

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
Monday
March 25, 1996

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

Prayer by the Honorable Charles M. Begley of Lincoln.

SENATOR BEGLEY: In this room of words, let us enjoy a moment of silent meditation. Amen.

Pledge of Allegiance led by CAMERON O'BRIEN of Augusta.

Reading of the Journal of Friday, March 22, 1996

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Allow the Adjutant General to Sell Unfit and Unneeded Property and Apply Proceeds to the Military Bureau's Construction and Capital Repair Account, to Authorize the Adjutant General to Transfer Real Property, and to Authorize the Military Bureau to Retain the Proceeds of Armory Rentals"

S.P. 660 L.D. 1720
(C "A" S-489)

In Senate, March 20, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-489).

Comes from the House, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-489) AS AMENDED BY HOUSE AMENDMENT "A" (H-823) thereto, in NON-CONCURRENCE.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator KIEFFER: Thank you, Mr. President. For those in the Senate, House Amendment "A" to Committee Amendment "A" provides a limit of \$300,000 that the National Guard may expend without legislative approval. It also requires a report back to the legislature every two years. For those reasons, I believe it is fine, and I would move that we Recede and Concur.

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

Non-concurrent Matter

Resolve, to Require Additional Promotion of the Maine Quality Seal (Emergency)

H.P. 1294 L.D. 1776

In Senate, March 20, 1996, PASSED TO BE ENGROSSED.

Comes from the House, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-826), in NON-CONCURRENCE.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator KIEFFER: Thank you, Mr. President. House Amendment "A" provides a correction of a typographical error in this bill and it provides a fiscal note. There is a transfer of \$50,000 within departments and it seems alright. I would move that we Recede and Concur.

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

Non-concurrent Matter

Bill "An Act to Grandfather Municipal Ordinances Regulating the Spreading of Sludge"

S.P. 705 L.D. 1804

In Senate, March 14, 1996, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

Comes from the House, PASSED TO BE ENGROSSED, in NON-CONCURRENCE.

On motion by Senator KIEFFER of Aroostook, Tabled Until Later in Today's Session, pending FURTHER CONSIDERATION.

COMMUNICATIONS

The Following Communication:

STATE OF MAINE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY

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 Agriculture, Conservation and Forestry has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1819 An Act to Promote Forest Rehabilitation and Eliminate Clearcutting

Sincerely,

S/Sen. Vinton E. Cassidy S/Rep. Robert W. Spear
Senate Chair House Chair
S.C. 539

Which was READ.

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

Senator CASSIDY: Thank you, Mr. President. Good morning, Men and Women of the Senate. As you can see, we did hold this hearing a week ago today. The Committee, in our work session on Thursday, voted thirteen to nothing ought not to pass. I just thought it was important just to mention to you some of the things that were discussed at our hearing Monday. This bill, as you know, was a citizens' initiated referendum that will be going on the ballot this fall. Our option at that time was to reject this and have it go out to referendum, or we could have adopted it into law, which no one was willing to consider. The other option would have been to have a competing referendum, which we certainly thought that that would create a lot of confusion for the folks. I would say that this referendum this fall is perhaps going to be one of the most important issues that this State has seen in probably the last decade. We had eight or nine hundred folks show up at the hearing that day. The citizens who initiated this probably had twenty-five or thirty who did not really enter the hearing, but stayed outside and was able to gather all the press on every front page of every paper the following morning, and also on the evening news. The problem with this particular proposal is the title would sort of indicate that this bill is

simply talking about clearcutting. As you know, in 1989 we did implement the Sustainable Forest Act here in this State. Since then, clearcutting has dropped off tremendously. The numbers are very, very small. Clearcutting is allowed under certain conditions. The problem with this particular bill is much, much more than clearcutting. The first issue that we are looking at is that we, as citizens in the United States and citizens in the State of Maine, own our land and probably should have a right to do what we would like to do with our land, as far as raising crops and harvesting trees, since we all pay the taxes. I have a real problem with "I own it and you zone it." The other problem with this particular situation is you would only be able to harvest one-third of your wood every fifteen years. Stop and think about what that would do to the wood supply in this State and how the prices of that available wood would go up. The other thing that has been proven, we had a lot of foresters and scientists and farmers and wood harvesters and loggers speak that it is just a bad practice for wood harvesting here in this State, if we implement this thing come November. So, I urge all of you, as we leave here this spring, and a lot of us will be campaigning, some of us are not going to be back; but I hope that each and every one of you, in your districts, will try to find out as much information from the department, from foresters, from the Committee members, and be sure that we make every effort that we can to get the word throughout the State that this bill would be so devastating to our economy, so many jobs depend on this issue, this fall. The other thought that some folks have, you have all heard that Restore is real interested in having 3.2 million acres in Northern Maine made into a park. As you know, Restore is a Massachusetts organization. They would love to have that turned into a park so that those folks can come up on the weekends and walk through the woods while our unemployed people watch them. I really feel that the intent of this whole thing is, if we can stop wood harvesting to that extent in Northern Maine, then eventually they will have their goal to have 3.2 million acres. I'm afraid that we would have many, many more million acres made into a park in the State of Maine if we let this happen. I hope you will join me and work for the next several months to see that the information and the education is put out to the people, so that they realize that this is much, much more than clearcutting. That is probably the smallest part of this whole particular bill. Thank you.

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

Senator **PARADIS:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I couldn't agree more with my distinguished colleague from Washington County, Senator Cassidy, regarding the importance that all of us be part of this. Our Committee has been absolutely in college at this point on this issue because we needed to understand and know. Don't hesitate to request information. It is out there. The misinformation that has been produced so far sounds very convincing; however, it has no basis in reality. I was incredibly impressed with seeing constituents from Washington County and Aroostook County, who have never lobbied. They have never come down here, and those are the loggers of this State who, for most of them, are single company contractors. We rarely hear from them. We hear

about these supposedly huge companies that have taken over the Maine woods. Living in those Maine woods on a daily basis, I can assure you there are some very positive things going on. The Legislature, in its wisdom, has put forth a lot of good forest practices that are being practiced today. So, I urge your support in fighting this referendum. Thank you.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. While the organized part of Maine is not included in this bill, it will have a profound effect on the economy of our section of the State. We have mills in the southern part of the State that depend on wood from the northern part of the State. Also, we were told that most of these logging companies that are logging now would have to lay off at least 50% of their workers. If this happens, you know what is going to happen to workers' compensation. That will have an effect on that. So, I urge you, as the other two members of the Senate here have said, we have got to get to the folks in the organized part of Maine; because I don't believe they really fully understand what is going to happen here. We should do everything we possibly can to see that this referendum question is defeated. Thank you.

The Communication, with Accompanying Bill, **ORDERED PLACED ON FILE.**

Off Record Remarks

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. 1867 An Act to Establish a Review Process for Certification of Political Petitions

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

Sincerely,

S/Sen. Norman K. Ferguson, Jr. Senate Chair
S/Rep. Harry G. True House Chair
S.C. 540

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

The Following Communication:

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 21, 1996

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 38 of the 117th Maine Legislature, the Joint Standing Committee on Natural Resources has had under consideration the nomination of Katharine C. Littlefield of Belfast, for appointment to the Board of Environmental Protection.

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

YEAS: Sen. 2 Lord of York, Ruhlin of Penobscot
 Rep. 9 Dexter of Kingfield, Gould of Greenville, Poulin of Oakland, Berry of Livermore, Shiah of Bowdoinham, Damren of Belgrade, Marshall of Eliot, Meres of Norridgewock, Waterhouse of Bridgton

NAYS: 0
 ABSENT: 2

Sen. Hathaway of York, Rep. Nickerson of Turner

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Katharine C. Littlefield of Belfast, for appointment to the Board of Environmental Protection be confirmed.

Signed:

S/Willis A. Lord
 Senate Chair

S/Edward L. Dexter
 House Chair
 S.C. 541

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on NATURAL RESOURCES has recommended the nomination of Katharine C. Littlefield, of Belfast, be confirmed.

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

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

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

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

Is the Senate ready for the question?

The Dookeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: None
 NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LAWRENCE, LORD, McCORMICK, MICHAUD, PARADIS, PENDEXTER, RAND, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: ESTY, HANLEY, HATHAWAY, LONGLEY, MILLS, O'DEA, PINGREE, RUHLIN

No Senator having voted in the affirmative and 27 Senators having voted in the negative, with 8 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote

of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Katharine C. Littlefield, for appointment to the Board of Environmental Protection, was CONFIRMED.

The Secretary informed the Speaker of the House.

Off Record Remarks

COMMITTEE REPORTS

Senate

Ought to Pass

Senator GOLDTHWAIT for the Committee on MARINE RESOURCES on Bill "An Act Concerning the Salmon Aquaculture Monitoring and Research Fund" (Emergency) S.P. 764 L.D. 1876

Reported that the same Ought to Pass, pursuant to Joint Order S.P. 737.

Which Report was READ.

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

Senator GOLDTHWAIT: Thank you, Mr. President. It has come to my attention that this bill was released from the Revisor's Office without a fiscal note and they have asked that I Table it until later in today's session.

On motion by Senator GOLDTHWAIT of Hancock, Tabled until Later in Today's Session, pending ACCEPTANCE of the Report.

SECOND READERS

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

House As Amended

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
 (C "A" H-798)

Bill "An Act Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court"

H.P. 1264 L.D. 1739
 (C "A" H-770)

Bill "An Act to Implement the Recommendations of the Task Force on Tax Increment Financing"

H.P. 1313 L.D. 1797
 (C "A" H-808)

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

Senate

Bill "An Act to Authorize Casco Bay College to Grant Degrees"

S.P. 758 L.D. 1870

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Establish a High School for the Visual and Performing Arts"

S.P. 687 L.D. 1756
 (C "A" S-490)

Bill "An Act to Promote the Health of Newborns and Their Mothers" (Emergency)

S.P. 670 L.D. 1732
(C "A" S-511)

(See Action Later Today)

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

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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

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

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

On motion by Senator **KIEFFER** of Aroostook, **RECESSED** until 11:00 o'clock this morning.

After Recess

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:
Bill "An Act to Grandfather Municipal Ordinances Regulating the Spreading of Sludge"

S.P. 705 L.D. 1804

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

Pending - **FURTHER CONSIDERATION.**

(In Senate, March 14, 1996, the Majority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In House, March 22, 1996, **PASSED TO BE ENGROSSED**, in **NON-CONCURRENCE.**)

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

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I hope you will vote against the motion to Recede and Concur. I hope today you vote against "NIMBY-ism", "Not in My Back Yard". I hope today you will look at the fact that the proper handling of sludge is a statewide policy that has been made by this government. It has been in place for seven years and recognizes the fact that as we all generate and contribute to the problem, we must also all participate in the solution. We debated it at length the other day. I am not going to do that this morning. I just want to remind you that it is a state policy. It's a policy that protects and, hopefully, prevents this waste from going into our landfills and overfilling our landfills. We generate statewide, let's solve it statewide. Thank you.

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

Senator **LORD:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. From time to time we have heard of home rule. This is a home rule bill, no question about it. I'm not going to debate it any more than the good Senator from Penobscot. However, it is a home rule bill. It only affects twelve communities, six who have rules and regulations a little bit stricter than the State, and the other six have regulations preventing the spreading of sludge. Sludge is being spread from the paper companies. It's being spread by the farmers. There is no reason in the world why we can't let these people protect themselves. It's home rule and I ask you to vote with me. 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. It seems to be inconsistent that if we have State law in regards to the handling and spreading of sludge, that it ought to apply to everyone. It either applies to all municipalities, which it has for the past seven years, or it ought not to apply to any of them. It seems to me to be inconsistent that we have laws where we give special preference to individual communities when no evidence has been presented that they are in a unique situation and have unique circumstances or a unique threat to those communities, any different than any other community. Every community is perfectly able to pass rules and regulations consistent with DEP rules to protect their local communities, provide appropriate setbacks to protect water sources, to protect residential neighborhoods; and they can still continue to do that. It seems to me, in this State, we either ought to apply the laws to everyone equally or not. It's as simple as that. Giving preferential treatment to individual communities on parochial issues, I think, is inconsistent with the policy of this State and I certainly hope you won't support the motion. Thank you.

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

Senator **LORD:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would like to remind the Senator from Androscoggin County that these communities passed these ordinances before we passed the rules and regulations. The rules and regulations went into effect on July 30, 1989. These ordinances were in effect at that time. Thank you.

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

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

A Division has been requested.

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

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

10 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator **LORD** of York to **RECEDE** and **CONCUR, FAILED.**

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

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

SENATE REPORT - from the Committee on **MARINE RESOURCES** on Bill "An Act Concerning the Salmon Aquaculture Monitoring and Research Fund" (Emergency)
SP. 764 L.D. 1876

Report - Ought to Pass, pursuant to Joint Order S.P. 737

Tabled - earlier in today's session by Senator GOLDTHWAIT of Hancock.

Pending - ACCEPTANCE of the Report.

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

Which Report was ACCEPTED.

The Bill READ ONCE.

The Bill, LATER ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

The Chair laid before the Senate the first Tabled and Unassigned matter:

SENATE REPORTS from the Committee on TRANSPORTATION on Bill "An Act to Repeal the Sensible Transportation Policy Act"

S.P. 29 L.D. 59

Majority - Ought Not to Pass (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-439) (4 members)

Tabled - March 7, 1996, by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT.

(In Senate, February 29, 1996, Reports READ.)

Senator STEVENS of Androscoggin moved that the Senate ACCEPT the Minority OUGHT TO PASS AS AMENDED Report.

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 Lincoln, Senator Begley.

Senator BEGLEY: Thank you, Mr. President. The motion before you to repeal the Sensible Transportation Policy Act as amended by amendment "B" needs some recollection, from my perspective, because this took place quite a number of years ago. I was asked, after having attended quite a number of transportation regional meetings, to please submit legislation that would repeal the Sensible Transportation Policy Act. Having sat through several of them, I concurred; and now we have the bill here. If you remember, this policy act came into existence through the 1991 referendum on the turnpike. I am sorry to say that those people who initiated it put the policy act in the referendum and eliminated any possibility of a voter saying "Yes" on one issue and "No" on the other. There was no way for the voter to say, "Yes, I agree, or disagree with the turnpike. Yes, I agree, or disagree, with the policy act" and vote, because they were two separate issues with only one vote. I criticized the referendum at the time. I acted against such a thing happening again by submitting legislation in the 116th that the Secretary of State would not allow any referenda to be submitted to the public with two issues and only one vote. I am pleased to say that the Secretary of State agreed to put in legislation himself; and now that is true, such a referendum will not be allowed to go to the public again. However, we still have this Sensible Transportation Policy Act. I criticize the people again, because they said this was understood. The Sensible Transportation Policy Act was known by most of the voters, or those who voted for the referendum. I asked quite a number of people in my area, most of them said no. I have asked many people around here and most of their people said no, also. I said to those people who pushed the referendum, "How much money did you spend on your

advertising for the referendum on the Sensible Transportation Policy Act?" Their answer, by statistics, was 1%, probably the development of the ad you saw. I ask you, when did you see, on the roadside, or anywhere else, "Vote the referendum in because of the Sensible Transportation Policy Act"? I never saw one. I never saw a bumper sticker that said "Vote for the Sensible Transportation Policy Act". All I saw was to vote against the widening. Yet, this referendum had in it this Sensible Transportation Policy Act. I am against it for another reason. They claim that the Department of Transportation was not open to the public in their policies and their ideas. From my experience in my area, particularly, two projects in my own hometown, when the Department of Transportation came in with their proposals, the first thing they did was ask for a public hearing, and insisted that the selectmen have a public hearing on both issues. I attended both. Surprisingly enough, in both instances, the town made serious recommendations to change what was proposed; and the Department went along with both. I went to other area meetings; and again, before this act ever came into existence, the Department continually asked for public input. My point was then, in doing so, there was no need for what these people claim the Department was not taking into consideration the citizens' requests. From my experience that was not true. The current law, and the Department has had to work with it, because it was law; and that, of course, is the legitimate way of doing things, the act has, from my perspective, had a tendency to delay. I know many people will tell you that is not necessarily so. It's an opinion more than anything else. From my perspective, it did have that situation. The federal government has any number of rules and regulations that are comparable to, although certainly not as delaying as this. This Sensible Transportation Policy Act is another bureaucracy holding down for certain interests. If these people really believe that this is important, then they should have come in the front door. They should not have simply decided to tie it on the end and hope nobody notices. I have had people say to me some of those things are fairly good, aren't they? I have said they were done before. The policy belonged with the Department of Transportation. The policy then will be reviewed by the Legislature, where it belongs, not through a referendum that definitely was not part of the knowledge, from my perspective, of the voters. I can't prove what that voter thought of when she went in and voted. I haven't the slightest idea, nor could anybody who proposes that she did. It's impossible to know. All I know is that I maintain that if we repeal this, we will not lose anything, nothing. You will not find your phone ringing off the hook, because I maintain that most people still don't know that it exists. Those people who said that it's good said, "Don't throw the baby out with the bath water." I wholeheartedly agree. The difference is that I believe the baby is the Department of Transportation and the water is the Sensible Transportation Policy Act. Most of you know what happens to something that sits in water too long. That is what is happening here. I maintain that what we want to do is take the baby, dry her off, let her become what she was originally and move ahead. Thank you.

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

Senator **CIANCHETTE**: Thank you, Mr. President. I agree right down the line with Senator Begley. I would just like to add a few brief comments to the things that he said. I believe the theory of this act is based on unanimous agreement to make infrastructure improvements. That idea is much more idealistic than realistic. This country, the greatest country in the world, was not developed that way. In my opinion, it will not continue to develop with this unrealistic type of concept. In my further opinion, the greatest beneficiaries of this act are the no-growth advocates, those people who do not want Maine to grow. But, if we are to improve the quality of life for Maine people, if we are to create better jobs, if we are to provide better education, improve our economy, build better communities, strengthen our families, then idealistic concepts, like the Sensible Transportation Policy Act, must make way for a more practical process. A similar process that built this great country, with trust, respect, accountability, and decisions made for the greater public good. This State's infrastructure is the engine that drives our economy. The more we delay development through these idealistic processes, the longer it will take to accomplish and improve the quality of life. Removing this cumbersome process, and replacing it with trust, respect, and accountability, will allow the Maine citizens the opportunity we all strive to provide for them. 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 wish to speak briefly in opposition to the pending motion. I understand that this process can be cumbersome and time consuming, but it seems to me that resolving these issues ahead of time makes more sense than having them get mired down in endless disputes if we don't establish a process that provides for adequate public input. In my area we have had several projects since the passage of the Sensible Transportation Policy Act, that I truly believe have benefitted, that have been far more open, though I believe the DOT historically has done a pretty good job in soliciting public input; but I think that process is much more open now. It has taken us some time up front; but once the decision was made, the projects went through quite smoothly, rather than having lots of public objection to them, lawsuits, et cetera. So, I would urge you, on that basis, to defeat the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **STEVENS** of Androscoggin that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Dookeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **BEGLEY, BERUBE, CAREY, CARPENTER, CIANCHETTE, HALL, HANLEY, KIEFFER, LORD, PENDEXTER, STEVENS**

NAYS: Senators: **ABROMSON, AMERO, BENOIT, BUSTIN, CASSIDY, CLEVELAND, ESTY, FERGUSON, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, SMALL, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senators: **FAIRCLOTH, HATHAWAY**

11 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 2 Senators being absent, the motion of Senator **STEVENS** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**. Sent down for concurrence.

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

ORDER

Joint Order

On motion by Senator **MILLS** of Somerset, the following Joint Order:

ORDERED, the House concurring, that Bill, "An Act to Place Penobscot Land in Trust," H.P. 1306, L.D. 1787, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

S.P. 765

Which was **READ**.

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

Senator **MILLS**: Thank you, Mr. President, Men and Women of the Senate. About eight or nine days ago we passed a bill that confirmed the granting, or the purchase, of certain lands to be included in the Indian tribal lands. The Attorney General has reviewed the bill that we passed, at the request of the Governor's Office. It is his sense that it should be amended in some technical ways; therefore, I have presented the order to recall this bill from the Governor's desk, and ask that we not only approve the order but that it be sent, forthwith, for approval by the House, in that I think this is the last day that we can recall the bill. I will later have an amendment to the bill that will clarify the concerns that the Attorney General had. Thank you.

Which was **PASSED**.

On motion by Senator **MILLS** of Somerset, under suspension of the Rules, ordered sent down forthwith for concurrence.

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **HUMAN RESOURCES** on Bill "An Act Regarding the Food Stamp and Low-Income Home Energy Assistance Program" (Emergency)

H.P. 1366 L.D. 1875

Reported that the same **Ought to Pass**, pursuant to Private and Special Law 1995, chapter 51.

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

The Committee on JUDICIARY on Resolve, to Require the Study of the Medical Liability Prelitigation Screening Panels

H.P. 1257 L.D. 1729

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-821).

Comes from the House with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-821).

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-821) READ and ADOPTED, in concurrence.

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

The Committee on LABOR on Bill "An Act to Provide a Retirement Benefit Option for Forest Rangers Equal to That Option Available to Game Wardens and Marine Patrol Officers" (Emergency)

H.P. 1177 L.D. 1609

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-817).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-817).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-817) READ and ADOPTED, in concurrence.

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

The Committee on TAXATION on Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1996-97" (Emergency)

H.P. 1342 L.D. 1837

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-831).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-831).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-831) READ and ADOPTED, in concurrence.

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

Senate

Ought to Pass As Amended

Senator PENDEXTER for the Committee on HUMAN RESOURCES on Resolve, Directing the Department of Human Services to Take Steps to Reduce the Regulation of Nurses Providing Care to Nursing Home Residents

S.P. 647 L.D. 1689

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-514).

Which Report was READ and ACCEPTED.

The Resolve READ ONCE.

Committee Amendment "A" (S-514) READ and ADOPTED.

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

Senator HALL for the Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act to Clarify the Definition of Commercial Whitewater Outfitter" (Emergency)

S.P. 727 L.D. 1833

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-513).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-513) READ and ADOPTED.

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

HELD BILL

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

Senator HARRIMAN: Mr. President, is the Senate in possession of Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts" H.P. 1316 L.D. 1800?

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

The same Senator further moved that the Senate RECONSIDER its action whereby it ACCEPTED the Majority OUGHT NOT TO PASS Report, in NON-CONCURRENCE 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

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

(In Senate, March 22, 1996, the Minority OUGHT NOT TO PASS Report READ and ACCEPTED, in NON-CONCURRENCE.)

Senator ESTY of Cumberland requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator HARRIMAN of Cumberland that the Senate RECONSIDER its action whereby it ACCEPTED the Majority OUGHT NOT TO PASS Report, in NON-CONCURRENCE.

A Division has been requested.

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

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

19 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator HARRIMAN of Cumberland to RECONSIDER whereby the Majority OUGHT NOT TO PASS Report was ACCEPTED, in NON-CONCURRENCE, PREVAILED.

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

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

Senator ESTY: Thank you, Mr. President, Men and Women of the Maine Senate. I will briefly reiterate the arguments, for those who weren't here in this discussion on Friday, regarding L.D. 1800. Number one, the resolve is unnecessary and unneeded. It repeats what we already have in place. That was explained and discussed extensively in the Committee by our legislative analyst. Number two, the

controversy regarding the name is now a moot point. We have addressed that issue in the magnet school with the magnet school bill. Number three, by passing this repeat of what already exists in State law, we will be doing nothing but simply wasting State money. I don't think at this point in time that we can afford to waste one penny of State dollars. Not only that but you will be condoning, in my opinion, a misrepresentation for fund-raising purposes by a private entity. You need to keep in mind that this resolve does not impact the name of the Maine School for the Arts and the Maine High School for the Arts. That name is already registered. This resolve does not give it any additional protection, nor does it change anything in any way, shape, or form. I would urge you not to vote for 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 Kennebec, Senator Carey.

Senator **CAREY:** I would like to pose a question. This will be directed at the Senator from Cumberland, Senator Esty. When he mentioned that we would be wasting money, I get involved when it comes to money, and I would ask him how much, and where are we wasting it? Thank you.

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

Senator **ESTY:** Thank you, Mr. President. I would be more than happy to address that issue. By passing a law, or passing this resolve, spending the time on the resolve that is necessary to do it, by codifying it, all those processes that get involved in this kind of exercise cost the State money. I don't have the exact dollars; but if it were going to make a difference, I wouldn't bring that issue up. For something that makes absolutely no difference, except in perception, I see it as an exercise that we need not go through, and a costly exercise to the State. Thank you.

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. I think we have spent most of the cost, so far, that this resolve will be to the State. The other thing, I also feel that some of the resolves we have done in the past two years since I have been here may not have been necessary either; but I obviously know that this is very important to the folks in the greater-Bangor area, and maybe even other parts of the State of Maine. I received a letter this weekend from the City Council there in Bangor, and this seems to be an issue that they care about. I don't think it's going to be any great cost to the State of Maine if we vote for this issue. The other thing is, I'm not exactly sure how much affect it's going to have either way. For that reason, since it is important to those folks, I'm going to support this motion for the resolve. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I want to say to you that the good Senator from Cumberland's arguments, on the surface, appear to be compelling. However, let us look at it for a moment. We encourage other ways, other means of raising resources, to help develop our

State as often as we can. Here we have an opportunity to statutorily protect a name so that the organization involved can raise, number one, a quarter of a million dollars from its local communities. That's money we don't have to spend from the State treasury. So, actually, to me it is a way of creating an end, of reaching a goal, without using State resources, financial resources to do it. And it is so very simple to do. All they are asking, they are not asking for a lot, they say that they have a name, they want to protect the name. The Secretary of State has suggested that the way to protect that name is statutorily. So, here's your law to protect your name. If you do that, we can raise a quarter of a million dollars to move this project closer to fruition. That means that we won't be coming to the State asking for help. All we want is protection of our name. What could be more simple? Thank you.

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

Senator **RAND:** Thank you, Mr. President. May I pose a question through the Chair? Is this school a private school? Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President. It is a privately held corporation that has served a public purpose.

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

Senator **FAIRCLOTH:** Thank you, Mr. President. Senator Ruhlin has put everything so well, as have others, that I don't think I will belabor this point other than to say that it is a reasonable proposal that will help enhance the opportunity for education. I think that there are no reasonable reasons to oppose it. It's something that will be helpful to the people of the State; and rather than take the Senate's time with any more discussion, I would just urge you to follow the eloquence of Senator Ruhlin on this issue, and the eloquence of Senator Cassidy. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President. Good afternoon, Ladies and Gentlemen of the Senate. I want to, before we bring this issue to a vote, express my respect and admiration for the good Senator from Cumberland, Senator Esty, who I rarely have reason to rise and disagree with. But in this instance I must, only because I think this is an issue that may have taken on a different dimension, or a different personality if you will, from what, I believe, the citizens of Bangor are trying to accomplish. At first it was viewed that protecting this name would assure that the so-called magnet school that may be passed for the Portland area would, in some way, be in competition with this new school in Bangor. That, as I have come to understand, is not the case. The people who have been instrumental in the magnet school in Portland have chosen a name that they are comfortable with; and from their perspective, this is no longer an issue. I can appreciate that. Second, because the school in Bangor has registered their name, any other private initiative in the future would not be allowed to use a name that is similar or deceptive in some

way. But, I think what is most important in the future is that the State may decide, in better times economically, they may have the wherewithal to allow similar sorts of programs to start up in other areas of the State. All the folks in Bangor are asking that we go on record as establishing a statement that says to the folks in Bangor that in the future, if the State decides to open up other facilities, that we will pay due respect to the name that they have chosen in Bangor. If that, as my good friend from Penobscot, Senator Ruhlin, has so eloquently stated, is a small gesture on our part to help bring to life a privately-funded opportunity for youngsters and the citizens in the Bangor area in the arts, and the performing arts, then I think we should try to help them do that. Thank you.

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

Senator **CLEVELAND:** Thank you, Mr. President, Women and Men of the Senate. I, like many of you who voted your conscience, received a phone call over the weekend from the prime sponsor of this proposal to discuss the issue. I certainly received a phone call from the prime sponsor to discuss the issue. In our open and frank discussion, the prime sponsor agreed. The name is already registered and, therefore, protected from any other private industry. No difference of opinion there. In our conversation the prime sponsor also agreed that the passage of legislation would not necessarily guarantee that the name could not be used in some other fashion by the State; because every Legislature has the ability to notwithstand any other legislation, and, therefore, undo what any other prior Legislature has done. So, any sense that this would somehow protect the name was clearly not being able to be achieved by the legislation. The prime sponsor also told me that it would be useful in fund-raising activities. The prime sponsor also agreed it would be misleading to suggest that the name was protected by the Legislature when it was not protected by the Legislature, because we could change it. All of those were considered and referred to; therefore, I suggest that what the issue we have here is that we have this in the wrong format. This should not be a resolve to be put into statute. It ought to be a joint resolution suggesting that we support their efforts and wish them well and that that is the name that they chose and that we recognize that that is the name that they chose, and do it in that format; because that would be the particularly appropriate format to recognize what they say they want, which is for the Legislature to recognize their efforts and the name they have chosen. So, the vehicle they have chosen is incorrect. Furthermore, if we really want to cement this, if we really want to protect them, and if we really want to promote them, we should immediately issue a memorialization to Congress recognizing that they do the same, as well. 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. After hearing Senator Cleveland's stirring remarks, I felt the need to rise to say how strongly I support the effort to develop a visual and performing arts school in the Bangor area. I think that there are so many needs for these types of students in this State. I hope that they will be very successful in their fund-raising

project. However, I think that the issue of the name of the school has been resolved; and it really is unnecessary to further debate this issue at this time.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I just had to respond to that "notwithstanding" language that the good Senator from Androscoggin County brought up. Sure, each Legislature is within the parameters of the Constitution, in charge of its own destiny in that sense; and you always have that notwithstanding. You can change anything. The 118th can change what we call this and call that; but, when the Secretary of the State of Maine suggests that the best way to protect the name, for instance, to do it statutorily, then I have to listen to somebody who is there full time, professional, who makes that suggestion. I have to pay attention to him. I'm not in favor of just having a bill to do nothing. We have enough of those, I think. But, when the Secretary of State does say that the best way to protect it is through a statute, that he cannot promise protection of that name and that title through the Secretary of State's filing office, then I say let's do it. If the 118th, in its wisdom, feels that it wants to take another step to remove that name, they may, notwithstanding. Thank you.

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

Senator **ESTY:** Without extending this too much further, let me simply say that the Secretary of State's office didn't fall on one side or the other regarding this issue. They didn't take any position except to say to us that the resolve would not change the fact that this entity is registered with them, and the registration part of it, through Corporations, would protect this name from any other names that were deceptively similar. So, let me reiterate, again, that it is unnecessary; and the Secretary of State's office did their best not to get interjected onto either side of this; because they were providing the service that they were responsible for by law. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HARRIMAN** of Cumberland that the Senate **ACCEPT** the Minority **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.

23 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **HARRIMAN** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-794) **READ** and **ADOPTED**, in concurrence.

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

ORDERS OF THE DAY
Unfinished Business

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

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

JOINT ORDER - relative to repealing and replacing the Joint Rules.

S.P. 761

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

Pending - **PASSAGE**.

(In Senate, March 20, 1996, Joint Order **READ**.)

On motion by Senator **PENDEXTER** of Cumberland, Senate Amendment "A" (S-497) **READ**.

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

Senator **PENDEXTER:** Thank you, Mr. President. Briefly, what this amendment does, is it changes the name of the Human Resources Committee to the Health and Human Services Committee, which certainly expresses better what we really do in that Committee. This has unanimous committee approval, and I would hope that you could support this amendment. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. As the Senate Chair of the Sub-Committee on Rules for TQM, I have run this by all of the members of the sub-committee, who have agreed that it is not a substantive change. Therefore, they are very supportive of it. Thank you.

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

Senator **BUSTIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I rise, not to object to this, but I can't help but give a little bit of history because this is the third name change in the sixteen years that I have been here. It was the Health and Institutional Services Committee, then the Human Resources Committee, and now the Health and Human Services Committee. So, I don't know what tells what that committee does; but whatever it says, it still does the same job. Thank you.

On motion by Senator **PENDEXTER** of Cumberland, Senate Amendment "A" (S-497) **ADOPTED**.

On motion by Senator **GOLDTHWAIT** of Hancock, Senate Amendment "B" (S-505) **READ**.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This amendment would delete Rule 501, which is a rule that specifies the appointing of partisan staff for the review of nominations which will be confirmed by the Legislature. It is my opinion that taxpayer dollars should not be spent on partisan review of anything; and, therefore, I am moving that we delete that rule. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. This is, in fact, a very substantive change. What it does is it does away with the partisan staff in the nature of gubernatorial appointments. For those of you who may have been here, whether in this body or in the other body, two years ago, you will realize that it

was the legislative staff, the partisan staff, that discovered a problem that was extremely serious with one of the appointments made by the Governor. Therefore, that nomination to be a judge was turned down. It involved sexual harassment of his staff, and of other people; and we never would have found that if it had been left to the information office, which is a non-partisan staff, and, therefore, is not as deliberate in its dealing with what may be coming out of the Governor's office. So, I would move Indefinite Postponement of this amendment. I have one which would, hopefully, take care of the gentelady. Thank you.

Senator **CAREY** of Kennebec moved that Senate Amendment "B" (S-505) be **INDEFINITELY POSTPONED**.

The Chair ordered a Division.

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

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

23 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **CAREY** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-505), **PREVAILED**.

On motion by Senator **CAREY** of Kennebec, Senate Amendment "C" (S-512) **READ**.

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

Senator **CAREY:** Thank you, Mr. President. I am aware of the good Senator from Hancock, Senator Goldthwait's, problem in being a non-enrolled member of the Legislature. We also have others in the other body, and we will obviously have more as years go along. What this amendment does, it basically says that the partisan staffs, upon the request of the non-enrolled member of the legislature, will be entitled to whatever information the partisan staff has been able to find when it comes to dealing with gubernatorial appointments. Therefore, in this particular case, especially with this particular Senator, this Senator would be entitled to get whatever information comes out of either the Democratic partisan staff or the Republican partisan staff, so they could make a much more intelligent decision as to whether or not to confirm or not to confirm.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I appreciate very much the efforts of the Senator from Kennebec, Senator Carey, to address the concerns of legislators who are not enrolled in either of the major parties; and I urge you to support the pending motion.

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

Senator **RUHLIN:** Thank you, Mr. President. As a member of that sub-committee who has constantly admired the chairman of the sub-committee and the way that he has helped us conduct our business, I respectfully have to disagree with him at this point in time. Why should any one Senator have access to the work of both parties? The two-party system is still the strength of democracy, and I think there is a reason for partisanship. If you want to give access to all Senators, then that is fine, let us all be treated equally. We all run equally. We all serve equally. Thank you.

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

Senator CAREY: I appreciate the comments from the good Senator from Penobscot; but I would point out to him that legislative staff, and the partisan issue dealing with gubernatorial nominations, do, in fact, work together so they are not at wits ends trying to go down two different roads, so that the staff members themselves are well aware of what is happening, and many times, jointly will develop information for both caucuses. Thank you.

On motion by Senator CAREY of Kennebec, 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 CAREY of Kennebec that the Senate ADOPT Senate Amendment "C" (S-512).

A vote of Yes will be in favor of ADOPTION.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CASSIDY, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, LAWRENCE, LONGLEY, PINGREE, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: AMERO, BEGLEY, ESTY, HALL, HANLEY, HARRIMAN, KIEFFER, LORD, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, RAND, RUHLIN, SMALL

ABSENT: Senators: CIANCHETTE, HATHAWAY, McCORMICK
16 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 3 Senators being absent, the motion of Senator CAREY of Kennebec to ADOPT Senate Amendment "C" (S-512), FAILED.

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

Senator CLEVELAND: Thank you, Mr. President. I wish to pose two questions through the Chair. On rule number 106, entitled "Records of Certain Legislative Expenses", the rule proposes to be changed to allow any Legislative Council member to request expenses of any legislator. I would pose the question to the Secretary of the Senate, or to any other member who wishes to answer. The first question is, under the Public Access of Information law, is not that information already available, or should be available to any legislator who requests it, regardless of whether they go through the Legislative Council? Secondly, would it not be appropriate to at least let the legislator for which the expenses are being recorded have access to that legislator's own information at any time that legislator would request it?

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

Senator CAREY: Thank you, Mr. President. That issue came out in our deliberations; and it was not voted upon on this particular issue; but I don't see any reason why, as this session of the Legislature comes to a close, and the next one starts, that that couldn't be amended, at least with a simple majority. That is the problem that we had, in that we had to present something that we felt would be able to get a two-thirds vote in either body. We

tried very carefully to structure these rules. For instance, we did not address concept drafting. We do have a pending question on the Governor's veto, and how those things are handled on the line-item veto, and probably another dozen items. We are expected to be meeting during the rest of this particular term in preparing something for the next session. Obviously, this may, in fact, in the long run, have been an oversight. Maybe the members of the Committee were not quite structured well enough to understand. Whatever the reason, it was not put into the rules; and I would doubt very much if you would be denied access to your own records in any event.

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

Senator CLEVELAND: Thank you, Mr. President. I appreciate the good Senator, from Kennebec's, response, of the procedure that the Task Force on Rules followed. However, he didn't respond to either of my questions; and I would ask, once again, if there is anyone in the Chamber who can respond to either of my questions. The reason that I ask is that I think it is important, for the Record, to insure that the rules, somehow, are not perceived to override statute or access by a member to their own records. Thank you.

THE PRESIDENT: The Senator from Androscoggin, Senator Cleveland, has posed a question through the Chair to any Senator who may care to answer.

Off Record Remarks

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

Senator HARRIMAN: Point of order, Mr. President. I believe there is a Senate Amendment "B", as well.

THE PRESIDENT: It is the Chair's understanding that amendments "B" and "C" were defeated. The pending question before the Senate is PASSAGE of the Joint Order, as Amended by Senate Amendment "A" (S-497).

The Chair ordered a Division.

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

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

30 Senators having voted in the affirmative and 1 Senator having voted in the negative, and 30 being more than two-thirds of the membership present, the Joint Order was PASSED, as Amended by Senate Amendment "A" (S-497).

Sent down for concurrence.

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

Senate at Ease

Senate called to order by the President.

Senator CAREY of Kennebec was granted unanimous consent to address the Senate on the Record.

Senator CAREY: Thank you, Mr. President. Even though we will still be working on these rules, I

would like to point out to you that we have had an exceptional staff in Dave Elliot and Judy Hayes, out of the Revisor's Office and out of the Policy and Analysis Office. It was their thought that we would codify these so they would be much easier to amend in years to come, to amend or to add rules or what have you. So, they have placed us in the very enviable position of having something done right, at least in that area. We have tried to take the rules and actually put them into different sections so that what pertains to legislation is in the legislation section, what pertains to Governor's nominations goes into that section and so on. We were practically unanimous in everything that we did. I have to commend the members of the Committee; and I would thank very much Senator Harriman, who chaired the TQM Committee for the patience that he showed with us at times. There were times when we had to have a little extra time and the Legislative Council also agreed with us and had us rework a couple of sections. So, for that, I would thank everyone who ever was involved with this task. Thank you.

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

Off Record Remarks

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

Off Record Remarks

Pursuant to Senate Rule 1, the Chair appointed Senator HARRIMAN of Cumberland as President Pro Tem for the remainder of the day's session.

On motion by Senator BUSTIN of Kennebec, RECESSED until 4:30 o'clock this afternoon.

After Recess

Senate called to order by the President Pro Tem.

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

PAPER FROM THE HOUSE

Joint Order

The following Joint Order:

ORDERED, the Senate concurring, that the Joint Standing Committee on Agriculture, Conservation and Forestry report out, to the House, legislation regarding the Maine Potato Board.

H.P. 1368

Comes from the House READ and PASSED.

Which was READ and PASSED, in concurrence.

Senate at Ease

Senate called to order by the President Pro Tem.

COMMITTEE REPORT

Senate

Ought to Pass As Amended

Senator BENOIT for the Committee on CRIMINAL JUSTICE on Bill "An Act to Make Comprehensive Changes to the Sex Offender Laws"

S.P. 551 L.D. 1510

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-516).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-516) READ and ADOPTED.

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

SECOND READERS

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

House

Bill "An Act Regarding the Food Stamp and Low-Income Home Energy Assistance Program" (Emergency)

H.P. 1366 L.D. 1875

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act to Provide A Retirement Benefit Option for Forest Rangers Equal to That Option Available to Game Wardens and Marine Patrol Officers" (Emergency)

H.P. 1177 L.D. 1609

(C "A" H-817)

Resolve, to Require the Study of the Medical Liability Prelitigation Screening Panels (Emergency)

H.P. 1257 L.D. 1729

(C "A" H-821)

Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts (Emergency)

H.P. 1316 L.D. 1800

(C "A" H-794)

Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1996-97" (Emergency)

H.P. 1342 L.D. 1837

(C "A" H-831)

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

Senate

Bill "An Act Concerning the Salmon Aquaculture Monitoring and Research Fund" (Emergency)

S.P. 764 L.D. 1876

Which was READ A SECOND TIME.

On motion by Senator GOLDTHWAIT of Hancock, Senate Amendment "A" (S-515) READ.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is a fiscal note that the bill inadvertently left the Revisor's Office without. It has no impact on the general fund. The funds come from dedicated revenue from the industry and this simply allocates that money. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-515) ADOPTED.

Which was **PASSED TO BE ENGROSSED, As Amended.**
Sent down for concurrence.

Senate As Amended

Resolve, Directing the Department of Human Services to Take Steps to Reduce the Regulation of Nurses Providing Care to Nursing Home Residents

S.P. 647 L.D. 1689

(C "A" S-514)

Bill "An Act to Clarify the Definition of Commercial Whitewater Outfitter" (Emergency)

S.P. 727 L.D. 1833

(C "A" S-513)

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **BEGLEY** for the Committee on **LABOR** on Bill "An Act to Combine Certain Reporting Requirements for Employees"

S.P. 738 L.D. 1846

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-520).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-520) **READ** and **ADOPTED.**

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

Senator **PARADIS** for the Committee on **TRANSPORTATION** on Bill "An Act to Amend the Maine Turnpike Authority's Budget for Calendar Year 1996" (Emergency)

S.P. 759 L.D. 1871

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-519).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-519) **READ** and **ADOPTED.**

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

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

SENATE ORDER - relative to amending Senate Rules 17, 25 and 26.

S.O. 39

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

Pending - **PASSAGE**

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

THE PRESIDENT PRO TEM: The pending question before the Senate is **PASSAGE.**

The Chair ordered a Division.

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

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

24 Senators having voted in the affirmative and No Senator having voted in the negative, and 24 being more than two-thirds of the membership present, the Senate Order was **PASSED.**

Senate at Ease

Senate called to order by the President Pro Tem.

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

Senator **GOLDTHWAIT:** Mr. President, is the Senate is possession of "An Act to Promote the Health of Newborns and Their Mothers" S.P. 670 L.D. 1732?

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

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

Bill "An Act to Promote the Health of Newborns and Their Mothers" (Emergency)

S.P. 670 L.D. 1732

(C "A" S-511)

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-511).

(In Senate, earlier in the day, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended.**)

On further motion by the same Senator, Senate Amendment "A" (S-521) to Committee Amendment "A" (S-511) **READ.**

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This amendment is to correct a fairly minor drafting error in terms of defining the definition of some of the terms in this bill. I would be glad to answer any questions; otherwise, I would urge you to support the amendment.

On further motion by the same Senator, Senate Amendment "A" (S-521) to Committee Amendment "A" (S-511) **ADOPTED.**

Committee Amendment "A" (S-511), as Amended by Senate Amendment "A" (S-521), thereto, **ADOPTED.**

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

Sent down for concurrence.

Off Record Remarks

On motion by Senator **CARPENTER** of York, **ADJOURNED** until Tuesday, March 26, 1996, at 9:00 o'clock in the morning.