

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 14, 1996 to April 3, 1996

SECOND CONFIRMATION SESSION

August 1, 1996

SECOND SPECIAL SESSION

House of Representatives

September 5, 1996 to September 7, 1996

Senate

September 5, 1996 to September 7, 1996

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

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

In Senate Chamber
Friday
March 22, 1996

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

Prayer by the Honorable John J. Cleveland of Androscoggin.

SENATOR CLEVELAND: Good morning. Thank you for the opportunity to lead you, today, in a moment of meditation and prayer as we begin our work. As we begin our day let us be thankful for the wonderful day the Lord has given us again today. Let us also be thankful for each other, that we have the opportunity to share it with each other for one more day. Let us also be mindful that in our roles as State Senators, that they are only temporary and that we are here to serve the peoples' will, and one day we will be back again as ordinary citizens, without the cloak of senatorship. Let us be mindful of that, that we not forget our families, and our children, and our careers, and our other community responsibilities which really fill our lives for the rest of our years, and that our service here is only at the option and privilege of the people who send us here. Lord, let us pray that this session ends early and quickly, so that we may get back to those families and careers that we have. Thank you.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Improve the Hancock County Budget Procedure"

S.P. 685 L.D. 1754

In Senate, March 21, 1996, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-492)**, in **NON-CONCURRENCE**.

Senator **AMERO** of Cumberland moved that the Senate **ADHERE**.

Senator **RUHLIN** of Penobscot moved that the Senate **RECEDE** and **CONCUR**.

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

Senator **RUHLIN:** Thank you, Mr. President, Honorable Senators of Maine. I am just going to give you a short history on how this particular proposal came about. After that I think you may very well find that this is in the best interest of the State, and Hancock County in particular, to vote to Recede and Concur. What happened, three or four years ago, the Hancock County delegation acceded to, and requested that the Legislature, which it did do somewhat, remove it from the County budget process. Things went along alright until the previous fall when the new budget was brought in, calling for a 20%

increase in the taxes of the people of Hancock County, for property taxes. An informational meeting, and that is important, an informational meeting, called by the Commissioners, was set; and the day that they set for that meeting was the exact same day that we already knew that we had to be here in Augusta for a Special Session. They were called and asked to change the date. The Legislative Delegation, of which we all are a part of, was told that that could not be done. Arrangements could not be made for the legislative delegation that had to fulfill their responsibilities by being here. Consequently, this bill was put in, and it allows for the Chair of the Hancock County Legislative Delegation to call a meeting where upon the Commissioners will present their budget to the Legislative Delegation. Now, do not be confused. I think the hearing that I heard, before the Committee, was confused. This does not allow the Hancock County Legislative Delegation to overrule the Commissioners. This does not give them veto powers. All it says is that the Commissioners will have to present their budget to the Delegation so that those members of the Delegation, like myself, who have eighteen communities in Hancock County, can fulfill my responsibility by understanding what is in that budget, having had it presented to me, so that when my communities call me up; and I have to say, "Well, I just got a copy in the mail yesterday," and this was the day after, by the way, the meeting we alluded to earlier, was supposed to be held. "I don't have that information for you, but I will do my very best and dig it up." This particular minority report, that says we want to at least give some oversight where it belongs, that the Constitution allows for, to return that oversight to the Hancock County Delegation. By the way, there are eight members of the Hancock County Delegation. Six have either spoken in favor or have voted in favor, at one point or another, of this proposal. It has overwhelming support within the Delegation.

Historically, the Legislature has always paid highest attention to the wishes of a Legislative Delegation in this type of a matter. I would ask you to take that into consideration this morning. The other thing that I have been hearing is that we are really not changing much. It can be done now through the informational process. I say to you, use your good common sense. You will notice that this does have a fiscal note. That fiscal note is for the cost of budgets, where it mandates that those budgets will be made available to legislative delegates. If there is no change, then I ask ahead of time, why is there a fiscal note on it? Please keep these matters in mind when you vote this morning. When we do vote, I would ask for a Division. Thank you.

Senator **RUHLIN** of Penobscot 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. I, unfortunately, have to respectfully disagree with my colleague, the good Senator from Penobscot, and say that I hope that you will defeat this motion so that we can Adhere to our previous position, which is the Majority Ought Not to Pass Report. It is true, as the good Senator described, that there has been some stormy moments in the relationship between the delegation and the County Commissioners. I am well aware of that because I have been a member of the

Budget Advisory Committee in Hancock County since its inception, most recently as the Legislative Liaison to that committee. However, there have been some changes at the county level. I think that communication is improving there, and my feeling is that this is an untimely piece of legislation. Six months ago I probably would have voted for this, and any other legislation up to, and including, summary execution of the County Commissioners. However, I think things have improved sufficiently in Hancock County, that rather than upset the rather fragile peace that we have established, I would like to assume that this will continue to work its way out. The main point in this bill is to change the convening of the meeting, the responsibility for convening that meeting, from the County Commissioners to the Legislative Delegation. That seems a rather fine point to address in state law. So, I would urge you to defeat the pending motion. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President. This Senator from Hancock will withdraw his request for a Division and request a Roll Call.

Senator **RUHLIN** of Penobscot requested a Roll Call.

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

Senator **AMERO:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. The State and Local Government Committee heard this bill and took lots of testimony, in fact over an hour or so of testimony, on a bill that I think really is unnecessary, because the Hancock County budget presently requires that it be presented to the Legislative Delegation. Passing a law which merely changes that requirement to mandate that the Chair of the Legislative Delegation is the person who has to set the date of that meeting seems to me a misuse of legislation. The parties have worked it out at home. I think that things are on a much better keel in Hancock County right now. The County Commissioners are the elected people in that county, and they have said that they plan to comply with the law as it presently exists, which requires them to provide the budget and a budget meeting for the Legislative Delegation to hear what is happening in their Hancock County budget. So, for all of those reasons, I would urge that you vote yes to Adhere to our prior position on this bill.

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

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

Senator **RUHLIN:** Thank you, Mr. President. I just want to briefly point out to the good Senators of the State of Maine that we do, in other counties, for their legislative delegations, give the authority of the chair of the legislative delegation, to call the budget meeting. You did that very recently with the Penobscot County budget. You have done it with the Cumberland budget. You have done it with all of them. I think the Hancock County is thoroughly deserving of parity. 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. County budgets are something that I know a little about. I served for twenty-six years as a County Commissioner in Oxford County, which I have said many times. In

regards to the good Senator from Penobscot, the statement that he said, "the chairman of a legislative delegation to call the budget committee", that is not correct. I know at least in one county we are not involved in any manner whatsoever. It works very good in our particular county. For instance, I was looking at the amendment, and the amendment states that the Hancock County Commissioners must call two or more public meetings and any interested citizen, including legislators, are welcome to attend those meetings. It seems to me that we have enough to do here in Augusta without interfering in county budgets. I must remind the body that County Commissioners are elected like we are; and they are accountable to the people; and if they are not doing their job, they certainly are going to be recalled by the people. So, I would urge you to vote against the pending motion. Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senators: **ESTY, FAIRCLOTH, HALL, LAWRENCE, LONGLEY, McCORMICK, PINGREE**

Senator **FERGUSON** of Oxford requested and received Leave of the Senate to change his vote from **YEA** to **NAY**.

Senator **BUSTIN** of Kennebec requested and received Leave of the Senate to change her vote from **YEA** to **NAY**.

9 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 7 Senators being absent, the motion of Senator **RUHLIN** of Penobscot to **RECEDE** and **CONCUR**, **FAILED**.

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

Senator **RUHLIN:** Thank you, Mr. President. I would question the count.

Senate at Ease

Senate called to order by the President.

On motion by Senator **AMERO** of Cumberland, the Senate **ADHERED**.

Sent down for concurrence.

(See Action Later Today)

COMMUNICATIONS

The Following Communication:

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 21, 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 Resolves 1993, chapter 72, I am pleased
to submit the final report by the Commission to Study
Biotechnology and Genetic Engineering.

Sincerely,
S/Beverly Daggett, Chair
Commission to Study Biotechnology
and Genetic Engineering

S.C. 534

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

The Following Communication:

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

March 21, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

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

L.D. 688 An Act to Authorize a General Fund
Bond Issue in the Amount of
\$5,000,000 to Provide Funding for the
Public Access to Maine Waters Fund

L.D. 1575 An Act to Authorize a General Fund
Bond Issue in the Amount of
\$3,000,000 to Encourage Agricultural
Enterprises in Maine

L.D. 1664 RESOLUTION, Proposing an Amendment to
the Constitution of Maine to Prohibit
the Use of Funds Raised for Bond
Issues for Any Other Purpose

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

Sincerely,

S/Sen. Dana C. Hanley
Senate Chair

S/Rep. George J. Kerr
House Chair
S.C. 535

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

The Following Communication:

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

March 21, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to
notify you that the Joint Standing Committee on
Business and Economic Development has voted

unanimously to report the following bill out "Ought
Not to Pass":

L.D. 1746 An Act to Encourage High-quality
Maine Jobs through a 21st-century
Maine Program

We have also notified the sponsor and cosponsors of
the Committee's action.

Sincerely,

S/Sen. Philip Harriman
Senate Chair

S/Rep. G. Steven Rowe
House Chair
S.C. 536

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

The Following Communication:

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS

March 21, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

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

L.D. 1827 An Act to Seek Congressional Term
Limits

Sincerely,

S/Sen. Norman K. Ferguson, Jr.
Senate Chair

S/Rep. Harry G. True
House Chair
S.C. 537

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

The Following Communication:

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION

March 21, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to
notify you that the Joint Standing Committee on
Transportation has voted unanimously to report the
following bill out "Ought Not to Pass":

L.D. 1836 An Act Requiring Qualified
Investigation of Certain
Truck-related and Bus-related
Fatalities

We have also notified the sponsor and cosponsors of
the Committee's action.

Sincerely,

S/Sen. Albert G. Stevens, Jr.
Senate Chair

S/Rep. Donald A. Strout
House Chair
S.C. 538

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

COMMITTEE REPORTS

**House
Ought to Pass As Amended**

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Implement the Recommendations of the Maine Task Force on Interstate Banking and Branching"

H.P. 1272 L.D. 1750

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-812)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-812)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-812) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **MARINE RESOURCES** on Bill "An Act to Establish a Sea Urchin Management Plan" (Emergency)

H.P. 1252 L.D. 1714

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-816)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-816)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-816) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Standardize the Creation of Water Districts"

H.P. 1288 L.D. 1768

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-811)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-811)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-811) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Amend and Further Deregulate the Maine Consumer Credit Code"

H.P. 1239 L.D. 1699

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-805)**.

Signed:

Senators:

ABROMSON of Cumberland
MCCORMICK of Kennebec
SMALL of Sagadahoc

Representatives:

VIGUE of Winslow
GATES of Rockport
SAXL of Portland
MAYO, III of Bath
JONES, JR. of Pittsfield
CAMPBELL of Holden
GUERRETTE of Pittston
LUMBRA of Bangor
THOMPSON of Naples

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

Signed:

Representative:

CHASE of China

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-805)**.

Which Reports were **READ**.

The Majority **UGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-805) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts (Emergency)

H.P. 1316 L.D. 1800

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-794)**.

Signed:

Senator:

SMALL of Sagadahoc

Representatives:

AULT of Wayne
CLOUTIER of South Portland
BARTH, JR. of Bethel
DESMOND of Mapleton
STEVENS of Orono
WINN of Glenburn
MARTIN of Eagle Lake

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

Signed:

Senators:

ESTY, JR. of Cumberland
ABROMSON of Cumberland

Representatives:

LIBBY of Buxton
MCELROY of Unity
BRENNAN of Portland

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-794)**.

Which Reports were **READ**.

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

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Amend the Tax Laws Regarding Retail Business Registration and Penalty Relief to Taxpayers with Extensions"

H.P. 1251 L.D. 1713

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-798)**.

Signed:

Senators:

FERGUSON, JR. of Oxford
CAREY of Kennebec

Representatives:

REED of Falmouth
TRIPP of Topsham
TUTTLE, JR. of Sanford
KEANE of Old Town
BARTH, JR. of Bethel
MURPHY of Berwick
GREEN of Monmouth
POIRIER of Saco
DORE of Auburn

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

Signed:

Senator:

HATHAWAY of York

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-798)**.

Which Reports were **READ**.

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

Senate

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$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

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-499)**.

Signed:

Senator:

BERUBE of Androscoggin

Representatives:

KERR of Old Orchard Beach
SIMONEAU of Thomaston
DONNELLY of Presque Isle
MORRISON of Bangor
TOWNSEND of Portland
POULIOT of Lewiston
DIPIETRO of South Portland
JOSEPH of Waterville

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

Signed:

Senators:

HANLEY of Oxford
BEGLEY of Lincoln

Representatives:

OTT of York
AIKMAN of Poland

Which Reports were **READ**.

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

SECOND READERS

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

House As Amended

Bill "An Act to Amend the Charter of the Boothbay Harbor Water District"

H.P. 1194 L.D. 1638
(C "A" H-795)

Bill "An Act to Allow the Removal from Public Office of Certain Elected County Officials" (Emergency)

H.P. 1240 L.D. 1700
(C "A" H-803)

Bill "An Act to Develop the Maine Public Health Improvement Plan"

H.P. 1253 L.D. 1722
(C "A" H-800)

Bill "An Act to Enable the Loring Development Authority to Establish the Loring Job Increment Financing Fund and to Impose Term Limits on Trustees of the Authority"

H.P. 1266 L.D. 1741
(C "A" H-799)

Resolve, to Require the Department of Agriculture, Food and Rural Resources to Take Various Actions in Support of the Dairy Industry (Emergency)

H.P. 1296 L.D. 1778
(C "A" H-801)

Bill "An Act Strengthening the Laws That Prohibit the Drugging of Animals Competing in Pulling Events and Livestock Exhibitions"

H.P. 1322 L.D. 1809
(C "A" H-802)

Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in Certain Real Estate and Personal Property Held by Various State Agencies at 6 Locations

H.P. 1329 L.D. 1821
(C "A" H-806)

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

Bill "An Act to Establish a Higher Education Tax Credit for Middle-class Families"

H.P. 1171 L.D. 1603
(C "B" H-772)

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

Sent down for concurrence.

Senate

Resolve, to Extend the Reporting Deadline of the Export Financing Services Study Group (Emergency)

S.P. 752 L.D. 1865

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Clarify and Improve the Governor's Authority to Ban Out-of-door Fires and Restrict Human Activity during Periods of High Fire Danger"

S.P. 665 L.D. 1725
(C "A" S-504)

Bill "An Act Concerning Technical Changes to the Tax Laws" (Emergency)

S.P. 697 L.D. 1771
(S "A" S-498 to C "A" S-494)

Bill "An Act to Implement Performance Budgeting in State Government" (Emergency)

S.P. 700 L.D. 1790
(C "A" S-502)

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

Sent down for concurrence.

ENACTORS

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

An Act to Identify New Federal Mandates

H.P. 1028 L.D. 1443
(C "A" H-775)

An Act to Enhance Used Oil Recycling Capabilities

H.P. 1178 L.D. 1610
(C "A" H-777)

An Act to Require the Department of Human Services to Provide Notice and Hearing in Cases Involving Denial of the Application of the Charity Care Guidelines

S.P. 638 L.D. 1673
(C "A" S-482)

An Act to Clarify and Amend Provisions of the Workers' Compensation Act Relating to Workers' Compensation Self-insurance

S.P. 688 L.D. 1757
(C "A" S-468)

An Act to Amend the Charter of the Somerset Woods Trustees in Order to Qualify the Charter as a Charitable Corporation under Internal Revenue Service Rules

S.P. 706 L.D. 1805

An Act Relating to Solid Waste Management

S.P. 720 L.D. 1824
(C "A" S-481)

An Act to Amend the Laws Relating to Regulation of Wetlands

S.P. 730 L.D. 1834
(C "A" S-483)

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 Improve and Expand the Functions of the Department of Audit

H.P. 1292 L.D. 1774
(C "A" H-745)

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

An Act to Exempt Farms from the Sales Tax on Electricity

H.P. 1293 L.D. 1775
(C "A" H-766)

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

An Act Relating to Payment of Tri-state Lotto Prizes

H.P. 1304 L.D. 1785
(C "A" H-773)

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

Emergency

An Act to Increase the Penalties for Certain Crimes Involving Alcohol and Illegal Drugs

S.P. 323 L.D. 904
(C "A" S-477)

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

Emergency

An Act to Repeal and Replace the Charter of Bowdoin College

S.P. 658 L.D. 1718
(C "A" S-480)

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 Laws Concerning Commercial Whitewater Rafting

S.P. 719 L.D. 1820
(C "A" S-486)

Comes from the House having **FAILED OF ENACTMENT**.
On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **ENACTMENT**.

Emergency

An Act to Implement the Recommendations of the Productivity Realization Task Force and to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for Fiscal Years Ending June 30, 1996 and June 30, 1997

H.P. 1363 L.D. 1873

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

Senator BUSTIN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. We had delayed this bill for enactment until today because I have an amendment that I was going to present. It is in your books. It's to take out all of the Bath Children's Home language. We have not resolved, between the two departments, what should be done with that. I continue to believe that we are making a very grave policy error in this bill, but I am going to bow to the time constraints that we have under the Productivity Task Force, and I am going to let this go through with the understanding that I am going to be able to address the issue in the supplemental budget. Thank you.

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with 2 Senators 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.

Mandate

An Act to Create a Process for Identifying New Owners for Dams or Releasing Current Owners from Water Level Maintenance Obligations

S.P. 249 L.D. 646
(C "A" S-484)

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

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

Off Record Remarks

Senator **BUSTIN** of Kennebec 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.

On motion by Senator **BUSTIN** of Kennebec, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

COMMITTEE REPORT
Senate
Ought to Pass

Senator **ABROMSON** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Authorize Casco Bay College to Grant Degrees"

S.P. 758 L.D. 1870

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

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

The Bill **READ ONCE**.

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

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Place Limited Rules on the Use of Personal Watercraft on Waters of the State"

H.P. 1365 L.D. 1874

In House, March 21, 1996, referred to the Committee on **INLAND FISHERIES AND WILDLIFE**.

In Senate, March 21, 1996, Bill and Accompanying Papers **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. 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 Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator **O'DEA:** Thank you, Mr. President, Men and Women of the Senate. I would ask you to please support the motion to Recede and Concur. This is a dramatic turn around from my position yesterday. I haven't even had an opportunity to speak to my colleague from Piscataquis, Senator Hall, about this. I have since received a couple of phone calls from people who have interest in the field of outdoor recreation, notably interests that are affected by jet skis. There is a substantial amount of concern about doing something this year about the jet ski problem. I understand that the hour is late, and I also understand that there are some concerns about not having adequate time for notification of all the interested parties. However, I think that there may be a mechanism that is appropriate for notifying the 350 or so people who have weighed in in the discussion during the time that the advisory committee was dealing with the issue. I would just ask that we allow the bill in, and allow the Committee to have an opportunity to discuss it. 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. I dare say that no one has had as many phone calls, since yesterday, on this issue as I have. After talking with everyone from the Governor to SAM to the industry and concerned citizens, I have yet had anyone that I talked to that did not agree that the fair thing to do was to wait until January, when both sides could come here, present their case and then we would decide which way to go. Nothing has changed since yesterday, except we have lost one more day. I will urge you to vote to Indefinitely Postpone this. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I, too, have a hotbed of personal watercraft resistance in my district. But, I also have one of the largest dealers in that equipment in the State of Maine. I am sure that the many people who contacted me regarding this issue through the course of last summer, the fall, and the winter, will be very happy to see this acted upon very quickly. But, as the good Senator just testified, out of fairness to the people on the other side of that issue, there is absolutely no way that this bill can be appropriately noticed, heard and worked in the remaining time that we have left in this session. As much as I would like to see this bill acted upon immediately, I would urge that you vote to wait until next year. Thank you.

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

Senator **CLEVELAND:** Thank you, Mr. President, Men and Women of the Senate. I have received no calls on

this at all. We barely allow our citizens to use our lakes and streams in my district at all, to keep them pristine; but, having said that, I believe I am going to have to vote with the Independent Caucus on this issue; because I do think that we ought to provide an opportunity for individuals to be reasonably notified, reasonably be able to have input, reasonably be able to participate in the crafting of the laws which affect the people of this State. Do I think it's an issue? Do I think it needs to be addressed? Do I think there is a problem? Yes. Do I think the course of the State of Maine is going to change between now and January of 1997 if we don't do this? No. Therefore, I will be voting to Indefinitely Postpone. Thank you.

THE PRESIDENT: The Chair would remind the body that the pending motion before the Senate is the motion of the Senator from York to Recede and Concur. The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator O'DEA: Thank you, Mr. President, Men and Women of the Senate. I would just ask that we give the bill to the Committee to allow the Committee to take up the issue of whether or not there is anything appropriate for them to do at this time. The jet ski situation in the State has been growing exponentially; and contrary to the claims of some, some of the people who are asking for some involvement on the part of the State, are people in the industry who are afraid of an overreaction by the State. I would just ask people to think about allowing the Committee to have the bill, so that they can see if there might be something that they can do, and maybe prevent a disastrous season this year. Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Dookeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: BERUBE, BUSTIN, ESTY, LAWRENCE, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

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

ABSENT: Senator: FAIRCLOTH

11 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator LAWRENCE of York to RECEDE and CONCUR, FAILED.

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

The following Joint Resolution:
JOINT RESOLUTION MEMORIALIZING THE SECRETARY OF THE NAVY TO RETAIN THE SEARCH AND RESCUE TEAM HELICOPTERS PRESENTLY STATIONED AT THE BRUNSWICK NAVAL AIR STATION

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Secretary of the Navy, as follows:

WHEREAS, the United States Navy has proposed to remove the Search and Rescue Team from the Brunswick Naval Air Station in a cost-cutting move; and

WHEREAS, this 2-helicopter Search and Rescue Team is the only unit of its kind for the 7,200 miles of Maine coastline and for the northern New England seaboard, and the next nearest unit is based on Cape Cod, Massachusetts; and

WHEREAS, the Search and Rescue Team is considered one of the most effective means in the State for saving lives and has responded in the last 10 years to more than 100 emergency calls for both civilians and United States Navy personnel; and

WHEREAS, recently, volunteers among a variety of private and public groups raised \$16,000 to outfit one of the helicopters with a special night searchlight, creating a unique partnership between the citizens of the State of Maine and the United States Navy; and

WHEREAS, the loss of this team puts the lives of Maine citizens and the personnel of the United States Navy stationed in Maine at risk, as the survival time in the waters of the Gulf of Maine is limited; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Secretary of the Navy to reconsider the plan to cut costs at the risk of human life and to keep the Search and Rescue Team in place; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Secretary of the Navy and to each Member of the Maine Congressional Delegation.

H.P. 1367

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

Which was **READ** and **ADOPTED**, in concurrence.

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Implement the Recommendations of the Task Force on Tax Increment Financing"

H.P. 1313 L.D. 1797

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-808).

Signed:

Senators:

FERGUSON, JR. of Oxford

CAREY of Kennebec

Representatives:

REED of Falmouth

TRIPP of Topsham

TUTTLE, JR. of Sanford

KEANE of Old Town

BARTH, JR. of Bethel

MURPHY of Berwick

GREEN of Monmouth

POIRIER of Saco

DORE of Auburn

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

Signed:

Senator:

HATHAWAY of York

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-808)**.

Which Reports were **READ**.

On motion by Senator **CAREY** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-808) **READ** and **ADOPTED**, in concurrence.

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

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

SECOND READERS

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

House As Amended

Bill "An Act to Amend and Further Deregulate the Maine Consumer Credit Code"

H.P. 1239 L.D. 1699
(C "A" H-805)

Bill "An Act to Establish a Sea Urchin Management Plan" (Emergency)

H.P. 1252 L.D. 1714
(C "A" H-816)

Bill "An Act to Implement the Recommendations of the Maine Task Force on Interstate Banking and Branching"

H.P. 1272 L.D. 1750
(C "A" H-812)

Bill "An Act to Standardize the Creation of Water Districts"

H.P. 1288 L.D. 1768
(C "A" H-811)

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

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts (Emergency)

H.P. 1316 L.D. 1800

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-794)** (8 members)

Minority - **Ought Not to Pass** (5 members)

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

Pending - **ACCEPTANCE** of Either Report.

(In House, March 21, 1996, the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-794)**.)

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

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

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

Senator **SMALL:** Thank you, Mr. President, Men and Women of the Senate. This bill that we have before us originally came in as an emergency bill to do a number of things. My concern was that, although there was a stated intent in the bill, I thought it might be a two-fold intent. It had a lot of language

in it that talked about this private school that is up in Bangor in a way that, I thought, gave, or attempted to give, an endorsement for the school by the State of Maine. Then their other intent was to protect the name of the school, which was the Maine School for the Arts and the Maine High School for the Arts. They wanted protection under statute so that a state entity couldn't come along and use the same name. I offered an amendment that stripped out the language that I considered the most troublesome, which was all the language that spoke about what the school's purpose was and how well the school had been doing. We took that language out and basically left the only language that is in there, which is that the Legislature intends that no other organization may operate or incorporate using a name that is the same as, or deceptively similar to, the Maine School for the Arts or the Maine High School for the Arts unless, or until, the corporate name is no longer protected under the Maine Revised Statute Title 13B. All this says is, although they would be protected from another private entity from taking their name now, because they are registered with the Secretary of State, they are not, nor would any other entity in the State be, protected if the State wanted to come along and create a school and use that same name. The magnet school that we will be discussing later on, in Portland, has a different name, in agreement with this concern, so that really is not the issue. I just felt compelled, where I did offer an amendment to strip down the bill so that I felt it was no longer serving a dual purpose, that I would go along with the amended version. Thank you.

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

Senator **ESTY:** Thank you, Mr. President, Men and Women of the Maine Senate. The good Senator from Sagadahoc is absolutely right, that the resolve does simply say what she has said. Let me also tell you what the resolve does is already in statute. The reason that I, and other members of the Committee, opposed this legislation was simply because, as our analyst said, and as it reads, it is not necessary. This legislation is already part of our statutes. The protection that this resolve seeks has already been provided by registering with the Secretary of State. The other issue regarding the name concerns with the magnet school is a moot point, simply because in the magnet school legislation we have already identified a name for that magnet school. That issue has been resolved. At the point at which this was originally introduced there were still some questions. The name of the Maine School for the Arts and the Maine High School for the Arts, which presently exists in Bangor now, is a protected name. Everything that I have heard and understood about that school is that it is a school of quality. No one disputes that. All that the minority report says is, simply, should we be spending state money restating what we have already said in statute? I would urge you not to support this, and I would ask for a Division. Thank you.

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

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. There is one clarification that I don't seem to understand. I thought I heard the good Senator from Sagadahoc, Senator Small, say that although the name is protected through the

Secretary of State, that private people can't use this, that, in fact, the State, or we, as a legislature, or legislatures down the road, could take that name or change that name. I think that is the issue. I don't see how this is going to do anything but give those folks in Bangor some protection. For that reason, I will support the majority report.

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

Senator **ESTY:** I would be happy to address that issue. In fact, as we all know, an upcoming legislature can change the kinds of things that we have done in this legislature, or in any other previous legislature. This resolve gives no more protection than presently exists. If what Senator Cassidy, the good Senator from Washington County, had said was accurate, then there may be reason to support this; but, once again, as we all know, it does not give any entity any additional legal protection. Thank you.

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

A Division has been requested.

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

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

11 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator **SMALL** of Sagadahoc to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Amend the Tax Laws Regarding Retail Business Registration and Penalty Relief to Taxpayers with Extensions"

H.P. 1251 L.D. 1713

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-798)** (11 members)

Minority - **Ought Not to Pass** (1 member)

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

Pending - **ACCEPTANCE** of Either Report.

(In House, March 21, 1996, the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-798)**.)

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

On motion by Senator **CAREY** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-798) **READ** and **ADOPTED**, in concurrence.

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

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

An Act to Amend the Laws Concerning Commercial Whitewater Rafting (Emergency)

S.P. 719 L.D. 1820
(C "A" S-486)

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

Pending - **ENACTMENT**.

(In House, March 21, 1996, **FAILED OF ENACTMENT**.)

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

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED, AS AMENDED**.

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

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-486).

On further motion by the same Senator, Senate Amendment "A" (S-508) to Committee Amendment "A" (S-486) **READ**.

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

Senator **HALL:** Thank you, Mr. President, Ladies and Gentlemen. This amendment simply removes the emergency from the L.D. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-508) to Committee Amendment "A" (S-486) **ADOPTED**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "C" (S-510) to Committee Amendment "A" (S-486) **READ**.

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

Senator **MILLS:** Mr. President, Men and Women of the Senate. This business about whitewater rafting has, no doubt, come to your attention through numerous circulars that have landed on your desk. It's a matter that first appeared in this building about a month ago when, at the request of one member of the rafting community up in Somerset, Piscataquis, and Penobscot counties, there was a request to enlarge the capacity of any one member of the community to take people down the river. It bears some rather technical explanation. Most of you have heard all of this in caucus so I won't try to go back into the background; but suffice it to say that the Kennebec River has a limit, a statutorily imposed limit, of only 800 people per day on Saturdays who can go down the river. On the West Branch of the Penobscot there is a limit of 560. These limits were imposed in order to control an industry which got started back around 1976, and, at the beginning, it was a free-for-all, as it might well have been because there were only a few people doing these trips. As they grew in number, and grew in profitability, this Legislature, in its wisdom, developed a Task Force which produced a lengthy report in 1983, a copy of which I have. It is about one hundred pages long. Many, many people served on that Task Force at that time. The Task Force took into account, and anticipated the future growth of this rather interesting industry and recommended certain rules and constraints be placed on those participating in the industry. As a product of that effort, it has been the law of this State since then that there are limits, limits to the number of trips that can be controlled by any one individual. The

present status of things is that there are approximately fifteen people, individuals, mostly sole proprietors, who do business in the form of a corporation to be sure; but we are talking about fifteen business people, who have allocations on these two rivers, and who have the right granted by law, as administered by the Department of Inland Fisheries, to let people go down the river. They can advertise their services. It is a tightly controlled situation, very much like a radio station, or a public utility, or a cable station. We, as a legislature, have, in large measure, participated in creating the very significant value that is now associated with the privileges that these people have. The right to take somebody down the river, either river, in the middle of the summer, is a very valuable thing. It's valuable because it's scarce. We have made it scarce because we have recognized that the pleasure of going down these rivers would be devastated if we just let all comers come and the place got over crowded and it became a free-for-all. So, we have limited the number of people who go down these rivers for the best of reasons. It has made each one of those little franchises very valuable, very significant; and the industry has grown and has produced something to replace some of the job losses in the county that I am concerned about, and is a wonderful thing in general terms.

About a month ago one of the larger companies, one of the individuals who has a full eighty-member allocation, came to the Legislature and asked if we could relax what they call the affiliation rules, and permit him to own two sets of affiliations, so that he can control, instead of eighty, which is the current maximum, up to 160 trips on any given day. There were some very good presentations made in support of the proposal down in front of I.F. and W. Several people on the Committee, and several of us who have followed these proceedings, have been very concerned about changing the rules without adequate study, without looking at the industry more carefully, and without involving a greater cross section of people in the process by which we make these changes. What has emerged from Committee is a recommendation that an individual may be allowed to double the size of his holdings and go from eighty people a day, up to 160 people a day. Even without the benefit of learning results, most of us can do the math. If there is only 560 total positions available on the Penobscot River, that means that if one person can really control 160, that means there are only going to be a few people controlling access to that river. It's less constrained on the Kennebec; because we allow up to 800 people a day to go down; and no one person, under current rule, can control more than eighty seats. When the bill finally got out of Committee and hit the floor, there was tremendous nervousness among the other people who could very well have participated in this process, and did to some extent, and some of these other rafting companies did take exception and came down to testify. But, when the bill was finally printed in final form, and Committee Amendment "A" came out, twelve of the fifteen rafters signed a petition, many of them came down here; because they were deeply concerned about the impact of this legislation. There has been editorial resistance; and there has been, I would say, a high level of controversy about the measure that we have under consideration. I

think there are merits to both sides of the argument. I think that this little industry needs to be examined with great care at this juncture during the coming season. I think that it has been a long time since 1983 when the study was first completed, but I also think that the study done in 1983 anticipated much of the very kind of growth that we have seen on these two river systems. My own sense is that it is going to be very difficult to give two or three or four individuals the right to run 160 people a day down the river, then go out and study the situation with some care, examine the issue of whether these river systems ought to be carrying even more people than the aggregate, looking at the affiliation rules and re-examining all of this; and then say, at the end of that process, "Oh, by the way, we think that any one individual who controls 160 is controlling too many. We want you to put the cookie back in the jar and drop down to something like 120 per day." I just think that if we let this thing go, and double the allocations that are permitted to be controlled by any one individual, we have taken a dramatic step on short notice, in a fashion that has greatly irritated twelve of the fifteen participants in this industry; and we are biting off more than we should chew here at the end of this short session of the Legislature. My own thinking is that a more moderate approach, let several of the bigger companies, who are anxious to expand, grow by fifty percent. That's the thrust of my proposed amendment. Let them grow from eighty people a day up to 120 people per day. It would give us a chance to go look at these river systems this summer. I am very willing to devote some of my time to doing this, and see whether we might be in a mood to further amend the system in the long session of the Legislature in 1997. I offer the amendment as a compromise that we make everyone involved in this industry a little bit angry, for that reason it may well be a good compromise, but at least it will answer the question that has been posed rather forcefully to the I.F. and W. Committee about whether we favor letting certain entrepreneurs who have demonstrated success in this industry go about expanding their collateral services that they are willing to offer, and have the benefit of that success. That was the sort of free enterprise argument that was made in front of the I.F. and W., and it is a valid argument. The problem is that these rivers are not free enterprise rivers. They are highly controlled little utilities, and we have helped to create that value that they have because of the constraints that we have put on the river systems. The situation is such that when you go down the river in one of these rafts you are pretty much alone. You have some illusion that you are out in the woods without anybody else around you. You don't have a raft immediately behind you or another one immediately ahead of you. The system is so controlled that it really is a nice wilderness experience; and we have made these trips very, very valuable. I think when we interfere with the process, when we dive into this little system, and begin tinkering with it in the waning days of the short session of the Legislature, that we are, perhaps, doing more than we recognize and that there may well be unintended consequences out there.

There is one final point. I think that if we pass this measure in an amended form, and give a half loaf instead of a whole loaf to those who are seeking

this relief, that it will have the impact up the river of communicating to these dissident rafters that at least they had some impact on this process, the process that goes on down here in this building. I am concerned, a little bit, about the perception of this legislation, and the fact that what is happening at the moment is a request by, in essence, a single individual for some special consideration to be granted by the 186 of us who sit in judgement and represent the people of Maine. Although I doubt the allegations are justified, I will say to you that if we pass the bill unamended, there is a concern on my part that there will be a public perception that we handed out something rather special to one or two individuals, and that we did so in response to a fairly narrow set of interests. I don't think that's appropriate for us, as a legislature, to project. I think that if we wind up doing that, we may wind up doing that after we study the situation this summer and fall; and if we do so with all parties engaged, in some sort of informal task force or what have you, and we do it during the long session of the Legislature in 1997, then there will be a much smoother appearance of due process and of consideration. Under the circumstances under which this bill has been put through the Council, heard rather rapidly, and I will concede that it has been given a public hearing, but nevertheless, it has been done in a rush and it makes a very dramatic change to a system that has been in place now for thirteen years and has very, very well served, not only those engaged in the industry, but those who live in towns like Caratunk, and the Forks, who are directly, and indirectly, dependent on the money that is generated by these fine people who come from Massachusetts and Connecticut to enjoy our river systems. Thank you.

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

Senator LORD: Thank you, Mr. President. I would like to pose a question to the good Senator from Somerset. The fellow that has the eighty person allotment, it reminds me of tobacco allotments out in the west and the way they play around with them, the way your amendment is, he is really selling off half of his allotments. What is going to happen to the other half?

THE PRESIDENT: The Senator from York, Senator Lord, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator MILLS: Thank you, Mr. President, Men and Women of the Senate. If somebody who already has eighty seats goes out and tries to purchase another company who has eighty, tries to swallow another company equally the size of himself, he really can't do it. He can buy forty of them under my amendment. The remaining forty would go back to the Inland Fisheries and Wildlife Bureau for redistribution under their allocation formula, which controls how these things are distributed. It would be picked up by people who have demonstrated some ability to qualify for them under the allocation system that we maintain. By way of background, every five years I.F. and W. shuffles and redeals the deck of cards that we have given them to deal. They just went through this process in the fall of 1995, so peoples' allocations on the rivers are now set. If a large company folded, somebody could buy forty of the seats directly; but under my amendment, they would have to shed themselves of the remainder. Now, as a

practical matter, the financial transaction that is under consideration, and that has motivated the generation of this bill, does not involve a full purchase, or the affiliation of another company that has the full number of eighty seats anyway. I think it's 68 seats on one river and some other number on the other. What the impact would be, if you passed this amendment, is that the overall status of the river would be that you would not have anybody controlling more than 120; and the spinoffs, if there are any, would go to the benefit of the smaller rafters. Thank you.

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

Senator HALL: Thank you, Mr. President, Ladies and Gentlemen. This is not a new idea. This was presented to the Committee on Inland Fisheries and Wildlife. It was discussed thoroughly and was rejected totally by the committee, one hundred percent. This is basically the reason why, yes, this is a somewhat regulated industry on the top end. You would have to know the history to fully understand the whitewater rafting industry. You would have had to have been there from the beginning. I was. I have been involved in whitewater rafting since the day the first raft went down the river, in one form or another. I have been there to break up the arguments and the fights when they were waving chainsaws at each other up at the cribwork at Rip Dam. So, I have a little knowledge of this industry. It has come a long way. There was jealousy on day one. There is jealousy today. We should not be passing legislation to control jealousy among companies. The bottom line of this is this industry has to be regulated so much, but why overregulate it? Since I have come to Augusta, and long before I came to Augusta, I have always heard, "Government get out of our face. Let free enterprise reign." Now this is a move toward free enterprise if I ever saw it. If you pass this amendment, you immediately devalue any company on that river by fifty percent. It's a simple fact. I would not want to be a part of that, nor should you. Ladies and Gentlemen, I move that we Indefinitely Postpone Senate Amendment 509. Thank you.

Senator HALL of Piscataquis moved the INDEFINITE POSTPONEMENT of Senate Amendment "C" (S-510) to Committee Amendment "A" (S-486).

Senator MICHAUD of Penobscot requested a Division.

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

Senator MICHAUD: I agree with the good Senator from Piscataquis, Senator Hall. Having been around the legislature for sixteen years, I, too, have been very involved in this whitewater rafting issue. It is a very controversial issue; however, I think the unanimous report that came out of committee is a good report. It is a good compromise. It's ironic that the amendment that the good Senator proposes is one that I was originally proposing in committee; and the committee had explained to me, after a thorough discussion, why it was not a good amendment; and I backed off from that amendment and went with the unanimous report. I would not want, there have been a lot of comments about trying to run this through at the end of the session, this bill has had actually several hearings, this subject, within the Fisheries and Wildlife Committee. It originally came in at a public hearing as an amendment to a bill that we heard earlier. The industry was aware of it. They

were there at that hearing to testify on the other bill and the amendment. The Fish and Wildlife Committee chose not to deal with it at that time. Then there was the omnibus bill that we were going to look at and put this amendment on, as well. Because of the very reasons the good Senator, Senator Mills, talked about, perception, the Committee decided to have its own bill, its own public hearing, on that one issue. That's what we did. We are not ramming this through. It's a good compromise. It's a compromise I think we all can support. True, if there are to be changes later on down the road, we will be back in next session. We can deal with those changes then. I hope you would vote for the indefinite postponement of this amendment. Thank you.

On motion by Senator MILLS of Somerset, 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 by Senator HALL of Piscataquis that Senate Amendment "C" (S-510) to Committee Amendment "A" (S-486) be **INDEFINITELY POSTPONED**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senator: ABROMSON, AMERO, BEGLEY, BENOIT, CARPENTER, CASSIDY, CIANCHETTE, ESTY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, McCORMICK, MICHAUD, O'DEA, PARADIS, PENDEXTER, RAND, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BERUBE, BUSTIN, CAREY, CLEVELAND, GOLDTHWAIT, LAWRENCE, LONGLEY, MILLS, PINGREE, RUHLIN, SMALL

ABSENT: Senator: FAIRCLOTH

23 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator HALL of Piscataquis to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-510) to Committee Amendment "A" (S-486), **PREVAILED**.

Committee Amendment "A" (S-486), as Amended by Senate Amendment "A" (S-508), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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 following Tabled and Specially Assigned (Thursday, March 21, 1996) matter:

HOUSE REPORT from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Facilitate the Lawful Detention of Juveniles" (Emergency)

H.P. 1312 L.D. 1796

Report - Ought to Pass as Amended by Committee Amendment "A" (H-776).

Tabled - March 20, 1996, by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF THE REPORT.**

(In House, March 19, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-776).**)

(In Senate, March 20, 1996, Report **READ.**)

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

The Chair laid before the Senate the following Tabled and Specially Assigned (Thursday, March 21, 1996) matter:

HOUSE REPORTS from the Committee on **JUDICIARY** on Bill "An Act Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court"

H.P. 1264 L.D. 1739

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-770)** (5 members)

Tabled - March 20, 1996, by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, March 19, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-770).**)

(In Senate, March 20, 1996, Reports **READ.**)

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

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. I rise to ask you to vote against the pending motion on this bill. Basically, all this is is it allows closely held corporations which have two or fewer stockholders to have the ability to represent themselves in defensive actions only in court actions. As it stands now, if you are a corporation, you may not go to court pro se and defend yourself either way. What this bill does, it basically limits it to a very, very, very small corporation, two or fewer; and it only addresses defensive actions. I don't know what else you can do for small businesses, or ma and pa types of business scenarios. These are very, very small corporations. It doesn't seem to make sense that we ought not to let them at least defensively go to court pro se if they so choose. So, I ask you to vote against the pending motion. Thank you.

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

Senator **MILLS:** Mr. President, Men and Women of the Senate. In support of the majority position of the Committee, I say that we currently have a law that says corporations may be represented by their agents without hiring a lawyer in any case that involves an amount in controversy less than \$3,000. Indeed, it happens all the time. Routine collections and that sort of thing are handled in district court under our small claims rules. We have revisited the statutory limit on small claims actions every once in a while. It now stands at \$3,000 and has for a year or two. So, there is no problem about going to court, about a mom and pop business, or about a very large closely held business, going to court and representing themselves with the real parties in a matter that involves a relatively small, or modest,

amount in controversy. Right now it is a court rule that if you are a corporation, and you are in a lawsuit that involves an amount of money, or something more substantial than \$3,000, the rule is that a corporation must retain the services of an attorney to be represented in those proceedings. It is probably one of the few requirements that we do impose. The State gives you the right to be incorporated. It doesn't say you have to be incorporated. If you choose to accept the benefits of incorporation, and they are somewhat substantial in some circumstances, the only burden that is placed on you in this setting is that you will retain the services of an attorney to represent that company in open court. It's a relatively small burden. It is possible for a small and closely held corporation to own hundreds of thousands', or millions of dollars' worth of assets, or to have in controversy very, very large and substantial and important matters. One of the biggest problems that our court system has right now is that so very, very many people do go to court without the benefit of counsel. Many times people who can afford to hire their own lawyers, for one reason or another, refuse to do so, in divorce cases and the like. One of the things that is glutting the court system is the presence of people who, for one reason or another, are attempting to represent themselves in a system that they do not thoroughly understand. In some cases, they will go to court trying to represent themselves on matters that have great issues at stake. I think it is almost analogous, in some cases, like trying to do your own appendectomy. The consequences of fouling it up are almost as severe, and the likelihood of getting it done right, if you will just get professional assistance, is very high. The story we heard, that motivated the generation of this bill upon request of a single constituent, was that he was a small, closely held corporation. He could very easily have taken the benefit of defending himself behind the corporate veil, but he also wanted to go to court without hiring a lawyer to go with him. He did hire a lawyer to help him with the paperwork. Quite frankly, I think if he had hired an attorney to go to court with him, he would have gotten out of the thing with less investment of his own time, and perhaps money, or at least he would have had the controversy resolved in a more efficient and expeditious way. We don't impose very many burdens on corporations, but I think that if you get the benefit of what the Secretary of State has to offer you, by way of being in a corporation, that you should bear this rather small burden that we ask of you. Thank you.

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. As you can see, this is sort of a lawyer-friendly type of bill. The motion before you is a lawyer-friendly type of motion. I don't understand why, if you are a small corporation of two or fewer, that it's the dollar figure that should decide whether you go to court and defend yourself. Why should you have to hire an attorney if you don't feel you need to? This is dealing with two or fewer. What more can you do for small businesses than at least let them defensively go to court and represent themselves if they so choose to do so. I don't buy the argument that our courts are crowded and that people are there defending themselves and all that stuff. The courts are there to serve us.

We are not there to serve them. I think if we have a legitimate scenario, we feel defensively only, that we want to go to court as a small corporation, two or fewer, that you ought to be able to do that. 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. Perhaps to answer the questions raised by the good Senator from Cumberland, Senator Pendexter, two days ago I attended a seminar for an attorney to get a seven percent discount on your malpractice insurance if you allow your insurance company to tell you all the things you should be afraid of. One of the movies they showed was of an attorney who, as anyone knows, attorneys cannot acquire an interest in one of their client's businesses, and in one of the vignettes they showed in the movie, the attorney, against the bar rules, acquired an interest in a closely-held corporation and, with the consent of the other shareholder, proceeded to represent the other shareholder and himself in an action. Of course their interests diverged and after the fact the other shareholder sued the attorney for malpractice; because it's true, when you have two shareholders in a corporation, it is very difficult for one of them to represent both the interests, represent their own interest and represent the other shareholder's interest. That's when you get into conflicts. We have an exception to everyone in court being represented by an attorney, individuals where their own interest is involved, can represent themselves in court. The problem you get into when you get into a closely-held corporation of two individuals, they each have separate interests. They have a corporate interest, but they also have their own interests, and there is a lot of potential for abuse there if you allow one of the shareholders to go in and represent the corporation. It can be consented to up front; but after the fact, you lose and everyone is looking for a victim in that situation; and it is very easy to come into those conflicts. I agree with the good Senator from Somerset. The benefits of corporations are great. We offer them a lot. It is a small burden to ask that they hire an attorney when they reach the stage in the legal process that involves a lot of legal procedure. I hope you would support the good Senator from Somerset.

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

Senator **MILLS:** Mr. President, Men and Women of the Senate. One brief point that I neglected to mention earlier and that is this. If the owner of the small corporation is willing to waive the benefits of that corporation, he, or she, can go into court and represent himself as an individual. That's our rule. But, if you persist in saying, "No, I want the benefit of the corporation." In other words, "If I lose this suit, you can only have access to the corporate assets, however few they may be, you can't touch me as an individual." That is, if you persist in saying you want the protection of the corporate veil in this litigation, then, and only then, do you need to retain an attorney to represent the interests of that corporation. If you are willing to waive that and go to court as an individual, saying, "I waive the corporate shield that I have bought from the Secretary of State's Office for \$35." If you are willing to waive that, then you can, under current law, represent yourself. 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 don't buy the argument that because you incorporate and you have two or less stockholders, you somehow give up your right, or should give up your right, to go to court in a civil case in defense. It's apples and oranges. I just don't understand the connection that I have heard argued just now on that point. You know, the court system really loves its mysteries. The more the mystery, it seems, the more the court seems to be protected in what it does. Years ago, Edmund Burke, in England, said something while we were setting up this country that has always impacted me. He said that "where mystery begins, justice ends." I like the idea that you see flowing now in the legislature to the courts. In a divorce case, in the past, at one time you could not represent yourself but now you can. If you wish to, in that civil case, you may go to court and represent yourself on both sides of the case. Small claims have been set up so that people, for really sizable amounts, can go to court without an attorney. I think that is positive. There should be nothing to fear at the bar with having a bill such as this pass, and allowing corporations with a small number of stockholders to go to court in a civil case of defense. To argue otherwise, respectfully, makes this sound like a lawyer's bill to me. Thank you.

On motion by Senator **PENDEXTER** of Cumberland, 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 **MILLS** of Somerset, that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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: **BUSTIN, CAREY, CARPENTER, CLEVELAND, GOLDTHWAIT, LAWRENCE, LONGLEY, MCCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, RAND, RUHLIN**

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

ABSENT: Senators: **FAIRCLOTH, PINGREE**

14 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **MILLS** of Somerset to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-770) **READ** and **ADOPTED**, in concurrence.

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

The Chair laid before the Senate the following Tabled and Specially Assigned (Thursday, March 21, 1996) matter:

Bill "An Act Regarding Municipal Penalties for Late Filing under the Maine Tree Growth Tax Law"

H.P. 1271 L.D. 1749

Tabled - March 20, 1996, by Senator **KIEFFER** of Aroostook.

Pending - **ADOPTION** of Senate Amendment "A" (S-491) to Committee Amendment "A" (H-764).

(In House, March 19, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-764)**.)

(In Senate, March 20, 1996, Senate Amendment "A" (S-491) to Committee Amendment "A" (H-764) **READ**.)

Senator **RUHLIN** of Penobscot moved that Senate Amendment "A" (S-491) to Committee Amendment "A" (H-764) be **INDEFINITELY POSTPONED**.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is strictly a technicality. In the drafting, between the Revisor's Office and Office of Fiscal Review, there was a misunderstanding. If you will allow, and just be patient, for a couple of moments, the intent at this point is to take Senate Amendment "A", which has an incorrect fiscal note on it, and replace it with Senate Amendment "B", which has a corrected fiscal note. I will explain that fiscal note at that point. Thank you.

Senate Amendment "A" (S-491) to Committee Amendment "A" (H-764) **INDEFINITELY POSTPONED**.

On further motion by the same Senator, Senate Amendment "B" (S-500) to Committee Amendment "A" (H-764) **READ**.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I'm going to see how well I can explain a fairly technical matter on a Friday afternoon, without having had lunch. Let's go back and review this very quickly. What the bill before us does is an attempt to fulfill a pool that was created. It's \$2.1 million that was created by the State through the appropriations process, where we rebate to the community those tax rebates they have given to their own citizens for the tree growth tax law. The Committee Amendment before you took \$160,000 of that and said those communities that filed late, as of a certain date, would be given a grace period. That \$160,000 would be shared. It doesn't increase the pool \$160,000, but \$160,000 of that \$2.1 million pool would be shared with these communities that had grace period extended to them. Senate Amendment "B" says that that grace period will take into consideration the filing date of November 1, 1994. Therefore, there are twelve communities in the State of Maine that would come under this that would not otherwise come under it. What it does in fact, it doesn't increase that pot any, but there is \$23,000 to be divided among those communities that now have to be taken into consideration. So, those communities filing under the grace period, rather than receiving 35%, I just can't let that go by without taking a little shot at it on the way by, which is probably unfair to start with, it should be 100%, but we don't have the money so we are reimbursing at 35% under this proposal. This would change because we are allowing those twelve communities to participate in that pot to the extent

of \$23,000. It would enable those twelve communities to share in that; and that would drop everybody's share from 35% down to 33%, with the possible exception of those communities affected. They might go up to 36% or 37%, but it keeps the percentages basically the same. I hope that is as clear as everybody would want. Thank you.

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

Senator **CAREY:** Mr. President. I would like to direct a question through the Chair. The question would go to the good Senator from Penobscot, Senator Ruhlin. In one of the sections of that amendment, over and above going back to these twelve particular communities, you also appear to strike out the term "one time only", so this would have been basically a good faith effort by this Legislature to go back for a period of time and forgive something during a period when that money is still appropriated. It hasn't been dishd out yet because it is going to be done in June. It's bad enough that you are going back through to 1994, when that money has been totally committed and given away, but you are wiping out the term "one time only". My question to you would be, is it your thought that nobody will ever be able to make a correction in the way they do business that they can just flaunt the law and just come in at any particular time in the course of the life of the tree growth law, to put in for something that they may have missed five or ten years ago?

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 Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I want to thank the good Senator from Kennebec for his question. It is something that I was not aware of. I looked at it, I did not see the omission of the "one time only". That was not the intent, certainly of this Senator, to do anything else but to do a "one time only". The intent of the amendment, Mr. President, is to recognize if we are going to have a grace period, and this Senate has voted for that grace period, by the way, then that grace period should be fair in recognizing those communities, and those twelve communities as well; and the good Senator from Kennebec is right, those twelve communities should have, had they not been denied because of late filing, should have received that money in June of 1995. However, they are still on their, my point is, they are still on their fiscal year. They still have need for that money. They can still be reimbursed for it. If you are going to accept, as a matter of state policy, that we are going to extend the grace period, then I say be fair enough, extend it across. I assure the good Senator from Kennebec, give me a chance to check on it, if that "one time only" language has been omitted, it certainly has not been on an intention. I will see to it that it is corrected. Thank you.

Senator **KIEFFER** moved to Table 1 Legislative Day, pending **ADOPTION** of Senate Amendment "B" (S-500) to Committee Amendment "A" (H-764).

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

Senator **CAREY:** Thank you, Mr. President. Parliamentary inquiry, if I may, please. In a case where we are amending, with a House or Senate Amendment, a Committee Amendment, is it impossible to

amend a Chamber amendment? We are going into the third or fourth degree. If that is the case, I might like to make a statement if that is impossible to do.

THE PRESIDENT: The Chair would answer that we would not be able to amend beyond the second degree. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you, Mr. President. Then, in all probability, an effort to do something like that would require that the first degree would be postponed and yet another amendment would be offered to the Committee Amendment. I believe that is the correct way to do it. Thank you.

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **ADOPTION** of Senate Amendment "B" (S-500) to Committee Amendment "A" (H-764).

The Chair laid before the Senate the following Tabled and Later Today Assigned (Thursday, March 21, 1996) matter:

HOUSE REPORTS from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Establish a User Fee System for Towns Requiring Sheriff's Services"

H.P. 1125 L.D. 1570

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-780)** (1 member)

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

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, March 20, 1996, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, March 21, 1996, Reports **READ**.)

The **CHAIR** moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I would ask you not to accept the Majority Ought Not to Pass report. This bill was originally introduced as a cooperative effort among all the municipalities in York County to discuss how to address the problems facing York County over financing of the Sheriff. Approximately fourteen or fifteen of the communities in York County do not have a local police department. In fact, one of them had a local police department, was paying for it itself, disbanded it, and allowed itself to be covered by the County Sheriff's department. That expense is borne by the rest of the communities in the County. That is unfair because the rest of the communities in the County pay approximately 80% of the cost. The minority report, what it essentially intends to do, is to allow the County, only the County of York, in its charter, if it wants to, to adopt users fees in accordance with its charter that would allow the communities that use the Sheriff's service for its own services, to provide a users fee basis to pay for that. So, I would urge you to reject the majority report so that we can go on and accept the minority report. Thank you.

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

Senator **AMERO:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. On this particular bill, the York County delegation was divided right down the middle. It was basically a rural versus an urban distinction. Because the delegation itself was

so divided, the State and Local Government Committee requested that they work out their problems back at the county level; and then, when they have agreed to something, they can come back and request legislation. Thank you.

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

Senator **LAWRENCE:** Thank you, Mr. President. I appreciate the comments from the good Senator from Cumberland. That, in fact, is what the minority report would allow the County to do, go back and work it out on a local level. When the vote is taken I request the Yeas and Nays. Thank you.

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 Chair recognizes the Senator from York, Senator Lord.

Senator **LORD:** Thank you, Mr. President. I hope that you will support the majority report. The Sheriff was even against this bill. I think we don't need a bill to tell the people down in York County what they are going to have to do. They should be able to do this on their own.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Majority **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, BERUBE, CAREY, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LONGLEY, LORD, MICHAUD, MILLS, O'DEA, SMALL, STEVENS,** and the **PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BUSTIN, CLEVELAND, ESTY, LAWRENCE, McCORMICK, PARADIS, PENDEXTER, PINGREE, RAND**

ABSENT: Senators: **FAIRCLOTH, RUHLIN**
24 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 2 Senators being absent, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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

SENATE REPORTS from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish a High School for the Visual and Performing Arts"
S.P. 687 L.D. 1756

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-490)** (9 members)

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

Tabled - March 21, 1996, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In Senate, March 21, 1996, Reports **READ**.)

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-490) **READ** and **ADOPTED**.

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

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

COMMITTEE REPORT

Senate

Ought to Pass as Amended

Senator **ABROMSON** for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Promote the Health of Newborns and Their Mothers" (Emergency)

S.P. 670 L.D. 1732

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-511).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-511) **READ** and **ADOPTED**.

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

ENACTOR

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

Mandate

An Act Concerning the Number of Washington County Commissioners

S.P. 703 L.D. 1792

(C "A" S-487)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, 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.

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

Senator **BUSTIN:** Mr. President, is the Senate in possession of "An Act to Improve the Hancock County Budget Procedure" S.P. 685 L.D. 1754?

THE PRESIDENT: The Chair would answer in the affirmative. The Bill having been held at the Senator's request.

On motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADHERED** on:

Bill "An Act to Improve the Hancock County Budget Procedure"

S.P. 685 L.D. 1754

(In Senate, March 21, 1996, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In House, March 21, 1996, the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-492)**, in **NON-CONCURRENCE**.)

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

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. We talked at length this morning. I'm not going to take any time this afternoon. I would just like to have you really consider the possibilities of this morning and just keep in mind that this informational meeting really is a meeting that was given to the Hancock County Legislative Delegation by statute. It's as simple as that. It has already been done by statute. All this attempts to do is to say it didn't work when one body

tried to call the meeting, so now we, the Legislative Delegation, want to call the meeting. It does not enforce the will of this Legislature, or the Legislative Delegation, onto the County Commissioners. It doesn't tell them what to do. It doesn't impact on their budget. All it says is that for informational purposes you will review your budget document with the Legislative Delegation. Thank you.

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

Senator **FERGUSON:** Thank you, Mr. President. I rose this morning to oppose this, and I will rise this afternoon to oppose the pending motion. The reasons that I mentioned this morning are just as valid now as they were then. This is an infringement upon the County Commissioners. By statute they currently have to call one or more meetings for budgetary purposes. We heard from the good Senator, Senator Goldthwait, from Hancock County, that they are getting along very well down there. As I said just a second ago, this is an infringement by the legislative body on the duly elected County Commissioners of Hancock County. I would urge that you would vote against any reconsideration of this matter. 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. Two points. There is a meeting in my district at five o'clock this afternoon for my delegation. I guess if I don't make it there in time, I will have to submit a bill next year that says that the delegation can't call a meeting unless all Senators and House members can be present. My point is that I don't think it is reasonable, or necessary, to have a legislative solution to a scheduling problem. Second point, from yesterday's Ellsworth American, an article about health insurance in Hancock County. One of the recommendations of the Budget Advisory Committee was to have a significant cut in the health insurance package offered to county employees. There was quite a debate about that. The Commissioners decided not to do that, guaranteeing that they would review that issue within this budget year. I think it's an indication of what I testified to earlier this morning, about the improvement in the way things are functioning in that county, because when I read that newspaper this morning, I discovered that, in fact, they are considering a new plan that will, within the current budget year, save our county as much as \$60,000. I submit that as evidence of the fact that the process is working in Hancock County. It does not need this legislative adjustment. I urge you to defeat the pending motion.

On motion by Senator **RUHLIN** of Penobscot, 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 **RUHLIN** of Penobscot that the Senate **RECEDE**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: BERUBE, BUSTIN, CAREY,
CIANCHETTE, ESTY, HARRIMAN,
LAWRENCE, LORD, McCORMICK,
MICHAUD, O'DEA, PARADIS,
PINGREE, RAND, RUHLIN

NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT,
CASSIDY, CLEVELAND, FERGUSON,
GOLDTHWAIT, HALL, HANLEY,
HATHAWAY, KIEFFER, LONGLEY,
MILLS, PENDEXTER, SMALL,
STEVENS, and the PRESIDENT,
Senator BUTLAND

ABSENT: Senators: CARPENTER, FAIRCLOTH
15 Senators having voted in the affirmative and
18 Senators having voted in the negative, with 2
Senators being absent, the motion of Senator **RUHLIN**
of Penobscot to **RECEDE**, **FAILED**.

The Senate **ADHERED**.

Sent down for concurrence.

Senator **HANLEY** of Oxford was granted unanimous
consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **LONGLEY** of Waldo, **ADJOURNED**
until Monday, March 25, 1996, at 9:00 o'clock in the
morning.