

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
Wednesday
June 26, 1991

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

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Senate called to Order by the President.

Non-concurrent Matter

Prayer by the Honorable John J. Cleveland of Androscoggin.

HOUSE REPORT - from the Committee on **TRANSPORTATION** on Bill "An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (Emergency)

H.P. 650 L.D. 924

SENATOR JOHN J. CLEVELAND: Dear Lord, we are gathered here today individually as one of Your children, and collectively as Your family. As we are about to undertake these enormous responsibilities before us in the last days of this legislative session, we ask for Your guidance, Your strength, and Your wisdom, that we may faithfully fulfill our obligations to the people of Maine. May the example of Your own life while here on earth serve as a model for our own actions as public servants as we complete the tasks placed before us. Let us recall that we are here, like You, not to serve our own interests, but to serve the interests of all the people. That to serve the interests of all the people as You have taught us, we must show patience even when provoked, love even when we are not loved, and kindness even though others may be unkind. But You have also taught us the value of honesty, integrity, and the courage to persevere even in the most difficult circumstances, if we are to achieve a more just, a more fair, and a more compassionate society for all of our people. Amen.

Report - **Ought to Pass**.

In House, June 19, 1991, the **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

In Senate, June 19, 1991, the Report **READ** and Bill and Accompanying Papers **RECOMMITTED** to the Committee on **TRANSPORTATION** in **NON-CONCURRENCE**.

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

The Senate **ADHERED**.

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

Non-concurrent Matter

Reading of the Journal of Wednesday, June 19, 1991.

Bill "An Act to Amend the Unfair Trade Practices Act to Allow Consumers to Recover Damages"
H.P. 1057 L.D. 1546
(H "A" H-637 to C
"A" H-447)

PAPERS FROM THE HOUSE

In Senate, June 12, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-447) AS AMENDED BY HOUSE AMENDMENT "A" (H-637)** thereto, in concurrence.

Non-concurrent Matter

Bond Issue

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-447) AS AMENDED BY HOUSE AMENDMENT "A" (H-637)** thereto, **AND HOUSE AMENDMENT "B" (H-684)** in **NON-CONCURRENCE**.

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for the Land for Maine's Future Program to Finance the Acquisition of Land for Conservation, Outdoor Recreation, Habitat Conservation and Public Access

H.P. 435 L.D. 618
(C "A" H-600)

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

In House, June 12, 1991, **PASSED TO BE ENACTED**.

Non-concurrent Matter

In Senate, June 12, 1991, **FAILED OF ENACTMENT** in **NON-CONCURRENCE**.

An Act to Regulate Sales of Malt Liquor in Kegs
H.P. 1142 L.D. 1667
(H "A" H-621 to C
"A" H-490)

In Senate, June 12, 1991, **PASSED TO BE ENACTED**,
in concurrence.

RECALLED from the Governor's Desk pursuant to
Joint Order H.P. 1366, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-490) AS AMENDED
BY HOUSE AMENDMENT "B" (H-683)** thereto, in
NON-CONCURRENCE.

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

COMMUNICATIONS

The Following Communication: S.P. 764

115TH MAINE LEGISLATURE

June 24, 1991

Senator Stephen C. Estes
Rep. Nathaniel J. Crowley, Sr.
Chairpersons
Joint Standing Committee on Education
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan,
Jr. has withdrawn his nomination of Rand N. Stowell
of Weld for appointment to the Maine Technical
College System Board of Trustees.

Pursuant to Title 20-A, MRSA Section 12705, this
nomination is currently pending before the Joint
Standing Committee on Education.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Which was **READ** and **REFERRED** to the Committee on
EDUCATION.

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

The Following Communication:

**COMMITTEE ON AUDIT AND PROGRAM REVIEW
ONE HUNDRED AND FIFTEENTH LEGISLATURE**

April 22, 1991

The Honorable Charles P. Pray, Chair
The Honorable Dan A. Gwadosky, Vice-Chair
Members of the Legislative Council

Pursuant to 3 MRSA §925, we are pleased to submit
to the Legislature the final findings and
recommendations required to implement the Committee's
1990-1991 study of the following agencies:

- | | |
|-------------------------|---------------------------|
| Department of Finance | Me Tech College System |
| Taxation | Dept of the Attorney Gen |
| Administrative Services | Dept of Defense and |
| Accounts & Control | Veterans' Services |
| Alcoholic Beverages | Dept of Human Services |
| Lottery | Child Support Enforce |
| State Liquor Commission | State Planning Office |
| State Lottery Comm | State Harness Racing Comm |
| Board of Property Tax | Board of Pesticides Cont |
| Review | Board of Veterinary Med |
| Maine Human Rights | Agriculture Bargain Board |
| Commission | Seed Potato Board |
| Maine Comm for Women | Maine Milk Commission |
| Maine High Risk Ins | Dairy Promotions Board |
| Organization | Dairy & Nutrition Council |
| Capital Planning Comm | Maine Blueberry Comm |
| Educational Leave Advis | Blueberry Advis Comm |
| Board | |

We would like to thank the following legislators
who served from other joint standing committees for
providing additional expertise and experience to the
Committee's review process:

- Representative Patrick Paradis, Judiciary
- Representative Peter Manning, Human Resources
- Representative James Handy, Education
- Representative John Jalbert, Aging, Retirement & Veterans
- Representative Robert Tardy, Agriculture; and
- Representative Susan Dore, Taxation.

We also note that these reviews were initiated by
the 114th Legislature and would like to especially
thank Neil Rolde who served as House Chair at that
time as well as Senators Georgette Berube and Linda
Curtis Brawn who do not currently serve on the
Committee.

Sincerely,

S/Beverly M. Bustin
Senate Chair

S/Phyllis R. Erwin
House Chair

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

The Following Communication:

STATE OF MAINE
 SUPREME JUDICIAL COURT
 142 FEDERAL STREET
 PORTLAND, MAINE 04112

June 20, 1991

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

Dear President Pray:

Acting pursuant to the provisions of section 3 of article VI of the Constitution, the Justices of the Supreme Judicial Court herewith submit their answers to the questions propounded by the Senate on June 12, 1991, relating to L.D. 849, "An Act to Stabilize the Maine Dairy Industry."

Very truly yours,

S/Vincent L. McKusick

ANSWERS OF THE JUSTICES

To the Honorable Senate of the State of Maine:

In compliance with the provisions of section 3 of article VI of the Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following answers to the questions propounded on June 12, 1991.

We have no doubt that, within the meaning of the constitutional authorization of advisory opinions, the questions of law now propounded by the Senate are important and arise upon a solemn occasion. As a result, we recognize a constitutional obligation to give our advisory opinions on the Senate's questions. The questions concern the constitutionality of emergency legislation that has already been finally enacted in the House of Representatives, has had two favorable readings in the Senate, and now awaits final enactment there. Although the questions come to us late in the current session, sufficient time remains for the Senate to act upon our advisory opinions before it adjourns. See Opinion of the Justices, 338 A.2d 802 (1975) (questions regarding proposed Maine Criminal Code answered while Bill still in committee), commented on by Opinion of the Justices, 355 A.2d 341, 389 (Me. 1976). Cf. Opinion of the Justices, 123 Me. 573, 576, 121 A. 902, 903 (1923) (questions propounded too close to adjournment for the Legislature to act on Justices' advice). By no means is the Senate's "anticipated need for the advice ... tentative, hypothetical and abstract." Opinion of the Justices, 355 A.2d at 389 (quoting Opinion of the Justices, 330 A.2d 912, 915 (Me. 1975)). Rather the questions are of "instant, not past or future concern; things of live gravity" to the Senate. Opinion of the Justices, 134 Me. 510, 513, 191 A. 487, 488 (1936). We proceed to address the Senate's questions.

QUESTION NO. 1. If the provisions of Legislative Document 849, as amended by Committee Amendment "A," become law, would they violate the Commerce Clause of the United States Constitution, Article I, Section 8, Clause 3?

We answer Question No. 1 in the negative. Although phrased in terms of Congress's power to regulate interstate commerce, the Commerce Clause also operates to protect free trade among the States. See Dennis v. Higgins, 111 S. Ct. 865, 872 (1991). In the exercise of its regulatory and taxing powers, no state may

unduly interfere with the free trade of goods and services in the national marketplace. See Reeves, Inc. v. Stake, 447 U.S. 429, 436-37 (1980). A State may, however, levy a tax that imposes a burden on those aspects of an industry engaged in interstate commerce in order to insure that the industry bears its fair share of the State's tax burden. See Complete Auto Transit, Inc. v. Brady, 430 U.S. 274, 288-89 (1977). In order to determine whether Committee Amendment "A" will withstand a Commerce Clause challenge, we consider whether the proposed Maine dairy farm stabilization tax

(1) has a substantial nexus with the State; (2) is fairly apportioned; (3) does not discriminate against interstate commerce; and (4) is fairly related to the services provided by the State.

Maryland v. Louisiana, 451 U.S. 725, 754 (1981). See also Private Truck Council v. Secretary of State, 503 A.2d 214, 217 (Me.) cert. denied, 476 U.S. 1129 (1986).

The first, second, and fourth parts of that four-part test are easily satisfied by Committee Amendment "A." First, the event that is taxed, the handling of milk for retail sale here, has an obvious substantial nexus with Maine. Second, the tax presents no problems with the fair apportionment requirement; the tax is imposed only on events occurring within Maine and thus no occasion arises for making any apportionment. Finally, the services provided by Maine, including police protection, as well as access to Maine's transportation system, benefit all milk handlers subject to the tax and the tax is fairly related to those benefits, regardless of the source of the milk sold in Maine. The Commerce Clause imposes no requirement that the nature of the services provided by the state have a more specific relationship to the handling of milk in Maine. See Goldberg v. Sweet, 488 U.S. 252, 267 (1989) ("a taxpayer's receipt of police and fire protection, the use of public roads and mass transit, and the other advantages of civilized society satisfied the requirement that the tax be fairly related to benefits provided by the State to the taxpayer").

We find that the tax imposed by Committee Amendment "A", on its face, does not discriminate against interstate commerce by providing direct commercial advantages to the Maine dairy industry. See Bacchus Imports, Ltd. v. Dias, 468 U.S. 263, 268-69 (1984). In the first place, the tax paid by handlers ultimately will be borne by Maine consumers who already pay the same minimum price for in-state and out-of-state milk as a result of price controls. See 7 M.R.S.A. § 2953 (1989 & Supp. 1990). The tax

that is paid by handlers and passed along to consumers will be the same for in-state milk and out-of-state milk; the tax base and the tax rate are equivalent for milk packaged in-state and for milk packaged out-of-state and there are no exemptions from the tax for milk that is produced and intended for sale in Maine. Thus, the tax itself will not produce any difference whatever between the price of in-state milk and out-of-state milk paid by Maine consumers nor will it influence their purchasing decisions. That the proposed legislation would distribute the funds collected from the tax to Maine's dairy producers, although evincing the Legislature's express intent to aid the Maine dairy industry, presents no grounds for a Commerce Clause challenge. As presently interpreted, the Commerce Clause reaches only a state's power to regulate and to tax, and not its power to spend. See Reeves, Inc. v. Stake, 447 U.S. at 437. Although Maine may not give its milk producers an advantage in the marketplace by imposing a tax that exacts more from out-of-state participants in the state's economy than from in-state participants or that discourages the purchase of out-of-state milk, it may provide that advantage with a direct subsidy. See New Energy Co. v. Limbach, 486 U.S. 269, 278 (1988); Bacchus Imports, Ltd. v. Dias, 468 U.S. at 271; see also Reeves, Inc. v. Stake, 447 U.S. at 441 (the Commerce Clause does not prevent a legislature from "fashioning ... effective and creative programs for solving local problems and distributing government largesse").

Committee Amendment "A" requires retail handlers who sell milk packaged outside the state to report on a monthly basis the quantity of milk they have handled;

in contrast, the burden of reporting sales of in-state milk falls not on the retail handlers but on the in-state wholesale handlers. We are not able, from the information before us, to determine whether that difference in the reporting requirement will, as applied, discriminate against the sale of milk packaged outside Maine. While the administrative costs of reporting might tend to discourage some retail handlers from selling milk packaged outside Maine, we cannot predict who as a practical matter will ultimately bear the administrative burdens of complying with the reporting requirements, or whether those requirements are in practice any more burdensome than those that already attend the sale of milk at retail in Maine. See, e.g., 7 M.R.S.A. § 2953 (giving the Maine Milk Commission the authority to require from producers, dealers, and stores "accounts of all business transacted which is related to the production, purchasing, processing, sale or distribution of milk"). In sum, we are not convinced that the different reporting requirement for out-of-state milk will have any practical consequence that will be of constitutional dimension.

We conclude that neither facially nor in any practical effect that can reasonably be anticipated does the proposed Maine dairy farm stabilization tax violate the Commerce Clause of the United States Constitution.

QUESTION NO. 2 If the provisions of Legislative Document 849, as amended by Committee Amendment "A," become law, would they violate the Public Purpose Clause of the Constitution of Maine, Article IV, Part Third, Section 1?

We answer Question No. 2 in the negative. The Legislature has "full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State." Me. Const. art IV, pt. 3, § 1. This broad legislative power gives rise to an initial presumption that any statute enacted for the purpose of spending tax revenues is constitutional, and the court will invalidate a statute only in those cases where the Legislature has clearly exceeded its constitutional authority by expending tax revenues for other than a "public purpose." See State v. Stinson Canning Co., 161 ME. 320, 323, 211 A.2d 553, 555 (1965). In assessing the constitutionality of a statute, the court undertakes a very narrow inquiry to determine whether the Legislature had a rational basis for its conclusion that the potential benefits to be derived by the public from the enactment of the statute outweigh the detriment to the public occasioned by the burden of additional taxation. See Common Cause v. State, 455 A.2d 1, 25-26 (Me. 1983). The Legislature may properly conclude that a subsidy to a particular industry will benefit the public by promoting the general economic climate in Maine. See id. at 25-26.

In the present case, the Legislature determined that the producer price of milk has fallen sharply as a result of a milk surplus in the western United States, that such temporary price fluctuations create an immediate threat to the survival of a large number of Maine dairy farms that produce and sell less than 400,000 pounds of milk per month, and that the public interest requires a mechanism to provide direct subsidies to stabilize the Maine dairy industry. See L.D. 849, Emergency Preamble, § 4544(2)(A) (115th Legis. 1991). The Legislature could rationally conclude that the survival of the dairy industry is essential to the preservation of rural communities and open spaces, the maintenance of current employment levels in the dairy industry, and a general promotion of the State's overall economy. As a general rule, excise taxes used to subsidize traditional Maine agricultural and fishing industries are particularly immune from invalidation by the court, since the widespread public benefits of these expenditures can be more readily inferred from the longstanding importance of these enterprises to the State. See, e.g., State v. Stinson Canning Co., 161 Me. at 323, 211 A.2d at 555 (sardine industry); State v. Lasky, 156 Me. 419, 426-27, 165 A.2d 579, 583 (1960) (quahog industry); State v. Vahlsing, 147 Me. 417, 425, 429, 88 A.2d 144, 148, 150 (1952) (potato industry). See also Maine Milk Comm'n v. Cumberland Farms, 160 Me. 366, 379, 205 A.2d 146, 152-53 (1964) (minimum milk price statute upheld).

Given the precise nature of the problem sought to be addressed by Committee Amendment "A," we can find no violation of the public purpose doctrine in the fact that the excise tax revenues will be distributed directly and immediately to a large number of individual dairy producers, rather than indirectly to a general fund used to conduct agricultural research or advertising campaigns that would benefit the dairy

industry as a whole. The Legislature could conclude that, unlike Maine wholesalers and retailers of milk, Maine dairy producers will continue to absorb the major economic brunt of these producer price fluctuations. In order to stabilize effectively the Maine dairy industry, Committee Amendment "A" crafts an excise tax distribution plan that is triggered by a decline in the producer milk price below a rate of \$16 per hundredweight, and that is designed to provide a corresponding offset payment to each producer, based on the amount of milk sold by that producer in the previous month. The Legislature would have a rational basis for its conclusion that the direct payment of excise tax revenues to dairy producers is the most efficient method of achieving the public benefits anticipated by the statute. See L.D. 849, Emergency Preamble; see also Common Cause v. State, 455 A.2d at 25-26 (direct subsidy to BIW upheld). Similarly, there can be little doubt in the present case that the portion of the excise tax revenues allocated by the Committee "A" to a Department of Human Services program is designed to achieve a valid public health objective.

We conclude that the levy of the Maine dairy farm stabilization tax and the distribution of its proceeds, as proposed by Committee Amendment "A," pass the "public purpose" test of the Maine Constitution.

Dated: June 20, 1991

S/Vincent L. McKusick
Chief Justice

S/David G. Roberts

S/Daniel E. Wathen

S/Caroline D. Glassman

S/Robert W. Clifford

S/Samuel W. Collins, Jr.

S/Morton A. Brody

Associate Justices

ADDITIONAL STATEMENT

In my personal opinion, the Maine Constitution (article VI, section 3) places an unqualified obligation on each of us Justices of the Supreme Judicial Court to give his or her opinion on the important questions of law now propounded by the Senate on what is undoubtedly a solemn occasion. See n.1 above. The advisory opinion given today will not be binding when and if the same questions arise in a future litigated case before the Law Court. See Martin v. Maine Savings Bank, 154 Me., 259, 269, 147 A.2d 131, 137 (1958). In performance of my constitutional obligation, I herewith give my opinion on the Senate's questions by joining the other Justices in the answers above. At the same time, I inform the Senate of the following circumstance that will probably lead me to reclude myself from any future litigated case raising the same questions:

My brother and I own all the stock of a family corporation, Lone Elm Farm, Inc., which owns real estate located in Parkman, Maine, that the corporation leases to a dairy farmer.

S/Vincent L. McKusick
Chief Justice

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

The Following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

June 21, 1991

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, S.P. 515, L.D. 1376, "An Act to Promote Economic Development." Although I have taken a leadership role in promoting economic development, I believe this Bill will in fact discourage, not promote, economic development by unduly interfering with the hiring decisions of private employers.

As we all know, Maine is often times at a disadvantage when competing with other states to attract, maintain or expand business and industry. L.D. 1376 attempts to overcome this disadvantage by requiring a company to give a hiring preference to its "qualified" existing, laid off, or recently discharged employees as a condition to receiving a public grant, loan guarantee, or tax increment financing. All employment decisions will subject the employer to employee complaint and investigation by the Office of the Attorney General. It is, therefore, the Attorney General and the courts who, under this Bill, are the ultimate arbiters of who is "qualified" to work in a private company.

I believe that a company, knowledgeable of its own unique needs and resources, is better situated than our already overburdened courts and better situated than an assistant attorney general to determine who as a matter of personal ability and professional experiences is best "qualified" to run a paper machine or perform secretarial tasks. I also believe that this legislation will serve only as a springboard to litigation that will, in turn, only increase an employer's operating and training costs, as well as increase their down-time while employers wait for a decision on who is "qualified" for the job. This is all only further complicated by the fact that the preference applies to workers who left the company as long as three years prior to the time the company first received its assistance.

There are additional concerns with this Bill as well. First, because it would pertain to all company operations and not just to the entity receiving aid, it would require a company's operation in Kittery to be controlled simply because a branch in Fort Kent received financial assistance. This restriction applies further to each entity in which the employer has any degree of beneficial ownership. Any provision that would limit hiring practices this broadly will necessarily increase the costs and reduce an employer's efficiency of operations.

Second, employers would have to maintain records on employees for three years prior to receiving economic support and for three years after the final day they have received the assistance. Thus, if an employer receives a ten-year loan, that employer would be obligated to keep an active personnel file for at least sixteen years.

Third, the penalties in the legislation are unjustifiably harsh. A single instance of noncompliance with the proposed provisions will result in the loss of millions of dollars of economic support.

Finally, in addition to burdening businesses with undue regulation and increased costs, this Bill will also burden our workers. For example, since an affected employee may challenge an employer's determination of the qualifications and level of training of an alternate applicant who is not an existing employee, the issue of confidentiality is raised, since only by access to another applicant's records and personnel file can one assess another's qualifications.

This Bill will only increase the litigation, complexity and cost of doing business in Maine. In an economy that has witnessed a rapid economic decline, this Bill will discourage businesses from using the very programs intended to encourage economic development in Maine. For this and the reasons stated above, I urge you to sustain my veto.

Sincerely,

S/John R. McKernan, Jr.
Governor

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

The Accompanying Bill:

Bill "An Act to Promote Economic Development"
S.P. 515 L.D. 1376
(C "A" S-230)

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **CONSIDERATION**.

The Following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

June 21, 1991

To the Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, S.P. 370, L.D. 995, "An Act to Provide Employee Protection in the Event of Closure or Reduction in Capacity of State Facilities, Programs or Services." This Bill would interfere with the effective management of state government, and would have an extremely serious impact on the State's ability to implement the AMHI Consent Decree.

The Consent Decree, which has received strong expressions of support, provides for the downsizing of AMHI and the establishment of a community-based comprehensive mental health system. The guiding principle of the decree is that the delivery of mental health services will be done in response to client needs in the least restrictive setting possible. L.D. 995, because it attempts to prevent the use of contracted personal services to replace state workers who have been laid off, would interfere with the provision of necessary community-based mental health services if layoffs occurred at AMHI as a result of the downsizing effort. The desire to protect state employee jobs, rather than the provision of essential services which the state is obligated to deliver to mentally ill persons, would dictate the policies of our mental health care system.

This Bill would also prohibit the State from achieving budgetary savings in areas where real cost savings are possible and desirable. For example, closure of low volume liquor stores may be prohibited if the cost does not initially satisfy the "significant" criteria contained in the Bill even though in the longer term the cost savings will be significant. The State would also be unable to contract for short term or sporadic services where a vendor has a specific skill or can meet other special needs.

Moreover, this Bill fails to address the problem that a contract for services in one area of the State may be prohibited due to a lay-off in another area of the State. For example, a layoff in Fort Kent could prohibit a contract for services to be performed in Kittery.

State employees currently have protections against contracting out. These protections are granted by Civil Service Rules and by mutually negotiated collective bargaining agreements. The Civil Service Rules currently prohibit layoffs of employees if a provisional or temporary appointee is continued in a position in the same class in the same agency. The MSEA contract provides that state government may contract out work but must negotiate the impact if any employees are laid off as a result of the contracting out. In addition, state government also assists employees whose jobs are

eliminated as a result of contracting out to find other employment, both inside and outside of state government. Any enhancement of employee rights should be negotiated rather than legislated.

Because of the reservations and objections outlined above, I am in firm opposition to L.D. 995 and respectfully urge you to sustain my veto.

Sincerely,
S/John R. McKernan, Jr.
Governor

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

The Accompanying Bill:

Bill "An Act to Provide Employee Protection in the Event of Closure or Reduction in Capacity of State Facilities, Programs or Services"
S.P. 370 L.D. 995
(S "A" S-331 to
C "A" S-271)

On motion by Senator **WEBSTER** of Franklin, Tabled until Later in Today's Session, pending **CONSIDERATION**.

Senate at Ease

Senate called to order by the President.

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

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 Michael W. Aube of Bangor, for reappointment to the Maine Technical College System Board of Trustees.

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 5
NAYS: 6
ABSENT: 0

Seven members of the Committee having voted in the affirmative and Six in the negative, it was the vote of the Committee that the nomination of Michael W. Aube of Bangor, for reappointment to the Maine Technical College System Board of Trustees 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**.

On motion by Senator **CLARK** of Cumberland, the Nomination Tabled Unassigned, pending **CONSIDERATION**.

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 William H. Beardsley of Ellsworth, for reappointment to the Maine Education Assistance Board.

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

YEAS: Senators 3
Representatives 10
NAYS: 0
ABSENT: 0

Thirteen 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 William H. Beardsley of Ellsworth, for reappointment to the Maine Education Assistance Board 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: The Joint Standing Committee on Education has recommended the nomination of William F. Beardsley of Ellsworth, 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, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator MATTHEWS

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

The Secretary has so informed the Speaker of the House.

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 Richard H. Campbell of Brewer, for reappointment to the Maine Technical College System Board of Trustees.

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 10
NAYS: 0
ABSENT: 0

Thirteen 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 Richard H. Campbell of Brewer, for reappointment to the Maine Technical College System Board of Trustees 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: The Joint Standing Committee on Education has recommended the nomination of Richard H. Campbell of Brewer, 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, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator MATTHEWS

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

The Secretary has so informed the Speaker of the House.

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 Wendell G. Eaton of Bangor, 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 3
Representatives 10

NAYS: 0

ABSENT: 0

Thirteen 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 Wendell G. Eaton of Bangor, 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: The Joint Standing Committee on Education has recommended the nomination of Wendell G. Eaton of Bangor, 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, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator MATTHEWS

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

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 Penny Harris of Bangor, for appointment to the University of Maine Board of Trustees.

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: 1

ABSENT: 0

Twelve members of the Committee having voted in the affirmative and One in the negative, it was the vote of the Committee that the nomination of Penny Harris of Bangor, for appointment to the University of Maine Board of Trustees 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: The Joint Standing Committee on Education has recommended the nomination of Penny Harris of Bangor, 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, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator MATTHEWS

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

The Secretary has so informed the Speaker of the House.

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.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 Kevin P. Mahaney of Bangor, for appointment to the University of Maine Board of Trustees.

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 6
NAYS: 5
ABSENT: 0

Eight members of the Committee having voted in the affirmative and Five in the negative, it was the vote of the Committee that the nomination of Kevin P. Mahaney of Bangor, for appointment to the University of Maine Board of Trustees 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: The Joint Standing Committee on Education has recommended the nomination of Kevin P. Mahaney of Bangor, 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.

ROLL CALL

YEAS: Senators CLARK, CLEVELAND, CONLEY
MCCORMICK, THE PRESIDENT - CHARLES P.
PRAY

NAYS: Senators BALDACCI, BERUBE, BOST,
BRANNIGAN, BRAWN, BUSTIN, CAHILL,
CARPENTER, COLLINS, DUTREMBLE,
EMERSON, ESTES, ESTY, FOSTER,
GAUVREAU, GILL, GOULD, HOLLOWAY,
KANY, LUDWIG, MILLS, PEARSON,
RICH, SUMMERS, THERIAULT, TITCOMB,
TWITCHELL, VOSE, WEBSTER

ABSENT: Senator MATTHEWS

The President requested and received leave of the Senate to change his vote from **NAY** to **YEA**.

5 Senators having voted in the affirmative and 29 Senators having voted in the negative, with 1 Senator being absent, and 5 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 Kevin P. Mahaney was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 Jean E. Mattimore of Freeport, for appointment to the Maine Technical College System Board of Trustees.

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 10

NAYS: 0

ABSENT: 0

Thirteen 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 Jean E. Mattimore of Freeport, for appointment to the Maine Technical College System Board of Trustees 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: The Joint Standing Committee on Education has recommended the nomination of Jean G. Mattimore of Freeport, 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: Senator THE PRESIDENT - CHARLES P. PRAY

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, TITCOMB, TWITCHELL, VOSE, WEBSTER

ABSENT: Senator MATTHEWS

1 Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent, and 1 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 Jean G. Mattimore was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 Dawn Miller of Wales, for appointment as the Student Member of the Vocational Technical College System.

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 10

NAYS: 0

ABSENT: 0

Thirteen 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 Dawn Miller of Wales, for appointment to the Student Member as the Vocational Technical College System 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: The Joint Standing Committee on Education has recommended the nomination of Dawn Miller of Wales, 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, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator MATTHEWS

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

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 Benton A. Milster of Temple, for reappointment to the Maine Education Assistance Board.

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

YEAS: Senators 3
Representatives 10

NAYS: 0

ABSENT: 0

Thirteen 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 Benton A. Milster of Temple, for reappointment to the Maine Education Assistance Board 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: The Joint Standing Committee on Education has recommended the nomination of Benton A. Milster of Temple, 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, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator MATTHEWS

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

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 Patricia Wiggins O'Meara of South Portland, for appointment to the Maine Maritime Academy Board of Trustees.

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 8

NAYS: 2

ABSENT: 0

Eleven members of the Committee having voted in the affirmative and Two in the negative, it was the vote of the Committee that the nomination of Patricia Wiggins O'Meara of South Portland, for appointment to the Maine Maritime Academy Board of Trustees 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: The Joint Standing Committee on Education has recommended the nomination of Patricia Wiggins O'Meara of South 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 CLARK, CONLEY, MILLS,
PEARSON, TWITCHELL

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

ABSENT: Senator MATTHEWS

Ten members of the Committee having voted in the affirmative and Three in the negative, it was the vote of the Committee that the nomination of F. Timothy Vigue of Waterville, for appointment to the Maine Maritime Academy Board of Trustees 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: The Joint Standing Committee on Education has recommended the nomination of Timothy Vigue of Waterville, 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 CLARK, CONLEY, MCCORMICK

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

ABSENT: Senator MATTHEWS

3 Senators having voted in the affirmative and 31 Senators having voted in the negative, with 1 Senator being absent, and 3 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 Timothy Vigue was **CONFIRMED**.

5 Senators having voted in the affirmative and 29 Senators having voted in the negative, with 1 Senator being absent, and 5 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 Patricia Wiggins O'Meara was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON EDUCATION**

June 19, 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 F. Timothy Vigue of Waterville, for appointment to the Maine Maritime Academy Board of Trustees.

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 8

NAYS: 3

ABSENT: 0

The Secretary has so informed the Speaker of the House.

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.

Following Communication:

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

June 20, 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 Human Resources has had under consideration the nomination of Richard B. Dalbeck of Cape Elizabeth, for appointment to the Health Care Finance Commission.

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

YEAS: Senators 2
Representatives 9

NAYS: 0

ABSENT: 2: Sen. Bost of Penobscot, Rep. Duplessis of Old Town

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 Richard B. Dalbeck of Cape Elizabeth, for appointment to the Health Care Finance Commission be confirmed.

Sincerely,

S/Sen. Gerard P. Conley, Jr. S/Rep. Peter Manning
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Human Resources has recommended the nomination of Richard B. Dalbeck of Cape Elizabeth, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Human 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.

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, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator MATTHEWS

Senator BOST of Penobscot requested and received leave of the Senate to change his vote from YEA to NAY.

No Senators having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Richard B. Dalbeck was CONFIRMED.

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

June 20, 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 Judiciary has had under consideration the nomination of G. Arthur Brennan of York, for reappointment to the Maine Superior Court.

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 Senator Holloway of Lincoln, Rep. Hanley of Paris

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of G. Arthur Brennan of York, for reappointment to the Maine Superior Court be confirmed.

Sincerely,

S/Senator N. Paul Gauvreau S/Rep. Patrick Paradis
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of G. Arthur Brennan of York, 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: Senator CLARK

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

ABSENT: Senator MATTHEWS

1 Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent, and 1 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 G. Arthur Brennan was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

June 20, 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 Judiciary has had under consideration the nomination of Edward Gaulin of Saco, for reappointment to the Maine District Court.

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: 1

ABSENT: 1 Senator Holloway of Lincoln

Eleven members of the Committee having voted in the affirmative and One in the negative, it was the vote of the Committee that the nomination of Edward Gaulin of Saco, for reappointment to the Maine District Court be confirmed.

Sincerely,

S/Senator N. Paul Gauvreau S/Rep. Patrick Paradis
Senate Chair House Chair

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

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

Senator FOSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I will be opposing the reappointment of Edward Gaulin as a State District Court Judge today, and I think this is one of the most difficult situations one might be put in, but I want to share with you my reasons for opposing this nomination. In April, 1984, I served on the Judiciary Committee. The appointment of Judge Gaulin was before us, and we were all given his resume and we read it carefully. In a resume one must put some things that were interesting when making your judgment on a District Court Judge. In the resume he said, "In 1960 and 1970, a plaintiff in several cases involving the collection of legal fees, and a defendant in three cases brought against me by the plaintiff, all of which were dismissed. I was an officer and a stock holder in a construction company which was sued seven times by way of mechanics liens. They were all resolved and dismissed." But the one thing that sat up in the minds of some of us on the Committee that day, and the hearing was long and tedious, was the fact that he was a defendant in a divorce case in 1968 where several URSA motions were brought against him. These are motions for not paying your child support. I think a District Court Judge, and serving as a District Court Judge, is dealing with most cases that involve that, and a man that has not paid his own should be accountable. On the Committee with me was a man by the name of Representative Carrier from Westbrook, and after a series of tough questions, Representative Carrier asked Gaulin about four complaints that had been filed against him with the Maine Bar Association. He mentioned these complaints were dismissed. Carrier then asked Gaulin about delayed child support payments and a lapsed car registration, and Gaulin said that because of enormous debts he incurred in a construction business he was involved with, he was forced to delay support payments to his daughter. During the discussion we asked to Table the nomination of Edward Gaulin for more information. It was denied. A vote was taken that day, and the vote was nine to two, the two not favoring his appointment. I really thought that Mr. Gaulin would get the message that he would be watched as a Judge on the Bench, and for seven years I thought that was happening. But, his reappointment came up last week, and I picked up first the Kennebec Journal, and then the Bangor Daily and read, "Judge endorsed after racked for insensitively", and I went on to read that this was the same Judge Edward Gaulin that seven years ago I questioned his sensitivity. The nomination last week was opposed by the Family Crisis Shelter and Caring Unlimited. Both provides services

for victims of domestic violence in Sagadahoc, Cumberland, and York counties. The agency spokeswoman, a woman I don't know, but a woman that was courageous to come before a Committee and say that some of his incidents were offensive. In short, his conduct in the Courtroom is offensive. I read on, with heart pounding to think, are they going to reappoint this man again? Committee members, while crediting Reikett for coming forward, said there was not enough substantiation of complaints to justify voting against the nominee. I truly believe that Maine is blessed with an abundance of lawyers that I believe would make good Judges. And when even a hint, let alone evidence of the behavior and attitude of a member of the Bench is in question, I feel a message must be sent that we will not tolerate disrespect in the treatment of people appearing before any Judge in the State of Maine. Thank you.

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

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the comments of my good friend, the good Senator from Hancock, Senator Foster, and appreciate the concerns which she has raised to this Body this afternoon. Let me attempt to address to the Senate about what did transpire last week before the Joint Standing Committee on Judiciary when we did, in fact, conduct a Hearing on the Governor's nomination of Judge Edward Gaulin for reconfirmation to the Maine District Court. As you know, Judge Gaulin currently sits in two of the busiest counties in our state in Cumberland County and York County. I was not a member of the Committee on Judiciary in 1984, so I do not have any direct knowledge on the comments of the Senator from Hancock, Senator Foster, regarding what transpired in Judge Gaulin's original Hearing, although I do understand there was a Divided Report, and I do understand there were some concerns relating to a divorce matter in which he was involved. It can be fairly said that the evidence which we received during the Confirmation Hearing established without question that Judge Gaulin is a very intelligent, very fair, and a very impartial jurist, and there was unanimity on all those who appeared before the Committee, that he did, in fact, exhibit those traits, and folks were very pleased with that. They were also very pleased that Judge Gaulin was a prompt Judge, although he does have tremendous case loads working as he does in Biddeford and in Portland. He does manage to get his work out on time and devotes significant hours to his duties on the Bench. I think there was universal acclaim of his qualities in that area. There was a considerable period of time devoted to his demeanor and his mannerisms on the Bench. In fact, as the Senator from Hancock, Senator Foster has related to you, some people did raise questions as to the Judge's demeanor. Specifically, representatives of a group for Victims of Domestic Violence, Family Crisis Shelter, and Caring Unlimited did appear before the Committee, and we did question, to some extent, the individual who raised concerns about Judge Gaulin's demeanor, and we determined that no complaints regarding his demeanor were brought to the attention of the Governor, or apparently to the Committee on Professional Responsibility which oversees the behavior of Jurists in our state. I say this not by means of fault, because there was no

question many citizens do not know the proper avenues to mount complaints or concerns regarding sitting Judges. We were assured as a Committee that, in fact, the domestic violence group would be carefully watching Judges, and when they believed it was appropriate, they would bring their concerns to the Committee on Professional Responsibility, or to the Governor, and we certainly encourage that. We certainly do commend Ms. Reikett who appeared before our Committee last week for her candor and for her sincerity, and for her courage in bringing her concerns to our attention. It should be noted, however, and this is a concern that I have, Ms. Reikett had no personal knowledge of any insensitive comments. Her knowledge was based solely upon comments of others, not of victims, but of counselors, and I gave that weight, but I didn't give that the same weight as I would to someone who had personally complained or personally experienced the Judge's demeanor, although I don't in any way mean to limit or to discredit the testimony of Ms. Reikett. In fact, in my judgment, given the intense case load in the District Courts in Biddeford and in Portland, it is more likely than not that people of good will and good temperament would, in fact, be short, and might, in fact, exhibit behavior which we would not expect of a sitting Jurist. I don't mean that to defend the Judge, I think that's human behavior. It's unfortunate it does happen. I think that if one thing came from Judge Gaulin's Confirmation Hearing, the Judge listened, it was very difficult for him. I think he truly understood that the criticism of him was sincere and legitimate on the part of those who did come before the Committee. I believe that he grew as an individual during that very difficult afternoon. And, I think all should be praised for taking part in that Hearing. I do think also, parenthetically, that victims of domestic violence are not well served in our current judicial system. In fact, the Courtroom can be a very intimidating place for any individual, let alone a person who has been victimized. Our Courts are not set up to provide service. They are not set up to provide counsel to victims of domestic abuse. In fact, I had the privilege of serving on the Commission on Legal Needs a few years ago, and one of our major findings was that many people in Maine do use our District Courts as a social service agency because in many parts of our state, the District Court is the state. It is the one state agency in their communities. I think we do have to find a more appropriate mechanism, a better way to assist women and men who have been victimized by domestic violence and allow them to have a prompt and appropriate way for them to bring their concerns to the attention of our Courts. Much of the Confirmation Session with Judge Gaulin was directed to the inadequacies of our current system. But, I think it's a fair statement, that although we appreciate the concerns that were brought up about the Judge, the Committee members felt, with one exception, one member did vote against the Judge's renomination, but most of us felt that the Judge had, in fact, exhibited many fine qualities which did merit reappointment, and we do believe that the Judge heard, and I think will respond appropriately to the comments which were critical to his demeanor. Thank you.

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

Senator FOSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I applaud the good Senator from Androscoggin in thinking that maybe Judge Gaulin will listen to the words of the Committee back to the long Hearing and take into consideration that which was said about his insensitivity. I thought that seven years ago, that he would do that, and I'm really not at a point in my life that I would like to be, and would hope that you all give this serious consideration.

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

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. I, too, serve on the Judiciary, and I also, like our Chairman, Senator Gauvreau from Androscoggin, voted for this nomination. The accusations of insensitivity were merely hearsay. When we tried to probe a little deeper it was hearsay, well I heard someone say it was rumor. There was no factual proof, first of all. Secondly, one example that was given was that he supposedly said to a woman in the Courtroom after she was given a judgment for protection against an abusive husband, he said, "Remember, this is only a piece of paper." They interpreted it as being insensitive when the true meaning of that statement was, "Remember its just a piece of paper, that cannot defend you against an abusive person. You need something more, security, police, or this sort of thing." So, another words, he was telling her to be careful, and ward off any problems that may come to you. I was impressed with his candor, and I wholeheartedly support his nomination, particularly because also he is a member of our community of Americans of French Canadian decent, and I'm very proud to support his nomination.

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of Edward Gaulin of Saco, 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 BALDACCI, BOST, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, FOSTER, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, MCCORMICK, MILLS, PEARSON, RICH, TITCOMB, VOSE, WEBSTER

NAYS: Senators BERUBE, BRANNIGAN, COLLINS, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, GAUVREAU, GILL, KANY, SUMMERS, THERIAULT, TWITCHELL, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, with No Senators being absent, and 20 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 Edward Gaulin was **CONFIRMED**.

Senator **KANY** of Kennebec moved to **RECONSIDER CONFIRMATION** of the **NOMINATION** of Edward Gaulin of Saco.

Senate at Ease

Senate called to order by the President.

Senator **KANY** of Kennebec requested and received leave of the Senate to withdraw her motion to **RECONSIDER**.

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

June 20, 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 Judiciary has had under consideration the nomination of Rolanda L. Klapatch of Camden, for appointment to the Maine Human Rights Commission.

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

YEAS: Senators 2
Representatives 10

NAYS: 0

ABSENT: 1 Senator Holloway of Lincoln

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 Rolanda L. Klapatch of Camden, for appointment to the Maine Human Rights Commission be confirmed.

Sincerely,

S/Senator N. Paul Gauvreau S/Rep. Patrick Paradis
Senate Chair House Chair

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

Senator **WEBSTER** of Franklin was granted unanimous consent to address the Senate on the Record.

Senator **WEBSTER**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think the recent action taken by this Body regarding the appointment of a Judge from southern Maine ought to remind us how important it is, or how there is a flaw in our system. It is offensive to me to think that seven members of the Committee, regardless of who they are, of which political Party they are, or which Governor submits anything to any of us, it seems a flaw in our system that a majority vote of this duly elected Senate does not vote up or down a nominee by the Governor, regardless of who the Governor is, or where the nominee came from, or what the nominee is. And, I would hope that at some point that we as members of this Senate in some negotiations along this way make the Committee process more of an advisory situation rather than forcing this Senate to vote with a lopsided number that's very difficult to achieve. Seems to me that a majority vote of this Body ought to confirm or deny any nominee to anything. Thank you.

Senator **GAUVREAU** of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator **GAUVREAU**: Thank you Mr. President. Ladies and Gentlemen of the Senate. Certainly I've heard and am aware of the arguments why we should vest the confirmatory authority in the Senate as a whole, as opposed to the Committee of subject jurisdiction. I really don't feel that would improve the quality of the confirmation process. The Senate, obviously, by its nature, being a publicly elected

Body, is a political institution, and I respect that. In fact, it should represent the divergent views and philosophies, needs and desires of the people of the State of Maine. But, there has been a tradition, certainly in the Committee on Judiciary, as long as I have had the privilege of serving in that Committee, and I'm sure the case is the same with other Committees as well, that even in this year which has been characterized by raw partisan emotions almost from the outset of the One Hundred and Fifteenth Legislature, the Joint Standing Committee on Judiciary has gone about its task in a professional and nonpartisan fashion, and if one would take the time to go back this session and look at the contentious issues of public policy which our Committee has had, everything from whether or not to amend our Maine Human Rights Act to prohibit discrimination against women based upon their pregnant status in employment, or whether to prohibit discrimination predicated upon sexual orientation and certainly, with respect to passing judgment upon the appropriateness of the Governor's recommendations for men and women who serve in our courts of our state, the men and women of the Committee on Judiciary have carefully scrutinized the Governor's nominations in an a partisan and a political fashion. Now, I certainly do not know, although I must admit that I am slightly curious as to the reasons for the significant vote this afternoon against the reconfirmation against Judge Gaulin, I do know that there is an appropriate sympathy for the victims of domestic violence in the Maine Legislature, and I applaud that. I, in fact, consider myself to be an advocate for victims of domestic abuse. But, I have a difficult time contrasting the two and half hour Hearing that went on in the Committee on Judiciary last week, and a very careful scrutiny of the proprietary value of the evidence and testimony received. Comparing that to the ephemeral motive values which go into a political judgment on whether to vote up or down on a nominee, I think for my money I'd maintain the system the way it is. As you know I'm a practicing attorney, I have never given any consideration, and I think it would be the most foolhardy thing to do to consider the partisan orientation of a sitting Judge or Justice as I practice law. Justice is to be fairly applied to all people in our society without any partisan considerations. We aspire as men and women to the highest standard of justice we can attain. It is a profession. It is a pursuit of justice that those of us privileged to get the opportunity to practice law engage in. If I felt that I served on a Committee that did not adhere to those values, then, in fact, I might be supportive of a change in the confirmatory authority, but I have seen no persuasive weight that the Committees of jurisdiction should be divested of their role, and certainly my understanding of the respect that the Committee on Judiciary has given traditionally in serving the appropriateness of judicial nominees would lead me to believe that we should retain the confirmatory authority in the Committee on jurisdiction. Thank you.

Senator CONLEY of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator CONLEY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise with my good colleague from Androscoggin to address some of the remarks made by the good Minority Leader, and like he, I, too, read the papers and the editorial pages and see what they have to say about what we do here in reference to nominations. But, let us not forget why we're in the state we're in, in reference to what the rules are around here. I don't know exactly the history or how it came to be, but the other Body now controls nominations. The Senate no longer controls nominations, the other Body does. They have more members on each and every Committee, and so what they decide goes. So, whoever is in charge of the rules at that time, that's the way it's been designed. In this instance, although I'm open to suggestion on it, I'm glad the rules are the way they are. I rise at this time to say that when Judge Gaulin's name came up for consideration before us, although many in here may not believe it, I actually thought to myself, "We've got a lot to do today, I don't know about getting up, I'll take some time," and there goes Conley again. So, I actually thought about not getting up, but it really comes back, and what my good seatmate from Androscoggin back here has reminded me, and constantly reminds all of us, we really have a responsibility to each other to impart any knowledge we may have that may aide people, particularly in decisions of nominations. We sit here, we see a couple of numbers next to a Roll Call, we know nothing about the person, I do it myself from time to time, although I actually do try to talk to people to get a feel for the nomination, but when it comes to Judges, you look at your own little area and you say, "I'm a little more tuned into this, I'm going to pay careful attention to it." A Judicial nomination is unlike any other. Its for seven years, and you give up every other thing that's going on in your life, you really do. It's not like being appointed to a part-time Board or Commission where you have another life to go back to. If somebody's going to reject someone, particularly a person whose been sitting, I truly believe there should be a good reason for it. Now the Governor, who is reappointing Judge Gaulin in this instance, reviewed him and has given him his stamp of approval, and then, the once respected Judiciary Committee went through a grueling Hearing, and I was present for that Hearing, though I was not there to testify in favor of Judge Gaulin. Not at all, I was there waiting for another nomination afterwards, somebody I care about and somebody whose philosophy is much more akin to mine than Judge Gaulin's. His own philosophy is much more conservative than my own, however, I saw him under questioning from the Committee, and I thought he did an excellent job. I've seen him in Court, and unlike the person who testified there, I actually can say, I guess, that I have seen Judge Gaulin lose his temper personally. But, I can honestly say I never seen a Judge that I see frequently not lose his or her temper sometime. In the District Court you are just inundated with thousands of cases, and people who have no idea how the system runs. It is a herd of people, and to keep any sanity, and to be patient, and to listen to everybody, and be fair is very difficult to do. You really do need a special person. I can say honestly that I think that Judge Gaulin is that type of a person. I think it would have been terrible if he had been rejected by this Body and thrown out on the street a few years short of retirement without any possible way to recoup his

situation. He's a person who has no way of defending himself here before us. I'm ashamed that I did not get up to defend him, and I guess I could have gone into more detail about some of the cases I've seen him handle, and some of the very good decisions I think he's made, and I have nothing in common with the man, I do not socialize with him and, like I said, his philosophy is far different from mine, but he's a good Judge, and I'm just embarrassed I did not get up to share some information with the Senate. Maybe the Confirmation would have gone down, I don't know, but, I really feel we have a responsibility to do that, and I guess I'm going to pay more careful attention in the future. Thank you.

Senator WEBSTER of Franklin was granted unanimous consent to address the Senate on the Record.

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I want to make it perfectly clear that I made my statement not in reference to any particular nominee. For example, this Judge that was just allowed to be passed by the Senate, I was not in any way making reference to that particular nominee. But, I understand we're one of the few states, if maybe the only state in the country, that nominates in this way. Several days ago or weeks ago we had a nominee to LURC, which I felt very strongly against and would have liked to argue against, but because of the screwy system we have here where seven members of the other Body can actually defeat a nominee, it made little sense for me to argue against a nominee knowing it took two-thirds of this Body to override that, and my point had nothing to do with Judge Gaulin or any of the nominees we dealt with today. My point was, and still is, that the system is not right, it should be by a majority vote of this Body, because I can assure you that some of the nominees that we've seen have bipartisan concern from both Parties, and philosophical concerns from both Parties, and I would just like, although it's not going to do any good, I wish that we had a different system because I don't like the fact that every member on the Committee who are members of this Body could be opposed to somebody, and you could actually become nominated under our system as it's established, and I was not making any reference to any nominee that we've discussed today. Thank you.

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of Rolanda L. Klapatch of Camden, 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 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, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Rolanda L. Klapatch was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

June 20, 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 Judiciary has had under consideration the nomination of Ronald D. Russell of Bangor, for appointment to the Maine District Court.

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 Senator Holloway of Lincoln, Rep. Farnsworth of Hallowell

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 Ronald D. Russell of Bangor, for appointment to the Maine District Court be confirmed.

Sincerely,

S/Senator N. Paul Gauvreau S/Rep. Patrick Paradis
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of Ronald D. Russell 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 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, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Ronald D. Russell was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

June 20, 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 Judiciary has had under consideration the nomination of Sidney W. Wernick of Portland, for reappointment to the Maine Supreme Judicial Court.

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 Senator Holloway of Lincoln, Rep. Farnsworth of Hallowell

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 Sidney W. Wernick of Portland, for reappointment to the Maine Supreme Judicial Court be confirmed.

Sincerely,

S/Senator N. Paul Gauvreau S/Rep. Patrick E. Paradis
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of Sidney W. Wernick of Portland, 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 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, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Sidney W. Wernick was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Bill "An Act to Allow Nonprofit Organizations to Use Proceeds from Beano or Bingo for Limited Purposes" (Emergency)

S.P. 765 L.D. 1956

Presented by President **PRAY** of Penobscot Cosponsored by Senator **MILLS** of Oxford and Representative **CLARK** of Millinocket Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Committee on **LEGAL AFFAIRS** suggested and **ORDERED PRINTED**.

Which was, under suspension of the Rules, the Bill **READ ONCE** without reference to a Committee.

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

ENACTORS

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

Emergency

An Act to Promote Long-term Economic Development
H.P. 1321 L.D. 1912
(C "A" H-657)

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

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

ENACTORS

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

Emergency Resolve

Resolve, to Establish the Commission to Study the Feasibility of a Capital Cultural Center
H.P. 1164 L.D. 1705
(H "A" H-624 to C "A" H-453)

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

On motion by Senator **CLARK** of Cumberland, Tabled Unassigned, pending **ENACTMENT**.

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

COMMUNICATIONS

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE**

June 25, 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 Agriculture has had under consideration the nomination of Richard H. Duncan of Presque Isle, for appointment to the Harness Racing Commission.

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

YEAS: Senators 2
Representatives 9

NAYS: 0

ABSENT: 2 Senator Titcomb of Cumberland,
Rep. Aliberti of Lewiston

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 Richard H. Duncan of Presque Isle, for appointment to the Harness Racing Commission be confirmed.

Sincerely,

S/Sen. R. Donald Twitchell S/Rep. Robert J. Tardy
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Agriculture has recommended the nomination of Richard H. Duncan of Presque Isle, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Agriculture 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, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator CONLEY

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

The Secretary has so informed the Speaker of the House.

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE**

June 25, 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 Agriculture has had under consideration the nomination of Thomas B. Saviello of Wilton, for reappointment to the Board of Pesticides Control.

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 9
Representatives 2

NAYS: 0

ABSENT: 2 Senator Titcomb of Cumberland,
Rep. Aliberti of Lewiston

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 Thomas B. Saviello of Wilton, for reappointment to the Board of Pesticides Control be confirmed.

Sincerely,

S/Sen. R. Donald Twitchell S/Rep. Robert J. Tardy
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Agriculture has recommended the nomination of Thomas B. Saviello of Wilton, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Agriculture 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, TITCOMB, TWITCHELL,
VOSE, WEBSTER, THE PRESIDENT - CHARLES
P. PRAY

ABSENT: Senators None

No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Thomas B. Saviello was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **BERUBE** for the Committee on **JUDICIARY** on Bill "An Act Correcting Errors and Inconsistencies in the Laws of Maine" (Emergency)

S.P. 760 L.D. 1954

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-373)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-373) **READ**.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-373).

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

COMMUNICATIONS

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE**

June 26, 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 Agriculture has had under consideration the nomination of Paul A. Murphy of Windham, for appointment to the Animal Welfare Board.

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

YEAS: Senators 2
Representatives 8

NAYS: 0

ABSENT: 3 Sen. Titcomb of Cumberland, Rep. Mahany of Easton, Rep. Parent of Benton

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Paul A. Murphy of Windham, for appointment to the Animal Welfare Board be confirmed.

Sincerely,

S/Sen. R. Donald Twitchell S/Rep. Robert J. Tardy
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Agriculture has recommended the nomination of Paul A. Murphy of Windham, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Agriculture 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, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Paul A. Murphy was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Senator **WEBSTER** of Franklin was granted unanimous consent to address the Senate off the Record.

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

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

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Review the Kennebec County Budget Committee" (Emergency)
S.P. 640 L.D. 1688

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-369)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-369) **READ** and **ADOPTED**.

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

Which was, under suspension of the Rules, ordered sent down forthwith for concurrence.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Reorganize the Management and Regulatory Functions of State Government Pertaining to Natural Resources" (Emergency)

S.P. 730 L.D. 1915

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

Signed:

Senator:

EMERSON of Penobscot

Representatives:

NASH of Camden
HEESCHEN of Wilton
LOOK of Jonesboro
WATERMAN of Buxton
SAVAGE of Union
GRAY of Sedgwick
KILKELLY of Wiscasset
KERR of Old Orchard Beach

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-372)**

Signed:

Senators:

BERUBE of Androscoggin
BUSTIN of Kennebec

Representatives:

LARRIVEE of Gorham
JOSEPH of Waterville

Which Reports were **READ**.

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

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

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

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

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

19 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-372) **READ** and **ADOPTED**.

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

Which was, under suspension of the Rules, ordered sent down forthwith for concurrence.

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

SENATE PAPERS

Bill "An Act to Allow a Referendum in Sagadahoc County Regarding a Bi-county Work Center with Kennebec County" (Emergency)

S.P. 766 L.D. 1962

Presented by Senator **CAHILL** of Sagadahoc
Cosponsored by Representative **COLES** of Harpswell,
Representative **SMALL** of Bath and Representative **CHONKO** of Topsham
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

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

Which was, under suspension of the Rules, ordered sent down forthwith for concurrence.

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

SENATE PAPERS

Bill "An Act to Implement Constitutional Provisions Restricting the Imposition of Unfunded State Mandates"

S.P. 767 L.D. 1963

Presented by Senator **CLARK** of Cumberland
Cosponsored by Senator **CLEVELAND** of Androscoggin
and Representative **GWADOSKY** of Fairfield
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.

Committee on **STATE AND LOCAL GOVERNMENT** suggested
and **ORDERED PRINTED**.

Which was, under suspension of the Rules, **READ
TWICE** and **PASSED TO BE ENGROSSED**, As Amended, without
reference to a Committee.

Which was, under suspension of the Rules, ordered
sent down forthwith for concurrence.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the Tabled and
Later Assigned (6/19/91) matter:

An Act to Amend the Severance Pay Laws
S.P. 84 L.D. 157
(C "A" S-159)

Tabled - June 19, 1991, by Senator **CLARK** of
Cumberland.

Pending - **CONSIDERATION**

(In Senate, June 19, 1991, Veto Message from
Governor **READ** and **ORDERED PLACED ON FILE**.)

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

Senator **ESTY:** Thank you Mr. President. Ladies
and Gentlemen of the Senate. I would ask that this
Body act to override the Governor's veto of this
piece of legislation without going into the details

in which we had gotten into during the earlier debate
regarding this issue. This is an issue that
clarifies what had been present law that the
Department of Labor supported, that the Attorney
General supported and fought for on behalf of the
Legislature, and was something that the Governor had
indicated that he would support as well. I would ask
that this Legislature would vote to overturn the
Governor's veto. Thank you.

THE PRESIDENT: The pending question before the
Senate is: "Shall this Bill become Law
notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2,
of the Constitution, the vote will be taken by the
Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the
veto of the Governor.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI, BERUBE, BOST,
BUSTIN, CLARK, CLEVELAND, CONLEY,
DUTREMBLE, ESTES, ESTY, GAUVREAU, KANY,
MATTHEWS, MCCORMICK, MILLS, PEARSON,
THERIAULT, TITCOMB, TWITCHELL, VOSE,
THE PRESIDENT - CHARLES P. PRAY**

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

ABSENT: Senators **BRANNIGAN, COLLINS**

21 Senators having voted in the affirmative and
12 Senators having voted in the negative, with 2
Senators being absent, and 21 being less than
two-thirds of the Membership present and voting, the
veto of the Governor is sustained.

The Secretary has so informed the Speaker of the
House.

Senate at Ease

Senate called to order by the President.

The Chair laid before the Senate the Tabled and
Later Assigned (6/19/91) matter:

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

Tabled - June 19, 1991, by Senator CLARK of Cumberland.

Pending - **CONSIDERATION**

(In Senate, June 19, 1991, Veto Message from Governor READ and **ORDERED PLACED ON FILE.**)

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

Senator ESTES: Thank you Mr. President. As we consider this second Bill this evening that has come back without the signature or approval of the Governor, I would suspect that the vote to override might not be much different than that on the previous Bill, but I do believe that there are some very strong merits to this piece of legislation that should be taken into consideration, and I think a number of errors, a number of gross errors in the Governor's message to the members of the Legislature. This Bill, "An Act Concerning Teacher Employment", L.D. 1338, came out of the Education Committee an amended version in a unanimous Report. It wasn't until about a week and a half after it had started through the process and was in Second Reading and going to Engrossment that some concerns became raised about what the possible implications of this Bill would be. I think that those questions that were raised are not accurate, and I would like to go into just a little bit of a discussion about this. The original Bill that we had would require reasons for not renewing a nonprobationary teacher's employment contract to be provided in writing to the teacher by the superintendent. The Committee felt that the amended version should go a little further by also providing the same opportunity to request and receive written reasons for nonrenewal of contract to probationary teachers. The Governor in his message said, that this was a significant step toward the erosion of the probationary teacher's status. It was interesting, I worked in Committee with both the Maine Teachers' Association and Maine School Management, and came up with a compromise that was very acceptable to all Parties. It was after the fact, about a week and a half later, that we ended up hearing some concerns coming from a particular municipal school district, very strong from that particular community and from the governing boards of the Superintendents' Association and the School Boards' Association. For those of you that may be unclear about the difference between a probationary and a nonprobationary teacher, a probationary teacher is a teacher who first entered into contract, a noncontinuing contract, with a school district for a two year period. Once they have fulfilled that two year period, then they become nonprobationary and are on a continuing contract. Most of us think that a probationary teacher is a brand new teacher, right out of school, green behind the ears, needs a lot of coaching, and mentor, and help and so forth, but that is not the case. I can be a probationary teacher if I were to give up my employment of eighteen years and move to another school district. I would be put on a two year probationary period. What we asked for, for the probationary teacher, was if they were to be let

go during those two years of probation, that they could request in writing during fifteen days following notification, a written statement of reasons for the decision not to nominate. The superintendent would have been required to have furnished a statement within fifteen days of the request simply stating what the reason for nonrenewal was. And we also stated in the legislation that the reasons given by the superintendent do not limit the discretion of the superintendent with respect to nomination of a probationary teacher, nor is the superintendent's decision subject to arbitration under a collective bargaining agreement. The comments by the Governor that this is a significant step toward erosion of the probationary teacher's status leaves me rather perplexed. His other comment that requiring management to provide written reasons would soon become the fulcrum of litigation that would drive up local education costs and tie hands of our school managers is simply false. If a probationary teacher is let go and only verbal reasons are given as is currently allowed by law, that teacher may take litigation against that school district, and some have and some probably still will. This will not encourage it, and will not end up impacting arbitration under a collective bargaining agreement. There was also reference in the Governor's message to overwhelming opposition, which was after the fact opposition. I wouldn't say that it was overwhelming. He does make mention of the Secondary School Principals' Association and Elementary School Principals' Association, and nowhere have I found in my folder on this Bill any opposition, nor in my notes that I took on the Hearing that day. The question that is raised about whether this would be seriously debilitating to the management of our schools in the Governor's veto message I think is also erroneous. There was a comment that was made in one of the letters that we received after the fact from that Maine School Boards' Association. One of the bases for their position in opposition after the fact was, and I quote, "This would be the only situation in the state where probationary employees must be given reasons for an employer's decision not to continue their employment." Section 630 says, "written statement of reason for termination of employment", this is for any employee whether they have been hired for four weeks, or four years, or forty years, "an employer shall upon written request of the affected employee, give that employee the written reasons for the termination of his employment". In fact, Section 630 goes further and says that, "an employer who fails to satisfy this request within fifteen days of receiving it may be subject to a forfeiture of not less than fifty dollars, nor more than five hundred dollars". So I would contend that other employees in this State are far more fairly treated than the poor lowly probationary teacher. It is also interesting, I find, to note that in the tough fiscal times that we're facing, the actions that school Committees and school boards have taken in order to live within the proposed flat funding for FY 92. It has resulted in an estimate based on the survey that was done by Maine School Management, of the loss of perhaps four hundred jobs. Most of those are probably going to be your probationary teachers, because they have for the most part least seniority within the system, and those with fewer years are the first to go. Next year that figure is estimated to be somewhere around eighteen hundred teaching staff that may be

eliminated. I don't think it is unreasonable for a superintendent who is not renewing a probationary teacher's contract to give a reason. There is a big difference, a huge difference between a nonrenewal for a justified reason and being laid off. A teacher who is laid off who is nonrenewed without reason frequently will have questions as to their professional confidence, and possibly a stigma attached to their professional careers. In these tough fiscal times when fiscal constraints are a reason, I don't think it is unreasonable if a probationary teacher requests that a superintendent write that reason down, that the dismissal, the nonrenewal of the contract was for budgetary constraints. I urge members of this Body to vote yes to override the Governor's veto. Thank you.

THE PRESIDENT: The pending question before the Senate is: "Shall this Bill become Law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

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

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

ABSENT: Senators BRANNIGAN

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, and 20 being less than two-thirds of the Membership present and voting, the veto of the Governor is sustained.

The Secretary has so informed the Speaker of the House.

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

ENACTORS

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

Emergency

An Act to Provide Additional Funds for Debt Service Payments for the Fiscal Year Ending June 30, 1991

H.P. 1363 L.D. 1951

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 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.

Under suspension of the Rules, ordered sent forthwith to the Governor.

Senate at Ease

Senate called to order by the President.

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

ORDERS OF THE DAY

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

An Act to Place Certain Lands Recommended by the Special Committee on the New Capitol Area Master Plan under the Jurisdiction of the Capitol Planning Commission

S.P. 508 L.D. 1346 (C "A" S-281)

Tabled - June 19, 1991, by Senator **CLARK** of Cumberland.

Pending - **ENACTMENT**

(In Senate, June 12, 1991, **RECONSIDERED ENACTMENT.**)

(In House, June 12, 1991, **PASSED TO BE ENACTED.**)

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

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

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

On further motion by same Senator, the Senate **RECONSIDERED** its action where by it **ADOPTED** Committee Amendment "A" (S-281).

On further motion by same Senator, Senate Amendment "C" (S-368) to Committee Amendment "A" (S-281) **READ**.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **BUSTIN** of Kennebec to **ADOPT** Senate Amendment "C" (S-368) to Committee Amendment "A" (S-281).

The President requested that the Assistant Sergeant-at-Arms escort the Senator from York, Senator **DUTREMBLE** to the Rostrum where he assumed the duties as President Pro Tem.

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

Senate called to Order by the President Pro Tem.

The President Pro Tem laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Provide Employee Protection in the Event of Closure or Reduction in Capacity of State Facilities, Programs or Services"

S.P. 370 L.D. 995
(S "A" S-331 to
C "A" S-271)

Tabled - June 26, 1991, by Senator **WEBSTER** of Franklin.

Pending - **CONSIDERATION**

(In Senate, June 26, 1991, Veto message from Governor **READ** and **ORDERED** placed on file.)

(In Senate, June 11, 1991, **PASSED TO BE ENACTED**, in concurrence.)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to say a little bit about L.D. 995. I think that the reasons that I read for the veto are not especially convincing, if I may say. The Bill that we are addressing is the amended version which received a

unanimous Committee Report. It came about as a result of much discussion between both Parties, and they came back to us and said they were in agreement, and we were delighted with them, and as a result we took it out unanimously. Subsequently, we received a letter from a Department saying that they had to back away, although they had made the agreement in good faith based upon contracts that had been reviewed with the Department of Administration and the Department of Finance. Nonetheless, they now were renegeing, and that came about at the end of May. I know that in the veto message there is mention that it would be difficult to implement some of the AMHI consent decree proposals. If they read the amended version of the Bill, they would find that does not happen at all. In fact, it does not prevent the state from entering into contracts or interfere with such things as pertains with the consent decree. Those issues are subject to specific legislative approval. The compromise Bill, which is the Bill that is before us does, indeed, allow for contracts and temporary positions for up to ninety days if no permanent state employee is available within the department or the agency to perform the work. Also, it continues to allow the contracts if it can be proven there will be obvious savings. It exempts, also, agencies from contract termination clause with proof of financial hardship. The amendment provides clear and reasonable guidelines for the comparison of the cost of contracts with work done by state employees. If indeed it is found to be cheaper the other way through contract, it can still be done. Having said this, having reread the Bill, the amended version of the Bill, I know that I will vote to override the veto. It is a fair Bill and I hope you will go along with me. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is: "Shall this Bill become Law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI, BERUBE, BOST, BUSTIN, CLARK, CLEVELAND, CONLEY, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, PRAY, THERIAULT, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT PRO TEM - DENNIS L. DUTREMBLE**

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

ABSENT: Senators BRANNIGAN

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

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, and 21 being less than two-thirds of the Membership present and voting, the veto of the Governor is sustained.

The Secretary has so informed the Speaker of the House.

The President Pro Tem laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Promote Economic Development"
S.P. 515 L.D. 1376
(C "A" S-230)

Tabled - June 26, 1991, by Senator **CLARK** of Cumberland.

Pending - **CONSIDERATION**

(In Senate, June 26, 1991, Veto message from Governor **READ** and **ORDERED** placed on file.)

(In Senate, June 11, 1991, **PASSED TO BE ENACTED**, in concurrence.)

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

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask that the Senate vote to override the Governor's veto. I would only say that this is the Bill that deals with businesses in this State of Maine that receive economic subsidies, public economic subsidies from the state. The Bill simply asks that if a business does receive those economic subsidies and they create new jobs, that they consider the employees that had worked for them, and that had been laid off for those new jobs. They needed to be qualified. There are some inaccuracies within the Governor's veto. I would not like to get into all of those at this time except one, that the Governor notes that the penalties are unjustifiably harsh. In fact, penalties only would be reinstatement of the job. If someone had ignored that, certainly they would be harsh, but the penalties are only to reinstate to the job. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator **PRAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am going to stand here for a few moments and share some of the wisdom that I have learned over my recent tenure here in the Senate from the Senator from Franklin, Senator Webster, who has continuously expressed his concerns of his constituents, particularly those who are the taxpayers of this state, those who labor long and hard, and who work to get ahead and constantly are seeing their payroll eaten away by tax dollars taken from them. L.D. 1376, "An Act to Promote Economic Development", is a Bill that basically states that to those individuals who labor long and hard and have tax dollars that go to either tax breaks or tax encouragements, increment financing, loan guarantees, public grants of dollars for economic development to those people who would receive it, would have to provide for those individuals who have labored long and hard, and provided a pool of cash for the state, to offer those incentives to businesses, that they would be taken into consideration if they happen to be the individuals who were laid off, individuals who had been recently discarded in order to receive that. In my particular Senate District, which in many ways are very similar to the Senator from Franklin, Senator Webster's District, we've seen what used to be Great Northern Paper Company, and a work force of forty seven hundred people be slowly whittled down to now a work force of twenty-two hundred people. I think that obviously some of that is just the changing technologies that are taking place. Nevertheless, today when you go to those communities similar to other paper mill towns, you will see and increasing number of cars with out-of-state license plates such as Arkansas, Alabama, Georgia, and Atlanta, the people who are now being hired to take Maine jobs while Maine people go unemployed. Corporations receive a tax incentive to expand or provide a tax loan guarantee or increment financing so that they can create employment. They turn around and give it to people who have not been paying over the years and laboring and working for it. I think that we are going to at some point properly give the respect to the laborers of this state we need to start saying enough is enough. I think, and I am probably a cosponsor on a number of proposals that give tax incentives to businesses to promote the economy, I stop and think of the situation that occurred in the 1930's, and if it hadn't been for a number of policies of Franklin Roosevelt of taking tax dollars to take jobs in a period of economic down turn, we may have seen the depression of the 1930's last a lot longer than it had. We probably should at some time pause and reflect and look and the conditions and situations we have here today. We were fortunate to have the foresight of the "New Deal". If you stop and look, probably what separates us from a recession and depression today are many of the policies that were passed at that time, unemployment insurance, social security, and FDIC, to name a few, if those programs were not in place today we would have a depression in this country with the way the economy has been going. Those have provided the additional standards of living and have provided and opportunity for people to see these temporary dips in the economy that we so frequently refer to as recessions. I think it is important that we spur business on, and

it is important that we give them tax incentives and provide utilization of State Capitol's to provide investment incentives for them. I think it is also equally important that we provide those jobs for Maine people. I am sorry that the Governor decided to veto it and continuously puts himself on a side opposite of those who labor with the sweat on their brow and strain in their backs. Very little attention is being given to them on the second floor. I would hope that the Senate would react responsibly and override the objections of the Governor. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is: "Shall this Bill become Law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BALDACCI, BERUBE, BOST, BUSTIN, CLARK, CLEVELAND, CONLEY, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, PRAY, THERIAULT, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT PRO TEM - DENNIS L. DUTREMBLE

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

ABSENT: Senators BRANNIGAN

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, and 21 being less than two-thirds of the Membership present and voting, the veto of the Governor is sustained.

The Secretary has so informed the Speaker of the House.

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

ORDERS

Joint Resolution

On motion by Senator VOSE of Washington (Cosponsored by: Representative TAMMARO of Baileyville) the following Joint Resolution: S.P. 768

JOINT RESOLUTION COMMEMORATING THE 150th ANNIVERSARY OF THE TOWN OF MEDDYBEMPS

WHEREAS, our State is known nationwide for the special quality and human scale of the small communities on the edges of our woodlands and lakes; and

WHEREAS, Meddybemps, a town of 125 residents, which is located in one of the rugged and beautiful regions of Washington County, is a sterling example of these special communities; and

WHEREAS, the town derives its name from the lovely Meddybemps Lake, which it abuts, whose name is derived from a Native American word for "plenty of alewives"; and

WHEREAS, the first English settlers in the area came to build sawmills around 1812; and

WHEREAS, the area prospered and its population grew during the first part of the nineteenth century; and

WHEREAS, the Town of Meddybemps was set off from the surrounding towns of Cooper, Charlotte and Baring, and was incorporated on February 20, 1841 by Private and Special Law 1841, chapter 103; and

WHEREAS, since the town's incorporation it has served as a nurturing home for generations of its families and as a serene retreat for its visitors from elsewhere in the State and from the rest of the nation; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the 150th anniversary of the Town of Meddybemps, and to commend the inhabitants and officials of this town for the success they have achieved together over the past century and a half, and to extend to each our sincere hopes and best wishes for continued achievement over the next 150 years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

Which was **READ** and **ADOPTED**.

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

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

The Sergeant-at-Arms escorted the Senator from York, Senator DUTREMBLE to his seat on the floor.

Senate called to Order by the President.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committees on **BANKING AND INSURANCE and LABOR** on Bill "An Act to Improve the Maine Workers' Compensation System"

H.P. 1372 L.D. 1957

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1178).

Signed:

Senators:

CONLEY of Cumberland
THERIAULT of Aroostook
KANY of Kennebec
ESTY of Cumberland

Representatives:

RAND of Portland
RUHLIN of Brewer
PINEAU of Jay
JOSEPH of Waterville
ST. ONGE of Greene
TRACY of Rome
ERWIN of Rumford
MITCHELL of Vassalboro
MCHENRY of Madawaska
KETOVER of Portland
MCKEEN of Windham

The Minority of the same Committees on the same subject reported that the same **Ought to Pass** as Amended by Committee Amendment "A" (H-689)

Signed:

Senators:

CARPENTER of York
BRAWN of Knox

Representatives:

HASTINGS of Fryeburg
GARLAND of Bangor
CARLETON of Wells
AIKMAN of Poland
LIPMAN of Augusta
BENNETT of Norway

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "B" (H-696) AND "C" (H-697)**.

Which Reports were **READ**.

Senator ESTY of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator ESTY: Thank you Mr. President. Ladies and Gentlemen of the Senate. We have finally arrived at this point in the Maine Legislature, a point that we have been looking forward to for a long time. This is the time where we are able to debate the Workers' Compensation issue, an issue that is so critical and so vital to this state. Let me just start off by talking about something very briefly. I think we can all agree upon this in this Chamber. I would like to spend just one moment thanking the staff that served the Labor Committee and the staff that served the Banking and Insurance Committee. Molly, Alice, Diane and Jane have done an outstanding job for all of us. I think that it is important as we debate this issue that we take one moment and truly appreciate the efforts that they made, as well as all the staff in the Legislature. I would like to begin my comments by noting how important and critical of a role they served for us.

Now to the issue. The issue in front of us is an important issue to all of the citizens of the State of Maine. It is an important issue because it deals with injured workers. It deals with jobs. It deals with employers. It deals with all facets of Maine life. It is also important because we are in a time of crisis. Workers' Compensation is very expensive in the State of Maine. It is very expensive nationally. It was our role to address that expense. It was also our role to insure that injured workers were protected and were made whole by the system that was created to serve them, as well as the employers of our state. What we have done through the Labor Committee and the Banking and Insurance Committee is craft a majority package that addresses the concerns of cost, and addresses the concerns of injured workers. There is a great amount of detail that I am more than happy to get into during this debate, but I would like to begin the debate by saying there are a great deal of areas that both Committees agreed upon. Those are important focuses from both Parties. There were key differences. It was the majority's opinion that those key differences had to be addressed in order to serve those differences, in a way to serve the major industries and business in our state, but also to protect the injured workers. Thank you.

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

Senator BRAWN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I reluctantly rise to ask you to vote against the Majority Report so we can go on to accept the Minority Report. As the good Senator from Cumberland, Senator Esty has said, I,

too, wish to add my thanks to the staff, but I personally want to add right now my thanks to all the Committee members who have worked on this task. In fact, last night I was spending quite a bit of time thinking as the good Senator has said. We can talk forever. We can talk all night. How do you pull together such an important issue and to cut to what we really want to say? I have put down a lot of remarks, and I will try to keep them as brief as possible and still be able to respond to questions. I want to say that I want to compliment my Senate Chair, the good Senator from Kennebec, Senator Kany, who has so much energy and is tireless in bringing in speakers. We have had more speakers and education brought before us, and I want to thank her for doing that. I have learned more than I have ever wanted to know about Workers' Compensation. The very first time I ran for office in 1986 I knew nothing about a lot of issues. I knocked on many doors, and Workers' Compensation came up again and again. When I was elected and came here I had the privilege, and I count it a privilege of being here when we passed those 87 reforms. I know we could debate that subject end on end, but the one thing that I remember from the 87 reforms was, the point that the good Senator from Kennebec, Senator Bustin, kept bringing up time and time again, safety. In this package, this is one item that we all agree upon. We have written in both reports an item on safety, and any employers who have accidents of two or more will have to go to safety school. I think that is a great accomplishment. I think that whatever we pass when we go home, we all agree on safety, and I am thankful for that. The goals that were given to us were these three, and I think it is very important to point them out at the beginning of this debate. The first goal is that we must insure that injured workers receive fair benefits. I feel very badly that the injured workers are not here at this very minute, because in a few minutes I am going to share with you about injured workers. I wish that they could be here to hear this. This is the first and foremost goal that we have, to insure that they receive fair benefits. The second goal is that Maine businesses be charged affordable premiums, not excessive but affordable. Finally, that insurance carriers are not making unreasonable profits. With those goals in mind, we started with 70 Bills on Workers' Comp back in the beginning. Many of us were on at least one Bill. I was excited and looking forward to the Hearings that we had together with the Banking and Insurance and Labor Committees out at the Civic Center during the week of April 22nd. We spent long days there from 9 a.m. to 9 p.m.. It was very enlightening to hear from both sides. We heard from employers, employees, injured workers, insurance companies, and from thousands of people. In the mean time you have received cards and letters. This is a very important issue. The issue in my mind, and some people may disagree with me, and I respect my colleagues very much, but the issue in my mind is jobs. How can we really save jobs? We are going to pass a package, and I hope we can put together the best ideas of both packages and come up with something that is agreeable to us all. I could go on and on as I have said, and I think what I would like to do is give you a brief synopsis of what I have perceived of ways we agree. Banking and Insurance has worked long hard hours, and I feel that I am married to Workers' Comp. I feel like I have lived it for six months. I think that it is important to stress the positive, and as I have

already said we agreed on safety training requirements for employers with high worker injury rates. We also agreed that there has to be faster filing of medical reports. We agreed that neither plan would cut permanent benefits to totally disabled workers. We agreed to automatically cut or eliminate benefits when an injured worker returns to work. There are many important issues that we have agreed on. Unfortunately, we did not agree on them all. There are some we have disagreed on. I believe and I truly do believe that the Minority Report of the Republican Bill will reduce the cost. That has been the goal and objective. The Democrats say that their Bill will reduce costs, and we are in that fight, and when I close I will share with you my thought, for what it is worth, it is sincere, but just a few ways that we disagree on. I think that this is important. Current law permits payment for some injuries that are unrelated to work injuries. We believe that the system has become overburdened and overworked, because of a lot of cases I really wonder if they are work related. If they are truly work related, that is what Workers' Comp was set up for, to help people while they are injured, pay their payments and help them along and get them back to work. Returning to work is very important. Our Bill would get people back to work. Our Bill limits benefits to injuries that are only work related. Length of benefits is another area that we disagree on. We would like to set a limit for partially disabled workers at 413 weeks from the date of injury. The other Bill does not set any limits on that. I guess one of the major differences, and I guess that is a philosophical one, I do not believe that the state fund will save us money. In fact, I am very concerned, because my understanding as I keep asking again and again where is the money going to come from to start up this fund, my understanding is that the money to start up this fund is going to come from the reserves. I will tell you the bottom line of why I am concerned about. My mother is an injured worker, and you all know injured workers. I don't want the money that is in the reserve account that is going to be going to be paid for these accounts to be taken out and put into something else. I want to be sure that the benefits are there for the people who need them. The job search is a large disagreement that we have. The job search was passed in the 87 reforms, and it will take a while in the system because of the time that you get the benefits for it to come to pass. I don't think that it is wrong after a years time to find a job for an injured worker and have them relocate. I would prefer that they stay in their own communities, and I would prefer that they go back to the same job that they are doing. I would prefer that employers and employees have communication to get them back on light duty and solve this problem. I think the bottom line is that we return them to work and get them a job. There is just a couple more, if you will bear with me. I know that in the Minority Report that we have suggested abolishing the Workers' Compensation Commission and creating a new division in the Department of Labor to handle these cases. I guess I just wanted to say up front that this isn't something that would happen overnight. There are over 15,000 cases that are in the system right now that would have to be taken care of, and this would be a transitionary event that would take place over time. The other proposal leaves the Commission the same. Another big issue is lump sums. We believe

that anything over \$5,000 should be a final product of a lump sum settlement. The other proposal does not put a cap on lump sum settlements. The Statute of Limitation would be lowered from 10 to 3 years. The other Bill would leave the limitation. The last one that I would like to mention in our proposal, we would like to hire an independent medical examiner to decide if an injured worker could return to work. Just to explain a little bit about that. When someone is hurt, and you want to go through the first injury and the formal conference, I want to point out that an independent medical examiner is our idea to try and cut down on the time period and really try to stop doctor shopping. There were reports at the Hearing to all of us that we heard about people going from one doctor to another. People who need that care should get it. Please don't read me wrong. We do need to know of other times that abuse does happen. This is our proposal of ways to cut down on costs and try to address the situation. I did tell you that I would try not to be too long, and I think in the interest of being fair to others I will end with this little summary. The days all run together. I think today is Wednesday. The days have been long here and I have been here since Sunday night. It seems like the day before yesterday that we waited all day for an actuary report from Tilling, Tillhouse and John Tierney. We had the Bureau of Insurance Actuary come in. We have had the Public Advocate Actuary come in, and now today, I read in the newspaper that a Joseph McGonigle has also given an actuary. I would really like to know this person. For what it is worth this is the definition of an actuary. "Actuaries are people who pass as experts on the basis of their prolific abilities to produce an infinite variety of incomprehensible figures calculated with micrometric precision from the vagueness of assumptions based on debatable evidence from inconclusive data derived by persons of doubtful reliability the soul purpose of confusing an already hopelessly befuddled group of persons who never read the statistics anyway". Thank you.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I anxiously arise because it looked like everyone was going to say thank you, and I wouldn't get a chance to thank my Senate Chair, Senator Esty from Cumberland for a very excellent time, and who I respect even though we don't always agree. Senator Conley, my seatmate on the Labor Committee, I really enjoyed it, and it is horrible that it is winding down and that it is almost over. I really would like to stay for the rest of the summer. We have another Bill to do and it is Workers' Compensation. It is clearly one of the most crucial things before the Maine Legislature in terms of the state's economic recovery. The relationship between the outrageous cost of Workers' Compensation and the scarcity of high paying jobs in Maine cannot be denied. An increasing number of businesses leaving the state cite high Workers' Compensation costs as the primary reason for leaving. As long as costs are high, employers who can afford to stay in business are forced to recover those costs through lower employee wages and fewer benefits, and/or loss of jobs. Any meaningful reform must narrow the scope of Workers' Compensation to its original intent. Protecting the livelihood of people

injured on the job. The system cannot afford to continue serving as a catch all for health problems not caused by the work environment. The problem, or part of the problem in the State of Maine is as follows: Workers' Compensation in Maine costs \$257 per capita compared with a national average of \$100 per capita. Workers' Compensation in Maine is unnecessarily complicated and forcing litigation in most cases. The employers are forced to contest cases in order to protect themselves. Injured workers must endure long delays in waiting for benefits, usually about 11 months. Maine has no viable method for stopping benefits when workers recover other than lump sum benefits which primarily benefit the lawyers. Maine's ten year statute of limitations is excessive, and the national average is three years. Maine's Workers' Compensation System has evolved into a broad based system that covers injuries and conditions not caused in the work place. Medical services are over used and not tracked, creating a tendency for people to doctor shop at considerable cost and little benefit to the injured workers. Workers' Compensation, to reform it, to correct it, and to improve it is, in fact, a very difficult job. It has been mentioned that both Bills do address the problems of injured workers and speeding up the payments, speeding up medical payments, speeding up Hearings, and all of this will help the injured workers rehabilitation and get back to your job sooner. There is no discrimination in the work place against the injured worker. If we are going to have a reform Bill, there is really only one reform that will take care of both the workers and the employees, and that has to be a cost savings. There has to be a large cost savings involved. The Majority Report from their actuary that evidently did report yesterday, Jim Tierney does show a cost saving at best at 4%. At 4% along with what we have now heard, a 15% increase in the Workers' Compensation rates coming in September. It is not going to do it. There is no way. The Minority Report with Dick Johnson as actuary has stated that the Minority Bill in its present form without any amendments or changes will have a savings of 41.6%, and this is the only way. It has to be a taller figure that will help both the workers and the employers. Thank you.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I can't say that I know a lot about this issue, but I would like to say that I don't believe that Mr. Tierney was hired by the Maine Development Foundation was their actuary, meaning the Majority Report. I think that he is pretty well a neutral person and can't be characterized as their actuary. Thank you Mr. President.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I did not mean to imply that he was their actuary. He was hired to do the actuary figures on the Majority Report. Thank you.

Senator **CAHILL** of Sagadahoc requested a Division.

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

Will all those in favor of the motion by Senator ESTY of Cumberland to ACCEPT the Majority OUGHT TO PASS 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.

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator ESTY of Cumberland to ACCEPT the Majority OUGHT TO PASS Report, in concurrence, PREVAILED.

The Bill READ ONCE.

House Amendment "B" (H-696) READ and ADOPTED.

House Amendment "C" (H-697) READ and ADOPTED.

Which was, under suspension of the Rules, READ A SECOND TIME.

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

Senator BALDACCI: Thank you Mr. President. Ladies and Gentlemen of the Senate. This is a very serious subject matter to a lot of people, if not everyone in the State of Maine. This includes both the working person and the employer. It is very important for us not to direct this issue just from reform but for immediate relief. It is very important because businesses are having a very tough time and are in jeopardy of closing down. It is not the only issue affecting that, but it is a major issue affecting a lot of the employers. I sat down and let the first reading go on this particular matter. I do not at this particular time support either report. I think that the important thing is that we have to be able to sit down together, to be able to address this issue and work out something, because it is not going to be anything if we leave this issue unaddressed. It is very important that it is addressed. I think that we have to be willing to sit down and try to work out a compromise on this particular issue. Frankly, when I tell people that I think we are doing a good job with Workers' Comp, and I read in the newspaper that the Superintendent of Insurance says we are going to cause rate increases by what the Majority Report is proposing, and I know that is largely untrue, but we still have to address the issue because those people in businesses that are struggling are having a hard time with higher taxes and higher Bills all the way around, and then to look at a 14 to 15% increase in Workers' Comp over what they have paid in the previous years, they just can't afford it anymore! What good is a job with the best benefit program attached to it, if you have no job? That really is the issue here. These are great benefits and programs, but there is not a job attached to the other end of it. I would hope that we would think about those things as this issue evolves. Thank you.

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

Senator KANY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I am pleased to have the opportunity to rise after the remarks of my seatmate. We have spent six months listening and reading the thousands and thousands of letters. We have heard from thousands of people directly. We have molded and debated. We have discussed and crafted. What you have before you in the Majority Report is a very carefully constructed package of a very carefully, thoughtfully drawn package that always keeps in mind the basic reason for the Workers' Compensation System. That is number one, to limit the liability of employers and also to create a no fault system so that if a worker is injured or becomes ill due to work place activity, that there will be prompt pay of those medical bills and prompt pay of the lost wages. Unfortunately, those goals have been misdirected, and we have a fairly broken system today. It is broken, and that is why two Committees joined together in an unprecedented fashion to exchange members, and go through the educational process to be able to develop a truly comprehensive package. It went way beyond any of the 70 or more Bills that came before us. In fact, the Governor's Bill, which by the way each proposal in it has been thoroughly addressed, and often we went beyond those proposals, but the Governor's Bill was like that, and some of the other proposals are that much more comprehensive than what you have before you today, it is much more thoroughly addressed. The whole system is addressed. We can present it to you today. We first sought the fundamental flaws. What are the basic problems? Why is this system so broken? We found a number of things. Perhaps the biggest one and the most shocking one to realize was that the relationship between and employer and an employee is broken almost at the point of injury. The employer, if it has private insurance as two-thirds do, hands over to an insurer the entire problem, and is wondering why the premium is so high and why employees sometimes from his or her point of view seem to be cheating on the system. That is the attitude of the employer, and the employer is not taking a hands on approach to rectifying the problems in the work place and to keeping a good positive attitude from the injured worker so that the worker wants to return to work, and is often instrumental in delaying the return to work which could occur. We are trying to heal that broken relationship. In fact, the Workers' Compensation Commission doesn't even notify the employer of what is going on. It is the insurer that is notified, and the insurer has an unusual relationship with the employer because we have no voluntary insurance market. The national point of view it is seen as if one does not exist in the State of Maine. We have one-third of the insurance premiums, basically, that are with self-insurers where we see good things, because those employers are really taking a hands on approach to the problem. The other two-thirds, only 8%, are in the voluntary. There is 8% with the other 92% as involuntary stuff with a strange relationship with an employer in which it is primarily a servicing fee, which they aren't trying to help that employer. It is a terrible system. That is a very fundamental flaw, and we need to heal the relationship between the employer and the employee, and make sure that the employer takes the responsibility for what is going on there, so the employee will not feel like they are less important than a broken piece of machinery and become very embittered. We need to get that employee

back to work. That is one problem. Another major flaw is that there are too many delays built into this system, and delays often create litigation. We allow too much lawyer involvement, and we have not even developed any public policy to speak of regarding the medical portion which is clearly the central ingredient in a Workers' Compensation System. That is another fundamental flaw. No medical policy at all. We have addressed these in the Majority Report I am quite proud to say. Most importantly, we have addressed safety. Why is safety so important? If you cut your problems and occurrence and the severity in half, and returned to work twice as fast, you would cut out half of the cost of the entire system. Unlike a health insurance system where perhaps you help someone with health problems, he or she may have other health programs which will be more costly, this is a system where we can lower the parameters and make it much smaller, and therefore, less costly to those all important employers and keep our employees healthy, well and whole. We have done many things in this package. One, this is immediate relief, and would allow any employer with a good safety program approved by the superintendent to get a 15% credit on his premiums, and because of that, we know that safety does pay. It does create a lowering of losses and that is generally the experience that those who recently have gone to self insurance have found. We know that we can do that. We have created many other incentives and restructuring in the system to finally make it work better. Obviously, I won't go on at length, especially since we have been spending six months focusing in depth on this, but who would gain if we are unwilling to make substantial improvements in the system such as the substantial improvements that are being offered now in this Majority Report? Who would gain? I would say three parties would gain. The one who would gain the most is the insurers and those servicers that make so much from only servicing that involuntary market. Second, lawyers probably tend to benefit from not going along with the excellent improvements suggested here. Third, medical providers, because we will be finally making some reasonable policy about them. With that I am happy that you did raise a question about what is being offered. If anyone has any questions or problems, or thinks that there is something that we did not address, or we did not take into consideration and up the employer and his premium, I offer to sit down with you to go over the package, and I think that you will then understand that this is not some fly by night package. We have carefully thought things through, and have always had in mind the affect upon the premiums for our employers who provide those good jobs for Maine people, and always keep in mind that we have a responsibility to anyone who is injured or becomes ill on the work place. Thank you.

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

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

On motion by Senator **TWITCHELL** of Oxford, **RECESSED** until 9:15 in the evening.

After Recess

Senate called to order by the President.

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

ENACTORS

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

An Act to Amend the Requirement that Contracts Be in Writing

H.P. 662 L.D. 941
(S "A" S-353 to C
"A" H-465)

An Act to Amend the Unfair Trade Practices Act to Allow Consumers to Recover Damages

H.P. 1057 L.D. 1546
(H "A" H-637 to C
"A" H-447; H "B"
H-684)

An Act to Regulate Sales of Malt Liquor in Kegs

H.P. 1142 L.D. 1667
(H "B" H-683 to C
"A" H-490)

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 Appropriate Funds from the General Fund for Search and Rescue Activities

H.P. 1343 L.D. 1934

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

Emergency

An Act to Make Allocations from the Public Utilities Commission Regulatory Fund and the Public Utilities Commission Reimbursement Fund for the Fiscal Years Ending June 30, 1992 and June 30, 1993

H.P. 648 L.D. 922
(C "A" H-678)

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

Emergency

An Act Concerning the State's Escrow Accounts
H.P. 1139 L.D. 1664
(C "A" H-679)

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

Emergency

An Act Making Additional Allocations for the Expenditure of Funds Received by the State as a Result of the Federal Court Orders in the Stripper Well Oil Overcharge Case, the Exxon Oil Overcharge Case and the Diamond Shamrock Oil Overcharge Case
H.P. 1295 L.D. 1872
(C "A" H-680)

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

Emergency

An Act to Correct Errors and Clarify Provisions in the Solid Waste Laws
H.P. 1296 L.D. 1873
(H "A" H-677 to C "A" H-667)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act Making Additional Allocations from the Highway Fund for the Expenditures of State Government for the Fiscal Year Ending June 30, 1991
H.P. 1349 L.D. 1942
(C "A" H-681)

Senate at Ease

Senate called to order by the President.

Which was **RECOMMITTED** to the Committee on **TRANSPORTATION** in **NON-CONCURRENCE**.

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

Emergency

An Act to Revise the Salaries of Certain County Officers
H.P. 1357 L.D. 1949
(H "B" H-682)

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 Resolve

Resolve, Authorizing the Commissioner of Corrections to Enter into an Agreement with the Town of Thomaston for the Maine State Prison's Share of Upgrading the Town of Thomaston Sewer System
H.P. 1367 L.D. 1953

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

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Maine Administrative Procedure Act" (Emergency) H.P. 1371 L.D. 1955

Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.

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

Which was **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

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

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** 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 Amend the Maine Human Rights Act to Make Effective Provisions against Employment Discrimination" H.P. 720 L.D. 1024

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Allow the Risk Management Division to Provide Insurance Services for Elementary and Secondary Schools in the State" H.P. 1354 L.D. 1946

Reported that the same **Ought to Pass** as Amended by **Committee Amendment "A" (H-686)**

Signed:

Senators:

KANY of Kennebec
THERIAULT of Aroostook

Representatives:

ERWIN of Rumford
TRACY of Rome
MITCHELL of Vassalboro
JOSEPH of Waterville
KETOVER of Portland
HASTINGS of Fryeburg
PINEAU of Jay
RAND of Portland

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

Signed:

Senator:

BRAWN of Knox

Representatives:

GARLAND of Bangor
CARLETON of Wells

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-686)**.

Which Reports were **READ**.

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

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

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask you to vote against the pending motion, and I would like to speak very briefly. L.D. 1946 that is now before us is an offspring of L.D. 1725. This new Bill, L.D. 1946 was printed and we did not have a Public Hearing on it and it was Engrossed in the other Body last week. Last week the Senate recommitted the Bill back to Committee. When it was recommitted to Committee we discussed it briefly, and we were told that a Study had already been done. I asked permission for a

little time to again look over this Study. I read the Study three times, and the conclusion I came up with in the very last sentence, which said that although this looked like a good idea, further study was really needed. My biggest concern for this Bill and going back to the actuaries as we talked about earlier this evening, it sounds like a good idea, especially at a time when school funding is less. It sounds like a quick fix, and I wish that we could snap our fingers and it would be done. I really think that it is a dangerous Bill, and I think that we should vote against it. I could go on and talk forever, but I will not. I have a fax and many letters, and I urge you to vote against it and I ask for a Division. Thank you.

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

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I urge you to vote for the Majority 10 to 3 Ought to Pass Report. It is not a partisan vote. I would like to point that out. It is believed that we could save the property tax payers of Maine a substantial amount of money. In the 1982 study that our colleague from Knox, Senator Brawn referred to, indicated that one state that allowed the state to actually do some insuring for school property thought that they might be able to save the property tax payers as much as 20% in those school districts, and they ended up saving 40%. We are allowing this option with strictly a voluntary thing. Our Risk Management Division in the state already has a good deal of experience insuring this kind of thing. For instance, it already does the insuring of property for the University of Maine, Maine Maritime, and for the Vocational Technical Colleges of Maine. All it is doing is allowing the school districts, if they so choose, to have their insurance through the state instead of through the private insurers. It would still allow them to have their insurance through their private insurers if they so chose. This is one thing that we can do in this very difficult year, to help provide some property tax relief. I urge you to support the Majority Report. Thank you.

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

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I don't want to belabor the issue, but the state that the good Senator from Kennebec, Senator Kany relates to, is the State of Utah. On a further study of that study, Utah does not have a similar school system to the State of Maine. They have a much stronger government, and in my opinion I cannot justify the similarities. As for saving the tax payers money, that sounds good, and I would most certainly want to do that, but what worries me a lot is the reserve money in actuaries if schools should be caught in a quick fix. If someone gets hurt and sues, there is no money to pay that. We are going to be in a bigger problem than we are right now. I hope you will vote against this Bill. Thank you.

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I might have spoken to you recently as being initially opposed to this Bill. My reason for being opposed to it was that I felt that we were lacking important information that we should look at before we would launch ourselves into this thing. Coincidentally, we recommitted the Bill to the Committee, and in the meantime, it came to my attention that there had been a Study conducted on this proposal in the early 1980's. I was able to lay my hands on a copy of that Study, and based on that information I changed my vote on this Bill from being opposed to it to be supportive. There is a Study that has been mentioned, and I would like to read one paragraph of this study. I have to tell you that in concluding this study that possibly they should look further into it, but before they draw that conclusion, this is some of the information that is in there. Even under the worst of circumstances in which the state were to have several large losses the annual aggregate of one million dollars in paid losses, it would be less than 50% of what schools are now paying in premiums. The principals that were at play at that time are still in affect today. The numbers might be a little different, but according to the figures that we finally came up with, it looks like the state could end up with about four million dollars, which is more than we are right now if we pay the premiums. One thing that I need to bring to your attention is the fact that the state has been in this business for a long time. It is working very well. Why wouldn't it work as well if they added on in the schools? Thank you.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the comments of my worthy colleague on the Banking and Insurance Committee, who I am sure has looked over the data with respect to this Bill. However, I have a number of concerns about it which I would like to suggest to you. First of all, I would like to admit that I am not very anxious to have the state or the public sector in private business. I confess that this is a personal bias. Having been around here long enough, I think it is a bias that I shall retain on the basis of my judgment calls with respect to the state being in business. I think that the thing that disturbs me most, however, is that most self-insured entities do have to pass muster before the Bureau of Insurance. Unless something has changed since I last looked at the Bill, I think that this entity is exempt from that. The reason they have to do that is to insure that they have adequate resources to take care of the claims that will occur in the course of time. That is why the Bureau of Insurance passes judgment on any private sector entity which wishes to engage in the insurance business. We have a number of them that do self insure. This does not to my knowledge have that feature in the Bill that is before us. Obviously, I am concerned, because somewhere somebody has to bear the risk without putting up much front money. If school districts or communities who have a single school unit choose to do this, I think that they are taking a rather

substantial risk. They have not, in fact, funded, and it means that they can be assessed in property taxes or whatever is necessary in order to pay the claims. To rebuild the burned down school building or whatever. It seems to me that the state ought not to be encouraging this type of activity and I would think that most communities would be rather suspect of this sort of arrangement. I do recall in the Bill that there was a reinsurance provision, but that still left a substantial part of the partial that the entity that selects this method would have to be responsible for. Furthermore, somebody has to pay the premium cost for that reinsurance contract. It seems to me that the state has got to provide additional staff to support run claims, or else they have to subcontract this work out. I think there are some faults with this, and I certainly feel very leery about advancing this type of legislation. I don't intend to vote for it, and I hope you will join me. Thank you.

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I failed to mention a few things a while ago that I would like to mention at this point in time. The provisions of this Bill make it optional for schools to go through this program. It is not mandatory. It is optional. All they have to do is look at the facts in front of them. If it is beneficial for them they will go with it, and if it isn't they aren't going to. This is an important point to remember. Also, I wish to say that when this Study was conducted, just for comparison purposes, the average that the schools of Maine had paid for over a period of ten years was 1.8 million dollars. That is for property insurance per year. At that time the total assets of the state was about equal to the total assets of the schools that we have in the state. The state that provided the same type of coverage for all of their assets, which is essentially the same as all the assets of the school for \$57,000 dollars, compared to \$1.8 million. Coincidentally, I am also opposed to the state getting involved in this kind of endeavor. I have always been opposed to that. But when there is that kind of a margin between what it is costing, then I think it is time that we step in and do something about it. Thank you.

Senator **COLLINS** of Aroostook requested a Division.

On motion by Senator **BOST** of Penobscot, 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 Penobscot, Senator Pearson.

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am going to vote with the good Senator from Aroostook, Senator Theriault, because it doesn't require schools to do it. It allows them to do it. Thank you.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is optional. It is a very positive thing. We are not forcing schools to do it. And certainly we can save some money, which is better than the current law which does not allow it. By the way, we would not be increasing any personnel in the Risk Management Division because they already have the people who are very knowledgeable about this topic. They have the personnel there. It requires an Actuarial Study annually by a nationally recognized actuary to determine the proper level of premium, so it won't be under funded. I think it is a great idea, and I know that the Insurance Lobby has been very busy on this Bill. But we have to think of those property tax payers back home! I certainly hope you will vote in favor of this Bill. It is a good one. It is a 10 to 3 Ought to Pass Bill. Thank you.

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

A vote of Yes will be in favor 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?

Senator **ESTES** of York who would have voted **NAY** requested and received leave of the Senate to pair his vote with Senator **BRANNIGAN** of Cumberland who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI, BERUBE, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTY, GAUVREAU, KANY, MCCORMICK, MILLS, PEARSON, THERIAULT, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT - CHARLES P. PRAY**

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

PAIRED: Senators **BRANNIGAN, ESTES**

ABSENT: Senators **BUSTIN, MATTHEWS**

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators having paired their votes, and 2 Senators being absent, the motion by Senator **KANY** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-686) **READ** and **ADOPTED**, in concurrence.

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

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

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

COMMITTEE REPORTS

House

Committee of Conference

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature, on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide Greater Legislative Oversight over Agency Rulemaking
H.P. 1284 L.D. 1854

Have had the same under consideration and ask leave to report that they are **Unable to Agree**.

Signed on the part of the House:

Representative GWADOSKY of Fairfield
Representative GRAY of Sedgwick
Representative LORD of Waterboro

Signed on the part of the Senate:

Senator KANY of Kennebec
Senator DUTREMBLE of York
Senator CAHILL of Sagadahoc

Comes from the House with the Conference Report **READ** and **ACCEPTED**.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Related to the Office of Substance Abuse"

S.P. 90 L.D. 175
(S "A" S-365 to C
"A" S-359)

In Senate, June 12, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY Committee AMENDMENT "A" (S-359) AS AMENDED BY SENATE AMENDMENT "A" (S-365)** thereto.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY Committee AMENDMENT "A" (S-359) AS AMENDED BY HOUSE AMENDMENT "A" (H-688)** thereto, in **NON-CONCURRENCE**.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Non-concurrent Matter

Bill "An Act to Amend the Maine Human Rights Act Regarding Pregnancy"
H.P. 486 L.D. 680

In House, May 16, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY Committee AMENDMENT "A" (H-224)**.

In Senate, June 19, 1991, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

On motion by Senator GAUVREAU of Androscoggin, the Senate **INSISTED**.

The Secretary has so informed the Speaker of the House.

Non-concurrent Matter

Bill "An Act to Annex the Town of Richmond to Lincoln County" (Emergency)

S.P. 683 L.D. 1811
(H "A" H-671 to C
"A" S-280; H "A"
H-549; S "A" S-346)

In Senate, June 13, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY Committee AMENDMENT "A" (S-280) AS AMENDED BY HOUSE AMENDMENT "A" (H-671) thereto, AND HOUSE AMENDMENT "A" (H-549) AND SENATE AMENDMENT "A" (S-346)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY Committee AMENDMENT "A" (S-280) AS AMENDED BY HOUSE AMENDMENT "B" (H-685) thereto, AND SENATE AMENDMENT "A" (S-346) in NON-CONCURRENCE**.

On motion by Senator **CAHILL** of Sagadahoc, the Senate **RECEDED** and **CONCURRED**.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **STATE AND LOCAL GOVERNMENT**, on Bill "An Act to Reconstitute the Township of Misery-Sapling Gore"

H.P. 928 L.D. 1348

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-691)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY Committee AMENDMENT "A" (H-691)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-691) **READ** and **ADOPTED**, in concurrence.

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

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

The Committee on **TAXATION** on Bill "An Act Concerning Technical Changes to the Tax Laws" (Emergency)

H.P. 1197 L.D. 1750

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-693)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY Committee AMENDMENT "A" (H-693)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-693) **READ** and **ADOPTED**, in concurrence.

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

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

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

ENACTORS

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

An Act to Amend the Maine Uniform Accounting and Auditing Practices Act for Community Agencies

H.P. 1166 L.D. 1707

(S "A" S-367 to C

"A" H-498)

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

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

ENACTORS

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

An Act to Improve the Maine Workers' Compensation System

H.P. 1372 L.D. 1957

(H "B" H-696; H "C"

H-697)

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This particular Bill does have a fiscal note attached to it, but I am not going to stop it in its procedure. I want you to know that it has a fiscal note of about \$50,000. Thank you.

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **FOSTER** of Hancock who would have voted **NAY** requested and received leave of the Senate to pair her vote with Senator **BRANNIGAN** of Cumberland who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BOST, CLARK, CONLEY, DUTREMBLE, ESTES, ESTY, GAUVREAU, KANY, MCCORMICK, MILLS, PEARSON, THERIAULT, TITCOMB, VOSE, THE PRESIDENT - CHARLES P. PRAY**

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

PAIRED: Senators **BRANNIGAN, FOSTER**

ABSENT: Senators **BUSTIN, MATTHEWS**

16 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators having paired their votes, and 2 Senators being absent, 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.

Senate at Ease

Senate called to order by the President.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As Chairman of the Appropriations Committee in the Senate, I am, of course, at this point in the year a frustrated individual. I am trying to put together, along with other members of the Committee, a Budget. We have had a lot of ups and downs, and yes's and no's, and massive meetings, and contradicting statements, and opposing interests, and indeed, even opposing Committee's having different ideas. We have tried to sift that out, and bring it down to some kind of a sensible, logical document at the very end, but we are hung up on a number of different items.

It is now 10:00 o'clock at night, and we have not met all day long. People have been trying to work out differences on different components within the Budget. I, at one point during the day, became so frustrated because certain people in the Administration were supposed to be working, along with Committee members, on different elements. One person was supposed to arrive at 2:00, but appeared at 5:00. After, I called the Governor and asked him to make the Commissioner move a little faster in the direction of the Capitol Building.

I think I am experiencing a case of the "slows". I don't know if it is because the difficulties of negotiations are of subject matters so difficult, or if it is because it is being held up because of the other prominent Bill that we have before the Maine Legislature. I, frankly, would like to get the Bill out of my Committee, and get it up here on the floor, and let the people do what they want with it. Whether they want to consider it or not, or Table it or not, once it gets up here, that is fine with me, I have no problem with that.

But, I am trying to resolve some difficult situations. I have a lot of pieces, and I am trying to put it together into a big puzzle. I am very frustrated by the fact that I have not had a meeting today, and that we are getting very close to July 1st. And I know, as well as all of you do, that there are people out there who are absolutely, totally, completely dependent upon the state for their very existence. I think that we need to get about the business of resolving this.

And I will tell you, this is not a usual speech for me. I don't usually do this. But, I was told that members of the Party that I am not a member of, they are not going to vote a Budget unless all the figures are written down. And I can understand that. So I would say to the Administration, start writing!

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Implement Constitutional Provisions Restricting the Imposition of Unfunded State Mandates"

S.P. 767 L.D. 1963

Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.

In Senate, June 26, 1991, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Comes from the House referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **FURTHER CONSIDERATION**.

On motion by Senator **PEARSON** of Penobscot, **RECESSED** until 10:25 in the evening.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

Emergency

An Act to Establish the Maine Primary Care Residency Training Assistance Program
S.P. 374 L.D. 999
(C "A" S-106)

Tabled - May 28, 1991, by Senator **CLARK** of Cumberland.

Pending - **ENACTMENT**

(In Senate, May 16, 1991, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order S.P. 717, in concurrence.)

(In Senate, May 28, 1991, **RECONSIDERED ENACTMENT**.)

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

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

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" (S-106).

On further motion by same Senator, Senate Amendment "A" (S-376) to Committee Amendment "A" (S-106) **READ**.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It is my duty at this point to remove from the Unassigned Table a series of Bills, the action on which requires amending, per the action yesterday of the Legislative Counsel on a series of Bills which represent studies. All of the amendments are amendments which were authorized by the Legislative Counsel. Thank you Mr. President.

On further motion by same Senator, Senate Amendment "A" (S-376) to Committee Amendment "A" (S-106) **ADOPTED**.

Committee Amendment "A" (S-106) as Amended by Senate Amendment "A" (S-376) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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

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

Emergency Resolve

Resolve, to Create the Commission to Study a Long-term Disability Program for the Maine State Retirement System Members

S.P. 288 L.D. 770
(C "A" S-171)

Tabled - June 6, 1991, by Senator **CLARK** of Cumberland.

Pending - **FINAL PASSAGE**

(In Senate, May 22, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-171)**.)

(In House, June 4, 1991, **FINALLY PASSED**.)

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

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

On further motion by same Senator, Senate Amendment "A" (S-375) **READ** and **ADOPTED**.

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

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

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

Resolve, to Create the Commission to Study the History, Status, Impact and Role of Independent Higher Education in Maine

S.P. 548 L.D. 1452
(C "A" S-180)

Tabled - June 10, 1991, by Senator **DUTREMBLE** of York.

Pending - **FINAL PASSAGE**

(In Senate, May 22, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-180).**)

(In House, June 4, 1991, **FINALLY PASSED.**)

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

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

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" (S-180).

On further motion by same Senator, Senate Amendment "A" (S-377) to Committee Amendment "A" (S-180) **READ** and **ADOPTED.**

Committee Amendment "A" (S-180) as Amended by Senate Amendment "A" (S-377) thereto, **ADOPTED** in **NON-CONCURRENCE.**

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

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

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

Emergency Resolve

Resolve, to Create a Commission to Study the Need for a Technical College in York County

H.P. 1105 L.D. 1604
(C "A" H-528)

Tabled - June 10, 1991, by Senator **CLARK** of Cumberland.

Pending - **FINAL PASSAGE**

(In Senate, June 6, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-528)**, in concurrence.)

(In House, June 10, 1991, **FINALLY PASSED.**)

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

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

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-528).

On further motion by same Senator, Senate Amendment "A" (S-374) to Committee Amendment "A" (H-528) **READ** and **ADOPTED.**

Committee Amendment "A" (H-528) as Amended by Senate Amendment "A" (H-374) thereto, **ADOPTED** in **NON-CONCURRENCE.**

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

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

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

Emergency

An Act to Amend the Laws Regarding Complaints against Physicians and to Require a Study Concerning Patient Information

H.P. 825 L.D. 1179
(S "A" S-298 to C "A" H-394)

Tabled - June 10, 1991, by Senator **CLARK** of Cumberland.

Pending - **ENACTMENT**

(In Senate, June 5, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-394) AS AMENDED BY SENATE AMENDMENT "A" (S-298)** thereto.)

(In House, June 10, 1991, **PASSED TO BE ENACTED.**)

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

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

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-394) as Amended by Senate Amendment "A" (S-298) thereto.

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** Senate Amendment "A" (S-298) to Committee Amendment "A" (H-394).

On further motion by same Senator, Senate Amendment "A" (S-298) to Committee Amendment "A" (H-392) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "B" (S-378) to Committee Amendment "A" (H-392) **READ** and **ADOPTED**.

Committee Amendment "A" (H-392) as Amended by Senate Amendment "B" (S-378) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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

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

Emergency

An Act to Change the State Payment for Health Insurance Benefits for New State Employees with Less than 10 Years of Service and Provide for a Study of Retirement Benefits Provided to New Employees
S.P. 743 L.D. 1935
(H "A" H-648)

Tabled - June 19, 1991, by Senator **CLARK** of Cumberland.

Pending - **ENACTMENT**

(In Senate, June 12, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-648)**.)

(In House, June 19, 1991, **PASSED TO BE ENACTED**.)

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

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

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** House Amendment "A" (H-648).

On further motion by same Senator, Senate Amendment "B" (S-380) to House Amendment "A" (H-648) **READ** and **ADOPTED**.

House Amendment "A" (H-648) as Amended by Senate Amendment "B" (S-380) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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

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

Resolve, to Establish the Commission to Study the Safe Operation of Truck Tractors

H.P. 874 L.D. 1260
(C "A" H-426)

Tabled - June 10, 1991, by Senator **CLARK** of Cumberland.

Pending - **FINAL PASSAGE**

(In Senate, June 5, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-426)**, in concurrence.)

(In House, June 10, 1991, **FINALLY PASSED**.)

On further motion by same Senator, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

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

Resolve, to Establish the Academy for Public Service Study Committee

H.P. 1224 L.D. 1782
(C "A" H-535)

Tabled - June 11, 1991, by Senator CLARK of Cumberland.

Pending - FINAL PASSAGE

(In Senate, June 6, 1991, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-535), in concurrence.)

(In House, June 10, 1991, FINALLY PASSED.)

On further motion by same Senator, Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

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

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

Emergency Resolve

Resolve, to Establish the Commission to Study Secondary Vocational and Technical Education in Maine
H.P. 1243 L.D. 1809
(C "A" H-570)

Tabled - June 11, 1991, by Senator CLARK of Cumberland.

Pending - FINAL PASSAGE

(In Senate, June 6, 1991, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570), in concurrence.)

(In House, June 10, 1991, FINALLY PASSED.)

On further motion by same Senator, Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

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

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

Emergency

An Act to Stabilize the Maine Dairy Industry
H.P. 598 L.D. 849
(C "A" H-555)

Tabled - June 10, 1991, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, June 6, 1991, PASSED TO BE ENGROSSED AS AMENDED BY Committee AMENDMENT "A" (H-555), in concurrence.)

(In House, June 10, 1991, PASSED TO BE ENACTED.)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with 2 Senators having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

An Act to Amend Various Provisions of the Electricians' Examining Board Laws
S.P. 503 L.D. 1341
(C "A" S-176)

Tabled - June 12, 1991, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, May 23, 1991, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176).)

(In House, June 11, 1991, PASSED TO BE ENACTED.)

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

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1369

JOINT RESOLUTION RECOGNIZING THE RETURN TO MAINE OF THE 3-MASTED SCHOONER "VICTORY CHIMES"

WHEREAS, the seafaring heritage and traditions of Maine are recognized around the world; and

WHEREAS, a few short years ago, one of Maine's best-known schooners, the Victory Chimes, the largest passenger-carrying sailing vessel under the American Flag, was sold out of the State of Maine after having sailed the bays and sounds of the Maine coast for 35 years; and

WHEREAS, the Victory Chimes has now been returned to Maine and will be skippered by 2 experienced captains, one of whom is a native Mainer; and

WHEREAS, the Victory Chimes will again be sailing Maine waters and introducing hundreds of people to seafaring traditions of Maine; and

WHEREAS, it is appropriate that the Maine Legislature recognize the symbolism of her return and its importance, as a premier vessel in the American Windjammer Fleet, to Maine's Windjammer Fleet; now, therefore, be it

RESOLVED: That We, the members of the 115th Legislature, now assembled in the First Regular Session, pause in our deliberations to recognize the contributions of the Victory Chimes to the heritage of the State of Maine; and be it further

RESOLVED: That suitable copies of this joint resolution, duly authenticated by the Secretary of State, be transmitted to the new owners of the Victory Chimes, Captains Kip Files and Paul DeGaeta in recognition of the contributions of their gallant vessel, the Victory Chimes, to the maritime heritage of this State.

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

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

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

SECOND READERS

Senate

Bill "An Act to Allow Nonprofit Organizations to Use Proceeds from Beano or Bingo for Limited Purposes" (Emergency)

S.P. 765 L.D. 1956

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

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

ORDERS OF THE DAY

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

Bill "An Act Correcting Errors and Inconsistencies in the Laws of Maine" (Emergency) S.P. 760 L.D. 1954

Tabled - June 26, 1991, by Senator **CLARK** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (S-373)

(In Senate, June 26, 1991, Report **READ** and **ACCEPTED**. Committee Amendment "A" (S-373) **READ**.)

On motion by Senator **GAUVREAU** of Androscoggin, Senate Amendment "A" (S-383) to Committee Amendment "A" (S-373) **READ**.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As you know the Committee on Judiciary has been considering the Errors Bill for the last few weeks. This is the second Errors Bill we are offering for your consideration this year. It is our tradition that we put in the Body of the Bill itself only what we refer to as technical errors. For example, misspellings, or if language is put in the wrong paragraph. Any change that we make that actually makes a substantive effect which actually would alter substantive of law, we include that outside of the Errors Bill as a floor amendment. It is our unanimous opinion that the amendment we are offering for you today in Senate Amendment "A" (S-383) is truly affecting the intent of the legislative Committees which are apparently committed technical mistakes. We think that this language is substantive in nature. Due to the late hour, unless I am asked to do so, I will not take the time this evening to go over the various amendments. But, it is our unanimous opinion that the language before you, although substantive, does truly mirror the intent of the legislative Committees which offered this language.

On further motion by same Senator, Senate Amendment "A" (S-383) to Committee Amendment "A" (S-373) **ADOPTED**.

On further motion by same Senator, Senate Amendment "B" (S-385) to Committee Amendment "A" (S-373) **READ**.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Our Committee on Judiciary is offering a separate amendment under Senate Amendment "B" (S-385) with language that would amend the legislation that we have just enacted, and the Governor signed into law dealing with mandatory use of seat belts. As you recall, this year we

increased the mandatory age up to the age of 19 for seat belt usage. This language was originally offered to our Committee last Friday and we rejected it. We felt it was substantive of language. At the time the Seat Belt Bill was on the Governor's desk and had not yet been signed into law. We learned today that that Bill has been signed into law by the Governor. Therefore, we reconsidered and did consent to offer this language on the floor as a separate floor amendment. Let me explain to you what the language does. As you know, over the last few years we have gradually increased the age requirement for usage of the seat belts. Until this year, I believe, all youngsters 16 years of age and under were required to buckle up. In any event, the language never included drivers, because drivers never were of that age level. This year by going up to the age of 19 we do pick up drivers, and apparently, it was a truly innocent technical mistake, but the language of the Bill that was signed into law only makes the seat belt usage required of passengers and not the driver. I understand that this was not the intent of the Committee on Transportation, nor the intent of the Maine Legislature or the Governor who signed the Bill into law. So what Senate Amendment "B" does is clarify, if you will, and make certain that mandatory seat belt usage law applies to drivers as well as passengers up to the age of 19. With that I offer this amendment and move it's adoption.

On further motion by same Senator, Senate Amendment "B" (S-385) to Committee Amendment "A" (S-373) **ADOPTED**.

Committee Amendment "A" (S-373) as Amended by Senate Amendments "A" (S-383) and "B" (S-385) thereto, **ADOPTED**.

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

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **TRANSPORTATION** on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (Emergency)

H.P. 652 L.D. 926

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-692).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY Committee AMENDMENT "A" (H-692)**.

Which Report was **READ**.

Bill and Accompanying Papers **RECOMMITTED** to the Committee on **TRANSPORTATION** in **NON-CONCURRENCE**.

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

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

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Under suspension of the Rules, L.D. 1954 ordered sent down forthwith for concurrence.

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

ENACTORS

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

An Act to Preserve the Integrity of the Maine State Lotteries

S.P. 80 L.D. 143
(C "A" S-187)

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

ORDERS OF THE DAY

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

An Act to Place Certain Lands Recommended by the Special Committee on the New Capitol Area Master Plan under the Jurisdiction of the Capitol Planning Commission

S.P. 508 L.D. 1346
(C "A" S-281)

Tabled - June 26, 1991, by Senator CLARK of Cumberland.

Pending - motion by Senator BUSTIN of Kennebec to ADOPT Senate Amendment "C" (S-368) to Committee Amendment "A" (H-611)

(In Senate, June 26, 1991, RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED. RECONSIDERED ADOPTION OF COMMITTEE AMENDMENT "A" (H-611). On motion by Senator BUSTIN of Kennebec, Senate Amendment "C" (S-368) to Committee Amendment "A" (H-611) READ.)

(In House, June 12, 1991, PASSED TO BE ENACTED.)

On motion by Senator BUSTIN of Kennebec, Senate Amendment "C" (S-368) to Committee Amendment "A" (H-611) ADOPTED.

Committee Amendment "A" (H-611) as Amended by Senate Amendment "C" (S-368) thereto, ADOPTED.

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

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

Senate at Ease

Senate called to order by the President.

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

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for the Land for Maine's Future Program to Finance the Acquisition of Land for Conservation, Outdoor Recreation, Habitat Conservation and Public Access

H.P. 435 L.D. 618
(C "A" H-600)

Tabled - June 26, 1991, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION

(In House, June 12, 1991, PASSED TO BE ENACTED.)

(In Senate, June 12, 1991, FAILED OF ENACTMENT in NON-CONCURRENCE.)

(In House, June 19, 1991, that Body INSISTED.)

On motion by Senator CAHILL of Sagadahoc, Tabled 1 Legislative Day, pending FURTHER CONSIDERATION.

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

ENACTORS

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

An Act to Amend the Child Labor Laws and to Allow Illegally Employed Minors to Bring Suit Against Their Employers for Work Related Injuries

H.P. 635 L.D. 905
(S "A" S-347 to C
"A" H-593)

Senator CAHILL of Sagadahoc requested a Division.

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

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

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

18 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.

ORDERS OF THE DAY

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

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,500,000 for Construction, Purchasing and Renovation of Correctional Facilities

H.P. 559 L.D. 802
(C "A" H-611)

Tabled - June 19, 1991, by Senator CLARK of Cumberland.

Pending - Motion of Senator BUSTIN of Kennebec to RECONSIDER ENACTMENT

(In Senate, June 12, 1991, PASSED TO BE ENACTED, in concurrence.)

(In House, June 11, 1991, PASSED TO BE ENACTED.)

Senator **BUSTIN** of Kennebec requested and received leave of the Senate to withdraw her motion to **RECONSIDER ENACTMENT**.

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

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Help Municipalities with the Purchase of Equipment and Construction Costs for Solid Waste Disposal and Recycling Facilities

H.P. 787 L.D. 1119
(H "A" H-623 to C
"A" H-609)

Tabled - June 19, 1991, by Senator **CLARK** of Cumberland.

Pending - Motion of Senator **BALDACCI** of Penobscot to **RECONSIDER ENACTMENT**

(In Senate, June 12, 1991, **PASSED TO BE ENACTED**, in concurrence.)

(In House, June 12, 1991, **PASSED TO BE ENACTED**.)

Senator **BALDACCI** of Penobscot requested and received leave of the Senate to withdraw his motion to **RECONSIDER ENACTMENT**.

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

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$16,500,000 for Capital Construction to Protect Public Water Supplies and Capital Construction of Water Pollution Control Facilities

S.P. 502 L.D. 1340
(C "A" S-326)

Tabled - June 19, 1991, by Senator **CLARK** of Cumberland.

Pending - Motion of Senator **BALDACCI** of Penobscot to **RECONSIDER ENACTMENT**

(In Senate, June 12, 1991, **PASSED TO BE ENACTED**, in concurrence.)

(In House, June 11, 1991, **PASSED TO BE ENACTED**.)

Senator **BALDACCI** of Penobscot requested and received leave of the Senate to withdraw his motion to **RECONSIDER ENACTMENT**.

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

Bond Issue

An Act to Authorize Department of Transportation Bond Issues in the Amount of \$27,500,000 to Match Available Federal Funds for Improvements to Highways, State and Local Bridges and Airports

S.P. 700 L.D. 1870
(C "A" S-342)

Tabled - June 19, 1991, by Senator **CLARK** of Cumberland.

Pending - Motion of Senator **THERIAULT** of Aroostook to **RECONSIDER ENACTMENT**

(In Senate, June 12, 1991, **PASSED TO BE ENACTED**, in concurrence.)

(In House, June 12, 1991, **PASSED TO BE ENACTED**.)

On motion by Senator **THERIAULT** of Aroostook, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENACTED**.

On motion by Senator **GOULD** of Waldo, the Senate **SUSPENDED THE RULES**.

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

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" (S-342).

On further motion by same Senator, Senate Amendment "B" (S-384) to Committee Amendment "A" (S-342) **READ** and **ADOPTED**.

Committee Amendment "A" (S-342) as Amended by Senate Amendment "B" (S-384) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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

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

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for Major Improvements and Renovations at State Park Facilities and the Restoration and Preservation of Historic Buildings
S.P. 705 L.D. 1876
(C "A" S-325)

Tabled - June 19, 1991, by Senator CLARK of Cumberland.

Pending - Motion of Senator PEARSON of Penobscot to **RECONSIDER ENACTMENT**

(In Senate, June 12, 1991, **PASSED TO BE ENACTED**, in concurrence.)

(In House, June 11, 1991, **PASSED TO BE ENACTED**.)

Senator PEARSON of Penobscot requested and received leave of the Senate to withdraw his motion to **RECONSIDER ENACTMENT**.

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

ENACTORS

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

Emergency

An Act to Review the Kennebec County Budget Committee
S.P. 640 L.D. 1688
(C "A" S-369)

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 Allow a Referendum in Sagadahoc County Regarding a Bi-county Work Center with Kennebec County
S.P. 766 L.D. 1962

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.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Amend the Maine Administrative Procedure Act" (Emergency)
H.P. 1371 L.D. 1955

In House, June 26, 1991, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

In Senate, June 26, 1991, referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

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

The Senate **ADHERED**.

The Secretary has so informed the Speaker of the House.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Fund a Collective Bargaining Agreement" (Emergency)
H.P. 1374 L.D. 1959

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**, in concurrence.

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

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

Bill "An Act to Fund Collective Bargaining Agreements and Benefits for Certain Employees Excluded from Collective Bargaining" (Emergency)
H.P. 1375 L.D. 1960

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

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

Non-concurrent Matter

Bill "An Act to Implement Constitutional Provisions Restricting the Imposition of Unfunded State Mandates"
S.P. 767 L.D. 1963

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-705)**, without reference to a Committee.

Tabled - June 26, 1991, by Senator **CLARK** of Cumberland.

Which was, under suspension of the Rules, **READ ONCE**, without reference to a Committee.

Pending - **FURTHER CONSIDERATION**

House Amendment "A" (H-705) **READ**.

(Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.)

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **ADOPTION** of House Amendment "A" (H-705), in concurrence.

(In Senate, June 26, 1991, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

(In House, June 26, 1991, referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED** in **NON-CONCURRENCE**.)

Under suspension of the Rules, L.D. 1955 ordered sent down forthwith for concurrence.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **FURTHER CONSIDERATION**.

ORDERS OF THE DAY

Senate at Ease

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

Senate called to order by the President.

Non-concurrent Matter

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

Bill "An Act Related to the Office of Substance Abuse"

S.P. 90 L.D. 175
(S "A" S-365 to C
"A" S-359)

PAPERS FROM THE HOUSE

Non-concurrent Matter

Tabled - June 26, 1991, by Senator **CLARK** of Cumberland.

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Reorganize the Management and Regulatory Functions of State Government Pertaining to Natural Resources" (Emergency)

S.P. 730 L.D. 1915
(C "A" S-372)

Pending - **FURTHER CONSIDERATION**

(In Senate, June 12, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) AS AMENDED BY SENATE AMENDMENT "A" (S-365)** thereto.)

Majority - **Ought Not to Pass**.

(In House, June 13, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) AS AMENDED BY HOUSE AMENDMENT "A" (H-688)** thereto, in **NON-CONCURRENCE**.)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-372):

In Senate, June 26, 1991, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-372)**.

Comes from the House Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The Senate **ADHERED**.

Sent down for concurrence.

Non-concurrent Matter

Bill "An Act Concerning the Low-income Home Energy Assistance Program" (Emergency)
H.P. 1333 L.D. 1924
(S "B" S-362 to C
"A" H-652)

In House, June 19, 1991, **PASSED TO BE ENACTED**.

In Senate, June 19, 1991, **FAILED OF ENACTMENT** in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-652) AS AMENDED BY SENATE AMENDMENT "B" (S-362)** thereto, **AND HOUSE AMENDMENT "A" (H-707)** in **NON-CONCURRENCE**.

On motion by Senator **CAHILL** of Sagadahoc, the Senate **ADHERED**.

The Secretary has so informed the Speaker of the House.

On motion by Senator **TITCOMB** of Cumberland, **ADJOURNED** until Friday, June 28, 1991, at 9:00 in the morning.