

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

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

In Senate Chamber

Monday

March 2, 1992

Senate called to Order by the President.

Prayer by the Honorable Georgette B. Berube of Androscoggin.

SENATOR GEORGETTE B. BERUBE: And they asked him, "Teacher which commandment is the greatest?" He replied, "You shall love the Lord, your God, with all your heart, with all your soul, and with all your mind. This is the greatest and the First Commandment. The second is like it. You shall love your neighbor as yourself. On these two rest all of our laws." Amen.

Reading of the Journal of Thursday, February 27, 1992.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Clarify the Subdivision Definition under Maine Land Use Regulation Commission Laws"

H.P. 1588 L.D. 2242
(H "A" H-913)

In Senate, February 20, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-913)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-913) AS AMENDED BY HOUSE AMENDMENT "A" (H-960)** thereto, in **NON-CONCURRENCE**.

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

House Papers

Bill "An Act to Create an Independent Office of Advocacy for the Purpose of Administrative Efficiency"
H.P. 1709 L.D. 2390

Comes from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

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

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

COMMUNICATIONS

The Following Communication:

MAINE STATE LEGISLATURE
PRIMARY CARE RESIDENCY COMMISSION
AUGUSTA, MAINE 04333

February 24, 1992

Honorable Charles P. Pray
President of the Senate
State House Station 3
Augusta, Maine 04333
Dear President Pray:

I am pleased to present to you the report of the Primary Care Residency Commission, established by the

legislature in Chapter 545 of the laws of 1991 to develop mechanisms for funding a greater number and improved quality of primary care residency training slots throughout the state. Although our report date is not until November, 1992, we chose to accelerate the process in order to develop legislation for the current session.

Access to medical care is a critical issue in this rural state. Inadequate physician supply is a major contributor to problems of access in both our inner cities and our rural communities. We, like other states, must strengthen our primary care residency training programs if we hope to maintain an adequate supply of physicians to provide basic medical care.

In recognition of these difficult economic times, the Primary Care Residency Commission has developed a revenue neutral solution to increasing financial support for Maine's primary care residencies. We hope that our recommendations will be accepted by the legislature so that our residencies can function optimally to produce the primary care physicians that our rural communities so desperately need.

Sincerely,
S/Richard T. Chamberlin, M.D.
Chairman

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

SENATE PAPERS

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 to Provide Funds to Initiate Economic Development Activities"

S.P. 933 L.D. 2391

Presented by Senator **CONLEY** of Cumberland
Cosponsored by Representative **LIPMAN** of Augusta, Representative **VIGUE** of Winslow and Representative **OLIVER** of Portland
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Committee on **HOUSING & ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

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

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

Bill "An Act to Promote Economic Recovery" (Emergency)

S.P. 935 L.D. 2393

Presented by Senator **CONLEY** of Cumberland
Cosponsored by Representative **LIPMAN** of Augusta, Representative **VIGUE** of Winslow and Representative **OLIVER** of Portland
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Committee on **HOUSING & ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

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

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

Bill "An Act to Repeal the Community Corrections Act"

S.P. 934 L.D. 2392

Presented by Senator GAUVREAU of Androscoggin
 Cosponsored by Representative MANNING of
 Portland, Senator GILL of Cumberland and
 Representative COTE of Auburn
 Approved for introduction by a majority of the
 Legislative Council pursuant to Joint Rule 27.
 Committee on JUDICIARY suggested and ORDERED
 PRINTED.

Which was under suspension of the Rules, READ
 ONCE, without reference to a Committee.
 The Bill TOMORROW ASSIGNED FOR SECOND READING.

Bill "An Act to Clarify the Maine Juvenile Code"
 S.P. 937 L.D. 2396

Presented by Senator GILL of Cumberland
 (GOVERNOR'S BILL)
 Cosponsored by Senator BUSTIN of Kennebec,
 Representative MANNING of Portland and
 Representative HEPBURN of Skowhegan
 Committee on JUDICIARY suggested and ORDERED
 PRINTED.

Which was under suspension of the Rules, READ
 ONCE, without reference to a Committee.
 The Bill TOMORROW ASSIGNED FOR SECOND READING.

Bill "An Act Regarding Industrial Electrical
 Rates" (Emergency)

S.P. 936 L.D. 2395

Presented by Senator CLEVELAND of Androscoggin
 Cosponsored by Senator WEBSTER of Franklin
 Approved for introduction by a majority of the
 Legislative Council pursuant to Joint Rule 26.
 Committee on UTILITIES suggested and ORDERED
 PRINTED.

Which was under suspension of the Rules, READ
 ONCE, without reference to a Committee.
 The Bill TOMORROW ASSIGNED FOR SECOND READING.

COMMITTEE REPORTS

House

Ought Not to Pass

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

From the Joint Select Committee on CORRECTIONS
 Bill "An Act Concerning Staffing at Correctional
 Facilities"

H.P. 1639 L.D. 2302

From the Committee on UTILITIES Bill "An Act to
 Establish a Watershed District for Sebago Lake"

H.P. 1653 L.D. 2316

Ought to Pass

The Committee on JUDICIARY on Bill "An Act to
 Define Conflict of Interest for Probate Judges"

H.P. 1552 L.D. 2190

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in
 concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on AGING, RETIREMENT & VETERANS on
 Bill "An Act to Authorize the Construction of Two
 Veterans' Homes in Eastern and Western Maine"
 (Emergency)

H.P. 1553 L.D. 2191

Reported that the same Ought to Pass as Amended
 by Committee Amendment "A" (H-973).

Comes from the House with the Report READ and
 ACCEPTED and the Bill PASSED TO BE ENGROSSED AS
 AMENDED BY COMMITTEE AMENDMENT "A" (H-973).

Which Report was READ and ACCEPTED, in
 concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-973) READ.

On motion by Senator WEBSTER of Franklin, Senate
 Amendment "A" (S-561) to Committee Amendment "A"
 (H-973) READ.

Senator MCCORMICK of Kennebec moved that the
 Senate INDEFINITELY POSTPONE Senate Amendment "A"
 (S-561) to Committee Amendment "A" (H-973).

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

Senator WEBSTER: Thank you Mr. President.
 Ladies and Gentlemen of the Senate. This is a simple
 little amendment. The Committee dealt with this
 issue at length and many veterans of this State are
 asking that we build two new veterans homes in the
 State. The people in Washington County, and I can't
 speak for them but I am sure others can, the veterans
 in Washington and Franklin County have asked that we
 build these homes in their area. There are enough
 beds and homes for veterans in the larger more
 populated areas but there aren't enough available to
 the veterans that live in the rural parts of the
 State. For that reason, I should tell you this Bill
 came out of Committee unanimously. I hoped to deal
 with this issue at length in the Committee to try to
 come to an agreement but was unable to because of the
 process of trying to move things along. It seems to
 me that the idea came from a nucleus located in
 Oxford County and a nucleus of concerned veterans in
 Washington County who felt they would like to have a
 home located in their area. The way the Bill is
 written, without my amendment, it simply says that
 there will be a home located in Western Maine and a
 home located in Eastern Maine. That means, according
 to Mr. Carney and some people associated with the
 Retirement System, that this would be located in
 Bangor and in Lewiston. Since I represent, as many
 of you know, at large rural areas, I feel strongly
 that the rural areas in the State should have equal
 chance to these types of facilities. For that reason
 I have offered this amendment and would ask for your
 support. Thank you.

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

Senator MCCORMICK: Thank you Mr. President.
 Ladies and Gentlemen of the Senate. As the good
 Senator from Franklin, Senator Webster pointed out,
 this was a unanimous report out of our Committee.
 The reason why it was unanimous was that we all felt
 the best way to bring two veterans homes to Maine was
 to be general in the legislation; Eastern Maine and
 Western Maine. I personally favor the locations more
 towards Washington County and more towards Oxford
 County, but I believe if we make this legislation
 that specific we will lose these veterans homes. I
 urge you to defeat this amendment and vote with me
 which is to indefinitely postpone the motion.

There are two reasons why we will lose these veterans homes if we get more specific in this legislation. The first is that there is a certificate of need procedure that all nursing homes have to go through. They have to pass and show there is a need for those beds in the areas that the nursing home is proposed to be built in. If we get too specific in our legislation and it is determined that there is not a need for beds in that area, that is one way the idea will not go forward. The second snafu we are facing if we get more specific is that the Board of Trustees also have to be able to have this be a revenue neutral proposal. In other words, it doesn't have to be profitable but it doesn't have to lose money. If it is determined that a location we have specified in the legislation will actually lose money we will also not get those veteran homes. I would like to add a third tier of decision and that is Washington. We pass this Bill, it goes down to Washington and the Veterans Service Administration oks it or doesn't ok it and that is yet another tier. The more general we are, at this point, the more likely we are to have two veteran homes come to Maine. The Veteran's Coordinating Committee had initially the same discussion we had in our Committee. Should we be more specific and talk about Washington County, Bangor, Oxford County, or Auburn. Even the veterans decided to pull together and speak with one voice in front of our Committee and they did. They went with a general Eastern Maine and Western Maine wording. I urge you to do the same. That is the best way to bring two veteran homes to Maine. If we don't keep it general, we will most likely lose those two veteran homes. Please vote to indefinitely postpone this Senate Amendment. 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 would agree with my colleague, the good Senator from Kennebec, Senator McCormick. I think most of you are aware there are three veteran homes in the State at the present time. One is in Augusta, one is in Scarborough, and the third one is in Caribou. Caribou has a forty bed unit and I would have to tell you that in the two years operation so far it has been supported primarily by the revenues that occur in Augusta and in Scarborough. It needs a certain population base in order to make it feasible. Furthermore, it needs that base in order to make it possible to finance. These are financed entirely without state funds. They go to the Bond Market and they are entirely dependent upon an operation that can succeed. Just within perhaps twenty miles of the City of Caribou there is some 35,000 people. About 85,000 people in the County. That compares with Franklin County with a population of about 29,000 and Washington County with about 35,000. I can understand the feeling of my good friend, Senator Webster from Franklin, in desiring to have this facility in his county. The thing just won't work that way. It has got to have a population base that can support it. It has to be able to be financed and it can't happen that way. The trustees of the Maine Veterans are the appropriate people to make this decision in the first place. We ought not to try to lay it on them by the legislation we are now

proposing. I would urge you to support the motion of the good Senator from Kennebec, Senator McCormick to indefinitely postpone the amendment. Thank you, Mr. President.

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

Senator **VOSE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to thank my colleague, Senator Webster of Franklin, very much because I think his heart is in the right place. There is nothing in the world I would like better than to have a veterans home constructed in Washington County. I must concur with the arguments against this particular amendment. It is a certificate of need that is going to determine where the particular nursing home is going to be. We do have in the present Bill that opportunity since it says Eastern and Western Maine. Now, the ball is in our ballpark in Washington County. The figures that have been given to us by the trustees are not very advantageous, as far as we are concerned to put it in Washington County. However, we don't necessarily agree with those figures. We are going to attempt in any and every way to discredit them. The fact is that as a lifetime member of the American Legion, I want two veteran homes in Maine. I want one in Washington County but if we can't get through a certificate of need I still want it somewhere in the State of Maine. Therefore, I will be voting against the amendment very, very, reluctantly. I do wish, once again, to thank my colleague Senator Webster of Franklin for his heart being in the right place. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise, as well, to speak in support of Senator McCormick's motion. It seems to me our primary goal is to ensure that two additional veterans facilities are located within this State. It must be done so in the way that has been outlined before you here. My concern is that the good Senator from Franklin, Senator Webster's amendment would likely ensure that neither of those facilities were built. I don't believe we should risk that. There is a process in place for each area to make their best case for the appropriate location for the facility both to serve the veterans and to be a fiscally responsible project that can sustain itself. I think we should not tamper with that simply because there are some areas in the State that would like preferential treatment. I would also note his amendment would exclude Androscoggin area and I think that is inappropriate. Each area ought to compete on their own merits for the benefit of the veterans. I would urge you to support Senator McCormick's motion. Thank you.

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to clear up a couple of points. The first point being that because of my position in leadership I don't get to attend as many hearings as I would like to. I did attend the work session and I want to clear up the fact that I have no illusions that this veterans home would ever be built in Franklin County. The support has always been a grassroots support from the citizens of Oxford County. I think the reason they contacted me is because I am on the Committee. I am

sure that the other Senators in this Body who do represent Oxford County have had many calls. I received many calls from there and the people I represent in Franklin County want to go in that direction. My feeling is that this was a grassroots effort by veterans from two parts of the State. That is where the idea came from to begin with. There is a feeling, for those of us who represent rural parts of the State, that we are going to have to travel great distances to become a person who is in one of these facilities. I think we ought to be looking at the rural areas of the State. I would only say that this amendment, as written, would say that the two homes be built with up to 220 beds. I used to be on the Human Services Committee and I could tell you that the certificate of need process does work. There is nothing that says we couldn't instead build a 92 bed facility or a 85 bed facility. My research tells me there is a point over a 60 bed plateau that you can break even if you structure your system right. For that reason I think that this does make sense. Frankly, I am perical here because this is not going to be located in Franklin County, it will probably most likely be in Washington County where the whole idea came from and from Oxford County. These people have worked very hard and ought to be heard. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **MCCORMICK** of Kennebec that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-561) to Committee Amendment "A" (H-973).

The Chair ordered a Division.

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

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

21 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **MCCORMICK** of Kennebec, that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-561) to Committee Amendment "A" (H-973), **PREVAILED**.

Committee Amendment "A" (H-973) **ADOPTED**, in concurrence.

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

The Committee on **BANKING & INSURANCE** on Bill "An Act to Improve Disclosures of Automated Teller Machine Transactions"

H.P. 1559 L.D. 2197

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-958)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-958)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-958) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Prevent Certain Restraint of Trade Practices"

H.P. 1291 L.D. 1866

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-919)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-919) AS AMENDED BY HOUSE AMENDMENT "A" (H-975)** thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-919) **READ**.

House Amendment "A" (H-975) to Committee Amendment "A" (H-919) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-919) as Amended by House Amendment "A" (H-975) thereto, **ADOPTED**, in concurrence.

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

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Laws Governing Emergency Medical Technicians"

H.P. 1491 L.D. 2103

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-961)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-961)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-961) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Simplify and Reduce the Cost of State Mapping Efforts"

H.P. 1455 L.D. 2067

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-955)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-955)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-955) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Prohibit the Dismantling of Products That Contain Hazardous Material near Water Supplies"

H.P. 1463 L.D. 2075

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-972)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-972)**.

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

The Bill **READ ONCE**.
 Committee Amendment "A" (H-972) **READ** and **ADOPTED**,
 in concurrence.
 The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND**
READING.

The Committee on **ENERGY & NATURAL RESOURCES** on
 Bill "An Act to Amend the State's Oil Spill
 Prevention and Response Provisions"
 H.P. 1532 L.D. 2163

Reported that the same **Ought to Pass as Amended**
 by **Committee Amendment "A" (H-971)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-971).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-971) **READ** and **ADOPTED**,
 in concurrence.

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

The Committee on **ENERGY & NATURAL RESOURCES** on
 Bill "An Act to Strengthen Compliance with Land Use
 Laws in the Unorganized Territories"
 H.P. 1563 L.D. 2201

Reported that the same **Ought to Pass as Amended**
 by **Committee Amendment "A" (H-954)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-954).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-954) **READ** and **ADOPTED**,
 in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act
 Concerning Authorization to Consent to Powers of
 Attorney"
 H.P. 1287 L.D. 1857

Reported that the same **Ought to Pass as Amended**
 by **Committee Amendment "A" (H-964)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-964).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-964) **READ** and **ADOPTED**,
 in concurrence.

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

The Committee on **MARINE RESOURCES** on Bill "An Act
 Concerning the Stocking of Atlantic Salmon in Maine
 Rivers" (Emergency)
 H.P. 1471 L.D. 2083

Reported that the same **Ought to Pass as Amended**
 by **Committee Amendment "A" (H-969)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-969).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-969) **READ** and **ADOPTED**,
 in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act
 to Clarify Permit Provisions for General Commodity
 Vehicles with a Maximum Gross Weight of 100,000
 Pounds"
 H.P. 1527 L.D. 2156

Reported that the same **Ought to Pass as Amended**
 by **Committee Amendment "A" (H-952)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-952).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-952) **READ** and **ADOPTED**,
 in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act
 to Protect School Students from Potential Harm"
 H.P. 1541 L.D. 2174

Reported that the same **Ought to Pass as Amended**
 by **Committee Amendment "A" (H-968)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-968).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-968) **READ**.
 On motion by Senator **TWITCHELL** of Oxford, Senate
 Amendment "A" (S-568) to Committee Amendment "A"
 (H-968) **READ** and **ADOPTED**.

Committee Amendment "A" (H-968) as Amended by
 Senate Amendment "A" (S-568) thereto, **ADOPTED** in
NON-CONCURRENCE.

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

The Committee on **UTILITIES** on Bill "An Act to
 Revise the Charter of the Boothbay Harbor Sewer
 District" (Emergency)
 H.P. 1479 L.D. 2091

Reported that the same **Ought to Pass as Amended**
 by **Committee Amendment "A" (H-953)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-953).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-953) **READ**.
 On motion by Senator **CLEVELAND** of Androscoggin,
 Senate Amendment "A" (S-567) to Committee Amendment
 "A" (H-953) **READ** and **ADOPTED**.

Committee Amendment "A" (H-953) as Amended by Senate Amendment "A" (S-567) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

The Committee on **UTILITIES** on Bill "An Act to Create the Waterboro Water District" (Emergency)

H.P. 1593 L.D. 2247

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-959)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-959)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-959) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Discourage Illegal Dumping of Waste"

H.P. 1560 L.D. 2198

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-962)**.

Signed:

Senators:

TITCOMB of Cumberland
LUDWIG of Aroostook

Representatives:

LORD of Waterboro
JACQUES of Waterville
MARSH of West Gardiner
COLES of Harpswell
SIMPSON of Casco
HUGLUND of Portland
MITCHELL of Freeport
POWERS of Coplin

Plantation

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

Signed:

Representatives:

ANDERSON of Woodland
GOULD of Greenville

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-962)**.

Which Reports were **READ**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-962) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Amend the Maine Health Security Act"

H.P. 1093 L.D. 1593

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-966)**.

Signed:

Senator:

GAUVREAU of Androscoggin

Representatives:

PARADIS of Augusta
ANTHONY of South Portland
CATHCART of Orono
HANLEY of Paris
RICHARDS of Hampden
OTT of York
FARNSWORTH of Hallowell
COTE of Auburn
KETTERER of Madison
STEVENS of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-967)**.

Signed:

Senators:

BERUBE of Androscoggin
HOLLOWAY of Lincoln

Comes from the House with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-966)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-966)**.

Which Reports were **READ**.

Senator GAUVREAU of Androscoggin moved that the Senate **ACCEPT** the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-966)** Report, in concurrence.

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

Senator HOLLOWAY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I do hope that you will reject the pending motion and consider Committee Amendment "B" (H-967). Both amendments are identical with the exception that Committee Amendment "B" (H-967) prevents the repeal of the panels. This is basically a pre litigation panel which consists of a judge, a lawyer, and a doctor. I hope you will consider Committee Amendment "B" (H-967) which does not allow the pre litigation panels to be repealed. This is a very important step in malpractice cases that come before the courts. They have the opportunity to review them prior to going to the courts. It has saved a lot of time and some monies for those who come before the court system with suits. Thank you very much.

THE PRESIDENT: 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 explain why I voted with Report B. It is basically what the good Senator from Lincoln, Senator Holloway just said, the difference between our reports is that Report B does not repeal the screening panels. Panels are made up of three people, a physician, a lawyer, and a third person who has some judicial experience. The screening panels were established in 1986 in a comprehensive Tort Reform Act that was accepted by the Maine Bar Association, the Trial Lawyers Association, as well as the Maine Medical Association. Until now they have heard about 570 complaints, most of which have been acted upon. It is my understanding that there would be a fiscal note if the panels are removed and repealed sunsetted in 1993. Another reason I voted for it is that in the

State screening panels exist, the malpractice insurance premiums for obstetricians and gynecologists has dropped the first year by 7% and overall by as much as 20%. It has not affected those physicians in the general practice and general surgery area but mostly the professions of obstetrician and gynecology have been positively impacted by this. That is the reason I voted for Report B. 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. It is March, pitchers and catchers have reported to training. The birds have returned to my backyard. The Taster Freeze is due to open in a week or two and the men and women on the Judiciary Committee are debating malpractice. What could be wrong with the world?

The Committee on Judiciary actually spent a great deal of time on LD 1593 which is a carryover Bill. As you can surmise by now, the Committee was asked to review the operation what are known as the pre litigation screening panels. As you may recall in 1986 there was omnibus compromise worked out between the warring camps of the Maine Trial Lawyers and the Maine Medical Malpractice Insurance Companies. Last but not least the Maine Legislature, Committee on Judiciary. One of the prongs of the 1986 settlement was, in fact, to establish pre litigation screening panels which I think was a good idea then and now. The screening panels are designed to provide an expeditious forum for resolution of complicated medical malpractice and negligent cases outside of a full blown very expensive trial. As was noted by earlier speakers, the operation is as follows: once the case is filed in court, the Chief Justice in Superior Court appoints a panel chair who then appoints two associate members to the panel, the panel then receives a summary presentation by the litigants as to why there should be a finding of medical malpractice or not. If the panels are unanimous, in their deliberation, then the case should go on to trial and the jury is allowed to hear the recommendation of the panel, either unanimous for the plaintiff or the defendant. If the panel is not of one mind then the jury is not advised of the findings of the panel. I agree with my colleagues on the Committee that the pre trial screening panels are an innovative and good idea and hopefully can be sustained in Maine Law. You might have received, in the last week or so, correspondence from the Maine Medical Association under the signature of Dr. Mark Cooper dated February 27, 1992. I agree, in large part, with what he states. The question has to be asked; why did I vote for a report which, in fact, would sunset as of October 31, 1993? The Committee on Judiciary received what I would characterize as very disturbing testimony. We found that when panels are convened they are sometimes useful in bringing about a resolution of malpractice cases without trial. However, there is a significant backlog of screening panels who have yet to be appointed or have been appointed but have not yet convened. The Committee now understands that there are some 75 malpractice cases that are being held up waiting for panels to be convened. That is what, in fact, concerned all the members of the committee and prompted 11 of us to vote for Report A. We believe, as does the minority on the Committee, that the interested parties should be asked to go out, come up

with reasonable solutions and report back to the legislature next year. The minority felt that would be insufficient response to the problem. Those of us in the majority felt that we needed to have a little more incentive to get the message across that it is very important that a meaningful solution to this problem be crafted.

Let me tell you why that is so. Some of these cases, these medical malpractice cases that are being held up in advance waiting for panels to be assigned, some of the plaintiffs are getting on in years. There is significant likelihood that if the delay goes on much longer, the plaintiffs will be substantially prejudiced in putting in their case whenever it goes to trial. Some folks might even die so they won't even get to trial in the first place. We have to strike a balance. I think it is a legitimate policy for our state to ask medical malpractice litigants to go out to a pre-trial screening panel and see if things can be worked out there. The question is how long of a delay will we tolerate. Will we tolerate six months, a year, two years, three years, or four years. At some point you begin to impact on the very essence of due process which is to have paneled a jury which will resolve your civil dispute. I think there is a health tension there. What prompted me to vote for the majority report was that I believe that 75 medical malpractice cases being held up with no immediate prospects for panels to be impaneled, is simply not reasonable. What I could have done is vote out legislation which would have eliminated the panels. We said no. We decided to wait, not for this year or this fall, but for October 31, 1993. The Committee on Judiciary will always be considering medical malpractice legislation. Next year the Committee will, in fact, be receiving reports prepared by the various interested parties on how to address this very significant issue of access to the courts and access to civil justice. We feel that putting a sunset of the fall of 1993 is reasonable. It would certainly provide the incentive for the parties to work out a reasonable compromise. My personal belief is this Legislature is strongly supportive of panels and will, in fact, vote to continue this experiment next year. I have no doubt. Were I privileged to be here next year, I won't be running again, I would vote to extend the sunset. I think it is a reasonable tool now to go to the parties and say we are serious about this. We are not going to tolerate delays in civil justice. This problem has reached a peak and the majority of the committee felt we had to have a reasonable tool to advance the cause of justice. We think that a reasonable sunset, which I described to you, is fair under all the circumstances. I would ask that this Body vote with the strong 11-2 majority report. Thank you.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the remarks from the Senator from Androscoggin, Senator Gauvreau. In his opening pre season report, I would just also add that Roger Clemens is AWOL. Some of the debate seems to be AWOL to me. The good Senator from Androscoggin, Senator Gauvreau, as I recall the discussion on the pre screening panels, was one of the articulate voices, as he always is, in getting this Body to vote for those screening panels. I fail to understand, now that we have done so, why we would

be reversing our feel, stepping away from mediation, suddenly saying we have to put this sunset legislation in. If there are some problems why don't we get on with trying to deal with those issues? Don't repeal the hard work, time, and effort that has gone into this. Something in this debate is missing from those who are signers of Majority report. I urge this body to reject the Majority report and go with the Minority report. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by Senator GAUVREAU of Androscoggin, that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-966)** Report, in concurrence.

The Chair ordered a Division.

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

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

13 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator GAUVREAU of Androscoggin that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-966)** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-967)** Report **ACCEPTED** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "B" (H-967) **READ** and **ADOPTED** in **NON-CONCURRENCE**.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act Creating the Victims' Compensation Board" H.P. 1265 L.D. 1834

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-965)**.

Signed:

Senator:

HOLLOWAY of Lincoln

Representatives:

KETTERER of Madison

RICHARDS of Hampden

CATHCART of Orono

OTT of York

STEVENS of Bangor

FARNSWORTH of Hallowell

ANTHONY of South Portland

HANLEY of Paris

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

Signed:

Senators:

GAUVREAU of Androscoggin

BERUBE of Androscoggin

Representatives:

PARADIS of Augusta

COTE of Auburn

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-965) AS AMENDED BY HOUSE AMENDMENTS "A" (H-984) AND "B" (H-989)** thereto.

Which Reports were **READ**.

Senator GAUVREAU of Androscoggin moved that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

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

Senator **HOLLOWAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to tell you about this victims compensation Bill presently before us. You should remember that we are the only State in the United States that does not have a similar program. What this Bill would do is put a surtax on those who are being sentenced, criminal offenders, when they come before the courts. Not civil offenders, only criminal offenders. That money would be set aside to form a board of three members and one staff person who would then be able to assist people who have been victims of crime. If they say they have problems because they say they have been sexually assaulted, this money would go towards counseling for them. In one situation of a family that was before the committee, the son was murdered and that family did not have the money to pay for the funeral or assist them in any manner. I really wasn't too excited about the Bill when it first came before the committee but after we were able to reduce the size of the staff, I decided it was something Maine should not go without. I do hope that you will accept the Majority Report and reject the Minority Report. 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. This legislation is, in fact, very sensitive legislation. As was mentioned by the good Senator from Lincoln, Senator Holloway in her remarks, the Committee on Judiciary received some very moving testimony in this area. I can recall a gentlemen from Auburn whose son had been murdered and was unable to afford all the costs of burying his own son, who was victim of a violent grievous assault. This topic strikes a cord in all of us and I think all of us have a natural tendency to want to address that very real human need. I, too, would like to do something for victims of such violence and criminal behavior in our society. I take a different approach than that crafted by the majority in LD 1834.

Let me back up and tell you what this Bill, if enacted, would do. It would, in fact, adopt a statewide victims compensation board. This board would be funded by yet another surcharge on fines in our criminal courts. I am not sure if you are familiar with the various panoply of surcharges which Maine has on those individuals who are convicted of criminal behavior. Let me take a few moments to remind you of some of the more obvious surcharges we have. We have the general government operations surcharge, which was known until last year as the jail operations surcharge. I submitted a Bill that actually passed to change the name of the surcharge because I believed it was misleading. Almost 80% of the money that goes from the hereto for known as the Jail Operations Surcharge fund goes, in fact, to our general fund to fund ordinary operations of government. We also have surcharges for those people who go on probation, they pay out probation as a surcharge. Those who are convicted of OUI pay a fine and also pay a surcharge for operating under the influence. Those who require incarceration, if they have assets, they have to pay room and board. If they, in fact, do commit a crime which damages property or the person of another, those individuals are required as part of the court order to make

restitution to victims. If they commit a motor vehicle violation and lose their license, they have to pay restoration of license. If they commit an OUI matter they have to, in fact, go through the DEEP program and pay a \$500.00 fee for the weekend intervention program. Not to mention the significant surcharge in their insurance rates. I mention all these various charges because, it seems to me, the courts are not doing what their primary business is. Their primary business is to adjudicate whether someone did or did not commit a violation of the social order and to craft a meaningful fine which is related to the violation to the social order. It seems to me what we are doing in Maine, and we have for the past several years, is adopted a succession of taxes on most people who are in the district court. As a practical matter, who is in the district court? Mostly working class men and women. We are asking these men and women, who might be committing minor violations to pay assorted fines in the district court. This Bill really strikes at the very heart of how we should be financing services. I certainly agree that society owes victims of criminal behavior a meaningful remedy. I agree with that. We all should contribute fairly to address those victims. I should pay for that according to my income to be based upon a progressive scheme of taxation. This is an exceedingly regressive Bill. This asked those in society, who are least able to afford it, to pay for the wrongs done to others even if the criminal defendant had no responsibility in the wrong done to that person.

Under the Bill, the majority would have us pass, a person who was victimized of certain classes of crime, would be eligible for victims compensation under this Bill. Offenses against the person not offenses against property. If someone ransacks your house that is unfortunate. If they assault you in anyway, you can get reimbursement, only up to \$5,000.00. That is the maximum. The point here is that if a person, in fact, does commit a violent assault or crime against another person and is found guilty, that person is required by the court to make restitution. That is part of the persons sentence, as well it should be. Why should we ask another person to subsidize the compensation for the victim of wrongdoing. We should spread that cost, as we do through insurance, to the entire community. That is a fair, equitable, and rational way to compensate victims of crime. I would suggest that rather than trying to impose a sixth or seventh criminal fine surcharge, perhaps we ought to give very serious consideration to meaningfully funding the Maine Health Program so that those who do need medical services and don't have insurance to meet them, can receive fair reimbursement. That is a fair principle. Let's do that on a rational, progressive means of taxation and not another easy quick fix surcharge.

People will argue that this is great and there is no cost to the taxpayer or general fund. Why not do this? This is obviously a tax. As I mentioned to you earlier, it is a tax upon many of the people who cannot afford to pay that tax. Quite often, lest we forget, many of the people in the district court are not only people who commit crimes but also have crimes committed unto them. We are asking them to subsidize this regressive means of reimbursing the victim.

It seems to me there is tremendous emotional appeal to pass a victim's compensation Bill and yes, in fact, Maine is unfortunately the only State left in the Country that doesn't have some sort of compensation board. Left unsaid in the debate is that about half of the States in this Country adopt progressive means to finance compensation boards. They fund them out of the general revenue. Yes it is difficult, especially in times when the economy is rough, but that is what the social order is all about. If we really, truly believe in extending to people in need than let us commit ourselves to a rational means of taxation and avert those resources to those truly in need. At best, this Bill will provide small relief to only a small cohort of victims in our State. At worst, it might cause some unintended consequences. First of all, I strongly suspect that if we adopt this Bill it will result in a steady and constant diminution in general fund revenues for our State. As you know fines go to the general fund. The Bill, when it first came in, was not ready for prime time. The original formulation of the Bill would have paid victims of crime first before any fine money was collected. The sponsors of the Bill tried to address the problem but the reality is that a court, in sentencing an offender, will determine how much money that person can pay out. What can the person pay for a fine, let alone the 15% surcharge, the probation and parole fee, the OUI fee, the restitution fee, and the motor revocation fee. The court is going to come to some assessment on how much that person can pay. I suspect strongly the court is going to decide, well I'll reduce the fine I impose so the person can pay the mandatory assessment for the victims compensation board. As a result we will see 2-4% loss in general fund revenue coming in from criminal fines. You may say that is a small price to pay but the reality is the courts already are under funded. We have had to cut the court budget, as all other budgets in the State, over the past several years. This will do more harm than good. We already have five vacancies in our court system. We can not afford to fill five vacancies, Judges in our Superior, District, and Supreme court because we haven't got the resources. If we keep on reducing the flow of resources we are going to have even less money to sustain the courts. I ask those who sponsored this Bill, how is it you're going to exact these fines when you haven't even got a system of justice into place to determine whether a crime occurred at all and whether or not there was a defendant available who you can convict. It seems to me to be irrational. Finally, I suspect also, there will be tremendous pressures in the short term to borrow from this fund. If fully sized the fund would generate around \$1,000,000 a year, if in fact, we were successful in collecting all the money imposed on the fines in our courts for the compensation board. Assume we have \$1,000,000, what if in the first year or two of the boards existence all the funds aren't expended? Would there not be tremendous pressure to borrow from that fund to support other important matters of State Government? I suspect yes. It will be yet another drain on those people who are paying fines in the criminal court system to finance other purposes of State Government. Make no mistake about it, this is a hard Bill. With an adage in the law, an adage you learn in your first year of Law School, hard cases make bad law. Hard cases make bad law. It is a hard case. I can't think of a

worse case, to look in the eye a gentlemen of the city of Auburn, who has lost his son, murdered, and couldn't afford to bury his son, and that affects all of us in a way I can't even articulate. This Bill is not the answer. It is a poor response to a major problem. If we defeat this Bill today, the problem will still be with us. I believe working together we can craft more meaningful and a fair system to provide compensation to victims of crime. This Bill, unfortunately, asks the same court of people, the people who already in a district court and subject to a variety of surcharges, to pay one more surcharge. It simply goes against my personal philosophy of how we ought to fairly and progressively finance government services. For those reasons I would urge the Body to vote with the Minority Report of Ought Not To Pass on LD 1834. Thank you Mr. President.

The Chair ordered a Division.

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

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

Senator CONLEY: Thank you Mr. President. Ladies and Gentlemen of the Senate. During the remarks of the good Senator from Androscoggin, Senator Gauvreau, I took an opportunity to look at this Bill which I must admit I did not sit in on and did not participate in the deliberations which were conducted on the Judiciary Committee. I must admit I am looking at the Bill as it is amended by House Amendment (H-965), and it certainly is much different from the original Bill which went in. However, I am really hardpressed to see that this Body would adopt this piece of legislation at this time. It occurs to me, in looking at this Bill, that we have abolished some 20 boards and commissions. Many of them good boards and commissions. The Maine Women's Commission has been abolished, the Committee on Aging has been abolished, and many commissions which people in this Body have sat on have been abolished. We are being asked now to create a brand new board to put under the auspices of the Commissioner of Public Safety to deal with an issue that is important but which, in looking at it, I can't believe that we could support it. This Bill calls for setting up a fund which will be taken out of monies of people going to the district and superior courts. A fund, which I cannot believe, we would trust ourselves with. We have stolen from the Retirement fund and we have dipped into just about every fund imaginable in State Government. We have borrowed from Peter to pay Paul. We have borrowed against futures. We have done just about everything in here to keep this budget balanced. We have done more balancing acts than the Flying Rolandas. Now we want to trust ourselves with a new fund of \$2,000,000 and say that is somehow going to get to the victims of crime. I can't believe that anyone in here seriously thinks that is going to happen. That is not going to happen.

People go into court, now a days, and are told that they have been speeding and they must pay a \$100 fine. Wait a minute we have 10% coming for that surcharge for the jails. Even though the money doesn't go there, it goes into the general fund. Then you have to pay a probation officer for those services. Of course, we are laying off probation officers because we can't fund those positions. Then there is another surcharge if you have an OUI and that is to help people figure out that they are not

supposed to be drinking and driving. That doesn't go to any services for OASA. We can't even meet our maintenance of effort there. Those monies go who knows where. The money never gets to who it is supposed to get to. This is a feel good Bill but I would suggest to you that the last people in the world who are going to feel good are victims. We will never let that money get to them. It will end up being used to take care of whatever general fund problems we have today. This is a bad Bill, good idea but a bad Bill. Thank you.

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

Senator MCCORMICK: Thank you Mr. President. Ladies and Gentlemen of the Senate. Well, I never thought that I would hear my good friend Senator Conley from Cumberland be so cynical about government. But, I have heard it. I think that was a cynical response to an honest effort at making sure that our justice system does two very important things that the good Senator from Androscoggin, Senator Gauvreau failed to include. Those two things are that a good justice system should hold accountable the perpetrators of a crime and two it should seek to make whole the victims of crime. This Bill does both of those things. It is not perfect and nothing we do is perfect. It is a good first step down a road that has been proven in other States. The red herring that the good Senator from Cumberland, Senator Conley raises about these enticing monies. We are hearing different things from these two speakers. One speaker, the good Senator from Androscoggin, Senator Gauvreau says these people don't have any money anyways so we are squeezing blood out of a turnip. Then we hear the good Senator from Cumberland, Senator Conley say well there is going to be so much money in the pot and he cynically says that State Government won't be able to keep their hands off this pot. I suggest the truth is somewhere in the middle. If we think this is a good idea, we should do it and make sure the money gets to where it is intended to go. He is raising a red herring of a whole other issue that we can debate some other time. That issue is should there be dedicated revenues or should there not be? That is a growing public discussion that we should eventually have. Polls are showing that people are willing to pay for governmental services if they know where their money is going. I don't know if you have been reading the same polls I have but that is a very interesting description. You can ask someone do you want your taxes to be raised and they will say no. If you ask them if they are willing to pay more taxes for education, 84% will say yes. Do you want to pay more taxes if you can have a national health insurance, 90% will say yes. We have this interesting movement going on and I suggest we at some point will want to debate that. That issue here, I think, is not the core issue. The core issue is will we have a justice system that has accountability and makes victims whole? This Bill goes a long way towards doing that. I would urge the defeat of the Minority Ought Not To Pass so we can get on with passing the Majority Ought To Pass. Thank you.

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

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. The intent of this Bill is very laudable and I would certainly be one of the

first to support it if 100% of the monies collected went to the victim. The victim could decide to pay bills incurred as a result of the attack or to seek counseling. It is estimated there will be approximately \$1,000,000 collected. Initially we were told \$2,000,000 but that was dropped to \$1,000,000. If you figure, according to the Bill, 25% of the revenues would go to advocates in the D.A. and H.E.'s offices. 25% which is close to \$300,000 right off that \$1,000,000 figure. The Bill explains what monies could be used for; expenses, medical related expenses plus psychological services. The Board would be made up of three members and would have a staff. Right away we are eroding further that \$1,000,000 we think we will collect. Initially, 15% was requested to maintain the Board. That was dropped to the last revision of 7.5% so another 7.5% would be allocated to maintaining the presence of this Board.

What would the Board do? Well the Board would dispense the funds either directly to the claimant or to individuals or entities who performed services, counselors, counseling services, counseling agencies, etc. It does not spell out how the decision is to be made or what rationale they would use to expend the monies. There is requested in the area of \$10,000 start up costs for the Judicial Department to reprogram their computers and another similar amount to the Department of Corrections to reprogram their computers as well. We are eroding those \$1,000,000. The Board has the ability and option to contract with individuals or organizations to provide services to the victim. The reason I say this is if the monies would go to the individual, they could determine what to do with it. Such is not the case. At the end, whatever is left will indeed go to the victim. It is estimated that \$1,000,000, as you have heard, will be derived from this. We were told that approximately \$5,000,000 is in Accounts Receivable in the court system in uncollectable dollars. 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 have just a few closing remarks before we pass judgement upon this Bill. In the debate there has been some question raised as to who would actually be paid the surcharge necessary to fund the Victims Compensation Board. As you know, under the Bill anyone who is convicted of a crime will be required to pay this surcharge. I want to emphasize, even if the offense is of a non violent nature, even if the offense is in no way against the person, that person is being asked to write a check to the victim of a personal offense. I understand how the political process works and I understand how advocates work. Basically the means justify the ends, I understand that. Who cares about consistency in the law anyway, that is only for intellectuals. The reality is that a few of you have had occasion to go into the courts in the last couple of years. I don't think many of you appreciate the disgust, disdain, and disrespect which people have for the courts and the law. People can understand, if they make a mistake, they have to account for that. They may have to go to jail or pay a fine. What is a source of infinite frustration is the Maine Legislature telling them they have to fund a whole array of other activities totally unrelated to what they did. That is what is really fundamentally wrong with this Bill. I am pleased the Senator from

Cumberland, Senator Conley arose because he raised an issue that I felt strongly about in regards to this Bill. We have eliminated over 20 agencies in State Government. Just two months ago we eliminated those agencies, many of which are vital in performing important social functions.

In December 1991, this Legislature abolished the following programs; The State Government Internship Program, The Mining Excise Tax Trust Fund Board of Trustees, The Maine Human Development Commission, The Standardization Committee for Purchasing, The Maine Commission for Women, The Maine Health Policy Advisory Council on which I served for four years and was in the midst of trying to craft universal overarching strategies that enhance access to health care, The Pine Tree Partnership Fund Board, The Maine Veterans Small Business Loan Board, Water Safety Committee, The Forest Fire Advisory Council, Cancer Prevention and Control Advisory Committee, The Environmental Health Advisory Committee, Scientific Advisory Panel, The Advisory Committee on Home Health, The Advisory Board for Licensure of Water Treatment Plant Operators, The Maine Committee on Aging, The Fire Sprinkler Advisory Council, The Nursing Education Mobility Advisory Group, The Maine Commission on Mental Health. As we tell people who have lived in AMHI and BMHI for years and we have improperly funded their rational integration into the community, we abolish the agency which was primarily responsible to hold us accountable for proper standards for mentally ill people. Some more committees that were abolished are; The Maine Municipal and Rural Cooperative Agency, The Commission to study the Establishment of a State and Tribal Partnership to encourage economic development, The Special Select Committee on Access to Health Care. Let me say that again. The Select Committee on Access to Health Care. I served on that committee for four years. That committee was involved in work the Senator from Kennebec, Senator McCormick cares deeply about. It worked on developing a rational, universal access to health care strategy, not piece by piece and not responding to the narrow needs of one particular group but trying to help and treat all people fairly and equally. I go through that list to demonstrate to you the inherent and apparent absurdity of it all. Isn't it absurd we eliminate 20 agencies in State Government because we can't afford them, although many performed for years vital services. Now what are we doing? We are setting up a small fund which may or may not help to attend the victims. There is a need and we understand there is a need to enhance medical services and access to health care. This Bill is not going to do that. It deals with 1/2 of 1% of the need. Hard cases make bad law and make no doubt about it that this, although well intended, is a bad law. Thank you.

Senator **CONLEY** of Cumberland requested and received Leave of the Senate to withdraw his motion for a Roll Call.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **GAUVREAU** of Androscoggin that the Senate **ACCEPT** the Minority **DOUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

A Division has been requested.

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

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

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator GAUVREAU of Androscoggin that the Senate ACCEPT the Minority OUGHT NOT TO PASS Report, FAILED.

The Majority OUGHT TO PASS AS AMENDED Report ACCEPTED, in concurrence.
The Bill READ ONCE.

Committee Amendment "A" (H-965) READ.

House Amendment "A" (H-984) to Committee Amendment "A" (H-965) READ and ADOPTED, in concurrence.

House Amendment "B" (H-989) to Committee Amendment "A" (H-965) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-965) as Amended by House Amendments "A" (H-984) and "B" (H-989) thereto, ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on LEGAL AFFAIRS on Bill "An Act to Permit the State Lottery Commission to Approve Promotions Involving the Use of Lottery Tickets"

H.P. 1434 L.D. 2046

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-936).

Signed:

Senators:

MILLS of Oxford
KANY of Kennebec
SUMMERS of Cumberland

Representatives:

POULIN of Oakland
DAGGETT of Augusta
LAWRENCE of Kittery
BOWERS of Sherman
PLOURDE of Biddeford
TUPPER of Orrington

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

Signed:

Representatives:

STEVENS of Sabattus
JALBERT of Lisbon
RICHARDSON of Portland
HICHENS of Eliot

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-936).

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-936) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act to Amend the Motor Vehicle Salvage Laws"

H.P. 1500 L.D. 2112

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-928).

Signed:

Senators:

TWITCHELL of Oxford
MILLS of Oxford

Representatives:

HALE of Sanford
STROUT of Corinth
MACOMBER of South Portland
RICKER of Lewiston
MARTIN of Van Buren
TAMMARO of Baileyville
HUSSEY of Milo
BAILEY of Farmington

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-929).

Signed:

Senator:

GOULD of Waldo

Representatives:

BOUTILIER of Lewiston
SMALL of Bath

Comes from the House with the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-928) Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-928).

Which Reports were READ.

On motion by Senator TWITCHELL of Oxford, the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-928) Report ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-928) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate at Ease

Senate called to order by the President.

Senate

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:

Reported by Senator KANY for the Committee on BANKING & INSURANCE Bill "An Act to Provide Consumer Information for Purchasers of Insurance"

S.P. 869 L.D. 2216

Ought to Pass

Senator CLEVELAND for the Committee on UTILITIES on Bill "An Act to Provide for the Annual Apportionment of the Kennebec Sanitary Treatment District's Operation Costs on a 3-year Average"

S.P. 881 L.D. 2253

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

Senator **MCCORMICK** for the Committee on **EDUCATION** on Bill "An Act Concerning the Degree Granting Authority of Husson College"

S.P. 875 L.D. 2236

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-565)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-565) **READ** and **ADOPTED**.

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

Senator **MCCORMICK** for the Committee on **EDUCATION** on Bill "An Act to Change the Term Secondary Vocational Education to Applied Technology and Adult Learning"

S.P. 888 L.D. 2281

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-564)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-564) **READ** and **ADOPTED**.

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

SECOND READERS

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

House As Amended

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

H.P. 1417 L.D. 2029

(C "A" H-940)

Bill "An Act to Require Reporting of Daily Routine Releases of Radioactive Materials"

H.P. 1447 L.D. 2059

(C "A" H-939)

Bill "An Act to Allow Transfer of Commercial Moorings"

H.P. 1450 L.D. 2062

(C "A" H-946)

Bill "An Act to Provide an Exemption to the Sunday Fishing Ban When a Storm Advisory or Storm Warning Is in Effect"

H.P. 1452 L.D. 2064

(C "A" H-947)

Bill "An Act to Amend the Financial Responsibility Laws"

H.P. 1462 L.D. 2074

(C "A" H-949)

Bill "An Act to Allow the Maine Harness Racing Community to Adopt a Controlled Medication Program" (Emergency)

H.P. 1475 L.D. 2087

(C "A" H-950)

Bill "An Act Regarding Loans to Stockholders, Directors, Corporators or Officers of Financial Institutions"

H.P. 1493 L.D. 2105

(C "A" H-938)

Bill "An Act to Amend the Motor Vehicle Laws"

H.P. 1526 L.D. 2155

(C "A" H-943)

Bill "An Act to Permit Pari-mutual Pools"

H.P. 1549 L.D. 2187

(C "A" H-948; H "A" H-978)

Bill "An Act to Amend the Laws Concerning Continuity of Health Insurance"

H.P. 1565 L.D. 2203

(C "A" H-937)

Bill "An Act to Amend the Laws Governing the State Claims Commission"

H.P. 1570 L.D. 2212

(C "A" H-942)

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

Bill "An Act to Repeal the Laws Creating the Mandated Benefits Advisory Commission"

H.P. 1504 L.D. 2117

(C "A" H-941)

Which was **READ A SECOND TIME**.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I just have a couple of questions regarding this Bill. It seems to me that just a couple of years ago the same committee that is now supporting the repeal of the laws relating to the Mandated Benefits Advisory Commission is recommending its repeal. As I recall this was created for the express purpose of examining the new mandates that come to us for health care insurance. It provided a mechanism, whereby, we could decide whether or not the efficacy of the treatment outweighed the cost of the benefits. I am rather curious as to the rationale as to why this is now being repealed. I recall, in debate the other day Mr. President, when the good Senator from Kennebec, Senator Kany told us how her committee listened carefully to the report of that committee and elected to make only one particular case where they pursued the addition of a new benefit. I am a little confused as to why now we are throwing it away. I am sure the good Senator from Kennebec, Senator Kany can answer my concern. Thank you Mr. President.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This was a unanimous committee report and we did, indeed, very carefully review the materials that had been provided to us by the Mandated Benefits Advisory Commission. We found the materials to be extremely helpful. We are continuing the requirement that we receive such materials when there is interest in a particular proposed mandated benefit after a committee hearing. We found, in the last year, that sometimes we had to request the work be done even if there were no interest in a proposed mandate. That was one concern we had dealt with earlier. Second, we found the actual recommendations by the Advisory Commission were not as helpful to us as was the information upon which they based their information. Upon reading that shared base of information we came to the same conclusions, separately I might add, from the Mandated Benefits Commission. We thought we would save money by eliminating an unnecessary commission but we did want to get that information about the economics, the need, and what the proposed mandate would mean to premiums and to health services. I do suggest if you are interested in looking at this carefully that you do not look at the original Bill but instead look at H-941 the amendment which replaces the Bill. I think you will find that what

is needed for the committee to make a decision would be present. We also are requiring a public hearing on proposed mandated benefits. As you know, public hearings are generally not required by law. We do think it is of importance of the effect upon premiums and to individuals and businesses throughout the State that we do have a public hearing. Thank you.

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

Bill "An Act to Establish the Maine Volunteer Firefighters Retirement System" (Emergency)
H.P. 926 L.D. 1323
(C "A" H-935)

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

Senate

Bill "An Act Regarding the Charter for Kennebunk, Kennebunkport and Wells Water District"
S.P. 920 L.D. 2359

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.
Sent down for concurrence.

Senate As Amended

Bill "An Act to Create a State Municipalities Investment Pool"
S.P. 516 L.D. 1377
(C "A" S-528)

Which was **READ A SECOND TIME**.

On motion by Senator **EMERSON** of Penobscot, 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 **PASSAGE TO BE ENGROSSED, AS AMENDED**.

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED, AS AMENDED**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **GILL** of Cumberland who would have voted **YEA** requested and received Leave of the Senate to pair her vote with Senator **BRAWN** of Knox who would have voted **NAY**.

Senator **CLARK** of Cumberland who would have voted **YEA** requested and received Leave of the Senate to pair her vote with Senator **BALDACCI** of Penobscot who would have voted **NAY**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BOST, BUSTIN, CLEVELAND, CONLEY, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, TITCOMB, THE PRESIDENT - CHARLES P. PRAY**

NAYS: Senators **BRANNIGAN, CAHILL, CARPENTER, COLLINS, DUTREMBLE, EMERSON, FOSTER, GOULD, HOLLOWAY, LUDWIG, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER**

ABSENT: Senators None

PAIRED: Senators **BALDACCI, BRAWN, CLARK, GILL**
13 Senators having voted in the affirmative and

18 Senators having voted in the negative, with 4 Senators having paired their votes and No Senators being absent, **PASSAGE TO BE ENGROSSED, AS AMENDED, FAILED**.

Sent down for concurrence.

ENACTORS

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

An Act Relating to Best Practicable Treatment Determinations in Air Emission Licensing
H.P. 1040 L.D. 1513
(C "A" H-907)

An Act Allowing Municipalities to Grant Limited Set-back Variances for Single - Family Dwellings
H.P. 1263 L.D. 1832
(H "A" H-909 to C "A" H-901)

An Act to Amend the Law Governing the Rumford-Mexico Sewerage District
S.P. 803 L.D. 2002

An Act to Amend the Charter of the Casco Bay Island Transit District

H.P. 1414 L.D. 2026
(C "A" H-908)

An Act to Amend the Laws Concerning High School Equivalency Certificates

S.P. 828 L.D. 2132
(C "A" S-539)

An Act to Repeal a Provision Concerning Low Sulfur Fuel

S.P. 845 L.D. 2149
(C "A" S-544)

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 Promote Comprehensive and Consistent Statewide Environmental Policy and Regulation
H.P. 892 L.D. 1289
(C "A" H-900)

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

An Act to Provide for Dissolution of a Union School or Withdrawal from a Union School

S.P. 682 L.D. 1810
(C "A" S-540)

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

Emergency

An Act to Facilitate the Adoption of a Maine Wellhead Protection Program for the Protection of Public Water System Wellheads

S.P. 447 L.D. 1191
(C "A" S-543)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 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 Regarding the Repayment of Blaine House Scholarships

S.P. 795 L.D. 1994
(C "A" S-541)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 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 Amend the Laws Governing Telecommunications Interexchange Carrier Selection

S.P. 797 L.D. 1996
(C "A" S-542)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

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

Emergency

An Act to Facilitate Child Support Payments from the Department of Human Services

H.P. 1054 L.D. 1543
(C "A" H-892)

Tabled - February 27, 1992, by Senator **CLARK** of Cumberland.

Pending - **ENACTMENT**

(In Senate, February 18, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-892)**, in concurrence.)

(In House, February 25, 1992, **PASSED TO BE ENACTED.**)

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

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

An Act to Enable the Department of Human Services to Have a Presence in Every County through Enhanced Administrative Flexibility

H.P. 620 L.D. 890
(C "A" H-884)

Tabled - February 27, 1992, by Senator **GOULD** of Waldo.

Pending - **ENACTMENT**

(In Senate, February 27, 1992, **RECONSIDERED ENACTMENT.**)

(In House, February 20, 1992, **PASSED TO BE ENACTED.**)

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ENACTMENT**.

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

Bill "An Act Making Supplemental Appropriations for Fiscal Year 1991-92" (Emergency)

H.P. 1699 L.D. 2379

Tabled - February 27, 1992, by Senator **BRANNIGAN** of Cumberland.

Pending - **ADOPTION** of House Amendment "B" (H-981), in concurrence.

(In Senate, February 27, 1992, House Amendment "B" (H-981) **READ.**)

(In House, February 25, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-981).**)

On motion by Senator **BRANNIGAN** of Cumberland, Senate Amendment "A" (S-569) to House Amendment "B" (H-981) **READ and ADOPTED.**

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland, that the Senate **ADOPT** House Amendment "B" (H-981) as Amended by Senate Amendment "A" (S-569) thereto, in **NON-CONCURRENCE**.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I hope you will reject the motion to adopt House Amendment "B" (H-981) today. For a very quick minute I would like to take you back to December when 25 members of the Senate voted to approve a budget which included \$3.2 million in cuts in State Employee Health Care. A sub committee of Appropriation members, Administration, and Labor Unions were assigned to negotiate with how these cuts would be brought back to the Appropriations Committee. The Committee came back to the Appropriations Committee and said that any cuts in State Employees Health Care Benefits were unacceptable and therefore Appropriations would have to find another way to find the \$3.2 million. Working with the Administration, the Appropriations Committee was able to come up with \$2.5 million leaving a gap of approximately \$750,000. Over the last week or so I know many good efforts have been made to attempt to fund the \$750,000 hole. One of the first attempts was to take the cuts out of Human Services but that was found unacceptable as well. The amendment, which is before us, would take about \$1,000,000 that Blue Cross/Blue Shield would offer up in return for a contract extension without bidding the actual contract. \$1,000,000 would come forth from Blue Cross/Blue Shield. I believe it is wrong to accept that money from Blue Cross/Blue Shield without first sending out the Blue Cross/Blue Shield contract to bid. I hope you would vote against this amendment. Thank you.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Bill that we are working on this evening is for about \$24,000,000 and mainly taking care of spending necessary to keep us whole between now and July 1, 1992. There was a difference of \$3.2 million as was discussed earlier, that needed to be closed along with many other things. The groups that were working on this, as the Senator from Sagadahoc Senator Cahill said, worked together to come up with a good deal of the funding.

After all was said and done what remained was a gap of about \$750,000 that was in dispute. Evidently it is still in dispute. House Amendment "B" (H-981) does the best possible thing, I believe, for the State of Maine. In taking the insurance piece we have right now and putting it in a mode that is much more today's type of mode, it changes our relationship with our insurer. It does this in a way that saves money and will save money over the next 18 months. It is our belief, those of us who are proponents of this approach, that there is no way this State could RFP a major proposal on Health Care between now and July 1, 1992.

It is a fact that in the last ten years this contract has only been RFP twice. It is not unusual to extend this contract without RFP. In fact, it is necessary because a RFP will never be ready by July 1, 1992. The Administration that deals with this is still struggling with a RFP on an HMO which was supposed to be ready for this date over a year ago. The first one got into legal trouble and had to be abandoned. The second one has not been prepared. This House Amendment "B" (H-981) sets in motion, the right way for the State to be using its premium monies with its insurer. It saves money and it puts us in the same mode as most large corporations. It is partly self insurance, partly reinsurance, and partly bearing direct cost. It is the way to go, we believe, and we offer it to you as a way to close this budget for 1992. Thank you.

Senator CAHILL of Sagadahoc requested a Division.

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of House Amendment "B" (H-981) as Amended by Senate Amendment "A" (S-569) thereto, in **NON-CONCURRENCE**.

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

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

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, House Amendment "B" (H-981) as Amended by Senate Amendment "A" (S-569) thereto **ADOPTED**, in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought Not to Pass

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

Reported by Senator MCCORMICK for the Committee on **BANKING & INSURANCE** Bill "An Act to Extend Liability Insurance to Specialized Children's Homes" S.P. 878 L.D. 2250

Reported by Senator GILL for the Committee on **HUMAN RESOURCES** Bill "An Act to Provide Community Mental Health Services to Persons with Severe and Persistent Mental Illnesses" S.P. 808 L.D. 2007

Reported by Senator GAUVREAU for the Committee on **JUDICIARY** Bill "An Act Regarding the Terminally Ill" S.P. 885 L.D. 2257

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Tighten Eligibility for the Maine Residents Property Tax Program" H.P. 1710 L.D. 2394

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

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

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

Off Record Remarks

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator CLEVELAND for the Committee on **UTILITIES** on Bill "An Act to Reestablish the Rangeley Water District" S.P. 839 L.D. 2143

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-566)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-566) **READ** and **ADOPTED**.

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

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. 1711

JOINT RESOLUTION COMMEMORATING THE 200TH ANNIVERSARY OF THE TOWN OF HEBRON

WHEREAS, New England's small towns and villages are recognized across our nation as the model for our country's democratic institutions and have deservedly come to serve as the preeminent symbol of the virtues of direct citizen involvement in government, thrift, simple beauty and quiet but deep-rooted values; and

WHEREAS, the Town of Hebron typifies the valued attributes of the small communities of Maine and is also recognized as one of the most beautiful towns in Maine, with a scenic landscape dominated by vistas of Streaked Mountain, Mount Washington and the Presidential Range of the White Mountains; and

WHEREAS, the area that now comprises the Town of Hebron was granted to Alexander Shepard, Jr. of Newton, Massachusetts in 1777, in return for Shepard's preparation of one of the early maps of the District of Maine; and

WHEREAS, the area was first settled in 1779 by John Greenwood, who also later moderated the meeting at which incorporation as a town was sought; and

WHEREAS, the citizens of the area then known as Shepardsfield Plantation petitioned the General Court of the Commonwealth of Massachusetts to be incorporated on January 11, 1792 and the General Court granted the petition on March 6, 1792; and

WHEREAS, the town has been the proud host of Hebron Academy since its founding in 1804, an institution that is renowned for the excellent education it provides to young men and women from around the world and for its distinguished buildings designed by the famed Maine architect, John Calvin Stevens; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the Second Regular Session, take this occasion to recognize the bicentennial anniversary of the Town of Hebron, to commend the inhabitants and officials of this town for the success that they have achieved together for two centuries and to extend to each our sincere hopes and best wishes for continued achievement over the next 200 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.

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

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

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

On motion by Senator **BOST** of Penobscot, **ADJOURNED** until Tuesday, March 3, 1992, at 9:00 in the morning.