

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

Index to 117th Legislative Record

HOUSE AND SENATE LEGISLATIVE SENTIMENTS

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

In Senate Chamber
 Thursday
 March 28, 1996

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

Prayer by Jennifer Wixson, Interim Pastor, Winthrop Center Friends.

JENNIFER WIXSON: Good morning. It is a pleasure to be here with you this morning. Shall we center ourselves this morning with some traditional Quaker silence. (Moment of silence.)

Dear Gracious and Loving God, Sweeper of the skies, Keeper of the eternal name, we lift up to Your healing and saving light, this morning, the Muskie family, the families and friends of the murder victim in Winslow, as well as the alleged murderer. We ask You to let them know that they are not alone during this time of challenge. Help us to turn inward this morning and discover there the song that You have given each and every one of us to sing. Grant us the courage, the strength, and the hope to claim our voice and sing our song, as well as the compassion, the charity, and the justice to hear and support the songs of others. Lead us not into the temptation of thinking that we make our own individual music, Lord, but lead us to rise up singing, one joyful noise to Your name, in the name of all humankind. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

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

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

In Senate, March 22, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-816)**, in concurrence

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-816) AS AMENDED BY HOUSE AMENDMENT "A" (H-865)**, thereto, in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication:

MAINE STATE SENATE
AUGUSTA, MAINE 04333

March 27, 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 Business and Economic Development has had under consideration the nomination of David J. Ott of Cumberland, for appointment to the Finance Authority of Maine.

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. 3	Harriman of Cumberland, Goldthwait of Hancock, Cianchette of Somerset
	Rep. 8	Rowe of Portland, Davidson of Brunswick, Povich of Ellsworth, Sirois of Caribou, Richard of Madison, Reed of Dexter, Cameron of Rumford, Lemont of Kittery

NAYS:	0	
ABSENT:	2	Rep. Libby of Kennebunk, Rep. Birney of Paris

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 David J. Ott of Cumberland, for appointment to the Finance Authority of Maine be confirmed.

Signed:

S/Philip E. Harriman
 Senate Chair

S/G. Steven Rowe
 House Chair
 S.C. 549

Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** has recommended the nomination of David J. Ott of Cumberland be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:	Senators:	None
NAYS:	Senators:	ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CLEVELAND, FERGUSON, GOLDTHWAIT, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND
ABSENT:	Senators:	BUSTIN, CIANCHETTE, ESTY, FAIRCLOTH, HALL, HANLEY, LONGLEY, 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 David J. Ott, for appointment to the Finance Authority of Maine, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

The Following Communication:
MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333

March 27, 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 Business and Economic Development has had under consideration the nomination of Donald J. Plourde of Winslow, for appointment to the Maine State Housing Authority.

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. 3	Harriman of Cumberland, Goldthwait of Hancock, Cianchette of Somerset
	Rep. 8	Rowe of Portland, Davidson of Brunswick, Povich of Ellsworth, Sirois of Caribou, Richard of Madison, Reed of Dexter, Cameron of Rumford, Lemont of Kittery

NAYS:	0
ABSENT:	2

Rep. Libby of Kennebunk, Rep. Birney of Paris

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 Donald J. Plourde of Winslow, for appointment to the Maine State Housing Authority be confirmed.

Signed:

S/Philip E. Harriman Senate Chair	S/G. Steven Rowe House Chair S.C. 550
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Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** has recommended the nomination of Donald J. Plourde of Winslow be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CLEVELAND, FERGUSON, GOLDTHWAIT, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: BUSTIN, CIANCHETTE, ESTY, FAIRCLOTH, HALL, HANLEY, LONGLEY

No Senator having voted in the affirmative and 28 Senators having voted in the negative, with 7 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 Donald J. Plourde, for appointment to the Maine State Housing Authority, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

The Following Communication:
MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333

March 27, 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 Business and Economic Development has had under consideration the nomination of David C. Kitchen of Yarmouth, for reappointment to the Maine Real Estate Commission.

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. 3	Harriman of Cumberland, Goldthwait of Hancock, Cianchette of Somerset
	Rep. 8	Rowe of Portland, Davidson of Brunswick, Povich of Ellsworth, Sirois of Caribou, Richard of Madison, Reed of Dexter, Cameron of Rumford, Lemont of Kittery

NAYS:	0
ABSENT:	2

Rep. Libby of Kennebunk, Rep. Birney of Paris

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 David C. Kitchen of Yarmouth, for reappointment to the Maine Real Estate Commission be confirmed.

Signed:

S/Philip E. Harriman Senate Chair	S/G. Steven Rowe House Chair S.C. 551
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Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** has recommended the nomination of David C. Kitchen of Yarmouth be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: None
 NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: BUSTIN, CIANCHETTE, ESTY, FAIRCLOTH, HANLEY, LONGLEY

No Senator having voted in the affirmative and 29 Senators having voted in the negative, with 6 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 David C. Kitchen, for reappointment to the Maine Real Estate Commission, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

The Following Communication:

**MAINE STATE LEGISLATURE
 AUGUSTA, MAINE 04333**

March 27, 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 Business and Economic Development has had under consideration the nomination of Jeffrey S. Mitchell of Farmington, for reappointment to the Maine Real Estate Commission.

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. 3 Harriman of Cumberland, Goldthwait of Hancock, Cianchette of Somerset
 Rep. 8 Rowe of Portland, Davidson of Brunswick, Povich of Ellsworth, Sirois of Caribou, Richard of Madison, Reed of Dexter, Cameron of Rumford, Lemont of Kittery

NAYS: 0

ABSENT: 2 Rep. Libby of Kennebunk, Rep. Birney of Paris

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 Jeffrey S. Mitchell of Farmington, for reappointment to the Maine Real Estate Commission be confirmed.

Signed:

S/Philip E. Harriman
 Senate Chair

S/G. Steven Rowe
 House Chair
 S.C. 552

Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** has recommended the nomination of Jeffrey S. Mitchell of Farmington be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: None
 NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: BUSTIN, CIANCHETTE, ESTY, FAIRCLOTH, HANLEY, LONGLEY

No Senator having voted in the affirmative and 29 Senators having voted in the negative, with 6 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 Jeffrey S. Mitchell, for reappointment to the Maine Real Estate Commission, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

The Following Communication:

**MAINE STATE LEGISLATURE
 AUGUSTA, MAINE 04333**

March 27, 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 Labor has had under consideration the nomination of Pamela Chute of Brewer, for reappointment as an alternate public member to the Maine Labor Relations Board.

MAINE STATE LEGISLATURE

AUGUSTA, MAINE 04333

March 27, 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 Labor has had under consideration the nomination of Peter T. Dawson of Hallowell, for reappointment as a public member to the Maine Labor Relations Board.

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. 1	Rand of Cumberland
	Rep. 10	Hatch of Skowhegan, Tuttle of Sanford, Chase of China, Lemaire of Lewiston, Samson of Jay, Joy of Crystal, Joyce of Biddeford, Pendleton of Scarborough, Stedman of Hartland, Winsor of Norway
NAYS:	0	
ABSENT:	2	Sen. Begley of Lincoln, Sen. Mills of Somerset

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 Peter T. Dawson of Hallowell, for reappointment as a public member to the Maine Labor Relations Board be confirmed.

Signed:

S/Charles M. Begley	S/Pamela H. Hatch
Senate Chair	House Chair
	S.C. 554

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on LABOR has recommended the nomination of Peter T. Dawson of Hallowell be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on LABOR 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:	Senators:	None
NAYS:	Senators:	ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

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. 1	Rand of Cumberland
	Rep. 10	Hatch of Skowhegan, Tuttle of Sanford, Chase of China, Lemaire of Lewiston, Samson of Jay, Joy of Crystal, Joyce of Biddeford, Pendleton of Scarborough, Stedman of Hartland, Winsor of Norway
NAYS:	0	
ABSENT:	2	Sen. Begley of Lincoln, Sen. Mills of Somerset

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 Pamela Chute of Brewer, for reappointment as an alternate public member to the Maine Labor Relations Board be confirmed.

Signed:

S/Charles M. Begley	S/Pamela H. Hatch
Senate Chair	House Chair
	S.C. 553

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on LABOR has recommended the nomination of Pamela Chute of Brewer be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on LABOR 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:	Senators:	None
NAYS:	Senators:	ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: BUSTIN, CIANCHETTE, ESTY, FAIRCLOTH, HANLEY, LONGLEY

No Senator having voted in the affirmative and 29 Senators having voted in the negative, with 6 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 Pamela Chute, for reappointment as an alternate public member to the Maine Labor Relations Board, was CONFIRMED.

The Secretary informed the Speaker of the House.

The Following Communication:

ABSENT: Senators: BUSTIN, CIANCHETTE, ESTY,
FAIRCLOTH, HANLEY

No Senator having voted in the affirmative and 30 Senators having voted in the negative, with 5 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 Peter T. Dawson, for reappointment as a public member to the Maine Labor Relations Board, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

The Following Communication:

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 27, 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 Labor has had under consideration the nomination of Gwendolyn Gatcomb of Winthrop, for appointment as an employee member to the Maine Labor Relations Board.

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. 1	Rand of Cumberland
	Rep. 10	Hatch of Skowhegan, Tuttle of Sanford, Chase of China, Lemaire of Lewiston, Samson of Jay, Joy of Crystal, Joyce of Biddeford, Pendleton of Scarborough, Stedman of Hartland, Winsor of Norway
NAYS:	0	
ABSENT:	2	Sen. Begley of Lincoln, Sen. Mills of Somerset

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 Gwendolyn Gatcomb of Winthrop, for appointment as an employee member to the Maine Labor Relations Board be confirmed.

Signed:

S/Charles M. Begley
Senate Chair

S/Pamela H. Hatch
House Chair
S.C. 555

Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **LABOR** has recommended the nomination of Gwendolyn Gatcomb of Winthrop be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **LABOR** 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 Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS:	Senators:	None
NAYS:	Senators:	ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: BUSTIN, CIANCHETTE, ESTY,
FAIRCLOTH, HANLEY

No Senator having voted in the affirmative and 30 Senators having voted in the negative, with 5 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 Gwendolyn Gatcomb, for appointment as an employee member to the Maine Labor Relations Board, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

The Following Communication:

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 27, 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 Labor has had under consideration the nomination of Kathy M. Hooke of Bethel, for reappointment as an alternate public member to the Maine Labor Relations Board.

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. 1	Rand of Cumberland
	Rep. 10	Hatch of Skowhegan, Tuttle of Sanford, Chase of China, Lemaire of Lewiston, Samson of Jay, Joy of Crystal, Joyce of Biddeford, Pendleton of Scarborough, Stedman of Hartland, Winsor of Norway
NAYS:	0	
ABSENT:	2	Sen. Begley of Lincoln, Sen. Mills of Somerset

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 Kathy M. Hooke of Bethel, for reappointment as an alternate public member to the Maine Labor Relations Board be confirmed.

Signed:

S/Charles M. Begley
Senate Chair

S/Pamela H. Hatch
House Chair
S.C. 556

Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **LABOR** has recommended the nomination of Kathy M. Hooke of Bethel be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **LABOR** 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: None
NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND
ABSENT: Senators: BUSTIN, CIANCHETTE, ESTY, FAIRCLOTH

No Senator having voted in the affirmative and 31 Senators having voted in the negative, with 4 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 Kathy M. Hooke, for reappointment as an alternate public member to the Maine Labor Relations Board, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

The Following Communication:

**MAINE STATE LEGISLATURE
 AUGUSTA, MAINE 04333**

March 27, 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 Labor has had under consideration the nomination of Carol B. Gilmore of Charleston, for appointment as an alternate employee member to the Maine Labor Relations Board.

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. 1 Rand of Cumberland
 Rep. 10 Hatch of Skowhegan, Tuttle of Sanford, Chase of China, Lemaire of Lewiston, Samson of Jay, Joy of Crystal, Joyce of Biddeford,

Pendleton of Scarborough, Stedman of Hartland, Winsor of Norway

NAYS: 0
ABSENT: 2

Sen. Begley of Lincoln, Sen. Mills of Somerset

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 Carol B. Gilmore of Charleston, for appointment as an alternate employee member to the Maine Labor Relations Board be confirmed.

Signed:

S/Charles M. Begley
 Senate Chair

S/Pamela H. Hatch
 House Chair
 S.C. 557

Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **LABOR** has recommended the nomination of Carol B. Gilmore of Charleston be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **LABOR** 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: None
NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, McCORMICK, MICHAUD, MILLS, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND
ABSENT: Senators: BUSTIN, CIANCHETTE, ESTY, FAIRCLOTH, LONGLEY, O'DEA

No Senator having voted in the affirmative and 29 Senators having voted in the negative, with 6 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 Carol B. Gilmore, for appointment as an alternate employee member to the Maine Labor Relations Board, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

Off Record Remarks

**COMMITTEE REPORTS
 House**

Ought to Pass As Amended

The Committee on **TRANSPORTATION** on Bill "An Act to Amend Certain Motor Vehicle Laws Including Those Affecting the University of Maine System Plate and the Certificate of Lien"

H.P. 1195 L.D. 1639

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-847)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847) AS AMENDED BY HOUSE AMENDMENTS "A" (H-852) AND "B" (H-854)**, thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-847) **READ**.

House Amendment "A" (H-852) to Committee Amendment "A" (H-847) **READ** and **ADOPTED**, in concurrence.

House Amendment "B" (H-854) to Committee Amendment "A" (H-847) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-847) as Amended by House Amendments "A" (H-852) and "B" (H-854), thereto, **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 Bill "An Act Concerning Referendum Reform for School Budgets"

H.P. 657 L.D. 880

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-824)**.

Signed:

Senators:

SMALL of Sagadahoc
ESTY, JR. of Cumberland
ABROMSON of Cumberland

Representatives:

CLOUTIER of South Portland
DESMOND of Mapleton
STEVENS of Orono
MARTIN of Eagle Lake
MCELROY of Unity
BRENNAN of Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-825)**.

Signed:

Representatives:

AULT of Wayne
BARTH, JR. of Bethel
LIBBY of Buxton
WINN of Glenburn

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

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 **NATURAL RESOURCES** on Bill "An Act to Amend Certain Laws Administered by the Department of Environmental Protection" (Emergency)

H.P. 1222 L.D. 1672

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-857)**.

Signed:

Senators:

LORD of York
HATHAWAY of York

Representatives:

DEXTER of Kingfield
GOULD of Greenville
POULIN of Oakland
MERES of Norridgewock
WATERHOUSE of Bridgton
DAMREN of Belgrade
MARSHALL of Eliot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-858)**.

Signed:

Senator:

RUHLIN of Penobscot

Representatives:

BERRY of Livermore
SHIAH of Bowdoinham

Comes from the House with the Minority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-858)**.

Which Reports were **READ**.

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

Senate Refer to Committee

Senator **ABROMSON** for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Create the Maine Health Care Reform Act of 1996"

S.P. 769 L.D. 1882

Reported, pursuant to Joint Order S.P. 750, that the same be **REFERRED** to the Committee on **BANKING AND INSURANCE** and printed pursuant Joint Rule 2.

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

The Bill **REFERRED** to the Committee on **BANKING AND INSURANCE**.

Sent down for concurrence.

Ought to Pass As Amended

Senator **CARPENTER** for the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, to Secure a Release of Property from the State

S.P. 760 L.D. 1872

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-536)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (S-536) **READ** and **ADOPTED**.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Improve the Child Development Services System"

S.P. 753 L.D. 1866

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-534)**.

Signed:

Senators:

SMALL of Sagadahoc
ESTY, JR. of Cumberland
ABROMSON of Cumberland

Representatives:

AULT of Wayne

BARTH, JR. of Bethel
CLOUTIER of South Portland
DESMOND of Mapleton
STEVENS of Orono
LIBBY of Buxton
MCELROY of Unity
BRENNAN of Portland
WINN of Glenburn

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

Signed:

Representative:

MARTIN of Eagle Lake

Which Reports were **READ.**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-534) **READ and ADOPTED.**

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

Senate at Ease
Senate called to order by the President.

Off Record Remarks

SECOND READERS

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

House

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1996 (Emergency)

H.P. 1373 L.D. 1881

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

House As Amended

Resolve, to Reduce Reliance on the Property Tax for School Funding

H.P. 1112 L.D. 1560
(C "A" H-861)

Bill "An Act to Increase the Reimbursement Levels for Forest Fire Suppression Costs"

H.P. 1321 L.D. 1808
(C "A" H-862)

Bill "An Act to Create the Small Enterprise Growth Program"

H.P. 1337 L.D. 1831
(C "A" H-844)

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

An Act to Improve Tribal and State Relations by Strengthening the Maine Indian Tribal-State Commission

H.P. 1217 L.D. 1667
(C "A" H-856)

Which was **READ A SECOND TIME.**

On motion by Senator **MILLS** of Somerset, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-856), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-537) to Committee Amendment "A" (H-856) **READ.**

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

Senator **MILLS:** Thank you, Mr. President. In the bill that we dealt with, there was a reference to a treaty relationship with the Indian tribes of this State. Indeed, that is an inappropriate reference in the bill. We have deleted that reference and the bill now properly refers only to the relationship that we do have, which is the Settlement Act. It is basically a technical amendment, and that is the reason for backing the bill up. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-537) to Committee Amendment "A" (H-856) **ADOPTED.**

Committee Amendment "A" (H-856), as Amended by Senate Amendment "A" (S-537), thereto, **ADOPTED**, in **NON-CONCURRENCE.**

The Bill **PASSED TO BE ENGROSSED**, As Amended, in **NON-CONCURRENCE.**

Sent down for concurrence.

Bill "An Act to Facilitate the Implementation of a Logo Sign Program on the Interstate"

H.P. 1359 L.D. 1864
(C "B" H-850)

Which was **READ A SECOND TIME.**

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED, AS AMENDED**, in **NON-CONCURRENCE.**

ENACTORS

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

An Act to Make Pet Dealers Liable for the Sale of Dogs and Cats That Have Health Problems

H.P. 53 L.D. 47
C "A" (H-779)

An Act to Amend the Home Health Laws

H.P. 1303 L.D. 1784

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

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

COMMITTEE REPORT

Senate

Ought to Pass

Senator **AMERO** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Reduce Costs for Municipalities" (Emergency)

S.P. 770 L.D. 1884

Reported that the same **Ought to Pass**, pursuant to Joint Order S.P. 767, and printed under Joint Rule 2.

Which Report was **READ and ACCEPTED.**

The Bill **READ ONCE.**

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

Senate at Ease
Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

Out of order the Chair laid before the Senate the following Tabled and Today Assigned matter:

HOUSE REPORTS from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Promote Additional Health Insurance Reform"

H.P. 1074 L.D. 1513

Majority - Ought Not to Pass (8 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-820) (5 members)

Tabled - March 27, 1996, by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT.

(In House, March 25, 1996, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.)

(In Senate, March 26, 1996, Reports READ.)

Senator ABROMSON of Cumberland moved that the Senate ACCEPT the Minority OUGHT TO PASS AS AMENDED Report, in NON-CONCURRENCE.

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

Senator ABROMSON: Thank you, Mr. President. L.D. 1513 is what is now known, perhaps, as the Blue Cross Mutualization Bill. The majority report basically says, "Let's forget the whole thing." I was inclined to do exactly that, and in Committee I voted for the majority report. However, many questions have been raised about the intent and the meaning of the 1939 law that created Blue Cross and Blue Shield. Blue Cross and Blue Shield has sent a letter to the Commissioner of Professional and Business Regulation and has said that it is their intent not to apply again to mutualize before the 118th Legislature meets in January of 1997. Many people on both sides of the aisle, and even within my caucus, have worried that that time frame doesn't give the Legislature the time that it may want to take to frame and enact an updated version of just what should happen in the case of a mutualization. The Ought to Pass as Amended Report calls for a moratorium until October 31, 1997. I personally feel that this time frame ties the hands of the major player in the State's insurance industry and impedes corporate planning and, perhaps, corporate progress. However, I am sympathetic to both sides of this issue; and if this motion passes, I will be offering an amendment to delay any application for mutualization through June 30 of 1997. Thank you.

Senator SMALL of Sagadahoc moved that the Bill and Accompanying Papers be INDEFINITELY POSTPONED.

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

Senator BENOIT: Thank you, Mr. President. May it please the Senate. You know, in the law there is a principle, and it is a pretty important principle, called "the chilling effect of the law." It's a process or procedure which inhibits, or constricts, the right of a person's access to the court system. For example, say you have an appeal fee in a civil case that was set at \$1,000. It had nothing to do with the cost of the appeal. That certainly would have a chilling effect, people having to come up with an amount of money for a constitutional right of appeal. So we label that the chilling effect of the law. Now, anything like that is negative. There is nothing positive about it. It is to be shunned and avoided, like the plague, if you will; because it's rooted in unfairness. Today, in this regard to this bill, and that's why I speak in favor of the motion just made by the good Senator, Senator Small, if we don't take this route, we are on the doorstep of

creating a new principle, "the chilling effect of the Legislature." We have a minority moratorium. What a beautiful sounding government expression, minority moratorium. I will tell you why we are going to have a chilling effect of the Legislature here if we are not careful; and that's because we have had a constituent come here with a bill, all legal. This bill got assigned to Committee. There was a hearing, a work session; and part of the mechanics found the Attorney General in the picture, as he has a right to do. He showed up and part of his involvement saw a proposed piece of legislation that was very complicated. It got so complicated that almost everybody involved in this process agreed, "Let's end this situation. Let's end this process of the legislation here and have it over with." That's the majority report. The minority report said, "Wait a minute. Sure, you came here in good faith, a corporation. And it does make sense to dispose of this matter now. But we are going to give you a moratorium. You can't leave here clean. We are going to leave you worse off than when you first came in here. We are going to give you a moratorium for 18 months. Maybe we will make it less." A legislative moratorium against this corporation using a statutory procedure available for every other corporation like it in this State. Worse off than when they came in is what they are going to get. Is that fair? That's the chilling effect of the Legislature in my view, worse off than when you came here. I love the expression, a moratorium. It sounds so neat, all wrapped up with a bow on it. I've got another expression for it. I call it a "legislative albatross" placed around the neck of a constituent, a corporation if you will. It's a person in our definition of person. We include people. We include corporations. They are all constituents. You see, this corporation could have taken one of two routes. The legislative route, which they took, or the statutory route. We are going to tell them now, because they took the legislative route, that it may not work out for them, but the other route is not available to them. They can't take the other route. Everybody else in the State can, not you. You've got an albatross around your neck. You are going to have to live with it. Worse off than when they came in. You see, if they hadn't come in in the first place, they wouldn't be wearing this albatross that we intend to give them in this Legislature. I call that a denial, if you will, of equal protection of the law. We don't need a moratorium. We've got the Attorney General. He is charged with a duty to watch out for corporations and their assets, particularly in a charitable situation. So, we've got the whole Attorney General's office, right over there in the other building, available. We've got the Superintendent of Insurance available. What are we afraid of? I assume regularity in government. Don't you? We don't need to give these folks a moratorium around their neck for even one single day. It just isn't good government. It's negative. It isn't fair. I will have no part in creating a chilling effect of the legislative process.

Let me conclude with this. On a package of cigarettes there is a warning of the Surgeon General, "Smoking may be injurious to your health". Enact this moratorium, and give a warning to the citizens of this State that filing a bill in the legislature may be injurious to their civil rights. 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 Kennebec, Senator Carey.

Senator **CAREY:** Thank you, Mr. President. I listened to the remarks of the good Senator from Franklin, Senator Benoit, about being worse off. I would say that the people themselves would be worse off than a company or corporation; because in the first line of the Statement of Fact it says, "This bill eliminates the requirement of prior approval of rates for individual health insurers in non-profit hospitals and medical service organizations." Then we, as the subscribers, become liable, and are at the mercy of the corporation. Thank you.

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

Senator **McCORMICK:** Thank you, Mr. President, Men and Women of the Senate. The good Senator from Franklin makes several points, and I think that speech would be on point if we were talking about a for-profit corporation. In fact, we are talking about Blue Cross Blue Shield, which was created in this body, in this very building, in 1939. It is a creation of the Legislature, and it was; in its statute, "is hereby declared to be a charitable and benevolent institution, and its funds and properties shall be exempt from taxation." It went on to become the biggest health insurance company in this State. It went on to become that under the auspices of its non-profit status. It has 90% of the doctors and providers in this State in its panel of providers. It has a logo that is highly sought after. It has many assets and the question before us, and the reason for the moratorium, and I appreciate the offer to amend and create a compromise here on this very contentious piece of legislation by the good Senator from Cumberland, Senator Abromson; and I will support that. I appreciate that offer on your part. The issue before us is this, are there any public assets in Blue Cross Blue Shield at this point? Meaning, any assets that belong to every single one of the 1.2 million people that live in Maine. Many of us believe that there are. What our duty today is is to not move forward in such a way as to eliminate the ability of the people of the State of Maine to realize their investment, their hard earned money investment in Blue Cross Blue Shield. So, all we are asking for is a moratorium, so that this very, very important discussion, this very, very important issue can be discussed for a little while longer. The good Senator is correct, in part, the Senator from Franklin, Senator Benoit, that the Attorney General has, in his statute, the duty to protect the people of the State of Maine and their assets. But, what is unclear in this statute is whether he has standing to do that. The good Senator is also correct that the statute says that the Superintendent of Insurance will also look over the process of conversion from a non-profit insurance company, which Blue Cross is now, to a for-profit mutual company, which is where they want to go. What is not clear in that statute, and I will save you all the morass of it, but what is not clear in that statute is whether the people of the State of Maine have standing, meaning have the ability to intervene and press their case, and whether the Superintendent of Insurance has to, must, consider that fairness and whether there is any assets due the people of the State of Maine in this

conversion. That is the question. I propose to you that if we vote for indefinite postponement at this moment, we will doom ourselves to years of costly litigation. The process of conversion is not clear. There was a long attempt in our Committee to have all the people who had an interest in this issue, the Attorney General, the Superintendent of Insurance, the Commissioner, the consumers, and Blue Cross Blue Shield, sat down for a week and went through seven drafts. I would only disagree slightly with the good Senator, to say that we had a finished product. We were this close to having an agreement on a process that would clarify the statutes. It was draft number six. Everybody had worked very hard on it. Blue Cross Blue Shield was the only one who pulled out of that discussion. Everyone else has hung in there for a week of meetings and six drafts. So, I think we are now left with only one thing to do. We had a very good process draft under way. We were almost all in agreement. Blue Cross Blue Shield withdrew from that process; and the only thing left for me now, and for you, at this point in time, to do is to vote for a moratorium to give this State, and the people of this State, more time to think about this very, very important conversion of their assets. Thank you.

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. The bottom line here is simple. We wouldn't be here today, talking about this matter, if one of our constituents didn't come to us in a lawful manner, with a piece of proposed legislation. I think it's a shameful sanction to give somebody lawfully here a moratorium, a sanction, a penalty, for coming here. We wouldn't even be talking about this today, but for the fact they came to us, as they had a right to do. What are we going to do? Tie an albatross around their neck? Well, I can't do that.

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

Senator **ABROMSON:** Thank you, Mr. President. I just want to clarify two things. One, the good Senator from Franklin, Senator Benoit, made the statement, "every other corporation like it". I would just point out to the body that there is no other corporation like it in the State. Secondly, the good Senator from Kennebec, Senator Carey, mentioned the statement of fact. He is referring to the original bill. The minority report replaces the entire original bill and only calls for a moratorium. It has nothing to do with rate regulation. Thank you.

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

Senator **MILLS:** Thank you, Mr. President, Men and Women of the Senate. It's true that Blue Cross, not under that name, was formed in 1939 by private and special law passed when my father was a member of the other body at the age of 28. It was called, and is called to this day, the Associated Hospitals of Maine. In its original incarnation it was a group of charitable hospital administrators who got together and thought that it would be wise to form one of these associations as sort of a larger charity to try to assist people in having better access to hospital care. As the organization grew through the 40's and the 50's, it branched into and became Blue Shield as well, in offering physician services. It has always

been exempt from Maine taxation, from income taxation, from the 2% insurance revenue that we collect from other insurance companies. Only, I think, in recent years has it been subject to some measure of income taxation at the federal level. At some point along the way, it picked up the label of Blue Cross, which became available as the national franchise name. At no point between 1939 and 1993 was it ever an option for this public charity to become a mutual company. By a Committee Amendment introduced in the spring of 1993 to the Banking and Insurance Committee, there was language inserted into that body of law which governs this organization, that they had the authority at that point to convert to a mutual form of enterprise by filing certain papers with the Bureau of Insurance, and by satisfying the Bureau that the plan, among other things, was fair and equitable. The legislation that they put through in the spring of 1993 did not deal one way or the other with whatever public charitable interests there may be in this corporate entity. In the last month and a half, Blue Cross came forward with another Committee Amendment, under the title that was eluded to by the Senator from Kennebec; and the Committee Amendment, a very elaborate one, would have completely squeezed out, if it had passed, in my view, any public or charitable interest that the people of Maine might have had in this public charitable enterprise, and would have rubber stamped, it would have given the rubber stamp of this institution, to let the handful of people who manage this company do with it as they will, in complete disregard for the charitable mission that was given to them by this body in 1939. They did not get away with it. It came to public scrutiny. It was examined by the Banking and Insurance Commission. It came to the attention of the Attorney General, who has an absolute common law and public duty to watch out for the public interest. There was an open and free discussion of these very important ideas in the Banking and Insurance Committee. At the instigation of that Committee, and by a practically unanimous vote of that Committee, the parties were sent off to negotiate language that would make clear what the procedure would be for defining the public interest, vis a vis, the policyholders' interest, and what other interests there might be in this charitable entity. There was a great deal of labor put into that draft. It was worked out with the Bureau of Insurance because no one involved wanted to prejudice the rights of the policyholders in any way. If it is the destiny of Blue Cross that it will become a for-profit enterprise, as other Blue Cross entities have done in other states, the effort that was made this winter was to try to define an orderly, rational procedure by which that might happen without prejudicing the interest of any party who has a stake in this very interesting issue. Blue Cross decided to pull the plug on that effort, and asked that there be an ought not to pass vote on the bill that they were operating under. If we leave the law as it is, without further action by this Legislature or the next Legislature, there will be the kind of litigation that makes some of my brethren happy and rich. If we, on the other hand, have a moratorium and leave Blue Cross just as it has been for the last 57 years, and had no authority to be otherwise for the first 54 years of its existence, until 1993, there will be no harm to Blue Cross and Blue Shield. But, it will give this Legislature, or the next

Legislature rather, a fair opportunity to grapple with these issues that are of enormous public import, and help to define how to straighten out these rather competing interests that are inherent in the structure that we created in 1939 when we said that this was a charitable and benevolent institution. I think it is important to give this issue further time, and to give the next Legislature, in a longer session, an opportunity to grapple with this important issue. If we fail to grapple with this issue, if we fail to come to terms with it, we will have abdicated our responsibilities to the people of Maine. Thank you.

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

Senator HARRIMAN: Thank you, Mr. President. Good morning, Ladies and Gentlemen of the Senate. I am really quite surprised that what appeared to be a bill introduced to allow a Maine company to compete more effectively in our market place, to reform the rate regulation process, has now turned into a matter of trust between the Maine Legislature and the Maine company. That, to me, is what it has boiled down to. In an effort to streamline the regulatory process to be more efficient and more competitive in the marketplace, we have now turned this debate with a 57-year-old company into a matter of "we don't trust you." For 57 years, at least from my point of view, this particular organization has served this State in ways that have assured people health insurance at times when no one else would insure them. They are a good corporate citizen; and here we are today, telling them that before this Legislature adjourns, we are going to throw a cold, wet blanket over their company so that we can come back in the next session and deal with it appropriately.

I want to speak, if I might Mr. President, for just a minute, about what I hear characterized as a charitable corporation becoming a for-profit corporation. I guess in the first place I don't understand how a federal tax can be imposed on a charitable corporation; and indeed, Blue Cross Blue Shield pays tax. I don't understand how a charitable corporation has been supervised all these years by the Superintendent of Insurance and not the Attorney General's office, but I will leave that for you to sort out in your own mind. The distinction that I think is important here is that there is a big, big difference between a company that operates as a mutual company and as a stock company. A mutual company is owned by its subscribers. A stock company is owned by stockholders. Stockholders are people who are interested, primarily, in a couple of things, the safety of their investment, and a high predictable dividend on their investment. A mutual company owned by the subscribers are interested in making sure that the company runs efficiently, that health insurance claims are paid promptly, and any savings, if any, are used to establish reserves for future claims and the rest returned to lower the cost of providing health insurance, in this particular case. But, as the good Senator from Franklin accurately points out, this particular company could, without coming before the Legislature, have gone to the Superintendent of Insurance and asked to become a mutual company. The research that I have had an opportunity to review says that if they did that the plan must be approved by two-thirds of the members of the corporation having voting rights under the by-laws who vote on a plan of conversion in person,

by proxy, by mail, et cetera. Second, the mutualization leaves the insurer in possession of capital, or surplus funds, adequate to satisfy the provisions of existing law which ensures that there will be ample money to pay claims. Third, the mutualization plan must demonstrate to the satisfaction of the Superintendent of Insurance that there is a three year, going forward, business plan to assure that after mutualization the company remains solvent and viable. Fourth, the terms and conditions of the plan are fair and equitable. That's existing Maine law. I'm also told, from people in the Chamber who have had a chance to talk with me off the record on this particular matter, that, indeed, the Attorney General could, and probably would, intercede in a mutualization plan before the Superintendent of Insurance. So, Ladies and Gentlemen of the Senate, I guess I feel that this 57-year-old company has earned and deserves my trust. They clearly have heard the public message that has come out of these chambers as to how the Legislature hopes that they will proceed, that there should be open and spirited dialog on the future of Blue Cross and Blue Shield. But, to put handcuffs on an organization as we wind down this session is sending the wrong message. As the Chair of the Economic Development Committee, I can tell you how proud I am of this Legislature for the tremendous strides that we have made in changing the attitude that people who take the risk of providing jobs in this State have toward their state government. Together we have made a tremendous turn around in that attitude.

Let me just add, Blue Cross Blue Shield has already hired 200 new employees, and do you know where these employees have come from? They have come from state government. They have come from B.I.W. They have come from Unum. They have come from other companies that have downsized in this economy. Where are these jobs that Blue Cross Blue Shield is offering coming from? From their ability to prove that our work ethic, our telecommunications infrastructure is capable of handling the claims processing for other Blue Cross Blue Shields, most notably and most recently the Blue Cross in Minnesota. Do you know what? They are going to hire 100 more people. What is the message that we are sending here, Ladies and Gentlemen of the Senate? A moratorium, and with all due respect to my good friend from Cumberland, Senator Abromson, I appreciate your willingness to strike a balance here. But, to me, a moratorium of six months or six days, or six minutes, sends the same message, "We don't trust you." I don't think it's appropriate for the Maine Senate to micromanage a company from the floor of the legislature; and if this passes, that's essentially what we are going to try to do.

Last week, Mr. President, Governor King invited 100 men and women from all over the State in his Maine Company initiative, which I enthusiastically support. Do you know what he said? Travel about the country. Travel about the world. Tell people about "Maine on the Move". Tell people about our interest in their locating their businesses here. The Commissioner of the Department of Economic and Community Development, particularly, said to them, "We want to attract the technology-based service sector to come locate in Maine." That's this 57-year-old company that we may decide we no longer trust, who had endured the economic ups and downs

over the last 57 years. What is the message we would send to the companies who are thinking about coming here? You can come here. We would love to have you, but don't make a mistake, or give the wrong impression, or we may put handcuffs on you. Thank you.

Off Record Remarks

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. I will be very brief. I want to share with you that for fifteen years in the judiciary I had the task of working with the principle that I have described, the chilling effect of the law. It's a negative situation. We try to dispel it. It's nothing positive. I beg you today, in this measure, please don't create a like principle in the Legislature, a chilling effect. This corporation has a right to be made whole, put back to where it was before it came to us. Giving it a moratorium isn't going to do it. 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 rise this morning to speak to you because I hear the proponents of this indefinite postponement making two arguments. One is that there is only one interest to be considered here, and that is a corporate interest. That is the interest that should bear all the weight in the decision. Secondly, that somehow this corporation is disadvantaged by participating in the public process; and, therefore, we can't take any further action; because, somehow, it will disadvantage them in some way. Making those two arguments, they then conclude that this corporation would, somehow, be disadvantaged if they were simply asked to allow for a period of time for further discussion. I would like to speak to those three points that the proponents are making.

First of all, the corporate interests are not the only interests to be considered here. This corporation, unlike any other corporation, receives public benefit. It was exempted from paying taxes, corporate taxes, premium taxes, property taxes, state corporate taxes. No other corporation for profit enjoys that advantage. I would remind you that that advantage does not come from this institution. It comes from the people of the State who provided that power, that gave of themselves, or said, "We will take less revenue, and we will pay more from our own pockets because this is a charitable organization and it does a good job. So, we will pay more, so we can build the assets of this corporation and allow it to do its good work, as we do with other charitable organizations." As soon as they were willing to operate in that arena, they were different; and there were public assets. State after state have found that they are public assets and that they need to be recognized in some way. We don't know, today, exactly what those are, or exactly what those calculations are; but it's pretty clear that there is a high potential that there are significant public assets that have been gained, that need to be recognized. The people of this State need to be compensated for those public assets to the degree

that they exist. None of us here know what they are, but we know that they exist.

Secondly, there is the argument that somehow, by participating in the public process, you have been disadvantaged; that we are to ignore the information that we received that this corporation wishes to go from its non-profit charitable status, to a mutual for-profit company, and therefore, totally set that aside, even recognizing, knowing that information that the public interest may be disadvantaged. We are to conclude from that that the legislative process, as elected officials, are somehow unfair, that they cannot fairly balance all of the interests here, look at all the information and come to a reasonable conclusion. To ask this corporation to participate in that process again is somehow going to disadvantage him, because this institution is unfair. We are going to lean totally toward one side or the other and cannot come to a fair conclusion on what the public interests, as well as the corporate interests, are. I think that completely underestimates what this institution does and disrespects the work that we do here, greatly. So, I don't think it is a disadvantage at all.

The other point that I think is important to make here is to listen to some other voices. I would ask you, for a moment, just to take a second to listen to them and you will hear them. Just listen for a moment. Did you hear those voices? The deafening sound of silence. Who do those voices belong to? Those voices belong to the majority of folks who couldn't afford to hire expensive lobbyists or attorneys, or to attend fundraisers, or to bend the ears of these legislators. Those are the people who paid, from their pockets, for the exemptions that were given to the company. That's who those voices are. But, they are not here today. I hear them. I think, if you will listen just a little harder, you will hear them. They are part of your constituents that voted for you. Those are the people who are back home today, in the factories and the offices, working to earn the income to pay the taxes and the exemptions that we give, to build assets for other corporations. They are simply saying, make sure that whatever they pay for, they get a fair return for it. Let's have a reasonable discussion about that. Let's not do it after the fact. Let's do it up front, honestly, openly, for everyone to participate in. I can hear those voices. I think if you wait, and listen, just a little bit, and don't hear the drumbeat of the lobbyists, and the attorneys and those with money representing those interests that can be in the halls, a little bit closer, if you listen a little bit harder, you will hear all the way back to your districts. Those folks say, "Just treat us fair. Just make sure that our interests are protected. Just do everything right for everyone, and don't run in haste to give up millions of dollars of something that we paid for." I don't see how that is unfair or unreasonable. When I vote, I am going to be listening hard to those voices. I hope you don't listen to my words. Listen to your own constituency. If you listen a little harder, I suspect you are going to hear the same voices I have been hearing. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. To suggest that this Chamber is going to make a decision based on who

stands out in the hallway is an insult. I resent it. For me, this is a matter of the message we send out of this Legislature to all of Maine's citizens who come to these chambers, to debate in an open and fair and spirited way the public policy issues of the day. To me, this is a matter of trust. Do we trust this 57-year-old organization that lives and works here, and pays federal taxes and pays property taxes, to continue to act as a good corporate citizen? That's what I'm voting for, and that's what I believe they will do. Nothing more. Nothing less. Thank you.

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

Senator **McCORMICK:** Thank you, Mr. President. Blue Cross Blue Shield is a good corporate citizen. I love the things they do. They have done wonderful things. They sponsored a whole year of AIDS work for the Maine AIDS Project. They are a wonderful corporate citizen. No one here is denying that. They also happen to be a corporation that is doing business in the most vibrant industry that this country has, the health care industry. They have been adding those 200 employees and are going to add another 100 from their non-profit position. I don't even want to talk to you, let us not even get into what's happening in the health care industry, and the stampede from health care entities that you depend on, and your constituents depend on, that are now non-profit, that, because their stock is worth so much on Wall Street and on the Dow-Jones, are stampeding to become for-profit. Let's not even talk about that. Let's lay that off the table. Let's not even talk about what that is going to do to the people of Maine and to this country; because we, of course, in the meantime, while they are stampeding to be for-profit, to be governed only by their stockholders, we have dismantled all safety nets that will help our constituents who cannot afford health insurance. Believe me, they are growing. So, let's not even talk about that. I don't even want to talk about that. What we are suggesting is that there are two entities here that have to be considered, the corporation and the people of the State of Maine. The corporation is doing fine. It is a great corporate citizen. We like Blue Cross and Blue Shield. I have Blue Cross and Blue Shield. What we are suggesting is, because of its non-profit status, it has gotten huge value from that. The Blue Cross Blue Shield name is synonymous with healthcare in this State. What am I holding up here? Am I holding up a Kleenex, or am I holding up a tissue? It is the same thing. Kleenex, that term, that trademark that has come to mean the thing that we blow our noses with, that name, that word has uncalculable worth. The word, the four little letters that we are arguing about today, Blue Cross Blue Shield, has that same uncalculable worth.

Let's just run down what other states have done about this. I disagree with the Senator from Franklin that we would not be here had Blue Cross not come before us. This issue is squarely before every legislature in this country. I agree with Senator Mills. We would abrogate our responsibility were we not to preserve the people's ability to just assess, just ask the question, "Are there any public assets here in Blue Cross Blue Shield?" California has said yes. The whole entire Banking and Insurance Committee, you should have been there, it was a true legislative moment, huddled around a speaker phone,

listening to a representative from California, Representative Eisenberg, talk about the three year process of Blue Cross California's conversion there. How, at first, they tossed off this \$100 million deal as a compromise; and then the Superintendent of Insurance got involved; and then the courts got involved and his legislative committee kept discussing it, and discussing it; and finally, do you know what the final value of Blue Cross Blue Shield of California was? \$3 billion. Yes, indeed, they decided that there was a lot of public assets in that \$3 billion; and they set aside two publicly charitable institutions and funded them in the hundreds of millions of dollars to do healthcare work that would not be being done because this important corporate citizen was turning to a for-profit. The same happened in Virginia. The same happened in Oregon. The same happened to a hospital in Massachusetts. In Colorado Blue Cross announced that it will set aside assets for public benefit when it converts. So, we are not out of step here. We are exactly where we have to be. We are having a discussion that we have to have. What you need to know is that if you vote yes on the motion to indefinitely postpone, we, we the people of the State of Maine, will never have another bite at this apple. Once Blue Cross goes into the limbo of mutuality, the market forces that exist in the healthcare industry will suck it. The large sucking sound that was talked about two years ago will suck it into for-profit status; and there will be no ability at that time, there is no standing for anybody at that time to say, "Oh sir, what about my constituents in Winthrop who have been paying 30% interest in premiums and paying for the tax breaks that Blue Cross has gotten over the years?" That's all we are asking. So, we are not discussing what is happening in the industry. We are not saying Blue Cross is not an important corporate citizen; because, of course, it is. What we are saying is that there is a public interest here; and if we are not willing to, at this moment, come up with a process, not a decision, that's all that the minority report was earlier, the process that Blue Cross pulled out of, was a process of determining whether or not there were any public assets, not whether there were and where they would go, but just a process. So, we are not at that place yet. Let's give ourselves a little time because there will never be another bite at the apple. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate, for listening to my testimony. I would like to make just two brief comments, if I might. The first is that if there was a plan to see this company become a stock company, perhaps some of the points that the good Senator from Kennebec raises would be appropriate to look into further. But, there is a huge distinction between taking a company and making it a stock company, where you raise capital from investors who are taking a risk in return for the growth of their investment in dividends, that is a big distinction from a company that is going to organize as a mutual company, owned by its policyholders, not to raise capital, but to mutually derive the benefits and lower costs, or smaller increases, in a company that is owned by its subscribers. That is a tremendous difference. This is not a company that is going out into the market to

see how much capital they can raise, as the good Senator from Kennebec used as analogies in other states. That is not the case here. The question is, "Are we going to rebuke one company in Maine to come up with, presumably in the next legislature or through some study over the next year and a half, a process to figure out what part of that company may belong to the public at large?" I'm not standing here saying that they do not have some part of their company that may belong to the public. I do not quarrel with that. But, that's the responsibility of the Attorney General. He, or she, can do that now. Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senators: **CIANCHETTE, FAIRCLOTH, FERGUSON**
15 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 3 Senators being absent, the motion of Senator **SMALL** of Sagadahoc to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **FAILED**.

On motion by Senator **ABROMSON** of Cumberland, the Minority **OUGHT TO PASS AS AMENDED** Report, **ACCEPTED**, in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-820) **READ**.

On motion by Senator **ABROMSON** of Cumberland, Senate Amendment "A" (S-526) to Committee Amendment "A" (H-820) **READ** and **ADOPTED**.

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

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of Committee Amendment "A" (H-820) as Amended by Senate Amendment "A" (S-526), thereto, in **NON-CONCURRENCE**.

A Division has been requested.

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

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

22 Senators having voted in the affirmative and 8 Senators having voted in the negative, Committee Amendment "A" (H-820), as Amended by Senate Amendment "A" (S-526), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Unfinished Business

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

The Chair laid before the Senate the first Tabled and Later Today Assigned (Wednesday, March 27, 1996) matter:

HOUSE REPORTS from the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Provide Public Access to the Information Superhighway through Enhanced Library Telecommunications"

H.P. 618 L.D. 828

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-832) (8 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-833) (5 members)

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

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 26, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832).**)

(In Senate, March 27, 1996, Reports **READ.**)

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

Out of order, the Chair laid before the Senate the first Tabled and Today Assigned matter:

HOUSE REPORT from the Committee on **TAXATION**, pursuant to Joint Order (H.P. 1339), on Bill "An Act to Extend the Milk Handling Tax"

H.P. 1372 L.D. 1880

Report - Ought to Pass

Tabled - March 27, 1996, by Senator AMERO of Cumberland.

Pending - **ACCEPTANCE OF THE REPORT.** (Roll call requested.)

(In House, March 27, 1996, **PASSED TO BE ENGROSSED.**)

(In Senate, March 27, 1996, Report **READ.**)

On motion by Senator BUSTIN 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 **ACCEPTANCE** of the 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, BEGLEY, BENOIT, BUSTIN, CAREY, CARPENTER, CASSIDY, CLEVELAND, GOLDTHWAIT, HALL, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: AMERO, BERUBE, ESTY, HANLEY, HARRIMAN, HATHAWAY, KIEFFER

ABSENT: Senators: CIANCHETTE, FAIRCLOTH, FERGUSON
25 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 3 Senators being absent, the Report was **ACCEPTED**, in concurrence.
The Bill **READ ONCE.**

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

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

An Act to Implement the Recommendations of the Committee to Study the Operations of the Governor Baxter School for the Deaf

H.P. 370 L.D. 505

(C "A" H-787)

Tabled - March 27, 1996, by Senator AMERO of Cumberland.

Pending - **PASSAGE TO BE ENACTED.**

(In House, March 27, 1996, **PASSED TO BE ENACTED.**)

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

Out of order, the Chair laid before the Senate the seventh Tabled and Today Assigned matter:

SENATE REPORTS from the Committee on **UTILITIES AND ENERGY**, pursuant to Public Law 1993, chapter 566, section 10 on Bill "An Act to Amend the Laws Concerning Enhanced 9-1-1"

S.P. 766 L.D. 1877

Majority - Ought to Pass (8 members)

Minority - Ought Not to Pass (5 members)

Tabled - March 27, 1996, by Senator KIEFFER of Aroostook.

Pending - the motion of Senator CARPENTER of York to **ACCEPT** the Majority **UGHT TO PASS** Report.

(In Senate, March 26, 1996, Reports **READ.**)

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

Senator HARRIMAN: Thank you, Mr. President. Good morning, Ladies and Gentlemen of the Senate. I rise in hopes that you will join me in voting against the pending motion. I do so because what appears to have been a relatively inexpensive way to communicate through the Emergency 9-1-1 system several years ago, when a \$3 million bond issue passed that asked citizens if you want to implement a 9-1-1 system. As you are aware, that bond issue, indeed, did pass. Here we are, several years later, the system is still not implemented; and in addition to the bond issue, we now have a two-cent surcharge on our telephone lines to help pay for this service. The pending motion would take that two-cent service charge and take it to twenty cents, a 900% increase. Do you know what? Even after we do that, the job won't be completed. We are told that they will be back in another session of the legislature and we are going to take it to thirty-two cents per phone line to bring this system on line. I don't quarrel with the need to have an emergency response system. Indeed, most of the towns in Maine have done this voluntarily. The concern I have, Ladies and Gentlemen of the Senate, is that this bill will raise millions of dollars of revenue; and we know now that they are going to come back and ask us for even more. I would just simply ask, "Where in the scheme of the priorities that we have here does this system fit, in view of other things, like mental illness, like long term care, like child abuse, like stalking, et cetera?" Where does this system fit in the scheme of things for us to go ahead and vote for a 900% increase on the fees that we are charging to people with phone lines? Thank you.

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

Senator **CARPENTER**: Thank you, Mr. President, Women and Men of the Maine Senate. E-9-1-1 is quite a bit different than 9-1-1, which the good Senator from Cumberland, Senator Harriman, spoke of. E-9-1-1, as you might have read in the news, even allows a dog to call the emergency numbers; because of one thing, E-9-1-1 tells the dispatcher exactly where your home is. Three hundred out of 492 municipalities are already changing their road signs, and their numbers, if they are in conflict with a road with the same or a similar sounding name within the community. This allows children, obviously trained animals, to activate the phone enough so that it will come up on a computer board that shows exactly where the phone call is coming from. I really don't think that thirty-two cents per month for a service, there is no way you can call this a tax, this is a service. You are subscribing to protection. I certainly hope that you vote with the majority ought to pass. Thank you.

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

Senator **LONGLEY**: Thank you, Mr. President. I would like to pose a series of questions through the Chair. My first question is, why does it have to be an ongoing thirty-two cents a month? I would think that it would be a one-shot deal, after which I would hope that it would be a much less costly expense. Thirty-two cents, added to whatever else we have on our phone bills every month, it just keeps adding, and adding, and adding up. Why is this an ongoing expense? Thank you.

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

Senator **CARPENTER**: Thank you, Mr. President. I would answer it that it is like any system that is in place. You have to have certain functions, whether it is maintenance on the computers, whether it is staff, coordination staff, staff for dispatching. It does have expenses that go on and on. There is another section to this bill that the Committee did ask the E-9-1-1 people to do, and that is to look for other ways of funding, such as funding it out of the general fund. At this time we can't do it that way. 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. Let me try to respond to the question, as well. The reason that there will be ongoing fees is because there will be ongoing costs. Those costs add up to about \$3 million a year. They break down into the following four categories. First of all, for the service to be of any value, you have to maintain the data base. As people move from one residence to another residence, new residences are built, older residences are taken down, the data base, that is the address and who is there, must be maintained. It will require some expense to keep it up to date. It is somewhat analogous to a voter list. It is only as good as you keep it up to date. So, that is an important cost. Keeping the system itself going requires some network costs to keep it up to date and there will be some cost for that. There will be ongoing cost for equipment, maintenance and repair and upgrading as technology changes. Finally, there is going to be some cost for training and the administration of the statewide system, so

that all the operators, the folks who answer the calls, will have all the appropriate training, understand the protocol and how it interacts with other dispatchers. Because those costs exist on an ongoing basis, there will be the need to generate revenue to make sure that the system works effectively and efficiently, so when an individual makes that call it will be handled swiftly, quickly and appropriately. Thank you.

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

Senator **LONGLEY**: Thank you. I would like to pose another question through the Chair. Presuming the \$3 million ongoing cost, divide that by the number of households in the State, divide that by twelve, does it come down to thirty-two cents per household every month? Does that math work?

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

Senator **CLEVELAND**: Thank you. The answer to the question is yes. It's pretty close. You also need to know that it is not necessarily per household. It's per line, up to 25 lines, so there may be some residences or businesses that have multiple lines who will be paying a little bit more. There are about, if my memory serves me correctly, about 700,000 lines involved. I think the math comes pretty close. Incidentally, if the charges need to be more or less, they can be adjusted downward, for instance, if more revenue is generated because there is more lines involved, or if the costs are reduced, says it's not \$3 million it's only \$2.5 million.

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

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

Senator **CAREY**: Thank you, Mr. President. There seems to be a little confusion. Senator Carpenter from York mentions thirty-two cents. The Senator from Cumberland, Senator Harriman, mentioned twenty cents. I take out the bill, because in looking at item seven, I don't see where there is an amendment attached to it, it is simply ought to pass or ought not to pass on this bill, and the bill talks about the twenty cents. I would be interested in knowing which one of the figures is correct, if I may.

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

Senator **CARPENTER**: They are all correct. Right now it is two cents. Commencing August 1996 it will be twenty cents. In 1997 it will be thirty-two cents. Thank you.

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

Senator **CLEVELAND**: Thank you. I think, in an effort to be completely open and honest, the debate has included a projected request for thirty-two cents in the future. The current bill is only for twenty cents. They are going to have to come back and ask for additional authorization beyond that point. The Committee thought it was more prudent, instead of authorizing it all the way to thirty-two cents, since we are dealing with estimates and getting the system going, is to come back at that point, see where we are, see what the updated estimates of cost are, as well as revenues; and at that point, determine if any

additional costs, up to thirty-two cents, will be appropriate. The current bill, as I understand it, will only authorize it up to twenty cents.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This debate reminds me of the times when we patiently poke a bit of fun at our municipal partners in government, because the smallest items get debated for the longest time at town meetings. So, considering my government roots, I would like to speak to this issue. I have three objections to this bill. In order of their importance, starting with the least. The first is because it forces Maine to leave behind a part of its heritage. Maine's street names are often reflections of the life of families in our area, historical events and so on. When the post office started refusing to deliver our mail, unless we had a real live address and included a number, we simply all named our streets whatever we wanted to. Therefore, street names changed, usually every couple of houses in rural Maine. The best example being the first selectman on Frenchboro, population 43, who named his street Executive Drive. It is not to be taken lightly to consider an issue like this at the expense of a human life; but it is something that I see slipping away, partly because of bills such as this; and I would like to at least note its passing. My second objection is that of telephone costs, which is a rather more serious issue, certainly in a district like mine where there are islands who can only call each other up and cannot reach the mainland for anything but a toll call. We are in the midst of an effort now to connect those islands to the information superhighway, at a cost that they can afford; and anything that drives up telephone costs is a very serious issue for many rural areas of Maine. My third, and most significant argument in opposition to this bill, has to do with cost benefits. There is no doubt that a call occasionally comes in where it is difficult to identify the location of a caller in trouble, either because of the condition of the caller, or the level of anxiety, or inadequate directions given; but in a State where we have very localized dispatch, we can usually determine who that is. There are times when that cannot be determined, however; and that is the point of E-9-1-1. Extended 9-1-1 says not only can you dial three digits and get help, but, if you can't give an accurate description of your location, there is caller I.D. on that call; and with any luck you can be located and assisted. Cost benefit has to do with the expectation level of our society. It's reflected in our discussions on health care, when we, at this point, undertake every effort to save the life of a ninety year old with multiple organ failure, when we make every effort to save the life a newborn with non-survivable anomalies; and, therefore, deny care to other parts of our citizenry who have the prospect of a much more productive life and a much better quality of life. Yet, many of our resources are siphoned off in the efforts to do the undoable. Although it is certainly a tragedy when someone has been able to at least initiate a call for help, and that that help can't be provided, sometimes with disastrous and even fatal results, I submit that our effort to address every need of every citizen, to meet every expectation that all efforts will be made, regardless of cost, does not reflect the actuality of

the fiscal situation of the State of Maine, or, indeed, our whole country. For this reason, and because the cost of this system has mushroomed far beyond anyone's prediction of a couple of years ago, I would urge you to defeat the pending motion. Thank you.

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

Senator **CAREY:** Mr. President. I serve on a 9-1-1 committee in my community. I would point out to you that E-9-1-1 is adopted by a municipality, really by a vote of its either municipal officers or the town meeting, whichever is the legislative body. You do not have to get into the E-9-1-1 system if you don't want to. For those who really feel that their citizens need this extra protection, and I have to tell you that we have 58 miles of lake frontage in Belgrade, so that we have a lot of fireroads going down, those will have to be named. If you are talking about trying to get ten camp owners to agree on a particular name for a camp road, you haven't had a meeting yet of anything. So, I would say to you that it should be allowed for those people who have voted to, in fact, have the system. 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 rise so that there won't be any confusion, as a member of the Committee. Even though you see that I am on the report of ought not to pass, I am in favor of the passage of this bill; and I would hope that you would vote for it; and I will be, as well. The reason I was on the ought not to pass was because I believe there is a small amendment that will improve it, and I wanted an opportunity to have the chance to add that amendment on. I will be doing that, hopefully, if this bill is passed.

I might make two other comments. First of all, in regard to the changing of the nature of the way of life in Maine. It is important to know that street addressing and addressing of location is completely a voluntary operation. No community is required to participate. Any community who chooses not to participate does not have to. If they feel that they prefer to stay with whatever emergency answering system that they currently have, and not join in the E-9-1-1, they are perfectly free to do that at their own option. There is no mandatory requirement with this at all. Secondly, I also wanted to remind you that there is a confidentiality provision within this law. So that those individuals who, for a variety of security or safety reasons, have an unpublished number, it is required that that number can only be used for E-9-1-1 purposes, for response of an emergency. It cannot be given out to anyone else for any other reason. So, privacy and security can be maintained. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CARPENTER** of York that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, BUSTIN, CAREY, CARPENTER,**

CASSIDY, CLEVELAND, ESTY,
 FAIRCLOTH, HALL, HATHAWAY,
 KIEFFER, LORD, MICHAUD, O'DEA,
 PARADIS, PINGREE, RAND, RUHLIN,
 SMALL, STEVENS
 NAYS: Senators: BERUBE, GOLDTHWAIT, HANLEY,
 HARRIMAN, LONGLEY, PENDEXTER,
 and the PRESIDENT, Senator
 BUTLAND
 ABSENT: Senators: CIANCHETTE, FERGUSON, LAWRENCE,
 McCORMICK, MILLS

23 Senators having voted in the affirmative and 7
 Senators having voted in the negative, with 5
 Senators being absent, the motion by Senator
 CARPENTER of York to ACCEPT the Majority OUGHT TO
 PASS Report, PREVAILED.

The Bill READ ONCE.

The Bill, LATER ASSIGNED FOR SECOND READING.

Off Record Remarks

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

PAPER FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

JOINT RESOLUTION IN HONOR OF EDMUND S. MUSKIE

WHEREAS, Edmund S. Muskie was born in Rumford,
 Oxford County, Maine, on March 28, 1914, and died on
 March 26, 1996; and

WHEREAS, the State of Maine and the nation were
 faithfully served for decades by the Honorable Edmund
 S. Muskie, who held the offices of State
 Representative, Governor, United States Senator and
 United States Secretary of State during his
 extraordinary career in politics and government; and

WHEREAS, the illustrious career of our native son
 began with a law practice in Waterville and service
 in the United States Navy during World War II before
 his election to the Maine House of Representatives in
 1946 where he served until 1951; and

WHEREAS, Edmund S. Muskie is credited with
 converting Maine into a 2-party state after nearly a
 century of single-party domination, as he worked
 effectively as a Democratic Governor of Maine with a
 Republican Legislature; and

WHEREAS, as a 4-term United States Senator,
 Edmund S. Muskie earned the respect and appreciation
 of the citizens of Maine and the nation for his
 diligence and hard work as chair of the Senate Budget
 Committee and by crafting such landmark federal
 legislation as the Clean Air Act and the Water
 Quality Act, a lasting legacy to the American people;
 and

WHEREAS, as a trusted and respected man of
 integrity, Edmund S. Muskie was many times in the
 center of national politics: as a candidate for
 Vice-President of the United States in 1968, as a
 candidate for President of the United States in 1972
 and as United States Secretary of State in 1980; and

WHEREAS, Edmund S. Muskie best exemplified the
 ideal of public service, as he never forgot where he
 came from and what was important to the people of
 Maine and the nation, as he endeavored to work for
 the common good; and

WHEREAS, Edmund S. Muskie's outstanding record of
 public service is unparalleled and history will
 record that he placed the highest priorities on

family, state and country, and this favorite son of
 Maine won the respect of the people and leaders of
 the nation and the world and, together with his wife
 Jane, won special affection from the citizens of his
 native State; now, therefore, be it

RESOLVED: That We, the Members of the One
 Hundred and Seventeenth Legislature, now assembled in
 the Second Regular Session, take this opportunity to
 honor Edmund S. Muskie and to recognize his
 distinguished service to the people of the State of
 Maine and to the nation over many years, and
 respectfully request that when the Legislature
 adjourns this date, it do so in honor and lasting
 tribute to the memory of Edmund S. Muskie; and be it
 further

RESOLVED: That suitable copies of this
 resolution, duly authenticated by the Secretary of
 State, be transmitted to Jane Muskie and her family
 on behalf of the People of the State of Maine as a
 tangible token of our high esteem.

H.P. 1375

Comes from the House READ and ADOPTED.

Which was READ.

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

Senator **BUSTIN:** Thank you, Mr. President, Ladies
 and Gentlemen of the Senate. Not to delay this any
 longer, but I appreciate this wonderful Resolution
 that has been put out in Senator/Secretary of State
 Muskie's name. As you know, his burial will be on
 Saturday. It is a very sad occasion, I know, for the
 State of Maine, and, particularly, for those of us
 who served on his staff. I think there are two of us
 in this Legislature who have done that, that is the
 Representative John Martin, and myself.

I just thought that I would relate one other
 story that I just heard from a staff member. It's
 sort of like when you left staff you never left it.
 You were always on Muskie's staff, so if you were
 ever called, whether you were being paid or not, you
 always responded. Well, it turns out that once they
 had set the date for the funeral and the burial on
 Saturday, that it is policy at Arlington that nobody
 gets buried on Saturday and Sunday. So, as you can
 well imagine, the staff went to work; because we all
 heard in our ears, "What do you mean, we're not going
 to bury somebody on Saturday? Don't they understand
 that America doesn't shut down on Saturday and
 Sunday? It operates seven days a week! You go call
 the President of the United States!" Well,
 obviously, the calls were made and Senator Muskie
 will be buried at Arlington on Saturday. Thank you.

Which was ADOPTED, in concurrence.

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:

Senate

Bill "An Act to Reduce Costs for Municipalities"
 (Emergency)

S.P. 770 L.D. 1884

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Improve the Child Development Services System"

S.P. 753 L.D. 1866
(C "A" S-534)

Resolve, to Secure a Release of Property from the State

S.P. 760 L.D. 1872
(C "A" S-536)

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 REPORT
House
Ought to Pass

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

H.P. 1374 L.D. 1883

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1290.

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

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

The Resolve **READ ONCE.**

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

Senator **CLEVELAND:** Thank you, Mr. President, Men and Women of the Senate. If I might, for a moment, with your indulgence, since you are going to be asked to pass on this Androscoggin County budget, and take this important action, I thought, perhaps, you might want to be reassured by the degree of review and oversight the Androscoggin County Delegation has provided before you take your vote. The Androscoggin County budget was first reviewed at a request by myself, the Delegation Chair, to have folks available from the County to review it. At that meeting eight members of the nineteen member delegation were present. Since we didn't have a quorum, we weren't able to take any action at that particular meeting. So, we did not. The representation of the presentations made by the county officials were minimal. They had not prepared any large presentations. We had a second meeting at which only ten individuals were present. At that meeting we had just enough for a quorum and we did vote but there was no presentation on the budget at that meeting. Afterwards, there has been no additional meetings of the delegation to review the budget. My understanding is I am not quite sure if most of the members have had an opportunity, in the delegation, to review the budget at all. But, it has received the required two-thirds signatures; and the State and Local Government Committee lacked a quorum as they reviewed it; but they voted to adopt it, as well. So, that brings it before you and I know you haven't had a full chance to review it either; but to this date, we haven't had quite the opportunity to look at it in detail; but we have had two-thirds signatures and that's how it comes before you. Thank you.

The Resolve, **LATER TODAY ASSIGNED FOR SECOND READING.**

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

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

Off Record Remarks

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

Off Record Remarks

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

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

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

Senator **CLEVELAND** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **BUSTIN** of Kennebec, **RECESSED** until 3:00 o'clock this afternoon.

After Recess

Senate called to order by the President.

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

Bill "An Act to Extend the Milk Handling Tax"

H.P. 1372 L.D. 1880

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

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1996 (Emergency)

H.P. 1374 L.D. 1883

Which was **READ A SECOND TIME.**

On motion by Senator **AMERO** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act to Amend Certain Motor Vehicle Laws Including Those Affecting the University of Maine System Plate and the Certificate of Lien"

H.P. 1195 L.D. 1639
(H "A" H-852 and H
"B" H-854 to C "A"
H-847)

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

Bill "An Act to Promote Additional Health Insurance Reform"

H.P. 1074 L.D. 1513
(S "A" S-526 to C
"A" H-820)

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

Senate

Bill "An Act to Amend the Laws Concerning Enhanced 9-1-1"

S.P. 766 L.D. 1877

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

Sent down for concurrence.

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

ENACTORS

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

An Act to Require That Diabetes Supplies and Self-management Training be Covered by Health Insurance Policies

H.P. 1242 L.D. 1702
(C "A" H-827)

An Act to Clarify the Laws Pertaining to the Regulation of Narcotic Dependency Treatment Programs

H.P. 1311 L.D. 1795
(C "A" H-841)

An Act to Amend the Petroleum Market Share Act

H.P. 1355 L.D. 1860
(C "A" H-839)

An Act to Authorize Casco Bay College to Grant Degrees

S.P. 758 L.D. 1870

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

An Act to Establish an Electronic Benefit Transfer System for Programs Administered by State Government

H.P. 212 L.D. 271
(C "A" H-842)

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

An Act to Combine Certain Reporting Requirements for Employees

S.P. 738 L.D. 1846
(C "A" S-520)

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

Emergency

An Act to Provide Consistent Retirement Plan Options for Game Wardens, Marine Patrol Officers, Forest Rangers and Baxter State Park Authority Rangers

H.P. 1177 L.D. 1609
(C "A" H-817)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Promote the Health of Newborns and Their Mothers

S.P. 670 L.D. 1732
(S "A" S-521 to C
"A" S-511)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Clarify the Definition of Commercial Whitewater Outfitter

S.P. 727 L.D. 1833
(C "A" S-513)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1996-97

H.P. 1342 L.D. 1837
(C "A" H-831)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Ensure That Employees Are Compensated for Accrued Vacation Time in the Event of the Sale of a Business

H.P. 1357 L.D. 1862
(C "A" H-840)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Maine Turnpike Authority's Budget for Calendar Year 1996, to Clarify the Maine Turnpike Authority's Budget Process and to Facilitate the Evaluation of Automated Toll Collection

S.P. 759 L.D. 1871
(S "A" S-523 to C "A" S-519)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

Emergency

An Act Regarding the Food Stamp and Low-Income Home Energy Assistance Program

H.P. 1366 L.D. 1875

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

Emergency

An Act Concerning the Salmon Aquaculture Monitoring and Research Fund

S.P. 764 L.D. 1876
(S "A" S-515)

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

Resolve

Resolve, Directing the Land and Water Resources Council to Take Steps Needed to Ensure Successful Implementation of State Land Use Law Reforms

H.P. 1310 L.D. 1794

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

Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts

H.P. 1316 L.D. 1800
(C "A" H-794)

On motion by Senator **SMALL** of Sagadahoc, Tabled 1 Legislative Day, pending **FINAL PASSAGE**.

Emergency Resolve

Resolve, That the Department of Human Services Convene a Task Force on Paperwork Reduction in Nursing Facilities

S.P. 647 L.D. 1689
(C "A" S-514)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

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

H.P. 1257 L.D. 1729
(C "A" H-821)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Name a Portion of Highway in Millinocket in Honor of Prisoners of War and Those Designated as Missing in Action and to Name Portions of Roads That Follow the St. George River

H.P. 1335 L.D. 1829
(H "A" H-851 to C "A" H-788)

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

Emergency Resolve

Resolve, to Amend the 1995 Kennebec County Budget

H.P. 1369 L.D. 1878

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

Mandate

An Act to Make Comprehensive Changes to the Sex Offender Laws

S.P. 551 L.D. 1510
(C "A" S-516)

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

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

COMMUNICATION

The Following Communication:

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 28, 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 State and Local Government has had under consideration the nomination of David M. Gauvin of Brewer, for appointment to the Workers' Compensation Board.

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. 3	Amero of Cumberland, Carpenter of York, Longley of Waldo
	Rep. 7	Ahearne of Madawaska, Saxl of Bangor, Rosebush of East Millinocket, Robichaud of Caribou, Lane of Enfield, Savage of Union, Gerry of Auburn
NAYS:	0	
ABSENT:	3	Rep. Daggett of Augusta, Rep. Lemke of Westbrook, Rep. Look of Jonesboro

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of David M. Gauvin of Brewer, for appointment to the Workers' Compensation Board be confirmed.

Signed:

S/Jane A. Amero
Senate Chair

S/Beverly C. Daggett
House Chair
S.C. 560

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on STATE AND LOCAL GOVERNMENT has recommended the nomination of David M. Gauvin of Brewer be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on STATE AND LOCAL GOVERNMENT 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:	Senators:	None
NAYS:	Senators:	ABROMSON, AMERO, BENOIT, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, HATHAWAY, KIEFFER, LONGLEY, LORD, MICHAUD, MILLS, O'DEA, PARADIS, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND
ABSENT:	Senators:	BEGLEY, BERUBE, HANLEY, LAWRENCE, McCORMICK, PENDEXTER, PINGREE

No Senator having voted in the affirmative and 28 Senators having voted in the negative, with 7 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 David M. Gauvin, for appointment to the Workers' Compensation Board, was CONFIRMED.

The Secretary informed the Speaker of the House.

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

COMMUNICATION

The Following Communication:

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 28, 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 Agriculture, Conservation & Forestry has had under consideration the nomination of Mary Beth Dolan of Tenants Harbor, for appointment to the Land Use Regulation Commission.

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	Cassidy of Washington, Paradis of Aroostook
	Rep. 9	Spear of Nobleboro, Kilkelly of Wiscasset, Ahearne of Madawaska, Hichborn of Lagrange, Tyler of Windham, Strout of Corinth, Kneeland of Easton, Dexter of Kingfield, Pendleton of Scarborough

NAYS:	0	
ABSENT:	2	Sen. Lord of York, Rep. Cross of Dover-Foxcroft

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 Mary Beth Dolan of Tenants Harbor, for appointment to the Land Use Regulation Commission be confirmed.

Signed:

S/Vinton E. Cassidy
Senate Chair

S/Robert W. Spear
House Chair
S.C. 558

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on AGRICULTURE, CONSERVATION AND FORESTRY has recommended the nomination of Mary Beth Dolan of Tenants Harbor be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on AGRICULTURE, CONSERVATION AND FORESTRY 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: None
NAYS: Senators: ABRAMSON, AMERO, BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, LORD, MICHAUD, MILLS, O'DEA, PARADIS, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: McCORMICK, PENDEXTER, PINGREE
No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 3 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 Mary Beth Dolan, for appointment to the Land Use Regulation Commission, was CONFIRMED.

The Secretary informed the Speaker of the House.

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

Senator CIANCHETTE: Thank you, Mr. President. A few minutes ago we passed a Joint Resolution recognizing and remembering the death of former State Senator Armand Fortier. I would just like to inform the Senate that Senator Fortier sat in the seat that Senator O'Dea sits in now, in the 106th Legislature. I sat where Senator Mills is sitting. I just want to tell you that Senator Fortier was a true gentleman. He was an intellectual person. He was an effective State Senator. He was a gentleman in the true sense of the word and lived up to the high standards of a Senator for the State of Maine. I thought that you folks would like to know that bit of information. Thank you.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:
An Act to Establish an Electronic Benefit Transfer System for Programs Administered by State Government

H.P. 212 L.D. 271
(C "A" H-842)

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

Pending - ENACTMENT.

(In House, March 28, 1996, PASSED TO BE ENACTED.)

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

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

An Act to Combine Certain Reporting Requirements for Employees

S.P. 738 L.D. 1846
(C "A" S-520)

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

Pending - ENACTMENT.

(In House, March 28, 1996, PASSED TO BE ENACTED.)

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

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

An Act to Make Comprehensive Changes to the Sex Offender Laws (Mandate)

S.P. 551 L.D. 1510
(C "A" S-516)

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

Pending - ENACTMENT

(In House, March 28, 1996, PASSED TO BE ENACTED.)

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

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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.

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

On motion by Senator GOLDTHWAIT of Hancock, RECESSED until 6:00 o'clock this evening.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act Regarding the State Government Computer System" (Emergency)

H.P. 1377 L.D. 1885

Reference to the Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

Under suspension of the Rules, the Bill READ ONCE, without reference to a Committee.

The Bill TOMMOROW ASSIGNED FOR SECOND READING.

Bill "An Act to Reduce the Notice and Hearing Requirements Imposed on Quasi-municipal Corporations and Districts"

H.P. 1378 L.D. 1886

Reference to the Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

Under suspension of the Rules, the Bill READ ONCE, without reference to a Committee.

The Bill TOMMOROW ASSIGNED FOR SECOND READING.

COMMUNICATIONS

The Following Communication:

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 28, 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 Legal and Veterans Affairs has had under consideration the nomination of Edwin W. Bowden of Camden, for reappointment to the State Liquor and Lottery Commission.

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. 3	Ferguson of Oxford, Stevens of Androscoggin, Michaud of Penobscot
	Rep. 8	Nadeau of Saco, Gamache of Lewiston, Chizmar of Lisbon, Fisher of Brewer, Carr of Hermon, Murphy of Berwick, Lemont of Kittery, Labrecque of Gorham
NAYS:	0	
ABSENT:	2	Rep. True of Fryeburg, Rep. Buck of Yarmouth

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 Edwin W. Bowden of Camden, for reappointment to the State Liquor and Lottery Commission be confirmed.

Signed:

S/Norman K. Ferguson, Jr.
Senate Chair

S/Harry G. True
House Chair
S.C. 559

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on LEGAL AND VETERANS AFFAIRS has recommended the nomination of Edwin W. Bowden of Camden be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on LEGAL AND VETERANS AFFAIRS 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 Doorkeepers 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, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LAWRENCE, LONGLEY, LORD, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND
ABSENT:	Senators:	CIANCHETTE, ESTY, HANLEY, HATHAWAY, McCORMICK

No Senator having voted in the affirmative and 30 Senators having voted in the negative, with 5 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 Edwin W. Bowden, for reappointment to the State Liquor and Lottery Commission, was CONFIRMED.

The Secretary informed the Speaker of the House.

The Following Communication:

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 28, 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 Legal and Veterans Affairs has had under consideration the nomination of Orland G. McPherson of Eliot, for appointment to the State Liquor and Lottery Commission.

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. 3	Ferguson of Oxford, Stevens of Androscoggin, Michaud of Penobscot
	Rep. 9	True of Fryeburg, Nadeau of Saco, Gamache of Lewiston, Chizmar of Lisbon, Fisher of Brewer, Carr of Hermon,

Murphy of Berwick, Lemont
of Kittery, Labrecque of
Gorham

NAYS: 0
ABSENT: 1

Rep. Buck of Yarmouth

Twelve 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 Orland G. McPherson of Eliot, for appointment to the State Liquor and Lottery Commission be confirmed.

Signed:

S/Norman K. Ferguson, Jr.
Senate Chair

S/Harry G. True
House Chair
S.C. 561

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on LEGAL AND VETERANS AFFAIRS has recommended the nomination of Orland G. McPherson of Eliot be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on LEGAL AND VETERANS AFFAIRS 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 Doorkeepers 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, CLEVELAND,
FAIRCLOTH, FERGUSON, GOLDTHWAIT,
HALL, HARRIMAN, KIEFFER,
LAWRENCE, LONGLEY, LORD,
MICHAUD, MILLS, O'DEA, PARADIS,
PENDEXTER, PINGREE, RAND,
RUHLIN, SMALL, STEVENS, and the
PRESIDENT, Senator BUTLAND

ABSENT: Senators:

CIANCHETTE, ESTY, HANLEY,
HATHAWAY, McCORMICK

No Senator having voted in the affirmative and 30 Senators having voted in the negative, with 5 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 Orland G. McPherson, for appointment to the State Liquor and Lottery Commission, was CONFIRMED.

The Secretary informed the Speaker of the House.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Require that Public Schools Permit Participation in Curricular, Cocurricular and Extracurricular Activities for Students Enrolled in Approved Equivalent Instruction Programs"

H.P. 1327 L.D. 1818

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-871).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-871).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-871) READ and ADOPTED, in concurrence.

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

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

H.P. 1349 L.D. 1850

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-875).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-875).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-875) READ and ADOPTED, in concurrence.

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

The Committee on TAXATION on Bill "An Act to Broaden the Municipal Service Charge"

H.P. 1344 L.D. 1839

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-870).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-870).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-870) READ and ADOPTED, in concurrence.

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

ENACTORS

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

An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies

H.P. 976 L.D. 1385
(H "D" H-822 to C
"A" H-707)

An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1997

H.P. 1325 L.D. 1815
(C "A" H-846)

An Act to Increase the Debt Limit of the Madawaska Water District

H.P. 1361 L.D. 1869
(C "A" H-845)

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

An Act to Ensure Proper Withholding of State Income Tax

H.P. 1249 L.D. 1711
(C "A" H-735)

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

An Act Regarding Municipal Penalties for Late Filing under the Maine Tree Growth Tax Law
H.P. 1271 L.D. 1749
(C "A" H-764)

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

Emergency

An Act to Clarify the Distribution of Funding for the Maine School of Science and Mathematics
H.P. 1255 L.D. 1724

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

(See Action Later Today)

Emergency

An Act to Amend the Laws Regarding Employee Leasing Companies

S.P. 689 L.D. 1761
(C "A" S-464)

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

On motion by Senator **BEGLEY** of Lincoln, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENACTED**:

An Act to Clarify the Distribution of Funding for the Maine School of Science and Mathematics
H.P. 1255 L.D. 1724

(In House, March 28, 1996, **PASSED TO BE ENACTED**.)

(In Senate, earlier in the day, **PASSED TO BE ENACTED**.)

On further motion by the same Senator, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act to Make Supplemental Allocations from the Highway Fund, Allocations from Other Funds and a General Fund Appropriation and to Amend Certain Transportation Laws

H.P. 1336 L.D. 1830
(C "A" H-848)

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Revise the Sunrise Review Process for Occupational and Professional Regulation"

H.P. 1287 L.D. 1767

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-877)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-877)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-877) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act Relating to Confidentiality of Records and the Prevention of Child Sexual Abuse"

H.P. 942 L.D. 1331

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

Signed:

Senator:

PENDEXTER of Cumberland

Representatives:

TREAT of Gardiner

JONES of Bar Harbor

LAFOUNTAIN, III of Biddeford

PLOWMAN of Hampden

HARTNETT of Freeport

MADORE of Augusta

NASS of Acton

WATSON of Farmingdale

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-869)**.

Signed:

Senators:

MILLS of Somerset

FAIRCLOTH of Penobscot

Representative:

RICHARDSON of Portland

Comes from the House with the Majority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

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

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

HOUSE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act to Amend Certain Laws Administered by the Department of Environmental Protection" (Emergency)

H.P. 1222 L.D. 1672

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-857)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-858)** (3 members)

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

Pending - **ACCEPTANCE** of Either Report.

(In House, March 27, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-858)**.)

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

Senator LORD of York moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-857) Report, in NON-CONCURRENCE.

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

Senator LORD: Thank you, Mr. President, my Learned Colleagues. In order to explain the situation I am in, I think I have got to go back and tell you where the law is. Under the present law you can increase a building within the shoreland zone by 30% of the volume. This favors a large camp, or cottage, or house, or whatever you want; because they get more square footage than a smaller camp. If the addition does not contain a bedroom, you do not have to have your septic system inspected. This has meant trouble. I would like to state that on a lot of the lots down our way, they are one hundred foot lots; and if you take four hundred feet of shore frontage, and you have four cottages on there, and you increase them by 30% of their volume, you are increasing the total volume by 120%. What I am trying to do is to give the cottages on a larger lot, that are smaller, more of a break than they get under the 30% rule. For instance, if you have a cottage that is on a two hundred foot lot, and you have 30%, that is half of what you could get if you had two cottages on there. If you wanted to take a four hundred foot lot, with one cottage, it's only one quarter of what would cause damage. Some will try to tell you that this is causing more pollution and runoff, and the runoff is causing more degrading of the lake or river, and I don't believe it. I don't think you will either. If you go ahead and look at your orange sheet, at the larger cottage, or house, or whatever you want to call it, you will find that that cottage, as large as it is, could still be increased by 30% of its volume. Under my amendment, they couldn't increase it one bit, because they come up to the twelve hundred and fifty feet. That's what I'm trying to do.

The reason I am doing this, folks, is because of the fact I got a call a couple of years ago from a lady up in Acton. I went up to see her and said, "What's your trouble?" She said, "Well, I've got a big lot here and I want to expand my cottage, or put a new cottage, in here; and we can't do it because we are over the 30% rule. But, here is a cottage right next to me that is just as close to the water as I am; but they can do it. It seems to me, with a larger lot, I should be allowed a little more expansion than they are." I agreed with her. I said, "Look lady, I can't go ahead and put in a bill for just one person. If you can get me a petition of some people, probably I could do something." In the course of that time I can show you three hundred and fifty signatures on petitions that have been handed to me. They started dribbling in to me and after a while I just stopped counting, so I think there really is more than that. So I put the bill in.

I have been accused of trying to sneak a bill in and I didn't like that very well. I will tell you what happened. I tried to get this bill in through the Legislative Council. I was rejected by one vote. I asked the Governor to put the bill in and he said he didn't think he would want to do that. He said I should probably try to find a bill that I could put this on to. So I did. I put in on the omnibus bill. Although we didn't have a full-fledged hearing, folks, we darn sure had a couple of mini-hearings; because I had DEP there. I had the

Natural Resources Council there. I had the Portland Water District there. I had the Audubon Society there, and a few others. All of them accused me of trying to sneak a bill in. Well, they didn't say I was trying to sneak a bill in but you can read between the lines. We heard this bill, and we talked about this bill at least three or four times. I thought we had a compromise; but when I found out that the compromise did not help the smaller cottage I said no. I was going to go back to my original bill. That's why I've done that. All I am trying to do, folks, is try to help small cottages. Under this bill you will have to, no matter what you build, you are going to have to have your septic system inspected. As I said before, under the other bill, you can go 30% without nothing. The same shore distance from the shore frontage, you don't have to do nothing, unless part of the building is a bedroom. That comes right over from Health and Welfare. Under this bill you are going to have to have a settling strip between the water and the building. Under the bill that there is now, you don't have to have that. If you look at this big building here, you can be darn sure that they are going to have to put a new septic system in that is going to be further away from the lake than it is now. So it's a plus. It's a big plus to help the lake. I am asking you if you will please pass the majority report. 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. First of all, I think you should understand that the majority report that is presently before you is the so-called omnibus bill and is exactly the same as the minority report with one exception. That's the exception we call the good Senator from York County's "hearing impaired" bill. This particular bill, and I have to really praise him for his ingenuity. You take a bill before the Council, and the Council says no. So you scratch your head a little bit and say, "Well, I'm a resourceful Senator, I can come up with something." So, you go to the Governor's office, and the Governor says no. You keep scratching your head and you keep wondering. Then you look at this omnibus bill, recognizing that almost anything can be germane to an omnibus bill. So, what do you do? You wait until the process actually starts on the omnibus bill, and then you bring out of your pocket this, they used to say, "minor revision" to State policy. What you have in your pocket that you bring out is the major degradation of the water quality of the State of Maine. It is the major policy change in 26 years. The policy to protect our lakes from the phosphorus run-off and the nitrate run-off was established in 1971. That policy said that any camp that is within 100 feet of the shoreline, because the septic system can leak, because the rain comes down on the roof and runs off the roof in a stream and picks up the phosphates and carries it into the water in what we call the "China Lake Syndrome", because that happens, we really are going to grandfather these camps. They want them back more than 100 feet; but in the interest of fairness, because Maine people love their camps, as we should, we will allow an expansion of 30%. That goes on for twenty-five years. Lo and behold, a resourceful Senator from York County says, "But I have some constituents who want to expand their camps beyond that. I'm not going to be

concerned with the storm water run-off from those roofs. I am going to satisfy my constituents." That's well and good. A good Senator should look after the cares of his constituents. He should also look after the major environmental policies of the State. If he is going to bring forth major changes in environmental policy, he should do it through the hearing process, where it can be discussed by itself, as it is going to be tonight, even though it is a part of another bill, so we can discuss some of the issues such as the fact that is does not, in fact, definitely require inspection of the septic system.

Let me explain how that works. I know that, perhaps, it might even surprise my good companion on the Natural Resources Committee, because sometimes there is confusion on the issue, because this is permissive legislation the communities that have on their books that State law that says 30%, that is there, that requires no inspection of the septic system to expand the 30%. This is permissive, so now you can add this one to that. So, now the town has two choices; and they have some poor code enforcement officer who is going to have to try and figure this out. He is going to do the 30% by either volume or floor space. That's Rule A in the town. But now two or three or maybe five towns around a lake or river, two or three of the towns are going to have just plain A; but if they want to, some can have A and B. Now we have B, which is not only the 30% rule with no inspection; but now we have B which allows a 300% increase in a small camp. A 300% increase. Here is a little picture for your enlightenment, on the orange sheets. I would like for you to look at that. That's a typical twenty by twenty camp that, under this proposal, has been expanded to the maximum; and it is a 300% increase in the size. So, the code enforcement officer says, is it going to be the 30% or is it going to be 300%. If it is 300%, I have to do it by footprint; which is your roof size. Who is going to learn how to enforce this rule properly? We are going to have rules out there that can't be enforced, that can't be interpreted. We are going to have rules where the target keeps changing. I go to my town and tell them I want to expand 30%. They say I can't expand 30%. Well, if I do it this way, I can expand 300%. That's what the question becomes. Ask yourself, as you look at this, keep in mind mitigation never, by itself, balances the potential damage that can be done. While the sponsor had good intention of mitigation, it does not balance the harm that this bill, not only proposes to do, but will definitely do, should it be passed.

I ask that you vote against the majority report, so that we can go on to protect our lakes and protect our watersheds and accept the minority report, which has absolutely nothing to do with removing the protections of shoreland zoning. 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 have an occasion to scratch my head once in a while, maybe I ought to scratch it a lot more. We mentioned my amendment; but I can remember an amendment I saw, that we didn't approve, that was almost identical to this in wording, except for what we was going to do with the size of the building. That was based on percentage. The percentage still favored the larger

cottage. All the rest of the wording was the same. We talk about degradation with this bill. Certainly it wouldn't allow quite as much in floor space; but remember, this is permissive legislation. A community can accept it or reject it. It isn't compulsory. It isn't mandatory. It's up to the individual communities to do what they want to do. Maybe I'm getting a little off track, and going a little too far; but there was another amendment that wasn't accepted that had identical wording, except for what you could have for a footpath.

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

Senator RUHLIN: Thank you, Mr. President, Ladies and Gentlemen. I apologize, but I do have to respond to that. There is a huge difference; and the good Senator is right. We did try to work out a compromise but we couldn't. There is a huge difference of allowing a 40% expansion on say a 400 foot lot, versus what this particular one does, which allows a 300%. That's 40% to 300%. I say the comparison is not valid. I say when you sit there and say, "Well, if you allow a 30% expansion over four camps, 100 feet long each, that's 120%, that's a lot." But the proposal before you, take those four camps, and what do you do? The proposal in the majority report, you can take each one of those and increase it to twelve hundred and fifty square feet, which in many cases is triple the size. You take four times three and I get 1200%. Keep that in mind when you vote, please.

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

Senator LORD: To dispute my Learned Colleague from across the hall, my bill says you can't start that foot pattern unless you have one hundred and twenty five feet of shore frontage, remember?

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is one time that I am grateful for the rules that keeps our discourse on such a courteous level; otherwise, I would not have the courage to stand up between the good Senator from York and the good Senator from Penobscot. However, I do want to speak to this bill because it is one about which I was contacted more than almost any other bill this year. Every single contact that I had was urging me, in the strongest of terms, to vote against the majority report. It seems like only yesterday, and I think maybe it was, that the issue of substantive items in housekeeping bills came up before this body. At that time, despite the fact that that issue had actually been in the bill all along, was not amended in after the hearing, and despite two unanimous votes to amend that bill to include some of the original language, the substantive issue caused that to be removed. So, we cannot take that substantive issue lightly, by any means. This bill had this addition made following the hearing; and though there may have been a number of people who got the word and did attend some meetings and discussed that, I have a folder full of people who did not. Because they had no input on this issue, have asked me to vote against it. That includes a number of individuals in my area, and also a number of organizations, including the Mount Desert Island Historical Society, Hinckley Yachts, and Peggy Rockefeller.

There are two issues for me here. One has to do

with the aesthetics on which much opinion about shoreland zoning is based. One has to do with the potential effects on water quality. Both of those are important. But, there is another very significant municipal issue, which has already been alluded to; and I won't go into it in depth; but it will create a complexity to code enforcement for municipalities that will overwhelm the good faith efforts made by our towns to educate code enforcement officers and to comply with existing local ordinances and State law. The predictions are that is will be a nightmare, both to sort out and to effectively enforce, wending our way through the lawsuit mine field all the while. So, I would urge you to defeat the majority report on this bill, continue the environmental protection that we now enjoy, and spare our towns the difficulty that this particular bill would create. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator LORD of York that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-857)** 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: BEGLEY, BENOIT, CARPENTER, CASSIDY, FERGUSON, HALL, HANLEY, KIEFFER, LORD, STEVENS

NAYS: Senators: ABROMSON, AMERO, BERUBE, BUSTIN, CAREY, CLEVELAND, FAIRCLOTH, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: CIANCHETTE, ESTY, HATHAWAY, McCORMICK

10 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 4 Senators being absent, the motion of Senator LORD of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-857)** Report, in **NON-CONCURRENCE, FAILED**.

The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-858)** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "B" (H-858) **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:

Bill "An Act to Facilitate the Implementation of a Logo Sign Program on the Interstate"

H.P. 1359 L.D. 1864
(C "B" H-850)

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

Pending - **PASSAGE TO BE ENGROSSED, AS AMENDED**, in **NON-CONCURRENCE**.

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

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED, AS AMENDED**, in **NON-CONCURRENCE**.

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

HOUSE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Provide Public Access to the Information Superhighway through Enhanced Library Telecommunications"

H.P. 618 L.D. 828

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-832)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-833)** (5 members)

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

Pending - **ACCEPTANCE OF EITHER REPORT**.

(In House, March 26, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832)**.)

(In Senate, March 27, 1996, Reports **READ**.)

Senator CARPENTER of York moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832)** Report, in concurrence.

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

Senator CARPENTER: Thank you, Mr. President, Women and Men of the Maine Senate. Just to bring you up to date on this. This bill really started back when the PUC and Nynex were working on a rate case in the fall of 1994. It was decided in May of 1995. The PUC decided that Nynex should contribute \$20 million to the telecommunications between the schools and the libraries in the form of \$4 million a year for five years. Part of this bill, the first part, is identical with the minority report, which is saying that the PUC was correct in making this determination. The reason the bill says that is because there was a lawsuit that was decided a couple of weeks ago by the courts of Maine that said they did the proper thing. Some of the things in the bill, the main fact, I believe, in L.D. 828, in the majority report, is that it brings Maine into compliance with the federal Telecommunications Act of 1996, by requiring all telecommunications carriers to provide service or programs of telecommunication access through libraries and schools. This is a federal act that will probably be implemented in 1997. Actually, it's called the Senator Olympia Snowe Amendment. We have heard of her and we would like to carry out her thoughts. It also provides the legislative oversight, by requiring the PUC to set benchmarks to evaluate the effectiveness of the school and library projects with annual accounting of costs to the legislature and the committee of jurisdiction. I hope you will support the majority report. Thank you.

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

Senator HARRIMAN: Thank you, Mr. President. Good evening, Ladies and Gentlemen of the Maine Senate. The original L.D. 828 that was the genesis of this bill was introduced in the last session. It was, indeed, a piece of legislation that I was very pleased to add my name to as a co-sponsor; because the intent was to create ways to fund public access to the super information highway for libraries and schools. As you can all appreciate, I'm sure,

sometimes legislation that you sign on to gets amended. They keep the L.D. numbers and keep the titles, and strike out everything else and put something else in its place. While that dramatic amount of surgery did not happen to L.D. 828, it does contain one provision in it that I hope you will agree with me is not necessary, and yet still will accomplish the goals that my good friend, the good Senator from York, Senator Carpenter, seeks to accomplish; because we are in complete agreement that the finding of the Public Utilities Commission, that they had overcharged their rate payers too much. The PUC decided to take \$20 million that could have been returned to ratepayers in some form or fashion and directed Nynex to fund this program. A worthy program, \$4 million a year over the next 5 years, and recently supported by a court decision. As a matter of fact, Ladies and Gentlemen of the Senate, if the court had decided this decision sooner, it's a good chance that we might not even have seen this bill come back before us for a decision. What troubles me, Ladies and Gentlemen of the Senate, is that the majority report contains a provision that allows the PUC to impose a 1.5% gross revenues tax on intrastate long distance phone calls. You may remember the debate we had earlier today with Enhanced 9-1-1 adding two cents currently, going to twenty cents per phone line, soon to go to thirty-two cents per phone line. Now we have yet another usurping of the Appropriations Committee process; and we are going to allow the PUC, if they so deem necessary, to hit your constituents with an additional 1.5% charge on their intrastate long distance phone calls. Do you know what, Ladies and Gentlemen? They are not going to know it. It's not going to show up on their bills. It's going to be collected directly from the carrier and it will be buried in the rates. But, I believe so strongly that this goal is important to accomplish, that we do need to interconnect the libraries and schools in the State of Maine with the most advanced telecommunications that we can possible bring to the young minds of the future. But, I think we are a step ahead, and this is the other reason why I object to the majority report. Because, as the good Senator from York pointed out, the federal government has just passed a law, the Telecommunications Act of 1996; and they are in the process of determining what form and fashion the long distance telephone carriers will be required to provide, the very same things this bill contains. Do you know what? On Friday, April 12, the FCC will hold its first federal, state, joint board meeting on universal service. Panelists will discuss the provisions of universal service to rural and high cost areas, low income consumers, schools, libraries and health care institutions. The fact is, Ladies and Gentlemen of the Senate, the federal government is going to be about a year to a year and a half before they go through this rate-making process. Yet, if you support the majority report, you are going to say to heck with what is going on nationwide on a consistent basis regarding this issue. We are going to give the PUC the power to grab 1.5% of revenues. We don't need it. We can implement the program that is contained in this L.D. with the \$4 million that has been set aside from the Nynex rate case. By the time the federal communications has worked out the rulemaking process, it will be consistent for all long distance carriers across the country. Not to single us out and once again be one

step ahead of the process. I hope you will join me in defeating the pending motion so we can go on and accept the minority ought to pass report. 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 know that there are some in here who pay particular attention to whether any additional costs are being passed on, any additional charges are being passed on to consumers, while you should. But, I think it is also important that you distinguish between whether it is a special and additional tax or cost, or whether it is a requirement for doing service within the State, and meets a broad public policy. What's true here is the latter in this particular case. Let me give you a couple of examples. Does it cost the same to provide electric service to someone in Jackman as it does in Portland? No, it does not. It's more expensive to provide service to the rural areas of this State; because you need more infrastructure, more poles, more lines, more maintenance. It is far less expensive in the urban areas, but we don't charge two different electric rates. We charge one, with the understanding that it is a public benefit that everyone has access to an essential utility, electric service. We do the same thing with telephone service. Is the real rate of providing telephone service included in your basic phone service? It isn't. Is the difference made up between intra and interstate telephone calls? Yes. That's where the difference is made up. We do it that way because we have a public policy that access to telephone service is a basic public policy and service that everyone should have. We are entering a new age, and that age is an age of information and access by computer. That should be available in every community. We are not asking that every home be provided with a computer, but what we are saying is that every community ought to have access to that superhighway through their local public library and their school. The way of doing that is that all of us who will participate in that, through the utility, the telecommunications industry, will provide funds so that each community, regardless of where they are in the State, will have access to the superhighway through a library or school or both. That's what we are doing. There is no objection between any of the major telecommunications. They understand that it is reasonable and fair. As a matter of fact, many of them see that it is to their benefit to provide it, and to the communities. Additionally, the federal government has said in the new 1996 Telecommunications Act that they must do it. It's the law of the land of this nation. Between now and September of 1997 the Federal Communications Commission will promulgate rules and regulations and standards on how that will be carried out. We have crafted this piece of legislation so that the only funds that will be accessed are the Nynex rate cases through September of 1997, no one else. Funds that are already there. Funds that are already required to be expended. We will be able to tailor, at the Public Utilities Commission, the kinds of standards that are consistent with the rules promulgated during the course of this period by the Federal Communications Commission. It seems to me to be a policy that's fair. It's not an additional charge. It's part of providing universal access to an essential public service. I think one of the

underlying elements is that we have to have equity in access. It should not only be those who can afford an expensive computer to get on line. Every child, every individual, every worker, every citizen, regardless of their economic status, ought to be able to go to their free and public library and be able to access that information. To do that, we need to set in place that kind of equipment and services and affordable charges that will allow them to do it. It seems to me to be fair, equitable, the thing to do for the people of this State, one that is broadly supported; and I certainly hope will be supported by this Senate when you vote.

On motion by Senator CARPENTER 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 Cumberland, Senator Harriman.

Senator HARRIMAN: Thank you, Mr. President. Good evening, Ladies and Gentlemen of the Senate. I rise to agree entirely with my good friend from Androscoggin, Senator Cleveland. We share the same goals, the same vision, the same principles, the same rationale of why we need to create an opportunity to expand this vital link to the future to all of our schools and libraries. I totally agree. Do you know what? We can do it within the existing \$4 million that has just been reaffirmed as the proper decision by the PUC by the Maine courts. There is enough money there to do it. In the meantime, over the next year and a half, the Federal Communications Commission will develop a plan and an implementation strategy, and a funding approach, that will apply to all intrastate long distance telephone carriers that will be in place long before we run out of the \$20 million from Nynex. I simply say to you, why does it make sense, where is the common sense that not only would we take the money that has been set aside from the Nynex decision to implement this plan, and we can do it within these existing resources, why would we take the additional step and say on top of that we are going to give the power to the PUC to put in a tax that we don't need, that will make us inconsistent with this industry while the FCC determines what is fair for all? Thank you.

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

Senator CARPENTER: Thank you, Mr. President. I might mention one other very important item before the vote is taken. If this bill, either report, dies, the PUC still has the authority to implement this very bill; and if they do, it will not have the oversight that is provided in the majority report. Thank you.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. Since my knowledge of this area is quite limited, my remarks will be correspondingly brief. It was indicated to me that this majority report enjoys sufficient, or substantial, support from a rather broad based group, which includes both the telecommunications carriers themselves, as well as the Public Advocate, which is always reassuring to me. More importantly, in my district, the majority report includes the support of many of my local libraries, and I urge you to support it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator CARPENTER of York

that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832)** 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, BUSTIN, CAREY CARPENTER, CASSIDY, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, KIEFFER, LAWRENCE, LONGLEY, LORD, MICHAUD, MILLS, O'DEA, PARADIS, RAND, RUHLIN, SMALL, STEVENS

NAYS: Senators: HANLEY, HARRIMAN, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: CIANCHETTE, ESTY, HATHAWAY, McCORMICK, PENDEXTER, PINGREE

26 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 6 Senators being absent, the motion by Senator CARPENTER of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-832) **READ** and **ADOPTED**, in concurrence.

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

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

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

The Senate called to Order by the President Pro Tem.

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Concerning Referendum Reform for School Budgets"

H.P. 657 L.D. 880

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-824)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-825)** (4 members)

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

Pending - **ACCEPTANCE** of Either Report.

(In House, March 27, the Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

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

Senator BUTLAND of Cumberland moved that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-825)** Report, in **NON-CONCURRENCE**.

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

Senator BUTLAND: Thank you, Mr. President, Ladies and Gentlemen of the Senate. What we have

before us here tonight is an issue that is of tremendous interest to people in my district, especially School Administrative District 15, which encompasses the towns of Gray and New Gloucester. Presently, in State statute, the towns can vote to go to referendum on a school budget; and they can have that referendum; and if the school budget should fail, it comes back to the school board; and the school board can determine whether it goes back out for another referendum, or whether it goes to a district-wide vote. The Committee Amendment "A", which we are not discussing at this time, would study the issue. Quite frankly, for my folks in Gray and New Gloucester, the issue has been studied enough as it is. Almost two years ago, in 1994, they had five votes on the school budget. After the first vote they had a district-wide meeting to determine whether they were going to have another referendum. Quite frankly, at that meeting, members of the school board lectured the public that they really didn't know what was going on, that they had been working with these issues and with these numbers for many, many months and that the public made a huge mistake. They did agree to a second referendum. The campaign for a second referendum was pretty simple. The opponents of the first budget sent out a mailing that said, "What is it about the word 'No' that you don't understand?" You have to understand that the second vote that was on this budget, there was no reduction at all. It was overwhelmingly defeated. The school board cut several hundred thousand dollars and sent it back out for another referendum. That particular vote, in both towns, ended up a tie. Probably a one in a million occurrence, but it tied and it was defeated. The school board, at this time, threw up their hands and said, "We don't know whether it was tied because we cut too much or we cut too little." On the fourth vote it was overwhelmingly defeated again. They got the message this time. They cut another several hundred thousand dollars; and it was passed on the fifth try, deep into the fall. What we are proposing in this particular amendment is that when you start out on the referendum process, you have to continue, and you have to continue for three votes. If, after three votes, you haven't come to an agreement, it then goes to mediation. Representatives from the towns and the school get together and determine what an acceptable budget would be. For me, it's a matter of simple democracy. In 1994, when this went to the five votes, there was an average of 2,000 citizens who went to the polls and cast their ballots in the referendum process. In 1995 it went to referendum for the first vote and it was defeated. It went back to a meeting of the school board; and the school board, at this time, decided that they would decide the budget at a district-wide meeting. At that district-wide meeting there were probably no more than 600 people, which is a fair representation, but a far cry from 2,000 voters. A lot of people didn't want to go out and sit around for four hours, listening to debate over why we needed to either raise the budget or lower the budget. Many of the older folks in the town didn't want to have to go and spend a long time. They ended up voting at ten or eleven o'clock at night. It also precluded anyone from voting with an absentee ballot. So, as far as I am concerned, this is a pro-democracy bill. I can remember, on many occasions last session, that we had many votes on pro-democracy bills, things like

same-day registration. There were a lot of folks here who thought that that was a good idea because it encouraged more people to vote. I can tell you, from practical experience, that if you have a district-wide referendum, have the polls open for twelve hours during the course of the day, that you are going to get a lot more people to participate. So, I hope that you will support the pending motion. Thank you.

Senator SMALL of Sagadahoc moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**, in concurrence.

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

Senator SMALL: Thank you, Mr. President. This bill that we have before us would require, and I hesitate to use the term, but I can't think of any better explanation, binding arbitration after the third budget vote fails. The district would appoint four school board members, and four selectmen, and a mediator, or an arbitrator, chosen by the group, a non-voting member. Whatever five of them agreed upon for a compromise would become the SAD budget. Five people would decide that budget. While this sounds, at first, like a reasonable solution, I believe it creates more problems than it corrects. Indeed, I had wanted to go along with this compromise proposal; but when a school board member got up and talked about the difficulties she saw with this, I simply could not go along. Imagine, if there are eleven towns in an SAD, who decides who the four school board members will be? More importantly, who the four selectmen are going to be on the negotiating team? There is no provision in the bill for the selection if there is a disagreement. I could see a selectman from a town with a low valuation voting in a school budget increase because the high valuation towns will pick up the bulk of the new costs. What if they don't reach an agreement? The sponsor, in committee, of this amendment said, "Well, they have to." But there is no provision to settle an impasse and then we are right back where we started when this bill was put in. Interestingly, at the hearing, most of the proponents of the original bill, and indeed, the previous speaker, were adamant that they wanted the right to vote on a budget. This amended bill takes away their ballot and gives final power to set the budget to just five people. The first time, I guarantee, the first time this method is used, and a compromise budget is reached, the very same people who came before the Legislature, seeking redress from this problem, would be back because they would say they were disenfranchised. "Five people chose our budget. We didn't want that." You don't know what the budget will be until after those five people vote, and you could end up losing a lot more than if you continued with the referendum process or you went to a town meeting. This is an attempt to solve a problem by creating a new problem. We, indeed, sympathize with the towns that are having difficulties; but we could not come up with a unanimous, or even consensus, on the best way to deal with this. Every time we had a solution, it created inequity in some other place. We tried to level the playing field, but there was just no way that we could do that. We opted for study as a way to try to appease some of the people who were concerned, but they were not interested in it. Since I don't feel that there is going to be a solution, I'm not willing

to go forward with a study if the people who are the most interested in this bill do not find that as a viable alternative. So, for that reason, I offered Indefinite Postponement. I hope you will vote with that motion. Thank you.

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

Senator **HALL:** Thank you, Mr. President, Ladies and Gentlemen. I'm not happy with either report. I'm happy with the bill that was presented two years ago. This bill came from my area, with very good reason; and I won't go into detail because it is very similar to the story that you just heard. The people, when I say people I am saying taxpayers, were crying out for help when they asked us to introduce this piece of legislation. For some reasons that have been mentioned here, and everybody has said, "Well, golly, why don't they represent different people for school board if they don't like the way the school board operates?" The sad answer to that is it's hard to get people involved, willing to spend the time; and they are not willing to take the hard knocks that go with it. So, people run who originally thought they had good intentions, but are overcome by the superintendents smooth operations, plead for this and plead for that, and away it goes. I've been there. I've served on the school board. You will be happy to know that I didn't go along; and we had some very interesting meetings, and long meetings. Anyway, most people aren't like that and it's all stacked when it comes to the vote. Well, the majority of the people are fed up with the way the operation works. They will not go to a public meeting and get up and criticize the budget, because probably they have got students in school. For good reason, they are ridiculed. Their kids end up taking it when they go back. The citizens are asking us, through this legislation, to help them. That's what they elected us to do down here. The Committee has had two years to work on this bill. What do they want to do? Indefinitely postpone it? Now that's very irresponsible. I will not be a part of it and I will encourage you to vote against the pending motion. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. I would totally agree with the gentleman from Piscataquis, Senator Hall. If, in fact, this motion is defeated, I would then move that we substitute the bill for the report.

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

Senator **BEGLEY:** Thank you, Mr. President. I will be supporting the move to Indefinitely Postpone this motion. It is my opinion that any deciding factor as important as a school budget should be decided by the citizens of that community, or that district, and not short-changed by a small select committee. I don't care who serves on it. We are taking away the very power, from my perspective, that every citizen should have. I have seen this circle three times. Each time, the citizens who are irate, eventually elect representatives onto a committee that at least make some changes they are interested in. They stay for a period of time, until the other group of the townspeople make another change. That, to me, is the most important system that we have. In the districts that I represent, the school board, at one time, went too far, at least as those towns were

concerned; and they ousted them; and they brought in other people who cut the budget. It was against my wishes, but they cut the budget \$150,000. At that time it was very serious, as it is almost any time; but they cut it. The school system survived, went on, made its cuts, and came back, and in some time changed that. To me, that is the solution, not a solution of simply saying no. You are talking about a district-wide public meeting. I have seen those, and I have witnessed all kinds of wonderful explanations on both sides. It is pure democracy. You are not going to tell me that because one side works hard to get out its representation that that is wrong. It never has been, and it never will be. I said to the other side who said to me, "Why don't you put a bill in." I said, "Why don't you get your people out? Go talk to them. Are they that serious?" They said, "Well, the elderly people." Then get the meeting in the morning. Get it on a Saturday. "Well the clam diggers complain that they can't come." I don't know when you can do anything; but my point is, if you are really sincere about it, get the people out on your side. If you don't, please don't complain. If you do, then you will win; and you will win through a vote, not through a select committee of a few people. Thank you.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. I was on the SAD 57 school board for six years, and we have had the same trouble. We voted three times one time. The third time we had a public meeting, just about every teacher in the school district was out, about every worker who worked in the schools were out, custodians and everybody else, bus drivers. It isn't the way to do it. Something has got to be done. There is something wrong here. I remember, I think it was eight years ago, time goes fast, when Representative Wink Ridley, and I, put a bill in to say that if the budget wasn't passed, you must have the previous year's budget. We got shot down fast. Something has got to be done. You are hearing this all the time, and all we are doing is beating around the bush and going around the mulberry tree, and we are not accomplishing a darn thing. It's time we did something. Maybe this isn't the right thing to do, but something has got to be done. I will vote against the motion to Indefinitely Postpone.

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

Senator **LONGLEY:** Thank you, Mr. President, Men and Women of the Senate. I didn't know how I was going to vote when this debate began. I listened and learned; and I think on balance, in my area if the school board votes one way, and the people at the ballot vote another way, one, two, or three times, in my opinion, listening to what everyone is saying, I applaud the attempt to find a solution; but if we are bringing it from a small group to the large group and then the solution is to bring it back to another small group, it doesn't seem like we are going in the right direction to make the people feel like their say is heard. For that reason, I will be voting for Indefinite Postponement. I would also like to say that I think the frustration in my area is because of the high property taxes. That, to me, is the solution, lowering the property taxes; and neither provision that we get to vote on addresses that. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator **SMALL** of Sagadahoc that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**, in concurrence.

The Chair ordered a Division.

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

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

14 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **SMALL** of Sagadahoc to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in concurrence, **PREVAILED**.

The President Pro Tem requested that the Sergeant-at-Arms escort the Senator from Cumberland, Senator **BUTLAND**, to the Rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Cumberland, Senator **HARRIMAN** to his seat on the floor.

Senate called to Order by the President.

Off Record Remarks

Senate at Ease
Senate called to order by the President.

Off Record Remarks

On motion by Senator **RAND** of Cumberland, **ADJOURNED**, in honor and lasting tribute to the memory of Edmund S. Muskie, until Friday, March 29, 1996 at 9:00 o'clock in the morning.