

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
Wednesday
May 3, 1995

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

Prayer by Father Michael Lauce of St. Paul's Center in Augusta.

FATHER MICHAEL LAUCE: Good morning. It is a pleasure and an honor to be here, with you, this day. I thank you very much for your invitation.

Oh Source of all goodness and truth, come into our midst this day. Shower your many blessings and graces upon us. We ask that you enlighten our minds and our understanding, that we may perceive more clearly your mission here on earth, the mission of salvation that you have sought to establish. We ask that you will make us more sensitive to the needs of those who are less fortunate, to the poor, to the abandoned, to those who are neglected, to the homeless, to those who hunger and thirst for justice. Make us sensitive and allow us to respond appropriately to all of these different concerns in this State of Maine. Help us to be your faithful servants. Having heard your voice, allow us to respond to it in a way that will show compassion, that will show charity and love. You gave of yourself unremittingly for the welfare of others, we seek the same to follow your example. Help us to give of ourselves as you gave of yourself, not considering any personal gain, but rather looking to the welfare of the other before ourselves. Might you guide us this day, might you lead us, inspire us with your light, your inspiration, and your strength. All of this we ask in the name of our Lord, our Saviour who lives and reigns forever and ever. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

The President requested the Sergeant-at-Arms to escort the Senator from Kennebec, Senator CAREY, to the Rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the Floor of the Senate.

Senate called to Order by the President Pro Tem.

COMMUNICATIONS

The Following Communication: S.C. 147

THE COMMISSION TO STUDY POTATO QUALITY ISSUES
MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333

May 2, 1995

The Honorable Dan A. Gwadosky
The Honorable Jeffrey H. Butland
Maine Legislature
State House
Augusta, ME 04333

Dear Speaker Gwadosky and President Butland:

The Commission to Study Potato Quality Issues is pleased to submit its report to the Legislature pursuant to P.L. 1993, c. 699.

Sincerely,

S/Sen. Judy Paradis, Chair S/Robert J. Tardy, Chair

Which was READ, and with Accompanying Report, referred to the Committee on AGRICULTURE CONSERVATION AND FORESTRY.

The Following Communication: S.C. 148

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
TRANSPORTATION BUILDING
STATE HOUSE STATION 16
AUGUSTA, MAINE 04333-0016

May 2, 1995

The Honorable Jeffrey H. Butland
President of the Senate
The Honorable Dan A. Gwadosky
Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

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

Sent down for concurrence.

Dear President Butland and Speaker Gwadosky:

The Maine Department of Transportation is pleased to present the State's biennial Transportation Improvement Program (TIP) for the 1996-97 period which reflects the beginning of a new direction in transportation planning and programming for the State of Maine, consistent with the Sensible Transportation Policy Act and with the goals of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). This TIP recognizes the diverse transportation needs of all segments of Maine's population along with an increased awareness of environmental concerns.

We have also categorized projects according to type of work. These categories include System Management, System Preservation, Safety, New Capacity, Transportation Enhancement, CMAQ (Air Quality), Demonstration, and Miscellaneous Projects. To ease the transition from our traditional approach to this new TIP, we have also included lists of projects by transportation mode and by maintenance division and by Regional Transportation Advisory Committee. In addition, we have included a list of all municipal projects in alphabetical order.

Funding for the TIP includes the anticipated Federal funding level along with State-match monies for each transportation mode. Funding summaries specific to the individual modes can be found in the front of each mode's section.

I look forward to working with all of you during this exciting time in transportation history.

Sincerely,

S/John G. Melrose
Commissioner

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

SENATE PAPERS

Bill "An Act to Create a Revolving Fund to Finance the Maine Quality Centers"
S.P. 543 L.D. 1491

Presented by Senator **CLEVELAND** of Androscoggin

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

COMMITTEE REPORTS

House

Change of Reference

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Require Indirect Economic Analysis of Tax Expenditures"

H.P. 78 L.D. 114

Reported that the same be **REFERRED** to the Committee on **TAXATION**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION**.

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

The Bill **REFERRED** to the Committee on **TAXATION**, in concurrence.

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Sexual Abuse Laws by Including 18-year-olds Who are Still in School in the Provisions for the Sexual Abuse of Minors"

H.P. 616 L.D. 826

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-157).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-157).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-157) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Increase the Compensation of Members of the State Claims Commission"

H.P. 536 L.D. 732

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-159).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-159).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-159) READ and ADOPTED, in concurrence.

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

The Committee on UTILITIES AND ENERGY on Bill "An Act to Allow the Submetering of Electric Rates in Campgrounds"

H.P. 565 L.D. 766

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-160).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-160).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-160) READ and ADOPTED, in concurrence.

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

The Majority of the Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act Pertaining to the Signing of Petitions"

H.P. 471 L.D. 652

Reported that the same Ought to Pass.

Signed:

Senators:

FERGUSON, JR. of Oxford
MICHAUD of Penobscot

Representatives:

NADEAU of Saco
LABRECQUE of Gorham
BUCK of Yarmouth
CHIZMAR of Lisbon
TRUMAN of Biddeford
GAMACHE of Lewiston
LEMONT of Kittery
FISHER of Brewer
TRUE of Fryeburg

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

Signed:

Senator:

STEVENS, JR. of Androscoggin

Representative:

MURPHY of Berwick

Comes from the House with the Majority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Reports were READ.

On motion by Senator MICHAUD of Penobscot, Tabled until Later in Today's Session, pending ACCEPTANCE of Either Report.

Divided Report

The Majority of the Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Allow Nonresidents to Transport into the State Liquor Purchased in New Hampshire"

H.P. 484 L.D. 665

Reported that the same Ought Not to Pass.

Signed:

Senators:

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

Representatives:

NADEAU of Saco
BUCK of Yarmouth
TRUMAN of Biddeford
LABRECQUE of Gorham
FISHER of Brewer
TRUE of Fryeburg
CHIZMAR of Lisbon
GAMACHE of Lewiston
LEMONT of Kittery

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-163).

Signed:

Representative:

MURPHY of Berwick

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 LEGAL AND VETERANS AFFAIRS on Bill "An Act to Limit the Size and Display Period of Campaign Signs"

H.P. 584 L.D. 794

Reported that the same Ought Not to Pass.

Signed:

Senators:

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

Representatives:

NADEAU of Saco
MURPHY of Berwick
FISHER of Brewer
GAMACHE of Lewiston
LABRECQUE of Gorham
TRUE of Fryeburg

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-165).

Signed:

Representatives:

BUCK of Yarmouth
LEMONT of Kittery
CHIZMAR of Lisbon

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 NATURAL RESOURCES on Bill "An Act to Restrict the Use of Eminent Domain Power"

H.P. 397 L.D. 532

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-121).

Signed:

Senators:

LORD of York
RUHLIN of Penobscot

Representatives:

GOULD of Greenville
POULIN of Oakland
SAXL of Bangor
BERRY of Livermore
MERES of Norridgewock
SHIAH of Bowdoinham
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-122).

Signed:

Senator:

HATHAWAY of York

Representative:

GREENLAW of Standish

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-121).

Which Reports were **READ**.

On motion by Senator **BUSTIN** of Kennebec, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

**Senate
Change of Reference**

Senator **CARPENTER** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Consolidate the Functions of the Bureau of Consumer Credit Protection within the Bureau of Banking in Order to Streamline the Regulation of Creditors and Financial Institutions"

S.P. 294 L.D. 792

Reported that the same be **REFERRED** to the Committee on **BANKING AND INSURANCE**.

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

The Bill **REFERRED** to the Committee on **BANKING AND INSURANCE**.

Sent down for concurrence.

Senator **CARPENTER** for the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, to Provide Clear Title for the Maine Judicial Center (Emergency)

S.P. 507 L.D. 1366

Reported that the same be **REFERRED** to the Committee on **JUDICIARY**.

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

The Resolve **REFERRED** to the Committee on **JUDICIARY**.

Sent down for concurrence.

Ought to Pass as Amended

Senator **ABROMSON** for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Clarify the Display of Social Security Numbers on Insurance-related Identification Cards" (Emergency)

S.P. 345 L.D. 950

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (S-103).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-103) **READ** and **ADOPTED**.

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

Divided Report

Eight Members of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Amend the Muzzle-loading Firearm Season on Deer by Allowing the Season To Begin One Week before the Open Firearm Season on Deer"

S.P. 51 L.D. 80

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

Signed:

Senator:
MICHAUD of Penobscot

Representatives:
ROTONDI of Madison
JACQUES of Waterville
CLARK of Millinocket
ROSEBUSH of East Millinocket
TUFTS of Stockton Springs
CHICK of Lebanon
PERKINS of Penobscot

Two Members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-104).

Signed:

Senators:
HALL of Piscataquis
KIEFFER of Aroostook

One Member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B"** (S-105).

Signed:

Representative:
UNDERWOOD of Oxford

Which Reports were **READ**.

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending ACCEPTANCE of Any Report.

SECOND READERS

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

Senate

Bill "An Act to Clarify Detention Responsibilities"
S.P. 388 L.D. 1065

Bill "An Act to Amend the Maine Criminal Code by Correcting References to Committee Structure"
S.P. 431 L.D. 1199

Bill "An Act to Rename the Crime of Endangering the Welfare of an Incompetent Person"
S.P. 435 L.D. 1203

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Correct and Clarify Certain Provisions of the Liquor Laws"
S.P. 281 L.D. 753
(C "A" S-101)

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

Sent down for concurrence.

ENACTORS

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

An Act to Amend the Workers' Compensation Laws to Provide an Exemption from Coverage Requirements for Nonresident Employees

H.P. 12 L.D. 6
C "A" (H-131)

An Act to Require Insurance Companies to Provide Loss Information to Insured Groups
H.P. 79 L.D. 115
C "A" (H-91)

An Act to Prohibit Visual Sexual Aggression Against a Child and Private Indecency
H.P. 131 L.D. 179
C "A" (H-95)

An Act to Amend Provisions of Law Voiding a Lease for Premises Defined as a Common Nuisance
H.P. 158 L.D. 205
C "A" (H-127)

An Act to Clarify the Laws Regarding the Location of Transfer Stations on Islands
H.P. 176 L.D. 224
C "A" (H-108)

An Act to Ensure Children's Protection against Rabies by Requiring Proof of Rabies Vaccination of Pets at Day Care Facilities and Home Babysitting Services
H.P. 186 L.D. 245
C "A" (H-96)

An Act Concerning Municipal Shellfish Conservation Program Penalties
H.P. 194 L.D. 253
S "A" (S-77)

An Act Concerning the Offset of Workers' Compensation Benefits by Social Security Benefits
H.P. 226 L.D. 304
C "A" (H-136)

An Act to Require Insurance Companies to Reenroll Individuals Who Return to an Insurance Group as Though No Break in Coverage Occurred
S.P. 154 L.D. 340
C "A" (S-60)

An Act to Clarify the Requirements for Truck Widths
H.P. 245 L.D. 347
C "A" (H-101)

An Act to Encourage Collaboration between Local School Units
H.P. 248 L.D. 350
C "A" (H-110)

An Act to Define a "Demonstrator" under the Board of Barbering and Cosmetology
H.P. 259 L.D. 361
C "A" (H-109)

An Act to Clarify the Tax-exempt Status of Municipally Owned Solid Waste Disposal Facilities
H.P. 286 L.D. 390
C "A" (H-125)

An Act Concerning the Rights and Responsibilities of Innkeepers
H.P. 291 L.D. 395
C "A" (H-81)

An Act to Allow a School District to Print the District's Name on School Buses
H.P. 299 L.D. 403
C "A" (H-111)

An Act to Continue Requiring Probable Cause before the Exercise of Protective Custody
H.P. 305 L.D. 409
C "A" (H-84)

An Act Relating to Building Permit Ordinances
H.P. 308 L.D. 412

An Act Regarding the Expansion of Certain Waste Disposal Facilities
H.P. 326 L.D. 447
C "A" (H-116)

An Act Concerning the Liability of Corporate Clerks
H.P. 381 L.D. 516
C "A" (H-138)

An Act to Amend the Site Location of Development Laws Relating to Former Military Bases
H.P. 393 L.D. 528
C "A" (H-106)

An Act to Include the Law Court's Imprisonment Sentencing Procedure in the Maine Criminal Code
S.P. 199 L.D. 542
C "A" (S-56)

An Act to Allow County Commissioners to Perform Routine Road Maintenance without Permission from the Maine Land Use Regulation Commission
S.P. 219 L.D. 561
C "A" (S-51)

An Act to Facilitate the Use of the Installment Method for the Collection of Sewer Assessments and Charges
H.P. 419 L.D. 576
C "A" (H-83)

An Act to Amend the Laws Governing Retail Credit Cards
H.P. 420 L.D. 577
C "A" (H-92)

An Act to Change the Definitions of "River," "Stream" and "Brook" in the Environmental Laws
H.P. 452 L.D. 618
C "A" (H-107)

An Act to Amend the Municipal Subdivision Laws Regarding Application Requirements
H.P. 481 L.D. 662
C "A" (H-90)

An Act Concerning Fraudulent Redemptions
H.P. 512 L.D. 700
C "A" (H-134)

An Act Regarding the Disclosure of Financial Information by Federally or State-chartered Credit Unions
S.P. 274 L.D. 724
C "A" (S-53)

An Act to Clarify the Discharge of Mortgages
S.P. 275 L.D. 725
C "A" (S-54)

An Act Concerning Cocurricular Activity Eligibility for Students Identified under the Federal Individuals with Disabilities Education Act
H.P. 544 L.D. 740
C "A" (H-137)

An Act to Allow the Maine Technical College System to Grant Utility Easements
H.P. 574 L.D. 779

An Act to Expand the Membership of the State Employee Health Commission
S.P. 289 L.D. 787
C "A" (S-63)

An Act Establishing Education as a Priority for the State by Expediting Consideration of the Education Budget
H.P. 707 L.D. 964

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

Senator **BUSTIN:** Thank you Mr. President. Point of parliamentary inquiry. Is it appropriate to dispense with further reading of Enactors?

THE PRESIDENT PRO TEM: The Chair would rule, after conferring with the Secretary, that it is not likely.

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

An Act to Enhance the Clam Industry in the State
S.P. 103 L.D. 243
C "A" (S-48)

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

An Act to Establish an Equitable Sales Tax Structure for Bottled Water
H.P. 258 L.D. 360
C "A" (H-85)

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

An Act to Repeal the Retail Seed Dealer's License
H.P. 382 L.D. 517
C "A" (H-72)

On motion by Senator HANLEY of Oxford, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Eliminate the Personal Property Tax on Individuals in the State
H.P. 414 L.D. 571
C "A" (H-87)

On motion by Senator HANLEY of Oxford, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Require More Information Concerning Place of Residence on Individual Income Tax Forms
H.P. 613 L.D. 823
C "A" (H-80)

On motion by Senator HANLEY of Oxford, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency

An Act to Decrease the Minimum Required Amount of Liability Insurance for Certain Intrastate Vehicles
H.P. 28 L.D. 22
C "A" (H-103)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senator having voted in the negative, and 25 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Exempt Motor Homes from the Sunday Sales Law
H.P. 163 L.D. 211
C "A" (H-133)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with 1 Senator having voted in the negative, and 25 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Correct Errors and Inconsistencies Related to the Recodification of the Maine Revised Statutes, Title 29

H.P. 183 L.D. 231
C "A" (H-79);
H "A" (H-104)

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

Resolve

Resolve, Authorizing the Transfer of a Certain Parcel of Land Known as Kole Kill Island in West Grand Lake upon Payment of Back Taxes

H.P. 197 L.D. 256
C "A" (H-86)

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

Emergency Resolve

Resolve, to Require the Special Commission to Erect a Plaque in the Hall of Flags Honoring Medal of Honor Recipients from Maine to Submit 2 Reports

H.P. 350 L.D. 470
C "A" (H-94)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senator having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was FINALLY PASSED and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Extend the Reporting Date of the Commission to Study Biotechnology and Genetic Engineering

H.P. 443 L.D. 609
C "A" (H-89)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Mandate

An Act Amending the Charter of the Department of Electric Works within the Town of Madison
S.P. 108 L.D. 284
C "A" (S-57)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Mandate

An Act Requiring That Disbursement Warrants Receive an Affirmative Vote by Municipal Officers
H.P. 318 L.D. 439
C "A" (H-82)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Pertaining to the Signing of Petitions"

H.P. 471 L.D. 652

Majority - **Ought to Pass** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - earlier in the day by Senator **MICHAUD** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 2, 1995, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 3, 1995, Reports **READ**.)

On motion by Senator **KIEFFER** of Aroostook, the Senate **ACCEPTED** the Majority **OUGHT TO PASS** Report, in concurrence.

The Bill **READ ONCE**.

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

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

HOUSE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act to Restrict the Use of Eminent Domain Power"

H.P. 397 L.D. 532

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-121)** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-122)** (2 members)

Tabled - earlier in the day by Senator **BUSTIN** of Kennebec

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 2, 1995, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-121)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-121)**.)

(In Senate, May 3, 1995, Reports READ.)

(In Senate, May 3, 1995, Reports READ.)

Senator KIEFFER of Aroostook moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-121) Report, in concurrence.

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

Senator HANLEY: Thank you Mr. President. I had been watching this one as it worked through. It was my understanding that the Senator from York did want to speak on this bill and I guess I would request that someone Table this item until later in today's session.

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending the motion by the same Senator to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-121) Report, in concurrence.

Senate at Ease

Senate called to order by the President Pro Tem.

On motion by Senator BUSTIN of Kennebec, the Senate removed from the Later Today Assigned Table the following:

HOUSE REPORTS - from the Committee on NATURAL RESOURCES on Bill "An Act to Restrict the Use of Eminent Domain Power"

H.P. 397 L.D. 532

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-121). (11 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-122). (2 members)

Tabled - earlier in the day by Senator KIEFFER of Aroostook

Pending - the motion by Senator KIEFFER of Aroostook to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-121) Report, in concurrence.

(In House, May 2, 1995, 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-121).)

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

Senator HANLEY: Thank you Mr. President. My apologies to the Chamber. I was aware that the Senator from York had expressed an interest, and I do have an interest in this bill, but it has come to my attention that this Chamber is taking a new posture. In realizing that our time is quickly waning away to meet our statutory deadline we are going to hold all members of this Chamber to a higher standard, as far as when this body is in session all members will be here and will be present to vote on those issues. Realizing that often, in the early part of the session, we don't have as much going on, but as we get into the last six weeks, with more and more pressing matters before us it is important for all members of this Chamber to be here and to be ready to deal with their bills out of Committee. With that, I have agreed to have it brought off the Table but I would request a Division on this matter, having had an opportunity to discuss this with the Senator from York and to review the language. I think there is merit to the proposed Committee Amendment "B" and will be voting for it and for that purpose request a simple Division.

Senator HANLEY of Oxford requested a Division.

Senator BUSTIN of Kennebec requested a Roll Call.

The same Senator requested and received Leave of the Senate to withdraw her request for a Roll Call.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator KIEFFER of Aroostook that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-121) Report, in concurrence.

A Division has been requested.

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

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

21 Senators having voted in the affirmative and 1 Senator having voted in the negative, the motion by Senator KIEFFER of Aroostook to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-121) Report, in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-121) READ and ADOPTED, in concurrence.

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

Off Record Remarks

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

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

Senator **CIANCHETTE** of Somerset was granted unanimous consent to address the Senate on the Record.

Senator **CIANCHETTE**:
President Jeff passed the gavel to Spike to carry. My first thought was, "This could be scary." But the Senator from Kennebec soon dispelled this rumor and delivered his duties well, with great humor. Congratulations on a great job Senator Carey.

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

Off Record Remarks

Senate at Ease

Senate called to order by the President Pro Tem.

On motion by Senator **AMERO** of Cumberland, **RECESSED** until 11:30 o'clock in the morning.

After Recess

Senate called to order by the President Pro Tem.

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

SENATE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Amend the Muzzle-loading Firearm Season on Deer by Allowing the Season To Begin One Week before the Open Firearm Season on Deer"

S.P. 51 L.D. 80

Report "A" - Ought Not to Pass. (8 members)

Report "B" - Ought to Pass as Amended by Committee Amendment "A" (S-104). (2 members)

Report "C" - Ought to Pass as Amended by Committee Amendment "B" (S-105). (1 member)

Tabled - earlier in the day by Senator **KIEFFER** of Arostook

Pending - **ACCEPTANCE** of Any Report

(In Senate, May 3, 1995, Reports **READ**.)

Senator **HALL** of Piscataquis moved that the Senate **ACCEPT** the Report "B" - **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-104)**.

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

Senator **HALL**: Thank you Mr. President, Ladies and Gentlemen of the Senate. Presently, for 1995 and 1996, we will have a two-week black powder season in the State of Maine. It will be state-wide the first week of December, but on the second week in December the season will only be for half of the state. The reason for that is the Department of Inland Fisheries and Wildlife felt that the second week of December, especially from Central Maine north, we could have a lot of snow on the ground, which would probably put the deer into their wintering area, which is basically ten percent of what they roam in earlier. So, therefore, they decided that they didn't dare have even a black powder season in that part of the State. This particular bill, L.D. 80, as amended, changes this so that we would then have the first week of black powder season in the last week of October, and then have the second week of black powder season the first week of December, state-wide. Therefore, all of our residents would have the same opportunity. This bill received much discussion, much work time, many calls and letters from our constituents. The biggest complaint was from the bow and arrow hunters who felt that he wasn't going to lose a week but he didn't want to share a week with the black powder hunters. So, this amendment allow the archery hunter to still have his four weeks without anyone else hunting deer. What it would do, it would allow the last week of September to be the start of the bow hunting season, running a month, then a week of black powder, four weeks of firearm season in November, like we are accustomed to, and the first week of December for black powder

again. Keeping in mind there is no change, the black powder hunter would have to wear two articles of fluorescent orange, he would have to stop hunting at sunset, not a half hour after as the bow hunter has. There was a few complaints from some bird hunters, but I would remind you that the bird hunters have two months to hunt, October and November, that would not change. I also would like to tell you that most anyone who hunts with black powder today hunts the same way a bow hunter hunts. It is not a long-range weapon, it is a primitive weapon. You have one shot, there is always the question when you pull the trigger whether it is going to discharge or not, especially in wet or damp weather, because the powder will get wet. The fact they hunt the same way, is usually through a tree-stand or a blind, your chances of shooting a deer by just plain normal hunting, like you would with a rifle, is a lot less chance of being successful. Most black powder hunters, as I say, do go into the woods, find a deer crossing or whatever to their liking, and sit down and wait for the deer to come to them. So, for these reasons, I would urge you to vote to pass this motion on Report B, so that we would be fair to all of our black powder hunters state-wide. Thank you.

Off Record Remarks

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you Mr. President, Men and Women of the Senate. Hopefully you would vote against the pending motion. The majority of the Committee did not want to create an additional week for a special interest group. They felt that the deer herd should have a little relief from the hunters. Mr. President, I would ask for a Division when the vote is taken.

Senator **MICHAUD** of Penobscot requested a Division.

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

Senator **HALL:** Thank you Mr. President. Just to clarify that. As I mentioned before, this is not creating any additional hunting time. In 1995 and 1996 there will be two weeks of black powder hunting, as I mentioned. This is not creating an extra week for any special interest group. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion of Senator **HALL** of Piscataquis that the Senate **ACCEPT** Report "B" - **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-104).**

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.

13 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion of Senator **HALL** of Piscataquis to **ACCEPT** Report "B" - **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-104), FAILED.**

Senator **MICHAUD** of Penobscot moved that the Senate **ACCEPT** Report "A" - **UGHT NOT TO PASS.**

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator **MICHAUD** of Penobscot to **ACCEPT** Report "A" - **UGHT NOT TO PASS.**

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 12 Senators having voted in the negative, the motion by Senator **MICHAUD** of Penobscot to **ACCEPT** Report "A" - **UGHT NOT TO PASS, PREVAILED.**

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 Relating to Criminal Forfeitures"
H.P. 1058 L.D. 1487

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

Comes 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 Amend the Real Estate Laws Concerning Validation of Defects"
H.P. 1059 L.D. 1488

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 to Add Types of Pharmacies That Are Subject to Record Seizure"

H.P. 1057 L.D. 1486

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

Comes 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 Clarify the Definition of Subdivision"

H.P. 1056 L.D. 1485

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, to Reopen Maine State Rest Areas to Only Commercial Tractor Trailer Use

H.P. 1055 L.D. 1484

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

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

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

Pursuant to Public Law
COMMISSION TO STUDY POTATO QUALITY ISSUES

The **COMMISSION TO STUDY POTATO QUALITY ISSUES**, pursuant to the Public Law 1993, chapter 699, section 8, asks leave to submit its findings and to report that the accompanying Bill "An Act to Implement the Recommendations of the Commission to Study Potato Quality Issues"

H.P. 1060 L.D. 1489

Be referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** for Public Hearing and printed pursuant to Joint Rule 20.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED**, pursuant to Joint Rule 20.

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

The Bill referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, pursuant to Joint Rule 20, in concurrence.

Pursuant to Public Law
COMMISSION TO STUDY POTATO QUALITY ISSUES

The **COMMISSION TO STUDY POTATO QUALITY ISSUES**, pursuant to the Public Law 1993, chapter 699, section 8, asks leave to submit its findings and to report that the accompanying Bill "An Act to Prohibit Retirement Contributions by Employees of Agricultural Commodity Groups from Being Applied towards the Unfunded Liability of the Maine State Retirement System"

H.P. 1061 L.D. 1490

Be referred to the Committee on **LABOR** for Public Hearing and printed pursuant to Joint Rule 20.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **LABOR**, pursuant to Joint Rule 20.

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

The Bill referred to the Committee on **LABOR**, pursuant to Joint Rule 20, in concurrence.

Senator **AMERO** of Cumberland requested and received leave of the Senate that members and appointed staff be allowed to remove their jackets for the remainder of the Session.

Senate at Ease

Senate called to order by the President Pro Tem.

ORDERS OF THE DAY

Unfinished Business

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

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

Bill "An Act to Allow Liens on Claims Not Sounding in Tort"
S.P. 144 L.D. 330

Tabled - April 26, 1995, on motion by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENGROSSED.**

(**RECALLED FROM THE GOVERNOR'S DESK** pursuant to Joint Order S.P. 481.)

(In Senate, April 13, 1995, Rules suspended and **RECONSIDERED PASSAGE TO BE ENACTED.** Under further suspension of the Rules, **RECONSIDERED PASSAGE TO BE ENGROSSED.**)

Senator **MILLS** of Somerset moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED.**

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

Senator **MILLS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The bill was initiated by an attorney from Portland who has a collection practice. He stumbled onto something that, I think, is a genuine, but very small, problem in our debt collection laws. We passed the bill and sent it along, but I don't think that we examined it all that carefully. It seemed like a good idea at the time, as they say. The Governor's lawyer caught it on the

Governor's desk and examined it more thoroughly and brought to my attention some impediments to proceeding with the language that had been given to us. We have since re-examined it more carefully and have not really been able to come up with a satisfactory solution to the problem that the constituent identified. At this juncture, the best resolution, from the Committee's perspective, was to send a letter to the Bar Association and ask if those who practice in this area would mind addressing better minds than ours to the problem and see if they could come up with a bill, perhaps in the next session, and straighten out what we see there. It is not a pressing issue, it is a very minor incongruity, and it is not doing anybody any harm by leaving the law as it is for the time being. That's the basis for the motion. That was the decision that the Judiciary Committee made yesterday in work session, although the bill was not formally recommitted to us.

On motion by Senator **MILLS** of Somerset, the Bill and Accompanying Papers was **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

Sent down for concurrence.

The Chair laid before the Senate the second Tabled and Specially Assigned (May 2, 1995) matter:

HOUSE REPORTS from the Committee on **HUMAN RESOURCES** on Bill "An Act to Provide Funding to a Domestic Violence Shelter in Ellsworth"
H.P. 65 L.D. 101

Majority - **Ought to Pass As Amended by Committee Amendment "A" (H-65).** (9 members)

Minority - **Ought Not to Pass.** (4 members)

Tabled - April 27, 1995 by Senator **KIEFFER** of Aroostook.

Pending - **FURTHER CONSIDERATION.**

(In Senate, April 12, 1995, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED,** in **NON-CONCURRENCE.**)

(In House, April 26, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-105),** in **NON-CONCURRENCE.**)

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

The Chair laid before the Senate the third Tabled and Specially Assigned (May 2, 1995) matter:

HOUSE REPORTS from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Prohibit Schools from Charging Activity Fees for Participation in Extracurricular Events"

H.P. 140 L.D. 188

Majority - Ought to Pass As Amended by Committee Amendment "A" (H-113). (8 members)

Minority - Ought Not to Pass. (5 members)

Tabled - April 27, 1995 by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, April 26, 1995, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 27, 1995, Reports **READ**.)

Senator **SMALL** of Sagadahoc moved that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **ESTY:** Thank you Mr. President, Men and Women of the Maine Senate. The purpose of this bill is to ensure equal access for all students to programs, groups and activities in our public schools. The levy of an entrance fee to be able to be on a team, or club, or group, creates a different standard that shouldn't exist within our public education system. Let's not have the less fortunate kids opt out because of their individual pride and inability to pay. Please support the bipartisan, eight to five, majority report. Mr. President, I would ask for a Division.

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

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you Mr. President, Men and Women of the Senate. This was a difficult bill, I think, for many of us to deal with, because I think most of us fundamentally disagree with charging an activity fee for students participating in the extra-curricular, and I think this was designed particularly for sports. There are about fourteen school districts that do charge an activity fee. There are waivers, however, for students who are unable to pay, very much like we have for the school lunch program. You fill out a form, you put down your family income, and then you are granted a waiver. So, students that can pay for it will, and then those that can't can still participate. If you do not want to see your schools charge an activity fee, then I think that is fine, and I think you should go to your local school board and make sure

they don't opt for that option. This bill will prevent my school, and your school, from charging an activity fee, and take away their flexibility in that decision. The fee is usually around \$20. What that fee does is not pay for the program itself, because we all know that some of the varsity sports are extremely expensive, they have to provide equipment and coaches. Certainly, a varsity high school basketball team is not going to be paid for by a \$20 activity fee. What it does allow is the secondary and third level sports, the seventh and eighth grade basketball team, or the girls field hockey team, that don't get the attention that the varsity sports get in the school, but do require, sometimes, a small stipend for a coach to take over the team. These activity fees, as I said, do not begin to cover the cost of the sports program, but they could mean the difference between children who are not gifted enough to be on a varsity team to still be able to participate in an athletic activity during their school career. At a time when districts are agonizing over decreasing education dollars I hope we will not further tie the hands of the locals by enacting this legislation. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Mr. President. May it please the Senate. The issue here is a very simple one. It is a matter of fairness. Is it fair, on the one hand, for the State of Maine withholding school monies from local school entities because of the difficulty of coming up with funds, and then making or enacting a bar against those school entities on their own decision wishing to call for some fees, locally, for programs to continue. I don't think we should have it both ways in fairness. We can't say "No money, and by the way, you can't charge a fee, locally, for a program." To me it is a matter of fairness.

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

Senator **BEGLEY:** Thank you Mr. President. In education the comment has been we will have, basically, free education. The comment made that this is a local concern and therefore the State should stay out of it has all kinds of ramifications. The local control that the people who are in favor, or who want this bill defeated, lies almost exclusively with the school board. They are elected locally, and therefore they are saying they have local control. In many respects, particularly in regard to fees, unless the local people in that community are given a chance to accept or reject this point, I think that they are wrong in assuming that a fee should be charged to any youngster in school when the school department says they will offer this in our school. We will offer this, we will have it as part of our program. If that is the case then they ought to simply say, and anybody in our school, regardless, is eligible. The point made, no school is ever going to exclude a youngster, we are going to find somebody who will donate the money for him, we will find a club that is perfectly willing to give money to continue this program, if you believe that, seriously, then there is no problem in eliminating the possibility of a fee. For once you start

charging fees and give students this fee, you are making strati all the way up and down the line. Is it bad to eliminate the program? I wouldn't eliminate most of those programs come h or high water, but I am also in the position that I do not want to charge a fee to any youngster that was in my school system for this point. I would donate, I would work on a club, and any other fashion to do it, but I would not, in my opinion, allow a school system, by my vote, to charge a fee for someone who is part of the school system anyway. The local control, I agree with you wholeheartedly, if the school system will go to a referendum vote and get permission from its own citizenry to do so, you will not hear from me. But, you will hear from me because the school board, in some instances, use this technique to use money that the budget has restricted in other fashions. It is, in some respects, a way around that budget. That again is a problem for students. My opinion is that I am not interested in taking away local control from anybody, but I am not, in a free system of public education, going to vote for the fee. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator **SMALL** of Sagadahoc that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

A Division has been requested.

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

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

17 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **SMALL** of Sagadahoc to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Senate at Ease

Senate called to order by the President Pro Tem.

The Chair laid before the Senate the fourth Tabled and Specially Assigned (May 2, 1995) matter:

HOUSE REPORT from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Modify Community Rating for Individual and Small Group Health Plans" (EMERGENCY)

H.P. 431 L.D. 594

Report - Ought to Pass as Amended by Committee Amendment "A" (H-123).

Tabled - April 27, 1995 by Senator **KIEFFER** of Arostook.

Pending - **ACCEPTANCE OF THE REPORT.**

(In House, April 27, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-123).**)

(In Senate, April 27, 1995, Report **READ.**)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator **Abromson**.

Senator **ABROMSON:** Thank you Mr. President. I just want to point out that Committee Amendment "A" removes the emergency. It is not an emergency.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-123) **READ** and **ADOPTED**, in concurrence.

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

Senate at Ease

Senate called to order by the President Pro Tem.

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

After Recess

Senate called to order by the President.

Off Record Remarks

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Provide for the Timely Passage of the State Budget"

H.P. 687 L.D. 938

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

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

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

The Bill **READ ONCE.**

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Change the Department of Corrections' Lease Provisions to Conform with Statutes Regarding Leases of State Buildings by Other Departments"

H.P. 654 L.D. 877

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

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

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

The Bill **READ ONCE.**

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

The Committee on **TRANSPORTATION** on Bill "An Act Regarding Designation by the Commissioner of Transportation of a Deputy or Another Staff Member to Represent the Commissioner of Transportation at Maine Turnpike Authority Meetings"

H.P. 847 L.D. 1178

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

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

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

The Bill **READ ONCE.**

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

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Protect the Integrity of the Maine Cellular Telecommunications Network"

H.P. 711 L.D. 968

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

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

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

The Bill **READ ONCE.**

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

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act to Continue Protection Under a Protection From Abuse Order"

H.P. 297 L.D. 401

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-174).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-174).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-174) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Increase the Penalty for Child Sexual Abuse Committed within 1,000 Feet of a School"

H.P. 123 L.D. 171

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

Signed:

Senators:

BENOIT of Franklin
HALL of Piscataquis
O'DEA of Penobscot

Representatives:

CLARK of Millinocket
BUNKER, JR. of Kossuth Township
CLUKEY of Houlton
GOOLEY of Farmington
JOHNSON of South Portland
PEAVEY of Woolwich
THOMPSON of Naples
WHEELER of Bridgewater

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-171).**

Signed:

Representatives:

MCALEVEY of Waterboro
WATERHOUSE of Bridgton

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 **CRIMINAL JUSTICE** on Bill "An Act to Protect Minors from Child Molestation"

H.P. 316 L.D. 437

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

Signed:

Senators:

BENOIT of Franklin
HALL of Piscataquis
O'DEA of Penobscot

Representatives:

CLARK of Millinocket
BUNKER, JR. of Kossuth Township
CLUKEY of Houlton
GOOLEY of Farmington
JOHNSON of South Portland

PEAVEY of Woolwich
THOMPSON of Naples
WATERHOUSE of Bridgton
WHEELER of Bridgewater

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-168).**

Signed:

Representative:

MCALEVEY of Waterboro

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 **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Require the Provision of Transportation to Private School Students"

H.P. 447 L.D. 613

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

Signed:

Senators:

SMALL of Sagadahoc
ESTY, JR. of Cumberland
ABROMSON of Cumberland

Representatives:

MARTIN of Eagle Lake
AULT of Wayne
DESMOND of Mapleton
STEVENS of Orono
CLOUTIER of South Portland
MCELROY of Unity
BRENNAN of Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-179).**

Signed:

Representatives:

BARTH, JR. of Bethel
LIBBY of Buxton
WINN of Glenburn

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.

(In House, April 27, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-62)**, in **NON-CONCURRENCE**.)

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

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

The Chair laid before the Senate the sixth Tabled and Specially Assigned (May 2, 1995) matter:

SENATE REPORTS from the Committee on **JUDICIARY** on Bill "An Act to Amend the Law Governing Mechanic's Liens"

S.P. 267 L.D. 718

Majority - **Ought Not to Pass**. (12 members)

Minority - **Ought to Pass As Amended by Committee Amendment "A" (S-97)**. (1 member)

Tabled - April 27, 1995 by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT**.

(In Senate, April 27, 1995, Reports **READ**.)

On motion by Senator **MILLS** of Somerset, the Senate **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report.

Sent down for concurrence.

Senator **McCORMICK**: Thank you Mr. President, Men and Women of the Senate. I rise today to speak against the motion to Adhere. This bill would give the same protections that small businesses have that employ employees from zero to twenty-six, to those larger small businesses that employ a number of employees from twenty-six to fifty. It is a basic, basic insurance reform. It would extend guaranteed issuance and guaranteed renewal to these employers. Guaranteed issuance and guaranteed renewal are insurance lingo for if you have employees who get sick during the term of your insurance you cannot be dropped. Your insurance cannot be dropped by your insurer. That is the way small businesses are treated in this State, but larger small businesses are not. It is a basic insurance reform item that is agreed upon by all parties. It was part of President Bush's health care reform bill, it was part of President Reagan's health care reform bill, indeed, our former Governor, and I passed this around to some folks, our former Governor, Governor McKernan, when he was on the National Governor's Association and was the Chair of the Committee on Human Resources, he and about ten other Governors signed a position paper on health care reform in which he supported community rating, guaranteed issuance and guaranteed renewal. It is basic market reform that helps have the market place competition based on managing risk, rather than avoiding risk. There has also been several other states who have extended community rating and guaranteed issuance and guaranteed renewal to employers of twenty-five to fifty. That is usually what the small group market is. About twenty-three other states handle their small group in these numbers of fifty and below. We are in the minority in that regard. In case you worry about has there been a neutral study on this, because we have heard so much, Blue Cross says one thing and small businesses say another thing and consumers say a third thing, is there any neutral source of information on this? The answer is yes. The Commonwealth Fund and George Washington University did a study of the states that had passed community rating, and it showed that in all cases more people were insured in those states, the market became more stable, rates became more compressed. Everything that we thought would happen did, in fact, happen. In New York it was pretty much a wash, but in Vermont and New Jersey huge increases in the number of people covered happened. So, what we have in our state is we have employers who employ under twenty-five people being protected by insurance reforms that employers who employ from twenty-six to fifty people are not. This just doesn't make sense.

The Chair laid before the Senate the seventh Tabled and Specially Assigned (May 2, 1995) matter:

SENATE REPORTS from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Stabilize Health Insurance Rates for Small Businesses"

S.P. 164 L.D. 425

Majority - **Ought to Pass As Amended by Committee Amendment "A" (S-62)**. (9 members)

Minority - **Ought Not to Pass**. (4 members)

Tabled - April 27, 1995 by Senator **KIEFFER** of Aroostook.

Pending - **FURTHER CONSIDERATION**.

(In Senate, April 25, 1995, Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

We have heard really moving testimony the last time we took this bill up, from Senator Harriman from

Cumberland. I thought it was moving anyway, about one of his constituent businesses who employed twenty-nine people and had their coverage dropped because two of the employees had developed diabetes in the intervening year. Today, I would like to tell you that I was called by the Diabetes Association of Maine, who are going to strongly get behind this bill. I ask you to really take a look at it. If you are worried about Maine's insurers, and I am as well, we took care of their concerns in L.D. 594, that is the insurance market bill. That has already passed this body. This bill is dealing with small business and, as the Senator from Cumberland, Senator Harriman, so eloquently pointed out, the reason why we have not heard any lobbying from the business community on this bill is because this is the forgotten middle. These businesses, they are 7% of our businesses, are too big to be a part of NFIB and too small to be a part of the Chamber, so I think we are just going to have to figure out what is right and go ahead and do it. I also have passed out to all of you a study done by a local businessman who is in the same business that Senator Harriman is in, and that is putting together insurance for small businesses. He took it upon himself to do a study of how twenty small businesses fared during the first year of community rating and thereafter. He found that, in all cases, they saved money. The market became more competitive, that there were more players, and now we have about five strong players in the market, instead of one big player and several minor players. This is exactly what we wanted to happen. We wanted to increase competition in this market and because the guaranteed issuance and guaranteed renewal part of the insurance reforms are contained in the community rating bill, they are like three peas in a pod, they go together. So, if we want employers from twenty-six to fifty to not be dropped because employees get sick, then we need to pass L.D. 425. Mr. President, I move that we Recede and Concur and I ask for the Yeas and Nays.

Senator **McCORMICK** of Kennebec moved that the Senate **RECEDE** and **CONCUR**.

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

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

Senator **ABROMSON:** Thank you Mr. President. I don't wish to take up the time of the Senate by repeating many of the arguments that we discussed before. I just want to say that this matter came before this body and the Ought Not to Pass Report was read and accepted. I just will repeat that the study that the good Senator from Kennebec, Senator McCormick, refers to that was placed on everyone's desk, was for groups from one to twenty-five, where everyone will agree there was a problem. That problem has been corrected. However, in the twenty-five to fifty group there is plenty of competition. Also in the twenty-five to fifty group, if you happen to have a so-called good group, you also will be prohibited under this bill from being offered or receiving a discount. I urge a no vote on Recede and Concur.

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

Senator **McCORMICK:** Thank you Mr. President. I would like to pose a question through the Chair, if I may. I would like to ask the good Senator from Cumberland, Senator Abromson, to explain that last point about a discount. I am unclear as to what that means. I am not aware that there would be any financial negative impact, and statistics show that there would not, on any business that is in the community rating market.

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

Senator **ABROMSON:** Yes, to answer, through the Chair, the question of the good Senator of Kennebec, Senator McCormick. As we all know, when you have community rating, everyone gets the same price. If you don't have community rating then you can charge whatever the market will bear. You can also go the other way. If you have a good group you can get discounts.

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

Senator **McCORMICK:** Thank you Mr. President. The purpose of community rating, which, as I want to emphasize, is one-third of what is contained in this bill, the other two-thirds are guaranteed issuance and guaranteed renewal, and without community rating, guaranteed issuance and guaranteed renewal are meaningless. If you want businesses to go ahead and be able to be dropped by insurers because somebody in the business has a lower back problem, or develops diabetes, then vote against the pending motion. But, if you want businesses from twenty-five to fifty to have the same protections that businesses that employ from zero to twenty-five have, then vote yes on this. What community rating does, which is the third pea in the pod of insurance reform that is contained in L.D. 425, is it compresses rates. It says that insurers cannot rate on gender anymore, and they cannot rate on health status. That is why it is very important to pass this bill. Instead of competing to avoid people who are sick, in the health insurance market, I know that sounds like a wild idea, but that is what the market place was like until we started reforming it. I want to re-emphasize both parties have participated in reforming the market. So, until we had community rating, guaranteed issuance, and guaranteed renewal we had insurers rating on health status, basing premiums on health status. What our bill says, and now that we have passed L.D. 594, or are on the way to passing it, insurers may rate, this year, either 30% above or 30% below the median rate in that group. That is a lot of room to rate, a lot of room for discount, lots and lots of room. They can do that based on age and they can do that based on geography, I think, and familial status, and they can also offer special health discounts. What they cannot do is rate on health status and rate on gender. I pose to you that this helped the market, this helped create competition to manage risk, not avoid risk. If you want to cast a vote for small

business today, please, you will be voting yes on the motion to Recede and Concur on L.D. 425. Thank you.

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

Senator **HARRIMAN:** Thank you Mr. President. Good evening Ladies and Gentlemen of the Senate. I rise in hopes that you will join me in voting yes on the pending question to Recede and Concur. I ask you to join me because the truth is, one of the most important things this Legislature can do, to prove that we want to work with, not against, people who take the risk of providing jobs in our economy. I would suggest that the heart and soul of our economy, where the jobs of the future are, where the people who are taking the most risk to create jobs in this State, are the small companies. Small companies that may have fifty employees or less. That's where the future is. That's where the start-up companies are. This bill is an opportunity to send a signal to them that we want to make sure that they can attract and retain good, quality employees, regardless of their age, their sex, their health history. I know first hand that there is nothing more distracting to an employer than to find out that one of their key employees, or an employee they would like to attract, has got a health problem with either herself or himself, or a member of his family. When that happens, the company that needs the key employee, or another employee who may come on board, loses that person because of an issue like inaccessibility to health insurance, or, worse yet, an employee who can't be renewed. It takes that person out of the business that they know best and puts them into the insurance marketing business, which they probably know the least. This is an opportunity to help our employers in the State of Maine, the small employers, the heart and soul of Maine. I hope you will join me on the pending motion.

The President noted the absence of Senator **BERUBE** of Androscoggin, and Senator **STEVENS** of Androscoggin, and excused them from the following Roll Call vote.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **McCORMICK** of Kennebec to **RECEDE** and **CONCUR**.

A vote of Yes will be in favor of **RECEDING** and **CONCURRING**.

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,** **ESTY,** **FAIRCLOTH,**
GOLDTHWAIT, **HARRIMAN,** **LAWRENCE,**
LONGLEY, **McCORMICK,** **MICHAUD,**
MILLS, **O'DEA,** **PARADIS,** **PINGREE,**
RAND

NAYS: Senators: **ABROMSON,** **AMERO,** **BEGLEY,** **BENOIT,**
CAREY, **CARPENTER,** **CASSIDY,**
FERGUSON, **HALL,** **HANLEY,**
HATHAWAY, **KIEFFER,** **LORD,**
PENDEXTER, **SMALL,** and the
PRESIDENT, Senator **BUTLAND**

ABSENT: Senators: **CIANCHETTE,** **CLEVELAND,** **RUHLIN**

EXCUSED: Senators: **BERUBE,** **STEVENS**

14 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 3 Senators being absent and 2 Senators having been excused, the motion of Senator **McCORMICK** of Kennebec to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **KIEFFER** of Aroostook, the Senate **ADHERED**.

The Secretary informed the Clerk of the House.

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

HOUSE REPORTS from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Deregulate the All-terrain Vehicle Market"

H.P. 531 L.D. 727

Majority - **Ought Not to Pass.** (9 members)

Minority - **Ought to Pass As Amended by Committee Amendment "A" (H-119).** (4 members)

Tabled - May 2, 1995 by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, April 27, 1995, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

On motion by Senator **HALL** of Piscataquis, the Senate **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

HOUSE REPORTS from 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

Majority - Ought to Pass As Amended by Committee Amendment "A" (H-70). (9 members)

Minority - Ought Not to Pass. (4 members)

Tabled - May 2, 1995 by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT.

(In House, April 27, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-70).)

Senator AMERO of Cumberland moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

Senator LONGLEY of Waldo requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator AMERO of Cumberland that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

A Division has been requested.

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

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

17 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator AMERO of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-70) READ and ADOPTED, in concurrence.

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

Majority - Ought to Pass As Amended by Committee Amendment "A" (S-98). (10 members)

Minority - Ought Not to Pass. (3 members)

Tabled - May 2, 1995 by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT.

Senator MILLS of Somerset moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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

Senator MILLS: Thank you Mr. President. Good evening Ladies and Gentlemen of the Senate. There is a fiscal note to this bill, and it is not insubstantial. It would cost approximately \$293,000 in the coming year to fund the Maine Human Rights Commission to the extent that we have asked. It would cost an additional \$107,000 to fund the Hate Crimes Unit of the Attorney General to the level that we have suggested. The reason for our action, in the Judiciary Committee, on this measure, was that the Maine Human Rights Commission, with its current level of jurisdiction, has a workload that it can't possibly handle. The practical effect of that is that there are claims which are either weak or frivolous that ought to be investigated and disposed of by the Commission, at that level, and these claims, or petitions or complaints, ought to be disposed of quickly. They are not being disposed of quickly. As a result, the two-year statute of limitations on the bringing of such claims in court becomes a factor, and the Commission itself finds itself sending the claims off into court, or allowing people to sue, by giving them a right-to-sue letter, because they do not have the time or the ability to dispose of those claims themselves. So, what happens is some claims, that may or may not have substantial merit, get into the court system against businesses, typically, when they probably should be dealt with, or gotten rid of, or disposed of, or settled by the Commission, which was the original intent of creating the Commission. As it stands now, if you have a complaint of discrimination, you cannot go to court first, you have to go through the procedure adopted by the Maine Human Rights Commission, and the whole purpose of that was to get rid of claims without going into a lawsuit, either by settling the most obvious claims or by disposing of claims that were found, after investigation, to be frivolous or to have little or no merit. The system is not working. So, what happens is that a lot of businesses are finding themselves sued by claimants on claims that are stale, two years old, and the court system is getting cluttered up with human rights claims that ought to have been disposed of by this Commission, had we fully funded it, or had we funded it more adequately. If it is the policy of this Legislature that the jurisdiction of the Maine Human Rights Commission be compressed, be constrained, be cut back, that's another issue, and perhaps we should address that issue head on. In fact, the Commission,

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

SENATE REPORTS from 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

itself, has come up with some ideas about how their jurisdiction and their workload might be cut back from its present level. But, if we have, as a matter of policy, elected to leave the Commission with its present breadth of jurisdiction, and we give it no money with which to dispose of these claims that come before it, we are creating a burden to both sides of these controversies, and I am one who has represented people on both sides. I do a fair amount of work for businesses, as well as for agrieved parties who appear before the Commission. So, we have created a problem that is not adequately funded and it is imposing a burden on the businesses of this state, as well as upon those who view themselves to be discriminated against.

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

Senator **PENDEXTER:** Thank you Mr. President, Men and Women of the Senate. This is one of the times that I choose to disagree with my Senate colleague on the Judiciary Committee, the Senator from Somerset. I guess I would make an argument that the Human Rights Commission, in my opinion, certainly doesn't have a track record that I think affords to be appropriated more resources in a time when those resources are so scarce. I guess I would make the argument that perhaps the needless and frivolous claims are coming forth because of the presence of the Commission. So, it is my opinion, that I don't think it is responsible, in times of scarce resources, to send to the Table in the Appropriations Committee an appropriation for this cause. So, I will be voting against the pending motion and I would request a Division.

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

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

Senator **LONGLEY:** Thank you Mr. President, Men and Women of the Senate. I have represented a lot of clients before the Human Rights Commission, and I object to what the good Senator from Cumberland has to say. I find them very hard-working. They are being paid, the fact finders, are being paid much less than judges. I know that there is like three piles, A, B, and C piles. In pile A, we want to get to it and we will try. In pile B, which is a larger pile, we would like to get to but it is not a top priority, and in pile C, it is a low priority and we will never get to it. Barely a third of those cases get heard. After two years, if you have jumped through this hoop, and they haven't acted, you get a right-to-sue letter and it is a ticket to ride for lawyers, because you get to go to court, and an attorney's fees provision kicks in. I would suggest that if it cost \$200,000 plus, to fully fund that plus the AG's, I think that at the other end of the process we might be saving court time, and at least \$200,000. So, I would recommend that we follow what the good Senator from Somerset has said. 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 really appreciate the work that the Judiciary Committee did on this bill. I put this bill in upon the request of the Diversity Commission, and I think it was their highest priority. We currently have, in the Attorney General's office, a service that is being rendered for the State, it is my understanding, pretty much for free. Yes, I have confirmation from the good Senator from Cumberland, Senator Abromson. That Department, the Hate Crimes Department, has done invaluable work for the State of Maine, and I just want to relate one case to you. One Sunday morning, I was called by a woman, a woman neighbor, a married woman neighbor, up in Aroostook County, of a guy who lived down a dirt road, half a mile down a dirt road, who was having trouble with one of the property owners that preceded his house. This trouble had gone on for two years, serious trouble, trouble like accosting and throwing rocks at this guy, knocking him off the road. He would report it to the police and the police would do nothing. This man was gay. The woman, the neighbor woman, finally called me and asked is there anything that can be done. I said I would call Steve Wessler, he happens to be one of my constituents and he happens to be the person who does this out of the goodness of his own heart for the State of Maine, and he works over at the Attorney General's Office. Steve Wessler was home, thank God, on a Sunday morning, and took care of it. Now, that is just, to my mind, what is contained in both of these bills is absolutely basic to what this country is about. We need to have a level playing field. We need, if our Constitution and our Bill of Rights are to be taken seriously, it is absolutely essential. Right now my understanding is that the Human Rights Commission is a year backed up, two years backed up, I have confirmation from the good Senator from Waldo. Two years backed up, now in a society that purports to be the freest in the world, in a society that is capitalist by nature and competitive by nature, and we are all getting more competitive by nature as we down-size, and we all compete for these jobs, what kind of society is that when someone can be hired, or can be not hired, because of the color of their skin, or because of their gender, or because they have a handicap, when that employer could be missing the absolute best employee in the world. It's just not American and it's not good for America. As we compete more and more in the global market, the diversity of our workforce is going to be more and more of an asset. It is currently our number one asset, if you read what the economists are saying. In our competition against Japan it is our number one asset compared to them. They have a very homogeneous workforce, and they have no ability to handle difference in their society at all. We, on the other hand, have a leg up on them. Our constitutional documents talk about handling difference and we have a two-hundred year history of handling difference. Granted, we haven't done it as well as we would like sometimes, but we are way ahead of the Japanese. When economists predict who is going to win the twenty-first century, one of the reasons why America is in the running is because of our diversity and the diversity of our workforce. Just to give you an example, and economic example, of how important that is, a corporation, whose name escapes me now, I read this in the New York Times just over the April break, competed for a contract in China, for China Airlines, for brakes and equipment. It was a \$35 million

contract. We competed with France. Our company sent over a delegation that had Chinese-American people, workers, from that company on that delegation and we won the contract, based on our familiarity with their culture. We won a \$35 million contract over the French because of our diversity. So, not only is our diversity a good idea, not only is it the fabric of our democracy, but it is also our economic edge. If we do not watch out for it, if we do not handle it gently, we will lose it. This bill helps this State compete economically. I urge you to support Senator Mills. Thank you.

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

Senator **FAIRCLOTH:** Thank you Mr. President. I rise, as a member of the Judiciary Committee, to support L.D. 914 strongly, but briefly. Justice delayed is justice denied, I think that point has been adequately covered by several of my colleague Senators, and that is what is happening on the Human Rights Commission. As to the Hate Crimes Unit at the Attorney General's office, I know Mr. Wessler, he is a very conscientious person, and does his work for free, but I would note that he has a job at the Attorney General's office, anti-trust consumer protection, which is full-time and what he is paid for. To say the the State of Maine can handle hate crimes with a part-time, unpaid, attention to the matter is not plausible. Mr. Wessler does an excellent job, though, with what he can, and evidence of the fact that we need a Hate Crimes Unit, working hard with more hours than they can devote to it now. Yesterday I attended a public hearing of the Judiciary Committee regarding the discrimination bill, and I saw Mr. Wessler attacked, personally and with great hatred and vitriol, like something I had not seen at most any public hearing in recent years. The reason why Mr. Wessler was attacked was because he handles hate crimes cases. That is why he was so personally and viciously attacked. I think that is about as strong evidence as you can find that we need to support this type of legislation. I was even more strongly convinced by what I saw yesterday. Thank you.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate. I am missing the argument here, I think. I could see spending money to clean up a docket of meritorious cases. But, for the life of me, to spend money to clean up a docket of frivolous cases doesn't make sense. It hasn't been demonstrated to me, in this measure, that the problem can't be cleaned up without throwing money at it. To me, one of the easiest things to determine is that a case is frivolous. You don't have to spend a whole lot of time doing it, and so I don't buy the argument that we ought to be throwing all this money to clean up a docket of frivolous cases.

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

Senator **MILLS:** Thank you Mr. President, Men and Women of the Senate. I rise only to express the view that I think my remarks were misunderstood by the

Senator from Franklin. I was using the frivolous or the weak case scenario as an example of how the situation deserves to be corrected. There are many, many, many meritorious cases pending before the Maine Human Rights Commission, where the evidence is being lost because they're simply dangling there month, after month, after month, after month, and the evidence, both in support of the claim and the evidence against the claim, is withering away as people come and go and their memories fade. They shouldn't be held up in this fashion. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. In my appointment to Chair Appropriations I have taken a different attitude here in the Legislature. I would give more deference to the Committees, as far as to make the decisions from a policy perspective, where the monies are best spent. I am a little bit concerned. I have taken a look at the amendment, which is a fiscal note of nearly \$600,000, and I guess if it had been the priority of the Judiciary Committee, in reviewing their budget, to make an allocation of additional monies over the course of the biennium, then I would tend to support them and endorse this. But, for us to have a \$600,000 fiscal note, with absolutely no idea where that money is going to come from, I guess falls on deaf ears, at least from this Senator, and I will be voting against it.

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

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **MILLS** of Somerset that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BUSTIN, CAREY, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, SMALL**

NAYS: Senators: **BEGLEY, BENOIT, CARPENTER, CASSIDY, HALL, HANLEY, HATHAWAY, KIEFFER, PENDEXTER,** and the **PRESIDENT, Senator BUTLAND**

ABSENT: Senators: **CIANCHETTE, CLEVELAND, RUHLIN**

EXCUSED: Senators: **BERUBE, STEVENS**

20 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 3 Senators being absent and 2 Senators having been excused, the motion by Senator **MILLS** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-98) **READ** and **ADOPTED**.

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

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

ENACTOR

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

Emergency

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

H.P. 1001 L.D. 1412
S "C" (S-102)

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 Penobscot, Senator Faircloth.

Senator **FAIRCLOTH:** Thank you Mr. President. Just briefly, I wanted to compliment a couple of people in this Chamber, regarding this legislation. It is said that one person with principles is a majority. I wanted to say something on behalf of the good Senator from Waldo, Senator Longley, because she had the audacity in this day and age, when the original version of this proposal came forward, to read the Constitution of the State of Maine. She said to herself, "Gee whiz, this seems to allow for the Governor to make statutory proposals and have them become law without a legislative vote." A lot of people said, "Well, gee, this is the nineties and we don't want to go into those kinds of details" or

other types of comments along these lines, but the good Senator from Waldo, Senator Longley, had studied the issue, she deliberated upon it, she had drawn the right conclusion and she stuck with what was the right thing to do. Longley did not have to move the majority, the majority went to Longley, and that is embodied in the current version of this legislation. Similarly, the good Senator, who doesn't happen to be present today, Senator Cleveland from Androscoggin, was concerned because there did not appear to be any clear standards set forth under which the Governor would act in this regard. People, again, set forth the same arguments in a flurry of "No amendments." and "Please, we don't want to hear about all of this, who needs this standard?" but yet, as time went by, and over the course of these discussions, Senator Cleveland had studied the issue also, deliberated and stood his ground and lo and behold we find that in the latest version of this there is a relatively nice five-prong test that sets forth criteria under which the Governor shall act with regard to this legislation, which I think is pleasing. With the assurances that I have received from the good Senator from Oxford, Senator Hanley, and the good Senator from York, the new member of the Appropriations Committee, Senator Lawrence, that that five-prong test will apply to the Governor's actions, both as to the actions he may take, henceforth, unilaterally, and also to the proposal which he will present to the Legislature. With that legislative intent quite clear, I am, therefore, reassured and very pleased and complimentary to all of those involved, and happy to support this legislation. Thank you very much.

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

Senator **LONGLEY:** Thank you Mr. President, Men and Women of the Senate. I would like to thank the Senator from Penobscot, Senator Faircloth. As I have been sitting here today, reading what some people might have thought was a novel, but no, it's more law, I was interested in reading Justice Renquist's looking at the delegation powers and times when the Legislative branch has decided let's punt. There is one quote where he says, in reference to a vague phrase where they delegate power, he said "It's a legislative mirage where Congress has simply avoided resolving the hard questions about the circumstances. Resolving fundamental, politically divisive policy issues is the very essence of legislative authority and could not unnecessarily be left to a politically unresponsive other." Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, LORD, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, SMALL, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BUSTIN, McCORMICK, RAND

ABSENT: Senators: CIANCHETTE, CLEVELAND, RUHLIN

EXCUSED: Senators: BERUBE, STEVENS

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 3 Senators having voted in the negative, and with 3 Senators being absent and 2 Senators having been excused, and 27 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

SENATE REPORTS from 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

Majority - Ought to Pass As Amended by Committee Amendment "A" (S-100). (7 members)

Minority - Ought Not to Pass. (6 members)

Tabled - May 2, 1995 by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT.

Senator FERGUSON of Oxford moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

The same Senator requested a Division.

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

Senator RAND: Thank you Mr. President. May I pose a question through the Chair? My question, to whomever can answer, if the constitutional officers, if it follows through that the officers are going to be elected by the public, how does this ban on

political action committees fit in then? Would they be allowed to raise campaign money? How does that work?

THE PRESIDENT: The Senator from Cumberland, Senator Rand, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator FERGUSON: According to this proposal that we have before us, they wouldn't be able to have political action committees.

THE PRESIDENT: The pending question before the Senate is the motion by Senator FERGUSON of Oxford that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

A Division has been requested.

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

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

21 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator FERGUSON of Oxford to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (S-100) READ and ADOPTED.

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

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

On motion by Senator CAREY of Kennebec, ADJOURNED until Thursday, May 4, 1995, at 9:30 o'clock in the morning.