

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

Wednesday

March 4, 1992

Senate called to Order by the President.

Prayer by the Honorable Bonnie L. Titcomb of Cumberland.

SENATOR BONNIE L. TITCOMB: From an unknown source, one anonymous author who no doubt could not have known that this simple prayer written perhaps in despair or at a time of trial would bring strength to countless people all over the world:

God grant me the Serenity to accept the things I can not change, the Courage to change the things I can, and the Wisdom to know the difference. I pray that we will be granted all three, Serenity, Courage, and Wisdom.

Reading of the Journal of Tuesday, March 3, 1992.

COMMUNICATIONS

The Following Communication:
**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333**

March 3, 1992

Honorable Joy J. O'Brien
Secretary of the Senate
115th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted Report "A" "Ought Not to Pass" of the Committee on Aging, Retirement and Veterans on Bill "An Act to Establish the Maine Volunteer Firefighters Retirement System" (EMERGENCY) (H.P. 926) (L.D. 1323).

Sincerely,
S/Edwin H. Pert
Clerk of the House

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

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 Joint Select Committee on **CORRECTIONS** Bill "An Act to Reinstate a System of Parole"
H.P. 1577 L.D. 2224

Ought to Pass

The Committee on **JUDICIARY** on Bill "An Act Concerning Passamaquoddy Indian Territory"
H.P. 1469 L.D. 2081

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**.

The Committee on **JUDICIARY** on Bill "An Act Concerning Penobscot Nation Trust Land Designation"
H.P. 1472 L.D. 2084

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**.

The Committee on **JUDICIARY** on Bill "An Act to Modify the Medical Examiner Act to Limit Liability of Medical Record Providers"
H.P. 1597 L.D. 2259

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 Related to Ordinary Death Benefits under the Maine State Retirement System as It Affects Terminally Ill Members"
H.P. 1554 L.D. 2192

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-998)**.
Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-998)**.
Which Report was **READ** and **ACCEPTED**, in concurrence.
The Bill **READ ONCE**.
Committee Amendment "A" (H-998) **READ** and **ADOPTED**, in concurrence.
The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **AGRICULTURE** on Bill "An Act to Strengthen the Maine Weights and Measures Law"
H.P. 1558 L.D. 2196

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1004)**.
Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1004)**.
Which Report was **READ** and **ACCEPTED**, in concurrence.
The Bill **READ ONCE**.
Committee Amendment "A" (H-1004) **READ** and **ADOPTED**, in concurrence.
The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Modify Various Licensing and Registration Laws and to Address Budgetary Constraints" (Emergency)

H.P. 1592 L.D. 2246

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-990)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-990)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-990) **READ** and **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 Respiratory Care Practitioners" (Emergency)

H.P. 1631 L.D. 2295

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1001)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1001)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1001) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION** on Bill "An Act to Expand the Membership of the Maine Committee for Global Education"

H.P. 1623 L.D. 2286

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-996)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-996)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-996) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY & NATURAL RESOURCES** on Resolve, Concerning the Removal of Residential Underground Oil Tanks (Emergency)

H.P. 1614 L.D. 2275

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1003)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1003)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (H-1003) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act Concerning the Use of Alternative Coding Systems for Plastic Containers"

H.P. 1649 L.D. 2312

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1000)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1000)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1000) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES** on Bill "An Act Pertaining to Pole Attachment Rate Disputes"

H.P. 1470 L.D. 2082

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-991)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-991)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-991) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES** on Bill "An Act to Amend the Charter of the Dexter Utility District"

H.P. 1667 L.D. 2343

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-999)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-999)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-999) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES** on Bill "An Act to Create the Searsmont Village Water District"

H.P. 1687 L.D. 2367

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1009)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1009)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1009) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **AGRICULTURE** on Bill "An Act to Revise the Maine Horticultural Laws" H.P. 1498 L.D. 2110

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-986)**.

Signed:

Senators:

- TWITCHELL of Oxford
- TITCOMB of Cumberland
- THERIAULT of Aroostook

Representatives:

- BELL of Caribou
- STROUT of Corinth
- TARDY of Palmyra
- MAHANY of Easton
- ALIBERTI of Lewiston
- NUTTING of Leeds
- SPEAR of Nobleboro
- PINES of Limestone
- PARENT of Benton

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

Signed:

Representative:

- HUSSEY of Milo

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-986)**.

Which Reports were **READ**.

On motion by Senator **TWITCHELL** of Oxford, the Majority **UGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-986) **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 Requiring the Provision of Information to Victims of Gross Sexual Assault" H.P. 359 L.D. 513

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-963)**.

Signed:

Senators:

- GAUVREAU of Androscoggin
- BERUBE of Androscoggin
- HOLLOWAY of Lincoln

Representatives:

- RICHARDS of Hampden
- CATHCART of Orono
- FARNSWORTH of Hallowell
- COTE of Auburn
- PARADIS of Augusta
- KETTERER of Madison
- HANLEY of Paris
- STEVENS of Bangor

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

Signed:

Representatives:

- ANTHONY of South Portland
- OTT of York

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-963)**.

Which Reports were **READ**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-963) **READ** and **ADOPTED**, in concurrence.

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

Senate

Ought Not to Pass

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

Reported by Senator **BALDACCI** for the Committee on **ENERGY & NATURAL RESOURCES** Bill "An Act Prohibiting the Driving or Parking of Vehicles on Ice-covered Bodies of Water"

S.P. 216 L.D. 543

Ought to Pass as Amended

Senator **LUDWIG** for the Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Provide Increased Local Participation in Comprehensive Land Use Planning"

S.P. 836 L.D. 2140

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-573)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-573) **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 Repeal the Laws Authorizing Special Veterans License Plates" (Emergency)

H.P. 1437 L.D. 2049

(C "A" H-980)

Bill "An Act to Prohibit Unfair Rating Practices in Small Group Health Insurance"

H.P. 1490 L.D. 2102

(H "A" H-1005)

Bill "An Act to Clarify and Improve the Regulation of Home Food Service Plans"

H.P. 1501 L.D. 2113

(H "A" H-1006 to C "A" H-987)

Bill "An Act to Amend the Maine Insurance Code"

H.P. 1517 L.D. 2129

(C "A" H-988)

Bill "An Act Regarding the Time and Temperature Sign Located in Portland"

H.P. 1606 L.D. 2268

(C "A" H-951)

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

Bill "An Act Transferring County Jail Operations to the State"

H.P. 998 L.D. 1447
(C "A" H-979)

Which was READ A SECOND TIME.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Yesterday I asked a question because I didn't have an opportunity to look at this Bill. I asked the question, exactly what did the Bill do, because it looked to me like a departure from the way we currently dealt with our county jails. The good Senator from Kennebec, Senator Bustin, informed us that this Bill established a Commission to look into the issue of transferring county jails to state control. I have taken it upon myself to look further because I am still a little nervous about this Legislation considering that the title originally was "An Act Transferring the Operations of County Jails." That was the original title of the Bill. I went to the amendment and I have a few questions about the amendment and what the intent of the Legislation is.

Under the first section of the Bill on line 28 it says, "The Commission on Transferring County Jails to the State is established." This isn't a Commission to see if we are going to attempt to transfer county jails, I think the foregone conclusion is that we will transfer county jails. If you go over to the second page of the legislation, Section 6 Line 31, "The Commission shall make a study and develop a method of implementing the transfer of the operation of county jails to the State including a time table for the transitional process." I don't think we have an option here. I think if we pass this Legislation, Ladies and Gentlemen, County Jails will be transferred to State jurisdiction and maybe you think that is ok but I don't happen to believe that. Maybe you think that is the way we should go. I believe this Legislation is a foregone conclusion that the County Jails will be transferred to the State. That is a departure from the way we were doing business. In closing, I would like to draw your attention to the Statement of Fact. It says this sets up a Commission on Transferring County Jails to the State, to develop the method and time table for implementing that transferral. Having listened to that, I think you have to agree that we don't have an option in this. This is a Commission to transfer County Jails to the State. I don't agree with that and I'd like to have a division on the second reading of this Bill. Thank you.

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

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The last sentence of the Statement of Fact says "The Commission is required to make an interim report by April 15, 1993 and a final report with recommended statutory changes by January 1, 1994. We did this same thing when we talked about, in Business Legislation, with the Bachelors of Science Degree in Nursing. We wanted to give the whole community of nursing and the people who receive those services a time period in which they could set up the courses, see if it was an option we wanted to have, and have to come back at a time certain to get that actual change made. The testimony that I gave on the record yesterday is the

same as I give on the record today. This cannot be done nor could we ever do anything with a Commission. All of those Reports, in order to be acted upon, must come back to the Legislature with the recommended statutory changes and acted on by that Legislature. This would be the 1994 Legislature. I am not going to second guess that Legislature as to what they would do with the Commission Report. That, in fact, is what this Bill is about. Yes, it takes a definite step towards looking at whether the State should take over County Jails or not. My personal opinion is that the State should pay for them but the counties should run them. However, I don't know how that would come out in the Commission Report. It bears studying. If you take a look at New York City, which has over 10,000,000 population, they have one prison system. You look at the State of Maine and we have sixteen with 1.25 million, then we have a definite problem here. It may be one of simply money, I don't know. Simply money is not a very good statement to make in this particular Legislature. In fact, that is what always drives the wheel. I am told everytime I turn around if you follow the money you will follow the problem. You will be following the money with this Commission Report, it will be a recommendation hopefully, that will be brought down and given to the 1994 Legislature. That is the essence of this Bill. Thank you.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Again, in the second page of the Bill, the Commission shall make a study and develop a method of implementing the transfer of operation of county jails to the State including a time table for the transitional process. I certainly understand that the good Senator from Kennebec, Senator Bustin believes and feels this Bill is only a study. I think the language leaves us with the foregone conclusion that we will transfer the operation of County Jails to the State in 1994. Thank you.

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

Senator **GILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. If you look at the signers of the Report you will notice that I signed with the Majority on this and asked for this study to occur. I did that because I have been in a quandary myself through the years about whether the State, in fact, was capable and able to take over the jails. I thought it was appropriate to put it to rest, once and for all, to develop a plan. My good Assistant Minority Leader, Senator Cahill, who I am usually on the same side of a lot issues with, we separate ourselves on this issue. Each one of you serve on a Committee and each one of you in your Committee rooms have bookcases that are filled with studies and recommendations through the years that have come down on a variety of subjects. If you recall quite a few of them just sit there on your shelves. I think this gives us an opportunity to move in that direction, if that is they way we should be going. It gives an opportunity to have this study to look to the State taking over in the future. It does not put into place that issue. What it does is say yes we shall develop a plan for this but everything has to come back to this Legislative Body for final approval. A final Report will be made, the decision will be left

to another Legislature to make. I feel that once and for all the discussion will have taken place. The decisions will be made whether it is appropriate or not and another Legislature will finally make the decision about whether this is a feasible arrangement or not. If the State is to take over the jails we all know there will be a hefty fiscal note attached. It can't take place without coming back to the Legislature to see whether the monies are available to do that. I would ask you to allow the study to take place, allow the plan of action, and it will be in the hands of another Legislative Body to make that final decision. Thank you.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED, AS AMENDED BY COMMITTEE AMENDMENT "A" (H-979) 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.

10 Senators having voted in the affirmative and 12 Senators having voted in the negative, **PASSAGE TO BE ENGROSSED, AS AMENDED BY COMMITTEE AMENDMENT "A" (H-979) in NON-CONCURRENCE, FAILED.**

(See action later today)

Senate at Ease

Senate called to order by the President.

**ORDERS OF THE DAY
HELD BILL**

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

Senator **GAUVREAU:** Mr. President, is the Senate in possession of L.D. 1857?

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

On motion by Senator **GAUVREAU** of Androscoggin, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENGROSSED, AS AMENDED BY COMMITTEE AMENDMENT "A" (H-964)**, in concurrence:

Bill "An Act Concerning Authorization to Consent to Powers of Attorney"

H.P. 1287 L.D. 1857
(C "A" H-964)

(In Senate, March 3, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-964)**, in concurrence.)

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-964), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-572) to Committee Amendment "A" (H-964) **READ.**

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Bill we have before us and the amendment deals with the area of durable powers of attorney and living wills. Last year this Legislature passed out significant Legislation on living wills. This year the Committee on Judiciary has before it Legislation which will basically dovetail and harmonize our statutes

governing durable powers of attorney with the living will statute. As you know a durable power of attorney is simply a document which allows another person to make major health care decisions for individuals even if that person becomes incompetent. There were two technical areas in the Bill, in our opinion. This amendment addresses both of those amendments. One issue deals with minors. Since minors do not have the ability to execute living wills, any reference to minors in the Bill is being deleted. The second amendment deals with statutory archy that comes into play if a person without a living will becomes incompetent. Under our Statutes there are certain people who are allowed to make major health care decisions on whether or not extraordinary life sustaining procedures should come into play. The amendment deals with a very narrow area where if a person has appointed a guardian to conduct his or her affairs and later on a court should appoint a separate guardian due to dissatisfaction with the initial guardian, this amendment clarifies that in the latter circumstance the court appointed guardian would be the person to control health care decisions. Thank you Mr. President.

Senate Amendment "A" (S-572) to Committee Amendment "A" (H-964) **ADOPTED.**

Committee Amendment "A" (H-964) as Amended by Senate Amendment "A" (S-572) thereto, **ADOPTED in NON-CONCURRENCE.**

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

Sent down for concurrence.

On motion by Senator **TWITCHELL** of Oxford the Senate **RECONSIDERED** its action whereby it **FAILED TO PASS TO BE ENGROSSED, AS AMENDED in NON-CONCURRENCE:**

Bill "An Act Transferring County Jail Operations to the State"

H.P. 998 L.D. 1447
(C "A" H-979)

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED, AS AMENDED BY COMMITTEE AMENDMENT "A" (H-979) in NON-CONCURRENCE.**

On motion by Senator **CAHILL** of Sagadahoc, 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 BY COMMITTEE AMENDMENT "A" (H-979) in NON-CONCURRENCE.**

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED, as Amended in NON-CONCURRENCE.**

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, GAUVREAU, GILL, KANY, MATTHEWS, MCCORMICK, MILLS, THERIAULT, TITCOMB, VOSE**

NAYS: Senators **CAHILL, CARPENTER, EMERSON, FOSTER, GOULD, HOLLOWAY, LUDWIG, PEARSON, RICH, SUMMERS, TWITCHELL, WEBSTER, THE PRESIDENT - CHARLES P. PRAY**

ABSENT: Senators **BALDACCI, BOST, BRAWN, COLLINS, ESTY**

17 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 5 Senators being absent, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-979) in NON-CONCURRENCE.**

Sent down for concurrence.

Senator **KANY** of Kennebec was granted unanimous consent to address the Senate on the Record.

Senator **KANY**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I am deeply disturbed at the contents of some propaganda which is being disseminated to some members of the Senate. Senator Estes of York shared with me something under the title of "Small Employer Health Reform Coalition of Maine", a letter which is so unusually misleading. I must give the author of this missile the benefit of the doubt. I cannot imagine that some author, in good faith, would so try to distort something like this. I have never seen anything like it in my eighteen years. It is about L.D. 701. Perhaps some of you have received the letter or perhaps it is awaiting you at home. I want you to understand what the story is.

I want to say how disturbed I am at the unusual distortion contained within some propaganda about L.D. 701. It was in a letter under the title of "Small Employer Health Reform Coalition of Maine." One paragraph actually says the Majority Report adopted by the Banking & Insurance Committee will force health insurance companies to charge the same premiums to all small groups regardless of the risks. That leaves you with the impression that the State of Maine would be requiring rate setting and that one company would have to charge the same amount as another. That is completely untrue. We do not set rates in a group health insurance, that is not true today and it is not true in any Bill that will be before the Legislature. There is not rate setting. Any company can, today and will be able to, set a basic rate. Any company will be able to set their own basic rate. For instance, Aetna set a basic rate of \$100.00, Blue Cross/Blue Shield can set a basic rate of \$200.00 and any regulation to avoid and move away from discrimination would only surround the basic rate chosen by the company. There is no proposal before the Maine Legislature to actually set rates and require one company to charge anything similar to another company for small employer health insurance. I just want you to know that. I can not imagine that the author so intended to so distort and so mislead. I simply must believe that Maine people, especially Maine people who would sign a letter calling themselves the Small Employer Health Reform Coalition of Maine, would not intend to distort like that. Please keep that in mind. If anybody talks to about this issue, L.D. 701, please ask them if one insurance company can choose its own basic rate and if that is in any way regulated. It isn't and it is simply not true. I apologize to the Maine Senate and the Maine Legislature on behalf of this group of Small Employer Health Reform Coalition of Maine because I am sure they would want me to. They would want me to inform you correctly so you would not have been misled. Thank you.

Off Record Remarks

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

On motion by Senator **CONLEY** of Cumberland, **RECESSED** until 11:30 in the morning.

After Recess

Senate called to order by the President.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith 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** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **PEARSON** for the Committee on **FISHERIES & WILDLIFE** Bill "An Act to Provide Additional Funding for the Department of Inland Fisheries and Wildlife Through Increased License Fees" S.P. 912 L.D. 2332

Ought to Pass As Amended

Senator **GAUVREAU** for the Committee on **JUDICIARY** on Bill "An Act to Clarify Adult Protective and Guardianship Responsibilities" S.P. 859 L.D. 2183

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-574).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-574) **READ** and **ADOPTED.**

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

Senator **CONLEY** for the Committee on **LABOR** on Bill "An Act to Amend Child Labor Laws" S.P. 866 L.D. 2213

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-575).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-575) **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

Non-concurrent Matter

Bill "An Act to Protect the Copyright and Ownership Rights of Maine Artists" H.P. 1011 L.D. 1479

(C "A" H-921)

In Senate, February 25, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-921), in concurrence.**

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-921) AS AMENDED BY HOUSE AMENDMENT "A" (H-1013) thereto, in NON-CONCURRENCE.

On motion by Senator DUTREMBLE of York, the Senate RECEDED and CONCURRED.

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

COMMUNICATIONS

The Following Communication: S
.P. 938

115TH MAINE LEGISLATURE

March 3, 1992

Senator Bonnie L. Titcomb
Rep. Paul F. Jacques
Chairpersons
Joint Standing Committee on Energy and Natural Resources
115th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Caroline M. Pryor of Northeast Harbor for appointment to the Land Use Regulation Commission.

Pursuant to Title 12, MRSA Section 683, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Which was READ.

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending REFERENCE TO COMMITTEE.

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

COMMUNICATIONS

The Following Communication:

DIVISION OF MOTOR VEHICLES
DEPARTMENT OF SECRETARY OF STATE
STATE HOUSE STATION 29
AUGUSTA, MAINE 04333

March 3, 1992

Honorable Charles Pray
President of the Senate
Station 3
Augusta, ME 04333
Dear President Pray:

Attached please find the Motorcycle Driver Education Study Committee Report, submitted pursuant to P.L. 1991, c. 522. Additional copies have been submitted to the Office of the Legislative Council as required by statute.

As a Committee Staff person, I am at your service if you have questions regarding the Report.

Very truly yours,
S/David A. Schulz
Assistant Director
Enforcement &
Regulations

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

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 HOUSING & ECONOMIC DEVELOPMENT on Bill "An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine Citizens"

H.P. 1707 L.D. 2388

Reported that the same Ought to Pass, pursuant to Joint Order H.P. 1705.

Signed:

Senators:

MATTHEWS of Kennebec
DUTREMBLE of York

Representatives:

MELENDY of Rockland
BELL of Caribou
HEESCHEN of Wilton
LEBOWITZ of Bangor
STEVENSON of Unity
KILKELLY of Wiscasset
KONTOS of Windham
PLOURDE of Biddeford

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

Signed:

Senator:

CAHILL of Sagadahoc

Representatives:

GRAHAM of Houlton
SALISBURY of Ellsworth

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

Which Reports were READ.

Senator MATTHEWS of Kennebec moved that the Senate ACCEPT the Majority OUGHT TO PASS Report, in concurrence.

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

Senator MATTHEWS: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is good to see that the Bill is here before us. I know there has been a lot of discussion and reading by the membership about the Bond Package. Our Committee on Housing and Economic Development and the Transportation Committee has worked on this Bond Package. I believe today we have crafted a very good package. I know all of us in this Chamber have grappled with a great many issues of major importance, not the least of which, is the concern in all of our districts with the problems of unemployment and the recession we are now going through. Those issues are, I am sure, the most important on our minds as Senators in this Body. We realize we have an obligation, as Senators, to try to help get our Maine economy going. The Housing and Economic Development Committee worked very hard. I want to thank the two Senate members in this Body who have worked very hard on this package. Although we couldn't come out in agreement totally, I think all of us support what we are trying to do here.

We have a real need, Ladies and Gentlemen, if we are going to do something concrete, to get this

economy going and to get people back to work. We need to get them off unemployment and make them productive again. We have an obligation to do something today to get a Bond Package out to the voters and approved by the voters that will get construction activity going. What we have crafted in this Report is a Transportation side, a package that calls for \$56,000,000 in transportation projects. The Committee on Transportation, Senator Twitchell of Oxford, and the members of that committee worked very hard on this. On the municipal side we have put together a package which calls for \$50,000,000 in bonding to help with municipal capital construction projects, monies to be used by schools for capital construction and improvements and a municipal infrastructure revitalization plan which can get this economy moving. We are talking about short term infusion here. The Committee has already dealt with the issues of long term revitalization of our economy. We are crafting and working with many of you and interested people within the administration to try to get a package for long term job creation and economic development. This is short term and it is a package to help get people productive. We have put together a very, very good package.

Why should we spend this sum of money? Since 1989, Ladies and Gentlemen, Maine has lost something in the neighborhood of 30,000 jobs. More than 10,000 of these lost jobs are in the construction industry or the related lumber and wood products side. If we don't directly replace these lost construction jobs today, in this construction season, Maine's economic recovery will be postponed for another year and very likely longer than another year. We have lost more than \$600,000,000 worth of payroll, money in circulation that is essential to our retail trade and service industries. Extended Unemployment benefits exist only to replace only about 200,000,000 of these lost paychecks. Another 200,000,000 worth is related to the loss of 10,000 multiplier jobs in trade and service sectors. Jobs that were supported by the construction industry. We know that construction jobs and the construction side of things gets our economy moving. We are a society where we know how important it is to see businesses being developed and homes being built with the small contractors out there employing local people in our communities.

Why do we have to bond? If the Federal Government did today what it has done in every recession since the 1930's, Maine wouldn't have to bond. We wouldn't be here today dealing with this issue. In 1961 President Kennedy used the accelerated public work program to stimulate economic recovery. In 1969 President Nixon had the public works impact program. President Ford created the local public works program in 1975. President Reagan fought the recession in the early 1980's with his Emergency Jobs Appropriation Act of 1983. Unfortunately, today the Federal Government has its own set of problems to deal with. The deficit and the Savings and Loan bailout and other high cost issues that we are all painfully aware of. While there public works proposals circulating today in the Congress, there is not a very great likelihood that anything would be forthcoming soon enough to impact Maine in this construction season. That leaves it up to us Ladies and Gentlemen of the Senate. If we don't act now to restore consumer confidence in Maine by putting people back to work, we will be here February 27th, 1993 trying to figure out how we can

jump start an economy with 60,000 not 30,000 jobs lost and \$1 billion lost in payroll. Why not let the private sector do the job?

First let's be clear about what is being proposed. This Bond finances public works and not public jobs. We are talking about making use of public improvements that will have to be done anyway over the next year or two and bid them out to the private sector. These private sector employers hire our people we represent. These are real jobs going to real Maine people and helping to support real Maine companies. We are not talking about the CCC here, we are talking about jump starting the private sector. Second, let's recognize that Maine's private sector can not and will not be able to pull itself out of this recession by itself. Last October many of us sat in the Appropriations Committee room and listened to economists from CMP, the University of Maine, Colby College, and the State Planning Office. Without exception these experts told us that Maine's economic recovery depends upon the national recovery. What is more important they told us that even when Maine recovers it will take the private sector between two and three years to replace the 30,000 jobs lost since 1989. Let's face the facts, the private sector can not do it alone and Maine people certainly can not wait for the sluggish recover to add back a few jobs at some time in the middle of the next decade. All of the tax cuts, worker compensation reforms, and regulatory streamlining in the world will not speed up the private sector recovery regardless of what the supply side initiatives may or may not do in the long run. If we want people working these summer and spending wages on consumer products in 1992, then we have only one choice. We have to use the governments market power to stabilize our economic freefall and stimulate secondary consumption. We are trying to boost consumer confidence with this package showing them that this Legislature and the Governor understand the problem and are here to do something about it.

In 60 years of public policy and economic research no one has found an alternative method for government to counter recessions. If we choose to do nothing, if we choose to turn back the clock when government stood idly by as people suffered, then Ladies and Gentlemen that would not be, in my estimation, the kind of Senate and Legislature that I have grown accustomed to working with. I know all of us in this Chamber feel desperately and strongly about those who have lost their jobs. We have an opportunity to help to reinvigorate or to jump start this Maine economy. This package does that. We are talking about monies for municipalities for construction projects in our local communities; roads, bridge repairs, projects in our local towns, and schools. Ladies and Gentlemen, we have a whole host of people supporting this package and I am very proud to state that today. We have the Maine Chamber of Commerce supporting this package. We have the Administration and the Governor supporting what we are trying to do here. I must tell you it is very pleasing for me, having been through the battles we have had over the last couple of years, to see Legislative leadership working with the Governor to try to help deal with this problem. I think we have crafted a responsible package, one which recognizes the kinds of needs that can be done. We have talked about job creation getting into this construction

season. The Committee worked very closely with our financial folks, the State Treasurer, the Department of DECD, Economic and Community Development. They worked hard on these package. I think we have crafted a responsible package. I only ask you to recognize the problem and put this question out to the voters. Give the voters an opportunity. If you look at the Bill, there are two Bills, one which deals with the questions and the other one deals with the implementation language. With DECD's help and others we put together a criteria on who could apply for this money and immediate job creation. There are two Bills here to talk about but we are talking about, in the major important Bill, two questions going to the voters. I simply ask you to give the Maine people an opportunity to say Yea or Nay to these two questions. I don't think there is a family in this State that hasn't been touched by this recession. We went through the problems in York, Cumberland, Waldo, Kennebec, Somerset, and all around the State.

There is another aspect to this package today that I want to talk about. That aspect is not only the need to create jobs but also the issues with respect to those businesses that are now finding themselves in a financial situation with a bank. They are finding themselves with a recall problem, that our two Senators, Senator Cohen and Senator Mitchell and our Congress people from this State have been working with. We have also added some help to those businesses. We felt, in the Committee on Housing & Economic Development, that it was important to not only have job creation but job retention in this package. We have offered some bonding power to FAME, \$7,000,000 to help with those businesses in recall. I think we have crafted a good package and I urge this Body to support the Majority Report. Thank you.

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

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise today to ask you to defeat the question before us. I rise today as the Senator from Sagadahoc also representing Harpswell, but a individual Senator. When I was selected by my Republican colleagues to serve as leadership I have been reminded from time to time you might not always want to go along with what would seem to be the flow of things but you have to because you are in leadership. There is more than just you that depend on you and you have more than just you to be responsible to. I have been reminded of that on several occasions. I'd like to respond to that responsibility a little bit. As difficult as the vote against this Bond Package was to me, I feel I am being responsible. My responsibility is to the people who have elected me, the people of the State of Maine. I have done a lot of things in the past four years in leadership that maybe I wouldn't have done if I hadn't been a member of leadership. I am rising today because I think this issue overshadows all the other issues I have voted on.

For example, if I hadn't been a member of leadership, the Senator from Lincoln Senator Holloway, probably would not have been the only vote against the budget last summer. I have given this Bond proposal considerable thought I tried to reason away my objections to the Legislation. Everytime I get to the point where I will say ok I commit a cardinal sin, I ask someone from outside, not a

Legislative groupie, I ask a constituent what they think about this Bond Package. Nine out of ten of those people tell me, you guys never ever get the message. We rejected six out of seven Bond questions in November just four months ago. What we want is less government spending. We want the State to cut back just like we have to cut back at home. People are cutting back at home and not spending money. They aren't borrowing money and instead they are consolidating their debt. They are hunkering down and waiting. Someone argued that the problem with the economy is that people are waiting too long. We have three months where revenues have been at projections but I remind you that those projections have been lowered and lowered and lowered. I am not an economist and most of the time I don't understand all the terminology that the economist use. My common sense tells me that today we have to proceed with extreme caution. My personal economics, after I pay my property tax, income tax, surcharge on the income tax, sales tax, tells me that this State doesn't have enough money to meet our current financial obligations. Should we consider more borrowing? I don't think we should, not at this juncture.

I have heard Sam Shapiro tell us, the Bonding Companies tell us, and the Governor tells us that our Bonding debt is low. We could bond \$300,000,000 more before it would signal any kind of trouble. Last week, in the mail, I received a notice from a catalogue company telling me I was pre-approved for credit up to \$1200.00. I said I could buy more shoes, carpeting, and I could buy my son Ping Golf Clubs instead of Hogan Golf Clubs for his birthday. Did I go out and spend that \$1200.00? No I did not go out and spend it because I could not afford the payment on that \$1200.00. I submit to you, Ladies and Gentlemen, that the people of the State of Maine can not afford the increase payment either.

Currently our Bonding debt is \$277.7 million. It is low and we have done a good job. I will point out to you that in 1981, ten years ago, it was \$172.8 million. An increase of 61% in ten years. I voted for many of those Bond issues that put up our debt and I did that because during the 80's we were in good times. It was a good time to spend money. There was lots of money to spend. The Highway Bond in 1981 was \$62,000,000, in 1991 \$102.8 million a 66% increase. The affect of this Bill we are voting on today, \$106,000,000 more would add \$68,000,000 to our Bond of debt because not all of the highway money is highway some of it is general fund money. It would increase our Bond of debt by 24%. Adding \$38,000,000 to the highway bond would increase our highway bond by 37%. Let's talk about highways a little bit. I have always been teased, every since I have been in leadership, affectionately I might add, that once a sand and gravel crowd always a sand and gravel crowd. I can't tell how many times I have heard that. I think they are jealous because they didn't have the privilege of serving on that illustrious Transportation Committee. I enjoyed that, in fact, that was the most fun times of all the times I have served in the Legislature. I want to point out to you that once again we are deviating from the norm here. Those of us here in the Legislature get to vote once for two Bond issues, one all inclusive vote. When we send it to the public, they get to vote twice. They get to vote on the Highway Package and the General Fund Package. I am not sure whose

decision that was. It wasn't my decision. I do apologize to the Senator from Kennebec, Senator Matthews because I am not a wonderful member of the Housing & Economic Development Committee. I did try to be there during some of this discussion. I never heard it discussed at that Committee's level. I think it was something that was already decided for us. Even though I don't know who made that decision, I know why. Transportation, unlike other items that come before this Legislature and the public, have a great track record of being approved both by the Legislature and by the people. Voting for this Bond Package is voting for a tax increase. Voting for \$56,000,000 to send out to the voters in highway is voting for a tax increase. Someone will say it is not a tax increase because we already have the tax and it is going to be up to us in the Legislature to decide whether we sunset that tax or not. It is a tax increase, one penny on the gas tax.

The intent of this \$106,000,000 package is laudable. I can't tell you how much I agree with the intent of it. About 56,000 people are currently unemployed in the State of Maine. I am sure the 2,000-3,000 people this Bill will directly affect will be very grateful to have that temporary job. I think we have to be honest with ourselves and perhaps the voters. Our whole system, jobs, job creation, and job retention in this State needs an overhaul. We need a big time overhaul. Yes, I am talking about Workers Compensation, Environmental Regulation and I go even one step further to suggest to you that I think our tax structure needs to be overhauled. The solution to this problem, I don't believe, is to throw short term money at a problem I believe is structural. The current leader, I guess he is the current leader, in the Democrat Primary contest for President, Paul Tsongas called George Bush's plan to stimulate the economy through bonding, twinkie economics. I think here in Maine we can pooh pooh that. I don't believe we think it is twinkie economics. We can pooh pooh it because it is different here in Maine. It is different because the person that is unemployed is my brother, your husband, your daughter, or your neighbor. Those are the people who are unemployed. They are people that live in our communities and neighbors of ours that probably we will have a hamburger and a beer with later on this summer. They are people that we know and in some instances people that we love. It would be so very easy for me just to sit down and be quiet and vote for this package. This is not a solution, Ladies and Gentlemen. It is an attempt but it is not a solution. I think we have to get beyond credit card mentality, borrow and spend now and pay later.

At the Housing & Economic Development Committee yesterday, a woman spoke on another piece of Legislation that would provide one stop shopping deal for getting licenses and regulations. She said she was so frustrated with the process, the system and the Legislature. She was so frustrated because it seemed no one ever listened to her or to business. It appeared that the Legislature merely reacted when we saw a problem without using the whole process to think it through. I think she is right. I am asking you, today, to listen to the people in Woolwich, Standish, Belfast, or wherever you may live. Listen to what they are saying and asking. I believe they are asking us not to spend, not to bond a package of \$106,000,000. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I don't think I have to add to much to what the good Senator from Kennebec, Senator Matthews has stated in his opening remarks. I thought his remarks were right on the money and he has done a tremendous job as Chair of that Committee in helping to put this together. I do feel I would like to respond to the good Senator from Sagadahoc, Senator Cahill and some of the remarks she has made.

I have a great deal of respect for the Senator from Sagadahoc, Senator Cahill. I must disagree with her on a couple of points here. I would like to point out how this special election got split. I really don't know at what point this happened. If I recall the jist of everything, we were going to go out with a special election sometime in April or early May so that we could have a Bond Package to stimulate the economy. If I am not mistaken at some point we split it because there was fear as to whether or not the highway portion would jeopardized by including it in this big Bond Package and wouldn't it be better to have that aside. If there was any splitting done it was to protect the highway budget and not to piggy back one on the other. People generally have supported these in the past. I want to make sure that people understand that this was going to stimulate the economy. We needed to charge the battery just like when my car wouldn't start one day this week. I put a temporary charge on it but once it gets going the rest falls into place. That is all we are trying to do here. The good Senator from Sagadahoc, Senator Cahill is correct in saying this is not going to resolve the whole problem of the economy in this State. I don't think there is anyone who even suggest that \$100,000,000 could fix everything. If it could we would have done it three months ago. The worst that could happen if we go out to bond with these questions, the very worst that could happen, is that people will start working again. That is the worst that could happen. What is wrong with that? I have people talking to me also in my district and what they are telling me is what are you doing to get us back to work? What are you doing about the economy? Here is an opportunity to start doing something.

The good Senator from Cumberland, Senator Conley, yesterday on a different issue, talked about how we just voted for this because it is a feel good about it Bill. He was right I felt good about it and I voted for it. This is another feel good about it Bill. It shows the people we are doing something and it may or may not work but we are doing something. I think that is what they are looking for from this Legislature. They are looking for a little action. I don't compare this with what is going on in Washington. My God, they are spending and spending. If you have seen that clock in Times Square on the deficit, it would scare you to death. It scares me to death. Maine and its Bond and indebtedness pays its bills. We have a good track record. This is just a shot in the arm that this State needs right now. It is going to put people back to work. When people told me that last year with Workers Compensation, I did it. I took a lot of grief for it but I did it. I am telling you the same thing right now. This is going to put people back to work. It is a shot that is needed right now. The people in

this State have suffered long enough, especially those who are out of work. If this puts some of them back to work, then let's do it. 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 really have not made a decision on the Bond issue till probably yesterday. It was a very difficult decision. Having finally thought it out and not really prepared it in written testimony my words may be a little bit broken. I was bitterly disappointed when the Turnpike Bond issue was defeated. I viewed that as a jobs issue. I am not exactly sure why it was defeated. Whether it was poor public relations job or whether the public did not view it as a jobs issue. The Bonds that we are talking about today are Bonds that will be issued whether it is today under this Bill or in the future. It is work that will have to be done at some time. It is going to have to be done whether we pass it today or we wait two more years to pass it. Today is the time to pass it. The interest rates are low and we can borrow at 5.43% You should get the lowest rates right now not years from now. Speaking of interest rates, the State of Maine has set a limit on Bond issues percent of debt to the general fund and it would be 7%. Passing these Bond issues today would not reach the 7%.

I would like to also attempt to put it in my own perspective which is simplified more than other Legislators. I work in real estate so I would like to put it in the perspective of a home being a bond. Let's say you have a child ready for college in two years. Right now you can refinance your home at the lowest rates in years if you have a home and you are fortunate enough to have a job. If you don't have a job forget it because the banks are not going to qualify you for that amount of loan. You could finance your home or get a home improvement loan and reduce your monthly payment. It would also enable you to set aside funds for a child going to college or maybe you need a new car. I wouldn't recommend mortgaging a house for a new car but some people do that. There are many other benefits of taking the interest rate today rather than tomorrow. I would not feel this way if I didn't believe that we would still have to have these Bonds in the future. We are not going out and replace a perfectly good road just to put a few people to work. They are going to replace and repair roads, bridges, and that type of thing because it needs to be done. They aren't saying let's go spend the money and put 50 people to work and tear down a road in perfectly good shape. I guess by now you have realized what side of the issue I am on. It has been unusual and somewhat difficult to oppose my very capable Assistant Minority Leader, Senator Cahill who has always been on the side I am now opposing. I urge you to vote with the Majority Support.

These Bonds that go to municipal projects, for every dollar the municipal project receives it takes \$1.00 directly off the property tax rate. The Bonds are paid back, principal and interest, through State sales and income taxes which are much more progressive payments than the property tax payment. 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 rise to support the

comments of the two Senators from York and I want to add a couple of things. One is that, of course, our State Constitution requires that Bonds not only receive two-thirds vote from both Houses of the Legislature and a majority approval from the voters, but they can not be used for operational expenses unlike the Federal Government. The Federal Government has really gotten into wild eyed deficit spending. I wanted to get up and make it clear that I think it is not only inappropriate but uncomprehensible that we would compare the type of bonding we do in Maine with the wild deficit spending that has gone on in Washington. A vote in favor of these Bond issues will be a vote for the future of Maine and an investment in its people. Thank you.

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

Senator **GILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have a couple of questions I would like someone to answer for me if they could. The first one is over what period of time will these Bonds that we will in debt ourselves to, run? What is that period of time? I have heard statements to the fact that it might create up to 55 jobs per million. If that is the case than the hire level would be 5500 jobs we would be creating in a short period of time verses the 55,000 people who are unemployed in this State presently. I am concerned about whether we can absolutely guarantee that these jobs will go to Maine citizens as opposed to out of state firms coming in and bidding on the contracts and having out of state people come in. I noticed that the Associated General Contractors passed around a little yellow sheet and it says that \$100,000,000 Bond issue could generate 5000 new jobs in Maine. It is a lot different than saying 5000 new jobs are going to Maine people. It says there will be 5000 jobs in Maine and anyone in the Country could come in and work at those jobs. I'd like someone to respond to those questions.

As I have gone about talking to my constituents when I go home, they keep saying to us why are you passing so many Bond issues. Why can't you people make decisions? That is what we sent you up there for, to make decisions. I think, at this point and time, I am ready to make a decision. The people at home I represent are trying to pay off their debts with as little money as they might have coming in. They are not going out and using credit cards or trying to get loans. I am on the Board of a Credit Union and we have money to loan and we can not get people to take out loans because people are trying to pay off the debt they already have. They don't want to go out and have us bring them into more debt. I am ready to make a decision. I don't think this has to go out to the people. The people have voted down numerous Bond issues that have gone out. I think this is a time that the Legislature could stand up tall and say yes, we have grappled with the problem, we have reviewed it, and we don't think this is a prudent way to go at this point and time. The worst thing that could happen, the good Senator from York, Senator Dutremble said, was that people will go to work. I think the worst possible thing that could happen is the people who are voting would vote against it. They would send us another clear message. I am not coming back here. I don't have to worry about an election and what people think of me because I am not running again. It seems to me that people who are considering running again might

consider what your people are trying to tell you. They have voted down Bond issues, they don't want you to vote on another one that is going to bring them into debt in the centuries ahead. I think it is time to consider this very carefully, here in this Chamber, in this Legislature, and vote against going out to the Bond for \$106,000,000 at this time. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As I sat and listened to the debate today, I really didn't plan on saying anything. There are a couple of things that were brought up that concerned me. There was a mention made by the good Senator from York, Senator Dutremble whom I respect a great deal. He mentioned the need to do something to jump start the economy in Maine. He used an analogy of his car when he had to have his battery jump started. It made me think about the cars that I have had in the past and the times I have had to jump start them. In my situation it wasn't that the battery was bad, the starter was going. The alternator wasn't charging the battery. It's like State Government that we have in front of us now, maybe something else is wrong besides the battery needing to be jumped. Maybe our alternator is bad or there is a crack in our distributor cap. Maybe it is time that we replace the way we go about this. Maybe it is time we replace our car and cut the size of the bureaucracy here in Augusta, rather than going out to the voters and asking them to approve \$106,000,000 in Bonds.

The whole situation we are facing right now is not something that happened over the last twelve months. This is something that has been brewing for the last ten or fifteen years. It is very much a long term problem. It is my feeling that a quick fix is not something that will work. It is almost as if we have discovered the Discover Card. The Card that pays us back. I have got one here on my desk and it will pay us back by making us and our kids pay for the bill. We really have to be prudent on something like this and I am not comfortable with \$106,000,000 Bond Issue. I would urge that this Body does not support that. Thank you.

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

Senator **BALDACCII:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Just very briefly I am trying to approach this from a sound business philosophy. It seems to me that the State is going to get a tremendous return on its investment. It is going to be bonding \$100,000,000 in the construction work that will be done. The State gets income tax, sales tax, excise tax, and that in itself creates a multiplying effect. To me, when you are having a depressed economy, it requires encouragement and stimulation by government in this particular area. It is money that is serving two purposes. You are rebuilding the infrastructure and at the same time you will gain back in tax dollars those revenues. If you approach someone who is trying to invest money in a savings account and they are told they are going to get 3-4% interest, they would say gee let me try the stock market. If you tell them they would be taking in 25%, that is a very appealing investment. I would think that the State is in a no lose position and it would be incumbent upon both parties, in this process, to stand together

and unite behind a proposal that is, in fact, going to get out in the communities, start work, and start putting confidence back into the economy. If we are not able to agree on the package going out to the people, that is going to further erode the confidence people have, not only in the economy but in the government. It is going to further exacerbate the problem. I would hope the message today would be one of unification not one of division. Thank you Mr. President.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. First, I appreciate the comments from the good Senator from Penobscot, Senator Baldacci. Somewhere in this process there was some questions asked and I am trying to respond to those questions. The good Senator from Cumberland, Senator Gill who I respect has raised two very good questions. The first dealing with the length of the Bonds. The length is ten years. It is important to mention that it is very commonplace that when we are talking about bonding to go to twenty years. The Committee felt very strongly that we not go twenty years. That we pay these off early and ten years is not the average. It is to show the conservative feelings the Committee had with making sure we repay these Bonds.

The second question deals with the amount of jobs. I am not an economist but taking the information I had before me that comes from all sides of the business community and the economic think tanks we had, we are talking about 5500 jobs being created with this package we are talking about today. We are talking about trying to jump start the economy. I know it has been mentioned by I would reiterate that you can't have a better time to do this than right now. Interest rates are very low. The Committee on Housing and Economic Development looked very strongly at the length of the Bonds. We looked very closely at the Bond indebtedness and making sure we retain that fiscally conservative stature that we have that has maintained our high credit rating. We have done that with this package. It is extremely financially responsible. We are not doing something that the Federal Government does and I am pleased to say that. I think that is proven by the bi-partisan support that this package has from the Governor and Legislature leadership. We are being fiscally prudent here and responsible.

The concern, by some, that these times are the kinds of times when we hunker down and step back and head for cover remind me of the kinds of comments my grandmother, Margaret O'Conner, told me about. She told me about living through that depression on peanut butter sandwiches and what she could grow behind her house. The problem with hunkering down and not taking advantage of this market and not realizing that for those who are unemployed and have no hope, they can't afford to hunker down. There is no option but to get out there, look for work, and hope their State Government will be responsive to trying to help the business community. That is the kind of package we have here. Don't, Ladies and Gentlemen of the Senate, and I know you will not turn back to the days of the depression and Hoover economics. We have come a long way since then and we have an opportunity to do something that the citizens will look at us favorably after we have passed this. We have targeted this package. It is targeted to

short term stimulation and job creation. A lot of questions have come up about the length of the projects we are talking about and that comes into the other Bill. I need to mention that a great amount of time was spent by the Committee in dealing with the criteria of the municipalities and others applying for these monies. The criteria talks about job creation and 90% hiring of Maine people. It talks about a time limit. If those monies are not spent by July 1, 1992 they go back into the Department into this fund and back to municipalities that have projects ready to go. We are talking about a responsible package to create jobs in this economy and put people back to work.

I think this is a very saleable package because it is focused. What the voters have said, in my estimation over the last referendum and Bond questions, is that you are not focused. It doesn't seem to be a whole lot of setting your sights and dealing with issues head on. This one will hit home with people that have had their family members and others out of work. I can tell you one thing, I will be out there promoting this package very strongly. This is not a Democratic or Republican issue, it is a people issue. This is a responsible government issue. 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 today to speak in support of this issue. I do so for many reasons that supporters have spoken on before. I would like to also add some thought about the fiscal prudence of this particular proposal. I think one of the things that is important to recognize is that we are talking about expenditures for capital items as opposed to operating budget items. In my own district there are many of those who say we can not increase the spending. We have to reduce the size of government, which I concur with. I think we need to be clear with our own constituents and the Maine people that the expenditure for capital items are different than increasing the operating budget to running the day to day government. What we are speaking about today is Bond issues to do capital improvements. To improve roads, bridges, and buildings within this State for Maine people. What is important about that is that it is a long lasting investment within the community.

Let me talk about just a moment about how this Bond issue might be paid for in addition to the benefit of jobs and needed public improvements that will need to be done either today or later. It has been estimated that this Bond issue will create, conservatively, over 5500 jobs in the economy in the next coming year. It has also been estimated that the cost of the Bond issue in Fiscal Year 1993 that is running until June 30, 1993, will be about \$550,000,000. The additional income, as a result of those construction jobs alone, will be sufficient to pay the interest payments on those Bonds in the first year. The issuance of the Bonds, construction of the projects and creation of jobs will create the revenue that will pay the interest in the first Fiscal Year and have a neutral effect on our debt service payments. Additionally, the payment for the principal will not come until Fiscal Year 1994, a good year and one half away. The economy, we all believe and hope, will be in much improved condition at that point. Additionally, the spinoff effects

created by this construction may well pay for the principal payments. By supporting this project you create jobs, revenue that pays for the Bonding expense, and you put in place much needed improvements within the State that we will either have to do today or we will have to do in later years at more expense and most likely higher interest rates. It seems to me that it is prudent to make investments now to get the benefits of economic stimulation, job creation, and we can do it at a lower interest rate and create a revenue stream within the project itself that will pay for it. That seems like good government. If people understand that is good government and good fiscal policy, they will support and understand the difference between prudent capital investments verses increasing the operating expenses of government for the ongoing operations. As elected leaders we need to be unified in that perspective and we need to try to do all we can to see that this Bond issue passes. Thank you.

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

Senator **GILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have been looking over the two Bills and I can't find anywhere in there where it guarantees that the jobs would be bid by in state firms and the jobs will indeed be in state employees. I wish someone would point it out to me. 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. In response to the good Senator from Cumberland, Senator Gill's question, if you look at L.D. 2389 you will find 90% Maine hire. That is an important issue and one the Committee, unanimously I think, felt strongly about. With respect to questions about Maine businesses, I think we grappled with that issue. We are dealing with getting monies to the municipalities and into the communities. We are going to hire those local contractors, builders, and construction people. That is who is going to get these bids. Given the size of the monies here, some of the large out of state construction firms are not going to bid for these kinds of jobs. We had to also be extremely cognizant and careful that we craft a package that would not put us out of compliance with the Constitution, Interstate Commerce and Activity and those concerns. We kept our package well defined and well established on Constitutional grounds.

I would like to offer a little more information about the genesis of this. A lot of this work is due to the Jobs Commission Report that the Governor and his administration were involved with. Business leaders from around the State talked about these same issues, 90% Maine hire and the kinds of things we are doing here to get money into the communities. I appreciate the other Body's Report which had some good concerns about what we are doing here. We have gotten information from all sides. As much as we could, given Constitutional requirements, we have addressed those issues. You need to look at both Bills, L.D. 2389 and this one we are discussing L.D. 2388 and they need to be taken into relationship with each other. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **MATTHEWS** of Kennebec, to **ACCEPT** the Majority **OUGHT TO PASS** 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.

19 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **MATTHEWS** of Kennebec, to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

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

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 **HOUSING & ECONOMIC DEVELOPMENT** on Bill "An Act to Implement the Jobs Creation Bond Package" (Emergency)

H.P. 1708 L.D. 2389

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1705.

Signed:

Senators:

MATTHEWS of Kennebec

DUTREMBLE of York

Representatives:

MELENDY of Rockland

BELL of Caribou

HEESCHEN of Wilton

LEBOWITZ of Bangor

STEVENSON of Unity

KILKELLY of Wiscasset

KONTOS of Windham

PLOURDE of Biddeford

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

Signed:

Senator:

CAHILL of Sagadahoc

Representatives:

GRAHAM of Houlton

SALISBURY of Ellsworth

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

Which Reports were **READ**.

The Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

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

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 & LOCAL GOVERNMENT** on Bill "An Act to Implement Constitutional Provisions Restricting the Imposition of Unfunded State Mandates"

S.P. 767 L.D. 1963

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

Signed:

Senators:

BERUBE of Androscoggin

EMERSON of Penobscot

Representatives:

NASH of Camden

LOOK of Jonesboro

WATERMAN of Buxton

GRAY of Sedgwick

SAVAGE of Union

KILKELLY of Wiscasset

KERR of Old Orchard Beach

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

Signed:

Senator:

BUSTIN of Kennebec

Representatives:

LARRIVEE of Gorham

HEESCHEN of Wilton

JOSEPH of Waterville

Which Reports were **READ**.

Senator **BERUBE** of Androscoggin moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

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

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

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.

24 Senators having voted in the affirmative and 1 Senator having voted in the negative, the motion by Senator **BERUBE** of Androscoggin, to **ACCEPT** the Majority **OUGHT TO PASS** Report, **PREVAILED**.

The Bill **READ ONCE**.

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

Off Record Remarks

ORDERS OF THE DAY

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

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

Tabled - March 3, 1992, by Senator **BRANNIGAN** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED**, without reference to a Committee in **NON-CONCURRENCE**

(In House, February 27, 1992, **REFERRED** to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.)

(In Senate, March 3, 1992, **READ A SECOND TIME**.)

On motion by Senator **BRANNIGAN** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee in **NON-CONCURRENCE**.

On motion by Senator **BRANNIGAN** of Cumberland, **RECESSED** until 5:00 in the afternoon.

After Recess

Senate called to order by the Secretary.

The Secretary requested that the Sergeant-at-Arms escort the Senator from Oxford, Senator MILLS to the Rostrum where he assumed the duties as President Pro Tem.

The Senate called to Order by the President Pro Tem.

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 Concerning Prevailing Wages Established by the Department of Labor

H.P. 471 L.D. 665
(H "A" H-934 to C "A"
H-898)

An Act to Establish the Maine Correctional Institution - Warren

S.P. 518 L.D. 1396
(C "A" S-549)

An Act to Limit Late Fees Charged on Cable Television Rates

H.P. 1018 L.D. 1491
(C "A" H-902)

An Act Regarding the Parking Violations that Occur on State Controlled Property within the Capitol Area

H.P. 1509 L.D. 2121
(C "A" H-933)

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 Concerning Railroad Personnel

H.P. 1309 L.D. 1891
(C "B" H-931)

On motion by Senator BRANNIGAN of Cumberland, 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

An Act to Provide More Effective Recovery of Child Support

H.P. 1222 L.D. 1780
(C "A" H-899)

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **FISHERIES & WILDLIFE** on Bill "An Act to Institute a Pheasant Stamp Program for Cumberland and York Counties"

H.P. 1555 L.D. 2193

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-997)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1012)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-997) **READ**.

On motion by Senator PEARSON of Penobscot, Committee Amendment "A" (H-977) **INDEFINITELY POSTPONED**, in concurrence.

House Amendment "A" (H-1012) **READ** and **ADOPTED**, in concurrence.

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

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 **UTILITIES** on Bill "An Act to Amend the Charter of the Portland Water District" (Emergency)

H.P. 1668 L.D. 2344

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-1002)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1002) AND HOUSE AMENDMENT "A" (H-1026)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1002) **READ** and **ADOPTED**, in concurrence.

House Amendment "A" (H-1026) **READ** and **ADOPTED**, in concurrence.

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

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

H.P. 1688 L.D. 2368

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-1017)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1017) AND HOUSE AMENDMENT "A" (H-1021)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1017) **READ** and **ADOPTED**, in concurrence.

House Amendment "A" (H-1021) **READ** and **ADOPTED**, in concurrence.

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

House Papers

Bill "An Act Concerning the Structure and Operation of the Seed Potato Board"

H.P. 1712 L.D. 2397

Comes from the House referred to the Committee on **AGRICULTURE** and **ORDERED PRINTED**.
Which was referred to the Committee on **AGRICULTURE** and **ORDERED PRINTED**, in concurrence.

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 **ENERGY & NATURAL RESOURCES** on Bill "An Act to Amend the Subdivision Laws within the Jurisdiction of the Maine Land Use Regulation Commission"

H.P. 1514 L.D. 2126

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-957)**.

Signed:

Senators:

TITCOMB of Cumberland
BALDACCI of Penobscot
LUDWIG of Aroostook

Representatives:

LORD of Waterboro
ANDERSON of Woodland
HOGLUND of Portland
MARSH of West Gardiner
JACQUES of Waterville
GOULD of Greenville

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

Signed:

Representatives:

MITCHELL of Freeport
COLES of Harpswell
SIMPSON of Casco
POWERS of Coplin Plantation

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-957)**.

Which Reports were **READ**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-957) **READ** and **ADOPTED**, in concurrence.

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

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

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

Tabled - March 4, 1992, by Senator **BRANNIGAN** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED**, without reference to a Committee in **NON-CONCURRENCE**.

(In House, February 27, 1992, **REFERRED** to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.)

(In Senate, March 3, 1992, **READ A SECOND TIME**.)

On motion by Senator **BRANNIGAN** of Cumberland, Senate Amendment "A" (S-579) **READ** and **ADOPTED**.

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

Senator **BRANNIGAN**: Thank you Mr. President. Ladies and Gentlemen. Any amendments I will be offering are only putting fiscal notes on Bills that are being kept here and not going to their Committees. This is unusual procedure but it is just putting on a fiscal note. Thank you.

On motion by Senator **BERUBE** of Androscoggin, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Senate Amendment "A" (S-579).

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 guess I have a question. This is a Bill that was assigned to our Committee and we have not had a public hearing. Forgive me if I am repeating something I should have known but we did not have a public hearing number one. Number two, in our restructuring work presently going on in the State & Local Government Committee, we have a section of the reorganization suggestions and recommendations that deals with this. There was a Minority Report and people who came in to speak in favor of that last week. I was wondering what we are supposed to do with this. Please correct me if I am wrong but things are moving so fast that before we know it things get enacted and we wonder what happened. Am I correct that this reinstates Commissions and Boards that were not funded and were made extinct last session? Are we reinstating three of the many Commissions that were done away with? Is this correct?

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

Senator **BRANNIGAN**: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is my understanding that in reference to all these Bills that are tabled here, a decision was made by the presiding officer of this Body and maybe even by the Council that the Bills that they let in yesterday would not on the whole be referred to Committees. They would be kept in posture of being voted on either in this Body or in the other Body and the Committees would work on them in some kind of public work sessions. This was an expediency that they decided on and this is something that affects your Committee in this case and other Committees in another case. I am not defending that, I am just explaining. From what I understood from the President yesterday, he said that if a Committee chose to alter the Bill they would do it by floor amendment. If I were a Chairman of a Committee and felt this was in conflict with a Bill I was already dealing with, then this Bill wouldn't become effective. The fate of these Bills lies with the floor and not the Committee. They do need fiscal notes and usually that would be put on while work was being done in your Committee. Thank you.

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 thank the Senator from Cumberland, Senator Brannigan. I guess what I don't understand is the procedure now. Does that mean that this Bill is engrossed and it will go from here to the other Chamber or does it mean it will be tabled here unassigned?

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

Senator **CLARK**: Thank you Mr. President. Ladies and Gentlemen of the Senate. L.D. 2390 is my Bill

and I presented it to the Committee on State & Local Government at their marathon endurance public hearing on Friday of last week. As a result of that formal presentation and despite the posture of this Bill, I move that this Bill be referred to the Joint Standing Committee on State & Local Government, in concurrence. Thank you.

Off Record Remarks

On motion by Senator CLARK of Cumberland, Bill and Papers COMMITTED to the Committee on STATE & LOCAL GOVERNMENT and ORDERED PRINTED, in concurrence.

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

SECOND READERS

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

House

Bill "An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine Citizens"

H.P. 1707 L.D. 2388

Which was READ A SECOND TIME.

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

Bill "An Act to Implement the Jobs Creation Bond Package" (Emergency)

H.P. 1708 L.D. 2389

Which was READ A SECOND TIME.

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

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 & INSURANCE on Bill "An Act to Provide Community Rating of Health Insurance Providers"

H.P. 507 L.D. 701

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1007).

Signed:

Senators:

KANY of Kennebec

MCCORMICK of Kennebec

Representatives:

MITCHELL of Vassalboro

ERWIN of Rumford

TRACY of Rome

KETOVER of Portland

RAND of Portland

PINEAU of Jay

JOSEPH of Waterville

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-1008).

Signed:

Senator:

BRAWN of Knox

Representatives:

GARLAND of Bangor

HASTINGS of Fryeburg

CARLETON of Wells

Comes from the House with the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1007) AS AMENDED BY HOUSE AMENDMENTS "A" (H-1014) AND "B" (H-1035) thereto.

Which Reports were READ.

Senator KANY of Kennebec moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1007) Report, in concurrence.

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

Senator THERIAULT: Thank you Mr. President. Ladies and Gentlemen of the Senate. I request a Division on this Bill. For some reason or other this issue has become partisan. I really cannot understand why. All of us here in this Chamber agree that we need to do something with health insurance. We know that reform is necessary so that is not why we don't seem to agree on this issue. So far all we have done is talk about it and we have been doing things we call reforms but the reforms, as I have seen it, are let's have someone else pay for it. In this particular case it would be the small employers. It is one of those that will sock it to the small employer Bill, as far as I am concerned. Controlling the cost and utilization would actually help to control the cost of our health insurance but we don't talk about that. All we talk about is shifting the burden onto someone else. Once again, we take the easy way out. With this Bill we are hitting the smallest of our employers, we are hitting those that have 25 or fewer employees. Those that have more than 25 employees do not come under the provision of this Bill.

What is going to happen if this particular version being discussed passes? For many it will raise the cost of health insurance to benefit a few. In the process what do you think is going to happen? These small employers are not required to carry this insurance, they are doing it because they want to. They are doing it because they want to help the employees that work for them. What do we do? We reward them, because of what they are trying to do, by increasing the premium they have to pay for their insurance. They are going to drop that insurance. In our attempt to insure more people we are going to end up with fewer people insured. Just think about it. If this particular version passes, it probably means that two-thirds of our rate payers premiums are going to go up. The bottom is going to go up and those that pay the average amount will also go up. You know what the end result is going to be if that happens, they are going to drop their insurance. I just hope that we would vote against the Majority Report so we could accept the Minority Report.

I presented a Bill, this year, to the Banking & Insurance Committee which was designed for small employers. This Bill died in Committee but I am glad to see that some of the ideas and provisions that were in my Bill have been incorporated in both versions that will be before us. Maine is not alone in trying to control the costs of insurance. Last year there were some twenty to thirty states that took a look at something similar to what we are doing here. There are only two states that came forward with some kind of a plan. These two states were Massachusetts and Vermont. I need to tell you that these plans have not been put into effect yet because there is some doubt amongst those that are close to this that maybe this is a dangerous thing to do. The particular version that is before us does what the other version wanted to do but it does it more in a fashion that could be disastrous to our health insurance in this State. The other version of this does it in a more reasonable way. It retains the total market, whereas, the version before us probably will end up in a monopoly with just one carrier. The people would then have no choice as to who they could get for a carrier.

The Minority Report is a reasonable one. It is supported by the small employers of this State. They are the ones that will have to get involved and will have to pay. I think we should pay some attention to what they are saying. As far as I am concerned we are completely disregarding their wishes right now. We are shoving that on them without really considering what they want. I think that is not the proper way to do this. The Minority Report also has a sunset so that after a period of one year we can take a look at what is happening. If we notice we are really ending up with the short end on this Bill, we can take other action. We can either continue the Bill, we could alter it in such a way that would make it more palatable, but we do need to have a trial period. The version before us does not have that. I really urge you to think long on this issue and vote against the pending motion so we can go with the Minority Report which is a more reasonable approach. It is supported by those that will have to pay the premiums. This will be our smallest of our employers, those that have fewer than 25 employees. Thank you.

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

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. You are well aware that there are problems with affordability of health insurance and there are real market problems out there. Congress has recently reaffirmed and found that almost half of the working uninsured or 3.9 workers are employed by a firm with fewer than 25 employees. A great deal of the problem is in the small group market. Insurers have begun to base insurance premiums on increasingly narrow risk pools. There is a broad based rate determination mechanism called Community Rating has been replaced by rates based on narrow pools of people, often the employees of an individual firm. What we are seeing here in Maine and elsewhere in the Country, is that insurers which used the Community rate, they looked at the entire pool and set their own rates. That is totally unregulated. The base rate that any company chooses to offer is and will be, if and when this

measure passes. They looked at all the pool of all those they insure and set one rate, whatever they chose it to be. They are moving away from that and avoiding risks now. If suddenly they have insured a small group and someone has a health problem in that group, then the next year they cut them out and cancel that policy or they raise the rates sky high.

The small employers market is simply not working. We need to address that. We really need to address that. It is interesting that the longer one looks at this and become immersed in the problems, the more one is inclined to agree. Thirteen members of our Banking & Insurance Committee ended up agreeing after over a year of work on this issue. Ultimately, you need to have community rating. You need to move away from allowing discrimination, particularly, on the areas where there is the most price discrimination or avoiding of risk on the basis of age and on the basis of gender. Some of these companies really try to avoid a very small group that they have a woman of child bearing age or anyone over the age of fifty. That simply isn't in the best public interest, we all know that. We can not have these people completely uninsured. It is not working. In Maine, we only have 32,000 employees that are insured in that small group market. 26,000 of the 32,000 are insured by Blue Cross/Blue Shield which currently community rates. Because of the competition it is being pushed into going into pure experience rating to then discriminate on the basis of age and gender. The other 6000 are insured by a large number of variety of health insurers. We are talking about a very small number. When you compare that to the 130,000 people in Maine in 1986 that had no health insurance, I can imagine what those figures are today. We learned in 1986 that many of those people were low income working people. Think how many people actually are in that small employer group here in Maine. Perhaps they are completely uninsured because some of these insurers have chosen to avoid the risk. They may have done this because they have a woman in the child bearing age or they may have several people over the age of 54 in that small group. Isn't that terrible? Let us be reasonable and come to the conclusion that people like Senator Mitchell, Senator Cohen and even President Bush have come to. In the end we need to provide health insurance for all of our citizens. We need to do that.

We heard criticism of the original L.D. 701 presented to our committee because that Bill immediately did away with discrimination. We supported the principal. We prohibit discrimination in employment on the basis of age or sex. Yet, public policy in insurance encourages discrimination on those basis. If we allow the insurers to choose not to insure a group because of ones gender or age, clearly we have conflicting public policies. On principle we would have immediately gone to community rating but we listened and thought we would get into this slowly. We will move to anti discrimination very slowly. The Majority Report suggest that we allow complete discrimination as we do today for another full year until 1993. Then we will still allow the insurer to choose its base rate, no one is considering regulating that. We are also allowing the deductible, co payments, and changing in premiums. We will continue to do that so there can be a lot of price differentials. We hope to begin in 1993 suggesting that whatever that insurance company

chooses as its base rate that they treat any other group they offer policies to the same. They only can discriminate 33% from that base rate, up or down, that year. The next year move down to 20% and ultimately, the committee had would have gone to a zero discrimination rate in 1986. In the spirit of further compromise there is an amendment which was placed on the Bill elsewhere that would have a sunset in 1995 so people would feel more comfortable with this move away from discrimination. I support that. The Majority Report as amended now has a sunset after two years. I urge you not to go as far as Senator Cohen or Mitchell would have us go and they urge us to do so because this is one step towards universal access to affordable health care in the long run. I would urge you to go along with the spirit of compromise and to adopt the Majority Report so we can at least make a little bit of progress towards that ultimate goal and principles which I am sure we all share as we have enacted into our law moving away from discrimination for those purposes. Thank you.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The good Senator from Kennebec, Senator Kany, as usual makes a good argument in support of her Majority Report. I suspect that this issue is one that is neither black or white but is rather gray. I think all of us are aware that there are situations within the State of Maine where small employers and others have a great deal of difficulty in affording health care insurance. My greatest concern is that moving as we are suggesting in the Majority Report, is apt to get us into a position where some small employers who provide coverage by shopping in the market place and finding carriers that have programs that suit the makeup of their employees at a advantage, therefore, they buy it. Admittedly those situations obviously involve situations where there are younger, healthier people and there is some discrimination. By the same token those people, if we were to make this change, would effectively be subsidizing the higher cost folks in the health insurance programs.

At the present time you have a choice because you can go shopping in the marketplace for the private carriers that offer the best deal for your particular makeup or you can go to Blue Cross/Blue Shield which offers community rating and writes more health care insurance than anyone else in the State. It seems to me in times when we want people covered, there is some danger in accepting the Majority Report with its limited variation from the community rate. The Minority Report does the same thing except it allows a greater variation. It is that greater variation that can keep many small businesses, through their shopping techniques, able to continue to offer coverage. The offering of coverage in the health care field is important to all of us. I think we are aware in due course we may, in fact, have a national health insurance. We have all kinds of alternatives being proposed in the Congress with the idea of providing both access and coverage to people for health care. This measure here, it seems to me, affectively reduces the number of people in the State of Maine that can have coverage. For that reason I would ask you to oppose the pending motion and consider the Minority Report. Thank you Mr. President.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I just want to point out that this new Congressional Report, U.S. General Accounting Office, cost increases lead to coverage limitations and cost shifting. In answer to the Senator from Aroostook, Senator Collins, I want to point out to you there is currently a cost shifting. Anybody who pays premiums is picking up some for those who are uninsured who appear at the hospital. Taxpayers are picking up these cost shifts. I really know that you mean well but in the long run and even in the shorter run, you will accomplish your goals of less cost shifting if you go with the Majority Report. You will go into true competition in which good administration will be where the profit is. Furthermore, private insurance companies may well be left out if they are not willing to manage risks and instead go with avoiding them. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. There are many issues that we have to deal with here. Let's start with that this is a partisan Bill. This is not a partisan idea. We got delivered to us a letter, the Committee on Banking & Insurance, from Senator Cohen endorsing community rating. President Bush, in his health care plan that he announced two weeks ago, on page seventeen has community rating. I would like to read to you from a report by the National Association of Governors Task Force on Health Care, a 1991 report. These are the Governors of these United States.

It says and I quote, "Current insurance practice is to compete by shifting the risk of large potential medical costs instead of lowering risk. As a result many businesses with high risk employees either pay very high rates or are not able to retain coverage." That is experienced rating. "Again, the Governors say, this is an example of major market failure. A competitive cost containment approach would require the State's Government to eliminate adverse selection in the sale of health insurance policies so that price competition is based on the cost of medical care provided rather than the health risk of employees." What is adverse selection? Adverse selection is what currently happens in this uneven playing field that we have called the small group health insurance market. We have two players, basically. We have the commercial insurers who insure 11% of the small groups and we have Blue Cross/Blue Shield who insure 42% of the small group employers.

The commercial insurers do something called experienced rating. Blue Cross/Blue Shield does something called community rating. What is community rating? Community rating is what insurance used to be until ten years ago. Community rating is placing us all in a pool and saying that some of us are going to get sick but many of us won't and if we average them all together it is a handable cost. That is community rating. What has happened in the last ten years, is the commercial insurers in order to maximize profits they have shifted the cost. Instead of managing risks and community rating they are avoiding risk and maximizing the profits. Why does this lead us to adverse selection? It leads us to adverse selection because we have two players on a

playing field and they are not playing by the same rules. We therefore, don't have a free market. If we continue to allow one set of players to play by one set of rules, the experienced rating rules, this is what will happen. They will continue to offer low cost insurance to the youngest, healthiest small groups. If you happen to be a part of a older, unhealthier small group, you will get a high cost because you have someone in your group that is at risk for high cost diseases.

The older, unhealthier groups who can not get a good price in the commercial insurance market, will then move to the community rated market which is Blue Cross/Blue Shield, where the rate is even. They can be assured of a competitive rate. That is where we get adverse selection. That means that in one pool will eventually rest all the older, unhealthier workers. In the other pool will eventually rest all the younger, healthier workers. That is what adverse selection is.

The importance of passing this Bill now is that we have learned that if we continue to allow this kind of adverse selection to happen, Blue Cross/Blue Shield will eventually have to raise their rates in order to compete with commercial insurers. For those of you worried about the cost of health insurance for the small group market, it means 42% of the small employers are going to see their rates go up. Quite the contrary, to the good Senator from Aroostook, Senator Theriault, I believe if we do not pass this Bill we will see a much greater rise in health care cost for small employers.

The Minority Report contains a sunset and I would like to speak about that for a minute. The Minority Report differs from the Majority Report in two aspects. First of all, it has a wider band and you have to know the lingo in order to understand this discussion. A band is the amount that an insurer can vary his premium from the base rate. The Minority Report is saying let's let that band be 60%. That is a meaningless band. That is experienced rating. The Minority Report says let us do that 60% band for one year and that after that 60% band, which does not give us any good data, let's have a sunset so we can vote on this again. The reason the majority could not go along with this idea is because we did not think we would have sufficient data for Maine to make a good judgement in that sunset vote at that time. We wanted to have Maine's specific data. We wanted some meaningful band, which in the Majority Report we start with a band of 33%, allowing commercial insurers to vary the rates 33% which is very large. They can vary it 33% up or they can vary it 33% down. It is really a 300% difference. We want at least one year of some kind of true Maine specific data on community rating before we have any sunset vote.

The other thing, that is important to me in the Majority Report, is contained in a couple of newspaper articles. One is from the New York Times and one from the magazine State Legislators. This issue that we are debating here at 6:00 on a Wednesday night, is very important to a lot of people who have a lot of money invested in our decision. Let me read this to you. "The Trade Association which represents more than 300 commercial health insurance companies has identified 15 States where it wants to see such Legislation passed in the next year." That is their competing legislation which the good Senator from Aroostook, Senator Theriault

referred to. "It expects to spend \$4-5 million for lobbying, public relations, and legal work in those States." We had a Republican Senator from Vermont come over and visit our committee on rainy morning, just to add to the column as to how this is not a partisan issue, who was the sponsor of the Bill over there. He was a supporter of community rating. Vermont is the first State to do community rating. You can bet that every single insurance lobbyist that we had in the back of the room had recently been in Vermont monitoring the process. There is our \$4-5 million at work, monitoring the process. I am truly afraid that an industry that has an actual organization like this and the ability to raise \$4-5 million could target 15 States and decide to affect public policy in this way. They could also arrange a departure from either the Vermont market or the Maine market. That is the reason why the Minority Report wanted to have a sunset. It didn't want to be out in front. It wanted to see what happens in Vermont. Do all the insurance companies leave Vermont? That was the big question after community rating is instigated. Even though we had the assurance of the good Senator from Vermont that he felt that would not happen and if they were left with three or four commercial insurers that would be fine with him. I, of course, argued on the side that we should not back into health care reform in 1992 in Maine. If your constituents are like my constituents you hear daily that this is the issue that concerns them. Here we are, the leaders of Maine, sitting here worrying about what happens in Vermont rather than leading the way in Maine and addressing the health care problems of our population. We need Maine specific data so we can forge a solution to escalating health care costs.

Let's talk of another issue. Contained and experienced rating, which is what we will have if the Majority Ought To Pass Report fails, is great implications for women and elderly. Herein lies the flaw of the argument that seems to be attracting many small businesses at first blush. We are hearing small businesses and insurance companies say they want to be able to offer a low cost product for all those businesses that have young workers in them because young workers don't make as much as older workers. If we can keep the cost down on young workers, if they don't have as many health problems as older workers, why should they pay more? Why can't we offer this product to them and help them out while they are starting out. As they get older and increasingly get more money they will be able to afford to pay more for health care and isn't that they way it ought to be? They are leaving out one very important group and their argument breaks down when you get to women. Young, healthy women, in fact, are charged \$1000 more on average than a young healthy man under experienced rating. I put to you that young healthy women workers make much less than young men workers and can not afford those rates. I am quoting when I say that a 35 year old woman pays \$1000 more on her premium than a 35 year old man. I am quoting from a 1990 Aetna Life & Casualty Report called "Medical Rates Age and Sex." That is an industry statistic. Our Committee became very concerned that if experienced rating were to become the Law of Maine, which it will be I assure you if we do not pass the Majority Report, we will actually be employers an incentive to discriminate against women, disabled, and elderly workers. Think about it. You are an employer and experienced rating is the rule in

Maine. You have a young woman come to you or an elderly worker come to you and you know that your premiums are going to go up to \$1000-\$1500 depending on the health risk of that person. What are you going to do. You are a fair minded person and want to obey the law that the government is writing with one hand. Here you have an economic incentive not to hire this person. I believe that our policies should come together. We should not say on the one hand you should not discriminate against women and elderly people and on the other hand say you have just enacted this insurance rating policy that allows you an incentive not to hire them. That is not good policy. Thank you.

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is such an interesting subject that most of us are asleep. I don't really know about you but I do know that all of my correspondence on this Bill came from small employers in this State. I received no correspondence from any of the insurance companies that were mentioned. I also want you to know that I stand before you, this evening, not as a defender of the insurance industry but to speak for the small employers that wrote to me. I think all of you must have received some of the same correspondence.

The range that was mentioned for the Minority Bill was 60% which translates in insurance lingo to 4-1 proportion. I want you to understand that the present band on the open market for insurance today is more like 7-8-1. This is quite a change and it is about half of what it is today. Why is it that the small employers look at this and see there could be a change of 60% on the premium and when they compare it to the report before us they tell them they could be subject to 33% rather than 60%, why are they still going with the 60%? They are doing this because they know that in the final analysis, regardless of all the nice words that were said here this afternoon, if the version before us passes we will put an additional burden on the smallest of our employers. I want you to think about that. Do you really want to put an additional burden, in these rough economic times, on those smaller employers? I want you to think about that when you vote on this Bill. Thank you.

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

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would attempt, in my small way, to respond to the recent remarks of the good Senator from Aroostook, Senator Theriault who referred to the correspondence he has received on L.D. 701. I too have received well over 40 phone calls and a lot of printed material on letterhead. The letterhead reflecting, in most instances, members of a professional association that has representation in the lobby, more precisely the Maine Merchants Association. I submit to you that the members of that fine association have been misinformed about the impact of community rating. They enjoy a community rating and afford their health insurance package based on community rating, as we all know. They would deny access, ready and affordable access, to others who are denied access to affordable health care. I think that that misinformation has led to the production of a number of pieces of correspondence that many of us are in the process of

responding to. Community rating is fair, it is just a four letter word. It does not exclude and it appropriately and accurately shares the cost of health care. It also precludes, in these recessionary times, the termination of employment of a number of seasonal or senior employees. My most close attention was drawn to this issue by a small employer, not in my Legislative District, who terminated a senior employee of over 22 years because he carries their health package with one of the for profit insurers. That senior employee, despite his 22 years of loyal service, has a spouse who is the victim of cancer. After five years of regular checkups has been diagnosed, once again, with reoccurring cancer. The burden of carrying the medical care for the spouse of that find employee has forced that employer to terminate this senior employee, not because of job performance but because he can't afford it with health insurance. It jeopardizes his ability to pay the premiums which would based on experience of that small group.

We had an interesting, dramatic, incident out in the rotunda area earlier this week. Unfortunately most of us weren't there. A group of Maine citizens pantomimed the effect of our current insurance and rating practices and resulting premium and inaccessibility with reference to access to health insurance. They did a fine job, unfortunately, most of us were laboring within committee. They were not aware of the Legislative change in our schedule. It was very impressive to observe this because people had travelled from all over the State to lend their citizen support for a concept that is going to result in access to affordable health care. We, in the Maine Senate, should not deny that opportunity. Thank you Mr. President.

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

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator **KANY** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-1007) Report, in concurrence.

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 for a Roll Call.

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

A Division has been requested.

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

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

16 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **KANY** of Kennebec, that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-1007) Report, in concurrence, **PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "A" (H-1007) **READ.**

House Amendment "A" (H-1014) to Committee Amendment "A" (H-1007) **READ** and **ADOPTED**, in concurrence.

House Amendment "B" (H-1035) to Committee Amendment "A" (H-1007) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-1007) as Amended by House Amendments "A" (H-1014) and "B" (H-1035) thereto, **ADOPTED**, in concurrence.

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

On motion by Senator **PRAY** of Penobscot, **ADJOURNED** until Thursday, March 5, 1992, at 9:00 in the morning.