

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate
May 22, 1991 to July 10, 1991

Index

STATE OF MAINE
ONE HUNDRED AND FIFTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
May 23, 1991

Senate called to Order by the President.

Prayer by the Honorable John J. Cleveland of Androscoggin.

SENATOR JOHN J. CLEVELAND: Dear Lord. As we approach the final days of session, please grant us the additional patience, understanding, and the good humor that we will need as we debate, as we discuss, and decide the issues of the day, so that even though we may disagree, we will never be disagreeable. Amen.

Reading of the Journal of Wednesday, May 22, 1991.

Out of order and under suspension of the Rules, on motion by Senator **DUTREMBLE** of York, the following Joint Order:

S.P. 715

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, May 28, 1991, at nine o'clock in the morning.

Which was **READ** and **PASSED**.

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

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Concerning Overboard Discharge Inspection Fees"

H.P. 299 L.D. 420
(C "A" H-256)

In Senate, May 16, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-256)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-256) AND HOUSE AMENDMENT "A" (H-418)** in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Bill "An Act to Amend the Charter of the Gray Water District" (Emergency)

H.P. 976 L.D. 1419
(C "A" H-260)

In Senate, May 16, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-260)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-260) AS AMENDED BY HOUSE AMENDMENT "A" (H-419)** thereto, in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Bill "An Act to Establish the Homestead Property Tax Relief Program"

H.P. 1298 L.D. 1878

In House, May 20, 1991, referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

In Senate, May 20, 1991, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

The Senate **INSISTED**.

Non-concurrent Matter

Resolve, to Override a Departmental Rule Imposing Certain ASHRAE Standards on Local School Districts (Emergency)

H.P. 1305 L.D. 1887

In House, May 20, 1991, referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

In Senate, May 20, 1991, referred to the Committee on EDUCATION and ORDERED PRINTED in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.

The Senate RECEDED and CONCURRED.

COMMUNICATIONS

The Following Communication:

EXECUTIVE DEPARTMENT
PUBLIC ADVOCATE
STATE HOUSE STATION 112
AUGUSTA, MAINE 04333

May 20, 1991

Speaker John L. Martin House of Representatives 115th Maine Legislature State House Station 2 Augusta, Me 04333	President Charles P. Pray Senate Chamber 115th Maine Legislature State House Station 3 Augusta, Me 04333
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Rep. James Mitchell Chair, Advisory Comm. on Radioactive Waste State House Station 120 Augusta, Me 04333	Peter DeAngelis, Chairman, Maine Low-Level Radioactive Waste Authority 99 Western Avenue Augusta, Me 04330
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Dear Speaker Martin, President Pray,
Representative Mitchell and Chairman DeAngelis:

As I have done in the past, I am writing to provide an update on the current status of efforts to secure a long-term, out-of-state solution for the permanent disposal of low-level radioactive waste generated in Maine.

Last week, the Texas House of Representatives approved by a 94 to 44 vote legislation authorizing Texas to enter into a compact for low-level radioactive waste disposal with a state (or states) whose projected volumes over a fifty year period do not exceed 20% of volumes to be generated in Texas over the same period. The Texas Senate earlier this month had unanimously approved similar legislation. Both versions require the other state (or states) "to share the full cost of constructing the disposal site" - a cost projected at approximately \$20 million by the Texas Low-Level Radioactive Waste Disposal Authority. The legislation now moves to the desk of Governor Ann Richards for signature; I enclose a copy for your review. The 20% condition is extremely useful in limiting consideration of potential compact partners to small generator states such as Vermont and Maine, and excluding large producer states like New York, Massachusetts, Connecticut or New Jersey.

This success in the Texas Legislature follows by six months a compact offer (attached) submitted by Governor McKernan in December, 1990, for payment of a \$20 million construction fee in exchange for

zero-cost disposal of Maine waste at a Maine/Texas compact facility in Texas. Notwithstanding these encouraging signs of progress, we have continued to pursue the alternative of a 30-year contract with the State of California for the disposal of Maine's low-level radioactive waste at a facility near Needles, California which is expected to begin operation in February 1992.

As mentioned in previous correspondence to you on this topic (dated January 23, 1989 and subsequently), there are numerous reasons that an out-of-state solution for low-level waste disposal is attractive, including meteorological, geologic and legal considerations. I will continue to keep you informed about further developments, in either California or Texas, for the successful resolution of this problem.

Best Wishes,

S/Stephen G. Ward

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

The Following Communication:

ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION

May 22, 1991

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Education has had under consideration the nomination of Lynn K. Goldfarb of Portland, for appointment to the State Board of Education.

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

YEAS: Senators 2
Representatives 9

NAYS: 0

ABSENT: 2 Sen. McCormick of Kennebec, Rep. Cahill of Mattawamkeag

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Lynn K. Goldfarb of Portland, for appointment to the State Board of Education be confirmed.

Sincerely,

S/Sen. Stephen C. Estes S/Rep. Nathaniel Crowley, Sr.
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

The President noted the absence of Senator TITCOMB of Cumberland, and excused her from todays Roll Call votes.

THE PRESIDENT: The Joint Standing Committee on Education has recommended the nomination of Lynn K. Goldfarb of Portland, be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, COLLINS, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

EXCUSED: Senator TITCOMB

No Senators having voted in the affirmative and 34 Senators having voted in the negative, and 1 Senator having been excused, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Lynn K. Goldfarb, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

May 21, 1991

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Herman Backman, III of Beals, for appointment to the Marine Resources Advisory Council.

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

YEAS: Senators 3
Representatives 9

NAYS: 0

ABSENT: 1 Rep. Coles of Harpswell

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Herman Backman, III of Beals, for appointment to the Marine Resources Advisory Council be confirmed.

Sincerely,

S/Senator Harry L. Vose S/Rep. James Mitchell
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Marine Resources has recommended the nomination of Herman Backman, III of Beals, be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, COLLINS, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator MATTHEWS

EXCUSED: Senator TITCOMB

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator having been excused, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Herman Backman, III was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

May 21, 1991

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Brad Burns of Falmouth, for appointment to the Marine Resources Advisory Council.

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

YEAS: Senators 3
Representatives 9

NAYS: 0

ABSENT: 1 Rep. Coles of Harpswell

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Brad Burns of Falmouth, for appointment to the Marine Resources Advisory Council be confirmed.

Sincerely,

S/Senator Harry L. Vose
Senate Chair

S/Rep. James Mitchell
House Chair

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

THE PRESIDENT: The Joint Standing Committee on Marine Resources has recommended the nomination of Brad Burns of Falmouth, be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, COLLINS, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

EXCUSED: Senator TITCOMB

No Senators having voted in the affirmative and 34 Senators having voted in the negative, and 1 Senator having been excused, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Brad Burns was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

May 21, 1991

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Steve Taylor of Kittery, for appointment to the Marine Resources Advisory Council.

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

YEAS: Senators 3
Representatives 9
NAYS: 0

ABSENT: 1 Rep. Coles of Harpswell

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Steve Taylor of Kittery, for appointment to the Marine Resources Advisory Council be confirmed.

Sincerely,

S/Senator Harry L. Vose
Senate Chair

S/Rep. James Mitchell
House Chair

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

THE PRESIDENT: The Joint Standing Committee on Marine Resources has recommended the nomination of Steve Taylor of Kittery, be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, COLLINS, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

EXCUSED: Senator TITCOMB

No Senators having voted in the affirmative and 34 Senators having voted in the negative, and 1 Senator having been excused, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Steve Taylor was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Bill "An Act Concerning the Acquisition of Railroad Lines by the State" (Emergency)
S.P. 714 L.D. 1903

Presented by Senator **CAHILL** of Sagadahoc
Cosponsored by Representative **SMALL** of Bath and
Representative **MACOMBER** of South Portland

Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED.**

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In reference to L.D. 1903, I move that this Bill be passed without reference to a Committee, and give it its readings. The main reason that I wish that to happen is that the Committee already reviewed this Bill in Committee, and actually, it deals with procedural matters, and would not be controversial whatsoever. I don't think that there would be one descending vote in the whole Legislature on this issue.

On motion by Senator **CLARK** of Cumberland, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

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

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **AGING, RETIREMENT AND VETERANS** Bill "An Act to Amend the Laws Governing Maine Veterans Small Business Loans to Include Veterans who Served in the Persian Gulf"
H.P. 1289 L.D. 1864

From the Committee on **BANKING AND INSURANCE** Bill "An Act Relating to Unfair Trade Practices in the Insurance Industry"
H.P. 1237 L.D. 1803

From the Committee on **BANKING AND INSURANCE** Bill "An Act to Amend the Laws Concerning Continuity of Individual Health Insurance" (Emergency)
H.P. 1253 L.D. 1821

From the Committee on **ENERGY AND NATURAL RESOURCES** Bill "An Act to Establish a Household Battery Collection Program"
H.P. 887 L.D. 1278

From the Committee on **JUDICIARY** Bill "An Act to Amend the Laws Pertaining to Certification of Law Enforcement Canines"
H.P. 1231 L.D. 1795

From the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act Regarding the Bidding Process for Municipal Projects"
H.P. 715 L.D. 1020

From the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act to Review the Prerogatives of the Legislative Council"
H.P. 883 L.D. 1274

From the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act to Modify the Revenue Sharing Formula to Take into Account Individual Needs of Towns"
H.P. 958 L.D. 1385

From the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act to Amend the Budget Procedure for Cumberland County"
H.P. 1012 L.D. 1480

From the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act Concerning Citizen Initiative"
H.P. 1072 L.D. 1566

From the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act to Ensure Impartiality in Local Planning and Appeals Boards"
H.P. 1112 L.D. 1637

From the Committee on **TRANSPORTATION** Bill "An Act Regarding the Issuance of Special Plates for Rescue Unit Workers and Providers of Emergency Medical Services"
H.P. 1102 L.D. 1601

From the Committee on **TRANSPORTATION** Bill "An Act to Prohibit Emission of Unreasonable Noise from Motor Vehicles"
H.P. 1116 L.D. 1641

From the Committee on **UTILITIES** Bill "An Act to Require Campuses of the University of Maine System to Obtain the Approval of Local Planning Boards, Sanitary and Sewer Districts and the Public Utilities Commission before Undertaking New Projects" (Emergency)
H.P. 1283 L.D. 1853

Leave to Withdraw

The following **Leave to Withdraw** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **BANKING AND INSURANCE** Bill "An Act to Prohibit Certain Banking Practices" (Emergency)

H.P. 1261 L.D. 1830

Ought to Pass

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Concerning Tax Anticipation Notes for Fiscal Year 1991-92 and the Maine Rainy Day Fund" (Emergency)

H.P. 1301 L.D. 1882

Reported that the same **Ought to Pass** pursuant to Joint Order (H.P. 51).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-377)**.

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

The Bill **READ ONCE**.

House Amendment "A" (H-377) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BANKING AND INSURANCE** on Bill "An Act Relating to Tax Refund Anticipation Loan Disclosures"

H.P. 1246 L.D. 1813

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

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

The Committee on **AGRICULTURE** on Bill "An Act to Allow the State Harness Racing Commission to Allocate Dates for a Period of 3 Years"

H.P. 547 L.D. 784

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-374)**.

Comes from the House with the Report **READ** and the Bill and Accompanying Papers **RECOMMENDED** to the Committee on **AGRICULTURE**.

Which Report was **READ**.

The Bill and Accompanying Papers **RECOMMENDED** to the Committee on **AGRICULTURE**, in concurrence.

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Protect the Rights of Independent Sales Representatives after Termination of Their Contracts"

H.P. 764 L.D. 1098

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-347)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-347)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-347) **READ** and **ADOPTED**, in concurrence.

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

The Joint Select Committee on **CORRECTIONS** on Bill "An Act to Clarify the Role of the Maine Youth Center"

H.P. 1161 L.D. 1702

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-348)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-348)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-348) **READ** and **ADOPTED**, in concurrence.

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

Committee Amendment "A" (H-330) as Amended by House Amendment "A" (H-372) thereto, **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Extend the Commission to Study Maine's Oil Spill Clean-up Preparedness and to Improve Marine Oil Spill Prevention, Planning and Response" (Emergency)

H.P. 56 L.D. 77

Reported that the same **Ought to Pass** as **Amended** by **Committee Amendment "A" (H-339)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-339)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-339) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act Concerning the Packaging of Soymilk"

H.P. 870 L.D. 1256

Reported that the same **Ought to Pass** as **Amended** by **Committee Amendment "A" (H-341)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-341)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-341) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Establish a Harbor Management Fund and Deal with Abandoned Watercraft"

H.P. 441 L.D. 624

Reported that the same **Ought to Pass** as **Amended** by **Committee Amendment "A" (H-330)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-330) AS AMENDED BY HOUSE AMENDMENT "A" (H-372)** thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-330) **READ**.

House Amendment "A" (H-372) to Committee Amendment "A" (H-330) **READ** and **ADOPTED**, in concurrence.

The Committee on **HUMAN RESOURCES** on Bill "An Act to Increase the Collection of Child Support Payments"

H.P. 800 L.D. 1146

Reported that the same **Ought to Pass** as **Amended** by **Committee Amendment "A" (H-342)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-342)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-342) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act Concerning Witnesses and the Integrity of the Judicial Process"

H.P. 853 L.D. 1219

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-334)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-334)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-334) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Allow State Employees to Donate Funds to a Political Cause Through a Payroll Deduction Program"
H.P. 821 L.D. 1175

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-385)**.

Comes from the House with the Report **READ** and the Bill and Accompanying Papers **RECOMMITTED** to the Committee on **LEGAL AFFAIRS**.

Which Report was **READ**.

The Bill and Accompanying Papers **RECOMMITTED** to the Committee on **LEGAL AFFAIRS**, in concurrence.

The Committee on **TAXATION** on Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1991-92" (Emergency)
H.P. 933 L.D. 1353

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-344)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-344)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-344) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Amend the Spent Fuel and High-level Radioactive Waste Requirements"
H.P. 369 L.D. 523

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

Signed:

Senators:

BALDACCI of Penobscot
LUDWIG of Aroostook

Representatives:

LORD of Waterboro
ANDERSON of Woodland
JACQUES of Waterville
MITCHELL of Freeport
GOULD of Greenville
HUGLUND of Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-343)**

Signed:

Senator:

TITCOMB of Cumberland

Representatives:

SIMPSON of Casco
POWERS of Coplin Plantation
MARSH of West Gardiner
COLES of Harpswell

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

Which Reports were **READ**.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Protect Retail Sales Employees"
H.P. 352 L.D. 482

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-325)**

Signed:

Senators:

ESTY of Cumberland
CONLEY of Cumberland
CARPENTER of York

Representatives:

PINEAU of Jay
MCHENRY of Madawaska
AIKMAN of Poland
ST. ONGE of Greene
RAND of Portland
MCKEEN of Windham
HASTINGS of Fryeburg
RUHLIN of Brewer

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

Signed:

Representative:

LIPMAN of Augusta

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-325).**

Which Reports were **READ.**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-325) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Prevent Striking Workers from Being Permanently Replaced by Strikebreakers"

H.P. 615 L.D. 875

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-324)**

Signed:

Senators:

ESTY of Cumberland
CONLEY of Cumberland

Representatives:

RAND of Portland
MCKEEN of Windham
PINEAU of Jay
RUHLIN of Brewer
ST. ONGE of Greene
MCHENRY of Madawaska

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

Signed:

Senator:

CARPENTER of York

Representatives:

LIPMAN of Augusta
AIKMAN of Poland
HASTINGS of Fryeburg

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-324).**

Which Reports were **READ.**

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

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Let me just say that this was an issue that has been discussed a number of times. There is a difference of philosophies regarding how we should deal with this issue, and I think that everyone recognizes that. I would also like to compliment this Body in recognizing the importance of this issue early on in this session, and on two separate occasions. First of all, earlier in this session, this Body, as unanimously recommended by the Labor Committee, decided to take a closer look at the whole issue, including strike breakers, replacement workers, etc. We agreed to do that, and this Body supported that. The second action that this Body has taken during this session, was to unanimously support a Resolution asking Congress to take some action on this issue. I believe that there is a real problem in the State of Maine concerning permanent replacement workers that should be addressed. I am not sure that this legislation, frankly, is the right legislation to do it. And quite honestly, there are times when exercises within this Body, as the good Senator from Franklin, Senator Webster, has indicated, are important. I don't necessarily think that we should do that.

I do want to tell you that I am very tempted to tie this issue to the Budget package. I think it would be as equally tied to the Budget package as other issues we are dealing with in Labor, but I don't think that would be a very responsible thing to do, either. Because of those reasons, I would ask that this Bill and Accompanying Papers be Indefinitely Postponed.

Senator **ESTY** of Cumberland moved to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE.**

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

Senator PEARSON: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think that the Senator makes a very good point. I don't know if you were listening to what he had to say or not, but I think that he makes an excellent point. To tie something that is unrelated to the Budget that he is dealing with in his Committee dealing with Workers' Compensation, it doesn't make equal sense to tie the Strikebreakers to it, too. He has obviously made the point that it doesn't make any sense to do either one of the two. I hope that that message that he is delivering is listened to. We have enough problems around here without having to play those kinds of silly games. I think that is exactly what it is.

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

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to commend the good Senator from Cumberland, Senator Esty, for his comments, and his gesture to set the tone for an end of the session, work together mode.

I would like to comment though, that it is my understanding, if we take a little history, and we look at what has gone on in other states in this country, particularly, New England, you would find that in every single state in the last two years that has raised taxes, they are in worse shape than they were two years ago. And for that reason, I think that it does make sense, not necessarily to tie it to Workers Compensation, but to have a Budget package which deals with economic development. I think that it makes a lot of sense, because frankly, if you are going to take money out of the economy, you need to put something back. The interesting thing about this Budget, when we have it is, it is going to take both political parties and many different philosophies to enact a Bill. I suggest that there are members here that don't agree with me on this, but I think that you need to put something back if you are going to take money out of the economy. Thank you.

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

Senator DUTREMBLE: Thank you Mr. President. Ladies and Gentlemen of the Senate. Sometimes things are said that just can't be let go, and I guess I can't let this go. The State of Maine is undergoing some very, very serious financial problems. I think that we are all part of trying to find the answers to that problem.

I think that it is very important that we don't start adding ornaments to the Budget. I think it will have the reverse effect than what the good Senator from Franklin, Senator Webster has mentioned. I think it will destroy the unity that we are trying to establish. I have one particular person in one particular group saying, "I am not voting for this unless this includes certain things". I think that is insulting! We are not voting on Budgets based on the merits of what the Budget is, but on what certain people want to tack on to it!

I have to point out that the two Committees that I have been working with on Workers' Compensation have been doing a great work. They have been working in harmony with Democrats and Republicans, and I have not heard about any divisions, or any hard feelings being generated, until the threat of no Budget unless Workers' Compensation attached to it was mentioned. I think that no one should underestimate for one minute the severity of that threat. We are not just asking business people to bring taxes in the Budget that was brought out, or asking people to pay taxes, we are not saying that to them under this new proposal, that is going to be coming out of the Budget Committee that we are going to increase their benefits. We know that is not going to happen! If you want to talk about something that is going to fall apart real quick in this state, it is going to be the Budget! It is going to be because some people want to tack on ornaments! You want to tack on ornaments, lets start tacking on Strikebreakers! Lets start tacking on anything that anybody wants, and say, "I am not voting unless this piece is on". I am sure that we all have some little project somewhere that we want on this Budget. Lets put it on! Lets build it up so that we can come back in two years and tell the people of the state that we messed up again! It is the same the reason that we are hearing now, the reason that we are here today, is that we have done this in the past. Let's address the problem that is before us, the issue that is before us as it stands. It is two separate issues, one has nothing to do with the other.

On motion by Senator ESTY of Cumberland, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act Concerning Unemployment Benefits During Lockouts"

H.P. 649 L.D. 923

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-326)**

Signed:

Senators:

ESTY of Cumberland
CONLEY of Cumberland

Representatives:

MCHENRY of Madawaska
PINEAU of Jay
RAND of Portland
RUHLIN of Brewer
ST. ONGE of Greene
MCKEEN of Windham

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

Signed:

Senator:

CARPENTER of York

Representatives:

LIPMAN of Augusta

AIKMAN of Poland

HASTINGS of Fryeburg

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-326)**.

Which Reports were **READ**.

Senator **ESTY** of Cumberland moved to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I urge you not to support the Majority Report. I was waiting for a different motion, but I didn't get it.

This Bill, L.D. 923, will disrupt the important economic balance between labor and management in labor disputes. Unemployment Laws were never intended to give one party in a labor dispute an unfair economic advantage over the other. Unemployment benefits intended to provide financial relief for those out of a job through no fault of their own. L.D. 923 would drain an already over stressed Unemployment Compensation System. It would also increase the cost of unemployment compensation insurance. When the vote is taken, I request a Roll Call.

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

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

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As we have just heard from the good Senator, Senator Carpenter from York, the most frequent argument made against providing a specific allowance for unemployment benefits during lockouts, is that the state must remain neutral during a labor dispute, and not favor either party, or tip that delicate balance of power. This is to be contrasted with the rest of the unemployment law, where benefits are generally granted whenever an employee is unemployed through no fault of their own! Neutrality is not necessarily a preclude allowing unemployment benefits during a labor dispute, however. For example, an employee is granted benefits during a labor dispute, strike, or a lockout, if the employer hires replacement workers, if the employer is not participating in the

dispute, if the labor dispute was caused by the employers willful failure to observe the safety and health provisions of the contract, or failure to comply with a citation for federal or state health and safety law, or if the employer provides an abnormally dangerous work place. These examples show that while the state does remain neutral during a labor dispute, the actions of the employer and the employee are considered, and the fault of the employer and employee are also considered. Granting benefits during a walkout is a logical extension of present Maine Law, because in a walkout, the employer has chosen to lock its door and deny employment. The employee wishes to continue to work! It is also very important to note that at least twenty-five other states, including every New England State, except Maine, specifically allows benefits during a lockout. Finally, this will have very insignificant effect on the Unemployment Trust Fund that we have looked at very closely. According to the Department of Labor, there have been only documented lockouts in the last eleven years in Maine, both for brief periods of time, and both involving the same employer.

Let me just end by saying that we have agreed in the Labor Committee to disagree on this issue. It is clearly a difference on philosophies. This may be an exercise that we are just going through, but, it is an important issue. I think that the reason that I have chosen to speak on it today, and address it, is because I think that it is one of fundamental differences in philosophy that I would hope that we would address. But I would like to say that we did this very painlessly, very civilly, and agreeing to disagree in the Labor Committee, and then moved on to other vital issues that the state is facing. Thank you very much.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. I would like to address this question to the good Senator from York, Senator Carpenter. If employees have been locked out by an employer, and they wish to work, why shouldn't they be able to collect unemployment if they want to work, and they can't work, because the employer has locked the doors? If you believe that is correct, what are they supposed to do?

THE PRESIDENT: The Senator from Kennebec, Senator Matthews, has posed a question through the Chair to any Senator who wishes to respond. The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. A lockout usually starts from a strike. A strike is labors way of showing dissatisfaction of their wages, or the facilities, or safety in the work place. Management's way of countering the strike would be replacement workers at the time. At that point they would be locked out. I feel that both sides have equal opportunity to defend their position. One by a strike, which is legal, and one by hiring replacement workers, if the strike progresses to a period of lockout. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I hesitate to disagree with my esteem seatmate, the good Senator from York, Senator Carpenter, but just as a point of information, a lockout does not proceed from a strike. It is very different from a strike. What happens is, that there is a period of negotiations where workers and management are negotiating, and either a strike or a lockout proceeds from that. The strike is initiated by employees, the lockout is initiated by management, and I see them as rather similar in that they both stop work. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **ESTY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

A vote of Yes will be in favor of the motion by Senator **ESTY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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, BOST, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, THERIAULT, TWITCHELL, VOSE, THE PRESIDENT - CHARLES P. PRAY**

NAYS: Senators **BRAWN, CAHILL, CARPENTER, COLLINS, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, WEBSTER**

ABSENT: Senator **BALDACCI**

EXCUSED: Senator **TITCOMB**

Senator **BRANNIGAN** of Cumberland requested and received leave of the Senate to change his vote from **NAY** to **YEA**.

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator being excused, the motion by Senator **ESTY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-326) **READ** and **ADOPTED**, in concurrence.

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

Senate

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **BRANNIGAN** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** Bill "An Act to Regulate Cash Flow Balances in State Government Accounts" S.P. 648 L.D. 1693

Reported by Senator **BOST** for the Committee on **TAXATION** Bill "An Act to Standardize the Excise Tax on Large Trucks" S.P. 555 L.D. 1459

Ought to Pass As Amended

Senator **CLARK** for the Committee on **AGING, RETIREMENT AND VETERANS** on Bill "An Act to Amend the Disability Provisions of the Maine State Retirement System Laws" S.P. 411 L.D. 1125

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-204)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-204) **READ** and **ADOPTED**.

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

Senator **BALDACCI** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Fair Credit Reporting Laws" S.P. 203 L.D. 530

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-199)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-199) **READ** and **ADOPTED**.

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

Senator **RICH** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Improve the Administration of the Engineering Registration Laws"
S.P. 596 L.D. 1581

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-197)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-197) **READ** and **ADOPTED**.

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

Senator **BALDACCI** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Laws Governing Warning Notices Posted by Sellers of Firearms at Trade Shows"
S.P. 601 L.D. 1605

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-198)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-198) **READ** and **ADOPTED**.

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

Senator **GAUVREAU** for the Joint Select Committee on **CORRECTIONS** on Bill "An Act to Establish a Northern Maine Regional Juvenile Detention Facility"
S.P. 329 L.D. 885

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-201)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-201) **READ** and **ADOPTED**.

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

Senator **BALDACCI** for the Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Encourage Waste Reduction and Recycling"
S.P. 613 L.D. 1617

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-210)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-210) **READ** and **ADOPTED**.

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

Senator **MILLS** for the Committee on **LEGAL AFFAIRS** on **Resolve**, Authorizing Sarah Leighton, Peter Nilsen and Linda Nilsen to Bring a Civil Action against the Town of Casco
S.P. 349 L.D. 951

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-200)**.

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

The **Resolve** **READ ONCE**.

Committee Amendment "A" (S-200) **READ** and **ADOPTED**.

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

Senator **VOSE** for the Committee on **UTILITIES** on Bill "An Act to Encourage Electric Utility Efficiency and Economical Electric Rates"
S.P. 196 L.D. 505

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-203)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-203) **READ** and **ADOPTED**.

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

Senator CLEVELAND for the Committee on UTILITIES on Resolve, to Establish the Commission on Electric Utilities and Long-range Energy Production Planning (Emergency)

S.P. 292 L.D. 774

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-205).

Which Report was READ and ACCEPTED.

The Resolve READ ONCE.

Committee Amendment "A" (S-205) READ and ADOPTED.

The Resolve as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on FISHERIES AND WILDLIFE on Bill "An Act to Protect Riders of Snowmobiles"

S.P. 488 L.D. 1326

Reported that the same Ought Not to Pass.

Signed:

Senators:

TWITCHELL of Oxford
SUMMERS of Cumberland

Representatives:

TRACY of Rome
CLARK of Millinocket
PAUL of Sanford
GREENLAW of Standish
SWAZEY of Bucksport
JACQUES of Waterville
ROTONDI of Athens
FARREN of Cherryfield
DUFFY of Bangor
CARROLL of Southwest Harbor

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-206)

Signed:

Senator:

MATTHEWS of Kennebec

Which Reports were READ.

On motion by Senator TWITCHELL of Oxford, the Majority OUGHT NOT TO PASS Report was ACCEPTED.

Sent down for concurrence.

SECOND READERS

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

House

Bill "An Act to Resolve Municipal Secret Ballot Elections that Result in a Tie Vote"

H.P. 735 L.D. 1039

Bill "An Act to Make Allocations for the Administrative Expenses of the Department of Finance, Bureau of Alcoholic Beverages for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (Emergency)

H.P. 738 L.D. 1042

Bill "An Act to Make Allocations for the Administrative Expenses of the Department of Finance, Bureau of Lottery, for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (Emergency)

H.P. 761 L.D. 1095

Bill "An Act to Clarify the Appointment of Civil Emergency Preparedness Directors"

H.P. 810 L.D. 1164

Bill "An Act to Clarify Certain Commercial Vehicle Size and Weight Provisions"

H.P. 936 L.D. 1356

Bill "An Act to Modify the Maine Land Use Regulation Commission Requirements Relating to Deer Wintering Areas"

H.P. 1232 L.D. 1796

Bill "An Act to Revise the Membership of the Committee to Advise the Department of Human Services on AIDS" (Emergency)

H.P. 1242 L.D. 1808

Bill "An Act to Authorize Employees of a Participating Local District to Participate in a Qualified Alternative Pension Plan"

H.P. 1248 L.D. 1815

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

House As Amended

Bill "An Act Assuring Clean Waters in Maine"

H.P. 161 L.D. 246
(C "A" H-331)

Bill "An Act to Amend the Subdivision Laws within the Jurisdiction of the Maine Land Use Regulation Commission"

H.P. 244 L.D. 335
(C "A" H-329)

Bill "An Act Concerning Late Support Payments"

H.P. 384 L.D. 558
(H "A" H-336 to C
"A" H-221)

Bill "An Act to Share Proportionately the Public Safety Costs for the Capitol Area"

H.P. 411 L.D. 594
(H "A" H-345 to C
"A" H-228)

Bill "An Act to Amend the Motor Vehicle Title Laws"

H.P. 457 L.D. 648
(C "A" H-307)

Bill "An Act to Amend the Law Concerning the Maine High-Risk Insurance Organization"

H.P. 546 L.D. 783
(H "A" H-366 to C
"B" H-316)

Bill "An Act to Clarify the Funding of Child Care Services and Parenting Education"

H.P. 639 L.D. 913
(C "A" H-317)

Bill "An Act to Regulate the Use of Video Display Terminals"

H.P. 655 L.D. 934
(C "A" H-323)

Bill "An Act Requiring School Districts to Make Instruction in Braille Reading and Writing Available to Blind Students"

H.P. 656 L.D. 935
(C "A" H-318)

Bill "An Act to Address Budgetary Concerns of the Maine Athletic Commission and to Deregulate Certain Aspects of the Sport of Wrestling" (Emergency)

H.P. 703 L.D. 1007
(C "A" H-314; H "A"
H-338)

Bill "An Act to Amend the State Government Ethics Laws"

H.P. 733 L.D. 1037
(C "A" H-304)

Bill "An Act to Amend Certain Provisions of the Insurance Code Involving the Powers of the Superintendent"

H.P. 867 L.D. 1247
(C "A" H-315)

Bill "An Act to Require the Holding of Hearings under the Maine Administrative Procedure Act"

H.P. 882 L.D. 1273
(C "A" H-322)

Bill "An Act to Provide for Changes to the Membership of the Electricians' Examining Board"

H.P. 912 L.D. 1309
(C "A" H-313)

Resolve, Authorizing the Sale of Certain Public Lands

H.P. 914 L.D. 1311
(C "A" H-328)

Bill "An Act to Clarify Board Membership Qualifications and Make Necessary Fee Adjustments to Meet Board and Departmental Operating Expenses for the State Board of Licensure for Professional Foresters" (Emergency)

H.P. 919 L.D. 1316
(C "A" H-312)

Bill "An Act to Facilitate the Delivery of Family Support Services"

H.P. 1013 L.D. 1481
(C "A" H-321)

Bill "An Act to Regulate Fines for Prohibited Acts Concerning the Use of Public Ways and Parking Areas Maintained by the State"

H.P. 1020 L.D. 1493
(C "A" H-333)

Bill "An Act to Amend Certain Laws Governing Hazardous Waste, Septage and Solid Waste Management to Include a Land Acquisition and Eminent Domain Provision for the Remediation of Hazardous Substances and to Provide for the Reimbursement of Expenditures Made for the Acquisition of Property"

H.P. 1027 L.D. 1500
(C "A" H-327)

Bill "An Act to Amend the Charter of the Presque Isle Sewer District"

H.P. 1028 L.D. 1501
(C "A" H-320)

Bill "An Act to Revise the Charter of the South Berwick Water District" (Emergency)

H.P. 1080 L.D. 1574
(C "A" H-332)

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

Bill "An Act to Create a Semipermanent Semitrailer Registration" (Emergency)
 H.P. 765 L.D. 1099
 (C "A" H-306)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Senate As Amended

Resolve, to Clear Title to Property in the Town of Oxford (Emergency)

S.P. 429 L.D. 1150
 (C "A" S-188)

Bill "An Act to Amend the Teacher Retirement Laws" (Emergency)

S.P. 436 L.D. 1157
 (C "A" S-195)

Bill "An Act Concerning Continuances Requested by Petitioners in Hearings for Operating under the Influence"

S.P. 460 L.D. 1236
 (C "A" S-194)

Bill "An Act Regarding Sprinkler Systems in New Buildings"

S.P. 493 L.D. 1331
 (C "A" S-193)

Bill "An Act to Provide Confidentiality of Proprietary Data Provided to State Agencies"

S.P. 524 L.D. 1402
 (C "A" S-189)

Bill "An Act to Amend Certain Laws Administered by the Maine State Retirement System"

S.P. 562 L.D. 1466
 (C "A" S-196)

Bill "An Act to Continue Authority for Seasonal Agency Liquor Stores" (Emergency)

S.P. 566 L.D. 1486
 (C "A" S-192)

Bill "An Act to Clarify the Termination of Intensive Supervision"

S.P. 679 L.D. 1801
 (C "A" S-190)

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

Sent down for concurrence.

ENACTORS

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

An Act Amending the Primary Election Law Requiring a Minimum Number of Votes

S.P. 197 L.D. 506
 (C "A" S-136)

An Act to Clarify the Legislature's Intent Regarding Quitclaim Deeds

S.P. 223 L.D. 550
 (C "A" S-133)

An Act to Improve Energy Efficiency in Buildings

H.P. 561 L.D. 804
 (C "A" H-218)

An Act to Provide Public Access One Weekend a Month to the Veterans' Memorial Cemetery

S.P. 334 L.D. 909
 (C "A" S-138)

An Act to Amend the Charter of the Lubec Water and Electric District

H.P. 858 L.D. 1224
 (C "A" H-250)

An Act Regarding the Issuance of Identification Cards

S.P. 452 L.D. 1228
 (H "A" H-293)

An Act to Clarify Requirements for Disclosure of Confidential Client Information Held by Mental Health Service Providers

S.P. 476 L.D. 1268
 (C "A" S-135)

An Act to Restrict Unsolicited Computer-generated or Automated Telephone Calls

H.P. 972 L.D. 1413
 (C "A" H-261)

An Act to Require Electric Utilities to Develop Proposals for Affordable Pricing for Low-income Residential Customers and for Financing Conversions from Electric Space Heat

H.P. 983 L.D. 1428
 (C "A" H-252)

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 Require the State to Pay Municipal Permit Fees for New Construction or Improvements to State-owned Buildings

S.P. 226 L.D. 580
(C "A" S-117)

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

An Act to Amend the Maine Court Facilities Authority

S.P. 358 L.D. 960
(C "A" S-134)

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

An Act to Provide Funding to Offset Rising Costs and Decreasing Federal Revenues for Public Transportation in the State

S.P. 364 L.D. 966
(C "A" S-139)

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

An Act Making Course Grades Awarded by Teachers Final

H.P. 671 L.D. 970
(C "A" H-244)

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to address a question through the Chair. The question is, and I am not an educator, so I would defer to the educators about this legislation. Would this prohibit a student from going to a teacher if they had a concern about a grade, and negotiating with that teacher regarding that grade?

THE PRESIDENT: The Senator from Sagadahoc, Senator Cahill, poses a question through the Chair to any Senator who would care to respond. The Chair recognizes the Senator from York, Senator Estes.

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I believe that the answer to that question is no. The grade would be final only in the absence of a clerical or mechanical mistake, fraud, bad faith, or incompetence on the part of the teacher.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. So the answer to my last question is yes. I would ask the question again, because I am confused. Would this prohibit a student and a teacher getting together and renegotiating a grade? To give you an example, when I was a senior in high school, I was very serious about taking physical education. I received a B+ in Phys. Ed., and I felt that I deserved an A. I went to the teacher, and he said that my grade point average was 92, and in order to get an A, I would have had to get a 93 point average. But, I explained to the teacher that I had been very diligent about going to Phys. Ed.. I had gone to every single class, I always had my uniforms, because in those days, you had to have little uniforms, and I always had it ironed, because they were cotton. I also explained to him that I had been a very conscientious Phys. Ed. student, and I had taken it very seriously. When a lot of my friends had decided to go off on Senior Skip Day, I went to school that day, because I wanted to attend my Phys. Ed. class. And I felt that those things deserved an A.

I just want to make sure that we are able to continue to do that, because he said after a lot of discussion that I was right, and he changed my grade to an A.

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

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In regards to the question from the good Senator from Sagadahoc, Senator Cahill, my response was in understanding that the question was, would this prevent, and no, this would not prevent this negotiation from taking place.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I apologize, but I have one more question. I would like to know if there is a particular problem at the local level, if this is something that could not be solved at the local level, and if there have been cases why this Bill has been brought before the Legislature. I am glad to learn, by the way, that my personal concern was addressed.

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

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In response to the question, yes, there have been problems. It came to our attention that at the end of the semester or into the summer, a teacher has found out that a grade had been changed by a Principal for one reason or another that the teacher did not agree with.

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 Prohibit the Breaking of Glass Products in Games of Skill

H.P. 880 L.D. 1271
(H "A" H-265 to C
"A" H-246)

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is a Bill that I think we should have a vote on before we Enact. I would like to go back to the citizens in rural Maine that I represent, that have small town country fairs, and tell the people that I voted against this Bill. It seems to me that it is an embarrassment, and I would ask for a Division.

Senator **WEBSTER** of Franklin requested a Division.

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. May I ask that the Committee Report be read?

Which Report was **READ.**

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. For some reason, I have taken an interest in this particular issue. I took a little time and spoke to several members of the Committee, and the good Senator from Oxford, Senator Mills, is absolutely correct. It was a unanimous Committee Report, but at least half of the members of the Committee that I talked to said that they were hoping that somebody else was going to oppose it, and since no one else seemed to come forth, they were not going to make a big thing out of it and voted unanimously. I would almost be willing to gamble if we sent this Bill back to Committee, which I am not suggesting that we do, that it would probably be defeated, because no one that I have talked to has indicated that they really thought it was a good idea, but no one came to oppose it, so that is a good reason to pass it. Well, if no one came to oppose it at Committee, perhaps somebody is doing that now. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am on the Legal Affairs Committee, and I have to admit I was part of the Committee that did vote unanimously on this Bill. I really didn't have any strong feelings on this Bill at the time, but I do think that it is kind of a silly Bill, and we certainly have more important things to address here. I move that this Bill and all Accompanying Papers be Indefinitely Postponed.

Senator **SUMMERS** of Cumberland moved to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE.**

Senator **MILLS** of Oxford requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **SUMMERS** of Cumberland to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE.**

A Division has been requested.

Will all those in favor of the motion by Senator **SUMMERS** of Cumberland to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**, please rise in their places and remain standing until counted.

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

13 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator **SUMMERS** of Cumberland to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE, FAILED.**

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Since there is such strong support for this Bill, I would request a Roll Call so all of us could be on Record having endorsed and supported this legislation. Thank you.

Senator **WEBSTER** of Franklin requested a Roll Call. Less than one-fifth of the members rising, a Roll Call was not in order.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I stand before you this afternoon in complete and utter ignorance of the provisions of L.D. 1271. I rise only on issues of process, not on issues of substance. But, given the fact that this is a deliberate Legislative Body, I think my concerns on process should be carefully, carefully heard, and carefully considered by every man and woman in this room.

All of us have been besieged by a plethora of legislative Bills this session. Those of us in the Committee on Judiciary have heard about two hundred

and twenty-five Bills. We carefully work to reach reasoned compromise and wisdom in crafting our Committee Reports. When a Bill comes out of any Committee in the Legislature with a unanimous vote, I think that symbolizes to all of us that there has been a concerted effort by the members of that Committee of jurisdiction to reach a consensus. We should accord some significant weight to a unanimous Committee Report. Certainly, those of us who sit on Committees, and whose unanimous Committee Reports are challenged, take umbrage.

I would pose a question to anyone in the Chamber who may care to respond. With the concerns raised by the good Senator from Franklin, Senator Webster, were those concerns raised in timely fashion to either Chair of the Joint Standing Committee on Legal Affairs prior to this afternoon's session?

THE PRESIDENT: The Senator from Androscoggin, Senator Gauvreau, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In response to the good Senators question, we have spent much too much time on this issue already. But, frankly, this is at least the second time that we have had a vote on this, and I have opposed this and brought it to the Senates attention.

It is inconceivable to me, and I respect this process as well as anybody does, but it is inconceivable to me that this type of legislation got this far when there is so little support for it. Obviously, the will of the Majority will prevail. But, it ought to show the citizenry of this state that perhaps sometimes things happen here that are not in their best interest. Thank you.

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

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Allow me to express my gratitude to the Senator from Androscoggin, Senator Gauvreau, for raising the issue of process. As we look back at the utterance of our opening prayer today, let us extend the courtesy to the colleagues with whom we have lived and worked together for these many weeks and months, when Bills reach this stage, of at least apprising the members of the Committee of actions such as we have just witnessed, when those actions address issues like this same Bill that were unanimously reported out of Committee. Indeed, it is perfectly plausible and acceptable that members of this Body have changes of mind, but I think that it is equally sensible, acceptable, and plausible, that courtesy shall consistently prevail. And rather than appearing to surprise people with our changes of mind, perhaps it would be more timely and appropriate if rather than doing it in a surprise fashion on the floor, we notify the people in a normal, verbal exchange, or even via note, for which we are so famous, of the issue, and express that change of mind other than "I am going to get ya", sort of way.

As we say in the classroom and outside the classroom, courtesy should always prevail, shouldn't it?

THE PRESIDENT: The chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I agree that as we begin to wind down our Legislative session, that we should make a special attempt to be courteous to one another, and to work together on all issues, whether it is Workers Compensation, whether it is Budget, and respect that each member of this Legislature, whether for philosophical reasons, or geographic differences, may cast a vote that we as individuals don't understand or don't approve of, but that we as individuals were elected to serve our constituents and our philosophies.

As we are talking about courtesy I hope, and I think that this will probably happen, that each member of the Majority Party and the Minority Party is extended courtesy when items are Tabled, when items are removed from the Table, so that we all know in these hectic times the issues of importance to our District or our philosophy are coming up so that we can be as prepared as any Senator can during these last hectic times, so that we can properly represent our needs and our constituents back home. Thank you.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I will be very brief, I certainly had not planned to address L.D. 1271.

I did, however, find it refreshing, as did the good Senator from Cumberland, Senator Clark, as she made reference to in her remarks, they were the original remarks from the Senator from Androscoggin, Senator Gauvreau, with the regard to the integrity of the process. As we wind down, and as we discuss the weighty issues of Budget, and taxation, and Workers Compensation, the environment, and all the other issues that will come before us in the last few days of the session, I think that we have to be ever mindful of the process, and make certain that we are, in fact, courteous to one another.

I did find it somewhat ironic that the good Senator from Sagadahoc, Senator Cahill, would discuss the issue of courtesy, when just twenty-four hours earlier, I had asked this Body to extend me the courtesy in Reconsideration. I believe, if memory serves me correct, that the good Senator did not extend that courtesy to this Senator. Perhaps, this is a new day, and we are operating on a new set of standards.

I really believe that when one has an issue of substance that needs to be addressed, or questions of substance that need to be asked and answered, that those are justifiable, those are legitimate, those need to be asked, and those need to be aired on the floor. But I have sat here for the last several weeks and noticed an ever increasing number of technical questions being fielded from one corner or another, questions which have taken up the valuable time of this Senate, as we consider matters of

greater input, and I am struck repeatedly by the notion that as we wander through the halls during the day and bump into one another, and converse with one another casually, informally, that we have an opportunity so many times during that day to ask those questions, or perhaps even pick up a copy of the Bill and read the Bill itself rather than ask the Chairman of the Committee, or the sponsor of the Bill to elaborate on the floor. To me, that is part of the job of being a Lawmaker. I certainly hope that we start taking that seriously. Thank you.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I guess I will direct my comments that were directed toward me first, regarding an issue that was discussed last evening.

THE PRESIDENT: The Chair would inquire if the Senators comments are in reference to L.D. 1271?

Senator **CLARK** of Cumberland requested unanimous consent to address the Senate off the Record.

On motion by Senator **CLARK** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

THE PRESIDENT: The pending question before the Senate is **ENACTMENT**.

A Division has been requested.

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

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

16 Senators having voted in the affirmative and 13 Senators having voted in the negative, this Bill 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 Authorize Involvement of the Department of Human Services in Providing School-based Child Care
H.P. 959 L.D. 1386
(C "A" H-251)

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

Under suspension of the Rules, all Papers thus acted upon were ordered sent down forthwith for concurrence.

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

ORDERS

Joint Order

On motion by Senator **CLARK** of Cumberland the following Joint Order:

S.P. 717

ORDERED, the House concurring, that Bill, "An Act to Establish the Maine Primary Care Residency Training Assistance Program," L.D. 999, S.P. 374, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Which was **READ** and **PASSED**.

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

Senator **CAHILL** of Sagadahoc was granted unanimous consent to address the Senate on the Record.

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I will be as brief as I can, but I feel that I must respond to some remarks that were made earlier in today's session.

The remarks were directed at me because of a procedural motion that was made last night regarding a Bill that was on the Calendar. The reason that I objected to Suspension of the Rules last night, on that particular issue, was purely philosophical, because I opposed that particular piece of legislation. The motion to Suspend the Rules, if that had been allowed, would have been to put an amendment on that legislation. The amendment was to take the Emergency off that legislation. The only way I felt as a Minority member of this Senate, that I was able to kill a piece of legislation that I philosophically oppose, is hopefully killing it by denying it the two-thirds that was necessary under an Emergency Enactor. During the course of last night's discussion, during the course of today's discussion, in fact, all year, and for as long as I have been in the Legislature, I have repeatedly given my approval for Suspension of the Rules. I do believe that it is

a courtesy. I do believe that it helps to expedite this legislative process, and I certainly hope that I am perceived as an individual that is willing to do that sort of thing.

I also hope that if I have given the impression that I am a discourteous member of the Senate, I apologize to anyone who feels that I have been discourteous to them, it is never my intent. Those of us that serve in leadership sometimes have to do things procedurally that perhaps we wouldn't do if we were not a member of leadership, and I felt that in this particular instance that the only way I could prevent what I perceived as a very bad Bill from becoming law, was objecting to Suspension of the Rules, so that the Emergency could not be taken off this Bill. I still feel that way. The day that I do start being discourteous to individuals just because it seems like the thing to do, is the day that I will leave the Legislature and not come back, because I don't think that is particularly helpful to anyone, it is certainly not part of my style, and I don't want it to be associated with my particular name.

I would just like to close my remarks on the Record this evening, and I appreciate the courtesy extended to me, hoping today begins a new era in courtesy. Although, I will say that as far as the Bill in question is concerned, I will continue to object to Suspension of the Rules, because I disagree with that legislation philosophically. It is not a matter of courtesy toward an individual, whenever I am able to afford that, I will do that. It is a matter of philosophy. I would like to close my remarks from a quote, and I know that some of you who are currently in the Majority Party have served as Minority Members, but there are those who have not, and I know that you remember things that you felt happened to you that perhaps shouldn't have happened. As an eleven year veteran of the Legislature, I have never had the privilege of serving in the Majority, and I am very, very envious of you that have, but I want to close by saying a quote, "Though the will of the Majority is in all cases to prevail, that will to be rightful must be reasonable. The Minority possesses equal right, which equal laws must protect, and to violate that would be oppression." And that quote was from Thomas Jefferson. And I would like to remind us also by another famous individual, who spoke to us recently at Welcome Back Day, Gerard P. Conley, Sr., who said, "I admired the Minority Party, because it was the Minority Party's responsibility to keep the Majority Party honest". Thank you.

Senator **BOST** of Penobscot was granted unanimous consent to address the Senate on the Record.

Senator **BOST**: Thank you Mr. President. Ladies and Gentlemen of the Senate. Last week when we were debating one of several debates on the Loring issue, I had occasion to refer to the Governor's Contingency Account, and that was after the good Senator from Cumberland, Senator Conley, had indicated there was to be a transfer of a certain amount of money from that account into the Save Loring Committee effort. At that time, I quoted the balance in the account as \$395,980. I wish to correct that statement. At the

time that the figures were presented to me, I was unaware that a good portion of that was encumbered, and I would like to indicate to the members of the Senate that the balance as of May 16th is \$77,559. Thank you.

Resolve

Resolve, Authorizing a Payment to Steven P. Smith and Ramona Smith of \$47,908.06

S.P. 350 L.D. 952
(C "A" S-137)

Comes from the House Resolve and Accompanying Papers **INDEFINITELY POSTPONED**.

On motion by Senator **THERIAULT** of Aroostook, placed on the **SPECIAL HIGHWAY TABLE**, pending **FINAL PASSAGE**.

Emergency

An Act to Extend the Period of Time to Allow Certain School Secretaries to Elect Not to Be Members of the Maine State Retirement System

S.P. 487 L.D. 1325

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Appropriate Funds for the Save Loring Committee

H.P. 1239 L.D. 1805

On motion by Senator **DUTREMBLE** of York, Tabled 1 Legislative Day, pending **ENACTMENT**.

HELD BILL

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

Senator **MATTHEWS**: Mr. President, is the Senate in possession of L.D. 1203?

THE PRESIDENT: The Chair would answer in the affirmative, the Bill having been held at the Senators request.

Bill "An Act to Implement the Recommendations of the Maine Commission on Legal Needs"

H.P. 837 L.D. 1203
(C "A" H-287)

(In Senate, May 22, 1991, **PASSED TO BE ENGROSSED AS AMENDED COMMITTEE AMENDMENT "A" (H-287)**, in concurrence.)

On motion by Senator **MATTHEWS** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-287), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-217) to Committee Amendment "A" H-287) **READ** and **ADOPTED**.

Committee Amendment "A" (H-287) as Amended by Senate Amendment "A" (S-217) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

JOINT ORDER - regarding adjournment of the House and Senate until Tuesday, May 28, 1991 at nine o'clock in the morning.

S.P. 715

In Senate, May 23, 1991, **READ** and **PASSED**.

Comes from the House **READ** and **PASSED AS AMENDED BY HOUSE AMENDMENT "A" (H-436)** in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.

Off Record Remarks

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.

Tabled and Specially Assigned - (5/22/91)

Bill "An Act Concerning Teacher Employment"
S.P. 500 L.D. 1338
(C "A" S-147)

Tabled - May 20, 1991, by Senator **CLARK** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-147)**

(In Senate, May 16, 1991, **READ A SECOND TIME**.)

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN**: Thank you Mr. President. Ladies and Gentlemen of the Senate. L.D. 1338 was heard in the Education Committee earlier this year, it was passed out, I may not have been in that room at that time, I may have been in Banking and Insurance, and it did have a unanimous Committee Report. There have been many phone calls and letters to the editor, and there have been concerns of litigation. I have a whole folder here, I guess that the ball is in my court. I would like to ask for a Division on this Bill, please.

Senator **BRAWN** of Knox requested a Division.

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

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

Senator **COLLINS**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I, too, have come lately to this Bill, and I have some concerns about it. I would like to reiterate those, and perhaps, if I am mistaken in some fashion, I can be corrected.

But, it seems to me that the original Bill dealt with teachers who were not probationary teachers, and require a situation where the reasons for non-extension of contract would be put forth in writing, and of course, this opens the opportunity for a Hearing and so forth. As I read it, it extends this situation to probationary teachers. I have been under the impression that probationary teachers were those teachers who were not protected by the rules, shall we say, and where it wasn't necessary to provide reasons in writing, and to set up situations calling for Hearings. It seems to me that sort of negates the situation with respect to probationary teachers. If that is the case, I would join the good Senator from Knox, Senator Brawn, in opposing passage of this legislation. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-147).**

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-147).**

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, BOST, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, GAUVREAU, MATTHEWS, MILLS, PEARSON, THERIAULT, TWITCHELL, VOSE, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BRAWN, CAHILL, CARPENTER, COLLINS, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, WEBSTER

ABSENT: Senators BALDACCI, KANY, MCCORMICK

EXCUSED: Senator TITCOMB

18 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 3 Senators being absent, and 1 Senator having been excused, the Bill was **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned (5/22/91) matter:

HOUSE REPORT - from the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Reduce Littering" H.P. 909 L.D. 1306

Report - Ought to Pass as Amended by Committee Amendment "A" (H-255).

Tabled - May 20, 1991, by Senator CLARK of Cumberland.

Pending - **ACCEPTANCE** of Committee Report, in concurrence

(In Senate, May 13, 1991, Report **READ.**)

(In House, May 9, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-255).**)

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-255) **READ.**

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

Senator LUDWIG: Thank you Mr. President. Ladies and Gentlemen of the Senate. This is the famous Balloon Bill, or infamous, depending on how you look at it, and I know it has been the object of many headlines and many derogatory comments for one reason or another. I would like to report, I am sorry that the two other Senators from our Committee are not here tonight, and I had thought that perhaps this might be Tabled until they return, but if not, I will say what is on my mind.

The Bill was reported unanimously out of Committee. However, Senator Baldacci and I were not there at the time. It took place late on a Friday afternoon, and this final amendment would have anyone that releases a helium filled balloon, intentionally, be subject to a fine of \$25. I would never have approved of such an amendment had I been there. Senator Baldacci does not approve of it either. I cannot imagine what was happening to the other members of the Committee, except that they were all dead tired, and everyone wanted to go home early.

I think there are two things that we must consider in looking after this Bill. It was brought to us by a group of school children from Wiscasset who had been involved in a beach clean-up. And in the course of picking up litter from beaches, they found some balloon fragments. Their concern was with the possibility that animals, such as sea mammals, sea turtles, birds, etc., might ingest these fragments and die. They had wonderful posters that they brought to us showing graphic detail of the poor little creatures belly up, and it really tore at your heart strings. I am reminded that the reason that we all now have a lobster on our license plates is that another group of children came here some years ago. Children can be very persuasive, however, they don't always have their facts straight. And sometimes, teachers thinking it is a wonderful idea to give these young, eager minds a chance to challenge the Legislature, bring them down here with their posters, and their very appealing ways, and before you know

it, we have a law in the books that none of us can really explain, or that passes the straight-face test.

We also had in the Hearing, on the Balloon Bill, a bio-chemist who said he had been hired by an independent firm to test the fragments of balloons, and find out if they really did kill animals, and was their any evidence that these pieces of balloon had been responsible for these creatures deaths. He said that they had heard stories and rumors of such things happening, but he had never seen a photograph, nor had he seen any physical evidence that animals actually had died as a result of ingesting balloons.

This is an impossible Bill to enforce in the first place, the time is way out of line. There have been other amendments suggested that would increase the intentional release from one to twenty before they can fine you \$25. But again, who is going to be out there once you spot that balloon in the air to discover who set it off, and was it intentional, or was it, as you have seen many times, at a county fair, the little kids holding onto the little balloons, and all of a sudden, the balloon goes into the air, and they start crying and hollering, and it is a terribly sad thing for something that is supposed to be a happy toy.

I have only one other thing to say here. I suppose balloons do provide a certain amount of litter. Most of those that are released, if they go high enough, are shattered by the shear pressure of the air, so any fragments that come down are pretty darn small, and not likely to attract many creatures. Also, we were told that helium filled balloons are made out of latex, which is a natural product that will biodegrade in about the same time frame as an oak leaf. Oak leaves last longer than some, it is a fairly tough leaf, I will give you that. The fact is, that the biochemist who was there testifying in our room said, the balloon would pass through an animal without harming its digestive system.

Now, maybe we should make a statement to the people of Maine suggesting that they be a little more careful in their releases of many balloons at one time, twenty at a fair or a birthday party do not seem like a great deal to release into the atmosphere. I can't help thinking if we pass this Bill with the Majority Report, that future years, when people open the Olympics, instead of this wonderful cloud of brightly colored objects flying skyward, having heard of this Bill, and maybe having copied our move, they may find that they have to use pigeons, instead. I would ask you if that might pose a more serious litter problem in the long run. I ask that you defeat this Bill.

Senator TWITCHELL of Oxford moved to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**.

Senator CLARK of Cumberland moved to Table 1 Legislative Day, pending the motion by Senator TWITCHELL of Oxford to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**.

Senator TWITCHELL of Oxford requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator CLARK of Cumberland to Table 1 Legislative Day, pending the motion by Senator TWITCHELL of Oxford to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**.

A Division has been requested.

Will all those Senators in favor of the motion by Senator CLARK of Cumberland to Table 1 Legislative Day, pending the motion by Senator TWITCHELL of Oxford to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**, 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 CLARK of Cumberland to Table 1 Legislative Day, pending the motion by Senator TWITCHELL of Oxford to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**, **PREVAILED**.

The Chair laid before the Senate the Tabled and Specially Assigned (5/22/91) matter:

Bill "An Act to Amend and Clarify the Definition of Earnable Compensation in the Maine State Retirement System Laws"

S.P. 443 L.D. 1187

Tabled - May 20, 1991, by Senator CLARK of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED**

(In Senate, May 8, 1991, **READ A SECOND TIME.**)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED**.

The Chair laid before the Senate the Tabled and Specially Assigned (5/22/91) matter:

HOUSE REPORT - from the Committee on **JUDICIARY** on Bill "An Act to Amend the Penalties for Habitual Offenders and Operating After Suspension"

H.P. 71 L.D. 99

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-279).**

Tabled - May 20, 1991, by Senator CLARK of Cumberland.

Pending - **ACCEPTANCE** of Committee Report, in concurrence

(In Senate, May 16, 1991, Report READ.)

(In House, May 13, 1991, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-279).)

Which Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-279) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

NAYS: Senators BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BALDACCI, COLLINS, KANY, MCCORMICK

EXCUSED: Senator TITCOMB

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 4 Senators being absent, and 1 Senator having been excused, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Stephen Adams, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Chair laid before the Senate the Tabled and Specially Assigned (5/22/91) matter:

NOMINATION - of Stephen Adams of Bangor, for appointment to the Maine Indian Tribal-State Commission.

Tabled - May 20, 1991, by Senator CLARK of Cumberland.

Pending - **CONSIDERATION**

(In Senate, May 20, 1991; Communication from the Committee on **JUDICIARY READ** and **ORDERED PLACED ON FILE.**)

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of Stephen Adams of Bangor, be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

The Chair laid before the Senate the Tabled and Specially Assigned (5/22/91) matter:

NOMINATION - of John H. Cox of Bangor, for appointment to the Maine Indian Tribal-State Commission.

Tabled - May 20, 1991, by Senator CLARK of Cumberland.

Pending - **CONSIDERATION**

(In Senate, May 20, 1991; Communication from the Committee on **JUDICIARY READ** and **ORDERED PLACED ON FILE.**)

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of John H. Cox of Bangor, be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BALDACCI, COLLINS, KANY, MCCORMICK

EXCUSED: Senator TITCOMB

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 4 Senators being absent, and 1 Senator having been excused, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of John H. Cox, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Chair laid before the Senate the Tabled and Specially Assigned (5/22/91) matter:

NOMINATION - of Frederick B. Hurley, Jr. of Wayne, for reappointment to the Maine Indian Tribal-State Commission.

Tabled - May 20, 1991, by Senator **CLARK** of Cumberland.

Pending - **CONSIDERATION**

(In Senate, May 20, 1991, Communication from the Committee on **JUDICIARY READ** and **ORDERED PLACED ON FILE**.)

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of Frederick B. Hurley, Jr. of Wayne, be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BALDACCI, COLLINS, KANY, MCCORMICK

EXCUSED: Senator TITCOMB

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 4 Senators being absent, and 1 Senator having been excused, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Frederick B. Hurley, Jr., was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Chair laid before the Senate the Tabled and Specially Assigned (5/22/91) matter:

NOMINATION - of Maynard F. Marsh of Gorham, for reappointment to the Maine Indian Tribal-State Commission.

Tabled - May 20, 1991, by Senator **CLARK** of Cumberland.

Pending - **CONSIDERATION**

(In Senate, May 20, 1991, Communication from the Committee on **JUDICIARY READ** and **ORDERED PLACED ON FILE**.)

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of Maynard F. Marsh of Gorham, be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BALDACCI, COLLINS, KANY, MCCORMICK

EXCUSED: Senator TITCOMB

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 4 Senators being absent, and 1 Senator having been excused, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Maynard F. Marsh, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Amend Various Provisions of the Electricians' Examining Board Laws"

S.P. 503 L.D. 1341
(C "A" S-176)

Tabled - May 22, 1991, by Senator **CLARK** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 22, 1991, **READ A SECOND TIME.**)

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

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Emergency

An Act to Prohibit the Charging of Rent in Advance by Landlords

H.P. 370 L.D. 524
(C "A" H-245)

Tabled - May 22, 1991, by Senator **BOST** of Penobscot.

Pending - Motion by same Senator to **SUSPEND THE RULES** (Division Requested)

(In Senate, May 13, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-245)**, in concurrence.)

(In House, May 20, 1991, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**)

On motion by Senator **DUTREMBLE** of York, Tabled 1 Legislative Day, pending the motion by Senator **BOST** of Penobscot to **SUSPEND THE RULES** (Division Requested).

Senate at Ease

Senate called to order by the President.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Amend the Maine Human Rights Act Regarding Pregnancy"

H.P. 486 L.D. 680

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-224)**

Minority - **Ought Not to Pass.**

Tabled - May 22, 1991, by Senator **CLARK** of Cumberland.

Pending - Motion by same Senator to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report (Roll Call Requested)

(In Senate, May 20, 1991, Reports READ.)

(In House, May 16, 1991, Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-224).)

Senator GAUVREAU of Androscoggin requested and received leave of the Senate to withdraw his request for a Roll Call.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. Before we vote on L.D. 680, I want to address the Senate one more time to try to explain the rationale of those of us in the Majority of the Committee on Judiciary, why we believe that this Bill is both appropriate, and in fact, necessary.

Before I get into the merits of the Bill, I would like to share with you my perceptions of last evening after voting and discussing the Bill. It appeared that some of us had questions in terms of whether L.D. 680 should become law. I thought back to one of my favorite movies in college, "Butch Cassidy and the Sundance Kid". There is a great scene in this movie where Robert Redford and Paul Newman are trying their darndest to escape the posse that has been assembled to capture them. During the whole movie they invent ingenious schemes to avoid the posse. They keep looking back, thinking that they had finally escaped the posse. Then in the distance, there is a cloud of dust, they recognize that the pursuers are still after them. They turn to one another and say, "Who are those guys"?

I thought back, and, in 1991, despite all the discussion, all the action on the local level, on the state level, and the federal level, trying to implant in the consciences of Americans that women have as much right as men do to take part in the ordinary activities of life, and they have every bit as much right as men do to participate in our work force, we still have people questioning what I think is a very basic right of access to full participation in our society. We are told by the opponents of L.D. 680, "You can't do that! This would have a paralyzing impact upon our small business community." Notwithstanding the fact that this is not the case in other states where prohibitions on discrimination on pregnancy disability are in law. Notwithstanding the fact that we have not had those problems at the federal level.

It is a funny thing about Civil Rights legislation. People who oppose Civil Rights legislation tend to work at the Federal level, and say, "Carve out exceptions for small business". This is a matter of states rights. Don't interfere with the autonomy of the states to regulate and protect their own men and women. It is a states rights issue. And then when the states advance proposals to accord the same protection under State Law that we

have under Federal Law, we are told, "Let's accede to the wisdom of Federal policy". They thought it best to establish a threshold, fifteen employees, twenty employees, lets not go beyond that. So we have this irrational dichotomy in our policy in our country. If you are female, and you are pregnant, and you happen to have the good fortune to work for an employer with fifteen employees or more, you are protected. But woe be to you if you are female, and pregnant, and employed for someone who has got fourteen or under employees. You don't have the same rights.

I think what really bothers me about the opposition is this, I have no quarrel at all with making a reasonable accommodation to business. If there is one thing that I have tried to implant in my Legislative career is the notion of fairness, and the notion of reasonableness, that we do entertain competing interests, that we try to harmonize those in a disinterested, rational, and fair fashion. I am really not one on rhetoric. I am not one ordinarily on emotionalism. I try to simply to establish a fair reasoned approach, not that my approach will prevail at all times, but set a process, a mechanism where we can accommodate those virgin interests. We have that in our Federal Law! Businesses which claim that they are harmed by application of the Federal Law on Discrimination with respect to pregnancy leave, can claim a business necessity exception. It is a flexible standard. It applies on a fact by fact, case by case basis.

I submit to you that L.D. 680 contains the same business necessity exception, an exception that has been tried, and worked very well in other states, it worked very well at the Federal level. That is the approach that we should take with this Bill, rather than to say to every woman in our state, "Well, we are sorry, but we just can't bear the thought that we might have an adverse impact upon our business community". I recognize that we should accommodate the needs of small business, but as far as I am concerned, human rights, and civil rights take precedence over economic interests. That, in fact, a fundamental value, and this Bill, I suppose, really comes down to a class of fundamental values. I am willing to compromise, I am willing to accommodate that virgin interest, but I am not to accept the notion, in 1991, that we are going to say to female employees in our state, "Well, you can't have the rights that your male counterparts have". As far as I know, pregnancy is a natural condition. It doesn't happen to men, it happens to the women! It happened to my wife, twice! But she happened to have the good fortune to work for large employers, so she kept on working during her pregnancy. I wasn't punished. I wasn't prejudice because I am an employee. I am a father of two girls, but I didn't have any problem maintaining my employment. Why should I have an advantage over my female counterparts? Why, because of my gender, should I accumulate more seniority than my female counterpart does, just because she happens to engage in the life process and have a child?

Last night I was tired. I have been sick all week. I don't think that I gave a very effective presentation. I apologize, not just to members of the Senate, but to the people of the State of Maine. I have an obligation in my capacity as Senate Chair of the Judiciary Committee to express with appropriate articulation and emotion, causes which I

believe are just. And I respect fully those who disagree with me, but I really sincerely believe that there is no place in our society, in 1991, to consign females to second class citizenship. I submit to you, that if we allow the discrimination to occur, and not to allow women who happen to be pregnant while they are employed to have the right to reasonable accommodation and have a disability leave, I submit to you we are consigning women to second class consideration.

You have on your desks literature which has been distributed by the Maine Chamber of Commerce and Industry, which articulates their opposition to L.D. 680. And I give you a hypothetical example. For instance, a small employer was told he might have a disability policy which says that the employer will pay for disability for a certain period of time when the person is out on disability leave. First of all, nothing in L.D. 680 requires, or mandates that an employer pay benefits to a person out on leave. That is simply a question for the employer to decide for itself. But, what L.D. 680 does say, is that if you have an employee who happens to become pregnant during her period of employment, you can't fire her! That seems very reasonable to me. There is the exception that I have eluded to, and we discussed in some length yesterday evening, if the employer has legitimate reason, if they employer would be harmed, if the employer cannot find a temporary employee to substitute for the pregnant woman, than the employer does have the right in that situation to terminate the female employee. It seems to me that is more than a reasonable compromise and accommodation of legitimate small business interest.

But, what we are being asked to do in this case, it seems to me, to repeat myself, we are being asked to elevate economic interests over human rights, and I can't accept that. I can accept a process whereby we accommodate those rights in a balanced and reasonable fashion, but I can't accept the notion that we say to every person who happens to be female, and happens to be pregnant, that happens to work for a company with fifteen or fewer employees, "Well, you don't have your right to maintain your job, and to maintain your seniority, you are out". I find that unacceptable. I am willing to work out any reasonable accommodation to address the legitimate concerns of opponents of this Bill, but I am not willing to accept a notion that females in our society, in 1991, can't have the same rights that their male counterparts do to take part in our society, and to maintain their employment. Thank you.

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

Senator HOLLOWAY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I guess it is just a matter of philosophy that the good Senator from Androscoggin, Senator Gauvreau and I disagree. Basically, I am not looking at this nearly as much from the woman's point of view. I happened to overhear a conversation in the hallway, which sort of indicated that I don't always support women's issues. I was quite offended by that, because I have done considerable work on domestic abuse, and on the abortion issues, and several others on the environmental part that pertains to women's issues. In my professional life, I worked with low income

women and children. I ran summer day camps in the summer time. My programs that I ran for low income women dealt with pregnancy more than once, nine and ten times with some women. So, I have done my share of work, and I really resented overhearing that conversation.

I consider this to be definitely a business issue of where 80% of the businesses in Maine are small business. I believe that we did not have any evidence whatsoever presented to us during the Public Hearing that said there was a problem out there! There wasn't one woman who came before us to say, "This is what happened to me". All we had was the Maine Commission on Women, the Maine Women's Lobby, The Business and Professional Women, but that was it, and the Chamber spoke in opposition. So, I don't know where the problem lies, because I haven't seen it. They haven't heard of it, and we have not had any examples given to us. It is my opinion, that I just don't see why we should exceed the Federal Law in passing a law in Maine that, obviously, is not required or needed. I really do believe that we are creating a new liability on small business people in this state, because they surely are going to have to hire a lawyer once they know that they have an issue pending before the Human Rights Commission.

One of the most severe cases that I might mention is, that the legislation would require that an employer continue to provide some salary and fringe benefits to a disabled, pregnant employee for up to nine months during her pregnancy disability, while at the same time, paying for the cost of the replacement worker. In a two person operation, this could result in a 50% increase in payroll costs. So there are a lot of problems with this Bill, and I just cannot vote for it! I am sorry that I have to argue about pregnant women, but I must do so in this instance. So, I hope that you will join me in defeating the Ought To Pass motion. Thank you.

Senator **HOLLOWAY** of Lincoln requested a Division.

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

Senator CLARK: Thank you Mr. President. Ladies and Gentlemen of the Senate. This is one of those times that perhaps it would be better for me to remain in my seat rather than rise, but here I am as you can see.

I commend the Senator from Androscoggin, Senator Gauvreau, for the second time today for his comprehensive and concise reflection of the Majority of the Committee on Judiciary in the Report before us on this issue, that I agree is not a woman's issue, but, is rather a human issue. A human reflects a human condition. I simply wish to state that in the Cornell Report of Leave Policies in Small Businesses, findings from the U.S. Small Business Administration Employee Leave Survey, the Executive summary, I might add, which is a lot easier to review than the massive one, that it is more economical and more feasible, in fact, darn right cheaper for employers to provide temporary leaves to pregnant employees rather than bear the burden or recruitment and hiring of a replacement employee, and that is documented in this Executive Summary.

And while I concur and respect the Senator from Lincoln, Senator Holloway, with her position which is reflective of a difference in philosophy, and that the issue before us is more of a business issue than an issue of discrimination, I guess I fall with the Majority, perhaps, to no ones surprise. I submit that it is not an issue based on whether there is a problem out there, but it is an issue which should be addressed, because it reflects discrimination and/or potential discrimination. And by not supporting the Majority of the Committee, the State of Maine is embracing a concept that says loud and clear it is "okay" to fire and/or terminate, however gently, or lacking in gentleness, an employee who is pregnant. It isn't "okay" to do so! Pregnant employees need their positions. It is not reflective of their human condition, pregnancy, but reflective of a whole host of other qualities, and I suggest that is perfectly acceptable for the State of Maine to take a leadership role as we have since time in memorial on a number of issues dealing with bottles, and billboards, and environment, and discriminatory civil rights issues. And business issues, too. It isn't okay to accept the Federal guideline, because in Maine, our state, we don't fire employees because they are pregnant. That is the statement that we will be making should we accept the Majority Report, and I would invite you to do that. Thank you Mr. President.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I don't know how reflective this is of what the Bill actually does, but the good Senator from Lincoln, Senator Holloway, said that she had not heard from one woman other than those organizations representing women that there was any adverse impact on women in this state.

Well, I have an example for you, but unfortunately, it is not all that recent. When I was pregnant with my first child, my husband was going to college, and I was looking for summer employment. I had just gotten pregnant, and there was a temporary job, and they hired me. Unfortunately, a couple of weeks later, one of my friends happened into the business, and I revealed this wonderful news that I was pregnant. By that Friday I was fired! Maybe the problem doesn't exist now, I don't know that, because I haven't been pregnant in recent years, but I can tell you are looking at a person who, in fact, that happened to.

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

Senator **GILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I didn't intend to get involved in this debate at all, but we are looking in the past, and I happened to have run a business with fifteen employees. We didn't have disability insurance because we couldn't afford it. We were running a neighborhood business. I had fifteen employees, two of the employees in the front part of the business were women, and three of the employees in the back room of the business, which was a pharmacy, were women pharmacists. One of the women in the front of the store had an abortion, she had complications and she was out for an extended

period. The second woman in the front of the store got pregnant. In the back room where the pharmacists worked, one of my female pharmacists got pregnant.

I have to say that we had not only to replace them, but we felt it was a family type of business, the people who worked for me were not related to me, but because of the small size of the business, we were like a family. I anguished about what I could do for them. We extended their health care coverage, we paid them partial pay for their time out. I maintain we couldn't afford to do that today. We couldn't afford to do it because of mandated benefits that we have passed here. We couldn't do it because of liability insurance that my pharmacy would now be subject to. We couldn't do it for a number of reasons.

I have been pregnant four times. I know what it is like to be pregnant. I know what it is like to work when you are pregnant, and to run a store when you have got people who are employees that you care a great deal about, and you want them to come back. That is why we paid them. They came back. But it was a difficult arrangement, because those people that were there to fill in, we were fortunate to find them. But we ran short in the pharmacy department because we could not get enough pharmacists at the time.

On the other hand, just recently, I had a daughter-in-law that was pregnant. She is an accountant, she happened to work for a small firm. There was an arrangement made in that small firm that she could take a computer home and do the accountant work at home and send it into the office during her whole pregnancy. It worked out very well, because the owner of that business and my daughter-in-law made an arrangement. And I think that can be done in small business. I would say that right now I don't think that we can afford to do this.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Let me state at the outset that if all employers had the degree of compassion to their fellow men and women as the good Senator from Cumberland, Senator Gill, we would not need any legislation on human rights.

I want to address one issue that is confusing, frankly, it has confused me, and I am certain that it will confuse others who did not have the opportunity to hear the extensive presentation on the Bill and the workshops that we had afterwards. There is nothing in L.D. 680, if we adopt this law, that will require an employer to pay wages during someone's period of disability leave. The employer has a uniform policy that all people on disability leave, that employer has to extend that right to a pregnant female employee. But, if that employer has no such policy, nothing, nothing contained in L.D. 680 would require them to pay wages to that individual while she is on that maternity leave. All we are saying is, that the person cannot be terminated from her employment, and that is the important point, so that the person would not lose accumulation of seniority. That is a very important point. Certainly, we are all sensitive to the needs of small business. We are

trying to work out a reasonable accommodation. In this situation, I believe that L.D. 680 has reasonable language through the business necessity to accommodate a legitimate interest of a small employer. I do want to make certain that the members of the Senate, when they vote on this Bill tonight, that they are not under the misapprehension that somehow this Bill acquires a lawyer to pay special benefits to a female employee when it doesn't provide that same benefit to the other employees. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator CLARK of Cumberland to **ACCEPT the Majority OUGHT TO PASS AS AMENDED Report**, in concurrence.

A Division has been requested.

Will all those in favor of the motion by Senator CLARK of Cumberland to **ACCEPT the Majority OUGHT TO PASS AS AMENDED Report**, in concurrence, please rise in their places and remain standing until counted.

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

16 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator CLARK of Cumberland to **ACCEPT the Majority OUGHT TO PASS AS AMENDED Report**, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Senator WEBSTER of Franklin moved to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**.

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

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator WEBSTER of Franklin to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE** (Roll Call Ordered).

Off Record Remarks

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following matter:

Bill "An Act Concerning the Franklin County Budget"

H.P. 15 L.D. 18
(C "A" H-225)

Tabled - May 13, 1991, by Senator CLARK of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, May 8, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-225)**, in concurrence. Subsequently, **RECONSIDERED**.)

(In House, May 7, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-225)**.)

On motion by Senator MILLS of Oxford, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-225), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-212) to Committee Amendment (H-225) **READ** and **ADOPTED**.

Committee Amendment "A" (H-225) as Amended by Senate Amendment (S-212) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

The Chair laid before the Senate the matter Tabled Pending a Ruling of the Chair:

PENDING RULING OF THE CHAIR

Bill "An Act to Prohibit the Installation of Electric Heating Systems"

H.P. 271 L.D. 391

Tabled - May 13, 1991, pending - **RULING**

(In Senate, May 13, 1991, Committee Amendment "A" (H-249) **READ**.)

(In House, May 9, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-249)**.)

The Chair ruled, Committee Amendment "A" (H-249) **NOT GERMAINE**.

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

Off Record Remarks

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator CARPENTER of York, **ADJOURNED** until Tuesday, May 28, 1991, at 9:00 in the morning.