais into trust with the approval of the City of Calais, if a tribal-state compact under the federal Indian Gaming Regulatory Act is agreed to by the State and the Passamaquoddy Tribe of the State is ordered by a court to negotiate such a compact; and

WHEREAS, this legislative change is deemed beneficial to the Passamaquoddy Tribe,

NOW THEREFORE, BE IT RESOLVED:
That, pursuant to the provisions of Title 3, Section 601 of the Maine Revised Statutes and Section 2 of P.L. 1983, c. 713, the Joint Tribal Council of the Passamaquoddy Tribe hereby agrees to and approves the provisions of P.L. 1993, c. 713 enacted by the Maine Legislature, including specifically the portion thereof amending Title 30, Section 6205, subsection 1, and further directs that a written certification to that effect be prepared, executed and submitted to the Secretary of State of the State of Maine in accordance with the provisions of Title 3, Section 601 of the Maine Revised Statutes forthwith.

CERTIFICATION

I, the undersigned officer designated by the Joint Tribal Council of the Passamaquoddy Tribe pursuant to Title 3, Section 602 of the Maine Revised Statutes, do hereby certify that a meeting of the Joint Tribal Council of the Passamaquoddy Tribe was held at the Pleasant Point Passamaquoddy Reservation, Washington County, Maine, on May 11, 1994, and do further certify that the foregoing Resolution was duly adopted by the Joint Tribal Council at that meeting.

Dated: 5/11/94

ATTEST: S/Madonna M. Soctomah
Certifying Officer

Which was READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 41)

**STATE OF MAINE
DEPARTMENT OF THE SECRETARY OF STATE**

I, the Secretary of State of the State of Maine, do hereby Certify that the paper to which this is attached is a true copy from the records of this office.

In Testimony Whereof, I have caused the Great Seal of the State to be hereunto affixed. GIVEN under my hand at Augusta, this Ninth day of January in the year of our Lord one thousand nine hundred and ninety-five.

S/Bill Diamond
Secretary of State

**RESOLUTION OF THE JOINT TRIBAL COUNCIL OF THE
PASSAMAQUODDY TRIBE, ADOPTED AT A MEETING
HELD AT INDIAN TOWNSHIP RESERVATION
ON JUNE 8TH, 1994**

WHEREAS, the Maine Legislature has enacted P.L. 1993, c. 600, "An Act Related to Periodic Justification of Departments and Agencies of State Government Under the Maine Sunset Act,"; and

WHEREAS, certain provisions of that Act amend the provisions of the Maine Indian Land Claims Settlement act establishing the Maine Indian Tribal-State Commission; and

WHEREAS, Section A-25 of P.L. 1993, c. 600 provides that it will not become effective unless it is approved by the Joint Tribal Council of the Passamaquoddy Tribe and the Governor and Council of the Penobscot Nation, and certification thereof is filed with the Maine Secretary of State within 60 days of the adjournment of the Maine Legislature; and

WHEREAS, Title 25, Section 1725(e) of the United States Code grants the consent of Congress to any amendment of the Maine Implementing Act affecting the Passamaquoddy Tribe and the Penobscot Nation when the amendment relates to "the enforcement of application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdiction," or to "the allocation or determination of governmental responsibility of the State and the tribe or nation over specified

subject matters..., between the State and the tribe or nation" provided the amendment is made with the agreement of the Passamaquoddy Tribe and the Penobscot Nation; and

WHEREAS, P.L. 1993, c. 600 authorizes the Tribal-State Commission to accept and administer loans, grants and contributions from public or private sources to carry out the purposes for which the Commission was created; and

WHEREAS, the provisions of P.L. 1993, c. 600 pertaining to the Tribal State Commission are considered beneficial to the Passamaquoddy Tribe,

NOW THEREFORE BE IT RESOLVED:

That, pursuant to the provisions of Title 3, Section 601 of the Maine Revised Statutes and Section A-25 of P.L. 1993, c. 600, the Joint Tribal Council of the Passamaquoddy Tribe hereby agrees to and approves the provisions of P.L. 1993, c. 600 enacted by the Maine Legislature pertaining to the Maine Indian Tribal-State Commission, including specifically the portion of that Act amending Title 30, Section 6212, and further directs that a written certification to that effect be prepared, executed and submitted to the Secretary of State of the State of Maine in accordance with the provisions of Title 3, Section 601 of the Maine Revised Statutes forthwith.

CERTIFICATION

I, the undersigned officer designated by the Joint Tribal Council of the Passamaquoddy Tribe pursuant to Title 3, Section 602 of the Maine Revised Statutes, do hereby certify that a meeting of the Joint Tribal Council of the Passamaquoddy Tribe was held at the Indian Township Reservation, Washington County, Maine on June 8th, 1994, and do further certify that the foregoing Resolution was duly adopted by the Joint Tribal Council at that meeting.

Dated: June 8, 1994 ATTEST: S/Madonna M. Soctomah
Certifying Officer

Which was READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 42)

**MAINE TURNPIKE AUTHORITY
430 RIVERSIDE STREET
PORTLAND, MAINE 04103**

December 5, 1994

Hon. Jeffrey Butland
President of the Senate
State House Station #3
Augusta, Maine 04333

Hon. Dan Gwadosky
Speaker of the House of Representatives
State House Station #2
Augusta, Maine 04333

Bill "An Act to Create Additional Employment Opportunities in the Financial Services Industry by Allowing Financial Organizations to Charge Additional Finance Charges"

S.P. 18 L.D. 49

Dear President Butland/Speaker Gwadosky:

I am pleased to forward to the Maine Legislature the Maine Turnpike Authority's 1996 Revenue Fund Operating Budget in accordance with Initiated Bill Chapter 1, 1991. Specific section of that law is Sec. 3, M.R.S.A. 1961 sub-6.

I look forward to working with the Legislature and presenting background information on the MTA's 1995 Revenue Budget through the Committee process.

Sincerely,

S/Paul E. Violette
Executive Director

Which was READ and with accompanying papers ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act to Protect Forest Management as a Viable Land Use"

S.P. 25 L.D. 56

Presented by Senator LORD of York
Cosponsored by Senator: CASSIDY of Washington,
Representatives: DEXTER of Kingfield, GOOLEY of Farmington, GOULD of Greenville, KNEELAND of Easton, LOOK of Jonesboro, MARSHALL of Eliot, MCALEVEY of Waterboro, MURPHY of Berwick, NASS of Acton, POIRIER of Saco, SPEAR of Nobleboro

Reference to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY suggested and ORDERED PRINTED.

Which was referred to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY and ORDERED PRINTED.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

Presented by Senator MCCORMICK of Kennebec
Cosponsored by Senator KIEFFER of Aroostook and Representative DONNELLY of Presque Isle and Senators: CARPENTER of York, CIANCHETTE of Somerset, FAIRCLOTH of Penobscot, HALL of Piscataquis, HARRIMAN of Cumberland, LORD of York, O'DEA of Penobscot, PINGREE of Knox, RUHLIN of Penobscot, STEVENS, JR. of Androscoggin, Representatives: AULT of Wayne, BAILEY of Township 27, BARTH, JR. of Bethel, BIGL of Bucksport, CAMERON of Rumford, CAMPBELL of Holden, CARLETON, JR. of Wells, CLARK of Millinocket, DAGGETT of Augusta, DORE of Auburn, DRISCOLL of Calais, FITZPATRICK of Durham, GREENLAW of Standish, GWADOSKY of Fairfield, HATCH of Skowhegan, HEINO of Boothbay, JONES, JR. of Pittsfield, KERR of Old Orchard Beach, KILKELLY of Wiscasset, KNEELAND of Easton, LABRECQUE of Gorham, LEMONT of Kittery, LIBBY of Kennebunk, LINDAHL of Northport, LOOK of Jonesboro, MITCHELL of Vassalboro, MORRISON of Bangor, NADEAU of Saco, O'GARA of Westbrook, PENDLETON, JR. of Scarborough, PINKHAM of Lamoine, REED of Dexter, RICE of South Bristol, SAVAGE of Union, SIMONEAU of Thomaston, SPEAR of Nobleboro, TAYLOR of Cumberland, TRUE of Fryeburg, TUFTS of Stockton Springs, VIGUE of Winslow, WINN of Glenburn

Reference to the Committee on BANKING AND INSURANCE suggested and ORDERED PRINTED.

Which was referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act Concerning the Labeling of Refundable Beverage Containers"

S.P. 21 L.D. 52

Presented by Senator HARRIMAN of Cumberland
Cosponsored by Senator: BERUBE of Androscoggin,
Representatives: BUCK of Yarmouth, DONNELLY of Presque Isle, FISHER of Brewer, GOULD of Greenville, LIBBY of Buxton, MORRISON of Bangor, WATERHOUSE of Bridgton

Reference to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT suggested and ORDERED PRINTED.

Which was referred to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Amend the School Administrative District Alternative Voting Procedures"
S.P. 24 L.D. 55

Presented by Senator LORD of York
Cosponsored by Representative MCALEVEY of Waterboro and, Representatives: DEXTER of Kingfield, GOULD of Greenville, KNEELAND of Easton

Reference to the Committee on EDUCATION AND CULTURAL AFFAIRS suggested and ORDERED PRINTED.

Which was referred to the Committee on EDUCATION AND CULTURAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Repeal the Sunset on the Grandparents Visitation Act"
S.P. 19 L.D. 50

Presented by Senator FAIRCLOTH of Penobscot
Cosponsored by Representative PLOWMAN of Hampden and Senator: MILLS of Somerset, Representatives: POVICH of Ellsworth, TRIPP of Topsham

Reference to the Committee on JUDICIARY suggested and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Amend the Laws Pertaining to Renewal of Liquor Licenses by Restaurants"
S.P. 20 L.D. 51

Presented by Senator STEVENS, JR. of Androscoggin
Cosponsored by Senators: ABROMSON of Cumberland, AMERO of Cumberland, CAREY of Kennebec, HALL of Piscataquis, Representatives: CHIZMAR of Lisbon, LIBBY of Kennebunk, LOOK of Jonesboro, TRUE of Fryeburg, TUFTS of Stockton Springs

Reference to the Committee on LEGAL AND VETERANS AFFAIRS suggested and ORDERED PRINTED.

Which was referred to the Committee on LEGAL AND VETERANS AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Exempt Business Furniture from the Recycling Assistance Fee"
S.P. 22 L.D. 53

Presented by Senator LORD of York
Cosponsored by Representative MCALEVEY of Waterboro and, Representatives: AHEARNE of Madawaska, GOULD of Greenville, KNEELAND of Easton, LOOK of Jonesboro, MARSHALL of Eliot, MURPHY of Berwick

Reference to the Committee on NATURAL RESOURCES suggested and ORDERED PRINTED.

On motion by Senator KIEFFER of Aroostook, referred to the Committee on TAXATION and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Refund Money Collected from the Disposal Fee on Major Appliances and Tires to Municipalities"
S.P. 23 L.D. 54

Presented by Senator LORD of York
Cosponsored by Representative MCALEVEY of Waterboro and Senator: CASSIDY of Washington, Representatives: AHEARNE of Madawaska, DEXTER of Kingfield, GOULD of Greenville, KNEELAND of Easton, LOOK of Jonesboro, MARSHALL of Eliot, MURPHY of Berwick

Reference to the Committee on NATURAL RESOURCES suggested and ORDERED PRINTED.

Which was referred to the Committee on NATURAL RESOURCES and ORDERED PRINTED.

Sent down for concurrence.

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

ORDERS

Joint Orders

On a motion of Senator KIEFFER of Aroostook the following Joint Order:

S.P. 50

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, January 17, 1995, at 10 o'clock in the morning.

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

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

Senate at Ease

Senate called to order by the President.

ORDERS

Senate Order

On motion by Senator LAWRENCE of York, the following Senate Order: (S.O. 11)

ORDERED, that the Senate Rules be amended by striking out all of Senate Rule 28-A.

Which was **READ**.

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

Senator KIEFFER: Thank you Mr. President, Ladies and Gentlemen of the Senate. This is a change to the Rules, Rule 28A which reads "There may be no pairing of votes in the Senate." This was part of the rules which were previously adopted and I would certainly ask for a Division. Thank you.

Senator KIEFFER of Aroostook requested a Division.

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

Senator LAWRENCE: Thank you Mr. President, Ladies and Gentlemen of the Senate. This Order would propose restoring the Rule that would allow pairing within the Senate. I can understand people who don't approve of pairing and in the past people who do not approve of pairing do not participate in it. Still, there are those people in the Senate, we have a citizen's legislature where people have to work and have reasons not to be here. I think it is appropriate for the public to know, on the Record, how they stand on an issue and pairing allows them to

do that when they cannot be here for justifiable reasons. I would ask for your support on this Order. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator LAWRENCE of York to **PASS** the Senate Order.

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 18 Senators having voted in the negative, the motion of Senator LAWRENCE of York to **PASS** the Senate Order, **FAILED**.

Joint Orders

On motion by Senator HANLEY of Oxford, the following Joint Order:

S.P. 27

ORDERED, the House concurring, that the Joint Rules be amended by striking out all of Joint Rule 27 and inserting in its place the following:

27. Filing after Cloture. Any request for a bill or resolve submitted to the Revisor of Statutes by a Legislator after the cloture date shall be transmitted to the Legislative Council. The Council shall ascertain from the sponsor the facts supporting the request notwithstanding cloture. If 2/3 of the Council approves, notice of that approval shall appear on the calendar of the appropriate House.

Which was **READ**.

On motion by Senator KIEFFER of Aroostook, Tabled Unassigned, pending **PASSAGE**.

Senate at Ease

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Extend the Reporting Date of the Committee to Study Organizational and Tax Issues in Public Schools" (Emergency)

H.P. 59 L.D. 57

Reference to the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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, in concurrence.

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

Senator **KIEFFER** of Aroostook was granted unanimous consent to address the Senate off the Record.

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

On motion by **THE PRESIDENT**, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

On motion by **THE PRESIDENT**, **RECESSED** until 1 o'clock this afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act to Continue the Fee on the Handling of Milk" (Emergency)

H.P. 10 L.D. 4

Reference to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested and **ORDERED PRINTED**.

(In House, January 10, 1995, 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**.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence.

Senator **KIEFFER** of Aroostook requested a Division.

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

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. For some time I had opposed the milk fee bill, as it is outlined here, but after a lot of hard and careful consideration I believe that I now have to support this issue. We listened to the arguments, pro and con, as to whether this is a new tax or whether it is a continuation of an old, existing tax. I guess it is my opinion that it is a reinstatement of an old tax and if it is going to save fifty or sixty of our much needed farmers then I believe it is worthy of our support. Thank you.

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to rise today to praise the dairy farmers, not to bury them. I would like to say to my good friends in the Senate that about three miles down this road if you take a right and go up on top of the hill you will find my mother's kitchen. If you look out that window you will see some of the best pasture land in the State of Maine. At one time that was the home for some of the best dairy cows in this State. As a boy I have fond memories of being under those cows and filling a few pails myself. I think it is important today to recognize first, to see what we have done to our dairy farmers. The cost of grain,

the cost of transportation, and the cost of regulation in this State, and see what it has done to this industry. However, I see this bill as an issue about taxation. It was one week ago today that our new Governor, in his speech, said that he would no longer support gimmicks nor any new taxes. When I heard those words I, and a couple of other Senators, stood up and applauded. I stand up again today because I certainly see this as a first effort of another new gimmick and another new tax. I feel I was sent here to represent the working families in my district and the working families in this State. I certainly am not going to stand up today and vote for a new tax on our working families.

This is a new Legislature and I hope a new direction for our State. This is a time to stand up and be counted. Tonight when you go home I hope that you can visit with your constituents and let them know that you did keep your promise that you were not going to vote for new taxes. Thank you.

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

Senator MILLS: Thank you Mr. President, Ladies and Gentlemen of the Senate. My understanding of this bill is that it is not a new tax at all, it is a continuation of a milk handling fee which was suspended as a result of a court decision that came down in the summer of 1994, just a few months ago. The original imposition of this fee was back in 1991, at a time when the State's fiscal crisis was much deeper than it is now. What we are trying to do is preserve an important source of revenue to the State of Maine at a time when the State and the General Fund most needs it. One of the incidental benefits of this imposition is that it will tend to even out certain fluxuations in the milk tax itself. It would be applied only when the tax is at certain levels below a set price and it increases only as the price goes downward. It is an important source of revenue. It is important for the management of the milk industry in the State of Maine. It will go into the General Fund, and continue to put an important source of revenue into the General Fund that was established three or four years ago. The debate at that time supported it. We are not here to impose a new tax and my understanding from discussions with others who have met with the gentleman on the second floor is that there is general support for this legislation from that office. We are not here to engage in any gimmickery, we are not here to play any games, we are not here to pull the wool over the eyes of the public or anything of the kind. We are simply here to try to continue an existing piece of legislation for the similar policy reasons to those that were debated back in the Legislature in 1991 when this milk handling fee was first imposed.

The experience with this tax is that it has raised something more than \$2 million a year during the past three years. Although that source of revenue used to be dedicated that is not the case with this bill, it will go into the General Fund and be available to the State of Maine to the people of Maine for distribution as they see fit. It simply goes into the General Fund. I think it is an important bill for the working people of the State of Maine. It has been debated in caucus and I think we

all know what the history is of this piece of legislation and why it is so important to the people of this State. Thank you.

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

Senator LORD: Thank you Mr. President, Ladies and Gentlemen of the Senate. I spent thirty three years looking at the underside of cow. I know what it is all about. I have seen good times and I have seen bad times, so I know what that is all about. If it wasn't for a technicality this fee would still be in place. Because of a judgement by the court it was taken off. What we are doing is correcting a technicality, that's all we're doing with this bill. Thank you.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED**, without reference to a Committee, 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.

29 Senators having voted in the affirmative and 5 Senators having voted in the negative, the bill was **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

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:

ORDERS

Senate Orders

On motion by Senator **CLEVELAND** of Androscoggin, the following Senate Order: (S.O. 12)

ORDERED, that the Senate Rules be amended by striking out all of Senate Rule 35 and inserting in its place the following:

35. No member may be absent from the Senate unless the absence is in conformity with this rule.

The President of the Senate shall excuse a member from attendance at the Senate for any of the following reasons:

A. Serious illness of the member or the member's immediate family;

B. Death of a member of the Senator's immediate family;

C. Birth or adoption of a child into the member's family;

D. Travel to and attendance away from the Senate on Senate business approved by the President of the Senate; or

E. An employment obligation for which the member can not make other reasonable arrangements.

The length of the excused absence must be for a reasonable period of time, as determined by the President of the Senate. If the member disputes the President's determination of the length of the allowable absence, the member may pose the question to the entire Senate. The length of time adopted by a majority vote of the members present carries.

As used in this rule, "immediate family" means the member's spouse or partner; parents, children or siblings of the member, spouse or partner; or the step-parents, step-children or step-siblings of the member, spouse or partner.

Which was READ.

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

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. I have presented this order today because we have changed the Senate Rules in previous sessions to not allow pairing. In an effort once again today to allow pairing, that was defeated as well. I believe, because this is a citizen's Legislature, where we encourage people who are involved in their communities, who are employed and who are active individuals, that there are times when legitimately a member will not be able to be present here. During those times there may be votes taken and some of those votes may be by roll call, which will record the actions. I believe that it is only reasonable for certain activities to be excused by the President, so it will be clear that the member in no way was taking their responsibilities lightly here, but there were legitimate reasons why they were not present. I have enumerated those here in this order.

First, that if a member is seriously ill and because of that illness cannot attend, that would be reason for the member to be excused. Also, if an immediate member of that member's family was ill they would also be excused. That if there was a death in the Senator's immediate family that would also be a reason for excuse. The birth of a child, particularly if it is the member who is giving birth, ought to be excused, or if there is an adoption in the family. If there is travel away from the Senate on Senate business, approved by the Senate, the member ought to be excused. Finally, I think that if there is an employment situation where the member cannot reasonably make alternative arrangements, particularly when our schedules change unannounced, that that ought to be considered as well. I think that those are reasonable requests. They are granted under usual kinds of employment situations and I think we ought to have the opportunity and that is why I presented this order. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator CLEVELAND of Androscoggin to PASS the Senate Order.

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.

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator CLEVELAND of Androscoggin to PASS the Senator Order, FAILED.

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

ORDERS

Senate Orders

On motion by Senator CLEVELAND of Androscoggin, the following Senate Order: (S.O. 13)

ORDERED, that the Senate Rules be amended by striking out all of Senate Rule 35 and inserting in its place the following:

35. No member may be absent from the Senate unless the absence is in conformity with this rule.

The President of the Senate shall excuse a member from attendance at the Senate for any of the following reasons:

A. Serious illness of the member or the member's immediate family;

B. Death of a member of the Senator's immediate family;

C. Birth or adoption of a child into the member's family; or

D. Travel to and attendance away from the Senate on Senate business approved by the President of the Senate.

The length of the excused absence must be for a reasonable period of time, as determined by the President of the Senate. If the member disputes the President's determination of the length of the allowable absence, the member may pose the question to the entire Senate. The length of time adopted by a majority vote of the members present carries.

As used in this rule, "immediate family" means the member's spouse or partner; parents, children or siblings of the member, spouse or partner; or the step-parents, step-children or step-siblings of the member, spouse or partner.

Which was **READ**.

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

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. This order is identical to the previous one except that I have eliminated the item which was the excuse for being away because of employment arrangements. I had understood that perhaps there was a member or two who might have objected to that particular aspect so I have presented you with another option. For the same reasons that I enumerated just a short while ago, I believe we ought to recognize that there are legitimate reasons that we ought not only to excuse, but we ought to encourage members to be with their family in time of crisis and in times when the family needs them. We ought to be able to excuse them to do so. I would hope that you would find that reasonable and I hope that you will support the motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **CLEVELAND** of Androscoggin to **PASS** the Senate Order.

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.

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator **CLEVELAND** of Androscoggin to **PASS** the Senate Order, **FAILED**.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

JOINT ORDER- relative to adjourning until Tuesday, January 17, 1995 at 10 o'clock in the morning.

S.P. 50

Comes from the House **READ** and **INDEFINITELY POSTPONED**.

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

Joint Order

The following Joint Order: H.P. 86

ORDERED, the Senate concurring, that when the House and Senate adjourn, they do so until Tuesday, January 17, 1995, at 1 o'clock in the afternoon.

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

Which was **READ** and **PASSED**, in concurrence.

Senate at Ease

Senate called to order by the President.

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

ENACTORS

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

Emergency

An Act to Extend the Reporting Date of the Committee to Study Organizational and Tax Issues in Public Schools

H.P. 59 L.D. 57

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with No Senators having voted in the negative, and 35 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.

Senate at Ease

Senate called to order by the President.

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

ORDERS

Senate Orders

On motion by Senator CLEVELAND of Androscoggin, the following Senate Order: (S.O. 15)

ORDERED, that the Senate Rules be amended by adding a new Senate Rule 45 to read:

45. One-half hour before the beginning of any regularly scheduled session, registered lobbyists may not communicate with any member of the Senate in the Senate chamber or while the Senate is in session except through the Senate chamber staff.

Which was **READ**.

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

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. I appreciate your indulgence and the opportunity to present this Order. I presented it because I think the appearances are often very important. One of the appearances that I have noted that I think occasionally happens, not by many, but unfortunately by a few, is that there are registered lobbyists in this chamber during session, communicating and talking with members while action or votes are going on. To an ordinary member of the public I think that suggests an inappropriate access, inappropriate influence, inappropriate lobbying. I think we ought to be clear that this body, when it is taking its action, is doing so, having considered all the points of view and without unreasonably having the appearance of trying to be influenced at the last moment. This simply asks that if you are going to have communications it has to be done through the Senate staff. If there is any member of the registered lobby that feels they have to say something to this member, they can ask the Senate staff member to ask the member to step out in the hallway and you can have whatever conversation it would please you to have. But while a session is going on in this chamber, the people's room, we ought to be doing it in a way that doesn't have any appearance that there is unreasonable special interest affecting our votes. Thank you.

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

Senator CARPENTER: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair to anyone, probably the Senator from Androscoggin, Senator Cleveland, to answer. Maybe it isn't as much of a question as a statement. I think that perhaps you ought to get rid of the part about the beginning of any meeting and just leave it at one half hour before regularly scheduled sessions. To determine when the beginning is, the bell might ring half an hour after the schedule says in the hall. It would be very difficult. It's just a thought. Thank you.

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

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would be happy to entertain any grammatical changes to the language if the good Senator from York would be willing to take the responsibility to members of the chamber to stay here while we get the language changed. 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 like to pose a question to anybody who wishes to answer if I may. I would like an explanation of the phrase "while the Senate is in session except through the Senate chamber staff". My question would be, is it meant that I, as a Senator, if I were contacted by a Senate chamber staff, could not go back in the chamber and talk with the lobbyist? Thank you.

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

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. The Senator from Lincoln reads the Order correctly. 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. My limited experience is such that I would find that detrimental. Not because I find the lobbyists in any way attempting to twist my arm, and I hope they don't, but I do find it beneficial in regards to knowledge and particularly data that might come before me on a particular piece of legislation. I would find it not to my advantage to have to leave the chamber and chat. I know I can certainly deny the right to the lobbyist anytime I wish to. I can simply say no, I will not do that, but it is allowed and I would leave it up to each Senator to make his or her choice. 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 note that for many years now the other body has had a rule by which registered lobbyists are not allowed in that body's chamber. Amazingly, that group of Representatives seems to be able to do the public's business without having a registered lobbyist at their elbow to confer with them. If they need information they can go into the hall. I am sure that the distinguished members of this chamber have as many skills as our colleagues in the other end and could conduct the people's business without the special interest at their elbow to guide them through the process. Thank you.

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

Senator CIANCHETTE: Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise to oppose this Order. I am a little offended that we separate out a group of citizens here that are registered lobbyists. If we are concerned about decorum in this body, and if we think there is too much distraction in the rear of the chamber, then let's have all conversations with other members of the Senate and the staff outside the chamber. I think it is an insult that because a person is a registered lobbyist, they are treated differently than any other citizen. I don't agree with it, I think it is wrong, I don't like the idea of the lobbyists coming up and tapping me on the shoulder but I have never had that happen. I don't think they do that. I think if that does happen there is a little education that can go on. I don't like to see them singled out as some kind of uncouth individual. It is our system and I just object strongly to this and I hope the members of the Senate will oppose this order. Thank you.

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

Senator LAWRENCE: Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise to disagree with my good friend from the County of Somerset, Senator Cianchette. I can always recall one of the first times I served in the Senate. We all have grade school classes come up and tour the Senate and sit in the back of the Senate. I will never forget being asked by one of those school classes, after the session, "Who were all those men and women in blue and black suits running up to talk to people?" I had to explain that they were registered lobbyists, people who got paid to influence legislation in the Senate and that was part of something that was allowable under the Senate Rules. One of the kids asked me, "Are they allowed to do that while you are voting?" The question here is the appearance. The question is not any impropriety on behalf of the lobby. This is the people's body, we have a responsibility to present an image to the public of what goes on here. To me, any lobbyist should have their work done long before session; and, if they need to talk to you during the session, then they can just send in a note through the chamber staff and say "May I see you out in the hall for a moment?" rather than creating an appearance to the public, who doesn't understand, that there is something inappropriate going on up here. I think we are all better off when we raise

the appearance of this body to a higher level. 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 also like to make it clear that the purpose of this Order is really for appearances. Appearances mean a great deal. Ordinary citizens who come here ask the kinds of questions the Senator from York, Senator Lawrence, has just illustrated to you. Not being familiar with the process or the decorum here, they somehow get the impression that there is a difference. There ought not to be any detrimental comment accepted that the registered lobby are somehow different as human beings, but yes, they are different in status. My ordinary citizens don't have the luxury of being here constantly. They are at home, raising their families, working, taking care of their obligations, and only rarely can they ever come here. But members of the registered lobby are paid to be here, so they have the opportunity and the luxury to have greater access than an ordinary citizen does, to provide an opportunity to present their point of view. Sometimes, too often, it is that last comment, that last bit of persuasion, that last piece of information that is unbalanced by any other comment provided at a public hearing by a public citizen, who has another perspective and a legitimate point of view. That's why public hearings are held. That is why we have Committees. That is why we have an opportunity for a broad range of input. This is a small sacrifice simply to ask them to preserve at least the appearance. We know that they are paid to be here, we know that they are right outside the door, we know that they will have the opportunity, but at least let's preserve the appearance, if not the reality, that every citizen has an opportunity to be heard. Unfortunately, it is not equal, because if you can't afford to pay someone to be here on your behalf then your voice is heard unequally. I think it is legitimate for people to have the opportunity to have someone here to represent their point of view, and I encourage that, but there are appropriate times and places to do that, one of them is not in this chamber. 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 and hope that you will join me in supporting the pending Order. I wholeheartedly agree with my good friend from York, Senator Lawrence, and my colleague from Androscoggin, Senator Cleveland. I think there is more to why this Order is important than what has been said about lobbyists, most everyone I respect and have learned from and, in turn, have gained valuable information. There is another part of this Order that I think is important to us. Like you, many times we have constituent work on our minds, we have mail to attend to, we have phone calls to return, and getting to our desks before the session starts to review the calendar is of utmost importance. It is distracting, it is frustrating, and sometimes it is impossible to get prepared for the business of the people of the State of Maine. I

would welcome the chance to have half an hour, uninterrupted, before the session begins. I think it is important to us as Senators, I think it is important to the people that we represent, and certainly the impression that lobbyists are influencing us is that, an impression.

Further, I think it is up to each one of us in this chamber to decide how we want to run our duties from the floor of the Senate. I know in the last session it was a rare moment when I could spend, even after we had adjourned or in between active work on the floor of the Senate, to find time, uninterrupted, to get my work done. I think it is incumbent upon all of us to have an understanding with the Senate chamber staff of how we would like our people who want to approach us to be handled. I heard from some of you who say you welcome and encourage them when we are out of session to come and approach me. Others feel if they could just get a little room to themselves to get their work done then they would have time to meet with them. So, I think for all of the reasons that my colleagues have already stated, and for some that I hope have made some sense to you, that you will support the pending order. 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. Just so I am not misunderstood, I think we should have more decorum in the Senate. I think there should be fewer conversations going on. My only point is that we should treat everybody the same. Those lobbyists are paid by citizen's groups, they are paid by those people who Senator Cleveland says can't be here. It is their voice. I think it is wrong, I think that we could have a rule that applies to everybody, not just singling out a few people. If you want to change this thing to say that any member of the public shall go through the Senate staff to approach a Senator then I would wholeheartedly support that. To say registered lobbyists, it has a connotation to it that just doesn't set well with me and I hope that it doesn't with you. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I won't beat this around too long. I think, in discussing this within our caucus, I think there is a great amount of support for the concept for this kind of a theory. However, personally I am not overly happy with the wording of this. This does not deal with any type of a session that is at the sound of the bell, for example. I think the last sentence could perhaps be worded a little clearer. My good friend, Senator Abromson from Cumberland, stated this morning that perhaps a better way to approach this is to prohibit them from contacting us in our chairs in this chamber. I think that this has the full support of our caucus but I'm not sure that this has had enough thought put into it to really make it work efficiently. Personally, I would like to see it Tabled until Tuesday. I understand the implications of that, then it would take a two-thirds vote to pass it next week. I certainly will support it at that

point but I would like to see the wording of this cleaned up a little bit. 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. If I may ask the Chair or the Secretary of the Senate a question. When is the deadline for amending or adding to the Senate Rules without having to have a two-thirds majority? Thank you.

THE PRESIDENT: The Chair would answer in reply to the question of the Senator from Kennebec, that it is Monday. The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Because there is an amendment pending I would like to make the motion to Table this until later in today's session. Thank you.

THE PRESIDENT: The Chair would announce that the motion is out of order because the Senator from Aroostook, Senator Kieffer, debated the tabling motion prior to making that motion.

Senator **CIANCHETTE** of Somerset moved to Table 1 Legislative Day, pending **PASSAGE**.

On motion by Senator **HARRIMAN** 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:

ENACTORS

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

Emergency

An Act to Continue the Fee on the Handling of Milk
H.P. 10 L.D. 4

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. While I voted against this earlier, I did not take the opportunity to speak on the floor. I wanted to let you know why I will be voting against the enactment of this emergency legislation. Men and women of the Senate, it is important to realize the action that we take today guarantees no protection. The action that this body takes, if it were to vote for this and enact it, would just be a tax to go into the General Fund. It

has been debated, and it is a question of semantics, whether or not this is a tax, is it a tax or is it a new fee? The court said that the current fee was not appropriate and was disallowed. My understanding of that would be if there had been a fee that had been disallowed then any revitalization of such fee/tax would be a new fee/tax. I have a number of friends who are in the dairy industry and I can state unequivocally that the members of that industry, the hard working families of the State of Maine that raise cows and milk cows, spend a lot of time and energy for very little remuneration. They are the backbone of our great State. Working the land because they love the land and they love what they do. Men and women of the Senate, the bill in front of us today does not address their hard work, does not insure that the fifty or sixty farms that have been discussed as maybe not being able to weather this winter, does not guarantee that they will be here next fall. This doesn't guarantee it. From where I stand, why would we be passing any new fees, or new tax, for a policy reason that we are not sure is going to be implemented? The clarity is missing on this issue. In our caucus we discussed various options. Yes, I would support an appropriation for the dairy farmers in our State if the price of milk were to drop. But will I be supporting this new tax, this new fee? No, I will not and I would urge the other members of this body to vote with me. Thank you.

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise in support of my good friend from Oxford, Senator Hanley. I, too, believe that it is time for the State to put its financial house in order and for us to stop using fees and gimmicks and other tactics to restore financial integrity to the State of Maine. We are led to believe that this is to fix a technicality that occurred by a court decision. Back in August, when this happened, we were told we could expect to see the price of a gallon of milk drop, in some instances I saw, sixteen cents. You know what? The price of milk has not gone down sixteen cents. So where is the money? Is the dairy farmer getting it? I don't think so. We pass this law, appropriate this money, but what assurance does anyone have that this money will be redirected to where our public policy feels it is best served? I remember a time in this very chamber when we said we were going to pass a loon license plate bill to help the Department of Conservation, and help our State Parks get ahead. You know what happened? They never got the money. We passed another law that raised a tax on nursing homes, on private-pay people in nursing homes, and do you know what we were going to do with that money? We were going to use it to draw down more money out of Washington. Washington said, "We're not falling for that gimmick." Did we repeal the tax on private-pay patients in nursing homes? No, we redirected it to support education. I can't, in good conscience, stand up here and support a measure that is indeed raising a tax with no assurance that it is going to get in the direction that you and I feel that it should. For those reasons, I hope that you will join me in objecting to the pending motion. Thank you.

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

Senator **LORD:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The reason why the court struck it down was because of the fact it wasn't a tax, it was the method of the way the fee was being distributed. Three percent of the milk that Cumberland Farms sells in the State comes from out of State. Those farmers were not getting any of the money. They said that interfered with interstate commerce. That is the reason for the technicality. It wasn't the tax itself, it was the method of distribution. Thank you.

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

Senator **MILLS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The Senator from Oxford, Senator Hanley, and the Senator from Cumberland, Senator Harriman, are both correct. There is no guarantee with any of the revenue raised by this handling fee, that it will find its way into the hands of farmers in the dairy industry. In fact, they know full well that if we passed a bill that did that, the bill would be the same as the act from 1991 that was found to be unconstitutional. Before we vote on this I would like to make it clear for this record and this body that this bill does not provide assistance to the State's dairy farmers in any way and that the funds for this bill are, indeed, not dedicated to the needs of the dairy industry. The ad hoc dairy committee does plan to work on legislation that would provide assistance to the State's dairy industries. As I understand the court's decision, there cannot be any linkage, and there should not be any linkage, between the collection of the revenue that we are going to vote on now and any program of assistance to the State's dairy industry. I think if we don't pass this revenue measure, if the State's General Fund does not have available to it the revenue that is generated by the continuation of this fee, then I think the people who spoke against this measure know full well that it will be very difficult for this State, or this legislature, acting later, to do anything for the farmers of this State. This is an important source of revenue to the General Fund and whether the people who have spoken on this issue will have a chance, later in this session, to see how they stand on helping out members of the dairy industry, in a separate piece of legislation that will not in any way be linked to the one that we are voting on this afternoon. Thank you.

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

Senator **PINGREE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As the good Senator from Somerset, Senator Mills, has said, there is no guarantee that this money will do exactly what we hope it will do. I think that it is important to make it available in the General Fund and I would like to speak briefly to the needs of our State's dairy farmers. I, like many of you, represent many dairy farmers. Like the good Senator has said, I have actually spent some time myself milking cows and I know how difficult it is for the dairy farmers in

my district to make sure that they are making a living. In the last ten years Maine has lost 50% of its dairy farmers and we are held hostage to milk price controls that are set federally. We are in a very difficult position trying to compete with states like Wisconsin, Minnesota, Florida, and California. We are just not able to compete in today's market. I think that it is important that we find some way to support our State's dairy farmers. Many of the people who appeared in front of the Agriculture Committee when I served on that Committee were making very small subsidies from our previous vander fees, but it was enough to keep them in business. A lot of our State's farmers are in a good position if they are able to take home \$10,000 at the end of the year, so we are not talking about subsidizing a big industry. Often, in the State of Maine, we come to the rescue of our businesses and industries, and I understand that that is important for job creation and economic development. I think that again, we are dealing with an issue of economic development in our State and just because it is not one, single business where we can all say that tomorrow we are going to lose 500 jobs, it is hard for us to focus on what the future needs may be. The fact is, we are talking about very many hard working people who need our support. I urge you to support this measure. Thank you.

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

Senator HATHAWAY: Thank you Mr. President, Ladies and Gentlemen of the Senate. It amazes me how many different words we can use here today instead of using the word tax. No matter how hard we try, this is still a tax. I think it is time that we support the working families of this State, I think the time to start that is right now, and when it comes time for a vote I request a Roll Call vote please. Thank you.

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

On motion by Senator **KIEFFER** of Aroostook, Tabled until later in today's session, pending **ENACTMENT**.

Senate at Ease

Senate called to order by the President.

On motion by Senator **KIEFFER** of Aroostook, the Senate removed from the Table the following:

An Act to Continue the Fee on the Handling of Milk (Emergency)

H.P. 10 L.D 4

Tabled - earlier in the day, by Senator **KIEFFER** of Aroostook

Pending - **ENACTMENT** (Roll Call ordered)

(In House, January 12, 1995, **PASSED TO BE ENACTED**.)

(In Senate, January 12, 1995, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

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: **ABROMSON, BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, KIEFFER, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS**

NAYS: Senators: **AMERO, BERUBE, BUSTIN, ESTY, HANLEY, HARRIMAN, HATHAWAY, LAWRENCE,** and the **PRESIDENT,** Senator **BUTLAND**

CHANGED: Senator: **BUSTIN** from **NAY** to **YEA**

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 8 Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, 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

Senate at Ease

Senate called to order by the President.

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

Senate Order - relative to amending the Senate Rules by adding a new Senate Rule 45.
S.O. 15

Tabled - earlier in the day, by Senator HARRIMAN of Cumberland

Pending - PASSAGE

(In Senate, January 12, 1995, READ.)

On motion by Senator CLEVELAND of Androscoggin, Tabled Unassigned, pending PASSAGE.

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

ORDERS

Senate Orders

On motion by Senator HARRIMAN of Cumberland, the following Senate Order: (S.O. 16)

ORDERED, that the Senate Rules be amended by adding a new Senate Rule 45 to read:

45. At no time may a registered lobbyist be at the desk of any member. A registered lobbyist may not directly communicate with any member in the Senate chamber while the Senate is in order, but may send a note to a member through the Senate chamber staff requesting that the member meet with the lobbyist outside the chamber.

Which was READ.

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

Senator HARRIMAN: Thank you Mr. President, Ladies and Gentlemen of the Senate. This Order seeks to clarify once and for all at what times people are able to approach us. The thought that went around the chamber earlier today, and the conversations in the hallway centered around at what time are we in session or not in session? What's thirty minutes before? What if we adjourn to the sound of the bell? So the thought that I present before you today is to say that when you are at your desk, doing your work, you are not to be approached. When we are in session, if someone needs to lobby you, then through a communication sent through the Sergeant-at-Arms, you can be asked to step outside of the chamber to carry on those discussions. I hope this meets with your approval and I thank you for the time. Thank you.

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

Senator RUHLIN: Thank you Mr. President, Ladies and Gentlemen of the Senate. I have a question. As I read this particular Order it seems to say to me, if I am standing within the chamber at any point, and the lobbyist happens to be standing behind me, and we are in order, that for that lobbyist to ask me to go outside so they can talk to me they are going to have to go and get one of the staff members to hand me a note. Is that correct? Thank you.

THE PRESIDENT: The Senator from Penobscot, Senator Ruhlin, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator HARRIMAN: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would agree with my good friend, Senator Ruhlin, that that is indeed how I would interpret that as well. 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. The Order, again, seems to be like many of the things that come out to us in referendum, having two things in it, one of which I might agree with and the other I don't agree with, so I'm caught in a bind again of simply saying how do I vote on one issue. I agree wholeheartedly with the idea of a Senator being able to be at his desk without being disturbed. I disagree, again, with the idea that I, as a Senator, must leave the chamber in order to converse with the lobbyists for the very fact that while we are in the chamber I am still conscious of what is going on. That may be to my advantage or disadvantage, but if I'm out of it then I'm not sure. I am caught in one of those things that I have argued so many times with in referendum, when you have two items on it, one that I agree with and one that I disagree with, how do I vote. I simply will say to you, because of the last statement, I will vote against this. Thank you.

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

Senator CIANCHETTE: Thank you Mr. President, Ladies and Gentlemen of the Senate. I will be brief. I find this as objectionable as I did the first one. We have work to do here; and at times I may want to talk to a registered lobbyist while there is debate going on in this chamber; and I suggest that perhaps you will too, if that is my choice and I will have to go outside the chamber while the debate is going on, then I won't know what is going on in here. I would like not to have that rule. I would like to be able to conduct myself in a fashion that I think is appropriate to this body and this chamber and the decorum here. I think if a lobbyist gets out of hand, it would be a new lobbyist I expect, and a statement from the President, or a simple statement from the Sergeant-at-Arms or a floor leader, or any Senator, saying "Look, you're pushing your luck, don't bother me right now, I'm busy. I will talk to you after the session." That is my decision to make, but if I want to talk to someone in this chamber while the debate is going on, I don't want to have a rule saying I have got to get out of this chamber to

conduct my business if I choose to do it and if I am within appropriate decorum of the Senate. I strongly oppose this and I would ask other members to oppose it as well. 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 have tried to present a concept today that I think is in the best interest of the work we do here. I have tried to be conciliatory and have tried to find means of compromise. I support this as a reasonable alternative. I supported the previous alternative as well. I find it curious that this small change seems to be, for some members, such a potential inconvenience. There are speakers in the President's Office. The Majority Office and the Minority Office are well equipped with speakers. They are only a few steps from this chamber. People can be fully aware of what is going on if they choose to use those facilities and prefer not to use the hallway. This is easily remedied. Much has been tried to make it convenient for us and to allow us both to be away from the chamber at times when lengthy debates are going on and still stay informed to conduct business. We are simply asking that individuals who are here as special interest lobbyists, though they have valuable information, work with us in choosing an appropriate time and an appropriate location for those discussions so that the business that takes place in this chamber can be done in a proper decorum for others who are here as members of the public. It seems to me that that small request is not such a huge inconvenience. I really find it very difficult to understand that argument. Thank you.

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

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I can understand the good Senator from Androscoggin, Senator Cleveland's, confusion on that. Let me try to help him clear it up from my point of view. I have been here a few years and I have always stood up, I think you will find on the Record, in favor of the lobbyists. It seems to me that every single session we find some way to malign lobbyists. I have found them, from the very inception, to be very helpful to me in learning about the issues and in sifting through what they are saying, one lobbyist against another lobbyist, as to what my stand should or shouldn't be on an issue if I haven't come to a decision on that issue myself. There are many times, as you will find out as your debates go on and we get closer to June, that it becomes even more intense and there is very little time, with your Committee work and everything else that you do, for you to get all of the information that you need on bills that may not be handled in your Committee, may not be bills that you are interested in or that you have proposed yourself. So you have to gear up real fast in order to find out which side you should be on on those issues. Sure, in the best of all possible worlds you would expect that a lobbyist would have gotten to you and given you their side of the issue so you would have that before the vote was ever taken. Unfortunately, this is a world where nothing is perfect, unless of course

it is me, and I was told long ago by my children that I wasn't, so I assume then that nothing is perfect in this world. If that is true then we have to make an assumption that things are going to go wrong and that you are going to need information and you are going to need it immediately. So that is why I have always appreciated being able to look in the back of the room and seeing if the lobbyist that I know is on that issue is there so that I can ask them something. Further than that, I believe it is the prerogative of the President to maintain the decorum in the Senate chamber and that you have an incredible amount of leeway in doing that, so that you can order whatever you decide is in the best interest of decorum for the Senate. It may very well be this particular issue.

The last thing I would say is, you may not believe this, but some lobbyists are indeed my friends. Some lobbyists, when I talk with them, I may be saying to them, "Gee, can I use your casserole dish for my dinner party that I am giving Saturday night?" Or the other way around, or "How is your granddaughter doing? Mine is doing just great. She started walking last week." Are we going to make a determination as to when I am speaking to that lobbyist as whether I am speaking to them as a private citizen or as a registered lobbyist. You get into all kinds of things when you begin trying to play the control game. I have not found it to be a real problem. I don't know if others have found it to be a real problem. If they have, then that has not been conveyed to me as something that has destroyed the decorum of the Senate. With that, I will tell you that I oppose this. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HARRIMAN** of Cumberland to **PASS** the Senate Order.

The Chair ordered a Division.

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

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

17 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the motion by Senator **HARRIMAN** of Cumberland to **PASS** the Senate Order, **PREVAILED**.

On motion by Senator **CLEVELAND** of Androscoggin, the Senate removed from the Unassigned Table the following:

Senate Order - relative to amending the Senate Rules by adding a new Senate Rule 45
S.O. 15

Tabled - earlier in the day, by Senator **CLEVELAND** of Androscoggin

Pending - **PASSAGE**

(In Senate, January 12, 1995, **READ.**)

On motion by Senator **CLEVELAND** of Androscoggin,
the Senate Order **INDEFINITELY POSTPONED.**

Off Record Remarks

Senator **KIEFFER** of Aroostook was granted
unanimous consent to address the Senate off the
Record.

The **ADJOURNMENT ORDER** having been **READ** and
PASSED, in concurrence, on motion by Senator **PARADIS**
of Aroostook, **ADJOURNED** until Tuesday, January 17,
1995, at 1 o'clock in the afternoon.