

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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
Wednesday
June 28, 1995

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

Prayer by the Honorable Richard J. Carey of Kennebec.

SENATOR RICHARD J. CAREY: Thank you, Mr. President. Senators, good morning. Senator Hall's remarks last night about falling asleep affect us all as the days grow longer, even for the limited number of days we do have left. Let us pray this morning for two things. First, that a solution can be found for our differences. Secondly, that we are more tolerant of those expressing views which differ from ours. We have been elected to serve our citizens, and not our own interests. We need God's help in finding common ground so that we can avoid a pending shutdown, which affects not only state workers, but the people that they serve.

Dear God, shine your light down upon us, and give us the wisdom we need to arrive at a just solution to these problems that we face. We ask this with the deepest of humility. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent 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
(S "B" S-342 to C
"A" S-306)

In Senate, June 27, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-306) AS AMENDED BY SENATE AMENDMENT "B" (S-342), thereto.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-306) AS AMENDED BY HOUSE AMENDMENT "A" (H-635), thereto, in NON-CONCURRENCE.

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

Non-concurrent Matter

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)
S.P. 251 L.D. 648
(C "A" S-332)

In Senate, June 27, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-332).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-332) AS AMENDED BY HOUSE AMENDMENT "A" (H-638), thereto, in NON-CONCURRENCE.

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

Non-concurrent Matter

Bill "An Act Regarding Unredeemed Deposits on Beverage Containers"
H.P. 506 L.D. 687
(C "A" H-498)

In Senate, June 26, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-498), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-498) AS AMENDED BY HOUSE AMENDMENT "A" (H-639), thereto, in NON-CONCURRENCE.

On motion by Senator AMERO of Cumberland, Tabled until Later in Today's Session, pending FURTHER CONSIDERATION.

Non-concurrent Matter

Bill "An Act to Prohibit Retrofits of Nuclear Power Plants without Permission of the Public Utilities Commission"

H.P. 676 L.D. 927

In House, June 21, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-435).**

In Senate, June 26, 1995, Majority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Comes from the House that Body having **INSISTED** and Asked for a Committee of Conference.

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

Senator **CLEVELAND** of Androscoggin moved that the Senate **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **CLEVELAND** of Androscoggin to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

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.

4 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion of Senator **CLEVELAND** of Androscoggin to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**, **FAILED**.

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

Non-concurrent Matter

Resolve, Establishing the Task Force on Alcoholic Beverage Sales (Emergency)

H.P. 1075 L.D. 1514
(C "A" H-477)

In Senate, June 20, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-477)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-477) AS AMENDED BY HOUSE AMENDMENT "A" (H-614)**, thereto, in **NON-CONCURRENCE**.

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

Non-concurrent Matter

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

H.P. 1135 L.D. 1579
(S "A" S-314)

In Senate, June 23, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-314)**, in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-314) AS AMENDED BY HOUSE AMENDMENT "A" (H-641)**, thereto, in **NON-CONCURRENCE**.

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

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

Senator **CLEVELAND:** Thank you, Mr. President. Is it in order to move that we reconsider our action whereby this bill was passed to be engrossed?

Senate at Ease

Senate called to order by the President.

Senator **KIEFFER** of Aroostook requested and received leave of the Senate to withdraw his motion to **RECEDE** and **CONCUR**.

On motion by Senator **CLEVELAND** of Androscoggin, the Senate **RECEDED** from its action whereby the bill was **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

On further motion by the same Senator, the Senate **RECEDED** from its action whereby it **ADOPTED** Senate Amendment "A" (S-314), in **NON-CONCURRENCE**.

House Amendment "A" (H-641) to Senate Amendment "A" (S-314) **READ** and **ADOPTED**, in concurrence.

Senate Amendment "A" (S-314), as Amended by House Amendment "A" (H-641), thereto, **ADOPTED**, in concurrence.

On motion by Senator CLEVELAND of Androscoggin, Senate Amendment "B" (S-347) READ.

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

Senator CLEVELAND: Thank you, Mr. President, Men and Women of the Senate. This is really just a technical amendment. It is a clarification some members of the delegation wanted to make clear that our request of the County Commissioners to provide a study of the possibility of implementing a County Manager position was simply a study and it didn't require that they implement a County Manager. This amendment simply makes that clear.

On further motion by the same Senator, Senate Amendment "B" (S-347) ADOPTED.

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

Sent down for concurrence.

COMMUNICATION

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002

June 27, 1995

Honorable May M. Ross
Secretary of the Senate
117th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone" (H.P. 609) (L.D. 819):

Representative GOULD of Greenville
Representative BUNKER of Kossuth Township
Representative MARSHALL of Eliot

Sincerely,

S/ Joseph W. Mayo
Clerk of the House

S.C. 265

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: In reference to the action of the Senate on June 27, 1995, whereby it INSISTED and ASKED FOR A COMMITTEE OF CONFERENCE on Bill, "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone" (H.P. 609) (L.D. 819)

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

Senator CARPENTER of York.
Senator BEGLEY of Lincoln.
Senator CLEVELAND of Androscoggin.

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

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

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

On motion by Senator KIEFFER of Aroostook, RECESSED until 11 o'clock this morning.

After Recess

Senate called to order by the President.

ORDER

Joint Orders

On motion by Senator AMERO of Cumberland, the following Joint Order:

ORDERED, the House concurring, that in accordance with emergency authority granted under the Revised Statutes, Title 3, section 2, the First Regular Session of the 117th Legislature shall be extended in accordance with the provisions of said section.

S.P. 599

Which was **READ**.

On motion by Senator **KIEFFER** Tabled, pending **PASSAGE**.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **LABOR** on Bill "An Act Regarding the Functioning of the Department of Mental Health and Mental Retardation and Several Professional Regulatory Boards" (Emergency)

H.P. 483 L.D. 664

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-626).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-626) **AS AMENDED BY HOUSE AMENDMENT "A"** (H-648), thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-626) **READ**.

House Amendment "A" (H-648) to Committee Amendment "A" (H-626) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-626) as Amended by House Amendment "A" (H-648), thereto, **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Amend Certain Motor Vehicle Laws"

H.P. 771 L.D. 1045

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-637).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-637).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-637) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Establish a Statute of Limitations for Claims against the Dalkon Shield Claimants Trust" H.P. 983 L.D. 1391

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-616).

Signed:

Senator:

MILLS of Somerset

Representatives:

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

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

Signed:

Senators:

PENDEXTER of Cumberland
FAIRCLOTH of Penobscot

Representatives:

PLOWMAN of Hampden
HARTNETT of Freeport
NASS of Acton
RICHARDSON of Portland

Comes from the House with the Minority **OUCHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were READ.

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

On motion by Senator **RAND** 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 **PENDEXTER** of Cumberland that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, 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, AMERO, BEGLEY, BENOIT, CASSIDY, CIANCHETTE, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BERUBE, BUSTIN, CAREY, CARPENTER, CLEVELAND, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN**

Senator **CAREY** of Kennebec requested and received leave of the Senate to change his vote from **YEA** to **NAY**.

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **PENDEXTER** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Increase the Efficiency of Cumberland County Government Operations" H.P. 975 L.D. 1384

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

Signed:

Senator:
LONGLEY of Waldo

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass** as Amended by Committee Amendment "A" (H-551).

Signed:

Senators:
AMERO of Cumberland
CARPENTER of York

Representatives:
GERRY of Auburn
SAVAGE of Union
LANE of Enfield

Comes from the House with the Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

Which Reports were READ.

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

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, to Allow Jose Gonzales to Bring an Action Against the State H.P. 1077 L.D. 1519

Reported that the same **Ought to Pass** as Amended by Committee Amendment "A" (H-523).

Signed:

Senator:
MICHAUD of Penobscot

Representatives:
NADEAU of Saco
LEMONT of Kittery
GAMACHE of Lewiston
CHIZMAR of Lisbon
MURPHY of Berwick

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

Signed:

Senators:

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

Representatives:

TRUE of Fryeburg
BUCK of Yarmouth
LABRECQUE of Gorham

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-523)**.

Which Reports were **READ**.

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

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

Senator **FERGUSON:** Thank you, Mr. President. This is a case of a gentleman that is bringing suit against the State. He is a contractor and he had problems with the Manufactured Housing Board, which is a board that consists of nine members, three are consumers. He had some electrical violations and they did suspend his license to operate for three months. He has been in the courts with this problem and he didn't get relief there so he has appealed to the Legislature to sue the State. In this particular instance we have a divided report and it is the conclusion of at least myself that this is not a valid claim against the State. He seemed to think that the executive secretary of the board had it in for him for some reason or other. It was brought out in the hearing that it was the board that took the action against him. He did have several violations and by his own admission he has installed about twenty-five units of housing and has had five or six complaints that have gone to the board, which is about 20%. The thing that brought the thing to a head was an electrical complaint. He used an electrician who wasn't a Master Electrician and there was faulty work done. The Manufactured Housing Board did review this, did suspend his license. In my judgment I don't believe he has a valid claim against the State and I hope you would support the pending motion. Thank you.

Senator **MICHAUD** of Penobscot moved to Table until Later in Today's Session, pending the motion by Senator **FERGUSON** of Oxford that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **MICHAUD** of Penobscot to **TABLE UNTIL LATER IN TODAY'S SESSION**, pending the motion by Senator **FERGUSON** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

A Division has been requested.

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

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

13 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion of Senator **MICHAUD** of Penobscot to **TABLE UNTIL LATER IN TODAY'S SESSION**, pending the motion by Senator **FERGUSON** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **FAILED**.

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. I hope that you do reject the Minority Ought Not to Pass Report. This individual, I think, proved to the majority of the Committee that there has been some discrimination towards this individual. Unfortunately, we did not Table it and I do not have my file here, but I think this is a legitimate case. I think it's important that we do give this individual a chance to plead his case in the courts. I think it's very unfair that someone, in this day and age, can be discriminated against and get away with it. True, there has been some violations and they did send him a notice. However, he was out of state and he did not receive those notices. Once he came back, it is my understanding that he did meet with the board. Mr. President, I request a Division on the motion. Thank you.

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

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

Senator **FERGUSON:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This gentleman did have his day in court and it was brought out in the hearing that he was represented by counsel. Apparently the court case didn't go the way he thought it should go. The gentleman is of Hispanic descent and there was indications in the hearing that maybe he was discriminated against. There might have been some remarks made by some people. But, certainly that was not the place to address it and we did point out to him that he did have recourse by federal legislation and also through the Maine Human Rights Commission. We thought that if that was the case, that was the appropriate way to go. That's why I would hope that you would support the pending motion. Thank you.

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

Senator **STEVENS:** Mr. President, Men and Women of the Senate. The Attorney General's office spoke against this piece of legislation. They figured that Mr. Gonzales did not have a case against the Manufactured Housing Board.

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

Senator **CAREY:** Mr. President. I have served roughly six years on the Legal Affairs Committee at some point in my tenure. I have never seen the Attorney General's office willing to go to court with anyone, because they might lose.

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

Senator **MCCORMICK:** Thank you, Mr. President. May I pose a question through the Chair? Before what agency did this alleged wrong happen? Was it the Maine State Housing Board? Who, if we vote for this, are we allowing him to sue? Which particular agency? I take it it was not the Maine Human Rights Commission. Can someone elaborate on that?

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

Senator **MCCORMICK:** Let me get this straight. No one can answer my question, but we didn't want to table this so that somebody could answer my question?

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

Senator **FERGUSON:** Thank you. Would you please restate the question?

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

Senator **MCCORMICK:** Thank you, Mr. President. The question was before what agency did this alleged wrong happen? What was the alleged wrong that happened? Why is this gentleman wanting to sue us? For what would he sue us? How does the Maine Human Rights Commission fit into the whole mix?

THE PRESIDENT: The Senator from Kennebec, Senator McCormick, has posed a series of questions through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** I'll try to answer them. The agency is the Maine Manufactured Housing Board. The violation was shoddy workmanship on his part. He was brought before the agency on a complaint of a consumer, in fact several consumers. They did take disciplinary action against him. It was a three-month suspension of his license to install in manufactured housing. Subsequently, he did get his license back. I'm trying to recall the other questions. There were several posed and at my age it's hard to retain more than one or two things in my mind. Hopefully, Mr. President, that answers her questions.

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. I can't let the remark go from the good Senator Carey. Something about the Attorney General's office being hesitant about going to court because they might not win. I served in that office for sixteen years, and on occasion we would take on some heavyweights. As an example, I would cite the case that I had some years ago where opposing counsel was F. Lee Bailey. I beat his pants off in pretty good shape. It's almost an affront to our Attorney to have the view that the office is fearful of going to court. The thing that bothers me about this type of bill, and I guess this is the third such measure we have had. Here is a person who, with the assistance of counsel, has gone through the hearing process and he lost. Now we are going to second guess that process. We have a separation of powers of government, the Executive, Judicial and Legislative branches. For us to be second guessing another branch, to me, is an infringement, if you will, on the separation of powers. Any time, if this bill goes through, that someone is dissatisfied with the result, whether it's in court or some administrative proceeding, don't worry about it, go to the legislature, and get your second crack at bat. In this particular situation I don't see what good will come from allowing this person to sue the state for up to \$300,000. Bless his heart, he's had his day in court. This bill ought not to continue any longer. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President. In answer to some of the questions, I grabbed some of the files floating on the desk next to me. It looks like Mr. Gonzales signed a consent agreement. Part of the piece he signed on to was that in the cathedral ceiling he eliminated thirteen collar ties. In addition he required lally columns. The omitted collar ties and lally columns were essential. It goes on to list the things he did not do and he signed it. So, that's enough for me. Thank you.

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

A Division has been requested.

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

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

26 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **FERGUSON** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

ENACTORS

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

An Act to Conform Maine Law Related to Domestic Relations with Federal Law

H.P. 568 L.D. 769
(C "A" H-590)

An Act to Ensure a Sustainable Urchin Fishery in the State

S.P. 337 L.D. 918
(H "A" H-582 to C "A" S-293)

An Act to Expand Access to Medical Care by Encouraging Involvement of Retired Physicians, Podiatrists and Dentists

H.P. 839 L.D. 1170
(H "A" H-493; S "A" S-319 to C "A" H-319)

An Act Concerning the Jurisdiction of the Tribal Courts of the Passamaquoddy Tribe and the Penobscot Nation

H.P. 944 L.D. 1333
(C "A" H-589)

An Act to Reduce Theft in the Forest Products Industry

H.P. 1065 L.D. 1500
(C "A" H-612)

An Act to Amend the Laws Regarding Child Placing Agency Disclosure of a Child's Background for the Purpose of Adoption

H.P. 1080 L.D. 1522
(C "A" H-596)

An Act to Protect Traditional Uses in the North Woods

H.P. 1104 L.D. 1551
(H "A" H-548; S "A" S-320 to C "A" H-519)

An Act to Amend the Emergency Planning and Community Right to Know Laws

H.P. 1107 L.D. 1555
(C "A" H-603)

An Act to Require Annual Reporting by the Board of Governors of the Maine Workers' Compensation Residual Market Pool

S.P. 597 L.D. 1584

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 Establish Reciprocity in Determining the Lowest Responsible Bidder

S.P. 432 L.D. 1200
(C "A" S-213)

Senator **BEGLEY** of Lincoln moved that the Senate **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE**.

On motion by Senator **LONGLEY** of Waldo, Tabled until Later in Today's Session, pending the motion by Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE**.

An Act to Require That Additions to the Endangered Species List Be Approved by the Legislature

S.P. 167 L.D. 428
(C "A" S-248; S "B" S-274)

Senator **RAND** of Cumberland requested a Roll Call.

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

Senator **MICHAUD:** Thank you, Mr. President. We heard lengthy debate on this bill several times and I do not intend to speak at length on it again. I hope that you would vote against this pending legislation. It's a bad bill. It was bad from the beginning. The amendment that this body adopted still remains a bad bill. If we do not enact this it will put us in Non-concurrence with the other body, and hopefully we will have a Committee of Conference so we can make this bill more palatable. I hope that you would vote against the enactment of this bill. Thank you.

On motion by Senator **RAND** of Cumberland, 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 Piscataquis, Senator Hall.

Senator **HALL:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I'm surely not about to go into great length on this bill. We have already debated it a couple of times. I just want to remind you that this is a twelve to one report from the Inland Fisheries and Wildlife Committee. It is a good bill. It was a good bill from the start. It is still a good bill. Please vote for the passage of it. Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: AMERO, BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, O'DEA, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: ABROMSON, BERUBE, BUSTIN, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, PARADIS, PINGREE, RAND, RUHLIN

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

An Act to Provide Greater Access to Health Care
 S.P. 343 L.D. 948
 (S "A" S-304 to C
 "A" S-279)

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. An Act to Provide Greater Access to Health Care is the proverbial nurse practitioner bill. I just can't have enactment go by without reminding you of a few things. I promise to be brief. I continue to have some very serious concerns about legislating out in a nurse practice act that famous old paragraph 2B that we have come to know so well that legislates out any linkage between medicine and nurse practitioners. We are left now, the only choice we have is total independent practice. The bill has returned to us the same way it left, not any better, in fact, I think it is seriously flawed. For those of you who are voting for this measure because you supported it last year, I must remind you that this is a very different bill. At least last year we were talking collaboration. But now we are advocating that nurse practitioners can go out and practice medicine totally independent of any input from medicine. Some of you say we refer and we consult just like physicians do. But that's not what we are talking about. I remind you, in the twenty-three years that I have practiced as a nurse practitioner, the questions that I always have, and that I always refer to my medical linkage for, are the questions within my primary care arena. The simple questions, like medication questions, just touching bases to make sure that I have made the right decisions. It's not referring to another specialty. Those ones are easy. So, now we have a nurse who is going to be practicing independently, who has a question, and

there will only be two options. That patient will have to go to the emergency room, or will have to go to another physician. That, to me, spells out increased costs because if a nurse practitioner hasn't made those arrangements beforehand, and I continue to remind you, on any given day I know I am going to need some help, that I should prepare for that before I go hang out my shingle, and we are now saying, in this legislative body, that's okay, we trust you. A physician is not going to be on the other end men and women of the Senate, because that arrangement won't have been made. I think that's acting very irresponsible. The consumers are the ones who are going to suffer. Some of you have said, and it's an important issue for me, I understand it better than any of you in this body, you say to me primary care is easy to do, it's not that big a deal. Let me share with you one experience that happened to me several years ago. I was practicing independently, by the way, all by myself on the Munjoy Hill Health Station. I had a three-month old presented to me who I thought was breathing a little funny. He looked fine, didn't have a fever, wasn't particularly acting strange, but there was just something about the way the kid was breathing. It just so happened that my physician coverage was coming in that afternoon, so I had the mother stay. Nothing in particular was decided about this child. We sent him back home. But, guess what happened? He died the next day, and it wasn't AIDS, it was some kind of a viral thing. I know some of you are looking at me and saying the physician missed it too. That's correct. What I am saying to you is that primary care is serious business. For those of you who think that it's easy to do, I challenge you to go try it. A missed case of appendicitis ends up with a very sick person in the ICU. Some people die of it. We are talking about serious scenarios men and women of the Senate. We are not talking about doing very simple little physical exams and giving shots, because our scope of practice allows us to diagnose and treat within what we define as our scope of practice. I continue to remind you, scope of practice is not definable, it's in my head, it's what I tell you I am prepared to do or what I can do. Most nurse practitioners who practice define their scope of practice by the experiences they have had working under supervision and direction of physicians. There are nurse practitioners who can do abortions, but not all nurse practitioners can do abortions because it's not all within our scope of practice if we have not all learned how to do that. For some nurse practitioners, they have the knowledge and the capability to do it. I use that as an example to say to you, scope of practice is very variable. You can't define it and we ought not to be using it to be setting public policy. We ought not to be using it. We can't define it. There is no parameter with which to judge how far nurse practitioners can go. The title gives you the idea that this is a great thing, we are going to have increased access to rural health care and all this stuff, and that's all bogus. I cited to you a magazine I just received. There are three rural opportunities advertised, Calais, Lubec, Dover-Foxcroft, Fort Kent. There are rural opportunities now men and women of the Senate. Nurse practitioners aren't going there.

In 1979 Oregon permitted independent prescriptive

authority to nurse practitioners, thinking that they would settle in rural areas. In 1991 they looked to see where were those nurse practitioners. Guess where they were? They were all settled nice and comfy in urban areas. It doesn't work, because nurse practitioners don't settle where physicians don't go either for the same reasons that physicians don't go there. But, my biggest concern about all of this is that right now, and this is the very biggest difference from last year's bill, we now are going to have liberal independent prescriptive authority. I can, right now, whip out a prescription pad and write any schedule three, four, and five drug I want to. Right now it's schedule because there is a mutual agreement with the physician I practice with, what those medications will be, but when you legislate that out I could treat glaucoma. I could write out all those prescriptions. I have the authority to do it. That is scary. We are deregulating how medicine is practiced. The Maine Legislature is getting soft on regulation. Right now medicine is the profession that is being attacked. Let me share with you another profession. What about the legal profession? What if the bill was that paralegals were before us saying, "Gee whiz, there are a lot of legal scenarios I can practice in. I can do certain things within my own scope of practice and I would really like to divorce myself from the lawyer because I can do some of these things and I ought to be able to practice. Because, you know, a lot of people out there need legal counsel and gee, I'll go out there and help the poor." Will we allow that? Will we allow dental hygienists to come to us with a bill of their own to say, "Gee, we want to clean teeth on our own." At least that's a scope of practice we can all relate to, we know what they do. I can go on and on and on with all kinds of other professions. Medicine is on the block right now but I tell you, we are heading down a slippery slope when we start deregulating how certain professions are going to be regulated. Medicine, in my opinion, is a very serious profession and we are really headed in the wrong direction. We are giving the Board of Nursing total control over everything nurse practitioners will do, what kinds of drugs we can do, what scope of practice we can practice, and in an arena legislatively, when we are trying to take away all the rulemaking powers of some of these agencies, we are giving the Board of Nursing total authority. I don't understand it. I will end, because I know you probably didn't read it all, but I think it's a letter that behooves a little reference. It's written by a physician who used to be a nurse practitioner. She finished her training in 1992 and she said, "While I greatly value my experience as a nurse practitioner, I found that I wanted to address my patient's health care needs more completely. Therefore, I consequently chose to attend medical school." She went to the University of New England. "I began practicing medicine in 1992. I have been following L.D. 948 that would permit nurse practitioners to prescribe without physician involvement. As a nurse practitioner with six years of experience prior to becoming a physician, I am very concerned with this proposal. L.D. 948 moves in the wrong direction, since it assumes that a nurse practitioner can perform medical acts without physician involvement. It's frightening to think that this legislature is considering allowing nurse practitioners to make diagnosis and prescribe

medication without a relationship with a physician. I now understand the gaps in knowledge better between a physician and a nurse practitioner due to my training experiences as a nurse practitioner and as a physician. If I had not attended medical school, and if I had taken advantage of this proposal, I would never have known what I was lacking in knowledge. The impact that this type of legislation could have on patients could be enormous." I ask you to seriously consider your vote and hope that you can join me in voting no. Mr. President, when the vote is taken, I request the yeas and nays.

On motion by Senator **PENDEXTER** of Cumberland, 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 Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I was half expecting an amendment that said that nurse practitioners can only fish 1000 traps, because that's about the only thing that has not been done to this bill. Now we have brought abortion into the question. Next I presume it will be that this will allow nurse practitioners to clear cut forests and kill dolphins. Maine State law says it is the public policy of the State that all abortions be performed only by a physician. So, I do not believe that is an appropriate issue for discussion regarding this bill. It is a bill that has had a long and arduous history. It has been amended once in a way that I believe strengthens the bill and was a positive amendment. It has received, in the last two weeks, nine votes of support, nine votes in favor of passing this legislation. I would urge you to vote against the motion to Indefinitely Postpone, so that we can go on and enact this bill, because it deserves it. Thank you.

THE PRESIDENT: The pending question before the Senate is Enactment. The Chair recognizes the Senator from York, Senator Hathaway.

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would just like to thank Senator Pendexter for her very passionate and well-reasoned remarks. I learned a great deal from the debate and the effort you put into this issue this year. I appreciate it very much. Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: BENOIT, BUSTIN, CIANCHETTE,
CLEVELAND, ESTY, FAIRCLOTH,
FERGUSON, GOLDTHWAIT, HARRIMAN,
LAWRENCE, LONGLEY, LORD,
McCORMICK, MICHAUD, MILLS,
O'DEA, PARADIS, PINGREE, RAND

NAYS: Senators: ABROMSON, AMERO, BEGLEY, BERUBE,
CAREY, CARPENTER, CASSIDY, HALL,
HANLEY, HATHAWAY, KIEFFER,
PENDEXTER, RUHLIN, SMALL,
STEVENS, and the PRESIDENT,
Senator BUTLAND

Senator **BERUBE** of Androscoggin requested and received leave of the Senate to change her vote from **YEA** to **NAY**.

Senator **HARRIMAN** of Cumberland requested and received leave of the Senate to change his vote from **NAY** to **YEA**.

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

An Act to Reform the Process of Periodic Review of Programs and Agencies

H.P. 959 L.D. 1348
H "A" H-598 to C "A"
H-516)

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

An Act Concerning the Termination of Parental Rights

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

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

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

H.P. 372 L.D. 507
(H "D" H-560)

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

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.

30 Senators having voted in the affirmative and 1 Senator having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Strengthen Maine's Live Harness Racing Industry

H.P. 619 L.D. 829
(H "B" H-580)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senator having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Provide for Alternative Dispute Resolution in Domestic Relations Matters and to Provide for the Recodification and Revision of the Maine Revised Statutes, Title 19

H.P. 1024 L.D. 1439
(C "A" H-591)

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

Emergency

An Act to Preserve Fishing Stocks

H.P. 1045 L.D. 1464
(H "A" H-576)

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

Emergency

An Act to Amend the Laws Governing Child Support
S.P. 556 L.D. 1516
(C "A" S-317)

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

Emergency

An Act to Modify and Update Certain Laws Pertaining to Inland Fisheries and Wildlife
S.P. 562 L.D. 1530
(C "A" S-311)

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

Emergency

An Act to Authorize a Tax Anticipation Note for Fiscal Year 1995-96
H.P. 1139 L.D. 1582

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

Resolve

Resolve, to Require the Brookton Elementary School to be Used as a Community Center for Northern Washington County
H.P. 1131 L.D. 1576
(S "A" S-321 to H "A" H-559)

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

Bond Issue

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
(C "A" H-581)

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

Bond Issue

An Act Authorizing a General Fund Bond Issue in the Amount of \$15,000,000 to Expand Telecommunications Capabilities and Student Learning Opportunities in Maine Schools
S.P. 171 L.D. 432
(C "A" S-308)

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

Bond Issue

An Act to Authorize a General Fund Bond Issue to Connect Libraries and Communities Electronically
S.P. 191 L.D. 500
(C "B" S-310)

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

Emergency Mandate

An Act to Amend the Governmental Structure and Budget Approval Process for Cumberland County
H.P. 314 L.D. 418
(H "A" H-586 to C "A" H-530)

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

Emergency Mandate

An Act Concerning the Kennebec Water District
H.P. 937 L.D. 1326
(S "A" S-313 to C
"A" H-527)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 26 Members of the Senate, with No Senator having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

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

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 Reform Campaign Finance
H.P. 322 L.D. 443
(C "A" H-520)

An Act to Provide Retirement Benefit Options for Game Wardens and Marine Patrol Officers
S.P. 473 L.D. 1269
(S "A" S-346 to C
"A" S-327)

An Act to Create the Propane and Natural Gas Professional Act of 1995

S.P. 498 L.D. 1357
(C "A" S-302)

An Act to Create Uniformity in Laws Governing Various Professional Licensing Boards and Commissions

H.P. 1102 L.D. 1549
(C "A" H-592)

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 Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation

H.P. 806 L.D. 1123
(C "A" H-584)

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

An Act to Implement the Recommendations Resulting from the Study Concerning Parental Rights and Responsibilities When Domestic Abuse is Involved

H.P. 808 L.D. 1125
(C "A" H-621)

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

An Act to Change the Atlantic Sea Run Salmon Commission

H.P. 922 L.D. 1298
(H "A" H-615 to C
"A" H-607)

Senator **RUHLIN** of Penobscot moved that the Senate **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate at Ease

Senate called to order by the President.

On motion by Senator **RUHLIN** of Penobscot, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-607), as Amended by House Amendment "A" (H-615), thereto, in concurrence.

On further motion by the same Senator the Senate **RECONSIDERED** its action whereby it **ADOPTED** House Amendment "A" (H-615) to Committee Amendment "A" (H-607), in concurrence.

On further motion by the same Senator, House Amendment "A" (H-615) to Committee Amendment "A" (H-607) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Committee Amendment "A" (H-607) **ADOPTED**, in **NON-CONCURRENCE**.

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

Sent down for concurrence.

An Act to Streamline Permit Procedures for Freshwater Wetlands in the State

S.P. 570 L.D. 1544
(C "A" S-336)

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

An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State

S.P. 477 L.D. 1301
(C "A" S-331)

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

Emergency

An Act to Address a Shortfall in the Ground Water Oil Clean-up Fund and Change the Financial Assistance Program for Owners of Underground Oil Storage Facilities

H.P. 1119 L.D. 1563
(S "A" S-345 to C "A" H-610)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with 2 Senators having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, to Establish a Pilot Project for Medicaid Reimbursement for Acupuncture Treatment of Substance Abuse

H.P. 105 L.D. 140
(C "A" H-464)

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

Bond Issue

An Act to Authorize Department of Transportation Bond Issues in the Amount of \$58,900,000 to Match up to \$138,000,000 in Federal Funds for Improvements to Highways, State and Local Bridges, Airports and Ports

H.P. 1133 L.D. 1577
(C "A" H-627)

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

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 Improve Highway Signing Information"

H.P. 691 L.D. 942

In House, June 16, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-491)**.

In Senate, June 19, 1995, Bill and Accompanying Papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, that Body having **INSISTED**.

On motion by Senator **KIEFFER** of Aroostook, Tabled, pending **FURTHER CONSIDERATION**.

COMMITTEE REPORT

House

Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act Regarding Recovery from Members of the Tobacco Industry of Medicaid and Maine Health Program Health Care Costs for Tobacco-related Illness, Disease or Disability"

H.P. 331 L.D. 452

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

Signed:

Senators:

PENDEXTER of Cumberland
BENOIT of Franklin

Representatives:

JOYNER of Hollis
MARVIN of Cape Elizabeth
WINGLASS of Auburn
LOVETT of Scarborough
JONES of Bar Harbor
JOHNSON of South Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-417)**.

Signed:

Senator:

PINGREE of Knox

Representatives:

FITZPATRICK of Durham
SHIAH of Bowdoinham
ETNIER of Harpswell
MITCHELL of Portland

Comes from the House with the Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

Which Reports were **READ**.

Senator **PENDEXTER** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **MILLS:** Thank you, Mr. President, Men and Women of the Senate. I rise to ask that you vote against the pending motion. The bill before you arises from some work that started in other states. There was a movement in Florida, that people probably have read about, and in some other states to authorize the Department of Human Services and perhaps other agencies that expend money on tobacco related health costs, to recover those costs from the manufacturers of tobacco products. The bill in Florida became a matter of some controversy because it was, in some respects, retroactive. A recent court ruling has validated that law and has stated that the law is appropriate but that it should be applied prospectively. I think there was a ruling that came down about a week or so ago. Somewhat in anticipation of that, and in an effort to remove some of the more awkward objections to a preliminary draft of this bill that is before you, a number of us who are interested in the bill rewrote it in such a fashion that the Department of Human Services and other insuring agencies, and even individuals in this state who may have sustained out of pockets costs or losses, which they can prove are directly related to a tobacco induced illness, disease, or death, may recover, but only to the extent of their out of pockets costs for those damages that they may have suffered. It is not a case where people can recover anything for pain and suffering, or for a loss of consortium, or any of the other elements of damage that might accrue from being ill or sick through exposure to tobacco. It is strictly an economic loss statute. It is applied even-handedly. It does not take effect, except for injuries or diseases that might arise after the first of January 1996. It applies only to those manufacturers whose products are sold or distributed for consumption by Maine citizens after January 1, 1996. It authorizes, but does not compel, the Attorney General to recover these costs on behalf of the Department of Human Services. It enables the Department of Human Services, through its Department of Health, to continue, or to make use of existing statistics which they keep, detailing the costs that are attributable to tobacco related illnesses, and to make use of that statistical data base for establishing the level of cost to be recovered from the cigarette manufacturers. The liability of any single manufacturer of cigarettes, and there aren't very many of them, but the liability of each one is established on the basis of its relative market share for sale or consumption of cigarettes here in Maine. The Attorney General is authorized, if he wishes, to have the suit pursued through attorneys that are not members of the Attorney General's Department. It can be done privately if he so wishes at relatively little cost to the state, or he can bring the suit himself if he wishes, or if they arrive at settlement terms with the manufacturers, then no suit would be necessary or required.

The Bill is designed, I think it is unique in the United States. It is designed as kind of an even-handed way of holding the tobacco industry to account in the future for exactly those costs or expenses which may be directly attributable to the

consumption of their products within the state. It is a permissive bill. It simply authorizes the Department of Human Services, and the Attorney General, to take action if they so desire. It is not required, it is not mandated. 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 guess I could say this is my favorite piece of legislation at this session. There is just so much to talk about. It proves an old adage, first of all, politics makes for strange bedfellows, and this is exhibit A. In this particular bill, the state government is in bed with insurance entities, if you can believe it. I fear for the offspring of that union. That's who can bring a suit, the state and an insurance entity. Picture the insurance companies, with their premiums, insuring people, getting the benefit, and then on top of that, turning around and suing the tobacco company for damages. Don't you just love it? How self-serving could you get? So, as we go down through this, I would ask you to consider whether that should happen at all, and take a look at the situation further and determine, if you don't feel that this is the best example of a lawyer's bill. For example, the Attorney General is in bed with private counsel in this situation, and look at how the law fees are apportioned, up to 50% of the original judgement can go for counsel fees. If you want to see a rush to court, there's a basis right there, the amount of counsel fees involved. The thing that bothers me about this is that it is government at its worst. You and I, when we go to court and bring an action in court, negligence or what have you, have to stand defenses coming at us, defenses that have existed in this state since its beginning practically. Comparative negligence, contributory fault, assumption of the risk, in this bill the tobacco companies do not have those defenses available. Government at its worst. Government ought to go to court on a fair basis, like you and I, not better off. There is a dome overhead, and you know the feeling of government, that big agency there, big enough to stand on their own two feet, but in this bill they win because the longstanding defenses available to you and I, we have to disconcert them or defend against them, are taken away from the people sued by our government. In a way, to me, this all boils down to fairness. If our government goes to court, it ought to go to court on the same basis you and I do, on a basis of fairness. I like the way it is written here that the Commissioner of the Department of Human Services is going to act like a judge and determine the fairness of some evidence before the court. It says here that the studies and scientific samplings and statistical surveys, determined by the Commissioner to be reliable, will be taken into the case. I thought that was the judges job, to determine what would be coming into a case. That bothers me.

Here's one that I have never seen before in a piece of potential litigation. I call this one the rush to judgement. Can you believe this language? "The tobacco manufacturer is entitled to rebut the presumptions," and there are three of them in here, set up against the defendant. You can rebut those if

"determination of liability and damages is concluded in a timely manner, without unduly delaying the case." I thought the court was in charge of how long it took to try a case. If it takes too long, the tobacco company cannot rebut these presumptions, just by a passage of time. It reminds me when I was on the court and I would hear a speeding case. After it was over, say it took twenty minutes, some lawyer would say, "Gee, Judge, you should have heard that case in ten minutes." I would look back and say, "Gee, how did I know, when the case started, how long it was going to take?" You don't time people when they come to court, that's not the way to run a court, and yet here it is in this particular situation. I don't like the idea of bringing a case to court on the basis of statistical analysis. I'm going to close by referring to Judge Gignoux, a Judge that I love. I tried a lot of cases before Judge Gignoux in my sixteen years in the AG's office here. He sat on the District Court in Portland and was well thought of. His name came up once as a possible appointment to the United States Supreme Court. The man was a scholar of the law, I loved him for that. He heard these so-called asbestos cases and the issues came up whether statistical analysis could be part of the presentation. He said no. Here's what he said specifically, "The issues in the case will be," and the three things he mentioned here go counter to this bill, he said, "A. the defendants liability on theories of negligence and/or strict liability. B. approximate causation of plaintiffs damages, approximate cause." That's important, it has been in the law for years and years and years. Approximate cause has got to be shown. "C. plaintiffs, or plaintiffs decedants, contributory negligence." That's out in this bill, it's not available. Contributory negligence and assumption of the risk, he said, were in those cases. So, I said I was going to conclude with that, but I have got to mention something about Florida. Florida had enacted a bill like this, and they are trying to get out of it now. The good Senator from Somerset can correct me on this, because I do not want to misstate the present status of that litigation in Florida. Florida enacted a similar provision, it has gone into court. It's pretty expensive stuff too. I think we take advantage of what is going on down there. They have constitutional problems with the situation. The hearing on constitutional questions was held the sixteenth of this month. At the conclusion of the hearing the trial judge ruled the statute was constitutional only if applied prospectively, plus it had to be applied across the board, not just against tobacco companies. Don't single out one industry, be fair. The business of being prospective, you will notice in the bill that you can bring a suit after a particular date this year. If you can bring a suit next year you can go back three years. Going back three years is retrospectively. I would ask you, seriously, to look at this bill, because when the first version came out it was so bad that the second version had to be given some life. This bill is not worthy of passage for many reasons. Please give that serious consideration. 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 want to take a break from

discussing some of the legal issues to tell you why I oppose the pending motion and support this bill. The fact is 2,258 people in Maine die every year from illnesses related to smoking. I think that this bill is about taking responsibility. I've got a feeling that today we are going to spend a lot of time discussing personal responsibility. I think we are asking this industry to take responsibility for the cost of illnesses generated by their product. When I was in business I had to worry about the products that I sold to the public. If a little kid was going to put a plastic bag over their head. If I was selling a loaf of bread, if there was something in it that wasn't okay. I think we are asking them to take responsibility for the cost that we have to pay. It costs the people of the State of Maine \$273 million a year to pay for the illnesses related to smoking. Across the country, 43% of those costs are either borne by the federal or the state government. We are asking to be allowed to sue for the medical costs that we pay. The thing that I think is different about this industry, and you will hear people talk about how this will be spread to everything before you know it, it will be pick-up trucks if you don't drive responsibly and it will be all kinds of things, the difference about tobacco is that it's the only substance, when used as intended, is intended to be addictive and it is marketed to our children. We listened to hours of testimony in our Committee, we have talked about this a lot. We saw copies of the patents received by the tobacco industry that show tobacco is manipulated to make it more addictive, as if it wasn't addictive enough already. We also saw the catalogs, and you have some of them on your desks. Tell me that this isn't marketed to our children. Our children, they know, if they capture them at thirteen, fourteen or fifteen, you will be a smoker for life because it is addictive. It is being marketed to people that it is illegal to sell to right now. You can say what about beer, what about alcohol, if you have a beer, if you have a couple of beers, it doesn't mean you become addicted. We know that tobacco is addictive when used as directed. People say you can blame Twinkies. Eating a Twinkie isn't addictive, eating a box of Twinkies maybe isn't so good for your health, but it is not manipulated and it is not marketed to be addictive. We talk all the time about government costing too much. I agree, it costs too much. One of the reasons I think it costs too much is we pay the bills that should be other people's responsibility. We pay the Medicaid costs that I believe should be the responsibility of the tobacco industry. This is an industry that spends \$600 million a year making sure that we don't pass laws like this. I'm offended by being manipulated myself in that way. I think that we should vote down the pending motion and allow our Attorney General the opportunity to sue and recover these costs so that we don't have to pay them. This is an issue about our pocketbooks, this is an issue about the health of our children.

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

Senator **MILLS:** Thank you, Mr. President, Men and Women of the Senate. It was thirty-one years ago that the Surgeon General passed judgement on this industry and stated that cigarettes cause cancer and a number of other human ailments, heart disease and

the like. The industry itself has been on notice of the harm that it has been doing for the last thirty-one years at least, and probably for fifty-one or sixty-one years. The reason, and the only reason I think, that the bill in Florida is under some challenge at the moment is that the industry, Ligott and Myers, and others, have hired fifty lobbyists, according to the Wall Street Journal, to attack the bill on all fronts, to soften up the support for the bill. Here in our own Legislature, I know of at least six, and they are all good friends of mine, but they are highly paid lobbyists who have been assigned to work this bill, and others that are presently before you, on similar subjects. I need to correct several misconceptions that I think were conveyed to you earlier. Number one, to the extent that counsel fees are recoverable under this statute, they are only recoverable if you prove what you did to earn them, and they are limited to a fraction of the overall recovery. So, it is not something where you just get 50% of the whole recovery, not at all. Private counsel can't bring suit for the state unless the Attorney General decides to hire private counsel. He might want to do it himself, he has that option. There is only one affirmative defense that is taken away, really, by this statute, and that is the defense that somehow it is the smoker's fault or the smoker is guilty of contributory fault or having assumed the risk of smoking. We take that defense away, but we also take away the smoker's right to recover for other collateral damages, like pain and suffering and that sort of thing. In a sense, the statute is a lot like a workers' compensation statute. You get a certain set of limited economic damages and no more, and you get a defense taken away that the industry should no longer be able to use after thirty-one years of being on notice of the harm that the product is up to. I don't think that this is a matter for ridicule. I think when you have got 2200 people dying every year in the State of Maine because of this product it's not funny, and it's not something to be joking about on the floor of the Senate. When you have \$300 million a year being spent by the people of Maine because of what this product has been doing for the last few decades to people, I don't think it's a laughing matter or a matter for ridicule. I take it seriously. There was a lot of serious effort that went into this bill to generate a careful, well thought out, finely crafted bill that would send the bill to the industry and say, "Pay it please, just pay it please. If you choose not to pay it, or if you choose not to come to terms with us, then, and only then, will some action possibly be brought against you by the State or by individuals." It is the judge who is in control of this litigation if there should be any. The judge has control over it from start to finish. It is across the board. It affects the entire tobacco industry. It is entirely prospective. It is only for the future. There is nobody that can bring a claim today. It only affects those people who are injured, who become diseased or disabled in the future, next year or later. I leave you with this, it isn't as if this isn't an industry that can't afford to pay the bill that we are sending them in this legislation.

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

Senator **PENDEXTER**: Thank you, Mr. President, Men and Women of the Senate. You all know where I stand on smoking issues. It certainly is one of my hot buttons. I'm not usually on the side of the tobacco industry, but I have to say to you, this bill distresses me. Yes, we will talk about personal responsibility later on, and we will talk about it now, because for thirty-one years adults know that when cigarettes are used as intended they kill. If they so choose to make that adult decision in this world of difficult choices, I cannot justify then turning around and suing an industry for a decision that they made. We all know the health risks of smoking tobacco. My father died of lung cancer. He smoked two or three packs a day for most of his life. He knew that that would probably kill him, and it did. We all make those decisions and I cannot justify the existence of this bill. If we want to pass public policy that makes sense, then we need to legislate from a perspective that encourages people not to smoke. Those are the types of legislative initiatives that I support, and will continue to support. I cannot support anything like this. When the vote is taken, I request the yeas and nays.

On motion by Senator **PENDEXTER** of Cumberland, 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 Franklin, Senator Benoit.

Senator **BENOIT**: Thank you, Mr. President. I will be brief. May it please the Senate. Let's assume that smoking is wrong. So is this bill. But two wrongs do not make it right. A moment ago I heard a mention of fifty lobbyists being hired. So what? Hire 5,000 lobbyists if you want to. That begs the question, it doesn't make the bill good or bad. People have a right to hire lobbyists if they want to, it's a very legitimate thing to do. All I'm saying here today is if you allow somebody to be sued, please have the courage to put it on fair grounds. This bill is not fair. 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. I have listened to the debate and it has been very good, but I believe that we, as individuals, have to assume a little responsibility for our own health and our own body. To my knowledge, no one is being forced to smoke in this country. Therefore, I am going to be voting against this bill. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **PENDEXTER** of Cumberland that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAYS: Senators: **BUSTIN, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN**

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **PENDEXTER** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

ENACTOR

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

Emergency Resolve

Resolve, Urging Efforts to Enhance Opportunities for Businesses that Use Recycled Materials as Raw Materials

H.P. 805 L.D. 1122
(S "A" S-344 to C
"A" H-550)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 1 Senator having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

SECOND READERS

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

House As Amended

Bill "An Act Regarding the Functioning of the Department of Mental Health and Mental Retardation and Several Professional Regulatory Boards" (Emergency)

H.P. 483 L.D. 664
(H "A" H-648 to C
"A" H-626)

Bill "An Act to Amend Certain Motor Vehicle Laws"
H.P. 771 L.D. 1045
(C "A" H-637)

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

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

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 27, 1995) matter:

SENATE REPORTS from the Committee on **HUMAN RESOURCES** on Bill "An Act to Improve the AFDC Program" S.P. 548 L.D. 1496

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-322). (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-323). (6 members)

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

Pending - the motion by Senator PENDEXTER of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B"** Report.

(In Senate, June 26, 1995, Reports **READ**.)

The President requested the Sergeant-at-Arms to escort the Senator from Cumberland, Senator **AMERO** to the Rostrum where she assumed the duties as President Pro Tem.

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

The Senate called to Order by the President Pro Tem.

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

Senator **PENDEXTER:** Thank you, Madam President, Men and Women of the Senate. Before we get too deep into this debate, I just want to make sure that everybody understands what we are talking about here and the parameters around which the people we are affecting. You know, in all the discussion of welfare reform that you have heard, the pieces of legislation before you are really only demonstration projects, because that's the only vehicle with which we can attempt welfare reform in this State, because everything that we do in the AFDC Program is dictated to by the feds. The only way that we can get federal waivers to change any of those rules and regs is to do demonstration projects. So, I want you to keep in mind, as we are talking about welfare reform, that we are basically talking about demonstration projects which will only include three regions, which include the counties of York, Cumberland, Washington, Hancock, Penobscot, Piscataquis, Androscoggin, Franklin and Oxford, and will not affect more than 1,500 participants. Now we have 21,000 households on AFDC, and we are only talking about affecting 1,500 participants. So, those of you who think that we are making some sweeping changes here, please remember that this is a demonstration project. It's only in three regions of the State. It can only affect 1,500 participants. Four trillion dollars later, and three decades later, we are worse off than we ever were before. The present system of welfare reform, as we know it, is broken. We have heard this over and over. But it's sure not because of a lack of money. For all the effort that we have put into welfare reform, we have to do better than to just throw money at the problem. So, I feel the motion before you, Committee Amendment "B", starts addressing some of the issues and some of the directions that we need to take if we are going to control the scenario that we know so well as welfare. We are supportive of some of the Governor's proposals, in fact, we only changed a few parts of it. We support the notion of a 90 day, and remember this is always up to, it doesn't mean it will take that much time, but a recipient who comes on the system can have up to 90 days of job search or orientation program. After that time we move on to the treatment, education, and training phase, which can go as long as 24 months. During

that time a recipient must participate 20 hours in the arena of education, training, or treatment. We kind of part ways after that. Report B feels that as we enter into the work phase, which is the next stage, that that work requirement should be 25 hours, not 20, because they have already participated 20 for two years. We feel it is appropriate then to expect that somebody can work a little more than that, so we move on to 25 hours for six months, and then we say after that it is 30 hours. Then you find yourself having been on the system for thirty-six months, but you are participating in some kind of a work program for 30 hours. We feel, at that point, we use the old time limit phrase that we have debated around here, because we feel it is important to make a statement that welfare doesn't go on forever, it's not an entitlement that should be there for as long as you want it. We are really only talking about the check. All we are saying is that at some point in time the check ought to be earned by you and not paid for and given to you by the taxpayers. That's all we are saying. If your grant is \$500 a month and that is what you are living on, then go earn \$500 a month. If you are working 30 hours a week for nothing, you might as well make \$5 an hour and make \$150 a week, times four, that's \$600 a month. What's wrong with that?

We will continue to support you with transitional services. We are not arguing about that. All we are saying that at some point in time that taxpayer check must cease, because most taxpayers you talk to will say to you, after having invested in you for 36 months, you ought to be able to support yourself. We will continue to help you with health insurance, child care, food stamps, whatever you need. I don't think that's so mean-spirited. Do you? It's just asking people to be responsible, be self-sufficient, get away from the culture that we owe you something, that government owes you something, you ought to live on a program. People who work every day don't think that way. I don't think the people on welfare should be able to do that. We disagree, in the reports, on what we should do with teens. My personal opinion was they should not get a grant. Why would we be promoting promiscuity, illegitimacy? A sixteen-year old has a child and we reward that with \$315 a month. To a 16-year old that's a lot of money. What other country in this world would reward teenagers for having babies? I don't understand it. We all know 50% of the women on welfare today had their first child in their teen years. That's the root of the problem folks. We ought to be doing something at that stage if we are really serious about addressing the problem and not throwing money at it. We don't disagree that teens should stay in school, particularly in a school setting. We don't disagree with that. We don't disagree that we need to support that teen mom so that the child does get adequate health care and food and all that stuff, and we provide that. It's the message we sent when we give that teen mom a grant. All you have to do is have a baby. I have parents call me who said, "I've lost control of my kid because the government is perpetuating this behavior." Then they go have another one. We really need to think seriously about what is going on.

The proposal has been we won't give them a grant, we will give vouchers. But the disagreement comes

when those on the other side of the aisle say we will give vouchers up to the grant amount. I say what's the difference? I suppose there is a difference, they can only spend the money a certain way. So, anyway, in Report B we limit the voucher amount to \$100. We tighten eligibility. We require that when people sign up for welfare that they have to come back in a week for an extensive interview and that their addresses be verified. The Department tell us in Committee that frauds about 4% of the problem, but if you talk to the frontline workers they will tell you they think it's one out of five, that's 20%. So, we have provisions in there that do tighten up eligibility. We disagree on who should participate. Some would argue that as long as you have a child under 24 months, you ought not to be required to do anything because your child care is too expensive. Proponents of Report B say it ought not to be any different than what people in the everyday world do who go to work every day. We have set our limit at six months. We think that's reasonable. At my place of employment we deal with new moms all the time. I usually do the four-month physicals on their infants. They have all gone back to work. Do they feel good about that? No, they wish they could stay home and bond with their babies, but you know, they can't afford to. They are paying the taxes to support others to stay home. Something is wrong here. They would love to be home with their children, they can't afford to be. They are lucky that they can stay home for three months. So, I don't think that requiring people to go off to work by the time their infant is six months is asking a lot. That's what everybody else has to do. People who go to work every day, that's the decision they have to make, because they can't afford to stay home. Taxpayers ought not to be having to support people to stay home any longer than people who earn a paycheck every day. A philosophical difference perhaps, but it's all about changing the culture of welfare. People will argue that providing child care at that age is too expensive. We worked the numbers in our Committee and that is not true. It's more expensive to have a mom stay home and keep her on welfare for two years than it is to require that she go to work and become self-sufficient. We ought not to be making decisions on who is going to participate in this program according to the age of their child. What does that have to do with anything? You know, for some women, if they stay home for two years you have lost them, their self-esteem is gone and then they might have another child and then it is two more years, now we are up to four. You've really lost them then. It's better to get to them right away.

We tighten up on paternity, with a statement that women sign when the child is born. It's like a sworn statement, rather than just a piece of paper they are signing, because this is serious business. Fathers are a part of the problem, but it's a joke the way some of the women fill out these forms. It's irresponsible and we ought not to let it continue. So, if they can't establish paternity, there is no grant. Why should there be? I suppose if the named father of the child is using the legal process, that's okay, we have allowed the Department to make those decisions. But if it's not a responsible answer to the question of who's the father of your child, then there ought not to be any money granted in the form of a grant to that woman. It's not fair to the people who work every day.

Now let's talk about the gap. It is in Committee B. The Department, and our Committee, strongly advocated for this measure, but it met such strong opposition that they withdrew. The numbers show, and they gave us the numbers that show, written in black and white, on paper, that women who fill their gap with earned income get off welfare in two to three years. Women who fill their gap with unearned income stay on for five or more years. I thought the name of the game here was to get people off welfare. This one makes sense. It's a no-brainer. Yet, there is such strong opposition to what I think is pretty basic. Lastly, we need to concern ourselves with what is going on around us in other states in regards to welfare reform. So, we put a provision in our report that limits benefits to new residents to the level of their former state, or to Maine, depending on which one is lower. You know, Maine is lagging behind in states regarding welfare reform. We agree on the consensus point is basically participatory. Nobody disagrees that everybody should participate twenty hours if they are going to receive a grant. You know what? We should have done that two years ago. It was on the table, we debated it heavily, we couldn't pass it because there is a mindset in this institution to perpetuate the status quo. So, now we are going to pass what we should have passed two years ago. I apologize, I am way ahead of that. In states around us, Massachusetts, of all states, has passed time limits, has passed family cap, has done some significant welfare reform, and that's a Democrat legislature. The Democrats in Congress, their proposals include a five-year lifetime limit on welfare benefits. We can't even have that discussion in our Committee because it splits right along party lines immediately. We are way behind and that's unfortunate because people like to use us, you know, "As goes Maine, so goes the nation." We are the sixth most generous state in the country and yet, when you look at our earning power, we rank thirty-fourth. Something is wrong. How can we be so generous when we don't earn that much money. It doesn't add up. Reform is all about changing cultures and attitudes. We need to change a bureaucracy. We are fighting the bureaucracy here. Believe me, I know, they have been lobbying heavily in the halls and it distresses me. We need to change the mindset of the bureaucracy from one that just dispenses checks to one that puts recipients to work. That's why we thought one of our original requirements to move this to the Department of Labor made sense. The Department of Human Services is not usually in the business of putting people to work. That's okay, we gave that one up a long time ago. But we do need to change that mindset. You go to an office, you qualify, you're entitled to something, depending on how you answer questions on a piece of paper. It has nothing to do with anything else. Welfare recipients should not be better off than people who work every day. When you have examples of women who are sitting home with a couple of kids and collecting a salary equal to \$12,000 or \$13,000, something is wrong. That's what your constituents are talking to you about, because welfare is out of control. They don't have to look very hard to see it. They just have to look around, a couple of streets down, at their neighbors. They see people living off the system as they get up and go to work every day and work hard to just about make ends

meet. We don't have a state that has high paying jobs. People who are paying the very taxes to perpetuate this system probably have to work a couple of jobs just to pay their bills. Yet they see people around them getting away with murder. They go to their grocery store, you can't go to a grocery store anymore and not see somebody using food stamps. There is nothing wrong with that except you see it all the time. It's present more than ever before. I'm not judging people who use food stamps, but when you go to the store and see two or three at the counter, as you are checking out, that never used to be. You might see them occasionally. It is out of control. Too many people are on welfare. We need to stop rewarding people with money to stay home and do nothing, or to just get an increase in their grant because they have more children. That's not the way to help women, that's not the way to help children. You know, life is all about earning a paycheck. We need to convert a tax funded scenario to an earned income. It's all about self-sufficiency and dependency. It's all about getting off government programs.

I'll share with you one example. I had a very rewarding phone call not too long ago. As you know I spent two years of my professional life working in a low income project in Portland known as Kennedy Park. Two years I spent there dishing out health care in a little health station we had there. There was this one family that lived there, and it was an intact family, mother, father, four daughters. I got a call from one of the daughters not so long ago. She remembered who I was. She lives in Lewiston now. She assured me that I was on the right track and that everything I was saying was correct. She was raised in the attitude of welfare. I thought what was interesting about what she told me was that none of them are on welfare. Her three sisters and herself all have jobs and work. I thought that was interesting. I asked her what she thought was the difference. She said she saw her father get up to work every morning and go earn money and he supported the family. We ought to take that advice and listen to it. You know, public charity is entering a new era. The public has lost confidence in a program that doesn't get people back to work. It doesn't help families. It doesn't guide children to become productive adults. I urge you to support the pending motion. Madam President, when the vote is taken, I request the yeas and nays.

Senator **PENDEXTER** of Cumberland requested a Roll Call.

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

Senator **PINGREE:** Thank you, Madam President, Men and Women of the Senate. Like most of you, during my last campaign, I spent a lot of time going door-to-door and listening to people in my communities. I read all the person-on-the-street interviews in the newspaper, and I hear what people have to say about AFDC and welfare. I'm sure I have heard many of the same things that you have heard. But, after having the opportunity to serve on this Committee, listen to hours and hours of testimony, sending out a questionnaire to my district, working with my fellow legislators, visiting intake workers

at DHS, talking to their supervisors, talking to Medicaid workers, talking to people who hand out and do eligibility for food stamps, talking to my constituents in Rockland who are AFDC mothers, and talking with the employers in my district about the difficulties of helping AFDC people to get back to work, I have to say that I am convinced this is a more complex issue than all of the sound bites, and mean-spirited rhetoric that we have been hearing. I think it's our responsibility to explain this to the public and to vote responsibly.

I have to say what I agree with. I agree that everybody should work. I agree that everybody who possibly can should earn their income from the private sector. I agree that fathers and non-custodial parents should provide for their children. I agree that family members, volunteer organizations, and churches should take over and fill in when they can. I agree that as much as possible, people should take personal responsibility for having a job, keeping their car running so they can go to work, and keeping their children in responsible day care. But, will the minority amendment make all that happen? Absolutely not. This minority amendment is extreme. It's expensive. It's a shift to the property taxes. And, worst of all, it won't solve the problems that we are talking about. I call this three years and you are on general assistance. Only one state in the country has instituted the time limits that we are talking about in this bill, the State of Wisconsin. They do it in two counties one-seventy-second of the state. This is a huge tax shift. If you look at the piece of paper on your desks you will see that MMA suggests that the year the time limits go on, \$5.6 million cost to our municipalities. An increase to GA. We make this assumption that everyone on welfare, everyone who collects AFDC, every single mom who needs the support for her children, is sitting on the couch watching TV, that generations of her family have been on welfare. The fact is, everybody knows someone who cheats the system and who hides their income. We cannot write public policy for someone out there that we imagine or have heard is doing it. The fact is 70% of all families leave the AFDC program in two years. Maine has two times the national average of people working while they are collecting AFDC. I think before we can debate this we have to be very honest about the structural problems in our economy. We all know over the past few years we have lost thousands and thousands of jobs in the State of Maine. If you are working for the minimum wage, you are making about \$8,800 a year. If you are a single mom, trying to support two kids, the poverty level is \$12,900, minimum wage is \$8,800 a year. We don't have guaranteed health insurance for single moms with children. Child care is \$90 a week. Only 51% of the women on AFDC have child support orders and we know that not everyone pays. We have over \$100 million in the State of Maine in uncollected child support assistance. Where are most of the entry level jobs today? Cashiers, filing clerks, working as a waitress, working in retail sales, they are not bad things to do, we have all worked at one of those jobs at some time in our lives, maybe we will go back to them this summer, but the fact is half of the women on welfare earn, on average, \$5.13 an hour. Why do they leave their jobs? Thirty-one percent is because they couldn't find adequate child care, 19% because

their transportation doesn't work, 30% because it was a temporary job, 28% because they were laid off. The minority report doesn't change any of that.

What would a good welfare bill do? It would encourage you to work as soon as you apply, as soon as you are laid off, divorced, you find you can't make ends meet, or you find yourself with a dependent child. A good welfare bill would make sure that a person who needed assistance was enrolled in one of the training programs that we spend \$55 million in this State to have. It would make sure that a person had an adequate high school education, that they had good interview skills. It would make sure that if you had been in an abusive situation, which over 60% of the women who collect AFDC have been in, that you had assistance. It would ensure that the non-custodial parent was responsible. And in two years it would make sure that you were participating in the work force, and that you had the adequate support to do that with child care, with Medicaid, health care for your children, and assistance with paying for food. A good welfare bill would substantially change the all or nothing system we now have. It would offer assistance to people who want to work, and assist people to stay in the workplace. The minority report is very expensive. It has a huge fiscal note on it. By asking people to be in the work force when their children are six months old, the bill is \$4 million for child care in 95/96, \$8 million in 96/97. Although the bill is unable to say what the shift to general assistance, to our communities, our property taxes, will be, because it is in the next biennium, so the bill can't say what that is, the MMA, as I said, estimates that that will cost us \$5.6 million in the first year. This bill has a provision for home visits, to make sure that we assure ourselves that everyone applying for welfare should be receiving it. The conservative estimate on that is \$240,000. I think that's a very conservative estimate. There are 1000 applicants to the program every month and if there has to be a home visit on each person, I don't see how we are going to do that for \$240,000. If we are really going to do something, if we are really concerned about the fraud in the system, we make sure we have more workers which we don't now have in fraud investigation. In the Rockland office, if an intake worker is concerned and wants to report a fraud, they have to send someone in from Bangor. We don't need to make a home visit to every house, we could do that very differently.

The minority report takes away the gap on what is called unearned income. Just so you know, unearned income are child support payments. If any of you have ever received child support payments, have ever had a daughter who received child support payments, or if your mother ever received them, ask one of them or ask yourself, did anyone ever call child support unearned income? This bill would not allow any collection of that. That eliminates \$2.5 million from the women and families who need it and results in a loss of \$4.3 million in federal funds. That's federal dollars that we lose that mothers would otherwise be spending on landlords in the State of Maine, or at the corner store, or buying clothes for kids. That's money that won't come into our economy. I have met a tremendous amount of women and have talked with a lot of women and have read a lot

of letters from women who receive AFDC. Many of them were professionals and a divorce, or a family illness, or a bankruptcy put them in an awful position. I want to tell you a little bit about one of my neighbors who I think is a good example of someone who has been put in a position where she has to receive AFDC. She lives across the street from me and after her kids come by and play. She has four little children, the oldest one is eleven years old. Two years ago she was divorced. She has a high school diploma. She moved back to our community because she had family there and she knew she could receive support and assistance from the community and from her family, and she has, people are very helpful to her. In the winter she works as a painter on a painting crew and she receives \$9.50 an hour. In the summer she works on a landscaping crew for \$7.00 an hour, pretty good wages in my community, it's a lot better than minimum wage in most communities. So she's not doing so bad. She works two hours at the end of every day cleaning houses. Her husband supplies \$75 a week in child support. The fact is, with four children, three of whom have to go to a babysitter, a car that has to be kept running, insurance payments, and oil costs, it is not possible for her to make a living and for her to pay her bills and pay her rent without assistance from the rest of us. Those are the realities of our economy.

I was thinking about all of the rhetoric that we have heard and we have talked about, and how it applied to my neighbor. I thought about all the people who say AFDC people could change if they would just get off their duffs and get a job. So, what if she got off her duff and got a job? She did, she has a job. She should just go pick up cans and bottles and then she'll be alright. In my town we give all the cans and bottles to the church, and the fact is there aren't any on our streets. She ought to get a paper route. She can't get a paper route, we don't get paper deliveries in my town. The fact is, she has a job, she is taking care of her children responsibly, she is doing everything she can possibly do, and do you know what? She is still eligible for AFDC because she does not make enough money to pay her rent and her bills and support her family. We should reform welfare. It should not be AFDC or nothing. This bill won't do it. The Department needs to be overhauled. There are tremendous things we have to change about the case management system, about the intake workers. It is time to do that. But, we have to be honest with ourselves about the difficulties of being a single parent with no child support, or very little support, in today's culture. We have to be realistic about what it costs today to be a woman in a work place when you are making sixty-nine cents on the dollar compared to most men. We have to be compassionate and understand that anyone of us in this room, maybe a divorce, or a bankruptcy, a family illness are a lay-off away from having to ask for this very support ourselves. Legislators have worked very hard in this session on this troubling issue. Committee Amendment "B", which is before you, is mean spirited, it's a cost shift to our communities and to our property tax, and it assumes that women and children who are poor like to be that way and ought to be punished for it. The worst thing is, in my opinion, and I believe I was sent here to solve the problems that we are facing and make government work better, so to me the worst

thing about this bill is it won't work. Committee Amendment "B" will not solve the problem we are all talking about. I urge you to vote no on this motion.

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

Senator FAIRCLOTH: Thank you Madam President, Colleagues of the Senate. I do not usually rise on issues that are not from my Committee or a bill that I am sponsoring, but over the years I have had the opportunity and the pleasure to meet with a lot of people who are recipients of AFDC. Actually, after college I was going to join the Peace Corps, but they told me I had to learn a language, so I joined something called the Jesuit Volunteer Corps and went to Alaska and was a house parent for young men who had been either through the child protective system, or through the juvenile justice system, juvenile corrections. Almost to a person every one of those boys came from families that were recipients of Aid to Families with Dependent Children. It was an issue that fascinated me then, because of the young men I grew to know and to like, and because of my concern about the broader context of what does our society do, how do we deal with these issues of people who are on AFDC. I returned to this town in Alaska a couple of years later, while I was in law school, and summer clerked as an intern for the prosecutor's office. Sadly, I met almost every single one of these boys on the other side of the table, where they were defendants in criminal cases, which probably doesn't speak much for me in the field of counseling, but it did bring home to me that, sadly, there are problems in our society that we need to address. I think, personally, that a lot of them have more to do with poverty than they have to do with some label that we place on welfare. I was further convinced with that while working as an assistant Attorney General of a couple of years. Every single working day I dealt with people through the Child Support Enforcement Division of the Department of Human Services, or through Child Protection, people who were recipients of AFDC. So, I have a fund of experience working with people who have been participants in that program. Also, during my campaigns for public office I have had very experienced politicians, people who I respect, tell me don't go to a neighborhood in my town that is, in large measure, populated by people who are on AFDC. They say they don't vote, so don't bother going to see those people. I have chosen to make a special effort to go to that neighborhood and spend a lot of time talking to people directly, and I have to tell you that after some years of experience, that to me, in the last twentieth century, if you want to meet Horatio Alger stories, go meet women on AFDC in Capehart in Bangor.

I have a friend who is on AFDC who is getting a 4.0 at the University of Maine in Oceanography. To me she is just an incredibly inspiring person, like so many women, and obviously the vast majority are women who are on AFDC, this woman was left high and dry by some guy who said he loved her and what have you, and she is left in a situation with a child that she did not want, nor expect certainly, at an age she did not wish to be placed in that situation. To me, her determination, inspiration to go out and get an education and to try to find work and do everything

she possibly can to help herself and her children is, to me, the norm, and clearly, I must say, from hundreds of women that I have met on AFDC, that is the norm to me and I am absolutely certain about that. So, I am somewhat concerned and offended, and I'm not saying that anyone in this chamber is saying that, but I often hear the implication that people on AFDC are lazy or cultured to the AFDC system. That may be the case with the minority, indeed, I believe that is the case with the minority, but it is a minority. The great majority of people are inspirational characters who deserve our great reverence and praise. To me, what the issue before us, simply is work. When they talk about sound bites, what I think my neighbors who are not on AFDC will say to me is "great job", because I think we are going to have this minority report rejected and the majority accepted and they will say we are getting these folks to work. That's what my neighbors want and they are darn right, let's get them to work. That's good and that's what I think has been crafted, but not by this report. The report that would say you cut them off after some arbitrary time limit doesn't make sense. It doesn't make sense for this woman who is working to educate herself. It doesn't make sense for these friends that I have made who are recipients of AFDC. So, to me the choice is clear, I am for work. I'm for getting people back to work and I'm not for this plan. The choice is between moving us into the twenty-first century, or going back to the nineteenth century, going back to the land of poor houses. It's a choice between aspirations and rickets, because I'm really worried about what would happen to these kids in this situation. It's a choice between the world of the future and the world of Charles Dickens. That's what we are talking about today. I want to just speak up for the women I have known and the people I have known on AFDC over the years. I'm glad that I think we are going to move toward a system that emphasizes work, but let's not move toward a system that would simply hurt people, cut them off, period, when they are doing all the right things. Let's think about this. An arbitrary cut off date, if you're making all the right moves, as I see so often happening with women on AFDC, they are doing everything they can right to train themselves and get work, and you are saying to that woman, even if you have done everything absolutely right to get child care and to move your child up in the world and to participate in everything, even if you're on the waiting list, as often is the case for these Aspire programs and so forth, if you are doing every single thing you can, tough, we're cutting you off. That, to me, is not right. It's unacceptable. It's not what my neighbors who are not on AFDC are telling me. They sympathize with these folks, they simply want to get them to work. Let's reject the minority report and move on to what was an excellent piece of work by the Human Resources Committee and the majority. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator PARADIS: Thank you, Madam President, Men and Women of the Senate. I suspect that if our Lord, Jesus Christ, were here today, his line about reminding us that the poor will always be with us, would sound very different. I think he would say, the poor are with you, get over it. They will remain

with us. My whole argument with this debate that has been going on is that I know, as a child in Aroostook County, if I had been continually told by my government, like we, the elected officials of the State of Maine are telling our people, you are poor, you are bad, you are horrible, I don't think we would have survived. Just before I left home this weekend I picked up this paper honoring 54 of the Valley's largest families. In order to get in you had to have eight or more children. I didn't have a chance to read it until I got here and was preparing these remarks for this debate. I know most of these people, and I know the children that were born of these children, and I know the grandchildren. They are great people. We had an interesting scenario, like I told you before the government wasn't there for us, but the church was very conscious and I remember Father Gilbert, who has served here at St. Augustine, would go around to his farmer friends and pick up animals. We managed. We knew that we were going to be okay. Also, hearing some of this rhetoric, it sounds like we haven't been doing anything. I do remember one of the issues that some of the legislators, like Kennedy, were children who because pregnant were automatically removed from the home and set up in apartments and trailers, so we passed legislation that said if you were under 19 years of age you had to stay with mom and dad, unless you could prove that there was an abusive situation there where we had to remove you from the home and then we would take care of you. What would be happening to that? We would be abandoning something that has been working very well to the netherworld. I'm absolutely against this minority report. One of the reasons I am against it is because I know in the last eight years we have been dragging our feet on a lot of things because welfare reform is expensive, as you are well aware. I look in the back of the room and I see a line of our state employees that are hired to manage the system. I think there is enough brains, and enough talent, and enough creativity in that group, with the positive leadership that the next report will provide, that we will be moving one more step towards resolving this. Also, if we are sincere about this bashing of children, this hatred of children, I leave here and I feel that impression, that children are always costing us money, that children are problems, that we should not be having children to the point that I had a young woman who dropped out of med school from Madawaska. I was a little disappointed and she knew it. She said, I want a family, and I know I could not spend the time with my children that my family spent with me. I thought what an interesting concept. We have a lot of very healthy families. We have bad things happening and we legislators, when we get the phone calls from the young mother who has been abandoned, we kill ourselves to try to get her on her feet. We try to manage the situation. Usually, if she is from my area, she has been raised with a lot of strong work values and we have resolved it. Bashing doesn't do it. So, I hope you reject this amendment and go onto the majority report. Thank you.

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

Senator BENOIT: Thank you Madam President. May it please the Senate. I have been hip-deep in this subject for the last several months and want to share

with you my education. On the fifteenth of May and the fifth of this month, welfare reform sessions were held in Farmington, at the Fairbanks Union Church. Standing room only, two and a half to three hour sessions. I heard from people who are on the system and people who are paying for the system. I got an earful. It was a good education. I want to share it with you because there was a lot of publicity about it, radio, newspapers, and I passed out to you today, an editorial from the Franklin Journal about those sessions. I'm proud of those sessions. I think, perhaps, they were the only two sessions on welfare reform that have been held in the entire state. Again, I did it to be educated on the subject. After they were held, and after the publicity, I couldn't go anywhere in my district, whether Rangely at the Post Office, the Shop 'n Save in Farmington, the landfill at Sandy River, people came up to me and said, "You're on the right track Benoit. Welfare reform is needed. We need to have time limits and caps." These are people, some on the system, they have been through it, and people paying for the system. These are our constituents. You know in your heart, and you know in your head, they're right. So, let's do something positive now, we've got a chance, and pass some welfare reform.

I passed out to you today, as well, page fifty-six of the U.S. News and World Report magazine that I looked at last night when I got home, just before midnight, from our work here. I'm proud of this article on page fifty-six because I'm going to let Rachel Ricotto speak for me. In Wisconsin, two counties have welfare reform. They have a two-year time limit, two years, not three. Rachel Ricotto, I love this person, I never met her, but you got to love her. Two young children, no husband, unsteady work history, spent long days as a couch potato. I had one of those in my household at one time. She was letting welfare pay the bill, "I made it a way of life, like a lot of people do." She says, "I never wanted to admit it, but I did." You've got to love her. With the deadline becoming a reality Rachel became a certified child care provider and now she hopes to open her own small center. "I just needed that little extra push." You've got to love her. Two year time limit. And how about Lori Cruisa, she agrees. Pregnant as a teenager, rejected by her family, abandoned by her boyfriend, she is now looking for her first job. "I think I can do it on my own." You've got to love her. She's going to do it. "I think a lot of the reason I have stayed on welfare was because I was able to. I knew I always had welfare to fall back on, now I know I don't." You've got to love her. I'm telling you, by way of suggestion, without time limits there, those two people would still be on welfare. Look at the dignity they've got, look at how proud they sound. Time limits is part of the picture. Here's one, there's a broad agreement that strict deadlines and work requirements are necessary to give recipients that extra push. There's going to be some legislation out of Washington on this subject. Senator Daniel Patrick Moynahan, of New York, said of President Clinton, "He will surely declare victory." I don't care who gets the victory, I want to see some reform. We need it. The present system isn't working and we all know it in our hearts and in our heads. It isn't working. Work, not welfare, has already produced some surprises. Get this, more than

one-fourth of the welfare recipients in this particular county, of the two in Wisconsin to have time limits, have declined benefits. Some don't want to use up the remaining two years of eligibility, preferring to keep them as a safety net. Others have moved to places with no time limits. What does that tell you? It doesn't tell me much that is positive. With a program like that to help, take off, cut off, cut out, whatever. Let me conclude, as I suggested a moment ago, Judy and I raised, out of our three children, one couch potato. In his younger years, Dave was a couch potato. When it came the appropriate time we rolled him off the couch. He went off to college and put himself through the University working at the Jay Paper Mill for three years. Double sessions, sometimes three, he would come home at two o'clock in the morning and didn't know what time of day it was. Should he have breakfast or supper, he didn't know. He's a health care professional today, in the area, sometimes he sees a hundred patients. I would like to point him out, and Rachel, and Lori. Let me suggest to you folks, there is a good measure of starch in couch potatoes. We need welfare reform. We need to help people. These are success stories. This isn't a bashing session. I love these people. They want an opportunity, let's help them. Thank you.

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

Senator **BEGLEY:** Thank you, Madam President. Let one more male tread softly in the issue. The concern that I have is that if you are looking for a solution, you supposedly have a plan that eventually works. Since 1965 welfare has taken on an image of we will help, and we will help, and we will help. We did, and it doubled and tripled and quadrupled and so forth. The solution is still to be found. I'm not sure what it is, but I'm fairly certain that it is not always to continue spending money. I have received across my desk a number of cards, a quiz of various things dealing with welfare. One of the answers, if I recollect, my figures are probably wrong, the average stay on welfare is any where from one and a half years to two years. I could be proven wrong, but I have been told that by a number of people. If that's true, then the minority report of thirty-six to thirty-nine months is not a situation of cut off for any of those people who are handling themselves in that fashion. People in my area, like the previous speaker, have said to me, "Welfare needs reform." That's why I am serious about looking at it. I don't believe that this cut off of thirty-nine months is a major problem. My problem comes when and how we get to a solution. I'm positive it's not going to be just money.

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

Senator **MCCORMICK:** Thank you, Madam President, Men and Women of the Senate. I presume that we could all agree on the purpose of welfare reform, or I hope that we can agree. So, I will give you my overriding definition and that is that it should move women from welfare to economic self-sufficiency. It should do that in a way that deals with each woman, and each family, and each child, individually. Otherwise than that, it won't work. The one size fits all approach

will not work. Some of you may know what I do for a day job. I run a job training program that trains women in trade and technical jobs, and 71% of our clients last year were AFDC moms. So, I know a lot about families who are on welfare. The stereotypes on which the minority report is based have nothing to do with the women that I know on AFDC, because those women, and almost all women on AFDC, are dying to get off AFDC. As a matter of fact there is a five-year waiting list for the Aspire Program, which is the jobs program nationally particularized to Maine. We simply can't help them fast enough. What is very important to me, and the work that I do, which is to get AFDC women jobs, is a couple of things. These are the principles that have worked for us, and 81% of our graduates have jobs. We do this very well. I have some experience with how to get women from welfare into jobs that pay enough to keep them there. One, we need to train women in jobs that pay enough money to earn them a living wage. Two, very importantly, we need to give those women transitional benefits to get from welfare dependency to deeply into the employment that they have found. Three, and this is absolutely key, and I do not see it in the minority report, we need individual attention. When Women Unlimited gets a job for a woman on AFDC we do that one person at a time. I cannot describe to you the hours, the time, the individual attention, the calls, the support, the hand-holding that it takes to get a person a job. One size does not fit all, and what we need to do, and I know that the minority report does not address this, is to fix our bureaucratic system to give individual DHS workers, who are very dedicated individuals, and DOL workers as well because they help as well, the flexibility and clean and unimpeding regulations so that they can deal with each person as they come to them and give them the kind of services they need. A time limit just doesn't fit everybody. A person can come into my office, and I can tell you in six months I can get that person a job, because they have the math skills, they've got their GED, they haven't been abused all their life, they don't have any substance abuse problems, it's easy to see. DHS workers see that all the time. I can look at another woman who comes in to our office and I can see multiple barriers, multiple problems, much that has to be done to raise that woman's self esteem, to get her job-ready, to get her the skills that she needs, to get her past a fourth-grade reading level, which often is what we see. So flexibility is high on my list.

I would like to pose a question through the Chair. About transitional child care and health care, under the current law, people get up to a year of Medicaid and child care if they get a job, to help them move from welfare to economic self-sufficiency. As I said, I think that is absolutely key, so I'm interested in how the minority report treats that. The minority report says that a woman who is terminated from AFDC, because of time limits, that they're entitled to transitional benefits in the same way that other recipients are. So, I pose this question, if a woman is terminated, time limited off AFDC, vis a vis the minority report, and she then survives for six months on general assistance from the town, but then she gets a job, is she eligible for transitional child care and Medicaid and for how long would she be eligible?

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

Senator PENDEXTER: Thank you, Madam President, Men and Women of the Senate. To answer the question of the good Senator from Kennebec, I think I heard two questions. When the time limit sets in, we do continue to support with transitional services, up to a year's time. Now, your question that relates to if she is on GA and then gets a job, I guess the answer to that would be whatever exists in the system would kick in. If she qualifies for subsidies or transitional services, she will qualify for them. That's all income determined. So, depending on what she would earn, she probably would be eligible for child care subsidy, and could possibly qualify for Medicaid. That's all income determined. I don't know if that answers your question or not, but that's how I would answer it.

While I'm on my feet, I would like to comment on a few statements that have been made. I guess I will start with the fiscal note. We all have heartburn over fiscal notes because we know who writes them. The Department writes fiscal notes. As much as I have respect for the Department of Human Services, and the particular person who wrote the fiscal note, I am somewhat distressed with how our fiscal note came out on our report, because it is not accurate. It was too late to argue about it. They sat on it for three weeks. So, it's time to get over it, but I do want to clarify the fiscal note. It talks about, I don't know, some \$12 million for child care, which is ridiculous because in our plan, it's all within existing resources, as it is now. We will not require people to participate for twenty hours, if we, within existing resources, don't have the finances to provide that person with the child care. So, it's really not accurate. I think it's unfortunate that we have to play these games. But, be that as it may. The GA scenario, there are ways to handle that, but let me just mention to you that we are talking about 1998. The legislature doesn't go away, and the Department is always around, so what would be so awful about the Human Resources Committee, six months prior to, let's say, when this thirty-six month time limit is going to go into effect, let's look at the people who are still left on the system and who will be affected by the time limit provision. There is nothing that precludes us from changing any of the scenarios we are talking about today. I mean nothing is cast as cement around here. I certainly would advocate for that, but remember, we are talking about able-bodied people, nobody else. If, after thirty-nine months of being on an AFDC program they are still not able to go earn their subsidy then let's look at who those people are. If we need to grandfather some of them, or extend some of that, I know that that will happen. So, this whole debate on how mean spirited we are and we're just throwing people off the rolls, that's not true. I'm a woman. I care about women just as much as anybody else in this chamber does. I am a nurse. I am a nurse because I care about people. I have worked with low-income people for eighteen years in the City of Portland. I'm a pediatric nurse practitioner. I take care of children. That I

should not care about kids, I ask you, what have we done that is so great for kids in the welfare system? I mean I haven't heard what's so great about what we have now and why we want to perpetuate the status quo. What is so awful about changing some of this stuff? I don't understand it. What is so great about a kid seeing a role model of an adult who just sits at home and collects a welfare check? That's what has been happening for three decades. We have more poverty now than we ever thought of in 1960. None of you can convince me what is so great about what we have now. Our definition of welfare reform in Report "B" is not getting women out of poverty. You can be poor and still be self-sufficient. You can be poor and go to work and earn money and pay your bills. We are a poor state. We don't have entry level jobs that pay \$11 an hour, it just isn't going to happen. This is Maine. So, we are lucky to have jobs that pay \$5, \$6, or \$7 an hour, and sometimes we need to get two jobs to pay our bills, but that's what working people do, men and women of the Senate. Why would we want to perpetuate a certain group of people who can stay home and collect welfare? I don't understand it. When they are able-bodied, we are talking about able-bodied people here. I don't get it. I don't know where the Senator from Knox gets her statistics, but the statistics I have in front of me says the average time for an AFDC recipient to be in the program is five years. Only 39% get off the system before two years is up. If we want to have a serious look at time limits, remember, I told you at the beginning of all of this debate, this is a demonstration project. What is wrong with trying it out and then we will know if it works or not. We even have the beauty of evaluating it before we actually make it go into effect. If it hasn't worked then we can change the rules. But, I think it's a serious statement to people, as they get on the system, we say to them you have thirty-nine months and that's it. That changes the culture of the system. That's what Report "B" is all about, it's changing the culture of the system.

One correction about the gap and the whole discussion about child support money. There's an automatic pass through of \$50 of child support money. So, however you choose to fill the rest of it is up to you. What we are saying is you are going to fill it with earned income. We go through this debate in Committee all the time. Isn't it terrible that we don't let women on AFDC keep their child support? If they want to keep their child support, all they have to do is get off welfare and they can have it. There is a price to be paid for being on the program and that's the decision they make when they decide to sign up. Those are the rules that have been made up. I continue to say that women who fill their gap in with earned income get off welfare quicker. That's what it's all about. Thank you.

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

Senator **RAND:** Thank you, Madam President, Men and Women of the Senate. I was really quite pleased to hear the good Senator from Lincoln, Senator Begley, bring up the length of time a woman is on welfare, because there have been discussions about that. One of the reasons we have found that women, maybe cumulatively, are on welfare for five years is

that they will be on welfare for a year or a year and a half, get a job, leave the welfare system, work for a year or two, and lo and behold, through no fault of their own, as we know in today's economic climate, this is not unusual, they find themselves out of work. They could have been a worker at Statler here in Augusta. Certainly none of those people wanted to lose their jobs, but the last I knew 500 of them were laid off. So, I do have a question, since the numbers of people who receive welfare is directly tied to the percentage of unemployment that exists in an area, my question is this, if I have a mother in my district who goes through the welfare system, as presented in the minority report. She collects her AFDC for thirty-nine months, and then she gets a good job, and she is thrilled to be working and life is looking up, and she works for a year and a half or two years, and then she loses her job when the company goes out of business and closes, can she then receive AFDC again to help tide her over until she can find a job?

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

Senator **PINGREE:** Thank you, Madam President. It is my understanding, under minority Report "B" that once you have collected AFDC benefits for three years you never, ever, can collect them again in your lifetime. That's it, three years. Your only other source of assistance if you need it will be general assistance. If we were to decide that you couldn't receive general assistance once you have received AFDC it would be the benevolence of your community, or charities or family or wherever you could find it.

While I'm up, I would also like to correct a couple of things that concern me and just make a couple of other points. Three years and you are on general assistance is not a demonstration project. Aspire Plus, some of the other things in this proposal, are demonstrations in certain areas that DHS covers. That is a statewide proposal, it doesn't matter if the unemployment rate in Fort Kent is 16%, it is everywhere. If you can't find a job, that's the way it goes. The good Senator from Franklin, who I have enjoyed being a seatmate with on the Committee this session, said that all women needed was a little push. I call three years and your off for life a perilous fall off a huge cliff from which you will probably never recover. An ideal welfare reform bill would say in two years you are in the workforce. In two years you are participating in some kind of work program. In fact, it would say in ninety days you are actively pursuing a job, you are being trained for a job, or you are working in some kind of a job. That's what an ideal program would do, not three years and no matter what the unemployment rate, no matter what your family situation is, no matter what obstacles you have to overcome, you're off the cliff.

The good Senator from Lincoln, Senator Begley, said that over the years welfare has doubled, then tripled and the numbers are escalating. Women are flocking to this program in droves, he didn't say that, I did, but he said it doubled and tripled. The fact is, in the 1980's, 16,000 people were recipients

of AFDC. In 1990 24,000 people, today there are about 20,000 people. If you look at the labor market you will see that AFDC is very responsive to the labor market. Remember the 1980's? We quoted all the time when we talked about the state budget and the way revenues and money used to flow, I remember the 1980's, you'd drive by McDonald's and they would say "Please work for us. We will give you \$7 an hour. We will pay for child care. We will pick you up and drive you to work. We will make sure that you can stay in the labor force because that is what you need." Not \$4.25 an hour, no child care, a car that doesn't work, no child support. The AFDC numbers are responsive to the labor market and that ought to tell us a lot. These aren't lazy women sitting on the couch. These are people who can't make a living raising their children in today's labor market. Transition benefits in the minority report are one year. We will help you out for one year, not forever, one year of transitional benefits. Sixth most generous in the nation? That's before we made five cuts since 1990 in AFDC benefits. We haven't been ignoring the concerns about this program. We have made five cuts since 1990.

The good Senator from Cumberland, Senator Pendexter, suggested that perhaps six months before the three year deadline we would all go back in and rescind this legislation. As far as I'm concerned, that's saying this isn't a good idea. I'm not passing a law that's punitive, that makes people feel bad for being poor and unable to support their children in today's labor market, and covering it by saying, "Well, if it doesn't work, we'll take it back." This is a bad piece of legislation now, and it will be six months before the three year deadline comes due.

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

Senator **BENOIT:** Thank you Madam President. May it please the Senate. I hasten to correct the Record. The good Senator from Knox just indicated that I mentioned something about a push, respectfully, no, Rachel Ricotto is speaking here on page fifty-six. Rachel said, "All I needed was a little extra push." So, it's not Benoit, it's Rachel. Listen to Rachel. Rachel is speaking here. You know, in life we have time limits. They are across the spectrum in our lives. There is nothing wrong with time limits. They can be positive. I know when my wife and I were engaged she said, "I don't believe in long engagements." You better believe I got my act together in a hurry. Time limits can be positive, not negative. I want to share with you my constituent survey. I'm proud of this. I received back between 3000 and 4000 of these things, to the credit of my constituents in District 17. One of the questions here, "Should able-bodied welfare recipients be required to work or attend school as a condition of receiving welfare benefits?" 97% said yes, so we are on the right track. We all agree on that. Time limits can be positive. The buzzwords today are, as I see it, "Remember Rachel". Thank you.

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

Senator **FAIRCLOTH:** Thank you, Madam President, Colleagues in the Senate. I think the nail has just been hit on the head. I strongly favor time limits. People in the State of Maine strongly favor time limits, after which, people go to work. I would love to see a report, and maybe we will shortly, where they emphasize going to work. I don't want to see time limits after which people are put in pain or in threat of starvation, or where children are put in threat to their health. That's what is going to happen with the minority report. When I hear about time limits, the issue is is somehow the economy is going to be magically transformed? Are things going to dramatically change to a full employment society? I don't think so. In Penquis Cap in my area, the community action program, they issued an ad for one job and had one hundred and fifty applicants, because there aren't a whole lot of jobs out there. You can be the best qualified person in the world and sometimes you won't get a job. The unemployment rate in Fort Kent is 16.6%, in Calais it's 13.4%, in Greenville it's 14.5%, in Skowhegan it's 10.5%. We should have time limits, after which people go to work and maybe we have to provide them with public service work in some cases. That's a good idea. Everytime that there is not some reasonable exception they should, after a certain time limit, go to work. That's what my neighbors who are not on AFDC would support, and that's what I think people on AFDC support. But, to have some artificial time limit, after which AFDC benefits are cut off, without any necessary hope of finding a job, makes absolutely no sense in this economy, or for that matter, in any economy that I have heard of. So, when people knock the AFDC system, I think there is lots that need to be reformed, and I think we may see a proposal that shows all of the good things that can be reformed in the system. I think there is lots of room for that. But, without some kind of safety net for these people, people talk about what happened before 1965 and earlier, I will tell you, we can go look at the film clips of West Virginia in the 1950's and early 1960's and see what it was like. It was not very good. It wasn't a very pretty picture for children. So, I adamantly believe that yes, we should have time limits to get people back to work, and I hope that we will reject the minority report so we can emphasize that work, because I think the people of the State of Maine would be very glad to hear that we rejected this minority report and moved on to the concept of welfare to work transition. Thank you.

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

Senator **HANLEY:** Thank you, Madam President, Men and Women of the Senate. This debate is not unusual for this chamber. In fact, as a member of the legislature who is serving his fifth term, I have heard the debate on welfare reform and participated in it, and sometimes it is tough to tell what year we are in. Let me share a few things that I have kept over the years. I won't use the individual's name, this is from an article that ran in the Portland Press Herald. I won't tell you what year it was. We'll call her "Miss X". Miss X, of Portland, dropped out of school years before she would have been required to take the health course. She was 16-years old and a student at King Middle School when she decided to stop taking birth control pills so

that she could get pregnant by her 48-year old boyfriend. Today Miss X is 20 years old, unemployed, and the mother of two daughters. Miss X has no plans to marry. Her welfare benefits include monthly AFDC checks, food stamps, subsidized housing, and low-cost day care. Teenagers, like Miss X, are having children because they cannot imagine a future for themselves, especially as the number of manufacturing jobs decline. Child bearing gives them a sense of accomplishment that they may not get in school, at home, or from a minimum wage job. Miss X earned her high school equivalency degree through the YMCA program while her two daughters were in subsidized daycare. Miss X has no career plans, but says she would like to have another child some day, a son. "I'm a natural at motherhood" she said, "This is my job." Well, what do you think the people of the State of Maine said after they had an opportunity to read this article? Were they silent? Did they think this was the appropriate way for the state to act? Did they think that this was the appropriate way for the state to set policy in this area? Let me share just a few excerpts from the week after. This is from a woman in Old Orchard Beach, "The growing number of teenage pregnancies is appalling when you consider the 22-year old, unwed mother of three, by different fathers, collects \$1500 a month in various kinds of welfare aid. How many teenagers read that article, those who can read, are now trying to get pregnant so that they can earn two to three times more than minimum wage? Those who work support these welfare mothers with tax dollars. I have two children with whom I would dearly love to stay home. I work only to have 5% of my pay deducted to provide for these women." Mrs. D., from Old Orchard Beach. A couple from Limerick wrote a letter to the editor in response, "Boy, did the article 'Unwed Teens' open my eyes. No wonder Maine has a budget crisis. An unwed, unemployed, young woman of 22 with three children by three different fathers could receive up to \$1500 monthly from all welfare sources and subsidies. At 66, my wife and I, are living on just a bit over half of that amount on pension and social security after working all our lives, and raising a family of three children, never having been on the dole. Morality, ambition, and self-respect have gone down the drain." I share these letters with you because it's not the Senator from Oxford saying this. These are our constituents saying this. So, when you say the people of the State of Maine just don't get it, they don't understand, I think they do. That article ran over four years ago. So, when the good Senator from Cumberland, Senator Pendexter, says it's time that we actually institute change, I could not agree with her more wholeheartedly. How long do the people of the State of Maine have to ask for change? You may say, "Senator Hanley, those are just a few people down in Limerick, in the good Senator from York's district." There are other letters here, I didn't want to read them all, from Bangor, from Portland, South Portland. But that article struck a chord. Maybe you can say over in Oxford County, you're a conservative bunch over there, and you have all been working out in the woods or in the mills since you were ten years old, so you expect that. Let me tell you, this was an editorial that just ran in my local weekly paper, June 8, on the editorial page, "Time for Welfare Changes". "The latest wind out of Augusta is that major changes are coming for the welfare system. We say it's about

time. A few years back, we knew personally of an unwed mother who received about \$300 a month in Aid to Families with Dependent Children. She received another \$200 a month in food stamps. Her rent was paid by the State. Her heat was paid by the State. Medical expenses were paid for her, and her children. While this was going on, this mother held a job where she was making \$800 a month in unreported income. Her lifestyle was far better than many people trying to get by honestly and legitimately. This case is far from an isolated one. We have all heard stories of individuals unwilling to work, preferring to collect a welfare check, and then blowing it on alcohol, cigarettes and drugs. Or of teenage mothers having more children so they can get the extra benefits. Millions of dollars are wasted in Maine annually, going to people who are perfectly capable of working, but now it appears the legislature is preparing to tell recipients if you want aid, prepare to give the State services in return for your paycheck. That's fine by us. We are sick and tired of having money that could be going into our pockets going into the pockets of freeloaders. The welfare system needs major revisions and any steps toward reform will be welcome." That didn't run in the Portland Press Herald, and it didn't run in the Bangor Daily, it ran in a small community paper where they know of these incidents themselves. They stated in the editorial that they know personally. How do they know personally? Because those of us who are willing to admit it, know it personally ourselves. I practice law in a sleepy little town in western Maine. I have an opportunity that maybe other members of this Senate don't have, an opportunity to be in the poorhouse through divorce hearings, custody hearings. I have an opportunity to speak with some of the caseworkers from the Department of Human Services who inform me, because they deal with it every single day, that the amount of abuse in the system is staggering. They peg it conservatively at 20% to 25%. It is public record, in the South Paris District Court, and you can go in and get this, for those of you who are interested, I will share with you the case afterwards. A case where a divorce hearing was conducted. The judge, in usually determining a custody matter, an order is prepared by both parties and the judge signs it. In this case the judge dictated a five-page order dealing with the issue of custody. Why did he spend so much time on this matter? Because he didn't know who to entrust the two kids to. The father had physically and mentally abused the mother and the kids. To me, that's an open and shut case. If the father is abusing the kids he has no right to those kids. Give them to the mother and send that guy packing. Why did the judge have to dispense a five-page order? Because he said the abuse by this woman was so strident, so staggering,

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

Senator **LONGLEY:** In court we stand up and say "Relevance your Honor." I'm not sure what the motion is here. I'm wondering if this is germane.

THE PRESIDENT PRO TEM: The pending motion is the motion of the Senator from Cumberland that the minority ought to pass report be accepted.

Senator HANLEY: Thank you, Madam President. I think it is very germane as far as the issue being raised here, as far as the need for reform. The need for the types of reform that are included in the minority report, because we cannot bury our heads in the sand and say what we are doing is appropriate. It's not appropriate when, in this case, a woman had received a workers' comp claim for \$40,000 in one year, an automobile insurance claim the next year for \$30,000, and the next year a personal injury claim on one of her children for \$20,000. In the course of three and a half years \$90,000 worth of awards to this individual. During that time, from 1991 until this order, and this order was passed in mid-April, had been collecting every element of welfare in this State for, not the two kids, five kids. During this time the case worker knew that there were two male adults living with her. Am I the only one in this chamber that's repulsed by that amount of fraud and abuse in the system? Yet we are saying we can't do anything about it. Ninety grand in a course of three and a half years, still collecting all entitlements for five children, and having two adult males living with her. This is not something that the Senator from Oxford has fabricated. It is a court order. The judge heard the testimony from the case worker, from the father who wanted to spill every amount of abuse that the mother had done. He wanted to spill it so he may get custody. All of this information was integrated into the order. Something needs to be done, and it needs to be done now, so that five years from now the next Senator from Oxford County won't be standing up with these same editorials, with the same letters from our constituents saying when are we going to do something. For those who say, and I'm sure the microphones will pop up afterwards, Senator Hanley you are wrong. Maybe there is a couple or a handful of cases, but you are wrong, we don't need to take, as some members of this chamber have said, draconian measures. Thirty-nine months, over three years, of benefits, that's draconian? That wasn't the work ethic that was instilled in me by my parents. I'm troubled by the fact that we try to take the path of least resistance in this place. That we shield ourselves from the ugly truth that is out there. I made it a point this afternoon to not interject my own stories, but to share with you what is of public record. I have not added anything in to any of the statements I have brought before you today. These are case histories that our state has to deal with. Until we admit it to ourselves that there is a problem, we will continue to shy away and say it's not that bad. We don't have to make these changes. I ask that the members of this Senate look to the next generation. Think about those kids, the final order of the judge was to grant custody to the mother. He did it begrudgingly. He said what type of role model can this woman be for her kids and what chance do these children have to break the cycle. Men and Women of the Senate, that's the question I ask of you today. What chance do the children have to break the cycle without changes as brought forward today? They don't have that chance. Those are the people I want to help. I want to give a chance to the people who are going to be the citizens of the State of Maine in the next few years. That's what I want. That's what I would like to think the other members of this chamber would like as well. I will be supporting the motion of the good Senator from

Cumberland. As I said, for any of you who would like to see this information, to assure yourself that it's not propaganda, I will make that readily available to you. If you would like you can read as much of it as you want to into the Record, in case you think I took liberties in editorializing.

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

Senator HARRIMAN: Thank you, Madam President. Good afternoon Ladies and Gentlemen of the Senate. I have patiently and intently listened to the debate that has taken place over the last few hours this afternoon. I have to admit that to those of you who have stood up and debated that the pending motion before us is draconian and that we are going to put children in harm's way and that we will have situations similar to Virginia and cliffs that people are being pushed off, and from your perspective I know that you are right. To those who have testified about the need to encourage people to help themselves, that time limits are good, that it's time to change the culture, from your perspective you are right. But, I think the time now is for us to look at what I fondly call the horizon. Indeed, if we look at our State, and indeed, our country, the vast majority of our population in this country are nearing their retirement years. After retirement years comes long term care needs. For that segment of our population, of which there are far more of them than there are of my generation, we need today, every able-bodied citizen to be part of our economy. We don't want to push them off a cliff. We want them to join us because we need them, because every single citizen of this State matters. Like you, I'm sure you have visited areas in your district where situations that we have heard described here today exist. Like you, perhaps, I have handled many of the phone calls that result from being interviewed in the newspaper or appearing on a Sunday afternoon talk show where people who have an opinion on this issue, people who are working with the constituents on AFDC, have an opinion. Like you, I'm sure I have handled the angry and furious phone calls from parents whose children are on AFDC, who express their disappointment and aggravation at how this system works and what it had done to their family relationships and to the future of the children that they love.

I want to stand up on behalf of the Senator from Cumberland, Senator Pendexter, who took points and counterpoints raised today, and I'm sure she took them personally. How could one not when you stand up and say what you believe and sit down and listen to one person after another say things about you that I know the Senator from Cumberland does not hold in her heart. What she is proposing is a pilot project. It's a start. It's a place where we can coalesce around the issues that will affect our state. No one here, particularly those of us who have had the honor of serving in municipal government at some point in our public service, are interested in passing this responsibility onto our municipalities. I'm not going to let that happen. I know you are not going to let that happen. But, what we can do, and what we must do, is we can focus our collective energy, those of us who have the honor of sitting in these seats, and those of you who have chosen to sit in this chamber

today, and those of you within the sound of my voice, what we can do together is to coordinate and collaborate our efforts, so that we can make sure that the people who need daycare receive it, and the people who need health care have it, and the people who need transportation receive it. Most importantly, what we can do together, all of us, regardless of where you are in the spectrum of this issue, is we can provide empathy and compassion, we can support these people and encourage them, because we need them.

What occurs to me as I have spent a considerable amount of time on this issue over my term in this Senate, is that the issues surrounding welfare is a constitutional responsibility of our state. It says in the preamble to promote common welfare. It's a social obligation of our communities, and it's a moral obligation of our families. What I have learned is that over the years, well-intentioned people who sit in the very seats that you and I sit in here, and those in Washington, have created a system that says if you need our help we are here to help you, but we've only got four simple rules. Rule number one, don't work. Rule number two, don't save. Rule number three, don't live with the father of your children. Rule number four, if you decide to have additional children, we will increase your stipend, we will provide more food stamps, et cetera. We have created a system that says if you break rules one, two, or three, if you work, if you save, if you live with the father of your child, we are going to cut you off. We are going to push you off the cliff. We have done that, not the people who need our help on AFDC. Past actions of this legislature and our federal government has done that. On top of that, we have put the very people who we are talking about today through the most bureaucratic and humiliating maze of paperwork and doors that perpetuates the feeling that you and I rightly would have that this is not working. I have come across just one document that I thought you might find of particular interest. It's from the Department of Human Services the Division of Support Enforcement and Recovery. This is one of, I'm sure, myriads of documents that someone on AFDC must go through. It's a paternity interview. Among the standard questions are your name, date of birth, child's name, et cetera, et cetera, was your pregnancy full term? If not, how many months did you carry? What is your estimated due date? What's the estimated date of conception? Has your pregnancy been confirmed? Where? By whom? Did you have sexual intercourse outside of the State of Maine during the period of conception? Are there any witnesses who saw you and the child's father together during the three month period around the time you became pregnant? Has the father of your child ever acknowledged paternity in front of witnesses? If so, please provide names, addresses, phone numbers of each witness, as well as the circumstances. I could go on and on and this is just one office and one form. We have food stamp programs, we have a GA program, we have a community action program, we have a Department of Human Services, each of them with their own procedures and their own rules and regulations and their own documents. Do you know what everybody's job is? To make sure that these people who need encouragement and support and an opportunity to look at the horizon, do you know what

the people who they encounter are responsible for? They are responsible for one thing, to make sure that the check, or the food stamps, or the assistance we give them, complies with a rule book that is very difficult to understand. How can we look at ourselves and say that we, today, are going to vote to continue that same approach to helping the very people who we need to be part of our society and part of our economy? So, I am going to support the pending motion, not because it's perfect, but because it's a start. It's an opportunity for us to coalesce around the solutions that we all need, not only for our people on AFDC, but for every man, woman, and child in this State. Thank you.

Off Record Remarks

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

Senator **GOLDTHWAIT:** Thank you, Madam President, Ladies and Gentlemen of the Senate. There is huge sentiment, certainly, where I live for changes in the welfare system. I think that both efforts before us, or not before us, are extremely good ones and I congratulate all of the people involved in developing those. I'd like to make a few comments on the report that is before us. I have one kind of narrow focus point, and one of somewhat larger focus. So, I'll do the easier one first. The report before us provides for an exemption from participation in training and education, as I understand it, if you have a child less than six months old. I agree with the arguments raised by the good Senator from Cumberland, Senator Pendexter, regarding why that limitation was placed there. I have no quarrel with those comments. I do think that there is an additional factor, though, that we must consider, because it is my understanding that when that mother of a child older than six months gets into one of these programs, the State will be assisting with child care. The child care for an infant of eight months is rather more expensive than an older child. So, if we are going to be paying that bill, I think we need to consider that economic factor in addition to the other incentives that the good Senator described, and with which I agree. We have a tendency to govern by horror story. We have heard a number of descriptions of incidences of abuse of the system, but it is my understanding that what we are discussing today is not the abuses of the system, but the flaws of the system. This report goes a long way to addressing many of those flaws. I have no trouble with most of those. I do have some trouble with the time limit piece. As I listened to the good Senator from Franklin, Senator Benoit, describe the self-imposed term limit of his engagement, I couldn't help but speculate were I in the situation where I was contemplating marrying the good Senator, I might urge aggressive time limits as well. Then I started ruminating about other sorts of limits that are more appropriate, perhaps, to this discussion. I thought

about whether we are good limiters or not of ourselves. The instances that came to my mind were campaign funding, no, we decided not to limit that. The number of bills we submit, no, we didn't want to limit that. The number of legislators that serve in the legislature, we didn't think we wanted to limit that. Then I went on to think of two more analogies that are probably more appropriate. They are large in scope. They affect millions of lives. They depend very heavily on time limits. Those are the school funding formula, and the state budget. We have time limits set in statute for those things, and despite the fact that there were a large number of very talented people involved, that those people worked very, very hard at the task, despite the fact that all available resources were used, and that the people involved made great personal sacrifices in order to accomplish that goal on time, we have failed in one instance, and are teetering on the brink of failing the second instance. So, it's fine to say that time limits are a good incentive for people, but they are not always successful. The reason that I think the time limits are neither successful nor appropriate, in the case we are discussing today, is stated best perhaps, and most succinctly, in an article sent to me by a woman in my community who used to be an AFDC mom. She managed to get an education. She has a very good job and her job involves now helping other AFDC moms. As you can imagine, she has some pretty strong feelings about this issue. She sent me some real good information about it. The point I want to make today is the article she sent me from the Center on Social Welfare Policy and Law says, "The perceived need for time limits is based on faulty assumptions about AFDC recipients. If jobs that paid a living wage were created and available, poor parents would not have to be coerced to take them. Proposals to time limit AFDC do not face up to the failure of the economy to generate enough decent jobs that can support families over the long run. Time limit proposals presuppose the ability of a large number of young mothers in need of AFDC, to make a permanent transition into unsubsidized employment. The assumption that income will be available from employment fails to recognize the current state of the economy, as well as the reality of the work and assistance patterns of many low-income women, namely that they move in and out of the paid labor force due to factors largely beyond their control. There is no evidence that the economy will generate enough jobs for all who seek them, let alone jobs that enable a single mother to support a family in terms of income, health coverage and child care." Ladies and Gentlemen, it is for this one concern that I am unable to support the report before us and I urge you to oppose it as well. Thank you.

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

Senator **LONGLEY:** Thank you, Madam President, Colleagues in the Senate. I wish there were a cheerier subject we were discussing while I have friends and family visiting and watching today. This is an issue that I want moderation. I think the unanimous consensus is we realize there is a problem out there. Not one of us denies that there is a problem out there. I object to those who suggest that I, and others, don't realize there is a problem. I would just like to go on Record, we

struggle, too. We see some of the few abuses, but the abuses aren't what's happening with the other nine out of ten people who need our help. My favorite word of the year is "moderation". When I look around Maine, especially in these political times, the people who are moderates are the people who I tend to gravitate to now more than ever. I think it's a time of extreme reactions to huge problems. I think moderation is the best solution most often, point one. Point two, a constituent told me that he doesn't think we like to look at ourselves in the mirror sometimes, we as a state, we as a nation. There are some parts of us that we just don't want to acknowledge. Welfare is an issue that we have to look at square in the face and we have to come to terms with how it is that we can improve it, and how it is that we shouldn't base policy on tiny anecdotes here and there. A few weeks ago the good Senator from Androscoggin and I got to go out to eat with a couple of AFDC recipients. One of the first comments was, one had been to a graduation and couldn't believe that the kids didn't get more dressed up. She took such pride in her dress at her graduation and she was very proud to have graduated. Another told how embarrassed she was to be in the grocery line and have to give them food stamps. Both talked about how they would cry at night. They had children. They had no help, other than themselves. They had to feed these kids. They needed our help and we gave them our help, now they are returning the gestures and helping us back. It took them both more than three years. There is that example in my head, there is also a client in mind, and it just so happened that her mother was born on the same day that I was born. She was retarded and she brought a lot of children into the world, and many of the men around the home did many things to those children. My client was a teenage mom who was impregnated in a statutory rape. I guess, when I am reading the fine lines in this provision we are about to vote on, one of the things I worry about for future people like this young woman, is if you are a victim of assault or rape, God forbid, but if you are, and as I understand it, the report we are looking at now says that prior to payment of benefits you have got to establish paternity. If you are afraid that this father of the child will come back at you again, and you have to give that Department person the name of who the father was, and you can fully expect to be battered again, is that the correct reading? I pose the question through the Chair. Do you have to divulge, even in the case of rape and assault, who the father was? Thank you.

THE PRESIDENT PRO TEM: The Senator from Waldo, Senator Longley, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Madam President. Then I will just go on to say that my read is correct. That even in a case of rape, and when you are fearful of some sort of retaliation for divulging the name, to get benefits you have got to tell who the father is. Then maybe you can get your money, but maybe get it at the expense of a few front teeth and maybe another rape. For that reason, I will be opposing the motion at hand. Thank you.

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

Senator **PENDEXTER:** Thank you, Madam President, Men and Women of the Senate. I just want to summarize, briefly, before we vote on this, because I think there have been scenarios here that need to be clarified. What we are proposing with the motion on the floor is that AFDC not be a lifetime entitlement, but rather a program that helps you for a time certain. It allows for people to get off the program quicker. You know, we spend so much money paying cash benefits that we don't have anything left to help those women who yes, are not earning high paying jobs, but we don't have any money left to help them with transitional services the way we would like because we are using all our money over here supporting the cash benefits of the welfare program. I don't know about you, but I certainly would rather be helping a woman in a low-paying job with transitional services, rather than having her depend on a government run program. But we don't have the resources to do that because we are spending all of our money in the wrong pot. All we are trying to do is to somehow shift the expenditures around, but we keep having to feed this big monster over here. I think that's unfortunate. So, some of what we are proposing does free up money, because it does get people off the system quicker. That's what it's all about. The only way you save money on AFDC is to get people off the program or to cut back some of the benefits you offer. That's the only two ways you can save money on the program. So, we are just supporting some scenarios that help people get off the program quicker. The minority report is very much individualized. It's not any different than the other report. Whenever a recipient comes in the scenario is that there is going to be a plan made for that person on the day you apply on what it takes for you to get off the program. Whatever individual plan you need is what is going to happen. We can only do what we have resources to pay for. As long as we continue to perpetuate people in a program, we are not going to have money to help people get off the program. So, the minority report erroneously is slanted to be sort of a one size fits all, and that is not true. It amuses me how everybody assumes that after thirty-six months everybody is going to be on GA. Boy, you sure have a lot of confidence in women don't you? I happen to believe that there won't be very many people left because I have faith in women, and I know that if we help them in a constructive way that they will find a job. We're not setting them up for a career. That's not what this is all about. That's not what state government ought to be doing. The responsibility we have is to make it so that they can get up in the morning, go to work, earn a paycheck. Do you like the job you do every day? I sure would like a career change. It would be fun. I don't expect the government to help me do that. I'm going to do that on my own time. So, programs we should be supporting are not to get people out of poverty, are not to set you up for the career you want so you can go earn \$11 or \$12 an hour. That's not what state government is here for. That's not what Report "B" does because that's not what we ought to be doing as a government. But we do think you should be able to get up in the morning, know what it's like to go to work and earn a paycheck. I have confidence that women will be able to do that.

The Senator from Penobscot, you know, ran off all these unemployment percentages. The places that he named don't even belong in the demonstration project. Remember, this is just a small project that we are doing. I don't know what the hoopla is all about. We are just trying to demonstrate and try some different scenarios to see what works. We are not making a statement that the whole welfare system is going to be like this. We are just trying to do a demonstration project.

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

Senator **CIANCHETTE:** Thank you, Madam President. I would ask how many times the Senator has spoken on this issue on this motion?

THE PRESIDENT PRO TEM: I believe the Senator has spoken four times on this motion.

Senator **CIANCHETTE:** Under Senate Rule 10, I am going to object to the Senator speaking any longer on this motion.

THE PRESIDENT PRO TEM: I'm sorry, the Chair was in error. This is the Senator from Cumberland's third time speaking on this item.

Senator **CIANCHETTE:** My apologies.

THE PRESIDENT PRO TEM: They are accepted. The Senator may proceed.

Senator **PENDEXTER:** Thank you, Madam President. I've lost my train of thought, but what can I say. Anyway, I was about ready to be done anyway. Remember this is just a demo project. We are just trying to do something different that changes a scenario that has been in place for thirty years. I ask you to support the motion on the floor. Thank you.

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

Senator **PINGREE:** Thank you, Madam President, Men and Women of the Senate. This is my third time to speak and I guarantee you it will be my last and it will be brief. I just couldn't resist the last word. I just want to say that I hope you will defeat the pending motion on the floor. I support time limits that say after a certain period of time you need to go to work. I support the idea of able-bodied recipients going to work. I urge you to defeat this motion so that we can talk about a program that would do that, would do it responsibly and would not, statewide, cut off the benefits after three years. Thank you.

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

Senator **ABROMSON:** Madam President. I would like to ask a question through the Chair please. To anyone who would care to answer, I thought I heard something about how this was a relatively small pilot project that was being held in three sections of the state, and then I think that I just heard that

benefits would be cut off throughout the state. I'm just a little confused, if I could have a clarification?

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

Senator **PENDEXTER:** Thank you, Madam President, Men and Women of the Senate. To answer the good Senator's question, this is a demonstration project. It only affects 1500 participants. It specifically states in the legislation that only 1500 people will be affected. So, when people start talking statewide, that is not correct. Thank you.

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

Senator **ABROMSON:** Thank you, Madam President. I am about to utter four words, that every time I hear them in this chamber, or anyplace actually in this building, I cringe. Those words are I will be brief. Usually they are spoken, but the party is not brief, with the exception of the next to the last speaker actually, who was brief. I just want to say that I have heard a lot of anecdotal evidence on both sides. I have heard stories of the abused and I have heard stories of abusers. I must say that on my campaign I met many women like Rachel Ricotto of Fondulac, Wisconsin, and Lori Cruiser of Wisconsin, as well, the two women spoken of by the good Senator from Franklin, Senator Benoit. I don't know if they were successes because of time limits or not, but I met many women on welfare who were really trying very hard. They had had hard lives and were trying very hard to put them in perspective the way they should be. I am concerned that able-bodied welfare recipients be able to get jobs. I am concerned that if they find a job, that they have quality care for their children. But, I also understand that this has been going on for years and years, and we have a program that is broken. As the good Senator from Cumberland, Senator Harriman, said, maybe this is the time to coalesce and try to take that first step to correct it. So, I shall be voting for the motion. Thank you.

THE PRESIDENT PRO TEM: The Senator from Knox, Senator Pingree, requested and received leave of the Senate to speak a fourth time. The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** I rise to answer the question of the Senator from Cumberland, Senator Abromson. Page four of Committee amendment "B" describes the demonstration project, Aspire Plus, which will have no more than 1500 participants in the three region area. The rest of the bill is statewide. I differ.

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

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion of Senator **PENDEXTER** of Cumberland that the Senate **ACCEPT** the Minority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-323)** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAYS: Senators: **BERUBE, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN**

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator **PENDEXTER** of Cumberland to **ACCEPT** the Minority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-323)** Report, **FAILED**.

THE PRESIDENT PRO TEM: The pending question before the Senate is **ACCEPTANCE** of the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-322)** Report.

Senator **PENDEXTER** of Cumberland requested 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.

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-322)** Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-322) **READ**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "B" (S-348) to Committee Amendment "A" (S-322) **READ**.

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

Senator **MILLS:** Thank you, Madam President, Men and Women of the Senate. Senate Amendment "B" to Committee Amendment "A" is a change to the report that would establish a small task force. There is no

fiscal note on this task force. It is a group of people that would be charged with the responsibility of studying the issue of time limits on welfare during the next six months and reporting back in the early part of our next session with demographic information on who would be affected by such proposals, and with any proposed legislation that may be appropriate. I, for one, think that time limits on welfare are highly appropriate, but I think that when you change from an entitlement system, which is what our present system is, to some kind of tailored system, where people will be on welfare for differing lengths of time, depending on their situation and circumstances, that we have to address the issue with some care. I appreciate the thought that has gone into the minority report. My concern about the minority report was to find out, in reading it, what would distinguish between those people who would be permitted to remain on welfare beyond the thirty-nine months and those who would be cut off by that limit. There are three or four words that serve as that filter, defining who makes the cut and who does not. The words have to do with a disabling handicap. In other words, if the person had a disabling handicap, that might be justification then for staying on longer than thirty-nine months. I apologize for talking about the report that we just defeated, but the amendment would allow us to revisit the issue in the next session, to define perhaps more carefully and in a more complex way, I'm afraid, the issue of who should be cut off and when and in what fashion. From my own perspective, I think there are many circumstances where thirty-nine months is too long. For instance, if the mother has a child who is a teenager, if the mother has a good work experience in the past, if the mother has a high school diploma or maybe a degree or some training beyond that, and if that person has a problem of some kind, a divorce, a bankruptcy or some other casualty in life, I see no reason why a person who is that well situated would need to remain on welfare for more than three or six months, or something of that sort. I'm not against a law that would limit time for such a person, in much the same way we limit unemployment benefits for people in the construction trades when they can't work in January.

On the other hand, there are people, some of whom live next door to my law office in Skowhegan, who have been on welfare a good deal longer than thirty-nine months. They are on welfare through no real fault of their own. I'm not sure that they fit the description of having a disabling handicap, but for other reasons, whether they be reasons of intelligence, social upbringing, economic circumstances, they just are not as easily employable as other people. To cut them off at thirty-nine months means that they will be going two doors down from my office to the town hall and knocking on the door of our welfare department in Skowhegan, where they will be served. Whether we take away general assistance benefits or not, the towns and the cities of this State are not going to tolerate regenerating the slums that I grew up with in the forties and fifties on Munjoy Hill and other places. I don't mean that I lived there, but I remember them vividly. We have come a long way since the circumstances that dominated our metropolitan areas in the forties and fifties. I'm not against time limits. I think we need time limits as a stick. I

think the bill that we have just endorsed has a number of extraordinarily well thought out features that will take many thousands of people off the welfare rolls in the next year or two. Through a variety of inducements that you need to read for yourself if you want to fully understand them. I don't want to summarize them at this hour. Both reports that we have had under discussion this afternoon went a great distance toward taking people off welfare with a variety of inducements, carrots if you will, but also some sticks, some goads, some incentives that were negative in nature.

Making use of a welfare cutoff is another negative incentive, perhaps the ultimate incentive, and I'm not opposed to having it used, but if we are going to use that, I would like to see it studied further and I would like to see us address the issue in January or February in a way that will better serve the concerns that I have about how that will be employed. Thank you.

On motion by Senator MILLS of Somerset, Senate Amendment "B" (S-348) to Committee Amendment "A" (S-322) **ADOPTED**.

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 PRO TEM: The pending question before the Senate is **ADOPTION** of Committee Amendment "A" (S-322), as Amended by Senate Amendment "B" (S-348), thereto.

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, BERUBE, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HANLEY, HARRIMAN, KIEFFER, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PINGREE, RAND, RUHLIN, SMALL, and the **PRESIDENT PRO TEM**, Senator AMERO

NAYS: Senators: BEGLEY, BENOIT, BUTLAND, CARPENTER, CASSIDY, HALL, HATHAWAY, PENDEXTER, STEVENS

ABSENT: Senator: PARADIS

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being absent, Committee Amendment "A" (S-322), as Amended by Senate Amendment "B" (S-348), thereto, **ADOPTED**.

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

Signed:

S/S. Peter Mills
Senate Chair

S/Sharon Anglin Treat
House Chair

S.C. 266

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

Which was READ and ORDERED PLACED ON FILE.

COMMUNICATION

THE PRESIDENT PRO TEM: The Joint Standing Committee on JUDICIARY has recommended the nomination of Jon D. Levy of York be confirmed.

The Following Communication:

The pending question before the Senate is: "Shall the recommendation of the Committee on JUDICIARY be overridden?"

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 117th Legislature, the vote will be taken by the Yeas and Nays.

June 28, 1995

A vote of Yes will be in favor of overriding the recommendation of the Committee.

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

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

Dear Mr. President:

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

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 38 of the 117th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Jon D. Levy of York, for appointment as a Maine District Court Judge.

Senator LAWRENCE: Thank you, Madam President, Men and Women of the Senate. Someone once told me that you will define your career in the legislature by the things you miss while you are here and doing what you are doing. One of the things I missed today was the hearing before the Judiciary Committee on a good friend of mine, Jon Levy, who is up for the District Court Judgeship. So, you are going to be forced to listen to the nice things I wanted to say about Jon. I will be very brief for the benefit of the Senator from Cumberland, Senator Abromson. I would like to say that I have known Jon for thirteen years, both as a lawyer and as a close personal friend. He is someone that I admire greatly. My grandmother once told me that we are all born to do something in this world, and if there ever was a person born to be a judge, and someone with judicial temperament, it's Jon Levy. I would ask that you vote no and not overturn the recommendation of the Committee. Thank you.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

YEAS: Sen. 2 Mills of Somerset,
Faircloth of Penobscot
Rep. 8 Treat of Gardiner, Lemke of
Westbrook, Jones of Bar
Harbor, Watson of
Farmingdale, Plowman of
Hampden, Hartnett of
Freeport, Madore of
Augusta, Nass of Acton

NAYS: 0

ABSENT: 3 Sen. Pendexter of
Cumberland, Rep. Richardson
of Portland, Rep.
LaFountain of Biddeford

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Jon D. Levy of York, for appointment as a Maine District Court Judge be confirmed.

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, BEGLEY, BENOIT,
BERUBE, BUSTIN, BUTLAND, CAREY,
CARPENTER, CASSIDY, CIANCHETTE,
CLEVELAND, ESTY, FAIRCLOTH,
FERGUSON, GOLDTHWAIT, HALL,
HANLEY, HARRIMAN, HATHAWAY,

KIEFFER, LAWRENCE, LONGLEY,
LORD, McCORMICK, MICHAUD, MILLS,
O'DEA, PARADIS, PENDEXTER,
PINGREE, RAND, RUHLIN, SMALL,
STEVENS, and the PRESIDENT PRO
TEM, Senator AMERO

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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Jon D. Levy, for appointment as a Maine District Court Judge, was CONFIRMED.

On motion by THE PRESIDENT PRO TEM, RECESSED until 7 o'clock this evening.

The Secretary has informed the Speaker of the House.

After Recess

Senate called to order by the President.

Off Record Remarks

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

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

SECOND READER

ORDER

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

Joint Order

Senate As Amended

On motion by Senator BEGLEY of Lincoln, the following Joint Order:

Bill "An Act to Improve the AFDC Program"
S.P. 548 L.D. 1496
(S "B" S-348 to C
"A" S-322)

ORDERED, the House concurring, that Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) (S.P. 251) (L.D. 648), and all its accompanying papers, be recalled from the Engrossing Department to the Senate.

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

S.P. 601

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

Which was READ and PASSED.

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

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

Senate at Ease

PAPER FROM THE HOUSE

Senate called to order by the President Pro Tem.

Joint Resolution

The following Joint Resolution:

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

JOINT RESOLUTION MEMORIALIZING CONGRESS TO ALLOW ALL STATES EAST OF THE 100TH MERIDIAN TO REGULATE THE EXPORT OF UNPROCESSED LOGS

WHEREAS, We, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President and the members of Congress of the United States as follows:

WHEREAS, billions of board feet of unprocessed logs are exported annually from the United States to other nations; and

WHEREAS, it has been calculated these exports represent a substantial number of jobs lost from the domestic manufacturing economy; and

WHEREAS, unprocessed logs are being exported from Maine and other eastern states and it is projected that the volume of raw wood exports will continue to increase; and

WHEREAS, states west of the 100th meridian are authorized, under the Forest Resources Conservation and Shortage Relief Act of 1990, as amended, to regulate the export of unprocessed logs from state, county or municipal lands; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge the Congress of the United States to authorize states east of the 100th meridian to regulate the export of unprocessed logs from state, county and municipal lands, pursuant to authority provided under the Forest Resources Conservation and Shortage Relief Act of 1990, as amended, which now exists for states west of the 100th meridian; and be it further

RESOLVED: That We, your Memorialists, further urge the Congress of the United States to extend the ban that now exists on exports of unprocessed logs from federal lands west of the 100th meridian to federal lands east of the 100th meridian, also pursuant to authority under the Forest Resources Conservation and Shortage Relief Act of 1990, as amended; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate, the Speaker of the House of Representatives and to each member of the Maine Congressional Delegation.

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

H.P. 1143

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

Which was **READ**.

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

SENATE PAPER

Bill "An Act Regarding Narcotic Dependency"
S.P. 600 L.D. 1585

Presented by Senator **STEVENS, JR.** of Androscoggin (GOVERNOR'S BILL)
Cosponsored by Representative: **DIPIETRO** of South Portland

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

Which was, under suspension of the Rules, **READ ONCE** without reference to a Committee.

Senate at Ease

Senate called to order by the President.

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

ENACTOR

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

An Act to Modify the Licensure Act for Substance Abuse Counselors
H.P. 1008 L.D. 1419
(S "A" S-326 to C "A" H-427)

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

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

PAPER FROM THE HOUSE

Non-concurrent Matter

Resolve, to Allow Jose Gonzales to Bring an Action Against the State

H.P. 1077 L.D. 1519

In House, June 27, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-523).**

In Senate, June 28, 1995, the Minority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body having **INSISTED**.

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

ENACTORS

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

An Act Adopting the Uniform Health-care Decisions Act

H.P. 182 L.D. 230
(C "A" H-605)

An Act to Implement the Recommendations of the People with Disabilities Access Commission

H.P. 837 L.D. 1168
(C "A" H-604)

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

Emergency Resolve

Resolve, to Reduce the Economic Impacts of the Clean Air Act on Maine's Citizens and Businesses

H.P. 459 L.D. 625
(C "A" H-608; S "A" S-351)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senator having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **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 and Unassigned matter:

JOINT ORDER - relative to the extension of the First Regular Session of the 117th Legislature, pursuant to 3 M.R.S.A., Section 2.

S.P. 599

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

Pending - **PASSAGE**.

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

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "A" (S-364) **READ**.

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

Senator **HARRIMAN:** Thank you, Mr. President. Since December 7, when we all raised our right hand and took our oath of office, we have worked long and hard on behalf of the people of the State of Maine. It's now time to go home, to be with our families, to go back to our jobs, to live under the laws that we have passed. It's also time to assure everyone that there is no interest in this legislature to have a state shut down. The pending motion before you gives us time enough to complete our work, to get done before June 30, and go home. It's time. Thank you.

Senate at Ease

Senate called to order by the President.

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "A" (S-364) **ADOPTED**.

THE PRESIDENT: The pending question before the Senate is **PASSAGE** of the Joint Order, as Amended.

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.

24 Senators having voted in the affirmative and No Senator having voted in the negative, the Joint Order was **PASSED**.

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

The Chair laid before the Senate the second Tabled and Later Today Assigned (June 27, 1995) 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 - earlier in the day by Senator KIEFFER of Aroostook.

Pending - the motion by Senator GOLDTHWAIT of Hancock 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, June 22, 1995, Reports READ. Motion to ACCEPT the Minority Report FAILED.)

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

Senator HARRIMAN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would just like to make sure that before we vote on Senate Amendment "A" that we are clear on what it does. First, it allows optometrists to treat glaucoma and other diseases, and to prescribe oral and injectable medications effective October 1, 1996. It will also allow optometrists to treat glaucoma, and other diseases of the eye, and to prescribe medications on October 1, 1996, regardless of the outcome of the glaucoma study panel that is in the amendment. If this passes as is, this issue will not come back before us for enactment. 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. The majority report, Committee Amendment "A", and I would want to assure myself and all of you that the good Senator from Cumberland, Senator Harriman, mentioned that he was speaking on Senate Amendment "A", but I believe he was speaking on Committee Amendment "A", so assuming that, the language in the bill, although I

think it was clear that it required an educational component prior to an optometrist being able to treat glaucoma, there was some confusion about that. There will be an amendment offered to insure that it is clear that that is our intent. So I would urge you to support the majority report and then we can go on to add the clarifying language that will solve that problem. Thank you.

THE PRESIDENT: The pending question before the Senate is 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 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.

14 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator GOLDTHWAIT of Hancock to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) Report, in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-534) READ.

On motion by Senator AMERO of Cumberland, Senate Amendment "C" (S-357) to Committee Amendment "A" (H-534) READ and ADOPTED.

THE PRESIDENT: The pending question before the Senate is ADOPTION of Committee Amendment "A" (H-534), as Amended by Senate Amendment "C" (S-357), thereto, in NON-CONCURRENCE.

Senator BEGLEY of Lincoln requested a Division.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. As I referred to earlier, this is a friendly amendment to the bill that clarifies the fact that optometrists will not be able to begin treating glaucoma until they have received additional educational training as designed by the panel that this bill creates and is authorized by not only the board, but the legislature. I urge your support for the bill as currently amended. 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 want to extend my appreciation to the good Senator from Cumberland, Senator Amero, for all of the work that she has put in on behalf of this bill and in collaboration with me. The Senate Amendment to the Committee Amendment now puts this bill in a framework where we can be assured that as we go forward two things will happen. The study will come back to us that

discusses the issues that are surrounding this bill, and second, we will be presented legislation that can be enacted at another time. I thank the Senator from Cumberland, Senator Amero, very much and am pleased to vote for the Amendment. Thank you.

House Amendment "A" (H-558) to Committee Amendment "A" (H-534) **READ** and **ADOPTED**, in concurrence.

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of Committee Amendment "A" (H-534), as Amended by Senate Amendment "C" (S-357) and House Amendment "A" (H-558), thereto, in **NON-CONCURRENCE**.

A Division has been requested.

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

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

26 Senators having voted in the affirmative and No Senator having voted in the negative, **ADOPTION** of Committee Amendment "A" (H-534), as Amended by Senate Amendment "C" (S-357) and House Amendment "A" (H-558), thereto, in **NON-CONCURRENCE**, **PREVAILED**.

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

(See Action Later Today)

The Chair laid before the Senate the third Tabled and Later Today Assigned (June 27, 1995) matter:

SENATE REPORT from the Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Promote the Health of Maine's Children by Preventing Illegal Tobacco Sales"

S.P. 306 L.D. 845

Report - Ought to Pass as Amended by Committee Amendment "A" (S-339).

Tabled - earlier in the day by Senator KIEFFER of Aroosook.

Pending - **ACCEPTANCE OF THE REPORT**.

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

Which Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-339) **READ**.

On motion by Senator **MICHAUD** of Penobscot, Senate Amendment "B" (S-361) to Committee Amendment "A" (S-339) **READ**.

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. This amendment takes care of some technical corrections in the bill, plus it sets up where half the fines from Administrative Court will be set in a fund established within the Department. This amendment does have the support of the Legal and Veterans Affairs Committee. Thank you.

On motion by Senator **MICHAUD** of Penobscot, Senate Amendment "B" (S-361) to Committee Amendment "A" (S-339) **ADOPTED**.

Committee Amendment "A" (S-339), as Amended by Senate Amendment "B" (S-361), thereto, **ADOPTED**.

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

The Chair laid before the Senate the fourth Tabled and Later Today Assigned (June 27, 1995) matter:

Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters"
H.P. 577 L.D. 782
(S "A" S-325 to C
"A" H-570)

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

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

(In House, June 22, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570)**.)

(In Senate, June 27, 1995, **RECONSIDERED ADOPTION** of Committee Amendment "A" (H-570) as Amended by Senate Amendment "A" (S-325), thereto.)

On motion by Senator **PINGREE** of Knox, Senate Amendment "C" (S-359) to Committee Amendment "A" (H-570) **READ**.

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

Senator **PINGREE:** Thank you, Mr. President, Men and Women of the Senate. I am sure that we have discussed lobsters as much as anyone would want to this session. Just briefly, this is an amendment to the one I presented the other day. It is supported

by the majority members of this Committee and it does some very simple things. The reason it took a couple days to get here is it kind of got caught in all the budget amendments and we just had to wait for it. Basically it deals with some somewhat technical issues about who can get a license. It used to say in the bill that if you held any three fishing licenses in the past, you could qualify for a license, because everyone else has to go through an apprenticeship program. This allows anyone who was fishing in the lobster fishery in the last ten years, and then gone to another fishery, so they have one license, to request a waiver on the part of the Commissioner to see if they do not have to go through the apprenticeship program. We felt that this was fair. It also deals with some of the issues about the boat trap limit, because we have some language in there about how many traps you can have per boat, not just per individual. And, this discusses who is a family member. I think it is a minor change. It is just some words we needed to make sure everybody felt comfortable with it. I hope that you will all support it.

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

Senator **HARRIMAN:** Thank you, Mr. President. Since this bill hit the floor of the Senate it has three times now been attempted to broaden what came out of the Committee. While I have no quarrel with that, that's how the process works, I think before we take a vote on this issue we should clearly understand what this amendment does as further refinement on the bill. Senate Amendment "C", regarding boat trap limits, says that one, a family member must document the number of traps fished to the Commissioner, and two, that the grandfathering of who that family member is expires once that extra family member leaves the boat. Second, Senate Amendment "C" says that the so-called investment that you have made in your lobster profession is only relevant between 1993 and 1995. In regards to who can enter this fishery, Senate Amendment "C" would limit the succession to persons who either held a non-lobster license between 1994 and now, and second, either held a lobster license for one year between 1984 and now. Beyond that, the bill, overall, passes a tremendous amount of regulatory authority over to the Commissioner, with no provisions for public hearing. The Commissioner could decide how and when the licenses would be suspended, what determines a substantial investment, how long the apprenticeship length of time will last, what educational courses will be required, who shall have the ability to write the rules regarding waivers from the program, who would be able to fish more than 1200 traps, shall establish the rules for the tag program, the tag fee, with no public hearing, no advice or consent from the Marine Resources Council. I think this bill, since it has been here, has gone further and further and further into the profession of people who are hard working Maine people, who are trying to feed their families and run their business. I hope you will join me in defeating the pending motion.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President,

Ladies and Gentlemen of the Senate. It is clear to me that you have been enjoying the Jill and Chellie Show, and we have a lot more episodes. Hearings, yes, there will be hearings. The issue of Commissioner authority in this bill is a very significant one for this industry and for this issue. The problem that we have had for the past forty or fifty years in trying to devise a management plan for this fishery has been the complexity of the fishery, and particularly the very traditional nature in which people fish in lots of different ways, depending on where they live on the coast. There are a lot of social inter-relationships between who fishes where and how and who with and all those things. Because of those factors, and because we really did not want to alter the balance of that traditional fishery, we didn't want to change the face of that fishery in any way if we could possibly help it, it seemed that in this instance it made the most sense to delegate that sort of authority to the Commissioner, because the Commissioner would have much greater flexibility to tailor and carefully adapt a plan exactly to the needs of the fishery, rather than us to create a rather inflexible law that shut people out that we didn't want to shut out, let people in that we didn't want to let in. So, although it may seem highly regulatory to you, in fact, I think this is a concept that we probably could use more of in that the Commissioner has the flexibility to adapt her regulations to the actual needs of the fishery, rather than having to go through the whole legislative process every time they want to make a change. The very significant thing about this bill is that it is a bill that allows for self-governance of the fishery. Most of what you see before you in this amendment has been in this bill right along. There has not been a broadening, it has been a refining of some of the issues in that we have not expanded, essentially, from where we started, except that we left a higher trap limit, in fact, to accommodate the needs of some of the fishermen. So, I would urge you to support this amendment, pass this bill so we can get on to the rest of the business which we now have forty-eight hours to complete.

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

Senator **PINGREE:** Thank you, Mr. President. I was hoping that we wouldn't need to debate this bill again, but if we are going to debate it, let's talk about the facts. The fact is, in this bill the Commissioner cannot make any rules without a public hearing, except for the rules established by the fishermen's councils, which we feel gives the power to the very people who ought to have it. She has no new rule making authority and everything requires a public hearing. There is very little in this amendment that wasn't passed already, it's just a re-written form of what we have already seen. I explained to you the two or three minor changes, most of what was just discussed was already in the amendment. It gives her very little new power.

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 "C" (S-359) 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, BERUBE, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, PARADIS, PINGREE, RAND, RUHLIN, SMALL

NAYS: Senators: AMERO, BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, O'DEA, PENDEXTER, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senator: BUSTIN

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator PINGREE of Knox to **ADOPT** Senate Amendment "C" (S-359) to Committee Amendment "A" (H-570), **PREVAILED**.

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

The same Senator moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-325) to Committee Amendment "A" (H-570).

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

Senator **CAREY:** Thank you, Mr. President. If I may, I would like to direct a series of question to someone here. I would like to hear from the proposer of the Indefinite Postponement, what is it that Senate Amendment "A" did?

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. What I have just asked the members of the body to do is Indefinitely Postpone the amendment that we had previously passed, because we just passed an amendment that replaced that amendment. So, because we the majority had voted to go along with the

replacement amendment we didn't need the old amendment because this was replacing the old amendment. So, I thought we shouldn't have two amendments that do the same thing and procedurally it seemed like the right thing to do, and that is what my script said. So, hopefully I have done the right thing and hopefully you will go along with the motion to Indefinitely Postpone.

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

Senator **CAREY:** Thank you, Mr. President. I guess what the Senator from Knox, Senator Pingree, forgot to mention to you along the way when she presented her own amendment, is that she was really putting a limit on the traps and really bringing it down over a seven-year period, as I understand it, from the 1200 down to around 500. Is that correct, as I look at you? It doesn't do that, okay. In any event it destroys completely what we debated the other day. I would ask for a Division.

Senator **CAREY** of Kennebec requested a Division.

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

Senator **PINGREE:** Thank you, Mr. President. I think there is some misunderstanding between my seatmate and I over this. As I read the amendment, it does nothing different on the trap limit then we have voted on three times now to cap trap limits at 1200, set up regional councils where the fishermen will ultimately vote on the number of traps, and grandfather anybody who currently has more than 1200 traps for the next seven years, allowing them sufficient time to build down. So, in terms of the trap limit, the amendment that we just passed does nothing substantially different from the one that I am now trying to remove and the one before that that we discussed in our previous debates.

Senator **HATHAWAY** of York moved to Table until Later in Today's Session, pending the motion by Senator **PINGREE** of Knox that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-325) to Committee Amendment "A" (H-570).

Off Record Remarks

Senator **HATHAWAY** of York requested and received leave of the Senate to withdraw his motion to Table until Later in Today's Session, pending the motion by Senator **PINGREE** of Knox that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-325) to Committee Amendment "A" (H-570).

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

Committee Amendment "A" (H-570), as Amended by Senate Amendment "C" (S-359), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Senate at Ease

Senate called to order by the President.

On motion by **THE PRESIDENT** the Senate **RECONSIDERED** its action whereby Bill "An Act to Amend the Laws Related to Optometry (H.P. 590) (L.D. 800) was **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

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

The Chair laid before the Senate the fifth Tabled and Later Today Assigned (June 27, 1995) matter:

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

House As Amended

Bill "An Act to Protect Constitutional Property Rights and to Provide Just Compensation"
H.P. 867 L.D. 1217
(C "A" H-601)

Which was **READ A SECOND TIME**.

On motion by Senator **LORD** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-601).

On further motion by the same Senator, Senate Amendment "B" (S-363) to Committee Amendment "A" (H-601) **READ**.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. What this does, there is going to be a committee, or a task force, of twenty. On that task force there was five members from the Judiciary Committee, one from the Natural Resources, one from Agriculture. This amendment says that the Judiciary will have three members, the Natural Resources will have two members and the Committee on

Agriculture will have two members. The reason I am putting this in folks is because of the fact that most of the activities that take place in this taking bill are within the realm of those two Committees. You take the Natural Resources, they have shoreland zoning, the Resource Protection Act and development. You take the Committee on Agriculture has farmland and forestry. I think, in view of the fact that so much of this Committee work will be involved in these, they should have some people that are on these committees who know what is going on. Thank you.

On motion by Senator **LORD** of York, Senate Amendment "B" (S-363) to Committee Amendment "A" (H-601) **ADOPTED**.

On motion by Senator **McCORMICK** of Kennebec, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Senate Amendment "B" (S-363) to Committee Amendment "A" (H-601).

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

Senator **McCORMICK:** Thank you, Mr. President. Thank you for that courtesy. I would ask for a Division on this amendment. I don't think it's a good idea. It basically upsets the delicate agreements that have been made over the course of these many months. I would urge you to vote against this amendment.

Senator **McCORMICK** of Kennebec requested a Division.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. As I understand it, this is a simple amendment to adjust the membership on the study committee to include more expertise from the Natural Resources Committee, as well as the Committee on Agriculture and Conservation. Those are two committees that make a lot of the laws that would come into conflict with any potential takings legislation. I think it's appropriate, entirely, that they be adequately represented in the membership on that task force. I don't think it upsets any delicate balance anywhere. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **LORD** of York that the Senate **ADOPT** Senate Amendment "B" (S-363) to Committee Amendment "A" (H-601).

A Division has been requested.

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

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

23 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **LORD** of York to **ADOPT** Senate Amendment "B" (S-363) to Committee Amendment "A" (H-601), **PREVAILED**.

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of Committee Amendment "A" (H-601), as Amended by Senate Amendment "B" (S-363), thereto, in **NON-CONCURRENCE**. The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **McCORMICK:** Thank you, Mr. President. I ask for a Division on this and I just want to briefly say that this takings bill rests on a very flawed premise. If you think that any of the laws we have enacted through the democratic process are broken, then let's fix them. Never mind.

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of Committee Amendment "A" (H-601), as Amended by Senate Amendment "B" (S-363), thereto, in **NON-CONCURRENCE**.

A Division has been requested.

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

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

22 Senators having voted in the affirmative and 2 Senators having voted in the negative, Committee Amendment "A" (H-601), as Amended by Senate Amendment "B" (S-363), 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 Later Today Assigned (June 27, 1995) matter:

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

Senate As Amended

Bill "An Act to Amend the Adoption Laws"
S.P. 515 L.D. 1400
(S "A" S-350)

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

Sent down for concurrence.

Senator **KIEFFER** of Aroostook moved to **SUSPEND THE RULES** to **EXTEND** until 10 o'clock p.m.

THE PRESIDENT: Pursuant to Joint Rule 12, the affirmative vote of two-thirds of the members present and voting is necessary to transact business after 9 o'clock p.m.

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 No Senator having voted in the negative, and 25 being more than two-thirds of the membership present and voting, the Rules were suspended and the following proceedings were conducted after 9 o'clock p.m.

Under suspension of the Rules, all matters thus acted on were ordered sent forthwith.

On motion by Senator **KIEFFER** of Aroostook, **RECESSED** until 9:10 o'clock this evening.

After Recess

Senate called to order by the President.

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

ENACTOR

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

Emergency Mandate

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997

H.P. 516 L.D. 706
(H "A" H-628)

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 just like to

hopefully end this evening on a positive note and let the legislature go home with a sense of renewed respect from the people of our State, having worked in a cooperative, bi-partisan manner. Having voted out of Committee, thirteen nothing, a vote that I haven't seen in many years. I could give you 134 reasons why to vote for this budget, but I won't. I'll just leave it up to you, as a State Senator representing over 35,000 people, to do what is right and to do what is best for the people of our state. I hope you will join us in enacting this budget.

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

Senator RUHLIN: Thank you, Mr. President, Honorable Senators of the State of Maine. I would just say to you tonight, the hour is late, I'm not going to debate the bill again, we debated it last night. I appreciate the efforts. It seems like many times today we would come close to an agreement, some possibility of coming together and having a document. This document tonight before us still contains a poison pill of fiscal irresponsibility. I suggest that this Senate continue to hold its head high for the citizens of the State of Maine and act for fiscal responsibility by voting against this proposed budget. 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 pending question before the Senate is **ENACTMENT**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAYS: Senators: CAREY, CIANCHETTE, CLEVELAND, ESTY, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, MCCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

ABSENT: Senator: BUSTIN

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 19 Members of the Senate, with 15 Senators having voted in the negative, and 1 Senator being absent, and 19 being less than two-thirds of the entire elected Membership of the Senate, **FAILED OF ENACTMENT**.

On motion by Senator **HARRIMAN** of Cumberland, the Senate **RECONSIDERED** its action whereby the Bill **FAILED OF ENACTMENT**.

The same Senator moved to Table, pending **ENACTMENT**.

Senate at Ease

Senate called to order by the President.

On motion by Senator **HARRIMAN** of Cumberland, Tabled, pending **ENACTMENT**.

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 Change the Atlantic Sea Run Salmon Commission"

H.P. 922 L.D. 1298
(C "A" H-607)

In House, June 28, 1995, **PASSED TO BE ENACTED**.

In Senate, June 28, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-607), in NON-CONCURRENCE**.

Comes from the House that Body having **ADHERED**.

Senator **RUHLIN** of Penobscot moved that the Senate **ADHERE**.

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

Senator RUHLIN: Thank you, Mr. President. Earlier today the Senate stripped an amendment off this proposed legislation. There was some confusion between both bodies on what is going on. I believe that this bill is not in a position to be passed and become adequate law for the people of the State of Maine. I would therefore move that we Adhere, which in effect means that the two bodies disagree. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator KIEFFER of Aroostook 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.

21 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator KIEFFER to RECEDE and CONCUR, PREVAILED and the Bill was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Joint Resolution

The following Joint Resolution:

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO RECOGNIZE MERCHANT MARINE VETERANS OF WORLD WAR II WITH FULL VETERAN STATUS

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the members of the Congress of the United States, as follows:

WHEREAS, September 1995 marks the 50th anniversary of the end of World War II, the greatest armed conflict the world has ever known, in which the victory of the Allied united nations made possible the promise of peace, dignity and freedom for all peoples; and

WHEREAS, in that conflict some 250,000 Americans served in the United States Merchant Marine, which carried goods, grain, armaments, food, personnel and materiel to Allied forces in both the Pacific and the Atlantic theaters, in the great ocean convoys President Roosevelt called the "American bridge of ships"; and

WHEREAS, in that conflict 6,835 United States merchant mariners and over 1,800 United States Navy personnel on merchant ships gave their lives for their country, the highest casualty rate of any United States service in World War II; and

WHEREAS, in that conflict over 600 United States merchant mariners were incarcerated in Axis POW camps, suffering a casualty rate of over 10%; and

WHEREAS, in that conflict Mainers built and launched almost 270 Liberty ships at the Todd-Bath East and West Yards in South Portland, Maine and sent thousands of officers and enlisted personnel into the United States Merchant Marine, continuing the proud Maine tradition of "those that go down to the sea in ships"; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to provide that certain service of members of the United States Merchant Marine during World War II constitutes active military service as proposed in bipartisan bills S-254 and H-44, now before the 104th Congress, as just and due recognition of the United States merchant mariners' selflessness, sacrifice and service to their country and the Allied cause; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35) H.P. 1145

Comes from the House READ and ADOPTED.

Which was READ.

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

COMMITTEE REPORT

House

Ought to Pass As Amended

The Committee on HUMAN RESOURCES on Bill "An Act to Ensure the Continuation of Current Hospice Services"

H.P. 712 L.D. 969

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-649).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-649) AS AMENDED BY HOUSE AMENDMENT "A" (H-652), thereto.

Which Report was READ and ACCEPTED, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-649) **READ**.

House Amendment "A" (H-652) to Committee Amendment "A" (H-649) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-649) as Amended by House Amendment "A" (H-652), thereto, **ADOPTED**, in concurrence.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted on were ordered sent forthwith.

Senate at Ease

Senate called to order by the President.

ENACTOR

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

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$14,000,000 for Grants to Cities and Towns for the Proper Capping of Their Solid Waste Landfills, for Small Community Water Pollution Control Facilities and for the Removal of State-owned Underground Storage Tanks

S.P. 147 L.D. 333
(H "A" H-635 to C
"A" S-306)

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:

RECALLED FROM THE ENGRESSING DEPARTMENT

(Pursuant to Joint Order S.P. 601)

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)
S.P. 251 L.D. 648
(H "A" H-638 to C
"A" S-332)

(In House, June 27, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-332) AS AMENDED BY HOUSE AMENDMENT "A" (H-638)**, thereto, in **NON-CONCURRENCE**.)

(In Senate, June 28, 1995, **RECEDED and CONCURRED**.)

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

SECOND READER

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

Senate As Amended

Bill "An Act to Promote the Health of Maine's Children by Preventing Illegal Tobacco Sales"

S.P. 306 L.D. 845
(S "B" S-361 to C
"A" S-339)

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

On motion by Senator BEGLEY of Lincoln, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-332), as Amended by House Amendment "A" (H-638), thereto.

On further motion by the same Senator Senate Amendment "A" (S-362) to Committee "A" (S-332) **READ** and **ADOPTED**.

Committee Amendment "A" (S-332), as Amended by Senate Amendment "A" (S-362) and House Amendment "A" (H-638), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

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

Off Record Remarks

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

On motion by Senator **ABROMSON** of Cumberland, **ADJOURNED** until Thursday, June 29, 1995, at 9 o'clock in the morning.