

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 2, 1995 to June 16, 1995

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

In Senate Chamber
Tuesday
May 2, 1995

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

Prayer by the Honorable Edwin C. Randall of the Greenville Congregational Church in Norwich, Connecticut.

HONORABLE EDWIN C. RANDALL: If we might be in a spirit of prayer. Oh Great Creator, God, be with us and sustain us this day as we would come before you in this time of quiet. Might we be renourished and restrengthened as we would remember and recollect upon the experiences which we have encountered in this place, this place of the people of Maine. We are the people of Maine and we enjoy that. We raise this prayer in the name of your Son, our Saviour, Jesus Christ. Amen.

Pledge of Allegiance led by **SENATOR LAWRENCE** of York.

Reading of the Journal of Thursday, April 27, 1995.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

HOUSE REPORTS from the Committee on **HUMAN RESOURCES** on Bill "An Act Relating to the Maine Health Program" (Emergency)

H.P. 271 L.D. 373

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-15). (7 members)

Minority - Ought Not to Pass. (5 members)

In House, March 28, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-15).

In Senate, April 6, 1995, PASSED TO BE ENGROSSED, in NON-CONCURRENCE.

Comes from the House, that Body having ADHERED.

Senator **KIEFFER** of Aroostook moved that the Senate ADHERE.

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

Senator **LAWRENCE:** Thank you Mr. President. I hope you will oppose the motion to Adhere and would ask for a Division.

Senator **LAWRENCE** of York requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **KIEFFER** of York that the Senate ADHERE.

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.

16 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **KIEFFER** of Aroostook to ADHERE, PREVAILED.

The Secretary informed the Clerk of the House.

COMMUNICATIONS

The Following Communication: S.P. 540

117TH MAINE LEGISLATURE

April 27, 1995

Senator S. Peter Mills
Representative Sharon Treat
Chairpersons
Joint Standing Committee on Judiciary
117th Legislature
Augusta, Maine 04333

Dear Senator Mills and Representative Treat:

Please be advised that Governor Angus S. King, Jr. has nominated the Honorable Susan W. Calkins of Portland for appointment as Justice of the Maine Superior Court.

Pursuant to the Constitution, Article V, Part 1, Section 8, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

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

Sent down for concurrence.

The Following Communication: S.C. 146

**THE SENATE OF MAINE
OFFICE OF THE PRESIDENT**

May 1, 1995

The Honorable May M. Ross
Secretary of the Senate
State House Station #3
Augusta, ME 04333

Dear Madam Secretary:

Please be advised that I have assigned Sen. Mark Lawrence as a temporary replacement for Sen. Georgette Berube on the Joint Standing Committee on Appropriations and Financial Affairs. This assignment will be in force until Sen. Berube has returned to the Senate and is capable of performing her duties.

Sincerely,

S/Jeffrey H. Butland
President of the Senate

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

SENATE PAPERS

Bill "An Act to Authorize Participation by the Public Advocate in a Regulatory Proceeding Concerning the Residual Market Mechanism for Workers' Compensation"

S.P. 532 L.D. 1470

Presented by Senator **CARPENTER** of York
Cosponsored by Representative **TAYLOR** of
Cumberland and Representative: **MITCHELL** of
Vassalboro

Submitted by the Office of Public Advocate
pursuant to Joint Rule 24.

Bill "An Act to Promote Efficiency by Health
Insurers of Maine"

S.P. 537 L.D. 1475

Presented by Senator **PINGREE** of Knox
Cosponsored by Senators: **BUSTIN** of Kennebec,
LAWRENCE of York, **PARADIS** of Aroostook,
Representatives: **GATES** of Rockport, **SHIAH** of
Bowdoinham

Bill "An Act to Provide for the Creation of a
Health Insurance Purchasing Cooperative"

S.P. 539 L.D. 1477

Presented by Senator **MCCORMICK** of Kennebec

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

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

Sent down for concurrence.

Bill "An Act to Require That Physicians Providing
Services from Another State to Patients Located in
Maine Be Licensed by the State"

S.P. 534 L.D. 1472

Presented by Senator **PENDEXTER** of Cumberland
Cosponsored by Senators: **CARPENTER** of York,
HARRIMAN of Cumberland, Representatives: **DONNELLY**
of Presque Isle, **REED** of Dexter

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 Protect the Rights of Children
Who Have Been Victims of Sexual Abuse"

S.P. 533 L.D. 1471

Presented by Senator **AMERO** of Cumberland
Cosponsored by Senators: **ABROMSON** of Cumberland,
LONGLEY of Waldo, **MILLS** of Somerset, **PENDEXTER** of
Cumberland, **RAND** of Cumberland, Representatives:
MARVIN of Cape Elizabeth, **RICHARDSON** of Portland

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

Bill "An Act to Amend the Laws Relating to Education"

S.P. 542 L.D. 1479

Presented by Senator **SMALL** of Sagadahoc
Cosponsored by Senator: **ESTY, JR.** of Cumberland,
Representatives: **AULT** of Wayne, **STEVENS** of Orono

Submitted by the Department of Education pursuant to Joint Rule 24.

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 Limit the Liability of Property Owners in Cases of Nonnegligent Lead Poisoning"

S.P. 528 L.D. 1445

Presented by Senator **BERUBE** of Androscoggin
Cosponsored by Representative: **DAGGETT** of Augusta

Bill "An Act to Reconcile Rights and Responsibilities with Respect to Sexual Orientation and Related Matters"

S.P. 531 L.D. 1448

Presented by Senator **BERUBE** of Androscoggin

Bill "An Act to Establish the Maine Judicial Compensation Commission"

S.P. 536 L.D. 1474

Presented by Senator **CIANCHETTE** of Somerset
Cosponsored by Representative **DIPIETRO** of South Portland and Senators: **ABROMSON** of Cumberland, **AMERO** of Cumberland, **BEGLEY** of Lincoln, **BUSTIN** of Kennebec, **BUTLAND** of Cumberland, **CAREY** of Kennebec, **CARPENTER** of York, **CASSIDY** of Washington, **CLEVELAND** of Androscoggin, **FAIRCLOTH** of Penobscot, **FERGUSON, JR.** of Oxford, **HARRIMAN** of Cumberland, **KIEFFER** of Aroostook, **LAWRENCE** of York, **LONGLEY** of Waldo, **LORD** of York, **MICHAUD** of Penobscot, **MILLS** of Somerset, **O'DEA** of Penobscot, **PARADIS** of Aroostook, **PINGREE** of Knox, **RAND** of

Cumberland, **RUHLIN** of Penobscot, **STEVENS, JR.** of Androscoggin, Representatives: **AIKMAN** of Poland, **AULT** of Wayne, **CAMERON** of Rumford, **CAMPBELL** of Holden, **FARNUM** of South Berwick, **FISHER** of Brewer, **GWADOSKY** of Fairfield, **KEANE** of Old Town, **LEMONT** of Kittery, **LIBBY** of Kennebunk, **MORRISON** of Bangor, **REED** of Dexter, **SIMONEAU** of Thomaston, **VIGUE** of Winslow, **YACKOBITZ** of Hermon

Submitted by the Judicial Department pursuant to Joint Rule 24.

Reference to the Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.

Which were referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Establish the Employee Partnership Reward Act"

S.P. 538 L.D. 1476

Presented by Senator **PINGREE** of Knox
Cosponsored by Senators: **FAIRCLOTH** of Penobscot, **LAWRENCE** of York, **PARADIS** of Aroostook,
Representatives: **GATES** of Rockport, **SHIAH** of Bowdoinham

Bill "An Act to Create a Special Accidental Death Benefit for the Surviving Family Members of Law Enforcement Officers Killed in the Line of Duty"

S.P. 541 L.D. 1478

Presented by Senator **CAREY** of Kennebec
Cosponsored by Senators: **HALL** of Piscataquis, **RUHLIN** of Penobscot, Representatives: **CROSS** of Dover-Foxcroft, **REED** of Dexter

Reference to the Committee on **LABOR** suggested and **ORDERED PRINTED**.

Which were referred to the Committee on **LABOR** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act Promoting Bicycle Safety for Children and Adolescents"

S.P. 529 L.D. 1446

Presented by Senator **PENDEXTER** of Cumberland (By Request)
Cosponsored by Senator: **FAIRCLOTH** of Penobscot

Reference to the Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

Bill "An Act to Create the Hebron Village Water District" (Emergency)

S.P. 530 L.D. 1447

Presented by Senator **HANLEY** of Oxford
Cosponsored by Representatives: **BIRNEY** of Paris,
UNDERWOOD of Oxford

Bill "An Act to Establish the State Telecommunications Network Coordination Commission"

S.P. 535 L.D. 1473

Presented by Senator **BUSTIN** of Kennebec
Cosponsored by Senators: **BUTLAND** of Cumberland,
CIANCHETTE of Somerset, **RAND** of Cumberland,
Representatives: **JACQUES** of Waterville, **KONTOS** of
Windham, **MITCHELL** of Vassalboro, **MITCHELL** of
Portland

Reference to the Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

always used to confer with other Senators and say that on Welcome Back Day, and I see former-Senator Ed Erwin in the back, and I would always say "You know Ed, when we get back there, we are probably going to have to kick the kids out of the seats that we used to sit in and tell them that they are sitting in our seats." It's really the people's seats and we are really here to do the people's work. I just want you to know, that as a former State Senator, you are really working hard, you are trying to do the best that you can do, but the most important thing is to try to remember that before the party is the people. I know all of you are drawn in that fashion also, because that is the record and the test of time. I really appreciate the Senator asking me to come up and to say a few words, and I want to congratulate him on being the presiding officer and I want to congratulate all of you, for being here and representing people. I wish you all the best. It is nice to be here. Thank you very much.

Off Record Remarks

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

On motion by Senator **LAWRENCE** of York, **RECESSED** until 11 o'clock in the morning.

After Recess

Senate called to order by the President.

Off Record Remarks

THE PRESIDENT: The Chair is pleased to recognize, in the rear of the Chamber, the Honorable John Baldacci, who served for many terms in the State Senate and is now representing the Second District in the U.S. Congress. The Chair would invite Congressman Baldacci to the podium to make brief remarks to the Maine State Senate.

CONGRESSMAN JOHN BALDACC: I really appreciate the opportunity, having been here in the State Senate for twelve years, and never having served in the other body, this really is like coming home. I

THE PRESIDENT: It has been a tradition in the State Senate to invite the former presiding officers to podium to make some brief remarks. I believe we have four former presiding officers here today. I will list them, and they can approach the rostrum together. They are Governor Burton Cross, who was in the 92nd, 93rd, 94th and 95th Senate, and he was also the President during the 94th and 95th; Senator Joseph Campbell, who was the President during the 103rd Session of the Maine State Legislature; former-Senator Kenneth MacLeod, who presided over the

104th, 105th and 106th Legislatures; and former-Senator Gerard Conley, Sr., who presided over the 111th Session of the State Senate. Would the Sergeant-at-Arms please escort them to the podium where they make brief remarks to the State Senate.

Off Record Remarks

THE PRESIDENT: We will begin by hearing from former-Governor Burton M. Cross.

HONORABLE BUTON M. CROSS: Thank you Mr. President. I must agree I have never seen so receptive an audience, or so many of them, in this Senate Chamber. It gives me a privilege of talking to all of these students, and encouraging them to think about public life, as I did, and so many of the others here. I just told the House this morning that fifty-five years ago I was a member of the House. They paid the magnificent sum of \$250 for the entire Session, with no fringe benefits of any kind, and you were on your own, but people competed for it because it was an honor. I spent no money, just shaking hands to get to the House, and later to this august body. It is always a great privilege to breathe the air over here. I think, somehow, it seems more rarefied than the House. I'm not asking for a quorum call, Mr. President, I guess you have a quorum here. There seem to be some vacant seats.

I think you should examine this very carefully, I looked up my budget from 1953, and the Legislature's budget was just under a quarter of a million dollars. Now, today, it is around \$15 million or \$16 million. People who served, served for nothing. The staff were all part-time, and somehow, we seemed to pass some very good common-sense legislation. Today you have got a field of experts downstairs in the Legal Division, who flames up your bills. I'll give you my quote to the Appropriations Committee some years ago, when they were hearing a forty-page bill. I said, "Gentlemen, I shouldn't be taking your time here, this bill stinks. But, never-the-less, if you are going to have a hearing, ignore the first twenty-five pages, they are nothing but legislative garbage." That was what the people put together, the justification for the bill which should have been in the end, in the Statement of Fact, twenty-five pages to tell you why that bill ought to be passed. I want to give that as an example. I still say the bills are too complicated. You have to have lawyers to interpret them, and of course that is good for the lobbyists.

I shouldn't take the time, Mr. President, but I do want to tell this young set here that they should take an interest because it is their State, and it is their Legislature, and some of them should hope to be members of it because they are inheriting a tremendous debt here in this State, and in Washington, that I don't think will ever be re-paid.

You have over \$3 billion, as I told the House, in bonds, not a direct obligation to the State, but a moral obligation and all of its various authorities. You also have about three-quarters of a billion of bonds outstanding, authorized but unissued or guaranteed. I told the House this morning that the debt service on your budget is almost equal to my total budget in 1953. Think it over a little bit.

It is a pleasure to be here, gentlemen, I know you are all looking forward to the buffet lunch. I am not going to bore you anymore. Some of you were over in the House and heard some of the cold, hard facts. I would like to just read you the Executive Order that I put out when I first came, as Governor. I recommended it to Governor King this morning. It was number one, I inherited it from Governor Payne. So, I didn't father that one, but I endorsed it. It was that all Department heads hold back 5% of their appropriation until such time as the last quarter might be reviewed to evaluate whether or not it was necessary to spend it all. Number two said all Department heads would be held personally liable if they exceeded their appropriation, they didn't exceed it that year. I also set up a half a million dollars for emergencies. I also said no additional vacancies or new positions would be filled without the review from the Governor's Office. We ran a tight ship, and I recommend it to you.

Thank you very much. I told the House that I thanked them for listening to the Ghost of the Past, and to say farewell, because I doubt if I will see you again. At 92 I think this is my swan song. Thank you and farewell.

The Sergeant-At-Arms escorted the **HONORABLE BURTON M. CROSS** from the Rostrum. (Amid applause, the Members rising.)

Off Record Remarks

THE PRESIDENT: It my pleasure to introduce at this time the Honorable Ken MacLeod.

HONORABLE KEN MacLEOD: Thank you Mr. President. It is a pleasure for me to return every two years and have a chance to say a few words to you Senators, and whoever may be in the audience. It is an awful temptation to abuse the hospitality of having the microphone, but I certainly wouldn't want to talk to you about L.D. 584, which is being heard this afternoon. Senator Pendexter and Senator Bustin are sponsoring this bill which can repeal some action you took last year, which is very, very fine anti-discriminatory pricing on drugs. But, I won't abuse my hospitality to the Chair by mentioning that bill to you.

One point I would like to make is that it is easy to vote by what you think a majority of your constituents want you to. I think it is more

important that you vote for what you think is best for the people of the State of Maine, and hopefully that will also be good for your district and the people you represent. We never took polls back in the old days, when Gerry and I were here, we just did what we felt, we hoped, was best for the people of the State. I hope that in District 26, which was my district back then, that those people wouldn't be hurt by what we did here in Augusta. I think it is very important that you vote for all the people, and not just for your own. Thank you very much. It was good to be here.

THE PRESIDENT: It is now my honor to present to you the Honorable Gerard Conley, Sr.

HONORABLE GERARD CONLEY, SR.: Thank you Mr. President. I was thinking, as I was driving up here today with another former colleague of mine, Senator Kellam, who became Judge Kellam, of the many days that I spent during my lifetime here at the State Capitol. When I arrived here, in 1965, I came into the other body as a member of the Majority Party. I remember the news at that time was that it was the first time in umpteen years that the Democrats had taken control of both the House and the Senate. I thought what a marvelous thing that was. I stayed in the House for another term and then, thanks to the United States Supreme Court, and the great Warren Court that made the decision that trees and dogs and cats and cows don't vote, that the one man one vote decision was passed, and that people had the right to vote, I decided that I would take a shot at coming up here to the House of Bankers. The only thing was, when I got here we came right into the Minority again. I spent the next fourteen years in this body as a Minority member. But I have to say this, in all fairness to the presiding officers during that period of time, they treated, not only me and my co-hort the assistant floor leader, but all of the Democrats as though they were members of the Majority Party. I can honestly say that and I always felt good about that. During my last two years in this body, we became a Majority Party again. So, in twenty years there were only four years that I served in the Majority Party. In my last two years, as presiding officer of this body, I can recall so vividly, coming to this podium day after day after day, listening to the debates that took place, and I was biting the side of my chin most of the time, wishing I was down there in the pit, being able to offer my two-cents worth, because I enjoyed it so many times over the years.

I had the pleasure of serving with great people, particularly from Portland. At one time Ron Kellam and Kitty Carswell and I were the three Portland Senators. After that Ron left and Joe Brennan came in and Phil Merrill came in and Mary Najal came in. We have representing the peninsula in the best of fashion today Senator Anne Rand, who keeps up that great tradition. I just want to give a word of advice to my party, who is now the Minority. I enjoyed being in the Minority far more than I ever did the Majority. I truly mean that, because you don't have to be responsible, the Majority party must

be responsible. It's your role to push them right to the edge. In closing I will just say one word of advice, keep up the great job, you do your task well. The sun always sets, but it always rises, and I'm sure one day I'll be back here and I'll see a new Majority too. Thank you very much, Mr. President, for inviting me here today.

Off Record Remarks

On motion by Senator KIEFFER of Aroostook, **RECESSED** until 5 o'clock in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment has preference in the Orders of the Day and continues with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the following Tabled and Specially Assigned (April 27, 1995) matter:

Bill "An Act to Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1995" (EMERGENCY)

H.P. 1001 L.D. 1412

Pending Motion - Motion by Senator KIEFFER of Aroostook to Reconsider **PASSAGE TO BE ENGROSSED**. (Roll Call Ordered)

(PURSUANT TO JOINT RULE 12, SENATE FAILED TO EXTEND SESSION.)

(In House, April 27, 1995, under suspension of the Rules, **PASSED TO BE ENGROSSED**, without reference to a Committee.)

(In Senate, April 27, 1995, under suspension of the Rules, **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.)

THE PRESIDENT: The pending question before the Senate is the motion by Senator **KIEFFER** of Aroostook that the Senate **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENGROSSED, WITHOUT REFERENCE TO A COMMITTEE**, in concurrence. A Roll Call had commenced.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will continue the Roll.

ROLL CALL

YEAS: Senators: **BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, CIANCHETTE, ESTY, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, KIEFFER, LAWRENCE, LORD, MICHAUD, PARADIS, PENDEXTER, PINGREE, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BUSTIN, FAIRCLOTH, LONGLEY, McCORMICK, O'DEA, RAND**

ABSENT: Senators: **CLEVELAND, HATHAWAY, MILLS**

EXCUSED: Senator: **BERUBE**

25 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 3 Senators being absent and 1 Senator having been excused, the motion by Senator **KIEFFER** of Aroostook to **RECONSIDER** whereby this Bill was **PASSED TO BE ENGROSSED WITHOUT REFERENCE TO A COMMITTEE**, in concurrence, **PREVAILED**.

On motion by Senator **HANLEY** of Oxford, Senate Amendment "C" (S-102) **READ**.

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. The amendment before you received a twelve to one report out of the Appropriations Committee. That was only after the hard work of the members of the Committee, the Governor's staff, and the Attorney General's Office, over the course of the weekend and all day Monday. In fact, I have a letter from the Attorney General which memorializes the comment he made, along with Assistant Attorney General Tom Warren, to questions that were posed by members of the Appropriations Committee, and in follow-up to the letter that had been sent by the Senator from Androscoggin, Senator Cleveland. The Attorney General has reviewed the

language proposed in Senate Amendment "C" and has given this amendment his endorsement as to its constitutionality. If I could direct your attention on two of the changes that are included in this amendment. First, as most of you are well aware, last Thursday when we broke one of the concerns was the granting to the Governor the authority to enact legislation by the Legislature's inaction, and to make those statutory changes absent a positive vote of the Legislature. The proposal, in D4, now expands the Governor's current curtailment allotment authority contained in Title 5, section 1668. The expansion of this curtailment authority has been limited in some instances. First, or rather currently, the Governor's curtailment allotment authority can only be invoked if the revenues coming into the State do not meet the allocations and the appropriations which stem from those revenues. The language in front of you, in Senate Amendment "C", will expand the Governor's authority to curtail allotments when, and if, the Legislature does not enact the legislative proposals that have been put forth by the Productivity Task Force and endorsed by the Governor. To cut to the chase, if the Governor's proposal is not adopted by the Legislature within the time period specified, the Governor will now turn to his authority to curtail allotments. This authority to curtail allotments would now be able to be used if the \$45.3 of savings in the appropriations is not reached. That authority has been used by Governors in the past when revenues have not kept up with expenditures. Members of the Appropriations Committee and members of the Republican Caucus were very concerned with the initial proposal that this curtailment authority could be used, as it had been used in past administrations, to curtail the payments to our local school districts. Through the curtailment of allotments for the general purpose aid to education, and also to curtail allotments for municipal revenue sharing. The amendment before you specifically exempts the Governor from curtailing those allotments. Members of the Committee thought it was very important for those municipalities, those school districts, who have already crafted their budgets, who are outside of the general appropriation process and the general budgeting process of the State, and are on their own budgeting, that it would not be fair to them, who have crafted a budget and are relying on X number of dollars, and then halfway through the school year have us say we are going to curtail the allotment of their November GPA payment. So the language in D4, which specifically exempts that, and that is in paragraph 3 of D4, gives some protections to our local property taxpayers.

While we are on paragraph 3, it has been brought to my attention that there is some concern from some members of the Senate as to how the first sentence is going to be interpreted. I will read it. Once that legislation has been submitted to the Office of the Revisors of Statutes, that's when the clock starts to tick. In our discussions with members of the Appropriations Committee, and with the Revisor of Statutes Office, we envision that to operate identical to the way the Governor's part two budget was addressed. The Governor's part two budget, for those of you who aren't aware, wasn't put out on the statutorily required date, or would not have been out of the Revisor's Office, so we were given a copy of the proposed legislation for our review. The

previous language that had been proposed was "once convened". That would be very easily to interpret for a special session, but there was some difficulties in deciding exactly how that would be interpreted if we were already in session in January of next year when we are brought back in.

D5 has had very minor changes. As you are well aware it was D4 that was alerted to us by the Attorney General's office as unconstitutional. We have met the problems that were initially raised. As I said, I have a letter here sent from the Attorney General's Office, dated May 2, memorializing in writing all of the concerns that we had raised in the Appropriations Committee, and stating that yes, the language before us in this amendment is constitutional, in the Attorney General's opinion, and will serve the Legislature if we so decide to utilize it. It will serve us in good stead for the Productivity Task Force. At this point in time I would move that we adopt this, as many of you are aware, the Appropriations Committee has been at a standstill. Without the Productivity Task Force in hand, and that \$45.3 million deappropriation, the savings clause, without that addressed our hands are tied as far as to what we can do. I would urge members of the Senate to adopt this amendment to the supplemental so that we can go on and vote the supplemental through so that the State employees of the State can be paid on a timely basis, so that the pre-school handicapped individuals who are providing services can get paid, so that the people of the State of Maine can get on with their business, and not only the Appropriations Committee. Thank you very much.

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

Senator CAREY: Thank you Mr. President, Members of the Senate. When the Governor first came out with his task force bill, L.D 706, on the 13th of February, I immediately went to the Attorney General's Office and asked for a very quick opinion, something that came about five weeks later. But, it came after the Attorney General had decided to go to the Governor's Office and the Governor, at that time, said that's not really what we intended to do. The task force would not have the power that L.D. 706 gave it, to fire and clean out departments, even before the Legislature took action. That precipitated a change which was at least a little better but still had, obviously, a constitutional question which was brought forth by several members of the minority. That, apparently, now has been cleared up. I do have a major concern in that twenty years ago, or twenty-five years ago, whenever it was, I was in the other body, and regardless of what anyone here thinks of John Martin, as a person, it was he, single-handedly, who upset what at the time was the government, which was the Governor and the Executive Council. He brought the Legislature into this century. He is the one who fulfilled the constitutional obligation that there were three equal branches of government. Now we are going to be stepping back a little bit, and we may be endangering our position. I hope that this is as far as the Governor's office proposes to go. But, I would point out that we have to move on, and for that reason I will be supporting this amendment. There is a minor

question that I have yet on the legislation that is given to the Revisor's Office, and that is when our clock of three days starts. Hopefully, the Revisor won't spend three days getting the bill to us.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator LONGLEY: Thank you Mr. President, Men and Women of the Senate. I may be supporting this amendment, but I'm not ready yet. The reason I am not ready yet is because I believe in constitutional government. I would just like to read a quote from the U.S. Supreme Court, when they were dealing with an issue on the federal level, where Congress was trying to figure out a quick fix to a complex problem. The Supreme Court said, "The choices we discern as having been made in the Constitutional Convention impose burden on the governmental processes that often seem clumsy, inefficient, even unworkable. But, those hard choices were consciously made by men who had lived under a form of government that permitted arbitrary governmental acts to go unchecked. There is no support in the Constitution, or decisions of this court, for the proposition that the cumbersomeness and delays often encountered in complying with explicit constitutional standards may be avoided." For that reason I would prefer to defer to the court, and after this vote I will be moving for a solemn occasion, and my reason is I believe it is a conservative move to err on the side of caution. This is our one chance, as a legislative branch, to fast-track this bill, as amended, to the high court for a decision on its constitutionality. Maybe it is not a constitutional crisis, but I say err on the side of caution. I would appreciate you giving that consideration and I wanted to explain my vote. Thank you.

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

Senator FAIRCLOTH: Thank you Mr. President, Colleagues of the Senate. I still do have some broader concerns about this legislation, even with this proposed amendment. I would like to address here a specific concern about something that appears to be lacking from this amendment that, maybe, was intended to be present. For a long time a number of people in both bodies have expressed concerns that there weren't significant enough standards set forth as to how the Governor would act. After some resistance I am very please to see, in section D5 of the bill, that there is a set of standards, one through five, set forth under which the Governor may act. That's very broad authority. The Governor, in order to achieve the changing of positions and accounts, may ignore statute and act without any further legislative vote, if this legislation were to pass. At least there is a standard there, and that was some gratification. But, then I had a conversation with a couple of the members of the Appropriations Committee, as now constituted. I talked to the good Senator from York, Senator Lawrence, and a House member who are under the perception that those five tests would also apply as to the proposal that the Governor would later bring to this Legislature. That pleased me. But, then I talked to Jim Clair; and he was also generally under that perception; but when I talked to Mr. Warren,

from the Attorney General's Office, he thought no, no, those standards only bind the Governor as to the unilateral actions he may take, but not as to the proposals he would bring to the Legislature. In fact, under D3, sub 2, he could bring extremely broad proposals and set them out and not be bound at all by the standards that were rather reasonably set out in one through five. Since it appears, and we talked about doing things willy nilly that have to do with legislative function, that it might be worthwhile, if people perceive that these standards were applicable to that section, to simply make them applicable to that section of the law. That would certainly relieve my concerns significantly and I think it would be an improvement of the legislation. As it is written now, it does not contain that change; and, therefore, I will have to be voting against the amendment. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Men and Women of the Senate. Just to clarify the question that I think was posed by the good Senator from Kennebec, Senator Carey, and I think was responded to by the good Senator from Oxford, Senator Hanley. If I may, I would like to pose a question through the Chair to get that question clarified. My understanding, and could somebody please correct me if I am wrong, my understanding is that what has been agreed upon on these three calendar days is that the Governor will essentially prepare, should it be needed, legislation to be submitted. When it is given to the Revisor's Office it will also be distributed, in its entirety, to the Legislature, so we will all see it at that time. The Revisor of Statutes expects a very quick turn-around to get that language out of the Revisor's Office and to the Legislature. But, in fact, we will see a copy of that legislation at the time that it is submitted to the Revisor's Office. Is that true?

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. To respond to the good Senator from York's question, we would envision, in our discussions with both the Governor's office and the Revisor of Statutes, that the same protocol that was utilized for the part two budget, where a copy of the proposed part two budget had not yet been fully drafted by the Revisor of Statutes office, but the copy that had been presented by the Executive branch to the Revisor's, a copy of that was made available to the Appropriations Committee, similarly it would be made to, not only the members of Appropriations, but to the entire Legislature, as requested.

While I am up, I would just like to share with the Senate, the language included in D1, in response to the Senator from Penobscot, Senator Faircloth's, concerns that it is not specific enough, it doesn't give him the specificity that the language in D5, the five specific charges to address the productivity task force, if I could just read a portion of D1. I think it properly addresses those concerns. It says,

"The intent of the productivity initiative is to expedite and facilitate the implementation of improvements in State Government operations through the realization of cost-savings from increased productivity of State employees, more efficient delivery of services, and the elimination of waste, duplication and unnecessary programs. The initiative is designed to provide incentives to State agencies' employees to participate through the sharing of and any savings realized among the general fund, state department budgets, and employees according the formula." I think that fairly well defines what the task force is going to be looking at. I think D5 is just a further assistance. It is my understanding, and my impression, that D1 adequately addresses it. In fact, the Attorney General stated in the opinion that D1 adequately addressed this but yes, D5, in fact, does in fact, give it a little bit more clarity. I think the goal is the same in both D1 and D5 and I would urge, not only the good Senator from Penobscot, but the rest of the Senate to endorse this amendment. Thank you.

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

Senator **FAIRCLOTH:** I appreciate the comments of the good Senator from Oxford; and I would like to be reassured about it; but when you look at section D3, sub 2, it talks about the reduction, elimination, or otherwise altering of current State programs and operations. When I discussed this matter with the good counsel for the Governor, Ms. Butler, she, in essence, told me that while there certainly are broad goals out there that yes, indeed, there would not be anything absolutely prohibiting, as the word says, "elimination" or reduction of other programmatic changes, at least as it is set forth there. Again, my concern is that these are two radically different concepts of what the legislation does. Comparing what I understood from Representative Townsend and Senator Lord, relative to what it appears the interpretation of the current language should be, are two very different things. I would think that what many, or at least a couple of people, and as I understand it from Jim Clair, more people perceived that the five prongs would apply to the Governor's proposal because it has to do with efficiency and all of the things that he has been talking about, which I am all in favor of. So, why not just simply to clarify, do what it appeared much of the Appropriations Committee intended and that would make me much more amenable to supporting the amendment. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President, Men and Women of the Senate. I, too, want to explain my vote. I am going to vote no on this because I think we should go back to doing budgets the old way, the old hard way, of staying up late and working real hard and making the tough decisions before we close the budget, not after. I find troubling this trend of putting off the decision. Might I say that the part of me that loves my weekends and evenings free really wants to vote for this, but I don't think it's the responsible thing to do. I think we are basically punting. I think that if it's not

unconstitutional, it's a big delegation of our powers. It is an inappropriate delegation of legislative authority and it troubles me. I am totally in favor of a productivity task force, I think it is a great idea. I understand how an in-depth look, with the breadth of people that are being proposed, would be helpful, and I support that. I don't see why we can't do both. Let's vote for the productivity task force and let's close the budget, and do the hard work to find the cuts, and any savings that they come up with is extra savings. I also have to say that to propose a productivity task force, and to arbitrarily set an amount to be saved, an amount to be cut from that, is insulting, basically, to State workers. I think it is going to lower morale even farther than it is now. State workers are not afraid of being more productive. They are not afraid of being flexible and moving around and doing things better, but to arbitrarily say we can save \$45 million on this notion of productivity, which, by the way, I understand there are some people in Fiscal and Program Review that wonder, seriously, if that is the case, to arbitrarily to put, before we close the budget, this \$45 million goal out there, and call it productivity, is just the icing on the cake for a lot of people who have had to work really hard under the most horrible of management/work force tensions. There is a better way to do it and I think we know what way it is, it is the old tried and true way of passing a budget and that is what I would like to do.

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

Senator BUSTIN: Thank you Mr. President, Men and Women of the Senate. There are a lot of things I need to say today, and I don't think they are going to be very pretty. I know a freight train when I see one, and this is a freight train. There are some trains you just don't want to get on, it might violate your integrity, and this is that train that I can't get on. It would violate my integrity. Because what I came here to do was to set public policy for the benefit of the people of the State of Maine. What I would be doing to vote for this amendment and this bill would be to abdicate making that public policy. I have spent many nights, and many early mornings, I have seen many sunrises come over this State House, in crafting public policy. I have not resented for one minute giving that amount of time, nor would I resent for one minute giving that amount of time here this session. It is really easy to abdicate your responsibility. In this day and age of sound bites, to me passing this piece of legislation is a legislative sound bite. We got rid of the problem, we gave the sound bite, it is L.D. 1412, that's our sound bite. We did it, we said it for a few seconds, and we gave it over to somebody else to do. Folks, we don't need to do that. In the first place, there is no money attached to section D in this bill. There is no money attached to the productivity task force in this bill. In fact, the Attorney General has replied, in full, to Senator Cleveland, and I have the letter in front of me, and part of it says "At the outset it is helpful to outline the general structure of Part D of L.D. 1412 in its original form. Although L.D. 1412 is a supplemental budget bill for fiscal year 1995, part D of L.D. 1412 is intended to create a mechanism that

will allow savings to be achieved during the biennial budget for fiscal years 1996 and 1997. As recited in Section D1 of L.D. 1412, Part D is designed to implement a productivity initiative that will allow \$45 million in general fund savings in the 1996/1997 biennium." So, it is in the biennial budget, the one that is coming up, not the one that is before you, that you should be discussing this issue. I welcome discussing the issue, because we are discussing it early. I would have welcomed discussing it in February. I would have welcomed a separate bill for a productivity task force, because I think that is a really good thing. I have been around long enough to have sponsored many bills that would have done exactly these things. Some of them we passed, some of them we didn't. You hear all of the time that this Legislature doesn't have the guts to make these cuts. I will tell you, these Legislatures have had the guts to make the cuts many, many times, and they have been painful ones. This is not new folks, this is very, very old. This is the job we were elected to do. I'm not going to take the easy way out, not by my vote am I going to take the easy way out, because I am not going to do that, and I wish that you would reconsider and not do that either. I would suggest that the Governor come in with a bill that would set up a productivity task force, but that would report back to us by June 1. He's got a whole month, he wants to give us three days. I'll give him a whole month, he could have had from February on, or January on, to have made those cuts and told us what he wanted to do in State government, but now he can have a month to do that. Then we can act responsibly about what those cuts should or shouldn't be. I understand, as everybody says, that 70% of that \$45 million is what they refer to as hard freezes. Well, if you are going to hard freeze, would you please tell those employees now that they are going to be hard frozen? That positions that have attrition are not going to be filled. That's easy enough, 70% of that \$45 million is that, I understand that \$6 million is going to be used for technology, which I welcome. I actually had a bill in that would have brought down \$9 million from the federal government for \$1 million spent by us that would have cut down Human Services considerably. It was called a one-stop shopping bill. We killed that. This is not new people, it is not new.

I fear for what is going to happen, and maybe it is just a fear, and maybe it is something in me, as there is in the other Senator from Kennebec, Senator McCormick, that I really welcome a productivity task force, and I really welcome that kind of approach, what I don't welcome is asking me to abdicate my responsibility that I took on when I got voted into this office. I remember a past President that used to say to me when I would say that I have this or that or this to do. "Beverly, you got elected to serve the people of this State and that is what you are going to do first." That is what I am going to do. I guess I would leave you with this, it may or may not be constitutional, I would welcome a solemn occasion to find that out for sure, but do you know what? Constitutional or not, bad public policy is bad public policy, and we ought not to be doing it. Then I will leave you with something else that I always leave you with when I make these kinds of speeches, and that is from Thomas Jefferson, the quote is, "The wheels of government grind slowly but

finely." That hasn't changed folks, that's what you are trying to do. Mr. President, when the vote is taken I ask for the yeas and nays.

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

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. I, too, would agree with the Senator from Kennebec, we do not want to be engaged in bad public policy here. In fact, I am a little bit chagrined to hear the Senator state that this is a freight train coming, and yet the amendment before us would give, if this productivity task force is going to happen, then this amendment is one that should be embraced by the good Senator from Kennebec and her constituents. Wouldn't we be better off to give the task force more time to do their task so that they can go in with a scalpel to make those changes, and not go in with a meat cleaver and an axe. If we wait until July to have this productivity task force in hand to achieve the \$45.3 million worth of savings, its the State employees who are going to be behind the eight ball. If we are actually going to try and work together with the Governor, and I guess I take some exception to the comments of the other Senator from Kennebec, Senator McCormick, who said why don't we use the old tried and true, we're ready to make the cuts, men and women of the Senate, we, as the Appropriations Committee, voted unanimously, thirteen to zero, to send out to the policy committees to have them come back with flat-funding for 1995. I guess if the committees had come back and done that maybe I would be on the side of the issue that the good Senator from Kennebec is. I could very well be. Unfortunately, the committees came back and said we can't cut, we're sorry, we want to but we can't. So, we are recommending the Governor's proposal. Men and Women of the Senate, the Governor's proposal calls for a productivity task force to realize \$45.3 million worth of savings. Maybe I'm wrong, maybe given a second chance things would change, but I have been in this legislature long enough, and have been involved in this new process where the policy committees are involved, to see that it just doesn't work. As far as the tough choices, I don't see the tough choices being to pass the gimmicks that we have done in the past just to close a budget. Those aren't tough choices, I think those are the easy choices. We have an opportunity here, and if I could just share with you, again, some of the statements from the Attorney General's Office. First, in response to Senator McCormick, when she says we are abdicating our responsibility. No, in fact the changes proposed in this amendment clarify that the Governor's authority to transfer positions and appropriation balances is designed to follow a lump sum deappropriation, to be made by the legislature in our budget. We are not abdicating our authority, we are saying we are going to make a deappropriation of \$45 million. Not \$30 million, not \$82 million, we are going to make a deappropriation of \$45.3 million and we are going to allow the Governor, along with participation from the Senate and the House and the Judicial branch, to create a productivity task force. I think it is also worthy

to point out, in response to Senator Cleveland, the Attorney General pointed out that the delegation of authority here, listed in D5, would be limited to the extent necessary to achieve approximately \$45 million in savings. An amount that we understand is only 1.3% of the total amount of general fund monies in the 1996/1997 biennial budget. We are making a policy choice, yes, the policy choice is that a productivity task force should be enacted for us to find those efficiencies in State government, and that we, as a legislature, should listen to those recommendations and endorse them, if we so choose, but if we don't, then we will have a very bitter pill to swallow, with the Governor's authority to curtail allotments. I think that the wheels have ground slow and fine to get us to the point that we are at now. After a while any more grinding is just futile. If we don't like the way this plays out in the next six, nine, or ten months, we can go back to the Constitution and we can use our legislative authority to say that we want to repeal that, we don't like that and we want to replace it with something else. We are not giving that up. Men and women of the Senate, if we decide tomorrow that we don't like this, we can pull it back. A month into it we could pull it back. We are not bound by this for the entire time. If we don't think collectively that it is good public policy, but I believe the time has come for us to get on and to pass, not only the supplemental, but to allow the legislature to get on with the passing of the part one and part two budget.

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

Senator **BUSTIN:** Mr. President, Men and Women of the Senate. In response to the good Senator from Oxford, Senator Hanley, and his comment about its not a meat axe approach, that this bill is a scalpel. When you lose your job there isn't anybody who is going to look at it as anything less than a meat axe. It doesn't matter when it falls. What this essentially does is it holds that meat axe over those employees heads for two years, that's what it basically does. But, if us making the decision to say okay, this is what is going to happen, we are just going to keep holding that over them. One day it may be my job, one day it may be your job, the next day it may be somebody elses job. That's what we are really looking at here. Maybe the incremental is appropriate, but you can do it incrementally by making those proposals and having us decide whether it is something that we want. Might I remind you that, again, in this letter that the Attorney General has sent to Senator Cleveland, he states, "In this instance the necessary standards can be found in section D1, which provides that the intent of the productivity initiative is to realize cost savings from increase productivity of State employees, more efficient delivery of services, and the elimination of waste, duplication and unnecessary programs." \$45 million worth of that? Think about it. \$45 million worth of increased productivity, more efficient delivery of services, and the elimination of waste, duplication and unnecessary programs? We did that. Remember the bill where we wanted to put the Department of Conservation and the DEP together, or Inland Fisheries and Game and Conservation? That's what you are talking about here if you are going to make any savings. Even though the bill prevents

that, you effectively can do it by leaving one person in one of those programs and making those changes. You are not going to make those savings without making that kind of a meat axe approach. The beauty of what we did before was we discussed it. Guess where we discussed it? On this floor, up in the Committees, people being able to communicate with each other and talk about what the ins and outs were going to be, the advantages and the disadvantages, et cetera, et cetera. That's what we did. That's what we are talking about, give us that opportunity again, to do that again. Sure, it may not come out the way you want it or the way I want it or the way the next person wants it, but it will have followed the process, and that's what's important. It's that process, the separation of power, the co-equal branches of government. That's what we are talking about and that's what offends me with this suggestion. Thank you.

The President noted the absence of Senator **BERUBE** of Androscoggin and excused her from today's Roll Call votes.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HANLEY** of Oxford that the Senate **ADOPT** Senate Amendment "C" (S-102).

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

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, AMERO, BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, CIANCHETTE, ESTY, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, KIEFFER, LAWRENCE, LORD, MICHAUD, MILLS, PARADIS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BUSTIN, FAIRCLOTH, LONGLEY, McCORMICK, O'DEA, PINGREE, RUHLIN**

ABSENT: Senators: **CLEVELAND, HATHAWAY, RAND**

EXCUSED: Senator: **BERUBE**

24 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 3 Senators being absent and 1 Senator having been excused, the motion by Senator **HANLEY** of Oxford to **ADOPT** Senate Amendment "C" (S-102), **PREVAILED**.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED WITHOUT REFERENCE TO A COMMITTEE** in **NON-CONCURRENCE**.

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.

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

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, AMERO, BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, CIANCHETTE, ESTY, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, KIEFFER, LAWRENCE, LORD, MICHAUD, MILLS, PARADIS, PENDEXTER, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BUSTIN, FAIRCLOTH, LONGLEY, McCORMICK, O'DEA, PINGREE**

ABSENT: Senators: **CLEVELAND, HATHAWAY, RAND**

EXCUSED: Senator: **BERUBE**

25 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 3 Senators being absent and 1 Senator having been excused, the Bill was **PASSED TO BE ENGROSSED, As Amended**, without reference to a Committee, in **NON-CONCURRENCE**.

Senate at Ease

Senate called to order by the President.

On motion by Senator **LAWRENCE** of York, the Senate **RECONSIDERED** its action whereby the bill was **PASSED TO BE ENGROSSED, As Amended**, without reference to a Committee in **NON-CONCURRENCE**.

On further motion by same Senator, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, without reference to a Committee in **NON-CONCURRENCE**.

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

ORDERS

Senate Order

On motion by Senator **LONGLEY** of Waldo, the following Senate Order:

S.O. 23

Senate Order Propounding Questions to the Justices of the Supreme Judicial Court

WHEREAS, it appears to the Senate of the 117th Legislature that the following are important questions of law and that this is a solemn occasion; and

WHEREAS, the Constitution of Maine, Article VI, Section 3 provides for the Justices of the Supreme Judicial Court to render their opinion on these questions; and

WHEREAS, there is now before the 117th Legislature for its consideration House Paper 1001, Legislative Document 1412, "An Act to Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1995"; and

WHEREAS, if Legislative Document 1412 becomes law, there may be serious questions regarding its constitutionality and effect; and

WHEREAS, it is important that the Legislature be informed as to the questions raised in this Order; now, therefore, be it

ORDERED, that in accordance with the provisions of the Constitution of Maine, the Senate respectfully requests the Justices of the Supreme Judicial Court to give the Senate their opinion on the following questions of law:

Question No. 1. If Legislative Document 1412 becomes law, do the provisions of Part D of that document violate the doctrine of separation of powers under the Constitution of Maine, Article III, Sections 1 and 2?

Question No. 2. If Legislative Document 1412 becomes law, do the procedures required in Part D of that document constitute an unlawful delegation of legislative authority in light of the Constitution of Maine, Article IV, Part Third, Section 1, which specifically grants the power to make law to the legislative branch of State Government, with certain constitutionally provided exceptions?

Question No. 3. If Legislative Document 1412 becomes law, do the procedures required in Part D of that document violate the enactment and presentment requirements of the Constitution of Maine, Article IV, Part Third, Section 2?

Question No. 4. If Legislative Document 1412 becomes law, do the procedures authorized in Part D of that document violate provisions concerning emergency enactments under the Constitution of Maine, Article IV, Part Third, Section 16?

Which was **READ**.

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

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.

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: **BUSTIN, CAREY, CIANCHETTE, ESTY, FAIRCLOTH, LAWRENCE, LONGLEY, McCORMICK, O'DEA, PARADIS, PINGREE, RUHLIN**

NAYS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, CARPENTER, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, KIEFFER, LORD, MICHAUD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senators: **CLEVELAND, HATHAWAY, RAND**

EXCUSED: Senator: **BERUBE**

12 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 3 Senators being absent and 1 Senator having been excused, **PASSAGE** of the Senate Order, **FAILED**.

ORDERS OF THE DAY

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

Bill "An Act to Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1995" (EMERGENCY)

H.P. 1001 L.D. 1412

Tabled - earlier in the day by Senator LAWRENCE of York

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, without reference to a Committee, in **NON-CONCURRENCE**.

(In House, April 27, 1995, under suspension of the Rules, **PASSED TO BE ENGROSSED**, without reference to a Committee.)

(In Senate, May 2, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "C" (S-102)** in **NON-CONCURRENCE**. Subsequently **RECONSIDERED**.)

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

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

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Ban the Sale, Breeding or Possession of Canine Hybrids"
H.P. 1033 L.D. 1452

Bill "An Act to Reinstate the Maine Meat Inspection Act"
H.P. 1050 L.D. 1469

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

Come from the House, referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED**.

Which were referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in concurrence.

Bill "An Act to Repeal the Medicaid Estate Recovery Law"
H.P. 1043 L.D. 1462

Reference to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

Bill "An Act to Prevent Master Electrician License Fee Payment Duplication"
H.P. 1044 L.D. 1463

Bill "An Act to Amend the Licensure Requirements for Psychologists"
H.P. 1052 L.D. 1481

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

Come from the House, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.

Bill "An Act to Discourage the Spread of "Crack" Cocaine"
H.P. 1038 L.D. 1457

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**.

Which was referred to the Committee on **CRIMINAL JUSTICE**, in concurrence.

Bill "An Act to Make Changes in the Law Establishing the Maine School of Science and Mathematics"
H.P. 1035 L.D. 1454

Bill "An Act to Require School Administrative Districts to Provide Funding for Independent Evaluations"
H.P. 1051 L.D. 1480

Resolve, Directing the Department of Education to Develop a Statewide Plan for a Skills Development Program for Teachers
H.P. 1053 L.D. 1482

Resolve, to Create Educational Options for
Exceptional Children
H.P. 1054 L.D. 1483

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

Come from the House, referred to the Committee on
EDUCATION AND CULTURAL AFFAIRS and **ORDERED PRINTED**.

Which were referred to the Committee on **EDUCATION
AND CULTURAL AFFAIRS**, in concurrence.

Bill "An Act Regarding Custody and Support of
Children"
H.P. 1049 L.D. 1468

Reference to the Committee on **JUDICIARY** suggested
and **ORDERED PRINTED**.

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

Which was referred to the Committee on **JUDICIARY**,
in concurrence.

Bill "An Act Requiring Mobile Home Park Operators
to Notify Lienholders Prior to Eviction"
H.P. 1036 L.D. 1455

Bill "An Act to Privatize the Liquor Industry"
H.P. 1041 L.D. 1460

Bill "An Act to Update and Clarify the Election
Laws"
H.P. 1042 L.D. 1461

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

Come from the House, referred to the Committee on
LEGAL AND VETERANS AFFAIRS and **ORDERED PRINTED**.

Which were referred to the Committee on **LEGAL AND
VETERANS AFFAIRS**, in concurrence.

Bill "An Act to Change the Licensing Year for
Certain Marine Resource Licenses"
H.P. 1032 L.D. 1451

Bill "An Act to Preserve Fishing Stocks"
H.P. 1045 L.D. 1464

Reference to the Committee on **MARINE RESOURCES**
suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on
MARINE RESOURCES and **ORDERED PRINTED**.

Which were referred to the Committee on **MARINE
RESOURCES**, in concurrence.

Bill "An Act to Reestablish the Office of
Environmental Evaluation and Lake Studies"
H.P. 1031 L.D. 1450

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

Comes from the House, referred to the Committee
on **NATURAL RESOURCES** and **ORDERED PRINTED**.

Which was referred to the Committee on **NATURAL
RESOURCES**, in concurrence.

Resolve, Establishing the Task Force on State
Government Reorganization (Emergency)
H.P. 1046 L.D. 1465

Reference to the Committee on **STATE AND LOCAL
GOVERNMENT** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee
on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **STATE AND
LOCAL GOVERNMENT**, in concurrence.

Bill "An Act to Amend the Taxation System to
Alleviate the Property Tax Burden and the Resulting
Impact on School Funding"
H.P. 1034 L.D. 1453

Bill "An Act to Provide a New Jobs Tax Credit"
H.P. 1039 L.D. 1458

Bill "An Act to Encourage Capital Investment in
Maine"
H.P. 1048 L.D. 1467

Reference to the Committee on **TAXATION** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **TAXATION**, in concurrence.

Bill "An Act to Further Encourage Electric Rate Stabilization" (Emergency) H.P. 1037 L.D. 1456

Bill "An Act to Make Changes to the Public Utilities Laws" H.P. 1040 L.D. 1459

Reference to the Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **UTILITIES AND ENERGY** and **ORDERED PRINTED**.

Which were referred to the Committee on **UTILITIES AND ENERGY**, in concurrence.

GATES of Rockport
LUMBRA of Bangor
GUERRETTE of Pittston
MITCHELL of Vassalboro

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-132)**.

Signed:

Representative:
JONES, JR. of Pittsfield

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

Which Reports were **READ**.

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

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Deregulate the All-terrain Vehicle Market"

H.P. 531 L.D. 727

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

Signed:

Senators:
HALL of Piscataquis
MICHAUD of Penobscot

Representatives:
ROTONDI of Madison
JACQUES of Waterville
CLARK of Millinocket
KEANE of Old Town
ROSEBUSH of East Millinocket
TUFTS of Stockton Springs
CHICK of Lebanon

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-119)**.

Signed:

Senator:
KIEFFER of Aroostook

Representatives:
GREENLAW of Standish
PERKINS of Penobscot
UNDERWOOD of Oxford

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Include Loss of Tax Revenue to the State When Considering a Credit Union Application for Expansion"

H.P. 454 L.D. 620

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

Signed:

Senators:
ABROMSON of Cumberland
MCCORMICK of Kennebec
SMALL of Sagadahoc

Representatives:
CHASE of China
SAXL of Portland
CAMPBELL of Holden
MAYO, III of Bath

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

Divided Report

Which Reports were **READ**.

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require the Reconfirmation of Gubernatorial Appointments at the Beginning of Each Gubernatorial Term"
H.P. 534 L.D. 730

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Require the Popular Election of the Attorney General
H.P. 153 L.D. 201

Reported that the same **Ought to Pass** as Amended by **Committee Amendment "A" (H-70)**.

Signed:

Senators:

AMERO of Cumberland
CARPENTER of York

Representatives:

AHEARNE of Madawaska
LANE of Enfield
SAVAGE of Union
ROBICHAUD of Caribou
YACKOBITZ of Hermon
LEMKE of Westbrook
GERRY of Auburn

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

Signed:

Senator:

LONGLEY of Waldo

Representatives:

DAGGETT of Augusta
ROSEBUSH of East Millinocket
SAXL of Bangor

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-70)**.

Which Reports were **READ**.

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

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

Signed:

Senators:

AMERO of Cumberland
LONGLEY of Waldo
CARPENTER of York

Representatives:

DAGGETT of Augusta
ROBICHAUD of Caribou
SAVAGE of Union

The Minority of the same Committee on the same subject reported that the same **Ought to Pass** as Amended by **Committee Amendment "A" (H-126)**.

Signed:

Representatives:

AHEARNE of Madawaska
GERRY of Auburn
ROSEBUSH of East Millinocket
LANE of Enfield
YACKOBITZ of Hermon

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

Which Reports were **READ**.

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

Senate

Ought to Pass

Senator **BENOIT** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Clarify Detention Responsibilities"

S.P. 388 L.D. 1065

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

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

The Bill **READ ONCE.**

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

Senator **BENOIT** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Maine Criminal Code by Correcting References to Committee Structure"
S.P. 431 L.D. 1199

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

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

The Bill **READ ONCE.**

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

Senator **BENOIT** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Rename the Crime of Endangering the Welfare of an Incompetent Person"
S.P. 435 L.D. 1203

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

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

The Bill **READ ONCE.**

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

Ought to Pass As Amended

Senator **FERGUSON, JR.** for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Correct and Clarify Certain Provisions of the Liquor Laws"
S.P. 281 L.D. 753

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-101).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-101) **READ** and **ADOPTED.**

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Fully Fund the Maine Human Rights Commission and the Civil Rights Unit in the Attorney General's Office"

S.P. 333 L.D. 914

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-98).**

Signed:

Senators:

MILLS of Somerset
FAIRCLOTH of Penobscot

Representatives:

TREAT of Gardiner
LEMKE of Westbrook
RICHARDSON of Portland
JONES of Bar Harbor
LAFOUNTAIN, III of Biddeford
WATSON of Farmingdale
PLOWMAN of Hampden
MADORE of Augusta

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

Signed:

Senator:

PENDEXTER of Cumberland

Representatives:

HARTNETT of Freeport
NASS of Acton

Which Reports were **READ.**

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Ensure Integrity in Maine Government by Prohibiting Involvement of Constitutional Officers and the State Auditor in Political Action Committees"

S.P. 43 L.D. 73

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-100).**

Signed:

Senators:

FERGUSON, JR. of Oxford
STEVENS, JR. of Androscoggin

Representatives:

LEMONT of Kittery
LABRECQUE of Gorham
TRUE of Fryeburg
BUCK of Yarmouth
MURPHY of Berwick

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

Signed:

Senator:

MICHAUD of Penobscot

Representatives:

NADEAU of Saco
TRUMAN of Biddeford
CHIZMAR of Lisbon
GAMACHE of Lewiston
FISHER of Brewer

Which Reports were **READ.**

On motion by Senator KIEFFER of Aroostook, Tabled
1 Legislative Day, pending **ACCEPTANCE** of Either Report.

SECOND READERS

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

House As Amended

Bill "An Act to Permit Greenhouses To Have Temporary Road Signs"

H.P. 193 L.D. 252
(C "A" H-153)

Bill "An Act to Clarify the Statutory Prohibition of the Collection of More Than 2 Months of Rent in Advance"

H.P. 196 L.D. 255
(C "A" H-129)

Resolve, Directing the Department of Human Services to Review the Regulations for the Licensure of General and Specialty Hospitals and Report to the Joint Standing Committee on Human Resources

H.P. 408 L.D. 565
(C "A" H-155)

Bill "An Act to Expand the Jurisdiction of the Consumer Advisory Board of the Department of Mental Health and Mental Retardation by Giving Board Members and its Staff Direct Access to All Areas of Agencies that Serve People with Autism"

H.P. 456 L.D. 622
(C "A" H-156)

Bill "An Act to Amend the Law Governing Real Estate Transfer Taxes Applicable to the Maine Turnpike Authority"

H.P. 479 L.D. 660
(C "A" H-146)

Bill "An Act to Allow Certain Employees of the Maine State Liquor and Lottery Commission and Their Families to Purchase Lottery Tickets"

H.P. 530 L.D. 726
(C "A" H-141)

Bill "An Act to Conform the Maine Tax Laws for 1994 with the United States Internal Revenue Code" (Emergency)

H.P. 626 L.D. 851
(C "A" H-147)

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Maine Legislature to 99 Members in the House and 33 Members in the Senate

H.P. 46 L.D. 40
(C "A" H-117)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of Constitutional Officers

H.P. 113 L.D. 148
(C "A" H-69)

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

Sent down for concurrence.

Senate

Bill "An Act to Amend the Purchasing Laws"

S.P. 290 L.D. 788

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Require All Persons to Use Safety Belts in Motor Vehicles"

S.P. 77 L.D. 165
(C "A" S-91)

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

Sent down for concurrence.

On motion by Senator **KIEFFER** of Aroostook,
ADJOURNED until Wednesday, May 3, 1995, at 9:30
o'clock in the morning.