

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 14, 1996 to April 3, 1996

SECOND CONFIRMATION SESSION

August 1, 1996

SECOND SPECIAL SESSION

House of Representatives

September 5, 1996 to September 7, 1996

Senate

September 5, 1996 to September 7, 1996

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

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

In Senate Chamber
Monday
April 1, 1996

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

Prayer by the Honorable Dale McCormick of Kennebec.

SENATOR DALE McCORMICK: Today I thought I would read the entire book of Exodus as our prayer. April fool. On a more serious note, and a shorter note, let us pray.

Spirit of love and life which flows through us and through all the world, called by a thousand names and known by no name at all, be in our hearts. We would ask that the blessings of perspective in this last day to come to the members of this Senate, and that we remember who we are, and who we are called to serve, and that we be guided in our actions by a high and broad vision of commonwealth, of a society where fairness and justice and the reality of hope extend to all our citizens. Amen.

National Anthem sung by Jillaine Avery of Windsor.

Reading of the Journal of Saturday, March 30, 1996.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Clarify Definitions Under the Laws Concerning Games of Chance"

S.P. 479 L.D. 1303
(C "A" S-517)

In House, March 30, 1996, PASSED TO BE ENACTED.

In Senate, March 30, 1996, INDEFINITELY POSTPONED, in NON-CONCURRENCE.

Comes from the House, that Body having INSISTED.

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

Non-concurrent Matter

Bill "An Act to Prohibit the Photographing or Videotaping of Jury Deliberations" (Emergency)

H.P. 1360 L.D. 1868

In House, March 30, 1996, Majority Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887).

In Senate, March 30, 1996, Minority OUGHT NOT TO PASS Report READ and ACCEPTED, in NON-CONCURRENCE.

Comes from the House, that Body having ADHERED.

Senator KIEFFER of Aroostook moved that the Senate INSIST.

Senator CAREY of Kennebec moved that the Senate RECEDE and CONCUR.

Senator KIEFFER of Aroostook requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator CAREY of Kennebec, that the Senate RECEDE and CONCUR.

A Division has been requested.

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

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

7 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator CAREY of Kennebec to RECEDE and CONCUR, FAILED.

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

COMMITTEE REPORT

Senate

Ought to Pass As Amended

Senator PENDEXTER for the Committee on HUMAN RESOURCES on Bill "An Act to Require the Department of Human Services to Base Eligibility for Medicaid Reimbursement for Nursing Facility Care on a Person's Entire Medical Condition" (Emergency)

S.P. 668 L.D. 1730

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-557).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-557) READ and ADOPTED.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, As Amended.

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

ENACTORS

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

An Act to Recodify and Revise the Maine Revised Statutes, Title 19

H.P. 1347 L.D. 1842
(C "A" H-897)

An Act to Implement the Recommendations of the Land and Water Resources Council Regarding Gravel Pits and Rock Quarries

H.P. 1353 L.D. 1854
(C "A" H-872)

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 Prohibit Stalking

H.P. 1286 L.D. 1766
(C "B" H-829)

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

Emergency

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; H "B" H-854 and H "C" H-895 to C "A" H-847)

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

Emergency

An Act to Facilitate the Lawful Detention of Juveniles

H.P. 1312 L.D. 1796
(C "A" H-776)

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

Emergency

An Act Regarding the Maine Potato Board

H.P. 1380 L.D. 1888

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 Mandate

An Act to Revise the Salaries of Certain County Officers

H.P. 1379 L.D. 1887
(S "A" S-551)

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the first Tabled and Specially Assigned (Thursday, March 29, 1996) 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 28, 1996, by Senator KIEFFER of Aroostook.

Pending - **PASSAGE TO BE ENACTED.**

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

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

The Chair laid before the Senate the second Tabled and Specially Assigned (Thursday, March 29, 1996) matter:

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)

Tabled - March 28, 1996, by Senator SMALL of Sagadahoc.

Pending - **FINAL PASSAGE.**

(In House, March 28, 1996, **FINALLY PASSED.**)

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

The Chair laid before the Senate the third Tabled and Specially Assigned (Saturday, March 30, 1996) matter:

SENATE REPORTS from 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

Majority - **Ought to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-543)** (6 members)

Tabled - March 29, 1996, by Senator AMERO of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In Senate, March 29, 1996, Reports **READ.**)

Senator ABROMSON of Cumberland moved that the Senate **ACCEPT** the Majority **UGHT TO PASS** Report.

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

Senator MCCORMICK: Thank you, Mr. President, Men and Women of the Senate. I would request that someone Table this bill until later in today's session. Thank you.

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator ABROMSON of Cumberland that the Senate **ACCEPT** the Majority **UGHT TO PASS** Report.

The Chair laid before the Senate the fourth Tabled and Specially Assigned (Saturday, March 30, 1996) matter:

SENATE REPORTS from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish Choices for Parents and Guardians in their Children's Education"

S.P. 36 L.D. 66

Report A - **Ought to Pass as Amended by Committee Amendment "A" (S-545)** (5 members)

Report B - **Ought Not to Pass** (5 members)

Report C - **Ought to Pass as Amended by Committee Amendment "B" (S-546)** (2 members)

Report D - **Ought to Pass as Amended by Committee Amendment "C" (S-547)** (1 member)

Tabled - March 29, 1996, by Senator AMERO of Cumberland.

Pending - **ACCEPTANCE OF ANY REPORT.**

(In Senate, March 29, 1996, Reports **READ.**)

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

Off Record Remarks

The Chair laid before the Senate the fifth Tabled and Specially Assigned (Saturday, March 30, 1996) matter:

Bill "An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists" (Emergency)

S.P. 622 L.D. 1630
(C "A" S-472)

Tabled - March 29, 1996, by Senator KIEFFER of Aroostook.

Pending - FURTHER CONSIDERATION.

(In Senate, March 20, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472).)

(In House, March 26, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-473), in NON-CONCURRENCE.)

(In Senate, March 27, 1996, INSISTED and ASKED FOR A COMMITTEE OF CONFERENCE.)

(In House, March 29, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-473) AS AMENDED BY HOUSE AMENDMENT "A" (H-879) thereto, in NON-CONCURRENCE.)

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

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

SENATE PAPER

Resolve, to Validate the Reform Party Petition (Emergency)

S.P. 772 L.D. 1889

Presented by Senator LAMRENCE of York
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on LEGAL AND VETERANS AFFAIRS suggested and ORDERED PRINTED.

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

Under further suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED.

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

The Chair laid before the Senate the sixth Tabled and Later Today Assigned (Saturday, March 30, 1996) matter:

Bill "An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws"

H.P. 1352 L.D. 1853
(C "A" H-876)

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

Pending - PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-876), in concurrence.

(In House, March 29, 1996, PASSED TO BE ENGROSSED BY COMMITTEE AMENDMENT "A" (H-876).)

(In Senate, March 30, 1996, 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.

The Chair laid before the Senate the seventh Tabled and Later Today Assigned (Saturday, March 30, 1996) matter:

HOUSE REPORTS from 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

Majority - Ought Not to Pass (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-869) (3 members)

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

Pending - ACCEPTANCE of the Majority OUGHT NOT TO PASS Report.

(In House, March 28, 1996, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.)

(In Senate, March 28, 1996, Reports READ.)

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

Senator PENDEXTER: Thank you, Mr. President. I move the Majority Ought Not to Pass Report.

THE PRESIDENT: The Chair would answer that that motion has already been made.

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 Chair recognizes the Senator from Somerset, Senator Mills.

Senator MILLS: Mr. President, Men and Women of the Senate. In the interest of promoting debate, and in order to explain what this bill is about, I thought I would rise and do so very briefly. This is a good bill. It did not receive widespread support in my committee, but it has to do with the confidentiality of records concerning child sexual abuse. You may recall, some years ago we passed a series of laws that made it mandatory for people in certain professions, medical professions, counseling professions, teaching professions, and the like, to report to the Department of Human Services any form of child sexual abuse, or abuse of any kind for that matter to children, that they might be witness to or might suspect. What happens to the information after it gets to the Department of Human Services is a curiosity. In some cases, a tragic one. This information they are allowed to give to the District Attorney's office; but if the evidence is not strong enough for the District Attorney to proceed, the evidence gets boxed up in the middle of a confidentiality rule that is imposed on the Department of Human Services and their caseworkers. The problem that we confronted is what happens if the information that they have concerns poor behavior, abusive behavior, on the part of a school teacher or a custodian or a bus driver or anyone else in the educational system. If there is no prosecution to go forward, is the DHS constrained to keep that information to themselves? The answer is yes, under current law. They have no power. In fact, the person who discloses the information inappropriately is guilty of a crime. Three of us on the committee felt, rather strongly, that the DHS ought to be allowed to release this information to the school superintendent who has responsibility for the children at risk in the very narrow circumstances where there are children at risk and there is no other apparent remedy, and only in circumstances when the evidence had a compelling quality to it, which obviously involves a judgement call on the part of the DHS worker. Nevertheless, that element adds another screen or filter. We were quite concerned about letting this very sensitive information float out into the hands of employer, under circumstances where it could do great damage to the reputation of an employed teacher or custodian, without recourse. So, we did put very careful constraints on the release of this information, and furthermore, required that the caseworker who releases this information also disclose the information to the alleged perpetrator, unless there were compelling reasons to believe that that disclosure itself would put a child at risk. That's the essence of this bill. I think it's a rather good bill and I would urge you to vote against the pending motion. Thank you.

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

Senator FAIRCLOTH: Mr. President, Colleagues of the Senate. I share the opinion of the Chair of the Judiciary Committee on this piece of legislation because of my concern for a particular type of situation. Representatives from the Department of Education told us, specifically, about situations where they were provided information by the Department of Human Services about a person who had sexually abused a child, and that that person was employed by a school department; but, because of the way the law is written right now, though the Department of Education was given this information, they were not permitted, were prohibited from, passing that along to an appropriate person within the school department to investigate that matter and see whether this person, who had been found in some other situation to abuse a child, to investigate it and see whether children are at risk. This is a very cautious piece of legislation. It says that only if it's a situation where children are at risk would the Department of Human Services be able to present that information, through the Department of Education, to someone with administrative authority in a local school district. Right now we have a strange situation where someone off the street makes a totally false accusation about someone who is working in a school and tells the superintendent; and, of course, the superintendent, hearing that information, would be morally bound to go in and investigate that for the concern for their children. But, if the Department of Human Services, which is trained to look into these matters, knows about the information, and has investigated it in a professional way; and they, through their professional judgement, find that children are at risk and then pass that information along to the Department of Education, as it stands now, the Department of Education is prohibited from letting someone in the local school district know about it. That's crazy. So, this is a very restrictive bill. It only allows the passing of this information in limited circumstances. I think it is inappropriate to allow this current circumstance to go on; because I think it clearly, currently, places children at risk who we know are at risk; and it is forcing the Department of Education to keep it a secret, and perpetuates that risk to the children. So, this is a very moderate approach to address that situation. Thank you.

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

Senator PENDEXTER: Thank you, Mr. President, Men and Women of the Senate. Let me tell you the other side to this report, which nine committee members on the Judiciary Committee voted that this bill should not pass. There is nobody in this chamber who obviously wants personnel in our school systems who are abusive to kids. But, this bill is very troublesome because the Department, they only need reasonable cause to believe that a child is currently at risk, or reasonably believe. It is not proven fact. I don't know about you, but the calls I get around the child protective area always deal with allegations of sexual abuse. Some of those are unfounded and some of those are, perhaps, true. But, what this bill allows to happen is that DHS, with just reasonable cause, there is nothing proven, would notify a school department to say something, a rumor or whatever, about a person on staff. There is no due process to confront the allegation, and that is very troublesome. I know that we must protect

children through awareness and caution, but not at the expense of our constitution. If you were the person being accused in that school system, you have no due process with which to fight that reasonable cause. You haven't been proven yet, there is just reasonable cause. That is very troublesome to me. The Department of Human Services has a lot of power already. I just think that this is overstepping the line. Just to allay your fears, we did pass a bill this session, L.D. 827 amended by House Amendment 724, if you care to look it up, that establishes a task force that will look at the issue of background checks which might turn up allegations of sexual misconduct with a minor. We are not really clear, and this is a bill that was passed and worked in the Education Committee, so it is very sensitive to the issues of our schools; and I think before we pass a sweeping law like this, let's look at what the problem is. There is a process set up that will report back to this Legislature next year. I would ask you to support the Ought Not to Pass motion on the floor. Thank you.

Senator BUSTIN of Kennebec requested and received Leave of the Senate to withdraw her motion for a Roll Call.

Senator MILLS of Somerset requested a Division.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

A Division has been requested.

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

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

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish Choices for Parents and Guardians in their Children's Education"

S.P. 36 L.D. 66

Report A - **Ought to Pass as Amended by Committee Amendment "A" (S-545)** (5 members)

Report B - **Ought Not to Pass** (5 members)

Report C - **Ought to Pass as Amended by Committee Amendment "B" (S-546)** (2 members)

Report D - **Ought to Pass as Amended by Committee Amendment "C" (S-547)** (1 member)

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

Pending - **ACCEPTANCE** of Any Report.

(In Senate, March 29, 1996, Reports **READ**.)

Senator BUSTIN of Kennebec moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**.

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

Senator AMERO: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I rise this morning to ask you to vote against the motion to Indefinitely Postpone, so that we can go on to accept a motion to allow for public school choice in the State of Maine. My main reason for offering this piece of legislation for your consideration is that we provide one more opportunity for options within the public

school system in the State of Maine. This is not a new concept. There are many students within this state who already have choices. These are students who live in school districts without a public high school. About 10,000 of them presently have the opportunity to choose where they go to high school. In addition, we have over 3,000 students in the State of Maine who are home schooled. This is another choice that is available. A third opportunity occurs if a superintendent in a school district where a student resides and a superintendent in a school district where that student would like to attend agree that it is okay. So, we have about 600 students who now attend a public school outside of the school district where they reside because two superintendents have agreed that this is okay. What L.D. 66 would do would add to those three existing choice opportunities and say that if a local school board agreed that they had room to take children from other school districts, that that, too, would be okay; and the parents or guardians of a student from another district, who would like to attend a different public school, would apply to the school district where that school board has made the agreement that it is alright. They would make application by January 1. The school board would make their decision by February, and then that student would be allowed to attend that school. As far as funding, the state's share of funding would follow the student to the school which he attends. That school district would then count that student, for purposes of state funding for their general purpose allocation. I don't pretend to offer this option as a panacea for school reform. It's one small tool that allows students who, for whatever reason, are not able to get the education that works for them within their own local school district, an opportunity to seek out another public school that might work better for them. For people who are concerned that this might open up the floodgates for students to leave the school that they are presently attending, and attend another school, this has not been the case in any of the states where public school choice is an option. In fact, only 1% of the students and their parents take advantage of this opportunity. So, I see it as a small step forward in providing for more flexibility within the public school system. It is not a mandate. School districts can do it if they choose to do it. It is really, basically, nothing more than a pilot program. Only those school districts who want to participate will. There is no cost involved to this bill. It just says if a parent and children, who need another option, we are going to permit it. It is permissive legislation. I'm hoping that you will vote against the pending motion of Indefinite Postponement, so that we can go on to provide this option for children in the State of Maine. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. I heard the gentlelady from Cumberland, Senator Amero, mention that this is basically for districts that do not have a high school. I'm looking at the amendment. It doesn't say that. At least I haven't been able to find it. Maybe she can be of some help to me. I notice that we have had several hockey players in the City of Waterville who come from Oakland, because Oakland didn't have a hockey team. Two of them came from Winslow; because, at the time,

Winslow didn't have a hockey team. The parents obviously felt that their children may be able to have a better opportunity to get an athletic scholarship by sending him to those particular schools. I am extremely concerned that people can apply to these schools, but they can be rejected, and I am concerned about what the reasons may be for rejection. Is it because the parents are not elitist enough? Is it because they may be of a different color? So, this whole scheme is presenting quite a big problem for me. I have got to tell you, we would like to have more good, quality hockey players in the City of Waterville; however, I will vote with the Ought Not to Pass people because there is too much going. First of all, the money follows the child; and if the parents really want to get a student into another school system, then maybe they should have to pay at least 25% of that cost. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President, Colleagues in the Senate. With some reluctance, I will be supporting passage of this bill; and I would like to explain. It seems to me that it will promote competition among the public schools. I believe in competition; and I would hope that by allowing students and parents to decide to send their child to another public school that they think is better, that competition will result in school number one trying to up its standards so that they can keep students like that. My big worry is that we have a brain drain out of some of the more poorly funded schools. I think, though, that if we keep our eye on equity in funding, we might be able to prevent that brain drain. That's my hope. Lastly, I support this sort of school choice, but not school choice between public and private; because I know that means brain drain; and I know the child going to the better funded private school has all the advantages in the world to the disadvantage of those still stuck back in the public schools. For those reasons, I am reluctantly supporting L.D. 66. Thank you.

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

Senator **SMALL:** Thank you, Mr. President. I hope you will vote against the Indefinite Postponement of this bill, so we can go on to ask your consideration on one of the reports, the report that does provide choice. I did not jump up quickly because I thought the good Senator from Kennebec was moving to table this until Senator Esty was here. I was a little remiss in getting up and moving the report. I do want to answer the good Senator from Kennebec's, Senator Carey's, question or concern. I think he misheard Senator Amero. The bill does not pertain to schools that do not have high schools because they already have choice. If you don't have a high school in your district, most children can either go to neighboring high schools; or, in the case in my area, if you live in Woolwich you can go to Morse, you can go to Wiscasset, you can go up to Richmond, or the local town of Woolwich will pay the state average tuition cost and you can go to North Yarmouth Academy. You pick up the difference but you get a \$3,000 or \$4,000 stipend to go to a private school. Those kids already have choice; and, indeed, many people choose to move to Woolwich just for that reason, so that they have a choice of high schools. This is for kids who have a high school in their district, but for some reason that high school is not

meeting their needs. If it's a recruitment plan to get kids on your hockey team, you are going to take a risk; because if you say we have enough room to handle five kids, you are going to have to take five kids not based on athletic ability or academic ability or any other of those criteria. The school boards will have to promulgate rules to determine how they accept the children, but it is already outlined in the law that they cannot use criteria like academic ability or even whether or not they think the kid will be a discipline problem. They are going to have to come up with fair and reasonable criteria. In those cases, I think it will be first come, first served. Many schools will probably opt out of this until they see how other schools have a success at it, they are not going to go along with it. We were very careful not to have this skim the cream off the top of the schools. We wanted it to be an opportunity for any kid that wanted to go to another school, for whatever reason, to have that opportunity, if that school chooses to accept them. So, I hope you will defeat the Indefinite Postponement, and then we can go on to offer one of the reports. Thank you.

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

Senator RAND: Thank you, Mr. President, Men and Women of the Senate. I hope you will go along with the Indefinite Postponement of this bill for several reasons. The good Senator from Cumberland, Senator Amero, mentioned that in other places where choice has been offered only 1% of the school population has chosen this path. It's possible that only 1% chose this method because the law would be similar to the one being presented to us here in Maine. The parents have to provide their own transportation, so that immediately eliminates all students; and just the ones whose parents can afford transportation costs would be allowed to accept this choice. Another thing that I have heard is that this will provide competition and produce better schools. All schools should be upgraded because of this competition. The truth is that the money follows the student; so if you do have a school that should be working harder to improve itself, you have made it even more difficult because the money follows the students. Now you are saying to a school district we have taken away funds and you still have got to pull yourself together and become more competitive. This is an impossible situation where we have already underfunded, by our own formula, education in this state by approximately \$130 million. Finally, I would like to say that I hope you support the Indefinite Postponement. With all due respect to the Education Committee and the wonderful work that they have done this year, they have produced a bill with four reports. Apparently, they can't even decide which route is best for schools when it comes to choice. So, I urge you to support the Indefinite Postponement of this bill. Thank you.

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

Senator AMERO: Thank you, Mr. President, Ladies and Gentlemen of the Senate. You know, in our democratic society, one thing that we have always valued is choice. Today, many parents with means make choices on where to live based on the school system. If they don't like the school system and they have means, they can pick up and move. But what about the families who can't make that decision?

It's impossible for them to move. They have only two choices, private school, which is going to cost them, or home schooling. This bill would provide one more option within the public school system for parents who are committed enough, and it takes a major commitment, to have to bring your child to school in another district, pick them up. It's a major commitment, but it's only an option. Nobody has to do it if they don't want to. I hope that you will think very carefully about your vote on this bill. It's a very modest bill. It's not earthshaking, but it is going to provide a few more opportunities for a few more children and their families. Thank you.

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

Senator BENOIT: Thank you, Mr. President. May it please the Senate. I support the principle of choice, and I am not reluctant at all in saying so. I strongly support it and I have a large number of constituents who want me to support this type of situation. For the life of me, I can't understand why anybody would stand up in this chamber and prevent a child, and that child's parents, from wanting the most that they can get for that child by way of education. I mean, isn't that what we are all about, really, concerning our children? We want the most that we can get. If we feel that the choice situation allows us to have that, we should have it, for our children. To me, it's a negative to go the other way and deny the family and the child the opportunity to get the most out of education. The good Senator Rand points out that the only ones who are going to be able to afford this are the ones who use it. Under that theory, let's abolish Harvard and Yale and Dartmouth. While we are at it, let's get rid of Bowdoin, Bates and Colby; because some people feel that those institutions are somewhat more expensive than others. I can tell you that Judy and I felt that way when Anne went to Bates for two years. It was not easy, but we had the choice available to send her there. I'm going to vote to give my constituents the right to give the most to their children when it comes to education. 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. I also am inclined to support this proposal. I have the exact same worries as the Senator from Cumberland, Senator Rand, about transportation costs; but I have watched as we have underfunded education year after year after year; and I have had my constituents plead with me to do something, especially the constituents in towns, and I have one, that have imposed a tax cap to limit the cost shift that we have done when we cut education to the property tax. In those towns the schools have fired teachers left and right; and people, as the other good Senator from Cumberland, Senator Amero, put forward, find themselves trapped in the homes that they own. That, too, is an untenable situation for me. I have spoken to my superintendents about this. I have one superintendent who disagrees. I have another superintendent who says competition is good for the school system and we shouldn't be afraid of it. I am absolutely opposed to vouchers for private schools using taxpayer money for private schools, and I believe that it's time that we did something. If we are going to continue to underfund the schools, and we are going to continue to have some towns put tax caps on that decimate school

systems, then we have to let our constituents do something to educate their kids. I guess I would finish with a question for the good Senator from Cumberland. What can you say about my concerns around the transportation costs? Are there any studies in the other states that you alluded to that show that it's mostly upper income kids who use school choice, or are there some provisions for the ability for buses to pick up kids at the border? You must have discussed this. I would love to hear your opinion. Thank you.

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

Senator **AMERO:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. The question posed by the good Senator from Kennebec is one that has had a lot of discussion; and, actually, the bill does address the issue of transportation. There is a provision that children will be picked up at the borders of the school district which they will be attending. There is also a provision for low income children who qualify for school lunches, that their transportation costs would be reimbursed by the school that they would be attending. That school then can participate, through filing those costs in their transportation report, and would be reimbursed through general purpose aid.

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. Mr. President, may I pose a question through the Chair? I am curious to know, if I am a state certified teacher in Maine, am I able to allow my children to attend the school where I teach, even though it may be in a community different than where I live?

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

Senator **AMERO:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. That depends on what the local school districts have bargained in their contract. Some schools permit this and some do not.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I appreciate my good friend from Cumberland, Senator Amero's, clarification for me. What I heard is it is already part of negotiation between teachers and their administration to allow the choice of a parent, who is a teacher, who may live in another community, to bring their children to the school in which they teach. That is decided locally as I understand it. It seems to me that all this bill is trying to do is to extend that same option to all of the rest of Maine's parents and children who would like to have the opportunity, perhaps for reasons that have nothing to do with what I have heard in the debate so far today. Perhaps I may work in another community from where I live, and the school happens to be close by to where I work, so that logistically and time-wise and for the convenience of our family, it might be easier for me to bring my children to the

school in the town in which I work, so that we can have more time to spend together as a family, to work out logistics, as I'm sure all of you who have young children in school today as I do. I have three. All three of them participate in extra-curricular activities; and quite frankly, there isn't enough cars and drivers to go around in our family to get our children where they need to go. This seems to me to be a reasonable opportunity to extend to all of Maine's children the same privilege that we are extending to some of Maine's children whose parents happen to be teachers. Thank you.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I rise to ask you to support the position of the good Senator from Waldo, Senator Longley. I agree with her that if we want to improve our education today, we need a little competition. That's the basis of America and what has made us great. It wouldn't hurt to add a little bit into the monopoly that we now have in our school education system. I would also like to ask the people who do oppose the choice issue what they are afraid of. It seems to me we had an entire generation of people in this country that we educated, after World War II, under the G.I. Bill, that had complete choice of where they wanted to go to school and get educated. I think that was very successful and I would like to see our children have the same opportunity.

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

Senator **CAREY:** I will try to attempt to explain my concerns to the good Senator from York, Senator Hathaway. We currently have magnet schools that have been set up. We have one magnet school in science and mathematics. We have another one being attempted in the arts and the performing arts field. I had hoped that I could tack on a bill to that so that we could have a magnet school in Waterville for home economics. However, that does not look to be possible. I am concerned about the scores going down in each and every community that is losing some of its top students. I am concerned that those particular top students are going to be lost as role models for those people who are trying to follow and better their particular situations. So, if I have someone in our school who is a genius in math that maybe some students will come up behind them and try to emulate them. The same is true if it is in the scientific field. I am very concerned because the people who have the say as to the school funding are the voters, and also, obviously, the taxpayers. The further the schools deteriorate, the less they are going to get the support of the people in the school. I have had a very strong contention, and I voice it often, that if we don't pay for our kids to educate them, we are going to pay for them when they come to the welfare office. I'm not interested in seeing more kids dropping out of school, number one.

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

Senator **ESTY:** Thank you, Mr. President, Men and Women of the Maine Senate. I rise today to support the motion to Indefinitely Postpone this bill and all of its accompanying papers. Let me give you a few reasons why I think that is an important motion to support. Let me first tell you that the committee spent a great deal of time this past session, as well

as last year, working on this bill and talking about the bill in a way that would fashion it to work for Maine people and Maine kids. As a result of that hard work, frankly, the report that isn't the majority report, but is tied with the majority report, came out as a much improved draft. I want to give credit to the people who worked very hard, Senator Amero from Cumberland, Senator Small, and many others, who approved the beginning draft. What is in front of you as the original motion was a dramatic improvement. Having said that, from my perspective, I think the concept is still flawed. I think it needs a great more amount of work, a great deal more thought; and I think that, clearly, the fact that you have four reports on this bill is indicative of that. The Education Committee, over the last two years, as you have seen, has had very few divided reports, and no reports on a bill with four different variations. I think that that shows the lack of consensus in coming up with an idea, or a method, that is important enough to work in this kind of case. I think, if for no other reason, that is a good reason to Indefinitely Postpone this bill; because it was clear that it couldn't work the way it was set up by a majority of the committee. Secondly, I really and truly believe that in a time that we are trying to encourage collaboration, and encourage trust, and encourage working together with the communities and the schools in our State, that this is the kind of a bill that will cause more mistrust, more dissention and division within our school boards and, in fact, effectively work against us trying to move education forward in this state. I also believe that this bill is an answer to a problem that we don't have in Maine. In Maine, superintendents reach agreements. In fact, over 600 of them, as we were told in committee. When superintendents can't agree, there is an appeal process to the Commissioner; and the Commissioner has granted the majority of those appeals. The bill addresses problems in places in the United States where everything else has failed, and where this choice is the choice of last resort. Senator Pendexter of Cumberland, said something Saturday night that I think was very important and very relevant to this discussion. It was about another issue, but I think the point is still the same. This is Maine, this is not L.A. In L.A. in education, in New York in education, in Washington and in many places in this country, they have tried a lot of methods to succeed in education, without success. Many places have now gone to this as a last resort for competition, to try anything. We don't need to do that. We are moving forward in Maine. We are doing positive things in education. So, I really believe, at this point, that this is unnecessary. I truly believe it will serve only a few people as the bill has indicated. It is not meant to serve a large amount of people, because then it would create a hardship; and we have dealt with the hardship issue in the bill, in fact. It is meant, and specifically intended, to deal with a few; and those few won't be the middle class of our state. It won't be the poorer kids of the state. It will be those who can afford to take advantage of this opportunity. If it was used in a broad way, it would create problems in the state of a magnitude that would have to be addressed in other ways. Everybody recognized that. Lastly, let me end by saying this bill won't serve our communities well. It won't serve the state well. Most importantly, it won't serve the kids and

the children of this state well; because it will create divisions in our state at a time when we need to be working together. There are four reports. This needs to be worked on more. Please Indefinitely Postpone this bill.

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

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. Just a brief remark to counter, respectfully, the good Senator Carey's concern of losing top students under this bill. We have the magnet school. He says that drains off some of the top students and that he fears that this then will take away role models for the other students. I would like to suggest to you that role models aren't necessarily those folks with brains sticking out of their head. I would like to point out, as an example, my brother Ray, who at the age of two came down with pneumonia. We nearly lost him, but he came out of it paralyzed on the right side of his body. He was set back mentally because of this illness. He went as far as the eighth grade in Eliot, down in York County. When he graduated, to a student there, he was voted that year Student of the Year. He didn't have any brains sticking out of his head, but he was a role model. Thank you.

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

Senator **RAND:** Thank you, Mr. President, Men and Women of the Senate. I must respond to one of the remarks made by the good Senator from Kennebec, Senator McCormick. The Senator spoke of a town in her district that has a tax cap. I am opposed to these tax caps and I think the last thing we should be doing would be encouraging that type of activity throughout the state. We are, in effect, telling people you can cap your taxes in your town and still your children won't lose a quality education because you can just take them off to another community. Meanwhile, the funding will follow those children; and the people who are left in the community are in a bigger hole than they ever have been. I think this is the wrong move to make, and I hope that you will go along and Indefinitely Postpone this.

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. In my district, which I have mentioned to you many times this session, we have school choice in place already down there. We have 2500 square miles in my district. I was talking to folks about my campaign last time and said that I visited 38 schools in my district. Some of you just couldn't imagine that there would be that many. We have nine high schools in my district. The rest of the schools are elementary schools and middle schools. A lot of the communities do not have a high school. For example, if you happen to live in Pembroke, Maine, you can go to Eastport to high school; you can go to Calais; you can go to Washington Academy, which is a fine school in East Machias. People in Princeton can go to Woodland or Calais. The two Indian reservations send students to Woodland, Calais, Lee High School. So there is a lot of choice in our area now. Also, to have a choice for schools other than high school, the distance would be so far away. From Eastport to Lubec, the

way the crow flies, is about three miles. If you take your vehicle, it's sixty. You see there is a lot of problems we would have with this particular bill. The reason that I don't feel, at this point, when we have four reports out of this committee, obviously, there is still a lot of dissention among the committee. As you all know, that is our best resource, when we sit on committees and listen to issues. We hear all the testimony of both sides, we have work sessions. I feel at this time, although I agree with the concept of school choice, I think that this time is a bad time to implement this so we can just say we have school choice. I think we should go along with the motion. Thank you.

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

Senator **LORD:** Mr. President, my Learned Colleagues. It bothers me a little bit when I see the statement in Report A, that a student identifies a reason for enrollment in the enrollment option program, with a provision making identification of the reason, voluntary. It bothers me a little bit. It seems to me that those students who wish to go to another school for the curriculum, and for a better education, will tell the truth. But, those who wish to go to play hockey or basketball or baseball or some other sport, will say they are doing it for education when in truth they are doing it so they can play sports; because those sports are more up in the limelight. I think that this statement was made in there so that they would give a true identification for the reason why they are going there.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BUSTIN** of Kennebec, that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **BERUBE, BUSTIN, CAREY, CASSIDY, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, LAWRENCE, MICHAUD, O'DEA, PARADIS, RAND**

NAYS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, CARPENTER, CIANCHETTE, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LONGLEY, LORD, McCORMICK, MILLS, PENDEXTER, PINGREE, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senator: **RUHLIN**

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **BUSTIN** of Kennebec to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **FAILED**.

Senator **AMERO** of Cumberland moved that the Senate **ACCEPT** Report A - **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-545)**.

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

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

Senator **CLEVELAND:** Thank you, Mr. President. I have several questions that I would like to pose through the Chair. To any member who might be able

to respond, in my Senate district, we have a situation where several towns have had the requirement to come together to build a new high school. They had an agreement, after some long difficulty, to build a new school for Poland, Mechanic Falls and Minot. They have agreed, under contract, or have said they will agree under contract, to send all of their students to that high school for twenty years and to pay the cost into that school so that the critical mass of students necessary to make that school financially viable will be there. If we pass this proposal, how will that affect this agreement and the economic viability of that school if some percentage of students within those areas decide to choose to go to another school? A second question I have is, on special education costs, if I read this particular report correctly, if a student with special education needs chooses to go to another school, that cost above the state average will have to be paid for by the district from which the school comes from. So that will be a cost that remains in the district behind where the child resides. Also, is there some estimation on how many students will be moving, or estimated to move, or what that number is? Thank you.

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

Senator **SMALL:** Thank you, Mr. President, Men and Women of the Senate. The first question the good Senator from Androscoggin posed was, what happens to the new high school that has agreements to send all their students to the new high school that we authorized to be built? I would say nothing right now. That agreement will stay in effect. If a parent chooses to send their child to North Yarmouth Academy, that will have no bearing on whether or not that agreement is being kept; because that is the parent's decision. The same would be on this. This would be the parent's decision, not the school's decision, to send those children. Since one of the reasons we are building a new school for this area, and indeed put them right to the top of the funding, ahead of many of our projects, was because there were not adequate high school slots to send these kids. At least that is what we were told. I wouldn't think that there would be any place to send these children if their parents did opt to go with that. With a brand new high school being built, I can't imagine why the parents wouldn't want to give that one a try first. As far as the special ed costs, that was a little bit of a challenge for us to come up with an adequate way to protect the children who require special ed services, and also give the sending school districts some safeguards against incurring astronomical costs. What we did was say, like any other student, if you choose to receive students, and one of the children who you are receiving is a special ed child, you pay the first portion of the cost, up to the state average, like you would any child that you receive. That comes out of the state subsidy. Then, anything above that, is incurred by the sending district; because we know sometimes special ed children have greater cost than the regular student. What we also added, though, for the sending district, was to protect them from a school district saying, "Okay, we have this child and we are going to provide an elaborate program for this child,

and we can also put a few of our kids in it, too; and we will bill the sending district." The special ed director from the sending school plays a role on that child's IEP in the receiving school and would have veto power over a proposal that they felt was above what the reasonable and rational costs of educating that child was. So, they could say, "Look, we can provide that same special ed service for less in our home district." Then they would be able to veto the special ed costs from the other schools. We did try to put that protection in and we felt that it gave an adequate protection for both the child and the sending district. Thank you.

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

Senator **ESTY:** Thank you, Mr. President. In further answering the question that the good Senator from Androscoggin has brought up, Senator Small, from Sagadahoc, is correct in what she has explained. I would just like to explain it a little bit more though. The IEP process that presently exists for special education students already has those guarantees in it. We didn't actually expand on it. We simply agreed with those protections. The school in which the student would have gone to now, under this new proposal, would, instead of being able to provide the services which it would have in the school, now will have to provide the money instead. While they will have veto power within the IEP process, that is absolutely right, there is still an appeal process that goes beyond the initial IEP process. Granted, that is not something that is going to regularly occur; but it is an option that would go beyond what happens in the IEP in which the sending school would have control over actual dollars. The bottom line, though, is that instead of providing services that that school may be able to provide, they, instead, will be sending dollars out of the district in some circumstances. That is one more reason that Maine School Management, as well as other entities, but specifically Maine School Management, repeatedly said, during this process, that this is our policy.

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

Senator **AMERO:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. Before we vote, there has been reference to some groups who have not supported this bill. I would just like to, for the Senate's interest, list some of the groups who are supporting public school choice, the National Education Association, the AFT, the National Principal's Association, the Maine State Board of Education, the Department of Education, our own Governor, and our own President. When the vote is taken, I ask for the yeas and nays. Thank you.

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

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

Senator **CLEVELAND:** Thank you, Mr. President. I would like to ask another question through the Chair. I appreciate the indulgence of the body, but I think it is a fairly important issue and I would like to try to understand it as clearly as possible. I understand, again from the report that is pending, that criteria would have to be established regarding what hardship is on a sending district to restrict the percentage of the number of students who might be

sent. I am interested in knowing what would constitute a hardship? What would that criteria be? What criteria would be required to be established by the receiving school so that the playing field is relatively level for those who wish to send students, so the criteria isn't set just for individuals with certain skills, academic, athletic, or otherwise; and that it would be fairly available based on the capacity of the receiving district?

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

Senator **SMALL:** Thank you, Mr. President, Men and Women of the Senate. In answer to the good Senator's from Androscoggin, question about the criteria that will be set by the Commissioner for hardship. Obviously, we don't know what that criteria is; because he hasn't gone through the rulemaking process; but that was a provision that I asked to be put in; because I did not want to see what could happen in some instances if even five students left a high school sophomore class; and then they didn't have the critical mass to be able to pay for a teacher or could no longer justify having a teacher because they didn't have enough students. I, personally, would consider that a hardship and that is what we were asking for when we asked the Commissioner to promulgate rules on this. I think the school systems will have an ample opportunity to give their ideas for what they consider to be a hardship. I think losing a couple of kids in a class, for some school districts, would not be any sort of hardship, for others it might be one that was going to set them back considerably; and I would want those needs respected. I think that is what the Commissioner will be doing for the rulemaking. As far as the local school boards setting their policy for how they accept children, again that is going to be something that is going to be done on the local level. But, we did outline, in statute, what they could not look for when they were accepting children. They could not only take the kids that were gifted and at the top of their class. They could not refuse to take special ed kids if they took other kids. We will have to look and see how the school boards complied with that. Oftentimes we set policy at the state and then ask that the school boards set regulations to comply with that. We will have a chance to revisit that to make sure that they are keeping the intent of the law, which is to allow all children the opportunity to exercise choice and not just the few who would cause advantage to the receiving school. Thank you.

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

Senator **ESTY:** Regarding the question concerning hardship, if this bill is going to pass, then I think it was very responsible to put this kind of language in. I think Senator Small's thinking was absolutely correct in outlining why we put this language in; but it points, once again, to one of the flaws in this whole concept. It says that if we are going to do this for a few kids, it's okay; but if we are going to do it for lots of kids, it's going to be a problem. We know it's going to be a problem if we do it for lots of kids. So, it's good for a few; but if it happens with a lot of kids, it is going to create some hardships, so we will have to stop it. So,

while it is important to have it in, because I agree with the thinking that it may cause hardships, it points to how unfair and how it will create more problems from community to community than what it is worth. Thank you.

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

Senator **HATHAWAY:** I would like to ask a question through the Chair, if I could. I just want to clarify what I thought I just heard from the good Senator Esty. He said if it is good for a lot of kids then we will have to change it. Is that what you said? Thank you.

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

Senator **ESTY:** No, in fact I did not say that. That is what the bill says. The bill says, and not exactly in those words, but let me outline. When we talk about hardship, the discussions were, if, in some cases, there were greater amounts of students taking advantage of this than what might be healthy for the school or the community, then we may have a hardship. In that case, this could be put under control. The bill says that, not me. So, what, in effect, the bill is saying is this is a good idea if it works for a few kids; but, if it seems to work for a lot then it seems to create such problems and hardships that we will have to stop it then. I don't think that that is the kind of thinking that makes good laws.

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

Senator **CLEVELAND:** Thank you, Mr. President. I appreciate the response to my questions. It has been helpful for me. I guess I have two observations as a result of the discussion I have heard here today. One is that I think that there probably are circumstances in which there are some students, based on particular needs or other unique characteristics, who may benefit by the opportunity to attend one particular school district than another. There is some opportunity for that to happen under the law now, perhaps not for every student, but for some. What is unclear to me, though, is in Maine we have a geographical diversity of the kinds of schools that we have. We happen to have some communities who are supposedly fairly well-to-do, based on income of their residents, a large commercial property base, or other resources, have the ability in which to provide programs and services and classes that are above and beyond what many other districts are able to do. We have a large number of rural communities within this state on which those resources are not available; and in which the types of courses, and classes, and opportunities are more restricted, even though those districts would tax themselves to the maximum amount of their limit and the ability to pay. That occurs across the state. It is unclear to me how it benefits the general education of the State of Maine by allowing those districts, who happen to be geographically disadvantaged, to have more and more of their students travel the commuting distance to a neighboring community that is more financially well-to-do, and, therefore, can offer a better educational program. What that means in the long term for those students who must remain behind, because no school district that I know of has the physical capacity to take all of the students; and, therefore, some must always remain behind. As those numbers get smaller and smaller, and perhaps present

more and more challenges to the educational system, it's unclear to me how we have improved the process by providing these choices. If what we are saying is so limited that it doesn't change the balance, we haven't done a lot. But, it seems to me to miss the fundamental question of providing opportunities for all students, unless what we are saying is we want large, regional school systems, and a not a diversity of more local school systems, some of which will lack the financial resources to be able to provide the kinds of courses that are needed and necessary to compete in this society. Not because they don't want to. Not because they don't see their value. Not because there isn't students and parents requesting them. But because there aren't the financial resources to support them. So, we set off the territorial competition based on local wealth and resources as opposed to addressing our overall responsibility, which is to try to provide a reasonable level of opportunity for all students. The bill, therefore, troubles me. The only reason that I think, perhaps, it has any merit, is that what we are saying is that it is going to affect so few students that it's not going to change anything. Not much of a reason to vote for the bill.

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

Senator **ESTY:** Thank you, Mr. President. One more brief comment. If we are going to go down this path, and we choose to do this during this session, let me simply say that I think, once again, there are many problems with the actual mechanics of how this bill is going to work. If someone were looking to go down this path, I would still suggest that you defeat this motion because there is another report, Report C, that will work better.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **AMERO** of Cumberland that the Senate **ACCEPT Report A - OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-545).**

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, CARPENTER, CIANCHETTE, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, LORD, McCORMICK, MILLS, PARADIS, PENDEXTER, PINGREE, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BERUBE, BUSTIN, CAREY, CASSIDY, ESTY, FAIRCLOTH, MICHAUD, O'DEA, RAND**

ABSENT: Senator: **RUHLIN**

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **AMERO** of Cumberland to **ACCEPT Report A - OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-545), PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-545) **READ and ADOPTED.** Under suspension of the Rules, **READ A SECOND TIME and PASSED TO BE ENGROSSED, As Amended.**

Under suspension of the Rules, sent forthwith for concurrence.

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

COMMUNICATION

The Following Communication:

**THE MAINE SENATE
OFFICE OF THE PRESIDENT
STATE HOUSE STATION 3
AUGUSTA, ME 04333**

March 29, 1996

The Honorable May M. Ross
Secretary of the Senate
State House Station #3
Augusta, ME 04333

Dear Madam Secretary:

Please be advised that I have made the following appointments:

Commission on the Economic Impact of Time-Limited Aid to Families with Dependent Children; Pursuant to Public Law 1995, Chapter 418, Part D:

Senator Joan M. Pendexter of Scarborough

Please let me know if you have any questions regarding this appointment.

Sincerely,
S/Jeffrey H. Butland
President of the Senate
S.C. 563

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

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

**PAPER FROM THE HOUSE
Non-concurrent Matter**

Bill "An Act to Expedite the Decision-making Process for Disability Retirement under the Maine State Retirement System"

H.P. 1238 L.D. 1698
(C "A" H-899)

In Senate, March 30, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-899)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-899) AS AMENDED BY HOUSE AMENDMENT "A" (H-903)** thereto, in **NON-CONCURRENCE**.

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

(See Action Later Today)

ENACTOR

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

Emergency

An Act to Correct Errors and Inconsistencies in the Laws of Maine

S.P. 711 L.D. 1811
(S "A" S-555 to C "A" S-541)

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

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

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

On motion by Senator **BEGLEY** of Lincoln, **RECESSED** until 1:30 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:

COMMUNICATIONS

The Following Communication:

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002**

April 1, 1996

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

The House voted today to adhere to its former action whereby it accepted the Majority "Ought Not to Pass" Report of the Committee on **Legal and Veterans Affairs** on Bill "An Act to Reform Campaign Finance" (I.B. 5) (L.D. 1823)

Sincerely,
S/Joseph W. Mayo
Clerk of the House
S.C. 564

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

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

Bill "An Act to Clarify Definitions Under the Laws Concerning Games of Chance"

S.P. 479 L.D. 1303
(C "A" S-517)

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

Pending - **FURTHER CONSIDERATION**.

(In House, March 30, 1996, **PASSED TO BE ENACTED**.)

(In Senate, March 30, 1996, **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

(In House, March 30, 1996, that Body having **INSISTED**.)

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

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

Senator **LAWRENCE**: Mr. President, Men and Women of the Senate. I would urge you not to Recede and Concur and that we stick to the position we did on Saturday. If you recall, this is the bill that seeks to change the definition between games of skill and games of chance. My concern still remains the same. We are throwing out the old definition and adopting a radically new definition that sets the definition so far to one side, in defining what a game of chance is, that it would include most of the games out there that are now out there that involve elements of chance for which you get a prize. I would urge you to reject the pending motion and insist on our position.

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

Senator **CLEVELAND**: Thank you, Mr. President. I rise today to urge you to support the motion to Recede and Concur. That is a motion that would put into statute a workable definition of what a game of chance and what a game of skill is. The central issue that is before us and being debated, as I understand it, is how one defines in many games that are played, what percentage of the game is skill and what percentage of the game is chance. In most all of those games there is usually a combination of the two. Under the existing law it has always been assumed, or known, that that definition was to be applied as we understood it today, what the status quo is. It was challenged in the courts and what has happened, because of the court challenge, is that that bar, or definition, has been moved. So, if we do nothing, the current status quo will not stay the way it is. If we do nothing that bar, or balance, between skill and chance will have been altered by that court decision; and it will be altered in the favor of games of chance. That is, more games of chance that are considered to be games of chance today, will be able to operate in a commercial way, for profit, in gambling mode, under the definition that has been interpreted by the court. That's what will happen if we do nothing. If, however, we change the definition, that will not occur. Those who have some concerns that it pushes it too far in the games of skill, that is it will capture more games of skill that we don't want to capture, I think have not to worry; because if, by some means, the State Police or the administration or others begin to interpret that law in a way none of us intended for it to be, that is if all of those games of skill that are operated for fun and enjoyment at arcades and other places currently legally operating, should continue to do so uninhibited, if that occurs, which I doubt it will, we always have the opportunity to go back and readdress that risk. But, if we do nothing, we do not have that opportunity; because it will be legal to operate those games of gambling under the courts redefined definition, moving of that bar; and there will be gambling, commercially, going on in a way, in this state, as soon as we fail to act. I think we are far better off to take some chance and err somewhat on a tighter definition. The intention is to move the bar back to the center, where we believed it always was, then it would be to be concerned about not doing anything and leaving the bar moved way over to the definition that will open up the doors significantly to a variety of different kinds of gambling operations in this state. To do nothing seriously risks expanding the gambling opportunities in this state, in a commercial way. Remember now,

there is one section of the law that deals with social gambling. This doesn't touch or affect it in any way. If you and I want to get together and have a game of cards and wager a little something, that is a social activity. It is not commercial. That is regulated and taken care of in a totally different section of the law. It doesn't touch it at all. This deals with commercial operations, people who want to get in the business of gambling so they will make money at that commercial operation. I would strongly urge you not to err on the side of being too lenient and urge you to get the new definition in; and if there is any problems with that, I assure you that the next legislature can address it rapidly; but I doubt very much that there will be a problem with it.

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

Senator **FERGUSON**: Thank you, Mr. President. I spoke at length on Saturday about this L.D. 1303, and I am not going to be repetitive. I haven't changed my position and I would urge all of you to vote against the pending motion. Thank you.

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senator: **ABROMSON, BEGLEY, BENOIT, BERUBE, CASSIDY, CLEVELAND, ESTY, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LONGLEY, MILLS, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **AMERO, BUSTIN, CAREY, CARPENTER, CIANCHETTE, FAIRCLOTH, FERGUSON, HANLEY, HATHAWAY, LAWRENCE, LORD, MICHAUD, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN**

ABSENT: Senator: **McCORMICK**

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **KIEFFER** of Aroostook to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **LAWRENCE** of York, the Senate **ADHERED**.

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

SENATE REPORTS - from 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

Majority - **Ought to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-543)** (6 members)

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

Pending - the motion by Senator **ABROMSON** of Cumberland that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

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

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

Senator **ABROMSON:** Thank you, Mr. President. I thought that I ought to explain a little bit about this bill. It's interesting, in itself, as I have an article from Contingencies Magazine of October 1995. This is a magazine that is read by insurance actuaries. Very exciting stuff. This one was written by Gerald Smittenhoff and it is titled "Why All Health Care Reforms are Doomed to Failure". Politicians believe they can intervene and fix the health care sector of the economy as if it were an engine in need of a tune-up. I am happy to say that following the Maine Health Care Reform Commission's yeoman work for about a year and a half, and countless public hearings, they did come forth with a number of bills. As we heard the day before yesterday in this chamber, many parts of those bills did not get out of committee. However, what we have before us in L.D. 1882 is "An Act to Create the Maine Health Care Reform Act of 1996"; and it combines a feature of L.D. 1753, which is the private purchasing alliance and managed care regulation items that were found in L.D. 1512, which is now called L.D. 1882. I thought I should go over with you what the various portions of L.D. 1882 are and how the majority report differs from the minority report.

Number one, it creates a private purchasing alliance. Originally the Maine Health Care Reform Commission suggested a private and public purchasing alliance. The whole idea being that there are economics of scale, and that we could buy a less expensive and, perhaps, better insurance product if we had large numbers of people in an alliance. So, what this report does, we couldn't do the public and private because there were members of the Committee who didn't want the public involved; and I must say, the MSEA also didn't want to be involved. So, we went back to a private purchasing alliance. A private purchasing alliance is nothing more than a group of people getting together for the purposes of buying insurance and offering it to others. The more, the merrier, in order to get the prices down. But, in the majority report, is a requirement for the alliance to offer one health plan, there must be a catastrophic health plan covering only in-patient hospital benefits with a range of deductibles. It must include a \$1,000 deductible option. If you were to look at the bill, you won't find that in there. I must say that I have an amendment to offer that would put it in there. Unfortunately, it was reported out of the Committee with the \$1,000 deductible, and it somehow was dropped in the Revisor's Office. That is one difference between the majority and the minority report. Then, continuing on, this bill has a continuity of coverage and excess insurance provision, agreed to by both the majority and the minority. In addition, part C is a health plan improvement act, with all sorts of reporting requirements, access standards, credentialing and participation of providers, a grievance procedure, utilization review, enrollee choice, indemnification and rulemaking, plus one other item, under quality of care, that is in the majority report that does not appear in the minority report; and that is a provision that says that carriers must meet the quality of care requirements, and carriers may not deny payment for a covered service based on an enrollee's age, nature of disability, or degree of

medical dependency. Part D are technical changes to the HMO laws, again, agreed to by both the majority and the minority. Then, in the minority report, not in the majority report, the minority report does not include the requirement that catastrophic health plans be offered through private purchasing alliances; and while it requires carriers to meet quality of care standards, as does the majority, it does not include provisions that prohibits a carrier from denying payment based on enrollee's age, nature of disability, or degree of medical dependency. Finally, the minority includes a provision requiring managed health care plans to have mechanisms in place for the use of non-participating specialists for the treatment of enrollees with chronic disease or other medical conditions requiring specialty care not available from a participating provider. The problem with this provision was the problem of defining medical conditions. Other than that, the report, as you may have noticed from our calendar, is a seven to six report; but the interesting thing is that it really is that close, with the exception of the big item of catastrophic health plan that is in the majority report. This catastrophic health plan is very important to Maine's small businesses. It is backed by the NFIB, the Maine Chamber and Business Alliance and the Maine Merchant's Association. Basically, what the catastrophic health plan does, it allows the establishment of a voluntary purchasing alliance in the private sector and permits large and small businesses to pool their purchasing power, giving them greater access to affordable health care coverage. By having this one provision of requiring the purchasing alliance to offer, it doesn't require anybody to buy; but it does require the purchasing alliance to offer this catastrophic health plan, so that anybody who is not covered and feels they cannot afford, or the business is a small business that cannot afford to offer their employees health coverage, what this plan does is it says it is in-hospital only. If, God forbid, you are painting your house and you fall off the ladder, or you are skiing and hurt your knee, or, God forbid, you have cancer, this will cover you in the hospital beyond the \$1,000 deductible. It gives you an opportunity if you are, what we call in the insurance business, going bare, have no insurance whatsoever, this gives you the opportunity to have a catastrophic, or what we used to call major medical. This particular provision is probably the key provision separating the majority from the minority report. I would urge you to vote for the ought to pass majority report, in which case, upon adoption, I would offer the amendment that has the words that were left out by the Revisor's Office. I would also offer a technical amendment that makes clear, when it talks about refusal to provide coverage, it makes clear that it is by the plan; or, if anything is withheld, it is by the plan. That is a technical amendment. 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 Cumberland, Senator Abromson, has done a great job of describing how close to each other the majority and minority report of L.D. 1882 are. The difference is really a small but important one. If I could just talk about that for a moment. There are two areas of difference that matter. That is why I rise to urge you to vote against the majority report, so we may go

on and accept the minority report. The majority report, as the good Senator describes, contains a provision that the health care purchasing cooperatives offer a hospital-only insurance plan. Many of you have been lobbied by Harvard Community Health Plan against this. Many insurers who are good insurers, like Harvard, believe that this is going to increase, unnecessarily, the cost of health care in this state and the cost of health care to business. In addition, this kind of coverage gives people the sense that they are covered when, in fact, they really aren't. Thirdly, it is a cost shift to the taxpayer. When people can only get coverage in hospitals, and that is the most expensive type of care, the preventive-type of care, the well child care, the mammograms that prevent expensive operations later, are foregone and usually end up, somehow, coming back in terms of state aid or subsidy by the taxpayer. That is why I favor the minority report on that item. The last item that the good Senator mentioned, the minority report, includes a very important provision. I call it the children with disabilities provision. I included it in my original L.D. 1512, which has been subsumed into this L.D., for a very important reason. As I have been working on health care reform for the last ten years, I have met with many parents with children with disabilities, as have all of you, most likely. When you begin to talk health care with them, their almost number-one concern is that the specialists who invariably takes care of all the needs of their child, because their child's health care is such an intersecting web of activities, they want to be able to keep that person as the management physician, the physician that actually oversees the care of their children. That is ultimately important to them. The minority report includes that provision, includes the ability of parents to request that the doctor who is taking care of their child with chronic illness be allowed to continue that; and, if that doctor is not on the panel of the insurer, that, if that doctor elects to be on the panel, he or she may continue in that role. If that doctor does not elect to be on the panel of the insurer, then fine, no problem. So, there needs to be agreement on both sides and this just allows that to happen. That's the difference between the majority and the minority reports. When the vote is taken, I ask for the yeas and nays. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **ABROMSON** of Cumberland 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, BERUBE, CAREY, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative the motion by Senator **ABROMSON** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, **PREVAILED**.

The Bill **READ ONCE**.

Under suspension of the Rules, **READ A SECOND TIME**. On motion by Senator **MILLS** of Somerset, Senate Amendment "B" (S-559) **READ**.

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

Senator **MILLS:** Mr. President, Men and Women of the Senate. I offer this amendment to do two things. It would remove from the bill that provision for catastrophic coverage that would afford coverage for hospitalization only, and afford no coverage of any kind for other forms of medical treatment, and would substitute in its place a provision that would provide for catastrophic coverage across the range of medical service, but subject to an annual deductible of \$5,000 per covered family, or \$3,000 per covered individual, in accordance with rules that may be developed by the superintendent. The thought behind the amendment is this, it seems to me that catastrophic coverage, and the nature of hospital treatment, is rapidly becoming a thing of the past. People who need long-term care are no longer getting it in hospitals. If they have need of bedridden-type care, they are getting it in nursing homes, not in hospitals. People are running up enormous bills for chronic treatment for cancer, for AIDS, for mental illness, all of which require no hospitalization. Fifty years ago, perhaps it was common for catastrophic care to be associated on a roughly one-to-one basis with extended hospitalizations. In the 90's that is absolutely not the case anymore. The need to be fulfilled is for catastrophic coverage of the sort that would apply across the board, so that you wouldn't have the medical care providers operating under a false economically-induced pressure to put somebody into the hospital, knowing that's the only way that the medical treatment can be covered. We don't want people put into hospitals for economic reasons. We want them out of hospitals. That's the whole trend of modern medicine. This amendment, if you adopt it, would enable the employer to say, yes, we can offer you true catastrophic health coverage. You are going to have to pay the first \$3,000 per year. Perhaps the employers would assist with that on some benefit basis. But, in any case, the coverage that would be described by the employer would be described in an honest and straightforward way, saying, look the first \$3,000 is on you. Or, if it's family coverage, the first \$5,000 is on you. After that, you dip into the catastrophic coverage for treatment, whether it be radiation treatment, chemo-therapy or long-term mental care or whatever it may be. It just seems to me that affording catastrophic coverage subject to a dollar threshold that cut horizontally across all forms of health care is a far more appropriate way of affording someone the limited kind of coverage, the inexpensive kind of coverage. That is the impetus for this section of the bill and the reason behind it. Thank you.

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

Senator **ABROMSON**: Thank you, Mr. President. I would urge a vote against this amendment on two bases. One is I would like to offer my amendment, which conflicts with the good Senator from Somerset's amendment. This amendment that he has offered is not necessary in that rule chapter 750 from the Bureau of Insurance, under standardized health plans, states that, "the purpose of this rule is to define two standardized health plans that must be offered by all carriers providing the types of coverage." These two are what is called standard and basic. In each case the deductible says, "a choice of deductible must be offered. At least the following deductibles must be offered, \$250, \$500, \$1,000, \$1,500. Other deductibles may also be offered." That goes for both the basic and the standard plan. So, it requires that the standardized health plans must be offered by all carriers. Therefore, I don't think it's necessary and would like to proceed to include, in this health reform bill, the catastrophic, in-hospital only, insurance plan. 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. I appreciate the Senator from Somerset, Senator Mill's, proposal of compromise here on this issue. It seems to be a good one to me and I will be supporting it. Thank you.

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

Senator **ABROMSON**: Thank you, Mr. President. I just would encourage everyone to read the amendment; because, in talking with the good Senator prior to his introducing it, I was prepared to offer both plans, if he wanted it that way. However, he chose not to compromise on the catastrophic health plan for in-hospital only. Thank you.

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

Senator **MILLS**: Mr. President, Men and Women of the Senate. There is a good reason why I think it is important that the hospital plan alone not be included in the law and not be mandated to the alliance. What it means, in practice, is that if this plan is promulgated, an employer can give false assurances to his employees that he provides health insurance for them, at least of a catastrophic nature. In truth, a hospital only plan provides very little security for a family; and it creates the illusion in the consumer, in the participant, that he, or she, has good health coverage when, in fact, no such thing is the case. I think we need to make sure that whatever plans we authorize are authorized in such a way that the consumer is not deceived and that there is no opportunity for deception in the nature of the plans that we structure and promulgate. 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. I would just like you to find the Harvard Pilgrim Healthcare letter that we just received from the Associate Medical Director, because I find it quite illuminating. I would just like to read part of it. They say in this letter that the only part of the majority report that they object to is the part that we are discussing now. The part that this amendment that is offered by the good Senator from Somerset would correct. "As a managed care organization," they say, "committed to

improving the health care of our members by providing high quality health care through an organized system of health care delivery, Harvard Pilgrim Healthcare strongly opposes the inclusion of catastrophic coverage provision," that we are discussing. "Catastrophic coverage plan discourages an enrollee to see preventive care. Furthermore, with hospital-only services covered, enrollees will be motivated to receive care in a hospital setting when more cost-effective settings are available." You have all heard your constituents, your small businesses, your big businesses, complain to you about the cost of health care and the rising cost of health care and their inability to pay. The decisions that cause that are small and they mount up. Ladies and Gentleman, this is one of them. You have one of them right here. It might not seem like much, but if you vote for this amendment, you are helping to put pressure on to decrease the rising cost of health care by stopping the encouragement to the most expensive kind of care. Thank you.

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

THE PRESIDENT: The pending questions before the Senate is the motion of Senator **MILLS** of Somerset that the Senate **ADOPT** Senate Amendment "B" (S-559).

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

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

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator **MILLS** of Somerset to **ADOPT** Senate Amendment "B" (S-559), **FAILED**.

On motion by Senator **ABROMSON** of Cumberland, Senate Amendment "C" (S-561) **READ**.

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

Senator **ABROMSON**: Thank you, Mr. President. This is the amendment that I referred to earlier in that this was actually the way it was voted out of Committee and the Revisor left off the \$1,000 deductible.

On further motion by the same Senator, Senate Amendment "C" (S-561) **ADOPTED**.

On motion by Senator **ABROMSON** of Cumberland, Senate Amendment "A" (S-553) **READ**.

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

Senator **ABROMSON**: Thank you, Mr. President. I offer what I hope is the last amendment of this

bill. This is a technical amendment that merely clarifies something in the bill with respect to who is refusing what. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-553) **ADOPTED**.

The Bill **PASSED TO BE ENGROSSED, As Amended**.
Sent down for concurrence.

On motion by Senator **FERGUSON** of Oxford, all matters thus acted on, with the exception of those matters having been held, were sent forthwith.

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

Bill "An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws"

H.P. 1352 L.D. 1853
(C "A" H-876)

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

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-876)**, in concurrence.

(In House, March 29, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-876)**.)

(In Senate, March 30, 1996, **READ A SECOND TIME**.)

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

Senator **CLEVELAND:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I recognize that this is a significant bill, and one that has aspects that are positive for the future of the State of Maine. My intention in speaking on the bill is not in any way to jeopardize that. There is one aspect of the bill that I think deserves at least some momentary reflection before we proceed. That is the section of the bill that deals with exempting what are known as 115KW lines. Those transmission lines you see running across the countryside from point A to point B that are delivering large volumes of power across the State of Maine. It may seem like sort of small change in the bill, to go from exempting any line from 100KW and less, to increase that to 120KW and less. You need to understand how electric transmission lines, and the currents they carry, are established. As a matter of fact, by raising it to 120 will exempt every single transmission-type line, except for the 345KW, which are those huge lines that run from Maine Yankee to New Brunswick and to the New Hampshire border, those huge, tall, towers. Everything else in this state will be exempted from site plan review by the state. Those are fairly significant kinds of lines within the state. They are certainly large regional lines. Let me give you a couple of examples. One of the lines, for example, runs from the Wyman Dam to the Central Maine area. It goes through many towns, including Bingham, Solon, Athens, Hartland, and Pittsfield, for some 34 miles, crossing many jurisdictional boundaries. Another line from Lewiston to Farmington, for example, goes from that distance, across towns like Lewiston, Greene, Livermore, Jay, Chesterville, Wilton, Farmington, Industry, Starks, Anson, Embden, and Concord Township, for some 75 miles. These are not short, local kinds of transmission lines. These are the major lines, other than for that one huge line from Maine Yankee, that criss-cross this State, so they are of significance. By exempting them from the site review plan what we are doing is saying each

individual town can have a site review on these. I'm not sure, for a couple of reasons, whether that is in everyone's best interest, including the towns. First of all, it would require a whole multitude of site plan reviews across all kinds of towns running for 75, or whatever the length of the line is. Secondly, we have no assurance within the bill that those local communities will have the kinds of resources available to adequately review some of the aspects involved with large transmission lines. Site impacts, scenic impacts, EMF's, electro-magnetic forces, which are of more and more concern to individuals, and how they affect or may not affect health. The other thing that it does is, by removing it from the site plan review process, it has no central focus on which all of the issues involved with the major development are incurred. It makes some sense, for example, if it's all within one municipal territory, to have that municipality deal with those issues; because they are all within the boundaries of that one community. We are talking about the kind of development that goes across territorial boundaries for miles and miles and miles with no focus for review of those kinds of concerns. There are Public Utilities Commission reviews; but it has to deal with the economics and the need for the power, not the impact on electro-magnetic forces or the scenic impacts or other local impacts. The Natural Resources Protection Act deals with impacts on wetlands and other natural resources, not on these issues, as well. It seems to me to perhaps be more complicated, or at least not have a good focal discussion, of all of the concerns and needs. Economic concerns, electricity needs, natural resource needs, and the site kind of impacts. So, for those kinds of reasons, I think, perhaps, we may not have improved the law by exempting them at this particular time.

It also concerns me that my understanding is that this amendment came very late in the process of looking at all of the site plan review requirements. It came as an amendment near the end. It was in the bill; but the kinds of folks necessary to give a full impact, or full discussion, were not readily available at the time that it was added to the amendment within the bill. It was added at the request of a lobbyist, an attorney for Bangor Hydro; and we find in the March 12, 1996 edition of the Bangor Daily News that Bangor Hydro is planning a major transmission line of 115KW to run between Orrington and Ellsworth, about twenty miles. So, it seems to me that perhaps, in this instance, we may not have improved it. However, I am persuaded at least, or at least feel a little more secure in that the implementation date is not until July of 1997. So, that gives some opportunity for the 118th to review it. I think it is a significant issue. I think it is one of the weaknesses in the bill. Frankly, in talking with many of those groups of folks who were involved in the process, they suggest that perhaps this does deserve further attention and more reconsideration. Because of the lateness of the session, and the lack of time to discuss it, and because we will have an opportunity in the 118th, I won't offer my amendment today. But, I do want to bring to the attention, particularly of those who will have the opportunity to address this issue, that simply because we pass this this session, if we do, it doesn't mean that it doesn't deserve reconsideration and a close look. I will certainly

be looking to do that in the 118th. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I want to take a moment during this busy time to respond to the good Senator from Androscoggin, but also to give you a little more understanding of what is presently before you; because I think it is important. We have a document called the site plan review. It is a major document. It was 29 pages long. It was tightly crafted by a wide and diverse spectrum of stakeholders within the State of Maine, coming together to try to do one of the things that I think we all, in a way, were trying to promise when we ran for office, and one of the goals that we have been trying to keep in our mind, and that is to protect our environment, to do it better, to get it out of the office-shuffling papers, and out into the field to see what is going on, and actually protect that environment. This very tightly crafted, complex piece of legislation does do that. It does it by addressing many changes that will, in fact, speed up the process, make the process more efficient, and yet make measurable steps to protect our environment. Considered as a whole, it was an excellent piece of legislation. I am pleased to have been on the committee that worked with it. I really had the sense of reward that you get when you feel you have accomplished something. I cannot let the comments go on the limited dissent on going from 100 kilovolts to 120 kilovolts, only because I want you to be aware, and I want it in the Record, what the committee was considering. Presently, when we go from 100 kilovolts, and that is thousands of volts, to 120 kilovolts, we still keep in place that the person running that transmission line must go for a certificate of need before the Public Utilities. This is the municipality's opportunity to intervene, to participate, to address many of the issues that would come about. If a utility is successful in having a certificate of need, they must still go before DEP and get a Natural Resources Protection Act permit. Stop and think, you probably couldn't really run a transmission line a mile anywhere in the State of Maine without impacting somewhere on some form of habitat, wetlands, deer, or wild game habitat, forested habitat. I cannot picture in my mind any transmission line going for any extent that is not going to be impacted by having to make application for a Natural Resources Protection Act permit. So, with these two procedures in place, if we were to keep it under 115 kilovolts, now, after going through the process of protecting the environment, we are going to make them go before DEP, who has already had a chance to look at it through the Natural Resources Protection Act, and make them get a site location permit, as well. That is duplicative. It is wasteful. It is time we streamlined it and this particular piece of legislation attempts to do that. I feel that we all will be together today as we vote unanimously to enact this piece of legislation before the day is over. Thank you.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. There were a number of stakeholders at the meeting when we discussed moving this up to 120. There were no objections to it by any of the stakeholders. I'm sure when the 118th

convenes there will be a bill in there that will go before the committee of jurisdiction to look at upping this to 120, to the fullest degree. I think this is the time to do it and not fiddle with it now. Thank you.

The Bill **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

Off Record Remarks

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

COMMITTEE REPORT

House

Ought to Pass As Amended

The Committee on **HUMAN RESOURCES** on Bill "An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation" (Emergency)

H.P. 1291 L.D. 1773

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-906)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-906) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended**, in concurrence.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

ENACTORS

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

An Act to Provide for Assisted Living Services

S.P. 731 L.D. 1835

(S "A" S-552 to C

"A" S-544)

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

An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program

S.P. 712 L.D. 1812

(C "A" S-556)

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:

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **PENDEXTER** for the Committee on **HUMAN RESOURCES** on Bill "An Act Redefining the Community Services Structure of the Mental Health System"

S.P. 654 L.D. 1704

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-562).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-562) READ and ADOPTED.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, As Amended.

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

Senator PENDEXTER for the Committee on HUMAN RESOURCES on Bill "An Act to Promote Choice and Quality in Long-term Care"

S.P. 707 L.D. 1806

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-563).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-563) READ and ADOPTED.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, As Amended.

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

Senate at Ease

Senate called to order by the President.

On motion by Senator LAWRENCE of York, the Senate RECONSIDERED its action whereby it ADHERED on:

Bill "An Act to Expedite the Decision-making Process for Disability Retirement under the Maine State Retirement System"

H.P. 1238 L.D. 1698

(C "A" H-899)

(In Senate, March 30, 1996) PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-899), in concurrence.)

(In House, April 1, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-899) AS AMENDED BY HOUSE AMENDMENT "A" (H-903) thereto, in NON-CONCURRENCE.)

(In Senate, earlier in the day, ADHERED.)

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

Senator KIEFFER of Aroostook requested a Division.

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

Senator RAND: Thank you, Mr. President, Men and Women of the Senate. I hope you will go along with the motion to Recede and Concur with the action taken by the other body. What we have here is a situation that borders on the criminal. A law enforcement officer who, due to a job-related injury, employed in the State of Maine, was approved for occupational disability in 1981. He was told at this time that at a later date, if he ever became gainfully employed and earned \$1 or more, he would forfeit his complete disability benefit. The years went by. This particular gentleman complied with every rule and regulation. He reported everything that was required of him by the Maine State Retirement System. On January 23, 1995, he received a letter from the Maine State Retirement System, notifying him that for the past thirteen years they had been in error and that commencing in February of 1995 his benefits would be reduced from almost \$900 a month to \$23 a month, and he would also have to pick up the cost of his health

insurance, at a cost of \$485 a month. For thirteen years this particular individual had made life decisions based upon the information that was given to him by the Maine State Retirement System. The Maine State Retirement System has agreed that this person is at no fault. He disclosed every bit of information that he had to. By receding and concurring we will have added this amendment, "If overpayment of disability retirement benefits is made for at least ten years under this article, due solely to the error of the Retirement System, the Retirement System may not reduce further benefits payable to, or require the reimbursement of past overpayment of benefits from the recipient." It is only just and only fair that we enact this limitation on the Maine State Retirement System. They had thirteen years in which to address this problem and never caught it. Individuals make lifetime decisions on the information that is given to them by the Maine State Retirement System. I would ask you to please go along with the motion. Thank you.

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

Senator BEGLEY: Thank you, Mr. President. The amendment, I assume we are discussing that, is another one of those incidents whereby we are trying to handle the situation pretty much for an individual. The Labor Committee, a year ago, discussed this issue, voted against it. The issue died between the Houses in the first session, on the basis that the error was found, admitted to; and the Retirement System said that they would not request any of the repayment regardless of the amount. They had a right to, recognizing that they had made a mistake. They said, no, we will not do that. However, we must go back to what is legitimate concerning this gentleman's issue, which they did. To come and put the amendment on a bill that was passed unanimously by the Labor Committee, dealing with technical changes in the Retirement System, to my way of thinking, is not the way to handle a situation that was already handled before. My point to you all is the individual received a great deal of money by mistake. None of which he had to repay, and none of which, from now on, is he entitled to.

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator LAWRENCE of York to RECEDE and CONCUR, FAILED.

The Senate ADHERED.

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

An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program

S.P. 712 L.D. 1812
(C "A" S-556)

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

Pending - ENACTMENT.

(In House, earlier in the day, 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 first Tabled Unassigned matter:

HOUSE REPORT from the Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Amend the Election Laws"

H.P. 1203 L.D. 1653

Report - Ought to Pass as Amended by Committee Amendment "A" (H-737)

Tabled - March 11, 1996, by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE OF THE REPORT (division requested)

(In House, March 5, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-737).)

(In Senate, March 6, 1996, Report READ.)

Senator FERGUSON of Oxford moved that the Bill and Accompanying Papers be INDEFINITELY POSTPONED, in NON-CONCURRENCE.

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

Senator LAWRENCE: Thank you, Mr. President. I would pose a question to the Chair. What was the report of the committee?

THE PRESIDENT: The Chair would state that it was a unanimous Ought to Pass as Amended by Committee Amendment "A" Report.

Senator LAWRENCE: Thank you, Mr. President. May I pose another question? My question is, if this was such a great bill in committee what has happened to it now that it has become such a dog on the floor?

THE PRESIDENT: The Senator from York, Senator Lawrence, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator FERGUSON: I would say probably for the same reason that the election reform referendum bill was, where we had a twelve to nothing committee report. I happened to be absent from the committee one day and they reversed that action. There's not much in this particular bill. There are some things that kind of take care of the gender issue, make it gender neutral. There is a provision in here for stalking and there are other provisions changing the time when you may change from one party to the other party prior to a primary election.

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

Senator LAWRENCE: Thank you, Mr. President, Men and Women of the Senate. I hate to disagree with my good friend from Oxford, but I prefer his opinion better in committee than now on the floor of the Senate. I would encourage you to oppose the indefinite postponement and I would ask for a Division. Thank you.

Senator LAWRENCE of York requested a Division.

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

Senator MICHAUD: Thank you, Mr. President. I, too, would hope you will vote against the pending motion. This was a unanimous report out of the Committee on Legal and Veterans Affairs. It deals with a lot of technical changes that have to be cleaned up in the statutes. I do think it is a good piece of legislation and, hopefully, you will vote against the pending motion. Thank you.

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

Senator KIEFFER: Thank you, Mr. President. I have had some time to briefly review this bill and I think the members of this Senate ought to understand some of the ramifications of this bill. Last session, I believe, we changed the provision regarding the circulation of absentee ballots and we reduced the number down to two, specifically for the reason that there had been some gamesmanship involved with that. This bill turns it right back around and increases that number back to five. Also, the deadline for changing parties has always been three months prior to the filing date. Prior to this year that was always the end of December, because the filing date was the end of March. This year we moved the filing date forward to March 15. That, in effect, moved the date of change back to December 15. This bill changes that completely and sets the new date for change as March 1, which is only a short two weeks prior to the filing date, which I think is completely inadequate. I would like to see the laws revisited, as far as the elections laws are concerned; but I believe the first of the year there is a possibility of a new Secretary of State and I believe he should have the opportunity to do that. Thank you.

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

Senator LAWRENCE: Thank you, Mr. President, Men and Women of the Senate. Realizing this is a gender-neutral bill, I just want to point out the possibility that the new Secretary of State may be a she, as well as a he. I can appreciate the good Senator from Aroostook's fear of losing members of his party to another party by moving the date, but that may well happen anyway. I think there are many good changes in this bill. I think it is unreasonable to expect an individual to carry only two absentee ballots at a time. Many of these are sincere individuals. A lot of them are retired individuals who have worked hard in their jobs and are now volunteering to help in a civically responsible way. I don't think we ought to put obstacles in their paths when they are doing things. I would encourage you to support this bill. It's a good bill. It was a good bill when it came out of committee and I don't think we ought to wait for a change in the Secretary of State to determine what's the best law. Thank you.

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

Senator **MICHAUD**: Thank you, Mr. President, Men and Women of the Senate. Just to clarify, the good Senator from Aroostook, Senator Kieffer, it did not put it back up to five. The law was originally ten absentee ballots, the committee previously moved that down to two. We are putting it up to five. The basic argument, and why the committee agreed to go with five, is because in your rural areas, and in large families, it was kind of ridiculous to just be able to handle two ballots. Most families, if a family is sick and they need more than two ballots, in your rural areas, the committee felt at that time that it was kind of restrictive. So, rather than go back up to the full ten, what the committee chose to do was to move it to five ballots.

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

Senator **CIANCHETTE**: Thank you, Mr. President. I would like to pose a question. Reading the amendment, the Statement of Fact, in paragraph 6, it deals with the declaration of voluntary spending limits that a candidate may withdraw and all of that. Wouldn't that provide a serious conflict, if the referendum that is going to the voters, should pass? The so-called spending limits referendum. Isn't this a serious conflict with that and which law would prevail if we passed them both?

THE PRESIDENT: The Senator from Somerset, Senator Cianchette, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON**: Thank you, Mr. President. I was just going to pop up on that very subject. If the referendum, as I understand it, that will be before us this fall passes, this will all be null and void anyway. What we have done, we did make a feeble attempt last year to put some spending limits in. For Senate candidates, \$25,000; and \$5,000 for House candidates. This amendment is weakening that even further than the provision in law right now. Actually, what it does, if you sign on as accepting these limits, and lo and behold your opponent is spending more money than you think he is, you can run into the Ethics Commission and change that. It weakens that to almost nothing. 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. In addition to the issue already identified about the number of absentee ballots, this bill, as presented, would also provide for members of a candidate's immediate family to be able to circulate ballots, which reminds me of the discussion we had about law enforcement officers soliciting charitable contributions. For the same reasons, I opposed that. I will also give you fair warning that the only thing standing between you and a floor amendment I have prepared is your vote to indefinitely postpone. I would urge you to do that. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **FERGUSON** of Oxford that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**, 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.

21 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **FERGUSON** of Oxford to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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

Off Record Remarks

Pursuant to Senate Rule 1, Senator **HARRIMAN** of Cumberland was appointed to serve as President Pro Tem for the remainder of today's session.

On motion by Senator **SMALL** of Sagadahoc, **RECESSED** until 6:00 o'clock this evening.

After Recess

Senate called to order by the President.

THE PRESIDENT: For the Record, on L.D. 1773, An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation, which we had earlier in today's session, passed to be engrossed; and it came back from the Committee on Engrossing as not truly and strictly engrossed, so we held it. The Chair would ask unanimous consent that we hold that bill. Seeing no objection, the bill will be held.

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

Senator **BEGLEY**: Mr. President, is the Senate in possession of "An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation" H.P. 1291, L.D. 1773?

THE PRESIDENT: The Chair would answer in the affirmative.

Under unanimous consent, Senator **BEGLEY** of Lincoln moved that the Senate **RECONSIDER** its action whereby it **PASSED TO BE ENGROSSED, AS AMENDED**:

"An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation" (Emergency)

H.P. 1291 L.D. 1773
(C "A" H-906)

(In Senate, earlier in the day, the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

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

Senator **LAWRENCE**: Thank you, Mr. President. May I pose a question to the Chair? What is the title of this bill and where does it appear?

THE PRESIDENT: The title is "An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation". It appeared on Supplement number 5 earlier in today's session.

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

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-906), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-566) to Committee Amendment "A" (H-906) **READ**.

THE PRESIDENT: For the record, the Chair would note that this adds the wording of the emergency preamble to the bill.

On motion by Senator **BEGLEY** of Lincoln, Senate Amendment "A" (S-566) to Committee Amendment "A" (H-906) **ADOPTED**.

Committee Amendment "A" (H-906), as Amended by Senate Amendment "A" (S-566), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Under suspension of the Rules, sent forthwith for concurrence.

Off Record Remarks

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

PAPER FROM THE HOUSE
Non-concurrent Matter

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

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

In Senate, March 25, 1996, **PASSED TO BE ENACTED**.

(**RECALLED** from the Governor's Desk pursuant to Joint Order H.P. 1382.)

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-803) AND HOUSE AMENDMENT "B" (H-904)**, in **NON-CONCURRENCE**.

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

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

Senator **CAREY:** Thank you, Mr. President. The bill was backed up because it had some, what might be called, invalid information in it pertaining to sheriffs; when, in fact, it was intended to work on the County Commissioners, especially one who has been quite ill in Washington County and who was kept on the payroll. That's why we went through this rigamaroll some time ago on having five County Commissioners and then back to three and up to five. I don't know what the latest number is. Maybe the gentleman from Washington, Senator Cassidy, can tell us that. It has been a very critical amendment that would clear up many of the problems that would have touched into the sheriffs' offices, as I recall the debate.

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

Senator **AMERO:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This amendment was put on, which basically says that if a Sheriff's office becomes vacant that the Governor would not have to appoint a replacement of the same party. That's what this amendment does. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. I would offer my apologies to the Senate. It was a total misunderstanding of what happened.

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

ENACTORS

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

An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists

S.P. 622 L.D. 1630
(H "A" H-879 to C
"B" S-473)

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

Emergency Resolve

Resolve, to Validate the Reform Party Petition
S.P. 772 L.D. 1889

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

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Amend the Election Laws"

H.P. 1203 L.D. 1653

In House, March 5, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-737)**.

In Senate, April 1, 1996, Bill and Accompanying Papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

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

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

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

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **BUSTIN, ESTY, FAIRCLOTH, LAWRENCE, LONGLEY, MCCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN**

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

Senator ESTY of Cumberland requested and received Leave of the Senate to change his vote from NAY to YEA.

12 Senators having voted in the affirmative and 23 Senators having voted in the negative, the motion of Senator RUHLIN of Penobscot to RECEDE and CONCUR, FAILED.

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

Non-concurrent Matter

Bill "An Act to Expedite the Decision-making Process for Disability Retirement under the Maine State Retirement System"

H.P. 1238 L.D. 1698
(C "A" H-899)

In Senate, March 30, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-899), in concurrence.

In House, April 1, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-899) AS AMENDED BY HOUSE AMENDMENT "A" (H-903) thereto, in NON-CONCURRENCE.

In Senate, April 1, 1996, ADHERED.

Comes from the House, that Body having RECEDED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-899) AS AMENDED BY HOUSE AMENDMENTS "A" (H-903) AND "B" (H-911) thereto, in NON-CONCURRENCE.

Senator KIEFFER of Aroostook moved that the Senate ADHERE.

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

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senator: HATHAWAY

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator LAWRENCE of York to RECEDE and CONCUR, FAILED.

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

Non-concurrent Matter

Bill "An Act to Prohibit the Photographing or Videotaping of Jury Deliberations" (Emergency)

H.P. 1360 L.D. 1868

In House, March 30, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887).

In Senate, March 30, 1996, the Minority OUGHT NOT TO PASS Report READ and ACCEPTED, in NON-CONCURRENCE.

In House, March 30, 1996, ADHERED.

In Senate, April 1, 1996, INSISTED.

Comes from the House, that Body having INSISTED and ASKED FOR A COMMITTEE OF CONFERENCE.

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

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 HUMAN RESOURCES on Bill "An Act to Implement the Recommendations of the Task Force to Monitor Deregulation of Hospitals" (Emergency)

H.P. 1307 L.D. 1788

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-909).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-909).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-909) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, AS AMENDED, in concurrence.

Divided Report

The Majority of the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$16,500,000 to Investigate, Abate and Clean Up Hazardous Substance Discharges, to Clean Up Tire Stockpiles and to Close and Clean up Municipal Solid Waste Landfills"

H.P. 1371 L.D. 1879

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-908).

Signed:

Senators:

HANLEY of Oxford
BERUBE of Androscoggin
BEGLEY of Lincoln

Representatives:

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

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

Signed:

Representative:

AIKMAN of Poland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-908)**.

Which Reports were **READ**.

On motion by Senator **HANLEY** of Oxford, the Senate **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-908) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

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

COMMITTEE REPORT
Senate
Divided Report

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

S.P. 740 L.D. 1848

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-568)**.

Signed:

Senators:

HANLEY of Oxford
BERUBE of Androscoggin

Representatives:

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

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

Signed:

Senator:

BEGLEY of Lincoln

Which Reports were **READ**.

Senator **HANLEY** of Oxford moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HANLEY** of Oxford that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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.

29 Senators having voted in the affirmative and 1 Senator having voted in the negative, the motion by Senator **HANLEY** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "B" (S-568) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later 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 - earlier in the day by Senator **KIEFFER** of Arostook.

Pending - **ENACTMENT**.

(In House, March 27, 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:

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)

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

Pending - **FINAL PASSAGE**.

(In House, March 28, 1996, **FINALLY PASSED**.)

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

Senate at Ease
Senate called to order by the President.

Off Record Remarks

On motion by Senator **LORD** of York, **ADJOURNED** until Tuesday, April 2, 1996, at 9:00 o'clock in the morning.