

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives

January 3, 1996 to April 3, 1996

Senate

January 3, 1996 to March 13, 1996

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

In Senate Chamber
Wednesday
March 13, 1996

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

Prayer by the Reverend Steven Zarecki, United Methodist Churches of Wilton and North Jay.

REVEREND STEVEN ZARECKI: Let us be in the spirit of prayer. Oh God, maker of all things, from whose creative power the very first light came forth, who looked upon the world's first morning and saw that it was good, we pause in these moments to praise and thank You for the light that now streams through these windows to illuminate these Senate Chambers. We praise and thank You for the life which stirs within each of us, for this beautiful State in which we live and labor, for its mountains and valleys, its rivers, streams and lakes, its fields and meadows, its rocky cliffs and sandy beaches which touch the majestic sea. We praise and thank You for the work which You have given us to do today, for friends and colleagues gathered here, for those whom we represent and serve. As we set our faces, once more, toward our daily work, we pray for strength sufficient for our tasks. May the spirit of duty and service ennoble all we do. Uphold us by the consciousness that our work is useful work that may be a blessing to all. May there be nothing in this day's work of which we shall be ashamed when the sun has set. Oh light that never fades, as the light of this day streams through these windows and illuminates this room, so let us open to You the windows of our hearts, that all our deliberations and actions, yes, all of our lives, may be filled by the radiance of Your presence. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

JOINT ORDER - relative to directing the Revisor of Statutes to prepare, "Joint Resolution Memorializing Congress and the Department of Energy to Make Full Use of the Rate Funds That Have Already Been Collected to Store and Monitor High-level Nuclear Waste".

H.P. 1332

In House, March 6, 1996, **READ** and **PASSED**.

In Senate, March 7, 1996, **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

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

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

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

Senator **LAWRENCE** of York moved to **TABLE UNTIL LATER IN TODAY'S SESSION**, pending **FURTHER CONSIDERATION**.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **LAWRENCE** of York to **TABLE UNTIL LATER IN TODAY'S SESSION**, pending **FURTHER CONSIDERATION**.

A vote of Yes will be in favor of **TABLING UNTIL LATER IN TODAY'S SESSION**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **BERUBE, CIANCHETTE, CLEVELAND, LAWRENCE, LONGLEY, MICHAUD, O'DEA, PARADIS, RAND, RUHLIN**

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

ABSENT: Senators: **BUSTIN, CAREY, ESTY, FAIRCLOTH, HARRIMAN, MCCORMICK, MILLS, PINGREE**

10 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 8 Senators being absent, the motion of Senator **LAWRENCE** of York to **TABLE UNTIL LATER IN TODAY'S SESSION**, pending **FURTHER CONSIDERATION**, **FAILED**.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **LAWRENCE** of York that the Senate **RECEDE** and **CONCUR**.

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.

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

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

Off Record Remarks

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

Off Record Remarks

COMMUNICATIONS

The Following Communication:

FINANCE AUTHORITY OF MAINE
83 WESTERN AVENUE
P.O. BOX 949
AUGUSTA, MAINE 04332-0949

March 11, 1996

The Honorable Jeffrey H. Butland
President

Maine State Senate
3 State House Station
Augusta, ME 04333
Dear President Butland:

On behalf of the Finance Authority of Maine, I am pleased to enclose for your perusal and consideration a copy of the Authority's recently completed report on the Electric Rate Stabilization Program.

At your convenience, I hope you will take time to review this report and the recommendations contained within. As always, your thoughts, comments and suggestions will be welcomed and appreciated.

Sincerely,
S/Timothy P. Agnew
Chief Executive Officer
S.C. 516

Which was READ and, with Accompanying Report, referred to the Committee on UTILITIES AND ENERGY.

The Following Communication:

**ASSISTED LIVING TASK FORCE
STATE OF MAINE
OFFICE OF STATE FIRE MARSHAL
18 MEADOW ROAD
52 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0052**

March 11, 1996

The Honorable Jeffrey H. Butland
President, Maine Senate
The Honorable Dan A. Gwadosky
Speaker of the House

Dear President Butland and Speaker Gwadosky:
Pursuant to Public Law 1995, chapter 362, I am pleased to submit the report of the Assisted Living Task Force which relates to legislation which I forwarded to you under cover of my letter of February 13, 1996.

Sincerely,
S/Stephen B. Dodge, Chair
Assisted Living Task Force

S.C. 517

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

The Following Communication:

117TH MAINE LEGISLATURE

March 12, 1996

Senator Philip E. Harriman
Representative G. Steven Rowe
Chairpersons
Joint Standing Committee on
Business and Economic Development
117th Legislature
Augusta, Maine 04333

Dear Senator Harriman and Representative Rowe:

Please be advised that Governor Angus S. King, Jr. has nominated the following:

Donald J. Plourde of Winslow for appointment as a member of the Maine State Housing Authority, pursuant to Title 30A MRSA, Section 4723, and David J. Ott of Cumberland for appointment as a member of the Finance Authority of Maine, pursuant to Title 10 MRSA, Section 965.

These nominations will require review by the Joint Standing Committee on Business and Economic Development and confirmation by the Senate.

Sincerely,
S/Jeffrey H. Butland
President of the Senate
S/Dan A. Gwadosky
Speaker of the House
S.P. 742

Which was READ and referred to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT.
Sent down for concurrence.

The Following Communication:

117TH MAINE LEGISLATURE

March 12, 1996

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

Dear Senator Mills and Representative Treat:

Please be advised that Governor Angus S. King, Jr. has nominated James Varner of Old Town for appointment as a member of the Maine Human Rights Commission.

Pursuant to Title 5 MRSA, Section 4561, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/Jeffrey H. Butland
President of the Senate
S/Dan A. Gwadosky
Speaker of the House
S.P. 743

Which was READ and referred to the Committee on JUDICIARY.

Sent down for concurrence.

SENATE PAPERS

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,500,000 for Major Improvements at State Park and Historic Site Facilities and for the Public Access to Maine Waters Fund and the Land for Maine's Future Fund"

S.P. 740 L.D. 1848

Presented by Senator CASSIDY of Washington (GOVERNOR'S BILL) Cosponsored by Senators: LORD of York, PARADIS of Aroostook, Representatives: DEXTER of Kingfield, HEESCHEN of Wilton, KERR of Old Orchard Beach, MARTIN of Eagle Lake, POULIOT of Lewiston, STROUT of Corinth

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$26,500,000 to Investigate, Abate, Clean up and Mitigate Hazardous Substance Discharges, to Clean Up Tire Stockpiles, to Construct Water Pollution Control Facilities, to Close and Clean Up Municipal Solid Waste Landfills and to Address Environmental Health Deficiencies in Drinking Water Supplies"

S.P. 741 L.D. 1849

Presented by Senator MICHAUD of Penobscot (GOVERNOR'S BILL) Cosponsored by Senator: LORD of York, Representatives: DEXTER of Kingfield, GOULD of Greenville

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

Which were referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Amend the Freedom of Access Laws to Include Policy-influencing and Fact-finding Advisory Boards and Commissions in the Definition of Public Proceedings"

S.P. 739 L.D. 1847

Presented by Senator **BUTLAND** of Cumberland
Cosponsored by Representative **MITCHELL** of
Vassalboro and Senators: **BENOIT** of Franklin,
MILLS of Somerset, **PENDEXTER** of Cumberland,
Representative: **FITZPATRICK** of Durham
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on **JUDICIARY** suggested
and **ORDERED PRINTED**.
Which was referred to the Committee on **JUDICIARY**
and **ORDERED PRINTED**.
Sent down for concurrence.

COMMITTEE REPORTS
House

Ought to Pass

The Committee on **MARINE RESOURCES** on Bill "An Act
to Distribute the Assets of the Maine Sardine Council
to Council Members upon Dissolution of the Council by
the Legislature"

H.P. 1346 L.D. 1841

Reported that the same **Ought to Pass** pursuant to
Joint Order H.P. 1300.
Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED**.
Which Report was **READ** and **ACCEPTED**, in
concurrence.
The Bill **READ ONCE**.
The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **STATE AND LOCAL GOVERNMENT** on
Resolve, for Laying the County Taxes and Authorizing
Expenditures of Piscataquis County for the Year 1996
(Emergency)

H.P. 1345 L.D. 1840

Reported that the same **Ought to Pass** pursuant to
Joint Order H.P. 1290.
Comes from the House with the Report **READ** and
ACCEPTED and the Resolve **PASSED TO BE ENGROSSED**.
Which Report was **READ** and **ACCEPTED**, in
concurrence.
The Resolve **READ ONCE**.
The Resolve **TOMORROW ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL**
AFFAIRS on Bill "An Act to Improve and Expand the
Functions of the Department of Audit"

H.P. 1292 L.D. 1774

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (H-745)**.
Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-745).
Which Report was **READ**.
On motion by Senator **KIEFFER** of Aroostook, Tabled
1 Legislative Day, pending **ACCEPTANCE** of the Report.

The Committee on **HUMAN RESOURCES** on Bill "An Act
to Exempt Certain Small Businesses from Paying the
Annual Fee to the Public Drinking Water Fund"

H.P. 99 L.D. 134

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (H-746)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-746).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-746) **READ** and **ADOPTED**,
in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to
Amend the Protection from Abuse and Protection from
Harassment Statutes"

H.P. 1279 L.D. 1758

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (H-751)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-751).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-751) **READ** and **ADOPTED**,
in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act
to Create the Motor Carrier Training Advisory Board"

H.P. 1299 L.D. 1782

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (H-748)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-748).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-748) **READ** and **ADOPTED**,
in concurrence.

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

The Committee on **UTILITIES AND ENERGY** on Bill "An
Act to Amend the Charter of the East Boothbay Water
District" (Emergency)

H.P. 1181 L.D. 1620

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (H-750)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-750) AS AMENDED
BY HOUSE AMENDMENT "A" (H-760), thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-750) **READ**.

House Amendment "A" (H-760) to Committee
Amendment "A" (H-750) **READ** and **ADOPTED**, in
concurrence.

Committee Amendment "A" (H-750) as amended by
House Amendment "A" (H-760) thereto, **ADOPTED**, in
concurrence.

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

**Senate
Ought to Pass**

Senator ESTY, JR. for the Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Authorize the Maine Photographic Workshops to Grant Degrees"

S.P. 682 L.D. 1747

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

Senator MCCORMICK for the Committee on BANKING AND INSURANCE on Bill "An Act to Clarify and Amend Provisions of the Workers' Compensation Act Relating to Workers' Compensation Self-insurance"

S.P. 688 L.D. 1757

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-468).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-468) READ and ADOPTED.

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

Off Record Remarks

ENACTOR

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

An Act to Amend the Law Regarding the Lease of Submerged Lands

H.P. 993 L.D. 1404
(C "A" H-728)

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

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

On motion by Senator BUSTIN of Kennebec, RECESSED until 10:30 o'clock this morning.

After Recess

Senate called to order by the President.

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

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

**PAPERS FROM THE HOUSE
House Papers**

Bill "An Act to Clarify the Retirement Status of Certain Employees of the Child Development Services System" (Emergency)

H.P. 1349 L.D. 1850

Reference to the Committee on LABOR suggested and ORDERED PRINTED.

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

Which was referred to the Committee on LABOR, in concurrence.

**Pursuant to Resolve
TASK FORCE ON NATUROPATHY**

The TASK FORCE ON NATUROPATHY, pursuant to Resolve 1995, chapter 49, section 8 asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Establish the Board of Complementary Health Care Providers and to Regulate the Practice of Naturopathic Medicine"

H.P. 1351 L.D. 1852

Be referred to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT for Public Hearing and printed.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT and ORDERED PRINTED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT, in concurrence.

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:

Emergency

An Act to Amend the Laws Regarding the Revolving Loan Fund for Wastewater Facilities

H.P. 1221 L.D. 1671
(C "A" H-733)

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

Emergency

An Act to Amend the Liquor Licensing Laws

H.P. 1267 L.D. 1742

(S "A" S-447 to C "A" H-726)

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

Emergency

An Act to Provide for the 1996 and 1997 Allocations of the State Ceiling on Private Activity Bonds

H.P. 1317 L.D. 1801

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senator having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Atlantic Salmon Authority

H.P. 1338 L.D. 1832
(S "A" S-466)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senator having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

ORDERS OF THE DAY

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

HOUSE REPORTS from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies"

H.P. 976 L.D. 1385

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-707) (8 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-708) (3 members)

Tabled - March 12, 1996 by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT** (In House, March 7, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-707).**)

(In Senate, March 11, 1996, Reports **READ.**)

On motion by Senator **ABROMSON** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-707)** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE.**

Committee Amendment "A" (H-707) **READ.**

On motion by Senator **ABROMSON** of Cumberland, Senate Amendment "A" (S-469) to Committee Amendment "A" (H-707) **READ.**

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

Senator **ABROMSON:** Thank you, Mr. President. I am proposing the amendment to correct Committee Amendment "A", in order to clarify that the annual women's health exam, allowed by this bill, can be done by a Certified Nurse Practitioner or a Certified Nurse Midwife. This amendment will assure that providers in two of Maine's important health care resources, rural health centers and family planning centers, can provide these services under the bill. Just to be clear, this amendment does not require insurance companies to add all Certified Nurse Practitioners or Certified Nurse Midwives to their list of participating providers. As with physicians, this amendment is only for nurse practitioners and nurse midwives participating in the plan, that can perform these exams covered by the bill. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-469) to Committee Amendment "A" (H-707) **ADOPTED.**

Committee Amendment "A" (H-707), as Amended by Senate Amendment "A" (S-469), thereto, **ADOPTED**, in **NON-CONCURRENCE.**

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

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

HOUSE REPORTS from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Allow Charitable Solicitation by Law Enforcement Officers, Agencies and Associations"

H.P. 478 L.D. 659

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-732) (8 members)

Minority - Ought to Not to Pass (5 members)

Tabled - March 12, 1996 by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT** (In House, March 7, 1996, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, March 11, 1996, Reports **READ.**)

Senator **HALL** of Piscataquis moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE.**

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. I'll be voting against the motion, and I want to share with you some of the reasons for that. First of all, the majority report intends to strike from the books a law that has been in existence in the State of Maine, in one form or another, since 1977. The present form of the law was enacted in 1991. At the public hearing on this measure before the Criminal Justice Committee, the Maine Chiefs of Police Association appeared and strongly opposed getting rid of this statute. To be of further assistance, the statute is two sentences right now. It is a prohibition that a person may not solicit from the general public any monies, or any property, that will, in any way, benefit the law enforcement community directly, say at the station for a piece of equipment, or any member of the family of a law enforcement officer. The second sentence says that any violation of the chapter constitutes a violation of the Maine Unfair Trade Practices Act. This is the only law in the country like this. Coming back from Dover, New Hampshire, last weekend, I saw that big sign in Kittery that says, "Maine, the

way life should be." I look at this statute as being just a little bit of a part of that way that life should be. This statute should continue on the books and yet the majority report would strike it.

I would suggest to you, when you look at this bill, you will find two sections. From those two sections you will notice that this majority report is fraught with indecision. The first section intends to repeal the language I have just read. Get rid of it. But, the second section says to have it come back into effect on March 1, 1998. So, I'm going to suggest to you that the majority report is fraught with indecision. On the one hand, get rid of the statute; but, just in case some indiscretion should happen with that law gone, never mind, don't worry about it, it's coming back to life again in less than two years, March 1 of 1998. I'm going to suggest to you the majority is fraught with indecision. If they were clear-cut in favor of getting rid of this statute, you wouldn't find section two as part of the report.

I want to share with you that at the public hearing before the Criminal Justice Committee, the Maine Chiefs of Police Association appeared. I have their letter here, opposed to getting rid of this law. That's a sizable chunk of our law enforcement community. The Maine Chiefs of Police Association opposed, very strongly, getting rid of the measure that the majority wants to terminate. More over, the Maine Attorney General's Office appeared at our public hearing and concluded "the Department of the Attorney General strongly supports the continued existence of this statute." The United States Supreme Court has upheld this law twice. The majority report is asking us to get rid of a law that has been on the books, in one form or another, since 1977, upheld by the District Court in Portland twice, the Circuit Court of Appeals in Boston twice, and the United States Supreme Court twice. I want to share with you something that in my experience, when I was on the court, I had occasion to go to Chicago on a judicial ethics forum. We sat around the table one day with a leading authority in the country on judicial ethics, tossing things out to this professor of Northwestern University Law School. I tossed out something. I said, "Professor, I belong to Ducks Unlimited. As a judge, can I collect money for ducks?" The professor said, "No way. You're a judge. You can't collect money for ducks." I said, "Okay, how about this one. I belong to the Elks Club in Farmington. We raise money for the crippled children in Strong, at the Crippled Children's Home, children twisted and bent. We raise money for those children. How about that professor? Can I raise money for crippled children?" He said, "No way." I got angry about that, in a professional sense. It bothered me and I got to thinking about it a lot. You know something? I can live with it. It makes sense; because when a judge puts on a robe, a judge puts on authority. When a law enforcement officer puts on a uniform, a law enforcement officer puts on authority. When they come to our door, looking for money that is going to benefit them directly, it's going to be hard to say no. There goes a little bit of that life that Maine is noted for, the way life should be. Our citizens don't need this. We need this law.

The Attorney General points out the owner of a garage who is subject to licensing as an inspection station, the operator of a business which relies on

police protection, the person who drives long distance on the road, all may feel a silent pressure to give. Take the highest minded reason for an officer to be at your house soliciting. The highest minded reason in the world. Remember the crippled children that I can't solicit for? Take a high minded reason to be there. The officer is professional, no problem at all. You have a good reason, too, for saying no; and you say no. Your neighbor says yes. You think, knowing your neighbor said yes, does your neighbor have a leg up with the police in comparison to you? Our citizens don't need this. We need this law. So, having shared that with you, a situation where a major portion of our law enforcement wants the law to continue, and I might suggest to you that the only people in our law enforcement community advancing this law at the public hearing before Criminal Justice were the State Police. The Maine Chiefs of Police Association, covering a lot of officers, they want the law to remain. I say, respectfully, to the majority report, why is there indecision? What do they say about the Attorney General's Office? They are under this law. They are law enforcement. They like the law. I'll be voting against the majority report for these reasons. Thank you.

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

Senator **HALL:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. It is quite rare to see the Senator from Franklin and the Senator from Piscataquis on opposite sides. I think this is the third time. I think it is healthy. There are differences of opinion. Number one, I would like to start where the Senator from Franklin left off. He seems to imply that it was wrong for law enforcement officers to solicit. I'm afraid he left that impression with you. Either way you vote today, the law enforcement community will be allowed to solicit. That's not the issue. I tried to persuade the good Senator that if that was his issue, then he should have an amendment to this bill eliminating solicitation altogether. They can now; and they will after today, regardless of what we do, be allowed to solicit. Let me just share with you, the good Senator said he was upset at one time because he could not solicit for crippled children. Presently, law enforcement officers in this State may. Some of the good that is being done: Maine State Troopers Association, for example, since August 17, 1994, to February 4, 1996, the State Police Association has donated, given away, \$164,466. I have a four page list here of all the different organizations and places that they have given this money to. I think that's great. That's obviously the largest of any law enforcement association in the state. That will continue. What they are asking is this. They asked about it in a funny way. I think the bill is poorly constructed and very misleading; but what they are asking is if one of their officers, or one of their families, or one of the deputy sheriffs or his family, or local police department official, or whatever, they could help your family if they wanted to, if you fell upon hard times. They have helped many individual families around the state with funeral expenses and so on, but they can't help their own. That's what they want to be able to do with this. I wish that it had been written differently, if that is what they had in mind. Yes, they did put a sunset on it, a two-year sunset. In case there is

some misconception of abuse, then it would be reviewed in two years. I have no problem with that. We sunset an awful lot of things for that very reason around here. Why not? I do see an opportunity, though, to actually make this a better law. One of the problems that all organizations, I feel, have had with solicitation is telemarketing. I don't care for that, especially if a concern is hired to do it for them. They stretch the truth. They badger people into donating. They intimidate them. I would like to eliminate that. I'm sure what the reaction would be in this body, I have not drafted an amendment. I will not let this bill pass the way it is if it's the desire of this body. I guarantee you that there will be an amendment placed on it when it comes back; and it will say this, telemarketing for all law enforcement agencies will be prohibited. I would leave the sunset in, that seems to be fine. I would only allow the change in the present statute to allow the association to spend some money to the benefit of an employee or their family. I don't agree that we need to be replacing police cars, or anything else, through public solicitation. We are paying taxes for that. I would leave that in place, that no benefit would go to the agency, or the association. I don't like the idea of having our police officers be considered a second class citizen in this State. With this, I think this is what it does. If you are solicited by a law enforcement agency, unless you should ask about the present statute on the books, your impression may be that it may benefit them directly. It doesn't. I know any time that they have solicited me, I haven't asked. I assumed that they will spend this money, or give it away to a worthy cause. They all have boards of directors, voting directors, it has to be approved. I see nothing wrong with this; and, obviously, the majority of the committee felt the same way. For those reasons I wish you would consider and vote to pass the majority report. Thank you.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I rise today because I was involved in this legislation when it was passed several years ago, when I chaired the Legal Affairs Committee and it came to us before. While I understand the points made by the good Senator from Piscataquis, the problem comes that we have this law in this form and we did the same thing that is sought to be done today. We opened it up a little. The law enforcement officers' memorial that is out there by the parking lot, that was one of the openings we made in the law. The Supreme Court came in and said either all or nothing. Either you do it in absolute restriction or you have no restrictions. If you open it up a little, they strike it down as unconstitutional. That's what happened. It went to the Supreme Court. We lost. It came back to the Legislature and we returned it to an all or nothing condition. I trust virtually every police officer in this State to solicit appropriately. The problem is not the intent of the police officer. The problem is what goes on in the mind of the person being solicited. It's the public perception out there. If I have a set of malls in my community, and the police officers go out and solicit contributions from those malls, I get calls from other business people in my community saying that they are getting better treatment from the law enforcement officers because

they contributed, the malls have contributed. It doesn't have to be for the benefit of a police cruiser, or something like that, it can be for a good purpose, to go to an injured officers family or something like that. There is still that perception out there in the public. Whenever you have a power, like the power to make decisions, like a judge, or the power to arrest, which is a very strong power, the people who have that power have certain burdens, as do we in this body, to see that we handle it in an appropriate manner. Not only that we handle it in an appropriate manner, but that we are perceived of being beyond reproach. I hope you will defeat this motion and vote ought not to pass. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I cannot improve on the eloquent testimony of the Senator from Franklin, Senator Benoit; but I wanted to add two brief points. The first is that in the situation of fire fighters, many of our fire departments are largely volunteer run. We have gotten into the habit of feeling there ought to be community volunteer financial support for that department. I think, in many cases, that is unfortunate, to see volunteers having to solicit private funds to obtain mandated safety equipment. I think it would also be difficult to put our police departments in the position where a municipality might decide that rather than taking that painful course of raising taxes to adequately fund a police department, the police can just go out and solicit money for the light bars for their cruisers or for any piece of equipment that they want. So, I think there is that hidden detraction in this proposal. The other issue is that of solicitation for families of police officers in need. If you have ever had the sad occasion of attending a funeral for a police officer, there is no doubt that the public support for our law enforcement community is intensely strong. I do not know of a community in Maine who would not rise to the occasion and voluntarily provide every bit of support needed for those families in time of need, without having to put officers in the awkward position of going out and soliciting money. I urge you to defeat the pending motion. Thank you.

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. One thing I like about this job, I really love the fact that we can argue issues like this. The people's business can never be personal to any of us, so that is why I enjoy the work here, and did enjoy the good Senator from Piscataquis, Senator Hall's remarks. Of course he and I are on the Criminal Justice Committee together and I have enjoyed working with him. I have enjoyed his remarks today and I do want to respond, briefly, to them. He is right in saying that law enforcement will be able to solicit, but they won't be able to solicit for themselves. There is a difference there. I, frankly, feel that the solicitation rights they have are wrong today. We don't have a law against them; but I think the feeling in our community, and in our citizens, is that that is wrong. Two wrongs do not make a right. Do not abolish this law because this law indicates that solicitation for their purposes, either directly or indirectly benefitted, should not take place.

Senator Lawrence of York echoes the remarks of the Attorney General at the public hearing. Do not tinker with this statute. If you do, quite likely, the court will cast it out. That was told to us in no uncertain terms from the lawyers that we have in the Attorney General's office, who have been in the trenches in the courts on this measure. Don't tinker with it. As Senator Lawrence indicates, it is all or nothing. That's what the colloquy was at the court concerning the measure. Two final points, I don't want to make our police second class citizens, as Senator Hall points out. Neither do I want to see our citizens as second class by taking this law off the books. If we take the law off the books, I take it from his argument, that makes the police first class and is going to make our citizens second class. I'm not for that.

I want to close by noting something that I guess Senator Hall has touched upon, and Senator Lawrence. The Attorney General told us this in the public hearing, he said in the original debate of the act in 1977, legislators made clear that the concern with police solicitation was not that police officers would act improperly. Our police departments in this State are filled with dedicated, hard-working, and honest law enforcement professionals. The concern with solicitations, rather, is that requests for money by police officers, or on their behalf, is inherently coercive; and there's the rub. Thank you.

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

Senator O'DEA: Thank you, Mr. President, Men and Women of the Senate. I am pleased to be on the majority report of this bill. When this bill was heard in Committee, I, too, listened to some very compelling testimony from a number of people, not the least of whom were the representatives from the Chiefs of Police Association, not the least of whom were from the Attorney General's office. As I looked at the existing law, I became concerned about the existing, what I believe to be, unfair restrictions on how money may be spent. We heard some examples in committee about some of these restrictions and how they were being interpreted, and how it was truly some of our public employees, and some of our community law enforcement people who were being negatively impacted by this. I guess I am less concerned about what the dynamics are about how the money is raised, than I am about whether or not it is appropriate to have an unfair restriction about how money may be spent. That interpretation is one that is in place now and I think it is dubious at best. If we are concerned about public officials soliciting money, then we should deal with that issue across the board. If a law enforcement officer went out and raised money that benefitted them directly, that would certainly be a problem. I can think of about 186 people, sworn people, people who have taken an oath to uphold the State Constitution, who will go out and solicit millions of dollars this year. One hundred and eighty six Democrats, 186 Republicans, a handful of Independents. These public officials, either elected, or people seeking to be elected, who, in the next session of the legislature, will be holding power, will be doing the same thing. We always say we put ourselves above that and take our responsibilities seriously; and I believe that our public law enforcement people also take their responsibilities and obligations seriously; and they take their oath seriously, the same way we do. I

think it is inappropriate to have this restriction that prohibits, in one case, the daughter of a police officer, who was the valedictorian of her class, from receiving a scholarship that was partially funded by a local PBA-type organization. So, I would ask you to support the majority report and help eliminate this unfair restriction. Thank you.

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

Senator HALL: Thank you, Mr. President. I will be very brief. A couple of points I would like to make, final points. I also do not want to take this off the book. My intent is to amend it and leave it on the book, not to eliminate it and open it up freely. The A.G.'s office has been mentioned several times. They are the largest law firm in the State of Maine, but I'm not so sure that they have the best batting average.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. In regard to the remarks of the good Senator from Penobscot, Senator O'Dea. We are not talking about people who are running for the police department. We are talking about people who are serving there. I would like to note, for the Record, that the Senate Independent Caucus has a policy of once elected, not soliciting funds for any purpose because of my elected office. Thank you.

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

Senator MILLS: Thank you, Mr. President, Men and Women of the Senate. Many of us, I suspect, have friends in Massachusetts. When they come up here to visit with us for the summer, do you ever notice on the driver's side window, quite frequently, a small decal, Police Benevolent Association. Perhaps on the rear bumper a sticker that says, "Troopers are your best friend." I have always wondered what these people from Massachusetts were seeking to gain by carrying such a thing on the windshield or the back of the car. I think it smells. I really feel that we should defeat the pending motion. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **HALL** of Piscataquis that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-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: CIANCHETTE, HALL, HANLEY, KIEFFER, LORD, MICHAUD, O'DEA, PARADIS, SMALL

NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CASSIDY, CLEVELAND, ESTY, FERGUSON, GOLDTHWAIT, HATHAWAY, LAWRENCE, LONGLEY, MILLS, PENDEXTER, PINGREE, RAND, RUHLIN, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: FAIRCLOTH, HARRIMAN, MCCORMICK

9 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 3 Senators being absent, the motion of Senator HALL of Piscataquis to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in NON-CONCURRENCE, FAILED.

The Minority OUGHT NOT TO PASS Report ACCEPTED, in concurrence.

Senator PINGREE of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator BUSTIN of Kennebec was granted unanimous consent to address the Senate off the Record.

On motion by Senator PINGREE of Knox, ADJOURNED until Thursday, March 14, 1996, at 9:00 o'clock in the morning.