

MAINE STATE LEGISLATURE

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

VOLUME V

FIRST REGULAR SESSION

Senate

June 19, 1995 to June 30, 1995

FIRST CONFIRMATION SESSION

September 14, 1995

FIRST SPECIAL SESSION

House of Representatives

November 28, 1995 to November 30, 1995

Senate

November 28, 1995 to November 30, 1995

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

In Senate Chamber
Friday
June 23, 1995

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

Prayer by the Honorable Jill M. Goldthwait of Hancock.

SENATOR JILL GOLDTHWAIT: Good morning. As the only, to my knowledge, practicing Druid in the legislature, I thought it would be nice to start the day with a celebration of diversity. That made me think of a poem by Gerard Manley Hawkins, an English poet from the 1800's. He wrote a poem that reminds me of us, because it's about things that are different, asymmetrical, contradictory, spotted, and wrinkled. It's called "Pied Beauty".

Glory be to God for dappled things.
For skies of coupled color, as a branded cow.
For rose moles all in stipple,
upon trout that swim.
Fresh, fire-coaled chestnut falls.
Finches wings.
Landscape, plotted and pieced
foaled, fallowed and plowed.
And all trades, their gear and tackle and trim.
All things counter, original, spare, strange.
Whatever is fickle, freckled (who knows how).
With swift, slow, sweet, sour, a dazzle, dim.
He fathers forth whose beauty is past change.
Praise him.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPER FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Concerning a Moment of Silence in
Maine Public Schools" H.P. 656 L.D. 879

In House, June 16, 1995, PASSED TO BE ENGROSSED.

In Senate, June 16, 1995, Majority OUGHT NOT TO
PASS Report READ and ACCEPTED in NON-CONCURRENCE.

Comes from the House, that Body having ADHERED.

Senator KIEFFER of Aroostook moved that the
Senate INSIST.

Senator LAWRENCE of York requested a Division.

The same Senator requested and received leave of
the Senate to withdraw his request for a Division.

On motion by Senator KIEFFER of Aroostook, the
Senate INSISTED.

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on LEGAL AND VETERANS AFFAIRS on
Bill "An Act to Strengthen Maine's Live Harness
Racing Industry" (Emergency) H.P. 619 L.D. 829

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (H-500).

Comes from the House, PASSED TO BE ENGROSSED AS
AMENDED BY HOUSE AMENDMENT "B" (H-580).

Which Report was READ and ACCEPTED, in
concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-500) READ.

On motion by Senator FERGUSON of Oxford,
Committee Amendment "A" (H-500) INDEFINITELY
POSTPONED, in concurrence.

House Amendment "B" (H-580) READ and ADOPTED, in
concurrence.

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

Off Record Remarks

SECOND READERS

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

House

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1995 (Emergency)

H.P. 1135 L.D. 1579

Which was READ A SECOND TIME.

On motion by Senator AMERO of Cumberland, Senate Amendment "A" (S-314) READ and ADOPTED.

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

Sent down for concurrence.

House As Amended

Bill "An Act to Require Insurers to Reimburse Insureds with Inborn Errors of Metabolism" (Emergency)

H.P. 401 L.D. 536
(C "A" H-468)

Bill "An Act to Strengthen the Governmental Ethics and Campaign Reports and Finances Laws"

H.P. 1029 L.D. 1444
(C "A" H-572 and H "A" H-587)

Bill "An Act to Change the Licensing Year for Certain Marine Resource Licenses"

H.P. 1032 L.D. 1451
(C "A" H-528 and H "A" H-573)

Bill "An Act Relating to Criminal Forfeitures"

H.P. 1058 L.D. 1487
(C "A" H-568)

Bill "An Act to Clarify Terms and Increase Effectiveness of the Lead Poisoning Control Act"

H.P. 1069 L.D. 1504
(C "A" H-556)

Bill "An Act to Allow Involuntary Commitments at Hospitals under Contract with the Department of Mental Health and Mental Retardation"

H.P. 1084 L.D. 1526
(C "A" H-563)

Bill "An Act to Appropriate Funds for the Building Alternatives Program" (Emergency)

H.P. 1120 L.D. 1564
(C "A" H-529)

Bill "An Act to Amend the Charter of the Corinna Water District"

H.P. 1127 L.D. 1572
(C "A" H-579)

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

Bill "An Act to Protect Traditional Uses in the North Woods"

H.P. 1104 L.D. 1551
(H "A" H-548 to C "A" H-519)

Which was READ A SECOND TIME.

On motion by Senator CARPENTER of York, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-519).

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

Senator CARPENTER: I want to let you know what I am doing, I guess. I'm the Chair of bills in the Second Reading, and all of these amendments that I do, not all of them but most of them, are very technical, like this one is.

On further motion by the same Senator, Senate Amendment "A" (S-320) to Committee Amendment "A" (H-519) READ and ADOPTED.

Committee Amendment "A" (H-519), as Amended by Senate Amendment "A" (S-320) and House Amendment "A" (H-548), thereto, ADOPTED.

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Connect Libraries and Communities Electronically."

S.P. 191 L.D. 500
(C "B" S-310)

Bill "An Act Concerning the Termination of Parental Rights"

S.P. 508 L.D. 1367
(C "A" S-316)

Bill "An Act to Amend the Laws Governing Child Support"

S.P. 556 L.D. 1516
(C "A" S-317)

Bill "An Act to Modify and Update Certain Laws Pertaining to Inland Fisheries and Wildlife" (Emergency)

S.P. 562 L.D. 1530
(C "A" S-311)

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

Sent down for concurrence.

Off Record Remarks

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

COMMITTEE REPORTS

House

Divided Report

Seven Members of the Committee on MARINE RESOURCES on Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters"

H.P. 577 L.D. 782

Reported in Report "A" that the same Ought to Pass as Amended by Committee Amendment "A" (H-570).

Signed:

Senators:

PINGREE of Knox
GOLDTHWAIT of Hancock

Representatives:

BIGL of Bucksport
ETNIER of Harpswell
RICE of South Bristol
VOLENIK of Sedgwick
BENEDIKT of Brunswick

Five Members of the same Committee on the same subject reported in Report "B" that the same Ought Not to Pass.

Signed:

Representatives:

CLOUTIER of South Portland
ADAMS of Portland
LAYTON of Cherryfield
LOOK of Jonesboro
PINKHAM of Lamoine

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" (H-571).

Signed:

Senator:

BUTLAND of Cumberland

Comes from the House with Report "A" OUGHT TO PASS AS AMENDED READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570).

Which Reports were READ.

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

Senate at Ease

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a Tax Anticipation Note for Fiscal Year 1995-96" (Emergency)

H.P. 1139 L.D. 1582

Reported that the same Ought to Pass pursuant to Joint Order H.P. 1136.

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 Conform Maine Law Related to Domestic Relations with Federal Law"

H.P. 568 L.D. 769

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-590)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-590)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-590) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Clarify the Jurisdiction of the Passamaquoddy Tribal Court"

H.P. 944 L.D. 1333

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-589)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-589)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-589) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Amend the Laws on Marital Property, to Provide for Alternative Dispute Resolution in Domestic Relation Matters and to Provide for the Recodification and Revision of the Maine Revised Statutes, Title 19" (Emergency)

H.P. 1024 L.D. 1439

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-591)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-591)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-591) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$4,000,000 for Facilities Serving People with Mental Illness"

H.P. 313 L.D. 417

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-581)**.

Signed:

Senator:

BEGLEY of Lincoln

Representatives:

KERR of Old Orchard Beach
AIKMAN of Poland
TOWNSEND of Portland
DIPIETRO of South Portland
POULIOT of Lewiston
MORRISON of Bangor
SIMONEAU of Thomaston
OTT of York
DONNELLY of Presque Isle

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

Signed:

Senators:

HANLEY of Oxford
BERUBE of Androscoggin

Representative:

JOSEPH of Waterville

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-581)**.

Which Reports were **READ**.

Senator **BEGLEY** of Lincoln moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I would, for probably the first time this session, urge you to vote against the motion from the good Senator from Lincoln, Senator Begley, so that we can go on to accept the Ought Not to Pass Report supported by the bipartisan coalition of the Senator from Androscoggin, Senator Berube, and myself. In the waning hours of the legislative session it is very important that we look for that bipartisan compromise, where you can find agreement in the middle ground. Men and Women of the Senate, this is a very serious issue as far as the \$4 million bond for the facilities for people with mental illness. The reason why this Senator voted against this bond was not because of the need for these units in the communities, but for the manner in which the bond is applied. I will let the Senator from Androscoggin state her reasons, as well. This is not, as had originally been explained to me, would not be a revolving loan fund where the groups who would be eligible for this money would pay back into the fund so that we could keep it going, so that other units could be built as the need arises. We have a history in this State, of having passed a similar bond, and having the opportunity to review how those monies were applied it was rather startling to see just units, we're just talking about single units for the people with mental illness, that these units would range in cost from \$25,000 on the low end, this is for each unit, not one home, we're talking just one unit in a facility. Some of these units ranged up to well over \$100,000, per unit. Men and Women of the Senate, I have serious reservations as far as how this program was administered in the past as far as to have such gross disparity in these units. To have this be a grant to the various individuals, which they would not be paying back into the fund until such point in time as they were to sell the unit, troubles me greatly. I don't believe that this is the most prudent manner for the State to fund these units in the community. Those of us who were on the opposing side would like to realize the need, but would maybe like to take a little bit more time to do it appropriately. Probably, if my mind wasn't so cluttered now with the budget, I would have had the foresight to have copies made for you as far as how the previous bond money had been spent. I

think if you had an opportunity to see that, maybe you would think differently. Maybe if this does pass I can have copies of that made so we can have another shot at second reading. I think there is a need, I don't think this is the way to administer this money, just through grants. I don't think you have the accountability, and to have what I would consider the profligate spending of the State's tax dollars, as I said, I have serious reservations. The need is there, this is not the mechanism to use though. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I hope you will join me in voting with my friend from Lincoln, Senator Begley, on the pending motion. Like, I'm sure, all of you, I am anxious to help the State comply with its consent decree, which I think is a good public policy to begin to help our citizens who are mentally ill to live in the community. We seem to be caught in a dilemma between keeping people in institutions, which are, arguably, much more expensive than living in the community, yet we don't have the resources available in the community to move them out of the institutions. The pending motion before us would take another step towards achieving that goal. While I would not quarrel with the good Senator from Oxford, Senator Hanley, he justifiably has reasons to be concerned about the bond issues of the past, but even though there have been some rocky roads in the past with the bond issue, some very positive things did come from it. First, we produced 162 beds, or subsidized units, for individuals with mental illness. It has, indeed, helped us move towards downsizing AMHI and BMHI. The money that was issued in a bond in 1989 was leverage with the Maine State Housing Authority, and together they created \$6.4 million to achieve this goal. The new bond issue, if it passes, will yield over 200 subsidized units. In the past, under the old bond issue, which required three bids on all construction, the new bond issue with tight cost management policy will be required by the Maine State Housing Authority. Many of our mentally ill citizens are very poor. We have a choice. Either we subsidize their rents, or we reduce the amount of group home mortgage with a subsidy. This bond issue takes the latter approach, and I believe it is more cost efficient because it's permanent. Second, in order to meet the licensing requirements of the Department of Human Services and the Department of Mental Health and Retardation, these homes must be built to very strict life and fire safety codes. These include, not only, hard wired safety alarms and sprinkler systems, but higher rated fire walls and ceilings, and accessibility for the handicapped, at least for some of the units. Lastly, as Chair of the Business and Economic Development Committee that has policy oversight of the Maine State Housing Authority, I'm confident that I can assure you that their commitment to insure these funds will be well-spent and will not be overlooked. Thank you.

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

Senator **PINGREE:** Thank you, Mr. President, Women

and Men of the Senate. I just want to rise this morning and concur with my good friend, Senator Begley, from Lincoln, and good friend, Senator Harriman, from Cumberland, and hope that we will be voting together on many issues of concern to me today. I just want to speak briefly to the concern that the Department had, in the past, mismanaged how some of this money had been spent, and perhaps we weren't addressing this need in the most appropriate way. I think we all agree that we have made a serious commitment to our mentally ill citizens with approaching downsizing of AMHI and BMHI, and that we need to continue providing housing and residential treatment placement for those residents. I don't think it's completely fair to talk about the past, because I think the Department has tried hard to convince all of us in the future that this will be handled very differently. These are going to be different kinds of units built in this proposal. There will be three bids required on all construction proposals that come before them. They are working with the Maine State Housing Authority for very tight cost management in these future plans, and they will be dealing with all non-profits in considering it a public participation bond. I think we can feel that this will be handled in a different way. I'm not familiar with what happened in the past, but I have seen information from the Department that leads me to believe that this is a good thing for us to do and that we can feel confident about the efficiency. We also have new management, both at the Department of Mental Health and Mental Retardation, as well as at the Maine State Housing Authority. I think it's time that we consider giving them the opportunity to do things in an appropriate manner. So, I hope that you will be supporting the majority ought to pass motion.

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

Senator **BEGLEY:** Thank you, Mr. President. I, too, wish we had other ways of getting money for all kinds of things. I would simply remind you, as the other two previous Senators have reminded you, we are in a situation with a consent decree that the State agreed to. I have a tendency to say if the State is going to agree to something, my gosh, they ought to follow it up in some fashion. I don't necessarily like to spend money. I don't necessarily like bond issues. But, I am of the opinion that they have started in the right direction. The success of what they have done with the past bonds proves to me to ask for this bond issue. The comments made as to whether or not a particular unit costs a certain amount of money has to be looked at very seriously, because certain units are for certain circumstances, and not all units are the same. My point is that with the consent decree, and with the money as it is needed, and the people being out there, we made a promise, I think we ought to do it as quickly as possible and this is the way.

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

Senator **MILLS:** Thank you, Mr. President, Men and Women of the Senate. From what little I know of this bill, it seems to me it comes down to two choices. We have an obligation to provide a certain number of housing units for these people. Many of these units

are in group homes, which are very economical to run, because when you have five, or six, or seven people living in one housing facility, then you have economies of scale, because the nurse or the people who must care for these people on a daily basis can come around to one location, as opposed to many different locations and see more than one person in the course of a morning. There are wonderful things that can be done when you work from scratch in designing new facilities for people who need this help. But, the choice is this, either we subsidize their housing by paying rent year to year, which will have a tendency to go up this year, next year, or the year after, or we fix those housing costs by floating a bond, using the State's tax-free borrowing capacity, and have knowledge that for the next twenty-five years, or the term of the bond, that our housing costs for these people, who are basically wards of the State, will remain level over the next twenty-five years. It's a very responsible, non-gimmicky thing to be doing, and I will be voting for the majority report.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I agree with all of the previous speakers as far as our requirement to comply with the consent decree. It's just a question of how do we have this bond administered. My concern is it is appropriate to learn from the past, at how a bond was administered in the past. If it was not administered properly, as far as by the methodology, whether it was a grant or utilized as a revolving loan fund. Now, these same groups which are eligible for these bonds, also supplement that with 501C3 bonds, which they do pay back. Now, why can't we require some, I think we can get a heightened accountability and better use of our resources with a revolving loan fund, rather than just a straight grant application. Now, I have had brought up to me the file, and the information that was presented to us, as far as the cost of these units across the state. There is, for each of these, if they are residential treatment facilities or apartment units, or so forth, they all have certain criteria. Within that criteria they all have to meet certain standards, so as Senator Begley said, if it's within a certain category, they all have to meet the certain criteria. So, when you have such gross disparities in the cost of the units, I start to wonder, is the money for the people of the State of Maine being used most appropriately. Now, we run the risk, even with floating this out as a bond rather than having the state step up initially for this. The people of the State of Maine may turn this down in November. I think if we give them more reason to turn it down, with the current manner of administration, as far as for this bond. I think if we were to require, rather than a grant, a payment, I think the people of the State of Maine would have a little higher comfort level in approaching this. I think maybe it would be a little bit more successful at the polls. As I said, we run the risk of the people of the State of Maine rejecting it in November, and then we still have not met the obligation of the consent decree. It was my position that I would like to have as strong a proposal as possible to put forward to the people of the State of Maine, especially based on the

past track record. I don't disagree that we need to do this for the consent decree, it's just all in the methodology of administration.

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

Senator **PENDEXTER:** Thank you, Mr. President. I would like to pose a question through the Chair. To the Senator from Oxford, Senator Hanley, are the figures you are looking at units for the mentally ill, or are you looking at mentally ill and mentally retarded?

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

Senator **HANLEY:** It would be through the Department of Mental Health.

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. I guess I would have some serious concerns if we are paying \$100,000 for a unit for the mentally ill, because really all we are providing for the mentally ill is basic housing. Now, if you are talking about the mentally retarded, then that's a different story because depending on the needs of particular people who are retarded, you obviously have to accommodate them. But I see no justification in spending \$100,000 for a unit for the mentally ill. I'm tending to support this scenario, however, I feel the need to be really responsible in how the bond would be administered. I guess I would want to pose another question through the Chair. To the Senator from Oxford, is there any way that we can assure those of us who vote for this, that this will be administered in a way that we will not be paying \$100,000 for housing units for the mentally ill? I mean that is just not appropriate and it is not acceptable.

THE PRESIDENT: The Senator from Cumberland, Senator Pendexter, has posed a question through the Chair to any Senator who may care to respond. Senator Hanley of Oxford requested and received leave of the Senate to speak a fourth time. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I think both the department and the Maine State Housing Authority has learned from past mistakes and, as the good Senator from Knox pointed out, there is a change in the way the process will be administered. It still is going to be a grant methodology, rather than a revolving loan fund. I guess I hope with the request for three bids and a refined RFP, as we had given the directive to both the Housing Authority and the Department, hopefully this won't happen again. But one never knows, and that is a potential outcome. It just comes to whether or not the grant methodology is the best, or for us to have, just as they do with the 501C3's, pay back on the monthly or quarterly basis, since you will have resources still there as more community beds are needed.

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

Senator **MILLS:** Mr. President, Men and Women of the Senate. If it's true that we are getting about two hundred plus units through this \$4 million bond issue, then the average cost is about \$20,000, which sounds quite reasonable to me.

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

The Chair ordered a Division.

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

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

21 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **BEGLEY** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-581) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing Glen Greenhalgh to Sue the State of Maine and the Department of Human Services

H.P. 786 L.D. 1103

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

Signed:

Senator:
FERGUSON, JR. of Oxford

Representatives:
NADEAU of Saco
FISHER of Brewer
BUCK of Yarmouth
LEMONT of Kittery
CHIZMAR of Lisbon
GAMACHE of Lewiston
LABRECQUE of Gorham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-355)**.

Signed:

Senators:

STEVENS, JR. of Androscoggin
MICHAUD of Penobscot

Representatives:

MURPHY of Berwick
TRUE of Fryeburg

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355)**.

Which Reports were **READ**.

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

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

COMMUNICATION

The Following Communication:

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

June 23, 1995

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

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1394 An Act to Extend the Life of Existing School Buildings

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mary E. Small
Senate Chair

S/Rep. John L. Martin
House Chair

S.C. 260

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

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 Later Today Assigned (June 21, 1995) matter:

HOUSE REPORT from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Place a Spending Cap on State Senate and House Campaigns"
H.P. 322 L.D. 443

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-520)**.

Tabled - earlier in the day by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF THE REPORT**.

(In House, June 19, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-520)**.)

(In Senate, June 20, Report **READ**.)

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

The Chair laid before the Senate the second Tabled and Specially Assigned (June 22, 1995) matter:

Bill "An Act to Provide Greater Access to Health Care"
S.P. 343 L.D. 948
(C "A" S-279)

Tabled - June 21, 1995, by Senator **AMERO** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-279)**.

(In Senate, June 20, 1995, READ A SECOND TIME).

On motion by Senator HARRIMAN of Cumberland, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-279).

On further motion by the same Senator, Senate Amendment "A" (S-304) to Committee Amendment "A" (S-279) **READ**.

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

Senator HARRIMAN: Thank you, Mr. President. Good afternoon Ladies and Gentlemen of the Senate. We debated, at length, L.D. 948, the so-called Nurse Practitioners Bill, and out of that debate, I think, came a clearer understanding of the four different types of nurse practitioners. A nurse practitioner who practices midwifery, a nurse practitioner who's involved in anesthetics, a clinical nurse, and lastly, the so-called nurse in advanced practice. One of the things that came out of this debate is the reason why I have proposed this amendment. What it says is that once a nurse, who has become certified that she is an advanced practice nurse, once she has achieved that milestone, or he, then for twenty-four months, under the supervision of a licensed physician, or he or she must be employed by a clinic or hospital that has a medical director who is a licensed physician, once that has been completed the certified nurse practitioner will submit written evidence to the Board that she or he has completed that clinical experience. I think this is a good amendment that will assure, hopefully, for those of you who were doubtful that this bill was heading in the right direction, that it accomplishes some of those concerns, and I hope you will join me in supporting the pending amendment. Thank you.

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

Senator PENDEXTER: Thank you, Mr. President, Men and Women of the Senate. I'm inclined to support this amendment because I think in principle it's going to fix a little bit of a bad bill. But, I'm distressed by the wording of the amendment because it is still very loose. It specifies that a certified nurse practitioner must practice for at least twenty-four months under the supervision of a licensed physician, but doesn't say when that has to happen. I don't know if it was purposefully written that way so that the meaning is ambiguous, but I think the intent is that once a nurse has finished her formal training in the nurse practitioner scenario, that the next step would be, before that nurse can practice independently, that she would have to practice at least twenty-four months under the supervision of a physician. But it's not written that way in the amendment, but I will go with the intent because I think that is what the intention is. I'm a little distressed at the two years because physicians have to do three years. It also doesn't

specify that we are dealing with masters prepared. The Committee amendment still basically says as long as you have completed a formal education program, that's not really identified. So, we are really still dealing with a possible scenario of having independent practitioners out there who have two years of college, and anywhere from nine months to a year of certificate program, out there practicing independently. I will support the amendment in faith, however, I will continue to oppose the bill because it still is not in a form that I can support. Thank you.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I appreciate very much the support of the good Senator from Cumberland, Senator Pendexter, for the concept of this amendment. Having seen the bill pass on its first reading here, it was indeed a difficult and painful process to then pursue an amendment, but I do agree that it has strengthened the bill. The intent, as the good Senator said, is for there to be a preceptor type program following graduation from the advanced nurse practice program. Regarding the masters, the bill as it is drafted actually does require that in almost every instance, because in order to become approved by the Board in the State of Maine, you must have your national certification. In order to get your national certification it is now required that almost every track that we are talking about is a masters level training program. So, although it doesn't say the words "masters level" in this bill, it is covered through references to the Board and to the national certification process, which do require masters level training. I continue to believe with my whole heart that this is a good bill. It does provide better access to under-served populations, be they rural or be they city Medicaid patients, and I urge your support for both the good Senator from Cumberland, Senator Harriman's, amendment, and for this bill. Thank you.

On motion by Senator HARRIMAN of Cumberland, Senate Amendment "A" (S-304) to Committee Amendment "A" (S-279) **ADOPTED**.

Senator PENDEXTER of Cumberland moved that the Senate **INDEFINITELY POSTPONE** the Bill and Accompanying Papers.

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

Senator PENDEXTER: Thank you, Mr. President, Men and Women of the Senate. Yes, we did have a vote the other day on this issue, but I believe it is still a very close vote. I hope that some of you are continuing to consider how you will vote on this issue, and to consider seriously the ramifications of what will happen should this bill pass. I just continue to maintain that we ought not to legislate out a connection between medicine and nurse practitioners. That's all I'm asking. Only do nurse practitioners need to be concerned about that connection when they are doing medical acts, and that is only when they are diagnosing and treating, because men and women of the Senate, when you

diagnose and when you treat, as we talked about last evening, you are practicing medicine. We have talked over and over about the difference in the depth of knowledge and the training, and my strongest opposition is that nurse practitioners do not have the depth of knowledge that physicians have. If doing primary care is so simple, then why do we require physicians to have to go over and above a four-year college, to have to do four years of med school and do three years of residency. There's some confusion among some of you as to what that three year residency is. I'm just talking about pediatricians and family practice physicians. They don't learn how to do surgery. They don't get into all of those other things. They are basically doing hands-on care of patients in acute hospital settings, as well as in out-patient settings, dishing out health care for three years. If we hold physicians to that standard, that they have to practice three years before they can be independent, how can we support a scenario that you might have a two-year college with a one-year certification program to do the same thing that a physician can do? There was a study done by the Edmund Muskie Institute of Public Affairs. It states briefly, I will just read one paragraph, "Some states allow nurse practitioners to work independently of, or in collaboration with, physicians, rather than under a physician's supervision, as in this case in Maine. Although independent practice is permitted in some states, the reality in Maine, and elsewhere, is that more and more primary care providers are joining in networks, group practices, and integrated systems. Therefore, a collaborative model, in which physicians and nurse practitioners work together, and which is arguably more effective and cost effective than independent practice, is the more practical goal." This is an independent study done addressing health care systems in this State.

We talk a lot about rural access, and it amuses me to read the title of the bill, because it says "An Act to Provide Greater Access to Health Care". We had the rural discussion yesterday, well, let me remind you that 85% of the nurses in advanced practice that we are talking about in this bill, 85% of them are nurse anesthetists. Now, nurse anesthetists don't provide primary health care so we are talking about 15% who probably could go out there and do rural health care. I received this magazine last week, a national nurse practitioner magazine. In the back it has ads, and guess what? There were four here for Maine. Nurse practitioner opportunities in Lubec, Fort Kent, Dover Foxcroft, and if you really want to be urban there is one in Lewiston. There are opportunities now in rural places for nurse practitioners to practice and the reason why they are not there is the same reason why physicians aren't there. I continue to say to you, we use this excuse of ruralness in our State, and it's not founded on anything sound. We can practice in rural areas now if we want to. This bill is not going to make a whole lot of difference. You know, the real answer is to have nurse practitioners and physicians practicing together. I continue to hope that you can vote with the Indefinite Postponement of this Bill, because we should, and we must, work together collaboratively with physicians. Thank you.

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

Senator **LAWRENCE**: Thank you, Mr. President, Men and Women of the Senate. Just to let you know, the Base Closure Realignment Commission just met this morning, and they voted six to two to include Long Beach on the closure list. There was no motion to include Portsmouth on the closure list, so Portsmouth is safe.

I want to take just a moment to express my thanks to all of you during the last six years, through the three Closure Commissions, for all of your support. A special thanks to Governor King, who did a tremendous presentation down in Boston, and made us all very proud. 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'm going to be opposing the pending motion to Indefinitely Postpone because at the start of the session I sponsored a bill on this subject and withdrew that bill because there were these other two measures that went forward to Committee hearing. I would like to see some legislation on this subject, for that reason, I will be voting against this particular motion. Thank you.

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

Senator **MCCORMICK**: Thank you, Mr. President, Men and Women of the Senate. I, too, will be opposing the motion to Indefinitely Postpone, and I just wanted to clear up one particular thing for all of you who are worried that after we pass this bill there will never be a nurse practitioner that ever talks to a doctor again. I can assure you that that is not the case, that it is required by their scope of practice, and, in fact, on page two of the Committee Amendment, line nineteen, we are legislating it in. It says, "Advanced practice registered nursing includes consultation with, or referral to, medical and other health care providers when required by client health care needs." I appreciate the study that the good Senator from Cumberland, Senator Pendexter, read to us about the practice of medicine going more towards the team concept. That is as it appears to me as well, as you look around the state and around the nation. What I have been seeing is nurses in advanced practice are a welcome member of that team which includes physicians and other health care providers. This is the way medicine is going and no one needs to legislate providers who are licensed and dedicated to providing health care to talk to each other about the best interest of their patients. Thank you.

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

Senator **GOLDTHWAIT**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would add only that in terms of matching residency time that advanced practice nurses will not be treating as broad a range of issues as an M.D., therefore their residency time is somewhat shorter. Also, this bill allows for any nurse practitioner who chooses to remain in a practice setting in which responsibility is delegated to that practitioner by a physician is perfectly free to do so. It in no way requires anyone currently practicing in an arrangement of that sort to in any way change their practice. Thank you.

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

Senator **PENDEXTER**: Thank you, Mr. President, Men and Women of the Senate. I just want to refer my comment to a few comments made by the Senator from Kennebec when she talks about consultation and referral. That's not the same thing as collaboration. I guarantee you, a nurse practitioner who is out there practicing independently is not going to have a connection with a primary care provider, or a pediatrician, if she has not made those arrangements ahead of time. I know that on any given day when I go out and practice that I might need some help, and it's irresponsible of you, as legislators, or of me, as a professional, to go out there and not take care of that need. I don't know what the problem is in the name of public safety in making sure that everybody out there is practicing correctly. What is the big deal about just requiring that that has to happen? Imagine the scenario, I now am a nurse practitioner, practicing on my own, and I have a sincere question I need to ask a pediatrician. But I haven't made any arrangements with anybody else. Now, I don't know about you, but when you go to your physician's office, the room is always full of patients, they're always busy, and who am I to think that I'm just going to ring up somebody's phone and that physician is going to drop everything he or she is doing, and answer my questions when he doesn't particularly know who I am. We haven't made that ahead of time, we haven't made those agreements ahead of time. He probably doesn't particularly know how I practice, what I know, what I can do. Philosophically, it sounds really nice here in these halls, but think about how it plays out. Who's going to answer the phone? Nobody is, because the minute that physician answers that phone, he is very liable. If they follow their legal advice, I don't know who, in their right mind, would answer it. So, when you are promoting independent practice, you are promoting nurses to be out there by themselves. Consultation and referral is not the same thing. You can talk all you want about scope of practice, but if you came to my office and watched me practice, then you went into the other room and watched the pediatrician, you would not know who the physician is. Because when you are doing primary care, my scope of practice is I can do whatever I feel comfortable doing, and you don't know what that is, it's in my head. I call the shots when I think I'm in trouble. That's the way it works. I think it's irresponsible of us to continue to think that we should be out there practicing by ourselves. I hope you will support the motion on the floor. Thank you.

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

Senator **CASSIDY**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I rise this morning just to give you a little bit of information on this particular motion before us. My wife happens to work in a regional health center in the Princeton area in Washington County, and works with a very competent nurse practitioner. She has worked with her for over ten years between the two offices they have worked in. The nurse practitioner there, as I mentioned, has a wonderful reputation, she has a great clientele. People love to go to her when they are feeling ill. The thing is, when I was looking at our schedule and saw this bill coming before us, I decided I needed to get a little information about this, not knowing a whole lot about health care. I spoke with my wife, and also with that nurse practitioner. Both of them felt very uncomfortable with this bill before us today for a lot of the reasons that I won't reiterate, that Senator Pendexter has mentioned. They feel that they need to have those charts signed off by physicians. When the regional center first opened, being in a rural area, it was tough to get a physician to be located there, so they would have a person who would come in so many days a week and maybe have a few hours to oversee all of those charts. Fortunately we were lucky enough to have a physician come there full-time. So, when you talk with some of the people in the field who have had some extra authority or space to practice, without the restrictions, and they say to you that this is a bad bill, I am going to support the pending motion to Indefinitely Postpone this and all of its papers. Thank you.

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

Senator **GOLDTHWAIT**: Thank you, Mr. President, Men and Women of the Senate. I would remind you that this bill would allow the practitioners, mentioned by the good Senator from Washington, Senator Cassidy, to continue practicing in exactly the arrangement he described. When the vote is taken I would request the Yeas and Nays.

On motion by Senator **GOLDTHWAIT** of Hancock, 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 Pendexter.

Senator **PENDEXTER**: Thank you, Mr. President, Men and Women of the Senate. Very briefly, to respond to the comment just made by the Senator from Hancock, we are now going to be having tiers of practice. Some nurse practitioners can work with physicians, and some can't, some don't have to. How is the consumer supposed to know. That's what I would like to know. They're confused even now. They are always asking me what a nurse practitioner is and what she can do. When I first came to the legislature, four years ago, everybody asked me, "What's a nurse practitioner?" Thanks to the two bills that we have had to discuss, everybody knows now what a nurse practitioner is, but people out there don't. They ask us over and over. So, now we have tier levels of practice to add even

more confusion. I think, men and women of the Senate, we should all be practicing the same. Even though you vote against this motion, there is still another report out there that is alive. Indefinitely Postponing this bill, we can still move the other report. Thank you.

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

Senator **McCORMICK:** Thank you, Mr. President. Just a reminder that Maine's nursing statute is out of date, and this L.D. 948, as we just amended it, brings it up to date with the way medicine is practiced and the way nursing is practiced today. If you ask any nurse practitioner, and believe me, in the course of this bill and its three year life I have met many, if you ask them if they currently now know several doctors to which they regularly refer patients, the answer is yes, they do. They constantly are referring. They constantly are calling, not just the delegating physician that they work for, but they are also referring to other physicians in the community and outside the community. So, let's bring Maine's nursing statute up to date and allow nursing and medicine to be practiced the way it has evolved and not impede it by the statutes of the State of Maine.

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

Senator **CAREY:** Thank you, Mr. President, Members of the Senate. The good Senator from Kennebec, Senator McCormick, said maybe you ought to ask somebody. I did ask some people. I got a letter from a doctor down in Kittery who used to be a nurse practitioner and felt that she was getting into a field which was well above the work that she could do. She turned around and she got that extra training that I was talking about yesterday, and is now a doctor of osteopathic medicine. She feels a lot more comfortable and, in the letter that I had distributed to you, she pointed out on several occasions that she has an excellent relationship with the supervising physician. I'm going to be supporting the gentlelady from Cumberland on her motion, simply because I think we are moving too far, too fast.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **PENDEXTER** of Cumberland that the Senate **INDEFINITELY POSTPONE** the Bill and Accompanying Papers.

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

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, BERUBE, CAREY, CARPENTER, CASSIDY, HALL, HANLEY, HATHAWAY, KIEFFER, PENDEXTER, SMALL, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BENOIT, BUSTIN, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, PARADIS, PINGREE, RAND, RUHLIN, STEVENS**

ABSENT: Senator: **O'DEA**

14 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **PENDEXTER** of Cumberland to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **FAILED**.

Committee Amendment "A" (S-279), as Amended by Senate Amendment "A" (S-304), thereto, **ADOPTED**.

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

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

HOUSE REPORT - from the Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Place a Spending Cap on State Senate and House Campaigns"

H.P. 322 L.D. 443

Report - Ought to Pass as Amended by Committee Amendment "A" (H-520).

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

Pending - **ACCEPTANCE** of the Report.

(In House, June 19, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-520)**.)

(In Senate, June 20, 1995, Report READ.)

Which Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-520) READ and ADOPTED, in concurrence.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Amend the County Budget Approval Process for Cumberland County"

H.P. 314 L.D. 418
(C "A" H-530)

In Senate, June 21, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-530), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-530) AS AMENDED BY HOUSE AMENDMENT "A" (H-586), thereto, in NON-CONCURRENCE.

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

Non-concurrent Matter

Bill "An Act to Provide Equal Political Rights for Classified State Employees"

S.P. 407 L.D. 1095

In Senate, June 20, 1995, Bill and Accompanying Papers INDEFINITELY POSTPONED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-265), in NON-CONCURRENCE.

Senator KIEFFER of Aroostook moved that the Senate ADHERE.

Senator LAWRENCE of York moved that the Senate RECEDE and CONCUR.

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

Senator LAWRENCE: Thank you, Mr. President, Men and Women of the Senate. This motion to Recede and Concur will allow us to accept the Committee Amendment "B". If you recall, this was regarding the political rights of state employees. Committee Amendment "B" was a reasonable approach to set reasonable limits on what they can do regarding financial contributions, and not to unduly restrict their political rights. I hope you will accept the motion.

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

Senator LONGLEY: Thank you, Mr. President, Colleagues. I will quickly remind you that the motion to Recede and Concur I support because what we did, in opposition to what the House did, is we would restrict a classified state employee from even attending a spaghetti supper or a bean supper, or even signing a petition that is circulated, or even helping to count ballots at election time. It's extremely restrictive and I support the motion to Recede and Concur. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator LAWRENCE of York that the Senate 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: BERUBE, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

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

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator LAWRENCE of York to RECEDE and CONCUR, FAILED.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted on, with the exception of those matters having been held, were sent forthwith.

ENACTORS

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

An Act to Enable Small Farm Owners to Process and Sell Foods They Produce

H.P. 794 L.D. 1111
(C "A" H-537)

An Act to Amend the Underground Oil Storage Facilities and Groundwater Protection Laws

H.P. 978 L.D. 1387
(C "A" H-533)

An Act to Create the Hebron Village Water District

S.P. 530 L.D. 1447
(C "A" S-267)

An Act to Strengthen the Motor Vehicle Laws Pertaining to Registration of Motor Vehicles

H.P. 1093 L.D. 1538
(C "A" H-541)

An Act to Update and Clarify the Corporate Laws

S.P. 571 L.D. 1545
(C "A" S-295)

An Act to Expedite the Appeal Process in the Case of a Writ of Possession

H.P. 1099 L.D. 1546

An Act to Exempt Food Banks from Sales Tax

H.P. 1116 L.D. 1561
(C "A" H-526)

An Act to Implement the Recommendations of the Governor's Task Force on Motor Carrier Safety Laws

H.P. 1118 L.D. 1562
(C "A" H-542)

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

An Act to Amend the Excise Tax Charged on Commercial Vehicles

H.P. 472 L.D. 653
(C "A" H-539)

On motion by Senator STEVENS of Androscoggin, placed on the SPECIAL HIGHWAY TABLE, pending ENACTMENT.

An Act to Amend the Operating-under-the-influence Laws

H.P. 836 L.D. 1167
(C "A" H-543)

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

An Act to Create an Adopt-A-River Program

H.P. 1047 L.D. 1466
(C "A" H-538)

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

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

PAPER FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Preserve Fishing Stocks"

H.P. 1045 L.D. 1464

In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-576).

In Senate, June 22, 1995, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED, in NON-CONCURRENCE.

Comes from the House, that Body having ADHERED.

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

Senate at Ease

Senate called to order by the President.

Senator **PINGREE** of Knox moved that the Senate **RECEDE** and **CONCUR**.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This bill was an effort that combined two issues. One was extending control over our coastal waters out to the twelve mile line. The other was for a ground fish hatchery fund. The twelve mile limit, certainly the Marine Resources Committee strongly favors it, but it happens to be illegal, unconstitutional, and has a few other problems. So we are trying to address that issue by other mechanisms. What has happened is that twelve mile limit portion has been stripped out of the bill, leaving only the ground fish hatchery fund. The importance of that fund is that it is supporting at least two efforts that are underway in the State of Maine now that have to do with an attempt to develop alternative species for fin fish aquaculture. The aquaculture that happens now is largely salmon-based. Those fish are not well-suited to cold northern Maine water. There are two hatcheries with experimental projects to develop fin fish aquaculture for codfish and other species, and that money would go, in part, to those projects. I would urge you to support the motion to Recede and Concur. Thank you.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

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

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

On motion by Senator **KIEFFER** of Aroostook, **RECESSED** until 3 o'clock this afternoon.

After Recess

Senate called to order by the President.

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

HOUSE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters" H.P. 577 L.D. 782

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (H-570). (7 members)

Report "B" - Ought Not to Pass. (5 members)

Report "C" - Ought to Pass as Amended by Committee Amendment "B" (H-571). (1 member)

Tabled - earlier in the day by Senator **KIEFFER**.

Pending - **ACCEPTANCE** of Any Report.

(In House, June 22, 1995, Report "A" - **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570)** READ and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570)**.)

(In Senate, earlier in the day, Reports **READ**.)

Senator **GOLDTHWAIT** of Hancock moved that the Senate **ACCEPT** Report "A" - **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570)**, in concurrence.

Senate at Ease

Senate called to order by the President.

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. I rise this afternoon to speak on this proposed motion that we have to accept

the majority report. As you know, I have, in my district, a lot of lobster fishermen who have worked for years and years on the coast to harvest such delicious morsels that we enjoy so much here in Maine. The problem is that the folks in my area feel that there are a lot of holes in this particular bill, although the intent may be something that might help the fisheries in the long run. There are so many problems with this particular bill before us that the constituents that I have spoken with aren't really pleased with this and hope that we do not pass this pending motion. Some of the problems, and I won't go into all of the details that we talked about, but some of the things that would happen with this bill is that each fisherman would have to get some tags to tag their traps. In the process of trying to have limits on lobster traps, there isn't any lobster fishermen in my area, because of the coast that we have up there with the deep waters and the high tides, that would even have eight hundred traps. They wouldn't be able to fish that many. They have a lot of problems with losing traps and things because of the currents and the high tides, as high as twenty-eight feet in some areas. So, they feel that the problem with the tags is how do you enforce replacing tags? For example, if they have out eight hundred traps and lose forty traps over a three week period, how can you prove that you actually lost those traps in order to get new tags? One of the issues they pointed out to me would be the enforcement problem it would create. The other thing is, I'm not sure if these tags would be numbered, and they didn't say this, but I was wondering, as I heard the debate in caucus today, what happens if someone steals someone else's tags and that sort of thing. I don't know how you would control all of those sorts of things. So, the enforcement issue is a real big part of this that they were concerned with. The other complaint that I have had on all of the fisheries up in our area is the real lack of control and enforcement on any fishery, whether its urchins or lobsters, there are just no people up there patrolling the waters anyway. We're having a lot of problems in other areas that I won't go into today, because of that problem as well.

The other thing that they seem to have some concerns about was the zoning itself on the particular zones that are all part of this legislation. The last issue that I would like to speak about that they mentioned to me was the changes in the rule authority. Apparently, the Lobster Council wouldn't actually have the same process they have now as rules come from the Department to be implemented. There seems to be a lot of questions and issues. I also noted on the reports that the representatives who signed onto Report "B", the ought not to pass report, two or three of them are from my district as well and they understand the issues from the fishermen that I have spoke with. They also had the opportunity, unlike myself, to be able to sit in on the work sessions and the hearings on this particular bill. So, I urge you not to support this pending motion, so we can go on and accept the ought not to pass report. Thank you.

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

Senator GOLDTHWAIT: Thank you, Mr. President,

Ladies and Gentlemen of the Senate. This is one of those peculiar issues in the State, because not all of us live on the coast, and if you don't you're not likely to know a lot about the lobster industry, as in what it tastes like. But, you certainly know that one of the things that we read, literally every day, in every newspaper right now is the issues that have to do with the collapse of the ground fish stocks. No one is saying that the lobster stock is about to collapse, but, in fact, we don't have wonderful signs to tell us how healthy that resource is. The federal government, in a 1992 study, has proclaimed that the Gulf of Maine is 20% overfished. Some people believe that, some people think that's not true. There is a new study that is about to be done to determine a method for assessing the lobster stock health, and maybe that will give us more information. But, in the meantime, what if they are right? What does this mean to the State of Maine? It's an industry that provides a very large number of jobs. There are about 6,700 lobster license holders in the State of Maine. It provides a great deal of income. Landings have been excellent, it certainly has been the symbol of Maine and restaurants in Maine, without lobster, would be in dire shape. The thing about lobster is they are kind of the opposite of term limits. With term limits, when you get to eight years you are all done. With lobster you have to be seven before you are any good. So, if the stocks do develop a problem, in terms of the amount of the resource, it's a seven year lag time of no fishing until we get our first crop of keepers again. So, taking care of this resource is extremely critical. What this bill does is to provide a beginning of a management framework for the lobster industry. We had fishermen come to our hearings and testify that their fathers had been here, to hearings, as long as thirty and forty years ago, testifying on the identical issues and arguing over a plan. Is this bill perfect? It is by no means perfect. Is it going to be difficult to implement? Yes, it is. But, it is the first time in the history of the State of Maine that we are on the verge of doing a homemade, tailored to the coast of Maine, management plan for our fishery. It is critical.

The other factor that causes a lot of debate is what the federal pressure will bring to bear on this situation. The federal government has said that they will regulate our off-shore waters, from three miles out, but that we must have a compatible plan for our in-shore waters. If we don't create an acceptable, compatible plan, they will institute a federal plan. Believe me, the federal plans that are being talked about are much less appropriate for our Maine fishery than a plan designed by people in Maine itself. They are talking about a variety of measures, such as transferable quotas, which would mean there would be a dollar value on your license so that anyone who wanted to could buy and accumulate all those fishing rights. Which would mean that only the rich could go fishing. It's a very serious issue and the jury is not in on exactly who can bring what pressure to bear on who. But, for all of these reasons, I believe that it is absolutely critical that we establish a management plan. So what, if I'm the only one who believes that, what difference does that make? The reason I am standing here today is because the fishermen in Maine believe it as well. I have a number of people in my district who strongly disagree

with this plan, never mind that they originally came to the Committee and testified in its favor. They have changed their mind. They are fishermen who fish less than 1,200 traps already. This plan would not have a great effect on them, however, they are opposed to it and yet they don't represent every fisherman in my area. I have gotten many calls from other fishermen, which is why I have the confidence to stand here and argue in favor of this plan. I have a petition with thirty-two names from Mount Desert Island alone, of fishermen who are begging us to enact some kind of a limit. They understand that the resource could be in trouble. They understand that in parts of the State the waters are so full of traps that they are almost no longer navigable, and they are asking us to do something. They turned out by the hundreds. This has been a controversy for years. There has never been a clear consensus emerge on this issue until this year. This is the first time we had a hearing, it was wonderful, it was civil, it was polite, it was earnest, it went on for hours, and there was a clear consensus that came out of it. The fishermen were asking us to do something. In the words of a fisherman from Port Clyde, he said, "We can't stop ourselves. You've got to do it. If the guy next to me goes to 1,400, I'm going to go to 1,500. It's in my nature. Stop us, this is not good for us, it's not good for the industry." Saturating the bottom with traps is not fishing, it's random hit or miss. Fishing means you know where to set your 600 or your 800 or your 1,000 so you maximize your catch. That's fishing. One of the fisherman put it to me that you can buy a boat, and you can buy traps, and you go fishing, but that doesn't make you a fisherman. You've got to know how to do it, and if you do you can make a good living with certainly far less than this number of traps. Canadian limits range from 250 to about 300 in all of the Canadian Provinces. They are landing far more lobster there than we are on the coast of Maine, although we always describe ourselves as the lobster capital of the world. This industry needs management. It needs to be cautious. We think we are going about it in that way and I strongly urge your support for this bill. Thank you.

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

Senator **FERGUSON:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This morning I had an opportunity to meet a gentleman who is a lobster fisherman, Mr. Pat White. Believe it or not I held a lobster license at one time in Nova Scotia, and I related a little story to him, and he wanted me to relate that story to the Senate. There is a sector in Nova Scotia, on Cape Breton Island, they fish in sectors up there, and they fish from May 15 to July 20. They fish 250 traps. They keep lobsters that are in excess of three inches long. It is not uncommon for them to catch 1,000 or 1,200 pounds of lobster in a day. Most of the fishermen gross in excess of \$100,000. He wanted me to relate to the Senate what they are doing up there because this is germane to what we are trying to do with Committee Amendment "A", and I would urge passage of such. Thank you.

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

Senator **PINGREE:** Thank you, Mr. President, Men and Women of the Senate. I would just like to speak to you a little bit more about what this bill does, and how I feel about it. Just to get it straight, this bill caps the number of traps that any fisherman in the State of Maine can fish, once the bill is enacted, at 1,200, unless you can document that you now have more than 1,200, in which case you have seven years to build down to that number. We thought that that was a high number. We did it to be very inclusive of fishermen, and what we did, to look into the future, was we set up three zones where there would be councils of fishermen who would work with the Commissioner and then take a vote and decide in their zone, which may be very different from a zone in another part of the State, what would be the ultimate trap limit that we would work to. Most of the fishermen who contacted me wanted a much lower number of traps than 1,200. We decided to start with a high number. The second thing that we did was we wanted to look at limiting the number of fishermen in the water, so we have a limited entry program but what it really does is slows access into the fishery. It's not like our moratorium on urchin diving. It is a limited access, it allows you to come in only if you are an apprentice, only if you start as a student license, or only if you meet with one of the exceptions currently in the bill.

In my district I have 19 towns. Five of them are islands; North Haven, Vinalhaven, Matinicus, Criehaven, and Isle Au Haut. I also represent many, many fishing communities; Rockland, Port Clyde, Friendship, Cushing, Rockport, Camden; many places where they land lobsters. In fact, I have 1,000 license holders and more lobster fishermen than any other county in the State of Maine. I have also lived on an island with fishermen for twenty-five years. I have listened to this talk since I was a teenager. Every morning, I get up, I go down to Brown's market, I have a cup of coffee, unless I am here, and all people talk about is how fishing is doing, what they want fishing to look like, what it should be in the future. I, frankly, have never paid much attention to all this stuff that may be coming down from the federal government. There are all kinds of councils and names and nicknames and stuff that I don't care about. I don't need to be threatened by the federal government. I have heard it for years. We have got to have a trap limit. There are too many traps in the water. There is too much gear and there are too many people coming into the fisheries and we are worried about our fishing future.

I decided to take a survey in my district, because two years ago this was my bill, and I couldn't get it passed. So, I wanted to do it again and see how people are really feeling about it this time. So, you see some results of the survey on the big blue sheet of paper. I just want you to graphically see what I got back. The first question on the survey was, "Should we not worry about the fishery? Do you want me to just get lost and never bother you again?" This is the group of people who said get lost. When I asked if they wanted trap limits, this is the group of people who said no. Notice the thinness of the pile. This is yes. Over 80% of the fishermen in my district, 1,000 fishermen,

200 responded and said, "I want a trap limit." More than anything else they said, "When is government going to do what we asked them to do?" They didn't say get government off their backs, they didn't say to leave them alone. They said, as my good colleague from Hancock mentioned, they said, "Protect us from ourselves. We are competitive. We have to fish more if the other guy fishes more. Help us stop." This is a very different fishery than it used to be. We have very sophisticated gear. People who fish on these boats have incredible things on their boats; lure ends, depth finders, GPS. We can find fish, we can go on bad days. It's a different fishery than it used to be. If you ask people in Newfoundland where they lost their cod fishery over night, they will say they got too good. We found the fish and we got too good at what we were doing. We also have seen the collapse of many other fisheries. The ground fishing, I ask people about shrimping, about fishing for herring, about scalloping. It's not what it used to be and more and more people are fishing bigger and better boats in the lobster fishery. Even with the urchining, people are urchining all over and more and more people are seeing how good the fishing is and coming in with boats this year.

I think, as someone else mentioned, as you might see on one of the sheets that I passed out, almost any oldtime fisherman will tell you that a good fisherman doesn't need a lot of traps to make money. You move your traps, you follow the fish. Eight hundred traps, as many people say, is plenty. I have a quote from one of the letters I got. It says, "The plain and simple fact remains, if you can't provide for your family out of eight hundred traps, you must be a pretty poor fisherman. The escalation of neighboring boats causes me to increase the size of my string each year. It's against my better judgement." You don't need to fish that many traps. I have been out as a stern person myself, I have seen good fisherman fish. They know how to find fish. They move their traps around. Swan's Island, one of the only communities that has its own trap limit in the State of Maine, fishes 475 traps. Nobody's income has changed. The lobsters just move into the traps that are there. You heard mentioned about the moratorium, we are not looking for individual, transferable quotas, which is some people's fear, that we will have people who own licenses, and as in some of the Alaskan fisheries, they will sell them to other people and they will become more and more valuable. We were looking for a way to slow down access, to do what the fishermen were asking us to do, without putting this into a high-priced fishery, which is a serious concern. If I submit another bill next year it will say you must own your boat, because there are more and more people owning several boats, putting out thousands of traps, who don't even own the boats they are fishing and don't even fish the waters themselves.

The other thing I was particularly concerned about in the issue of limited access is changing the characters and economies of our communities. In the urchin fishery we were so concerned about the drastic downhill slide of the fishery that we put an urgent moratorium on and said no new licenses. We have not done that in this bill because, as a resident of a coastal community, and one who represents many of them, I know that people come and go from the

fishery. When something else is good, they work at carpentry or something else when lobstering isn't good, they give it up for a couple of years, or they go scalloping or shrimping or something else. I know that there needed to be a way to get back into the fishery. That there needed to be a way for young people to be able to fish in the future, that's why we wanted to have student licenses. There needed to be a way for retired people to get back into the fishery. There needed to be a way to work your way into the fishery. That's why we set up an apprenticeship program, which we expect will require two years of sternman experience so that you can fish. I think that this bill that we are talking about will preserve the culture and the economy of our coastal communities. It will, very importantly, insure the health of our lobster fishery. That's what we are here to do, protect the resource because that is our future economy. It does what fishermen have asked. One thing you have to understand, if you don't now, about the lobster fishery, it has been tremendously well self-regulated. Lobster fishermen keep their eye on each other. They know if somebody else is taking a short. They know if someone is not v-notching their females, or not throwing back females or egg lobsters. They know if someone is not complying with our Sunday closures. This is largely a self-regulated fishery. It's true, we don't have enough people in patrol boats on the water, but one of the reasons we have been so successful, that it is so healthy now, is because we have been willing to provide the conservation measures that fishermen have asked us to do.

I told my caucus, when we were discussing this yesterday, there are two issues that I am passionate and unreasonable about, this is one. I hope that you will support Committee Amendment "A", the majority report, and go along with what I think is the best thing for the lobster fishery in the State of Maine. Thank you.

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

Senator CASSIDY: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I'll be very brief. There are just a couple of things that I would like to speak to you about. First of all, I think our good Senator from Knox said it very well. I think the fishing industry has managed itself very well. We have had growth in harvesting for year after year after year. As some of you, perhaps, may not know, there are certain fees that comes out of the price per pound every year to go ahead and have female lobsters. You perhaps saw it on the news this week where they put these back into the bays all up and down the coast of Maine. They notched these lobsters so if a lobsterman catches one of those, he recognizes that v-notch, he puts it back in the water. This has been very well managed by itself, this industry. This is one of those feel good bills. It sounds great, we're going to do something, we're going to have some limits, and we'll all feel good about it. The fact of the matter is, you are going to limit people with traps, and they are going to have the same number of traps in the water, with just more and more people owning those traps. You're not going to be able to control this. You're not going to be able to enforce it. Some of the comments

of going out on bad days, if you come out to Jonesport Beals, you don't go out on the water on a bad day. I don't know how it is in these other zones. Maybe that's why we need these zones. But I know when I was campaigning last fall I would make sure it was either windy or foggy before I bothered campaigning in Jonesport Beals, because no one would be home if it wasn't. So, I just say to you, I know the intent in there but this is a bill that you can't enforce. It's a bill that doesn't really do a whole lot and will probably end up hurting the management in the long run. I, obviously, will be voting against this motion. Thank you.

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

Senator CAREY: Thank you, Mr. President. In my first term in the legislature, in 1967, WCSH made a training film for incoming legislators. It was entitled "How a Bill Becomes a Law". I know that the Secretary of the Senate will remember that very well. The bill they chose to track was a bill that would limit the number of lobster traps to 400. Unfortunately, as the Secretary well knows, the bill died along the way, but in any event they tried to show people how it would have gone on and how it finally would have become a law if it hadn't died. I have a couple of questions I might ask. Are there fishermen out there who need the number of traps that they have to pay back their investment in the industry? And then, to the good Senator from Knox, Senator Pingree, did your questionnaire ask how many traps a respondent had? And, did you come up with an average number of traps per fisherman? Thank you.

THE PRESIDENT: The Senator from Kennebec, Senator Carey, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Knox, Senator Pingree.

Senator PINGREE: Thank you, Mr. President. First, I have to say that I am not sure if I have ever felt good during the last three years of working this bill. I think, on the other hand, it is a very serious bill. In terms of the question about paying back their investments. I think that was one of the reasons why we made the provision in the bill that allowed for people who had over 1,200 traps, which we estimate is not a lot of people. The Commissioner has thrown around the number of 50 or 60 people in that very high range. We allow them seven years to build down to 1,200 traps. For instance, if you have 3,500 traps right now, you're fishing a big boat with two sternmen, you have seven years to sell off your traps, to reconsider if you can pay off your investment in the fishery. I think that's plenty of time, and most people think we have given too much time. Your second question was how many traps did people have. I did ask the question. I'm not sure I can remember, but I will look while someone else is talking on what the average was. I would guess the average in this fishery is 400 to 600. I can tell you that when I asked the question what do you think would be the responsible number of traps to have in this fishery per fisherman, the average was about 550 traps. So out of over 200 respondents, I got 550 traps as the average of what most fishermen think is fair. Like I said, Swan's Island, where they take fishing very seriously, and live off of their

incomes, 475 works for them because everybody goes down at the same rate. The lobsters are still there, they just crawl into fewer traps. So, what they call it is less effort. They just say you have less gear, it costs you less money, you use less fuel and you use less bait to catch the same amount of lobsters. It's worked in Canada, it's worked in Massachusetts where they have an 800 trap limit. Fishermen are just basically asking us to do this in the State of Maine.

We often hear the argument that if you go to 1,200 traps everybody will build up to that and this will never work. I actually don't see the logic in that because you can build up to anything you want right now the way the fishery is. If you want to take the time, if you have the boat, if you have the dollars to invest, you will do that now. What we have said is let's set an overall state cap of 1,200 and let's ask the fishermen in a very democratic process to say what works best in their district. Just as the good Senator from Washington County, Senator Cassidy, said, it's very different fishing in Gouldsboro than it is fishing in Casco Bay, but we have heard from fishermen all along the coast. Every fishermen on Chebeague Island signed a petition, but one, saying limit our traps. Even though they fish a lot down there. In the downeast area where it is a different kind of fishing, they have worse days, deeper water, I believe they are saying the same thing. I hope that answers the questions.

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

Senator CAREY: Thank you, Mr. President. I spent some time in the construction industry, and I understand the good Senator from Knox, Senator Pingree, talk about building down to 1,200 traps 100 at a time for seven years, so that eventually they will have plenty of room on their boats for traps. I have to say, that in the construction industry, we don't build up when we are tearing down.

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

Senator CARPENTER: Thank you, Mr. President, Men and Women of the Maine Senate. I feel fortunate about one thing. I have a choice, where I go to breakfast, of apple pickers or construction workers, but I also now can go have breakfast with fishermen, now that I have Wells as a part of my district under reapportionment. I know I have a lot to learn about fishermen, so maybe I will start with a question or two. In the debate so far I have heard 800 used as maybe the ideal number of traps, but I think Report "A" is mentioning 1,200. Could you elaborate on that? And, while you're up, in the real estate business or the zoning that I have been involved in, every time we made a change in zoning or portions of the law, we always tried to make sure it was fair by grandfathering it. We have done the same here in almost every bill. If something has changed dramatically in a portion of the industry, or if people will be injured financially, we grandfather them. I can't find that in Report "A". Could you comment on that? Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. To answer the questions posed by the Senator, grandfathering means never having to say you're sorry. So, to develop a bill that sets a trap limit, and grandfathers everybody, does not accomplish a trap limit. The issue here, I have heard the argument raised that if somebody wants to get out there, it's the American way, work really hard, have six boats, hire ten guys, fish 5,000 traps, why can't they do that? It's a very simple answer. Because that whole argument of the American dream does not take into account the health of the resource. If we lose the health of the resource, nobody goes fishing. That's the difference here. The good Senator from Kennebec, Senator Carey, raised the issue of the construction industry. The lobster industry is like no other industry in Maine. The driving force with this, it's a small boat owner operator fishery. It's getting to the point where it is unique in the world. The difference that that makes is that rather than providing a small number of jobs for a small number of people, it provides a lot of jobs for a lot of people. It also enables those small boat owners and operators to take on a second person and provide even more jobs, particularly for young people in our communities. So, the whole American thing of driving up, building up, getting bigger, bigger is better, is the wrong thing to do for this fishery. The health of this fishery depends on its ability to stay as a small boat owner/operator fishery, and that is very different than the average corporate image because we don't want this to be a corporation, we want it to be a small boat fishery, as it is now.

The other issue about financial loss from people who are fishing more traps now than 1,200. We have given them the seven years to build down. That building down happens in a passive way. Many traps are lost in the course of a season. So if you simply do not replace your lost traps, you are going to be building down toward your 1,200 trap limit. There is a fisherman from Swan's Island who, as the Senator from Knox, Senator Pingree, stated, already has a self-imposed 475 trap limit, and one thing that struck me was he said that the thing that that limit had done was not only to maintain the health of the industry there, but it gave the fishermen time with their families. He said the bigger the string you get, the longer you go. You want to be out on the water for every second of daylight, during every open day you can fish. They want time with their families and they are asking for us to help provide it by placing this limit on their fishery. A number of people said that this wasn't a great way to do this. Yes, we may need to manage it, but maybe we should do it some other way, so let me just tell you what else we considered. We considered a guage increase. We considered Saturday closures, a closed season, a freeze on licenses, a quota on landings, increased license cost, a lottery, restructuring licenses, banning sternmen, banning hydroslaves, banning trawls, for various reasons, mostly because the fishermen didn't like those solutions, this is the

solution we have chosen. It's a good bill, please vote for it.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. I'm not a lobsterman. I never was a lobsterman. I've only been on a lobster boat once in my life and that was on a trip out to Matineus Island to have a few lobsters, and I ate my share. But, I think a lobsterman is an awful lot like a farmer. He takes a gamble, a big gamble, on his equipment, on the weather, on where the lobsters are, and how many he's going to get, and what his income is going to be. I understand that this last year they had one of the biggest catches that they have had in recent years. I can't understand why you are getting more lobsters every year, maybe it's because we've got so many traps, but the lobsters have got to be there to get them. If the supply is going down, I could see why we should be worrying. I would, but they're not. I have watched some of these films on lobster people, both men and women, and they work hard, very hard, long hours. It takes a lot of courage to go out in foggy weather and everything else. It would seem to me, I would put them in the same category I would be in as a farmer. If somebody told me all I could have was fifty cows, and that's all, you know that I would tell them in very plain language just where they could go. I think the lobstermen have a right to make a living, and they should have a right to go ahead and do what they think they need for a number of traps to go ahead and make a decent living. Thank you.

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

Senator **PINGREE:** Thank you, Mr. President. I would agree with my good colleague that lobster fishermen are very much like farmers, and they are very independent. That's why I must hold this up again. When this many fishermen in my district said this is what has to be done, all I had to do was say I've got to listen to the fishermen. These are independent people. They rarely agree on anything. Now they are, and I believe it is something that we should support. I also agree that fishermen take a gamble and they are asking us to help insure that what they need to make a living is there in the future. We don't want the gamble to go down the tubes and not have a way to make a living. I just want to add to the question of the good Senator from York, and make sure that that issue is cleared up. Of course, we are not discussing another approach to managing the fishery, but if there were another approach that, say, set a limit at 800 traps and grandfathered everybody in the fishery, I might like the comment about what that would do, if we were discussing that. One of the difficulties of grandfathering everybody at the number they are now is that it would be very hard to enforce a lot of different numbers of traps in the water at the same time. We have some ideas about how this would be managed, about people getting trap tags, but, as I said before, one of the reasons that the fishery has been managed so well is that fishermen keep their eye on each other. They know if you're taking a short or fishing too many traps. They know everything about

each other, in fact that's why it's so important to lie when you are a fisherman, because basically everybody around you knows what you are making and you've got to keep it a secret for as long as you can. I wouldn't be in favor of that, although I do think 800 would be a good number to build down to. That's what the bill originally said and we kept the number higher to give fishermen a chance to really have a say on this and vote on this number in the future. That's why we have done it the way we have. Since I'm sure this will be the last time I'll be standing up, I request the Yeas and Nays when the vote is taken.

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

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

Senator PENDING: May I pose a question through the Chair? To anyone who would wish to answer, as we are playing around with numbers that individual fishermen can have, some will have to come down, some will have to go up, I guess our goal is that we want to protect the resource out there. Can anybody answer for me whether in the end are we going to have less traps out there? If we are, how can you explain that to me?

THE PRESIDENT: The Senator from Cumberland, Senator Pendexter, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator CASSIDY: Mr. President, Men and Women of the Senate. I'm afraid this could be one of those types of questions that could have more than one answer. But I'll give you my answer anyway. The fishermen that I spoke with, that's their exact point. They said you are going to take away so many traps from me. My sternman has 400, so now he's going to put 800 more in. You're going to have exactly the same number of traps, just different people holding them. That would be my answer, but maybe you should have two people answer this question. Thank you.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would be glad to answer that and the answer is, for one thing, it does say that people have to go down to 1200, but the bill does not say that anybody has to go up to 1200, so I want to make that clear at the outset. Right now anybody can increase to any number they want, so if they haven't done that now, there is no reason to think that they would suddenly do that after this bill were enacted. The reason that we don't expect traps to increase is that, in addition to the trap limit, we are also limiting entry. That is a critical factor in the acceptance of this bill by the lobstermen, because it is obvious that if we told somebody they had to take 200 traps out of the water, and then we issued eight new licenses, we would have an overall increase in the number of traps. But a

trap limit, combined with a limited entry, you must perform your apprenticeship years before you can go fishing, you must have held a fishing license in certain years, and certain types of licenses, in order to get a lobstering license, you cannot get up in the morning now, if this bill passes, decide you're going to be a lobsterman, and start to fish, because you won't get a license now. We are limiting entry to the fishery. Whether or not we have placed stringent enough limitations on it remains to be seen. This is an issue that is going to need, not only fine tuning, but constant monitoring for as long as there is lobstering in Maine. This is a good beginning for this.

I would like to address another question from the Senator from York, Senator Lord, regarding if landings are so good why are we worried? Landings are probably so good for one reason because effort is up so much. The higher effort goes, the better landings are, until the lobsters start to decline. When we reach the point of a decline in a landing it's too late, because it takes seven years to grow that little baby lobster to a keeper. So, if we wait for a decline in the stock, we're going to have seven years of no lobster in Maine. That's why it's important to be ahead of the curve on this one. Codfish eat baby lobsters. We don't have a lot of codfish right now. We're working very hard to bring them back. If we are successful at that, this healthy industry that we see in front of us now may look a lot less healthy if our codfish industry gets more healthy and they start eating up those babies. Thank you.

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

Senator CARPENTER: Thank you, Mr. President. I really don't think that the question on grandfathering has been nearly adequately answered. I'm not sure, some of these boats cost \$80,000 or \$100,000. They have planned their payments on a certain number of years. This bill says seven years ratcheted down to 1200. Well, maybe you're at 2400 and you've planned your life on this payment. In almost every other thing we have passed, we give these people a right to grandfather. I can't believe that it's that hard to enforce if every fisherman knows what the other fisherman is doing. They will tell on them, like they do now. I urge defeat of this motion on the ought to pass as amended by Committee Amendment "A".

THE PRESIDENT: The pending question before the Senate is the motion by Senator GOLDTHWAIT of Hancock that the Senate ACCEPT Report "A" - OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570), in concurrence.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, BEGLEY, BENOIT,
BUSTIN, CIANCHETTE, CLEVELAND,
ESTY, FAIRCLOTH, FERGUSON,
GOLDTHWAIT, HATHAWAY, KIEFFER,
LONGLEY, McCORMICK, MICHAUD,
MILLS, PENDEXTER, PINGREE, RAND,
RUHLIN, SMALL, STEVENS

NAYS: Senators: AMERO, BERUBE, CAREY, CARPENTER,
CASSIDY, HALL, HANLEY, HARRIMAN,
LORD, O'DEA, and the PRESIDENT,
Senator BUTLAND

ABSENT: Senators: LAWRENCE, PARADIS

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator GOLDTHWAIT of Hancock to ACCEPT Report "A" - OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570), in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-570) READ.

On motion by Senator PINGREE of Knox, Senate Amendment "A" (S-325) to Committee Amendment "A" (H-570) READ.

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

Senator PINGREE: Thank you, Mr. President. This amendment basically just replaces what we all just discussed but was put in to correct a few things that we didn't get in on the original committee report, but in fact, most of which we have already discussed as if it was already in the bill, even though we weren't supposed to do that. Basically, it allows for a student entry into the fishery. It allows for a student license, as long as someone is a student, and then they could get a full-time fishing license. It allows for anyone over age 65 to be exempted under the closures. It adds some technical language that was necessary and deals with a couple of the issues around how many traps a boat itself may fish, because we felt it was important to have a 1200 trap limit per boat, not per every individual on the boat. So, I consider this just correcting some inconsistencies in things that we meant to have in the bill originally but didn't have in the committee report. I urge your support.

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

Senator HARRIMAN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. If I understand correctly, what we have just done, the motion we passed said that if you have worked hard to build up a business, to invest capital, to create jobs, to take risks, and you have more than 1200 traps, we have a message for you. You've been too successful and over the next seven years we are going to gear you down. But, if you are a student, come on in. If

you are over age 65, come on in. It doesn't make sense to me. Why would we want to tell those who have taken the risk in creating jobs and investing capital that they have been too successful, and opening the doors for other people to come in? Thank you.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. A legitimate question from the Senator from Cumberland, Senator Harriman. The answer is the reason we let students in is because it is part of the traditional lifestyle of our coastal communities. Their trap limit is 150. They may only fish on a student license while they are actually enrolled in a technical school, college, or university, and not beyond the age of, I forget, twenty-twoish. Over 65, I don't know how many of you have ever hauled a lobster trap, but the fishermen will tell you, when they get to be at an elderly age, such as mine, they are beginning to slow down. By the time you are 65 you are not going to be fishing 1000 traps. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator PINGREE of Knox that the Senate ADOPT Senate Amendment "A" (S-325) to Committee Amendment "A" (H-570).

A vote of Yes will be in favor of ADOPTION.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, BEGLEY, BENOIT,
BUSTIN, CIANCHETTE, CLEVELAND,
ESTY, FAIRCLOTH, FERGUSON,
GOLDTHWAIT, HALL, HANLEY,
HATHAWAY, KIEFFER, LONGLEY,
McCORMICK, MICHAUD, MILLS,
O'DEA, PENDEXTER, PINGREE, RAND,
RUHLIN, SMALL, STEVENS, and the
PRESIDENT, Senator BUTLAND

NAYS: Senators: AMERO, BERUBE, CAREY, CARPENTER,
CASSIDY, HARRIMAN, LORD

ABSENT: Senators: LAWRENCE, PARADIS

26 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator PINGREE of Knox to ADOPT Senate Amendment "A" (S-325) to Committee Amendment "A" (H-570), PREVAILED.

Committee Amendment "A" (H-570), as Amended by Senate Amendment "A" (S-325), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing Glen Greenhalgh to Sue the State of Maine and the Department of Human Services

H.P. 786 L.D. 1103

Majority - **Ought Not to Pass**. (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-355)**. (4 members)

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

Pending - **ACCEPTANCE** of Either Report.

(In House, June 22, 1995, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355)**.)

(In Senate, earlier in the day, Reports **READ**.)

Senator **FERGUSON** of Oxford moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

Senator **FERGUSON:** Thank you. This is another one of these sad, unfortunate cases where an individual, Mr. Greenhalgh, lost his children by action taken by DHS. He was in court on two occasions. It has been adjudicated by the courts. We did have an hour and a half meeting in the Legal and Veterans Affairs Committee. We heard one side of the story and a majority of the folks moved that we shouldn't allow this to proceed. I would encourage the Senate to accept the pending motion. Thank you.

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

Senator **CASSIDY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. Just briefly, this is just another one of those situations where a person, I feel, knowing the case, was used unjustly. We're not trying to be jury and judge here this afternoon, we're just saying to this gentleman, here

is an opportunity for you to present your case and prove your innocence. I urge you to defeat this motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **FERGUSON** of Oxford that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

The Chair ordered a Division.

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

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

18 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **FERGUSON** of Oxford to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the third Tabled and Specially Assigned (June 22, 1995) matter:

HOUSE REPORT from the Committee on **TRANSPORTATION** on Bill "An Act to Amend Laws Pertaining to On-premises Signs by Allowing for Changeable Signs" H.P. 946 L.D. 1335

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-456)**

Tabled - June 21, 1995, by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF THE REPORT**.

(In House, June 14, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456)**.)

(In Senate, June 15, 1995, Report **READ**.)

On motion by Senator **AMERO** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of the Report.

The Chair laid before the Senate the fourth Tabled and Specially Assigned (June 22, 1995) matter:

HOUSE REPORTS from the Committee on **TAXATION** on Bill "An Act to Increase the Property Tax Exemption for Farm Machinery"

H.P. 17 L.D. 11

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-242). (10 members)

Minority - Ought Not to Pass. (3 members)

Tabled - June 21, 1995, by Senator AMERO of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT.

(In House, May 18, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-242).)

(In Senate, May 23, 1995, Reports READ.)

On motion by Senator AMERO of Cumberland, Tabled 1 Legislative Day, pending ACCEPTANCE of Either Report.

The Chair laid before the Senate the fifth Tabled and Specially Assigned (June 22, 1995) matter:

Bill "An Act to Exclude Certain Parks from the Definition of Mobile Home Parks"

H.P. 372 L.D. 507
(C "A" H-142; H "B"
H-480)

Tabled - June 21, 1995, by Senator AMERO of Cumberland.

Pending - the motion by Senator KIEFFER to RECEDE and CONCUR.

(In House, June 14, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-142) AND HOUSE AMENDMENT "B" (H-480), in NON-CONCURRENCE.)

(In Senate, June 15, 1995, RECEDED and CONCURRED.)

(In House, June 21, 1995, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "D" (H-560), in NON-CONCURRENCE.)

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

The Chair laid before the Senate the sixth Tabled and Specially Assigned (June 22, 1995) matter:

HOUSE REPORTS from the Committee on JUDICIARY on Bill "An Act to Expand Access to Medical Care by Encouraging Involvement of Retired Physicians, Podiatrists and Dentists"

H.P. 839 L.D. 1170

Majority - Ought Not to Pass. (8 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-319). (5 members)

Tabled - June 21, 1995, by Senator KIEFFER of Aroostook.

Pending - the motion by Senator MILLS of Somerset to ACCEPT the Majority OUGHT NOT TO PASS Report.

(In House, June 21, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-319) AS AMENDED BY HOUSE AMENDMENT "A" (H-493), thereto.)

(In Senate, June 21, 1995, Reports READ.)

Senator MILLS of Somerset requested and received leave of the Senate to withdraw his motion to ACCEPT the Majority OUGHT NOT TO PASS Report, in NON-CONCURRENCE.

On motion by Senator PENDEXTER of Cumberland, the Senate ACCEPTED the Minority OUGHT TO PASS AS AMENDED Report, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-319) READ.

On motion by Senator MILLS of Somerset, Senate Amendment "A" (S-319) to Committee Amendment "A" (H-319) READ.

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

Senator MILLS: Thank you, Mr. President. The amendment would essentially make unnecessary my earlier objection to the bill as a whole. It's a very technical and simple objection that I had. The original language gave immunity to retired physicians for anything but willful and wanton misconduct. The word wanton is not one that is well-defined in our law. The best guess as to what it means is that it is roughly equivalent to the word "reckless". Reckless is a term that is well defined in our law and it's defined by statute as being a conscious disregard of risk, that certain conduct will cause harm. With the addition of the word reckless to clarify the meaning of that phrase, I would be content to vote for the bill. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-319) to Committee Amendment "A" (H-319) ADOPTED.

House Amendment "A" (H-493) to Committee Amendment "A" (H-319) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-319), as Amended by Senate Amendment "A" (S-319) and House Amendment "A" (H-493), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

The Chair laid before the Senate the seventh Tabled and Specially Assigned (June 22, 1995) matter:

SENATE REPORT from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Create the Propane and Natural Gas Professional Act of 1995"
S.P. 498 L.D. 1357

Report - Ought to Pass as Amended by Committee Amendment "A" (S-302).

Tabled - June 21, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF THE REPORT**.

(In Senate, June 21, 1995, Report **READ**.)

On motion by Senator **AMERO** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of the Report.

The Chair laid before the Senate the eighth Tabled and Later Today Assigned (June 22, 1995) matter:

SENATE REPORTS from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Authorizing a General Fund Bond Issue in the Amount of \$15,000,000 to Expand Maine's Interactive Television System to Maine High Schools"
S.P. 171 L.D. 432

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-308). (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-309). (4 members)

Tabled - earlier in the day by Senator **BERUBE** of Androscoggin.

Pending - the motion by Senator **BEGLEY** of Lincoln to **ACCEPT** the Majority Report.

(In Senate, June 22, 1995, Reports **READ**.)

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

Senator **BERUBE:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. While I cannot speak to the merits of the Interactive Television Program, I think you should be reminded that this is a \$15 million bond issue, payable over ten years, with an interest cost of \$4.2 million. Making it a total of \$19.2 million. Also, there is a start-up cost of \$200,000, which is an annual cost and which increases to \$2.8 million by the year 1999. Now, I simply say this to bring this to your attention. I think we have to start looking very carefully at what we are projecting as expenses in the next few years to come. The Department of Education has no funding in this year's proposed budget or the \$200,000, which means that they would have to come back next year, and the year after that every year for money for this program. While it may be very appealing to say we are going to teach throughout the State with a television screen, and again, I'm not on the Committee on Education, so I cannot speak with great expertise, I just feel that we have to look twice when we think of spending money like that. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President, Colleagues in the Senate. I would like to speak to the merits of this. Basically, if any one of you has lost one good course in any one of your schools, here is the chance for every single high school in the state, every single vocational school in the state, and seven key libraries, to be hooked up and to be a button press away from that course. Or if you have forest ranger, or game warden, or any other kind of training courses that normally one has to hop in the car and come to a central site, this would allow that person in that carpool to go to a much closer site, get that training, and get on with their jobs. So, more than just an education promotion issue, this is a jobs training issue. I urge your support. I should also note that it is not at all related to EdNet, and that Nynex will build the network. I think the expression is "penny-wise, pound-foolish", I see that as a possibility here. It's for both education and job training and I encourage your support. Thank you.

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

Senator **BEGLEY:** Thank you, Mr. President. I agree with Senator Berube's comments. I feel as though I have a broken arm in raising it for this bond issue, for as I have stated before, I wish these bond issues would go into the budget. I would say to the Education Department that's where it should be. I was also told, like all departments, that they have no budget space for it. I'm saying to them they better because it is their problem in some fashion. The timeliness is the only reason I am standing up and voting in favor of this, and that is that Nynex has offered to all high schools, immediate connection to that school. One can talk timeliness and one can talk money, but the point is that it is something

along that line, and it does come at a time when television is going to be one of the good points, not the answer, but one of the good points in education.

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

Senator O'DEA: Thank you, Mr. President, Men and Women of the Senate. I, too, would encourage you to support this bond issue. This bond issue has been around, in one form or another, for several years. At the close of the 116th Maine Legislature, we had a bond proposal of similar size that was ultimately rejected because it didn't do as much as it could have done. This proposal right here gets us as much bang for the buck as we will ever get. A year ago there were people in these halls who suggested that we shouldn't do anything on a bond issue, at that time, because we could get a better deal. We have gotten that better deal. I would suggest that to not do this, at this time, would be a grave mistake for the state. We are at the point now where we have an opportunity to upgrade our infrastructure in a way that will help not only your schools and your communities, but the businesses that rely on telecommunications around the state. I would urge you to support it wholeheartedly. Thank you.

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

Senator AMERO: Thank you, Mr. President. I would also like to lend my support to this, what I think, is a wonderful opportunity for every school district in the State of Maine. As we all know, we spend over a million dollars a year in educating our children in our K through 12 school systems. This \$15 million bond issue will do more, I believe, to provide for equal opportunity for all children in the State of Maine. We know that the size of our high schools, the relative size of our small high schools are the ones that are unable to offer the variety of programming that we can find in the larger high school. This bond issue will provide \$90,000 for each high school in the State of Maine to equip themselves with all of the latest telecommunications equipment, which will allow them two-way, interactive capability. I think, and being very conscious of the remarks of the good Senator from Androscoggin, Senator Berube, and her reminder to us that we need to be very concerned before we give our approval to any bond issue. I respect that opinion, however, I feel that this is one of the best returns of any investment that we can make in education at this time. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator BEGLEY of Lincoln that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308)** Report.

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.

25 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator BEGLEY of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308)** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-308) **READ** and **ADOPTED**.

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

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

An Act to Improve Bicycle Safety in This State
S.P. 580 L.D. 1557
(C "A" S-256)

Tabled - June 22, 1995, by Senator KIEFFER of Aroostook.

Pending - **PASSAGE TO BE ENACTED** (Roll Call Ordered)

(In House, June 20, 1995, **PASSED TO BE ENACTED**.)

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending **ENACTMENT**.

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

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Landfill Closure and Remediation"
S.P. 147 L.D. 333

Tabled - June 22, 1995, by Senator KIEFFER of Aroostook.

Pending - **ADOPTION** of Senate Amendment "A" (S-318) to Committee Amendment "A" (S-306).

(In Senate, June 22, 1995, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-306)** Report **READ** and **ACCEPTED**. The Bill **READ ONCE**.)

Senate Amendment "A" (S-318) to Committee Amendment "A" (S-306) **ADOPTED**.

Committee Amendment "A" (S-306), as Amended by Senate Amendment "A" (S-318), thereto, **ADOPTED**.

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

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

Bill "An Act to Ensure a Sustainable Urchin Fishery in the State and to Promote Competition in the Maine Sea Urchin Processing Industry"
S.P. 337 L.D. 918
(C "A" S-293)

Tabled - June 22, 1995, by Senator KIEFFER of Aroostook.

Pending - FURTHER CONSIDERATION.

(In Senate, June 20, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-293).)

(In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" AS AMENDED BY HOUSE AMENDMENT (H-582), thereto, in NON-CONCURRENCE.)

Senator KIEFFER of Aroostook moved that the Senate RECEDE and CONCUR.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is the bill that begins a management plan for another fishery in Maine, the urchin industry. It's a very rapidly growing industry. It's now our third most lucrative fishery in the State of Maine. The ill effects of overfishing in the urchin fishery are much more clear to us than those in the industry we were discussing just a few moments ago. The harvesters report that the bottom looks terrible, that the combination of the kelp beds being dragged out by the draggers, and the urchins themselves being overharvested, there are many areas where there are no urchins. The State of Maine is divided into two zones for urchin fishing. You can pick either zone, it doesn't matter where you live, but you have to fish in the zone that you pick. Right now nobody is picking the western zone because it is pretty well cleaned out. Everybody is moving up to the eastern zone and that, too, will be picked over in short order. The essence of this bill was to provide some conservation measures, probably on a temporary basis. What we would most like to do in this fishery is provide the Commissioner with the latitude to establish spawning closures. So you would close the fishery when the creatures are spawning and reproducing. Right now we don't have the science to do that. We think we might in about a year or so, at which time we would turn over to the Commissioner the authority to make those closures. However, at this point the bill provided for an

additional two weeks of closed time on the fishery in the fall and in spring. It also provided for Wednesday and Sunday closures in the first two months and the last two months, when the weather is pretty much always good and you could go every day if you wanted to. In the winter the weather provides its own closed days, so we removed that restriction in the winter, but we put it on in those shoulder months of the season. The amendment in the House strips off the Wednesday and Sunday closures, so it allows a total of 16 additional fishing days to the days that we had originally allocated. I think we have some clear signs that this resource needs some conservation assistance. I would like your support in opposing this motion, so that we may insist. Thank you.

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

Senator RAND: Thank you, Mr. President, Men and Women of the Senate. I would hope that you will go along with the Recede and Concur motion made by the good Senator from Aroostook, Senator Kieffer. This L.D. was originally my L.D. and it looked a lot different when it was presented to the Marine Resources Committee then when it exited the Committee. One of the considerations that I believe that the harvesters must take into consideration is the effect that these closures are having on the people they sell to, the processors. There is only one market for this particular product, and that market is Japan. The processors that are here in Maine have a very delicate time line where they can sell their product to Japan and keep their name on the shelf, so to speak, so that they don't have a long period of time where they do not have a product and the Japanese market will go elsewhere for this particular product. I would urge you to please accept the motion on the floor to recede and concur. Thank you.

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

Senator CASSIDY: Thank you, Mr. President, Ladies and Gentlemen of the Senate. It seems like I have been on my feet more today than I have been all session. There are so many issues here that are important to our area that I would like to speak on this just briefly. The problem, if we do not recede and concur with this House Amendment that was presented, is this would take off Sundays and Wednesdays. As I mentioned even earlier today, what's going to happen with this is if we eliminate these days when people can't fish, the weather is not always like it is out there today, at least in Washington County. If you can't fish Sunday and Wednesday, and then Monday and Tuesday is foggy and blowy and rainy, you're really going to limit the opportunity for these folks to make a living. I hope that you will go along with the motion that the good Senator made to recede and concur. Thank you.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I, too, looked a lot different when I was presented to the Marine

Resources Committee than I do now. This is one of the reasons why, this very bill. The argument about not being able to fish for two days a week and therefore going out when the weather is bad at great risk to one's self reminds me of the "I will hold my breath until I turn blue" sort of argument. I think the fishermen that I know have more common sense than that. When the weather is not good they don't risk their boats, they don't risk their crew members, they don't go. The market issue is a very serious one. The sea urchin market has great potential for the State of Maine, particularly because almost every other urchin fishery in this country has killed itself off by overharvesting. While it is perfectly reasonable to make the arguments that were made by the good Senator from Cumberland, Senator Rand, regarding the market, there is another issue and that is the health of the resource. You've heard this before today. If we don't have any urchins we don't have any market, no matter what days we open or close or anything else. You've got to have urchins to have a market. If we keep going the way we are going now there will be no urchins, there will be no market. Yes, it may have some effect on the market, although there are other processors who tell me that that argument doesn't hold water. It is quite clear that if we don't have any product left, we certainly won't have any market. Therefore, whatever temporary negative effects this may have on the market will be outweighed by the fact that we will have a healthy and sustainable fishery.

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

Senator **RAND:** Thank you, Mr. President, Men and Women of the Senate. I believe that if we are serious about looking at our natural resources and trying to extract as much value as we can, we must be at least aware of the conditions of the in-state processors and what they are going through in order to sell this resource to the one market that we have, which is in Japan. The good Senator from Hancock, Senator Goldthwait, mentioned the declining resource. I have to go along with her, I believe in that. There are several things that I think could be done to protect the resource. One of them would be to eliminate dragnets. That's not something that fish harvesters want to talk about. The other thing I would like to point out is that the good Senator is absolutely correct when she states that we really don't have enough scientific evidence to know exactly when there should be closure and when there shouldn't, and exactly how we should manage this resource when we are speaking of closure. The L.D. wanted to put a limit on the roe count in the urchin. Any urchin that didn't contain at least 8% roe could not be harvested. That was not acceptable to the harvesters. It was very acceptable to the processors. The bill was actually put forth as a conservation measure that has to do with keeping logs so that the scientists could then track the information in the log books that were kept by the harvesters and then begin to plan a reasonable conservation movement. The logbook is not highly acceptable to the harvesters because they don't feel they want to give up information concerning where their best fishing spots are. All of these things are totally understandable on both sides, there are good arguments on both sides here. I'm just asking

that we accept the pending motion, which is to recede and concur, so that those two days, I believe the good Senator said it amounted to about sixteen days, remember we have an additional two-week closure in this bill that will begin next year on both zones. So, I would just ask you to stay with the pending motion. Thank you.

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

Senator **PINGREE:** Thank you, Mr. President. I actually am going to be very brief because I'm sure you have heard all of the fish stuff you can stand for one day and you have probably already made up your mind. I just want to correct a couple of what I thought were inconsistencies. I think the Committee did a very good job on this issue. It is tough to decide how to regulate a fishery. Sea urchins have become a great new fishery for the State of Maine. A lot of processors have made big dollar investments and I think the Committee was respectful of the fact that they needed to keep their investment and make some money back on it and make sure they can employ all of the people they have processing. Also the harvesters were very concerned and asked us for very strict new limits because they are worried that we are going to run out of urchins. It's been a great gold-rush fishery and we have been concerned about what we are going to do about it. We did not discount out of hand the idea of a roe count. We thought that that was a good concept that we should look into, but we were not sure if it was scientifically viable or if it could be administered on the piers, who was going to do it, was the State going to do it, was the processors going to do it. We had a certain amount of distrust and felt we needed some time to work it out and directed the Commissioner to come back to us in February and look at that issue and see if we can't implement it for next year. In fact, none of these regulations will take effect during this season because of the way the bill works. So, I think that next season we will be looking at that, and many other, measures. Lots of harvesters asked us to close down the season. We were respectful of the fact that because of safety issues, we didn't want to encourage people to dive in bad weather. These closures, as I'm sure it was said, are only on the shoulders of the season, basically the warmer weather months. It is hard to decide how to regulate the close of a fishery. We never have enough scientific evidence to know what to do. The original bill was the Committee's best guess of what to do and I stand by that.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator **KIEFFER** that the Senate **RECEDE** and **CONCUR**.

The Chair ordered a Division.

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

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

18 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator KIEFFER of Aroostook to RECEDE and CONCUR, PREVAILED.

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

HOUSE REPORTS from the Committee on NATURAL RESOURCES on Bill "An Act to Enhance Recycling by Ensuring Raw Materials for Businesses that Recycle and to Fund Household Hazardous Waste Collection Programs"

H.P. 805 L.D. 1122

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-550). (8 members)

Minority - Ought Not to Pass. (5 members)

Tabled - June 22, 1995, by Senator BUSTIN of Kennebec.

Pending - ACCEPTANCE OF EITHER REPORT.

(In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550).)

(In Senate, June 22, 1995, Reports READ.)

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

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

Bill "An Act to Modify the Licensure Act for Substance Abuse Counselors"

H.P. 1008 L.D. 1419
(C "A" H-427)

Tabled - June 22, 1995, by Senator KIEFFER of Aroostook.

Pending - FURTHER CONSIDERATION.

(In Senate, June 15, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-427).)

(In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-427) AS AMENDED BY HOUSE AMENDMENT "A" (H-583), thereto, in NON-CONCURRENCE.)

On motion by Senator HARRIMAN of Cumberland, the Senate RECEDED from its action whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-427), in concurrence.

On further motion by the same Senator, the Senate RECEDED from its action whereby it ADOPTED Committee Amendment "A" (H-427), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-326) to Committee Amendment "A" (H-427) READ.

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

Senator HARRIMAN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. Just so you know what I am doing here, this is an amendment that clarifies that, in regards to the State Board of Alcohol and Drug Counselors, that licensed psychologists, physicians, registered clinical nurse specialists, clinical professional counselors, and clinical social workers, who are qualified to provide alcohol and drug counseling services, are also eligible for reimbursement under this plan.

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

Senator GOLDTHWAIT: Thank you, Mr. President. May I pose a question? To the good Senator from Cumberland, Senator Harriman, I want to make sure that I understand that there is a House Amendment that made a correction along that line. I'm a little confused about what's different about this amendment, and does it include what the House Amendment attempted to do?

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

Senator HARRIMAN: Thank you, Mr. President. Let me begin by apologizing to my colleague who serves on the Committee with me. I have not had a chance to share with her that this is in collaboration with the House Chair of our Committee. The original amendment that left the House, did not make it clear that psychologists could also be part of this amendment. This makes sure that they are.

On motion by Senator HARRIMAN of Cumberland, Senate Amendment "A" (S-326) to Committee Amendment "A" (H-427) ADOPTED.

House Amendment "A" (H-583) to Committee Amendment "A" (H-427) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-427), as Amended by Senate Amendment "A" (S-326) and House Amendment "A" (H-583), thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

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

An Act to Create the Northern New England Passenger Rail Authority (EMERGENCY)
S.P. 459 L.D. 1255

Tabled - June 22, 1995, by Senator KIEFFER of Aroostook.

Pending - **PASSAGE TO BE ENACTED.**

(In House, June 22, 1995, **PASSED TO BE ENACTED.**)

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

Senator HARRIMAN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. Since the last time this bill was before our Committee, several additional developments have occurred that I would like to share with you, before we take the vote. First, the State of Maine will no longer be required to come up with \$2 million of in kind contributions, because the State of Massachusetts has come forward with \$2 million of materials and in kind contributions to help us reach our match of \$38.6 million. Therefore, no additional state funds are needed for the capital match. Also, Amtrak has agreed to pay up to 25% in operating costs, and the remainder, and I think this is important, the remainder of the operating costs will come from fares. For the first two years it will come from congestion mitigation funds and air quality funds, which cannot, I must emphasize this, cannot be spent on highways and bridges. This is money that is available for just this sort of opportunity. Also you should know that Amtrak has cut back and streamlined its services, which is an ongoing process, but has not cut back on its northeast corridor. It believes that it has the most opportunity for profit and their presentations in Washington include Portland as their northern most point in the northeast corridor in bringing 150 mile an hour trains to the Washington/Boston section. This is all evolving, I think it's all heading in the right direction. The bill before you is an opportunity to create a Passenger Rail Authority. The Passenger Rail Authority will implement these plans. It will protect the State's highway fund checkbook should any of these wonderful things that I have just shared with you not all materialize. I hope you will join me in supporting the pending motion. Thank you.

On motion by Senator KIEFFER of Aroostook, 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 York, Senator Hathaway.

Senator HATHAWAY: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I spoke on this issue before but I just wanted to go over a couple of newspaper articles, if I could, that I have seen in the last couple of days. One says the Chairwoman of the House Railroad Subcommittee in Congress has begun planning for an orderly shutdown of Amtrak by the end of the fiscal year in October. The House Transportation Committee Chairman issued a statement saying it is quite clear that the future of Amtrak is in jeopardy. It goes on to say that the financially troubled passenger railroad has sharply cut service and staff in order to save money but still operates well in the red and needs federal assistance. I also saw this list, it says "Is this for real", it goes on and says, "The House adopted fiscal 96 budget resolution assumes that three cabinet departments, 284 programs, 69 commissions, 13 agencies and 3 broad government run commercial activities will be terminated." On here it has, under programs eliminated, it has Amtrak listed. There are hundreds listed on here. I'm very concerned that if Congress can eliminate the Departments of Commerce, Education, and Energy, I don't think it would be very difficult for them to also eliminate Amtrak. That worries me. I said before that I think it's a very romantic idea to think of taking my family on a trip to Boston, it's very appealing, however, I think the risks should be borne by business, not by our taxpayers and our government. Sometimes the romance is just not worth the risk, so I urge you to vote against this. Thank you.

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

Senator MILLS: Thank you, Mr. President, Men and Women of the Senate. I think it's important to remember that the only piece that's before you is the creation of an entity that would be authorized to act to carry out the intent of legislation that was passed several years ago, and legislation that has been implemented with a great deal of work from our Congressional Delegation down in Washington, who have found the money to bring to this State to put the service into operation. In the unlikely event that something happened to Amtrak that made this entire thing unfeasible, by passing this bill, we haven't done any harm. This bill is not requiring that we spend money, it is requiring, simply, that we set up an entity to receive money, and to prepare for the purposes of implementing the plan that is being funded 80% or 90% by federal funds. If Amtrak exists at all five years from now, it will exist in the northeast corridor because the northeast corridor is by far the most profitable and is, indeed, profitable. It makes money. It is the one area of the country where Amtrak is looking really good and where there is an opportunity for Amtrak to improve its service. It needs feeder business from north of Boston, and we, as a State, should be willing to provide it. Thank you.

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

Senator **STEVENS**: Mr. President, Men and Women of the Senate. Amtrak and the northeast corridor, it will be a little over \$1 billion to hook up North Station to South Station so we can go from Portland to beyond Boston.

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

Senator **HARRIMAN**: Thank you, Mr. President. I have great respect for the skeptics and, indeed, my critics surrounding this piece of legislation and that is why I have paid particular attention to what may be occurring in Washington. It was very interesting to watch on C-Span, a week or so ago, a Senate hearing by Senator Hutchinson of Texas. The purpose of the hearing was to discuss the reauthorization of Amtrak. Sitting at the table was the Operating Officer of Amtrak, the Chief Executive Officer of Greyhound, a representative of the Association of Small Railroad Operators, a representative of the organized workforce, and it was rather interesting to hear how, as they look to the future, they see that the United States needs, as we see in Europe, a well-run interconnected system of transportation. I heard from the CEO of Greyhound, who went on to talk about how important it was to create feeder systems, and how each of the rail and passenger bus business could grow by melding their strengths together. Things like having passenger rail service travel a corridor at known high rates of occupancy times, and having bus service in between, and how important it was for bus service to connect the rails and the airports. Everyone recognizes that they needed to change, that they needed to grow, that they needed to become more business-like. I think that's good news for everyone, especially for those who believe that this is an option that we need to explore to make sure that as Maine grows in the future, that we can do so with a diversified form of transportation. I think if we are going to debate the issue of having passenger rail service be successful as a private industry, then we need to put on the table our airports, our road systems, and our ferry services, because all of those are being subsidized with our tax dollars and no one is standing up and saying we should have our airports justify themselves financially. We're not saying the same thing about ferry services, why should we say it about rail? 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'll be very brief, just one sentence. I've already talked on this earlier on behalf of my constituents in the western part of the state. They want road service, not rail service. I can't support a bill to bring Amtrak to the state when some of the roads in western Maine will soon be passible only by halftrack if not repaired. Thank you.

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

Senator **ABROMSON**: Thank you, Mr. President. When I last stood up to speak on this issue I told you that I had a feeling in my gut that this was not

a good idea. I still have somewhat of that feeling in my gut, however, I am also thinking of what the good Senator from Somerset, Senator Mills, said. We are not voting on Amtrak. Amtrak exists, it will continue to exist or not continue to exist, and nothing we do here will change that. But, in the event that we should have rail service to Portland, and I'm not convinced that it's ever going to be viable, I do like the idea of having the rail authority shield. Thank you.

At the request of the Senator from Oxford, Senator Hanley, pursuant to Joint Rule 10, the Chair excused him from voting on this issue.

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, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, HARRIMAN, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PINGREE, RAND, RUHLIN**

NAYS: Senators: **BEGLEY, BENOIT, BERUBE, GOLDTHWAIT, HALL, HATHAWAY, KIEFFER, LORD, PENDEXTER, STEVENS, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senators: **LAWRENCE, PARADIS, SMALL**

EXCUSED: Senator: **HANLEY**

This being an Emergency Measure and having received the affirmative vote of 20 Members of the Senate, with 11 Senators having voted in the negative, and with 3 Senators being absent and 1 Senator having been excused, and 20 being less than two-thirds of the entire elected Membership of the Senate, **FAILED OF ENACTMENT, in NON-CONCURRENCE.**

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

Resolve, to Require the Brookton Elementary School to be Used as a Community Center for Northern Washington County

H.P. 1131 L.D. 1576

Tabled - June 22, 1995, by Senator KIEFFER of Aroostook.

Pending - FURTHER CONSIDERATION.

(In Senate, June 20, 1995, PASSED TO BE ENGROSSED, in concurrence.)

(In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-559).)

On motion by Senator CASSIDY of Washington, the Senate RECEDED from its action whereby the Bill was PASSED TO BE ENGROSSED, in concurrence.

Senate at Ease

Senate called to order by the President.

House Amendment "A" (H-559) READ.

On motion by Senator CASSIDY of Washington, Senate Amendment "A" (S-321) to House Amendment "A" (H-559) READ.

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

Senator CASSIDY: Thank you, Mr. President. Just briefly, what we just did through all this was we added a word to the House Amendment that says that this property can be transferred or leased, that was the change. It's a school that is being vacated with the cutbacks and that was a simple procedure that had to be dealt with.

On further motion by the same Senator, Senate Amendment "A" (S-321) to House Amendment "A" (H-559) ADOPTED.

House Amendment "A" (H-559), as Amended by Senate Amendment "A" (S-321), thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted on, with the exception of those matters having been held, were sent forthwith.

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

HOUSE REPORTS from the Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Amend the Laws Related to Optometry"

H.P. 590 L.D. 800

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-534). (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-535). (4 members)

Tabled - June 22, 1995, by Senator AMERO of Cumberland.

Pending - the motion by Senator GOLDTHWAIT to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

(In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) AS AMENDED BY HOUSE AMENDMENT "A" (H-558), thereto.)

(In Senate, Reports READ. Motion to ACCEPT the Minority Report FAILED.)

On motion by Senator AMERO of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator GOLDTHWAIT of Hancock that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) Report, in concurrence.

The Chair laid before the Senate the following Tabled Unassigned matter:

SENATE REPORT from the Committee on BANKING AND INSURANCE on Bill "An Act to Extend the Final Determination of a Fresh Start Policy Year Status" S.P. 299 L.D. 838

Report - Ought to Pass as Amended by Committee Amendment "A" (S-240).

Tabled - June 12, 1995, by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF THE REPORT.**

(In Senate, June 12, 1995, Report **READ.**)

On motion by Senator **ABROMSON** of Cumberland, the Bill and Accompanying Papers were **INDEFINITELY POSTPONED.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled Unassigned matter:

Resolve, Authorizing the Maine Technical College System to Lease-purchase Facilities for York County Technical College (EMERGENCY)

H.P. 951 L.D. 1340
(C "A" H-461)

Tabled - June 20, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **FINAL PASSAGE.**

(In House, June 20, 1995, **FINALLY PASSED.**)

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, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled Unassigned matter:

Bill "An Act Concerning the Kennebec Water District"

H.P. 937 L.D. 1326

Tabled - June 21, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-527)**, in concurrence.

(In Senate, June 21, 1995, **READ A SECOND TIME.**)

On motion by Senator **CARPENTER** of York, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION.**

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-527), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-313) to Committee Amendment "A" (H-527) **READ.**

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

Senator **CARPENTER:** Thank you, Mr. President. This is one of two bills concerning the Kennebec Water District. They sort of got out of synch coming through the process, and we had to wait for one to be signed into law so that this one could make reference to the one that was signed into law three days ago. So now we have everything in the right order. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-313) to Committee Amendment "A" (H-527) **ADOPTED.**

Committee Amendment "A" (H-527), as Amended by Senate Amendment "A" (S-313), thereto, **ADOPTED** in **NON-CONCURRENCE.**

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

Sent down for concurrence.

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

COMMITTEE REPORT

House

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation"

H.P. 806 L.D. 1123

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-584).**

Signed:

Senators:

AMERO of Cumberland
CARPENTER of York

Representatives:

ROBICHAUD of Caribou
LANE of Enfield
SAVAGE of Union
GERRY of Auburn
LEMKE of Westbrook

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-585).

Signed:

Senator:
LONGLEY of Waldo

Representatives:
DAGGETT of Augusta
AHEARNE of Madawaska
ROSEBUSH of East Millinocket
SAXL of Bangor

Comes from the House with the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-584).

Which Reports were READ.

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

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

ENACTORS

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

An Act to Revise the Somerset County Budget Committee

H.P. 822 L.D. 1153
(S "A" S-300)

An Act to Widen the Maine Turnpike

S.P. 489 L.D. 1323
(C "A" S-282)

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

Resolve

Resolve, to Strengthen Fish Hatchery Capacity within the State by Establishing a Partnership between Public and Private Organizations

S.P. 365 L.D. 991
(S "A" S-301 to C
"A" S-116)

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending FINAL PASSAGE.

Resolve

Emergency Mandate

Resolve, Establishing a Moratorium on Implementation of the Law Requiring Public Employers to Pay the Costs of Early Retirement Incentives

S.P. 563 L.D. 1531
(C "A" S-297)

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 1 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, was presented by the Secretary to the Governor for his approval.

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

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

Senator ABROMSON of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator ABROMSON: Thank you, Mr. President. Last night we enacted L.D. 1578, and the good Senator from Kennebec, Senator McCormick, did an excellent job of presenting the bill to the floor. She also did an excellent job of thanking virtually everybody who was involved in the passage of this truly, I think, momentous piece of legislation. I want to pay particular tribute to Senator Leo Kieffer, of Aroostook, who, in the last session, started the ball rolling when everyone thought that this was an insoluble problem and got together with the then Commissioner of Professional and Financial Regulation, Jane Titcomb, to put together a group that he really wondered would ever jell and be able to grow and come to a decision. It was because of his great impetus in moving this along that we have come to a piece of legislation that will provide some

certainty to employers, at least for the next ten years, with respect to Workers' Compensation. Thank you.

Under suspension of the Rules, all matters thus acted on, with the exception of those matters having been held, were sent forthwith.

On motion by Senator **CARPENTER** of York, **ADJOURNED** until Monday, June 26, 1995, at 9 o'clock in the morning.