

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 10, 1992 to March 31, 1992

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

December 5, 1990 to December 1, 1992

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

In Senate Chamber

Tuesday

March 17, 1992

Senate called to Order by the President Pro Tem, N. Paul Gauvreau of Androscoggin.

Prayer by the Honorable Gerard P. Conley, Sr. of Portland.

HONORABLE GERARD P. CONLEY, SR.: Upon receiving the invitation to come here today to give the prayer, I happen to think back to my youth when I was with my four brothers and sisters and we always commenced about the leprechauns and how particularly this time of year, we did strange things we couldn't explain to people. Prior to giving the prayer this morning, I thought I would give you this little legend on the leperchaun:

'Twas on a bright St. Patrick's morning, Irish days of yore, a lad beheld a tiny man outside his cottage door. Arrayed in clothes of emerald green beside a crock of gold. He stood not half the youngsters size but looked ten times as old. The wee man bowed politely as he introduced himself. A leperchaun is what I be, first cousin of the elf. The sun is my faithful guardian, each flower is my friend. My home lies over yonder just beyond the rainbows end. Then for hours the little man regaled the lad with tales of leperchauns who played in mountains and forests. You will not find us there, he said, because its meant to be that from this day no human eye shall see the likes of me. Though sure its true if you believe in luck and love and joy, if you believe in hopes and dreams, I'll be with you my boy. In a flash he disappeared. And in his magic way he visits Irish hearts again each new St. Patrick's Day.

Eternal God and Father, we give thee thanks for a man named Saint Patrick: For his indomitable will, his classic courage, his formidable faith, as he drove out ignorance, superstition and inhumanity, and even the legendary "Snakes of Ireland." Raise up men and women of like character in our day, O Lord, so the creeping and slithering evils of crime, pollution, discrimination, militarism, rising living costs and shrinking dollars may not poison a nation founded on the principal of freedom, justice, and hope for all men and women. In the name of him, who Saint Patrick called Lord. Amen.

Reading of the Journal of Monday, March 16, 1992.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter
Emergency

An Act Concerning the Authority of Podiatrists
H.P. 1682 L.D. 2362
(C "A" H-1059)

In House, March 12, 1992, **PASSED TO BE ENACTED.**
In Senate, March 16, 1992, **FAILED OF ENACTMENT** in **NON-CONCURRENCE.**

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

COMMUNICATIONS

The Following Communication:
**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON ENERGY AND NATURAL RESOURCES**
March 13, 1992

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Energy and Natural Resources has had under consideration the nomination of Caroline M. Pryor of Northeast Harbor, for appointment to the Land Use Regulation Commission.

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

YEAS:	Senators	2
	Representatives	9
NAYS:		0
ABSENT:	2 Sen. Baldacci of Penobscot, Rep. Coles of Harpswell	

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Caroline M. Pryor of Northeast Harbor, for appointment to the Land Use Regulation Commission be confirmed.

Sincerely,
S/Senator Bonnie L. Titcomb S/Rep. Paul F. Jacques
Senate Chair House Chair

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

THE PRESIDENT PRO TEM: The Joint Standing Committee on Energy and Natural Resources has recommended the nomination of Caroline M. Pryor of Northeast Harbor be confirmed.

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

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

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

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

Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

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

ABSENT: Senators None

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

The Secretary has so informed the Speaker of the House.

The Following Communication:
**ONE HUNDRED AND FIFTEENTH LEGISLATURE
 COMMITTEE ON JUDICIARY**
 March 14, 1992

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of the Honorable Daniel Wathen of Augusta, for appointment as Chief Justice of the Maine Supreme Judicial Court.

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

YEAS: Senators 2
 Representatives 9

NAYS: 0

ABSENT: 2 Senator Berube of Androscoggin, Representative Stevens of Bangor

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of the Honorable Daniel Wathen of Augusta, for appointment as Chief Justice of the Maine Supreme Judicial Court be confirmed.

Sincerely,

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

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

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise because I hold the distinction and the privilege of being the only member of this Body who has Dan Wathen as a constituent. He has been a wonderful friend, and confidant in all the years I have lived in the Augusta community with him. He was also my divorce lawyer. He always amends that when I say it in any forum. Now, I will amend it for him, "And she negotiated her own agreement." He always wants

people to know that. He is an able, learned man, he is a leader, and he has a high sense of society issues. We can't have anyone as fine as this who would service as our Chief Justice. I urge your support of this nomination. Thank you.

THE PRESIDENT PRO TEM: The Joint Standing Committee on Judiciary has recommended the nomination of the Honorable Daniel Wathen of Augusta be confirmed.

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

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

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

ABSENT: Senators None

2 Senators having voted in the affirmative and 33 Senators having voted in the negative, with No Senators being absent, and 2 being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable Daniel Wathen, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:
**THE MAINE SENATE
 115TH LEGISLATURE**

March 16, 1992

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

This letter is to inform you that, as of this date, the Commission on Comprehensive Energy Planning, established under Resolves, 1991, Ch. 50, has held its required public hearings and has completed a preliminary draft energy plan as required. The work of the Commission is now substantially complete. The current working draft of approximately 100 pages is available for review and can be obtained from the State Planning Office.

The Commission has planned an additional round of public comment to ensure that its work benefits from the greatest possible level of public input into this

important policy-making process. A public hearing on the draft plan has been scheduled for April 7. A final report will be issued shortly thereafter.

Sincerely,
S/John Cleveland
Senate District 22

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **BUSINESS LEGISLATION** on Bill "An Act Relating to Unredeemed Deposits"

H.P. 1519 L.D. 2131

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-1034)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1034) AS AMENDED BY HOUSE AMENDMENT "A" (H-1123)** thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1034) **READ**.

House Amendment "A" (H-1123) to Committee Amendment "A" (H-1034) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-1034) As Amended by House Amendment "A" (H-1123) thereto, **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **UTILITIES** on Bill "An Act to Require a Total Least-cost Energy Plan and to Establish a Moratorium on Fossil-fuel Fired Electric Generation Facilities in This State" (Emergency)

H.P. 1625 L.D. 2288

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

Signed:

Senators:

CLEVELAND of Androscoggin
VOSE of Washington
CARPENTER of York

Representatives:

LIPMAN of Augusta
AIKMAN of Poland
MERRILL of Dover-Foxcroft
CLARK of Millinocket
MORRISON of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1083)**.

Signed:

Representatives:

HOLT of Bath
ADAMS of Portland
LUTHER of Mexico
KONTOS of Windham
DONNELLY of Presque Isle

Comes from the House with the Minority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1083)**.

Which Reports were **READ**.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Senate

Ought to Pass As Amended

Senator **KANY** for the Committee on **BANKING & INSURANCE** on Bill "An Act to Facilitate Self-insurance and Group Self-insurance under the Maine Workers' Compensation Act"

S.P. 877 L.D. 2238

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-633)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-633) **READ**.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-633).

Senator **BUSTIN** for the Joint Select Committee on **CORRECTIONS** on Bill "An Act to Establish a Supervised Community Confinement Program for Certain Prisoners of the Department of Corrections"

S.P. 916 L.D. 2353

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-632)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-632) **READ** and **ADOPTED**.

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

Sent down for concurrence.

SECOND READERS

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

House

Bill "An Act to Authorize the Town of Medway to Sell Certain Land"

H.P. 1725 L.D. 2416

Which was **READ A SECOND TIME**.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence.

Bill "An Act to Amend the Laws Governing Construction of Utility Lines" (Emergency)

H.P. 1726 L.D. 2417

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

On motion by Senator **CLEVELAND** of Androscoggin, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

On further motion by same Senator, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence.

House As Amended

Bill "An Act to Amend the Laws Regarding Licensing of Gravel Pits"

H.P. 1459 L.D. 2071
(C "A" H-1115)

Bill "An Act Concerning the Bureau of Intergovernmental Drug Enforcement" (Emergency)
 H.P. 1629 L.D. 2292
 (C "A" H-1106)
 Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Senate As Amended

Bill "An Act Regarding Retail Liquor Sales"
 S.P. 863 L.D. 2207
 (C "A" S-625)
 Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.
 Sent down for concurrence.

ORDERS OF THE DAY

The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:
 Bill "An Act Regarding a Piscataqua River Basin Council"

H.P. 1693 L.D. 2373
 (C "A" H-1081)
 Tabled - March 16, 1992, by Senator CLARK of Cumberland.
 Pending - **ADOPTION** of House Amendment "A" (H-1098), in concurrence
 (In House, March 12, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1081) AND HOUSE AMENDMENT "A" (H-1098).**)
 (In Senate, March 16, 1992, Committee Amendment "A" (H-1081) **READ** and **ADOPTED**. House Amendment "A" (H-1098) **READ**.)
 House Amendment "A" (H-1098) **ADOPTED**, in concurrence.
 On motion by Senator PRAY of Penobscot, the Senate **SUSPENDED THE RULES**.
 Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:
 Bill "An Act Concerning the Registration of Truck Campers"

H.P. 1598 L.D. 2260
 (C "A" H-1072)
 Tabled - March 16, 1992, by Senator WEBSTER of Franklin.
 Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence
 (In House, March 11, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1072).**)
 (In Senate, March 16, 1992, **READ A SECOND TIME**.)
 On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

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

Bill "An Act to Amend the Law Regarding the Responsibilities of Code Enforcement Officers to Approve Plans or Technical Submissions by Architects" (Emergency)
 S.P. 798 L.D. 1997
 Tabled - March 16, 1992, by Senator CLARK of Cumberland.
 Pending - **ADOPTION** of Committee Amendment "A" (S-601)

(In Senate, March 10, 1992, Committee Amendment "A" (S-601) **READ**.)
 On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-601).

The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:
 SENATE REPORTS - from the Committee on HUMAN RESOURCES on Bill "An Act to More Clearly Define the Role and Responsibilities of the Department of Mental Health and Mental Retardation" (Emergency)
 S.P. 721 L.D. 1911

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-626)**.
 Minority - **Ought Not to Pass**.
 Tabled - March 16, 1992, by Senator CONLEY of Cumberland.
 Pending - **ACCEPTANCE OF EITHER REPORT**
 (In Senate, March 16, 1992, Reports **READ**.)
 On motion by Senator CONLEY of Cumberland, the Majority **DOUGHT TO PASS AS AMENDED** Report **ACCEPTED**.
 The Bill **READ ONCE**.
 Committee Amendment "A" (S-626) **READ** and **ADOPTED**.
 Which was under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.
 Sent down for concurrence.

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

An Act Authorizing an Advisory Referendum on Whether the Congress of the United States Should Establish a National Health Insurance Program
 H.P. 1656 L.D. 2333
 (C "A" H-1015)

Tabled - March 16, 1992, by Senator WEBSTER of Franklin.

Pending - Motion by Senator GAUVREAU of Androscoggin to **RECEDE** and **CONCUR** (Roll Call Ordered)
 (In House, March 10, 1992, **PASSED TO BE ENACTED**.)
 (In Senate, March 12, 1992, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.)
 (In House, March 12, 1992, that Body **ADHERED**.)
THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Webster.
 Senator WEBSTER: Thank you Mr. President. Would you repeat the motion, please? Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator GAUVREAU of Androscoggin to **RECEDE** and **CONCUR**. This will have the effect of Enacting the Bill.

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

Senator PEARSON: Thank you Mr. President. Ladies and Gentlemen of the Senate. I favor a National Health Insurance. As a matter of fact, my father quite a number of years ago when medicare was first proposed in this Country, the Penobscot County Medical Society, of which he was a member, had a meeting to decide whether or not they wanted to endorse the idea of having medicare. My recollection is that he was one of only two doctors in Penobscot County who were in favor of medicare. He had an experience of being a doctor to an Indian Tribe that couldn't pay its Bills except through State assistance and that was minimal. I remember one evening he came home for supper and said to my mother, "guess what I got paid today for treating a

Canadian Indian." A Canadian Indian had come into his office about a month before and had the card with him. My father said he would give it a shot and send the bill to Ottawa. He got money back. That was many years ago. I would suspect it was even before Canadian National Health. It was probably a Canadian policy for native Canadians. That was an unbelievable experience for him because usually when he treated Micmacs on the reservation, he never expected to be paid, he simply did it. Along came medicare and many of the patients he treated for the first time he was being paid money. Some of the others had paid by giving our family fiddleheads and lots of other things. I became a believer long ago in National Health Insurance. I don't know exactly what form it will take and I understand that in Canada there were ten different policies in ten different provinces that have eventually come into a National Health Program in Canada. I strongly believe in National Health. I find it very difficult without an advisory referendum. I am convinced that everybody in this State, regardless of their party and social economic background, have started to come around to the idea of some kind of national health. You hear it in all walks of life. I have a little bit of a problem with an advisory referendum because I think that is what we are here for. I have a problem with all advisory referendums not just this one. I want it on the record that I do favor some form of national health.

I would like to relate to you that there was a delightful debate on television between the Premier of Ontario and William F. Buckley, Jr. William F. Buckley, Jr. said "I understand that there are lines in Canada to get health care." The Premier of Ontario said to him, "there are 37,000,000 Americans without health insurance and at least in Canada you can get in line, whereas in the United States 37,000,000 people can't get in line." Thank you.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have a procedural question, Mr. President. If we vote to Recede and Concur today, are we enacting this Legislation?

THE PRESIDENT PRO TEM: The Chair would answer in the affirmative.

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Because this is a referendum, shouldn't this go on the Appropriations Table?

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. To answer the inquiry, if this Bill were to pass, I would stand and ask to reconsider it and put it on the table. If people don't want to debate it today, I will put it on the table now. Thank you.

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

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I respectfully request a parliamentary inquiry. I was under the impression, the other day, that the movement was Indefinite Postponement of this Bill and all Accompanying Papers. Now I am told the motion is to Recede and Concur. Would you explain that for me? Thank you.

THE PRESIDENT PRO TEM: The Chair understands that the Senate, by action of March 12, 1992, did

vote to Indefinitely Postpone this Legislation. The matter was then transferred to the other Body which took the action of Adhering to its former position. Subsequent to that action, the Senator from Androscoggin, Senator Gauvreau moved that the Senate Recede and Concur. The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I really appreciate the story that the good Senator from Penobscot, Senator Pearson told. That is a wonderful thing for us to keep in mind when we vote on this piece of Legislation. As I understand the debate that has happened in this Body, no one is disagreeing that there is a problem in this Country with health care. No one is disagreeing that the system is broken and we need to fix it. What we are arguing about here, it seems, is whether this piece of Legislation is strong enough to let Congress and the President of the United States know the depth of feeling of the people of this State. While I understand that concern, I believe that we all have constituents that are buckling under the burden of their health care costs. We must take every step and action to move forward some kind of solution to this all important question. Would I have it have more teeth in it? Of course I would. We simply can't constitutionally as a State Legislature, tell the Congress of the United States what to do. We are caught in the position, I think, in this State between a rock and a hard place. People are telling us it is a national problem. If you were saying national health insurance, then I would agree with you. Here we have a Bill. It is the strongest statement that we can let the people of Maine have. It is one tool in the tool chest of change in our health insurance system. I believe that this Body can not stand in the way of letting the people of Maine let the Congress and President know how they feel about this important issue. That is what is before us. Thank you.

Off Record Remarks

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

Senator **BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I want to go on record as saying that I am in favor of a national insurance policy for the Congress. I think it is an urgent concern and something that the Legislature should address. To send this out for an advisory opinion at this time will delay needed impetus in the Congress to get action done. It is not the strongest measure before this Body that could be put forward in a resolution form to be sent to the Congress to tell them we are in favor of them moving forward on this. I would not be supporting an advisory referendum. That does not mean that I am not supporting national health insurance. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion of Senator GAUVREAU of Androscoggin, to RECEDE and CONCUR.

A vote of Yes will be in favor of the motion to RECEDE and CONCUR.

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, KANY, MATTHEWS, MCCORMICK, TITCOMB, TWITCHELL, VOSE, PRESIDENT PRO TEM - N. PAUL GAUVREAU

NAYS: Senators BALDACCI, BOST, BRAWN, CAHILL, CARPENTER, COLLINS, EMERSON, ESTY, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, MILLS, PEARSON, PRAY, RICH, SUMMERS, THERIAULT, WEBSTER

ABSENT: Senators None

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, with No Senators being absent, the motion of Senator GAUVREAU of Androscoggin, to RECEDE and CONCUR, FAILED.

On motion by Senator BRAUN of Knox, the Senate ADHERED.

The Secretary has so informed the Speaker of the House.

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

**PAPERS FROM THE HOUSE
House Papers**

Bill "An Act to Extend the Appraisal License Effective Date" (Emergency)

H.P. 1734 L.D. 2422

Committee on BUSINESS LEGISLATION suggested and ORDERED PRINTED.

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

Senator BALDACCI of Penobscot was granted unanimous consent to address the Senate off the Record.

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

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

**ORDERS
Joint Order**

On motion by Senator GAUVREAU of Androscoggin the following Joint Order:

S.P. 955

ORDERED, the House concurring, that Bill, "An Act Requiring the Provision of Information to Victims of Gross Sexual Assault," H.P. 359, L.D. 513, and all accompanying papers, be recalled from the Governor's desk to the Senate.

Which was READ.

THE PRESIDENT PRO TEM: The pending question before the Senate is PASSAGE. Pursuant to Joint Rule 15, this Joint Order requires a two-thirds vote of those present and voting.

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.

31 Senators having voted in the affirmative and No Senators having voted in the negative. The Joint Order was PASSED.

Sent down for concurrence.

HELD BILL

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

Senator PRAY: Mr. President, is the Senate in possession of L.D. 403?

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

Senator PRAY of Penobscot moved that the Senate RECONSIDER its action whereby it INDEFINITELY POSTPONED Bill and Accompanying Papers:

SENATE REPORTS - from the Committee on HUMAN RESOURCES on Bill "An Act to Enhance Medical and Social Services for Maine's Long-term Care Consumers" S.P. 169 L.D. 403

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-624).

Minority - Ought Not to Pass.

(In Senate, March 16, 1992, Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and Bill and Accompanying Papers INDEFINITELY POSTPONED.)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Gould.

Senator GOULD: Thank you Mr. President. Ladies and Gentlemen of the Senate. We debated the issue on L.D. 403 at length yesterday. I am opposed to the motion of reconsideration. I believe we have the ability, in the State of Maine, to provide mail order pharmacy from our own Drug Stores. The Drug Stores out there are opposed to a mail order philosophy held in one location and therefore, I say we should not reconsider this vote. Please let the process go forward.

Let me reiterate some points. Encouraging the use of multiple pharmacy locations limits the effectiveness of meaningful drug use review and does not allow for effective monitoring of patient profiles. The Department of Human Services stated on the record that it doubts there would be any meaningful savings to the State with this program. We have asked the question on State Employees programs whether we are saving any money. There is absolutely no proof that it will save the State any money whatsoever. There is not proof that this will save any money for the State of Maine. I urge you to not allow the motion of reconsideration. Thank you.

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

Senator CONLEY: Thank you Mr. President. Ladies and Gentlemen of the Senate. In reference to the motion from the good Senator from Penobscot, Senator Pray, I am hopeful you will go along with him to reconsider this Bill so we may be able to have an opportunity to have some meaningful discussion on it in our respective caucuses. I have to say to this Body that I was somewhat surprised when a Bill which was supported by all three Senators from this Body was upended. I underestimated the ability of the good lobbyist who knows enough around here never to be in a Chamber when you are discussing his Bill to be working hard enough on this one Bill while others have many other Bills they have to be concerned about so that he could impress his particular perspective upon those in this Body who voted against this Bill.

I know many of you have had phone calls from many pharmacists regarding this Bill. If that is the only person you get a call from, it is easy to say my pharmacist never asked me for anything, of course I will support his or her position on this. I assure you there are literally thousands of senior citizens who have not had an opportunity to give you a call on this Bill. They are either unaware that it is pending, unaware of the benefits they may get from it, or unaware of exactly what the Bill may do. I would ask that you vote in favor of reconsideration so we may have a chance to talk about it in a meaningful fashion. Thank you.

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

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 listened to the debate yesterday and I too had heard from my local pharmacist and I told them I would listen to the debate. I heard nothing to convince me that it was not a good idea for the State of Maine to at least attempt using Maine Pharmacists to try to lower the cost of medication for the elderly. After sitting as Senate Chair of the Banking & Insurance Committee for the last year and hearing testimony after testimony and reading report after report about the high cost of medical care and the fact that the cost if often what prohibits access. If we want universal access to affordable health care, we must deal with medical cost containment. This Bill is clearly a medical cost containment Bill. In good conscience, I cannot support the Senator's stance and the stance of my local pharmacist whose views I respect. We must deal with this question of cost containment. Our elderly citizens on fixed incomes cannot afford the cost of drugs. I urge you to vote with the Senator from Cumberland, Senator Conley and the Senator from Penobscot, Senator Pray in favor of reconsideration whereby this Body failed to adopt this Bill. Thank you.

On motion by Senator **PRAY** of Penobscot, Tabled until Later in Today's Session, pending the motion by same Senator that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Bill and Accompanying Papers.

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

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

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Yesterday, I wasn't able to be here for a number of different reasons. One of the reasons was that I had to go to the local Drug Store for my mother to get her pills that last six days and cost \$100.00. That is not why I rise.

I heard on Maine Public Broadcasting yesterday that a third of the Members of the Maine Legislature

had signed a petition to ask the Public Utilities Commission to relook at the rates that Central Maine Power is charging its customers. I was not asked to sign that petition, although I do have one or two towns that are in Central Maine Power. I have Central Maine Power, I have Bangor Hydro, and I have Eastern Maine Electric Co-op in my Senate District. That tells you a little bit about the diversity of my District. I would have signed that petition if I had been asked. Bangor Hydro Electric Company is a fine company and I am proud to be one of their customers. Their rates have recently risen dramatically. It is becoming a very burdensome thing for the people that are under the Bangor Hydro District service area. People are having a very difficult time paying their electrical bill because it went up so fast. In many instances, the people I have talked to, their bills have run up 30% in the middle of a Maine winter. I would hope that the Maine Public Utilities Commission would, in addition to looking at Central Maine Power, today when they are considering whether or not they are going to think about Bangor Hydro would give that some very strong feeling. Everywhere I go people are saying, can't you do something about the electrical rate in the Bangor Hydro area? It is too much, too fast, at a time when people can't afford it. Thank you.

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

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

Senator **BERUBE** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **PRAY** of Penobscot was granted unanimous consent to address the Senate off the Record.

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

After Recess

Senate called to order by the President Pro Tem.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **GAUVREAU** for the Committee on **JUDICIARY** on Bill "An Act Concerning the Freedom of Access Laws as They Relate to Disclosure of Public Employee Personnel Records"

S.P. 819 L.D. 2018

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-635)**.

Which was Report was **READ**.

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

Senator WEBSTER: Thank you Mr. President. I would like to have the Secretary read this Report again. Thank you.

Which Report was ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-635) READ and ADOPTED.

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

Sent down for concurrence.

Senator CONLEY for the Committee on LABOR on Bill "An Act to Amend the Process for Collecting for Costs of Services of the Maine Labor Relations Board, the Panel of Mediators and the State Board of Arbitration and Conciliation" (Emergency)

S.P. 930 L.D. 2385

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-637).

Which Report was READ.

Off Record Remarks

Which Report was ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-637) READ and ADOPTED.

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

Sent down for concurrence.

Senator MILLS for the Committee on LEGAL AFFAIRS on Bill "An Act Regarding the Purchase of Spirits at Agency Liquor Stores"

S.P. 890 L.D. 2283

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-636).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-636) READ.

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

Senator PRAY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair to any member of the Legal Affairs Committee to explain Committee Amendment "A". It is about three pages long and I think it makes some references that I would like some clarifications on in reference to the purchasing of liquor from the Agency Stores. If they could clarify the conflict between the two existing laws on the books that this amendment attempts to clarify. Thank you.

THE PRESIDENT PRO TEM: The Senator from Penobscot, Senator Pray has posed a question to any member of the Committee on Legal Affairs who may choose to respond. The Chair recognizes the Senator from Oxford, Senator Mills.

Senator MILLS: Thank you Mr. President. Ladies and Gentlemen of the Senate. I will be pleased to explain it for those who have just read it and do not understand it. One of the problems that we are running into with the privatization with the liquor stores as passed by the last budget is that areas in the rural parts of the State that are closing down their liquor stores, the current State laws say that restaurants and bars have to buy their liquor from a State liquor store. The rural areas of the State,

those that we are closing the State Liquor Stores in, are finding that they have to drive great distances in order to get to a State Liquor Store to buy their liquor. Since we are opening up agency liquor stores in those towns that we are closing the State stores, it was felt that restaurant and bars should be able to buy their liquor from an agency store in those areas instead of having to drive to a State Liquor Store. This Bill sets it up that any store that is being closed under the privatization Bill from last year, within fifteen miles of a restaurant or bar may go to that agency store and buy the alcohol. One of the problems with going to agency liquor stores versus State Liquor Stores is that we have always allowed an 8% profit to the person who owns an agency liquor store. We want them to make a profit because they are running a business. The problem that you run into is that the State looses the 8% profit. What we have allowed is for the liquor to be bought at agency liquor stores within that fifteen miles. The restaurants and bars have to pay at 104% and the agency store can collect 4% profit instead of the normal 8%. It is kind of a splitting of the profit between the restaurants, the bars, and the agency stores. I would point out that the privatization issue is costing restaurants and bars more money because they will have to pay more money to get their liquor from an agency store. I think that is an important thing for people to realize under the proposals as we move forward with this privatization. That is basically what the amendment does. I hope that the Senator from Penobscot, Senator Pray was able to follow that. It is a little confusing. If there are any other questions I will try to answer them. Thank you.

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

Senator PRAY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I apologize because I am a country boy and sometimes I am slower than those from the Southern part of the State like the Senator from Oxford, Senator Mills. Coming from a rural area and being concerned about us continuing to close State Liquor stores, rural Maine will pick up the extra tab of paying the extra expense because of their geographical location. I am very concerned that we are continuing to further extend the discrimination against those who live in other parts of the State than the urban areas and those who live away from the Southern discount Liquor Stores. I do have some serious concerns and reservations about the attempts of the Committee on this Committee Amendment. I do understand the attempt to clarify the ability to utilize credit cards to purchase alcohol in this situation. I commend him for the work on that part of the Bill. That is about the only thing I can commend him for. Thank you.

Committee Amendment "A" (S-636) ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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:

COMMUNICATIONS

The Following Communication:
 .P. 956

115TH MAINE LEGISLATURE
 March 17, 1992

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

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated the following:

University of Maine Board of Trustees:

Frederick A. Reynolds of Machias for appointment

John R. DiMatteo of Falmouth for appointment

Patricia Collins of Caribou for reappointment

Student Member of the University of Maine Board of Trustees:

Peter Crockett of Gardiner for appointment

Pursuant to Title 26, MRSA Section 1022, these nominations will require review by the Joint Standing Committee on Education 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** and **REFERRED** to the Committee on **EDUCATION**.

Sent down for concurrence.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **UTILITIES** on Bill "An Act to Require a Total Least-cost Energy Plan and to Establish a Moratorium on Fossil-fuel Fired Electric Generation Facilities in This State" (Emergency)

H.P. 1625 L.D. 2288

Majority - **Ought Not to Pass.**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-1083).**

Tabled - March 17, 1992, by Senator **CLARK** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 17, 1992, Reports **READ**.)

(In House, March 16, 1992, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1083).**)

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

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

Bill "An Act to Facilitate Self-insurance and Group Self-insurance under the Maine Workers' Compensation Act"

S.P. 877 L.D. 2238

Tabled - March 17, 1992, by Senator **CLARK** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (S-633)

(In Senate, March 17, 1992, Committee Amendment "A" (S-633) **READ**.)

On motion by Senator **KANY** of Kennebec, Senate Amendment "A" (S-638) to Committee Amendment "A" (S-633) **READ**.

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. The amendment really would allow groups of insurers to use an irrevocable stand by letter of credit for 5% of the reserving requirement for group self insurers. Our Committee had agreed to include that in the Bill. It inadvertently did not make it to the final draft. That is why this amendment is before us. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-638) to Committee Amendment "A" (S-633) **ADOPTED**.

Committee Amendment "A" (S-633) As Amended by Senate Amendment "A" (S-638) thereto, **ADOPTED**.

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

Sent down for concurrence.

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

Bill "An Act Concerning the Registration of Truck Campers"

H.P. 1598 L.D. 2260
 (C "A" H-1072)

Tabled - March 17, 1992, by Senator **CLARK** of Cumberland.

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

(In Senate, March 16, 1992, **READ A SECOND TIME**.)

(In House, March 11, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1072).**)

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

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

Bill "An Act to Amend the Law Regarding the Responsibilities of Code Enforcement Officers to Approve Plans or Technical Submissions by Architects" (Emergency)

S.P. 798 L.D. 1997

Tabled - March 17, 1992, by Senator **CLARK** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (S-601)

(In Senate, March 10, 1992, Committee Amendment "A" (S-601) **READ**.)

On motion by Senator **CLARK** of Cumberland, Tabled Unassigned, pending **ADOPTION** of Committee Amendment "A" (S-601).

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

Bill "An Act to Extend the Appraisal License Effective Date" (Emergency)

H.P. 1734 L.D. 2422

Tabled - March 17, 1992, by Senator **CLARK** of Cumberland.

Pending - **REFERENCE**

(Committee on **BUSINESS LEGISLATION** suggested and **ORDERED PRINTED**.)

(In House, March 17, 1992, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**.)
 On motion by Senator **BALDACCI** of Penobscot, Tabled 1 Legislative Day, pending **REFERENCE**.

Senate at Ease
 Senate called to order by the President Pro Tem.

On motion by Senator **WEBSTER** of Franklin, **RECESSED** until the sound of the bell.

After Recess
 Senate called to order by the President Pro Tem.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Enhance Medical and Social Services for Maine's Long-term Care Consumers" S.P. 169 L.D. 403

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-624)**.

Minority - **Ought Not to Pass**.

Tabled - March 17, 1992, by Senator **PRAY** of Penobscot.

Pending - Motion by same Senator to **RECONSIDER INDEFINITE POSTPONEMENT** (Roll Call Ordered)

(In Senate, March 16, 1992, Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The motion before us is a motion for reconsideration. I am hopeful that members of the Body will allow us to revisit this issue so we might discuss the merits of whether or not this Bill should become law. I am hopeful you will vote in favor of this motion. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator **PRAY** of Penobscot, that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Bill and Accompanying Papers.

A vote of Yes will be in favor of the motion to **RECONSIDER** the **INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers.

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

22 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **PRAY** of

Penobscot, that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Bill and Accompanying Papers, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-624) **READ** and **ADOPTED**. Which was under suspension of the Rules, **READ A SECOND TIME**.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I want to thank the members of the Senate on two counts. Number one for waiting for me to return from the St. Patrick's Day parade in Portland, which was a major success. Fortunately, our State Police Air Force was not out today and I was able to get here without being detained. Second, I want to thank those in the Senate for giving myself and others who are concerned about the passage of this Bill another opportunity to speak on it. I truly appreciate that courtesy. I know both caucuses have had an opportunity to look at this Bill and discuss its merits and demerits. Having been at this parade and being from a District which has the most number of senior citizens per capita of any Senate District in the State and probably the most senior citizens who participate in the low cost drug program, I feel I should speak for them. Particularly because I had seen a good number of them at the slide show on Ireland prior to the parade itself.

This Bill is really a minor measure which is an optional program that I believe will make drugs available for senior citizens who need them at less cost. They can still go to their local pharmacy which we really don't have many left of in Portland. If this Bill is approved they will have an opportunity to purchase through the mail those long term maintenance drugs which they need to keep their health. I would ask you to let this majority report, supported by all three Senators on the Committee, become Law and let it go through the process. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Gould.

Senator **GOULD:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question to anybody who would like to answer it. What price are we talking about low cost to the senior citizen under the Drugs for the Elderly Program? It is not going to change the price to the senior citizen except it may change it by \$1.00. Would someone refute that please? Thank you.

THE PRESIDENT PRO TEM: The Senator from Waldo, Senator Gould has posed a series of questions through the Chair. The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator **PRAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I don't have a specific answer to the Senator from Waldo, Senator Gould. He obviously has much more expertise in this area than I do. My concern is that to a number of individuals who are low income who see their dollars go away one by one to a variety of costs that a dollar here and there soon adds up to something that is meaningful to them. I guess I would pose a question back to the Senator from Waldo, Senator Gould. In his years of experience surely he has seen individuals in which this made a major difference to their ability to purchase the wide variety of drugs that some of these individuals may need. It is not necessarily in a

singular area of concern but in the accumulative of individuals of older years who have a requirement to utilize several drugs. Each one of these discounts provides a greater opportunity for affordability for the total need of drugs for a quality of life that we all seek. Thank you.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Following along the same lines as the good Senator from Penobscot, Senator Pray, I would like to relate an experience I had just the other day. I had to go to the drug store, one of the larger chains in Maine, I was standing before the druggist and I said to him "how come you never offer coupons on drugs? How come you don't offer \$1.00 off on coupons on drugs." Why don't you have a \$2.00 or \$5.00 coupon? You have them on deodorant, shampoo, toothpaste, and everything in the store except drugs. Why don't you have them for drugs? The druggist pulled me aside because some elderly people had come in and said to me "We don't need to." That is when I purchased \$93.00 worth of drugs for my mother for six days worth of prescriptions. "We don't need to", he said. I couldn't help but think of one of the owners of one of these chains puts an advertisement out in the Spring with the guy going towards the water with a fishing pole and he says, "We're Maine people and we are worried about the quality of life in Maine and you can buy all kinds of fishing gear at my super drugstore." I am saying to myself that guy is walking down to some lake with a fishing pole talking about the quality of life in Maine and he can't even offer \$1.00 off on a coupon for drugs for the elderly in Maine. That is sinful. He'll do it for deodorant and he'll even give you double coupons everyday of the week. I can't help but think if they really care about the elderly, I would like to see in the Bangor Daily News, or the Portland Telegram, once in the next five years a coupon off for drugs in Maine for people who have to have them. Where are they? Shame on you.

The reason we are talking about low cost drugs is because people can't buy drugs at the current prices. If you recognize that fact and you care about Maine, you ought to be putting in a coupon once in a while to give them a break. Come on Mr. LaVerdiere and whoever owns Wellbys and the other drugstores that have the wherewithal. I recognize the fact that small independents may not be able to do this. Let us see if you really care about people in Maine who have the worst problems. Put in a coupon. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Gould.

Senator **GOULD:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Believe it or not LaVerdiere, Brooks, and Wellby's have had coupons periodically for all kinds of people. Whether it is children's medicine, adults, or older senior citizens. They have had them. Ask them if they haven't had coupons because they have. The price of drugs is not the issue. What is at issue is whether we shall have a mail order service for the Drugs for the Elderly Program on the limited drugs they use. At the present moment the drugstore will provide a mail order service for the elderly. Call your pharmacy and ask them. I worked in a drugstore for 30 years and let me tell you if there was ever an

issue of \$1.00 saved, I have helped more constituents in my District that needed help and they couldn't afford to pay then I absorbed it. There are a lot of pharmacists out there that have done the same thing. I feel that the State is not ready to have a mail order service for this particular cause because I think it causes more problems than it does good. I mean this sincerely, the price of the drugs is not the issue. If, tomorrow, the price of that drug is \$10.00, it will still be \$10.00 the next day. This does not change the price of the drug. It only changes perhaps the co pay which I have mentioned. It might change the co pay that the person has to pay the pharmacy is \$3.00 for generic medication verses \$5.00 for non generic medication. As an incentive you might take \$1.00 off which the State then might have to absorb. I ask for a roll call. Thank you.

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

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. The good Senator from Waldo, Senator Gould has provided an opportunity both yesterday and today for more members of the Maine Legislature to become familiar with the elderly low cost drug program. I submit that all of us have learned something from this debate. That same good Senator asked us what price are we talking about when we talk about low cost drugs? I submit that we are talking about prescription drugs which that good Senator did affirm with reference to the co pays which those who qualify with income guidelines must pay.

Originally when the drug program was structured, the co pay was \$2.00. It was recently increased to \$3.00 for generic drugs and \$5.00 for brand name drugs. There is still another level that we have yet addressed with reference to co pays. Before the Committee on Appropriations, the proposal by the Administration, is to increase that co pay for generic drugs to \$6.00 and for brand name drugs to \$10.00. Low cost drugs do not become so low cost should that proposal be accepted. I am not aware of the fate of that proposal. I do remind all of you that when we talk about low cost drugs, we really are talking about the co pay for the drugs themselves if you do not qualify for this program are reasonably expensive. It is interesting to note that the prescription drugs covered by the elderly low cost drug program are generally for chronic conditions such as diabetes, heart disease, lung disease, blood pressure, and arthritis. The latter having necessitated the introduction of three Bills before previous Legislatures before it was adopted. There are some instances when, in fact, the dispensing fee that is paid to the pharmacy is larger than the cost of the drug. Some of the prescription drugs are not terribly expensive.

These chronic conditions that are covered by the low cost drug program are particularly appropriate for prescription drugs for longer and predictable time periods and thus they may be dispensed in large numbers. I find it interesting that the issue of coupons has had such a positive response on behalf of the good Senator from Waldo, Senator Gould and I know him to be right. Although we do not see coupons in the volume and in the color, I can speak to the fact that coupons are available occasionally. One famous

one down in my end of the State is with Downeast Pharmacy that allows \$5.00 off if you bring in a new prescription. Most of the time that means leaving where you normally get it and taking it to this place. That happens to have the same old familiar name as the Freeport Pharmacy. I submit that the allegation that a mail order option would create more problems than it is worth has not basis in foundation and has yet to be substantiated. Many of us, as State Employees, have over a quarter of a century of experience with mail order drugs and find that relationship to perfectly satisfactory. Even those among us who have gained years in age and have yet to reach that period of time that is associated with older age and a state of confusion. Since every organized older citizen group in this State supports this measure, I believe it is well within the realm of those who participate and qualify for the program has an option. A mail order program designed restrictively to be offered by those who are licensed to dispense drugs in the State of Maine. I would urge this Senate to embrace this concept and give it a chance, particularly those of us who already have access to a mail order program. I find that there is, from my perspective in support of this measure, an option here to provide prescription drugs potentially even at lower costs. As we open up the market place and provide that wonderful sense of competition and entrepreneurship which we can associate with our very successful pharmacists, drug stores and chain drug stores in our State. Thank you Mr. President.

THE PRESIDENT PRO TEM: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED.**

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

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **DUTREMBLE** of York who would have voted **YEA** requested and received Leave of the Senate to pair his vote with Senator **TWITCHELL** of Oxford who would have voted **NAY.**

Senator **BALDACCI** of Penobscot who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **BUSTIN** of Kennebec who would have voted **YEA.**

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BOST, BRANNIGAN, CLARK, CLEVELAND, CONLEY, EMERSON, ESTES, GILL, KANY, MCCORMICK, MILLS, PRAY, TITCOMB, VOSE, PRESIDENT PRO TEM - N. PAUL GAUVREAU**

NAYS: Senators **BRAWN, CAHILL, CARPENTER, COLLINS, ESTY, FOSTER, GOULD, HOLLOWAY, LUDWIG, PEARSON, RICH, SUMMERS, THERIAULT, WEBSTER**

PAIRED: Senators **BALDACCI, BUSTIN, DUTREMBLE, TWITCHELL**

ABSENT: Senators **MATTHEWS**

16 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 4 Senators having paired their votes and 1 Senator being absent, the Bill was **PASSSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Create the Fort Kent Utilities District" (Emergency)

H.P. 1736 L.D. 2424

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

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

Which was, under suspension of the Rules, **READ ONCE**, without reference to a Committee and **ORDERED PRINTED**, in concurrence.

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

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

COMMITTEE REPORTS

House

Ought Not to Pass

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

From the Committee on **ENERGY & NATURAL RESOURCES** Bill "An Act to Improve the Efficiency and Effectiveness of the State's Natural Resources Protection Programs"

H.P. 1528 L.D. 2157

From the Committee on **LABOR** Bill "An Act to Make Revisions in Workers' Compensation Employment Rehabilitation"

H.P. 1488 L.D. 2100

From the Committee on **LABOR** Bill "An Act to Clarify and Amend the Laws Regarding Independent Medical Examiners"

H.P. 1533 L.D. 2166

From the Committee on **LABOR** Bill "An Act to Encourage Workers' Compensation Insurers to Undertake Employer Safety Programs"

H.P. 1587 L.D. 2241

From the Committee on **STATE & LOCAL GOVERNMENT** Resolve, to Study Technical Education in Maine Public Secondary Schools

H.P. 1658 L.D. 2335

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:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Revise the Maine Horticultural Laws"

H.P. 1498 L.D. 2110

(H "A" H-1092 to C "A" H-986)

In Senate, March 12, 1992, **PASSSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-986) AS AMENDED BY HOUSE AMENDMENT "A" (H-1092)** thereto, in concurrence.

Comes from the House **PASSSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-986) AS AMENDED BY HOUSE AMENDMENTS "A" (H-1092) AND "B" (H-1124)** thereto, in **NON-CONCURRENCE.**

Senator WEBSTER of Franklin moved that the Senate RECEDE.

Senator WEBSTER of Franklin requested and received leave of the Senate to withdraw his motion to RECEDE.

On motion by Senator CLARK of Cumberland, the Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Clarify Maine's Rent-to-own Laws"
H.P. 1594 L.D. 2248
(C "A" H-1033)

In Senate, March 10, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1033), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1033) AS AMENDED BY HOUSE AMENDMENT "A" (H-1132) thereto, in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on UTILITIES on Bill "An Act to Require a Total Least-cost Energy Plan and to Establish a Moratorium on Fossil-fuel Fired Electric Generation Facilities in This State" (Emergency)

H.P. 1625 L.D. 2288

Majority - Ought Not To Pass

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-1083)

Tabled - March 17, 1992, by Senator CLARK of Cumberland

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, March 17, 1992, Reports READ.)

(In House, March 16, 1992, the Minority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1083).)

Senator CLEVELAND of Androscoggin moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE.

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

Senator CLEVELAND: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would understand that there may a number of members of the Senate who would want to speak to this issue. I would like to begin that discussion, this evening, by offering a few remarks.

I would like to precede my remarks by first commending the sponsors and cosponsors of this particular L.D. Though it is not one I support, I have never seen a group of Legislators who represented their constituents and District with such enthusiasm, ability, and commitment to this particular issue. Clearly, the citizens of Maine in those particular areas are well served by these individuals. They should be commended on bringing this issue before us.

This is a particular issue where my heart tells me to vote one way but my responsibility and my reason tells me I need to vote another way. Let me begin by describing the Bill to you briefly. This Bill as amended is significantly different than the Bill that we heard in the Utility Committee. The

original Bill included provisions for what is known as externalities. That is a requirement that all impacts of any particular facility that were not internalized would have to be considered. That has been eliminated from this Bill. Also eliminated from the Bill is the requirement that all fossil fuels be put into moratorium and all existing or renewed licensed facilities would also be included. That has been all removed. It also required that a least possible planning procedure would need to be followed in the determination of the need of this facility. That is also no longer before you. What you have before you is simply and clearly one issue, a moratorium issue. An issue that was very carefully crafted. The issue is one that only permits cannot be issued, not that they cannot be applied for nor can the process proceed in the determination of whether a permit would be needed. Second, it puts a moratorium on the construction and operation of any new facility electric plant within the State of Maine. It does not cover any existing plant or the renewal of any facility even if it uses coal. It is clearly narrowly crafted for what is known as the AES plant in Bucksport, Maine. Currently the local permit for that construction has been revoked by the Local Appeals Board and that is pending litigation in our State Courts. The permits from the Department of Environmental Protection and the Environmental Protection Agency have still not all been completely issued.

Let me speak to you why I believe that this Bill should not pass. First and foremost when we pass a moratorium, I think we should ask ourselves the premiere question. Why are we instituting a moratorium? What is the danger in health to the public safety and well being to the citizens of Maine that are not being protected that we as a sovereign State must interject ourselves into this issue because the interests of Maine people are not being met. That has not been established clearly. Second, once we have determined what the need for the moratorium is, I think it is incumbent upon us to determine what is the resolution to the problem. During this 18 month moratorium period what do we expect to happen? What do we expect to implement and change that will protect and remedy the problem and the concerns we have identified? There is nothing in this Bill that speaks to that. Third, my concern is one of local control. We, as a State, will interject ourselves because local individuals can't make the decisions necessary for themselves. Clearly, as I have stated earlier, they have done that. They believe they will prevail. I think they may well prevail within the legal system of Maine in defending what they have done. That would mean a construction permit would not be issued for this facility and the effect of this moratorium which is crafted specifically for that facility, would not be necessary.

Finally, I am concerned because I think there are broader ramifications implied here. The broader ramifications, as I see them, are that this State, Senate, and this Legislative Body, will establish that we are more concerned with the results of what happens rather than, notwithstanding that no laws have been broken, no emergency has been identified, no clear harm to the public has been delineated, but rather we don't like this particular proposal. I stand here, not as an apologist for, and advocate for, or a defender of this particular proposal or its

owners. They have acted in a sense that has undermined their integrity. They have misrepresented their position. They lack the confidence of the local people. They have misrepresented what they have done. They are not nice guys to some people. What we do is not because they are individuals you may not like, but rather whether the principals of law have been followed and upheld and whether we need to take any further action to protect the people of this State. There was no testimony, that we received or that is familiar to me, that indicates any of those particular conditions have been met.

It further concerns me that by passing this moratorium we may undo a lot of good work we have done in the past. By sending a notice to private entrepreneurs that market oriented solutions to energy needs in our State will no longer be preferred. The succeeding of us in leading the nation, the premiere State in developing alternative resources for energy, will be undermined because this is a State who acts only on what they believe the results should be from their heart rather than the principals, laws and statutes that have been sent down. I think this could seriously undermine our efforts in the future to achieve the kind of energy future we really want to depend more on renewable resources that are more benign to the environment. I also am concerned because I think there is some possibility that there could be some constitutional challenges to this particular law. Specifically under the preemption of the Federal Law, Public Utilities Act of 1978 which preempts the State from regulating co-generation facilities. I am also concerned that the due process clause because the power from this facility is scheduled to be sold out of State may have been or may be violated. The Interstate Commerce Law and the Due Process Law of the Constitution may well be violated.

State intervention at this time is an unwise policy. It is questionable legally. I think it has dangerous implications for the future. I ask you to do a very difficult thing. I ask you to vote on this issue, not based on what your heart tells you what you should do because my heart goes out to these individuals as well. They have invested their lives, built their homes, raised their families, they are committed to their community, and they are concerned. I ask you to do something much more difficult. I ask you to vote with your reason on this issue because there are larger implications than it has for this State. This particular proposal will not achieve the objectives that it is intended to do. Thank you.

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

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Gould.

Senator GOULD: Thank you Mr. President. Ladies and Gentlemen. Two years ago, my wife and I took a trip to Montville, Connecticut where the AES plant is located. I arrived unannounced because I wanted to see what was going to be presented to Bucksport. I represent Bucksport, Orland, Penobscot and Castine. Upon arriving there the manager showed me through the plant. It was a noisy plant and there were a lot of lights on. That was bothering the people from Legure, Connecticut which is across the river. I have a big concern, which I didn't even find out until it was to late, what is going to happen to the

ash? I understood they were going to pulverize it and use it on roads but they have never done that. I also understood they said they would take it back to where they got it and put it back in the mines. I believe they have not done that. After visiting the plant, my wife and I went to the town of Legure and talked to the City Mayor and one of the Council people and they were completely opposed to this plant being located there. I went to a boatyard that was located exactly across the river from the AES plant. I asked the owners of that boatyard if there were any problems with what this plant was producing for them and they said yes walk over to the boats. There were about fifty or sixty boats there and they were covered with this fine, gritty substance. He said that was never there prior to the plant. The State of Connecticut has not proven where that is coming from and obviously AES will not bear the responsibility. It did come after they arrived so I assume it must have come from them.

The Applied Energy Service has tried for over two years to convince the residents of Bucksport and beyond that Bucksport and the State of Maine should have a coal fired power plant. The people of Bucksport, through a referendum, voted the plant down 1200-900 approximately. The AES people said if Bucksport doesn't want us we will move on. The Town Council has voted they do not want the plant in Bucksport. The AES plant didn't move on and now they are suing the town of Bucksport. The people have spoken in Bucksport and the AES plant should move on. The plant will produce 800,000,000 pounds of carbon dioxide per year. 6,052,000 pounds of sulphur dioxide, 566,000 pounds of particulates and I learned from my good friend from Aroostook, Senator Ludwig what particulates are. It is fine particles in the air that can be inhaled in the lungs and cause lung problems.

I ask the plant manager, while I was in Montville, how much has this plant reduced the taxes to this community. He said he lives there and the taxes have not been reduced. It will cost untold millions in health and environmental affects. It will cost millions of dollars in lost property values. AES will sell 90% of its power out of State. After the plant is built it will provide approximately 50 permanent jobs only. 56 Bucksport businesses signed a statement of opposition to the proposal. I want to quote the Waldo Independent in Belfast. "A coal fired plant is a bad idea almost anywhere, but it is obscene on the coast of Maine." I do believe we should have a moratorium on coal fired generation plant because of all of the above reasons. Please vote against the pending motion and accept the Minority Report. Thank you.

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 rise to support the local citizens who would be affected and oppose the motion before us and to support the moratorium. I do so because I believe the market solution would not be working for the people of Maine in this instance because the truth of the matter is the people of Maine do not need any energy generating facility such as this. We have over capacity and that is the main reason our rates are so high. Overbuilding and excess capacity is causing this. I would support looking into the potential of changing our public policy so that we don't have this huge loophole in

our usual requirement under Public Utility Law that there be a certificate of public convenience and necessity. That there be an examination of the need for capacity. We require that of our Maine Utilities. They must go before the Public Utility Commission and it must be found there is need for that capacity. Of course, there was a loophole there even for Maine Utilities for many years but finally we plugged that one. They purchased out of State ownership in electrical generating facilities and that is one reason we have the over capacity we have now. I suggest that the people of Maine would be affected if this plant were built. Due to their membership of two of electric utilities, the people of Maine would end up hanged for even more excess capacity. I urge you to vote in favor of the moratorium and against the pending motion so that reasonable public policy for Maine to end such loopholes could then be enacted. Thank you.

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

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Only recently we learned that the ozone level is deteriorating over Bangor, Maine. Bangor, Maine is approximately 15 miles from Bucksport. Last year the Appropriations Committee we had an enormous increase in our oil bill at the Bangor Mental Institution and I asked why. They said because of the air quality in the whole area, the State would have to burn a cleaner fuel. The air quality was bad in that area. I consider these health problems of the Bucksport area and they deserve to be thought about. I support Senator Kany of Kennebec when she said this will give us time to look at public policy for this is indeed what we should be looking at.

Let's talk about comprehensive planning. We have spent millions of dollars on comprehensive planning but long before that and before the AES ever came to Bucksport, the residents in Bucksport, Maine had decided that the Champion International Paper Mill was enough of a heavy industry for that area. The town has a long term plan calling for light industry and prohibits the type of large, loud plant that would be there because of the AES. A referendum did not send them away. I think the scary thing that brought this to my concern, is I remember last year when the Waste Management was trying to find ash dump sites in the State of Maine and they came up empty handed. Men and Women of the Senate, there will be 1500 tons of coal burned everyday in the Town of Bucksport and there is no where to put the ash. I believe that is a health and safety issue and must be addressed. A moratorium of 18 months will enable us to look at our public policy in regard to this great problem. We owe it to the people of Bucksport who have done everything in their power, at great expense, to look after them at this time. They have complied and now they are embroiled in a law suit. We, the Legislature, must act on a public policy so this does not happens somewhere else. This gives us the time. I ask you to reject the Majority Report so that we can do something about this awesome problem in the State of Maine. Thank you.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is definitely a feel good Bill. It is hard to defend what AES is doing in Buxport but I'll do my best to

urge you to vote for the Majority Report. I believe in local control. I'll never forget when I was in the Town of Lebanon one time at a town meeting and the big thing they all yelled out was that they wanted local control of their town. I think most towns would like to have us ease the controls imposed from the State and allow them local control. Local control seems to be working quite well in this case. They have been to the Planning Board, the Zoning Board, and the town is taking them to the Zoning Board of Appeals. The next step the town is taking is the court system. It seems that perhaps they have things under control. To impose a moratorium to stop the process really is only imposing a moratorium for a certain number of months. Nothing is recommended in this Bill during the moratorium such as increased air quality or ash removal. If they qualify on all points of the permitting structure of the DEP and the EPA, I think they have pretty much complied with what we have imposed on them as controls.

In my own District if I had a business that was going to operate locally that maybe I opposed, I would oppose it through the local Boards and not attempt to bring a Bill into the Legislature to have it stopped. Something that has been said about the AES plant is producing electricity to be sold out of State. I think that is fine. I know in my District Pratt Whitney employees 2000 people and all their engines are sold out of State. For these reasons I hope you vote with the Majority Report. 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. I would like to address three items with regards to this piece of Legislation. Jobs, pollution, and process. We have heard a lot about process tonight. First, let's talk about jobs. We have heard a lot and the argument goes that this plant will produce jobs for downeast Maine. I want to bring to your attention two items with that regard. In a recent article dated August 16, 1991, Professor Lutz of the University of Maine calls into question the economic analysis of the plant that it will produce jobs. He says, in fact, that he believes this AES plant will have a negative effect on wood lots, farm land, fisheries, and property values. That is not even including tourism. He believes that the plant will decrease the Ellsworth labor market by 2% and will decrease the Bucksport labor market by 10% and that is 29 jobs. I call your attention to an AES document itself. A document from Applied Energy Services an environmental impact document. I am quoting, "any decrease in regional or local unemployment as a result of the project would be temporary. In fact during plant operations 56 permanent employees will be required. It is conceivable that residents of Bucksport could fill this requirement, however, since the number is small no significant lowering of local unemployment is expected." This is an AES document. In other words, there may be 56 new jobs created in this area but most of the people hired will be highly trained technicians from out of State.

As to pollution we have heard from the good Senator from Hancock, Senator Foster about the ozone levels and we have heard from Senator Gould of Waldo about the amount of pollutants that will be spewed into our atmosphere because of this plant. I want to bring up noise. I want to quote from the Connecticut Sunday Paper, April 15, 1990 which talks about the

same plant that the good Senator from Waldo, Senator Gould talked about. In fact, sights a test done by William Stowe with the Department of Environmental Protection decibel detecting device to refute the claim that AES made during the permitting process that the plant would operate and function at 44-47 decibels at the nearest house. Mr. Stowe took his calibrated decibel counter to the plant and found levels of 56-58 decibels at night. Note that the maximum allowable is 51 decibels. He found 65 decibels during the day and the maximum allowable is 61. Not only was the plant not a good neighbor, it was also not meeting the promises that AES made during the permitting process.

Now we come to process which seems to be very important to this Senate. AES has stated over and over again and we have heard it here tonight that "we will not go anywhere we are not wanted." That is a quote. Let's talk about the process. Let's just go down the line. On February 12, 1991, the Waldo County Commissioners sent a letter to AES saying, "the residents of Waldo County and they do want them at the cost of the pollution to the environment caused by this plant." On August 12 the Hancock County Commissioners sent a letter agreeing with the Waldo County Commissioners. On September 24, 1991, Local 1188 of the Champion Paperworkers Union objected to the plant and I quote, "Local 1188 is against having the AES plant in Bucksport." This is all part of the process. These are the people speaking. In October of 1991 the Bucksport referendum begins to heat up. 10 days before the election, AES offered the town of Bucksport \$7.5 million over the course of the 30 year life of the plant, a bribe. The vote on November 5, 1991, AES loses that vote 1260 to 920. Two thirds of the residents voting say no we don't want this plant here. Is not the will of the people also part of the process?

The further part of the process, we have the environmental permits necessary. In November or December DEP objects to the issuance of a permit of AES to be allowed to fill four wetlands. Four area towns vote to object and 43 environmental groups object. This is all part of the process. We come to our State planning. We have a State planning process that does not address capacity issues at this level. Are we, in fact, producing too much power? We have no State or Regional planning process that deals with the situation we find here which is a plant sited in State that wants to sell power out of State or a plant sited out of State that wants to sell power in State. Our planning process does not deal with those two issues. Yet, we here over and over again, let the process work. We do not have processes big enough to encompass the decisions we as public policy makers are being asked to make for this State. How can we say we don't want to interfere with the process when the process is inadequate to handle this situation. We need more time and this Bill gives us more time. This Bill allows the permitting process to continue but it says the building should not start for eighteen months while we put into place the permitting process, the regional planning process, and the regional planning process that will allow us to get at capacity that we need.

Lastly, I want to speak for a moment to the underlying tenor of this debate. Those of us who are supporting this Bill are reacting more from our heart than from our head. I disagree with that entirely.

I believe I have laid before you a very cogent and well thought out multiplicity of reasons for supporting the moratorium Bill. I believe it is something we need to do and I believe if we want to continue the metaphor between head and heart, this State and Country need a lot more policy making from the heart and a lot less policy making from the head. If what we have done had been from the head and that is where we have gotten then we need more to act from the heart and I urge you to do that. Thank you Mr. President.

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

Senator **CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise to see if I can add some clarity and focus to some of the comments made here this evening. There were several comments made regarding the environment and the concerns of the degradation of the environment if this facility should go forward. I might remind you that we have a permitting process. The concerns about the air those are the kinds of things that are spoken to within the Department of Environmental Protection. The protection of the State's waters as to where the ash by products will go to. Those are all appropriate areas of concern that need to be discussed in regard to what are the existing laws and requirements. Nothing has been said here tonight on whether any of those laws are inadequate. Whether any of them are being ineffectively enforced or whether our regulators have fallen down on any of the Statutes that this Legislature has implemented. Not a word tonight that anything that is in place is inadequate. There will be omissions but the reality is that the omissions include from this facility will be actually many times less than existing facilities. That is a fact. Perhaps we should strengthen our relicensing permits to existing facilities. All legitimate questions but you must propose what the standards are to be. You must suggest what is not being enforced. We must have a means of resolving the problems. To say we are concerned about those things are insufficient to this Body. We must also propose solutions. Nothing here has been said to do that and nothing has been proposed. There is not Legislation pending that would do any of this unless more Legislation is introduced in the remaining few days or in the next Legislative Session. All of which you may find a supporter to strengthen those areas that have a particular weakness.

There has been some concern about rates and the cost of electricity. The power for this facility is not going to be sold to Maine Electric Utilities. It will be sold out of State. There has been concern that this may affect Maine rate payers. I see no realistic foreseeable way that is going to happen in the near future in this State from this facility. We have excess capacity with our electrical generation. We have procedures that require least cost planning within the State that in all reality will make it unattractive for that facility to sell any power. This will be reviewed by the Public Utilities Commission. There has been some suggestion that we need another kind of process, a certificate of need or something of that nature. That is worth exploring but it is not a simple solution. A certificate of need is an economic analysis of a need for a facility. It does not look at the environmental consequences at all. It only looks at the economic

need for the facility. It only looks at the impact on the rate payers. It doesn't look at whether the choice was coal, wind, or hydro but whether there was another choice in the ranking order. Even in looking at those solutions we must recognize that the implementation of them is going to take careful crafting. Looking at the desired benefits to the public and crafting the Legislation that achieves that. I have taken the opportunity, this afternoon, after earlier debate to look into it and found unanimously among the legal and the regulatory professionals in this area that that is an area that is going to have to be looked at carefully. Should we look at it? Yes we should look at it. Should we look at it in the context of this Bill, I think not. Energy planning is something this State must do and I have been very fortunate and blessed to be able to serve as Chair of the Long Range Energy Planning Commission which is completing a Report to be submitted within a very short period of time.

One of the things we have learned about that exercise is that it is very complex and is an interrelated process. Energy planning affects our environment, all aspects of it. It affects our human health. It affects the way we live and the way we travel from place to place particularly in this rural State. It affects will we have jobs and employment opportunities in this State. It affects the kinds of energy resources we choose to use. All of those decisions are interrelated and affect one another. They must be approached carefully, thoughtfully and in a comprehensive way. I think you will find that our energy plan begins to lay the framework to that. It will not solve the problem in the next 18 months but it begins to put the foundation in place to do that. I ask you to look carefully. If there is something you want to change or a reason we have to pause or something you want to implement, what is it? Who is going to propose it and when will it be initiated? Who will carry it out? Who will fund it and what will be the standards? Do you want to include the environment, economics, and the source of energy and kinds of power? We must identify those. It is nice to say isn't our favorite character and it isn't mine. Let's identify a better way and let's do it. Let's not set aside the statutes of this State simply because we don't agree with the end result. If we do that for this we can do it for any unpopular cause in this State, whether it is a human rights issue, a fiscal issue, or any other. Please be careful on how you vote. Thank you.

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

Senator **VOSE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Frankly, I hadn't intended to speak on this but the good Senator from Androscoggin, Senator Cleveland is winging it by himself and I think he deserves a little bit of assistance. I have great difficulty with this particular Bill in that I sympathize greatly with the people from Bucksport. The citizen from Bucksport presently, in my opinion, are doing a good job in defeating what they don't want in their town. I am speaking from experience. If you recall Pittston Oil Refinery in Eastport, the Legislature did not stop that project. There was a permitting system and those good people of Eastport. I am also speaking of a coal fired plant proposed for Eastport. We defeated that proposal with not Legislative assistance. We are talking about Township 30 which

was defeated by an Environmental permit. Once again, the permitting system is working. Actually all of that was done with the present existing situations. I do sympathize with those that have spoke on this subject. You must realize that certificate of need is issued to utilities when they want to construct something because it is going to be power in Maine not power outside Maine. I would submit to the good people of the Senate tonight that I don't think a real valid argument has been made here for the Legislature to interfere with the present process. I do think a valid argument has been made that we should investigate that process and see whether there is need to change the policy of this State. We are in the process now through the Energy Commission. We will be establishing an energy policy. We will be talking about coal fired, wind, oil, and atomic. We will be talking about all of that. A report will come out and then we will have something new to address. The good citizens of Bucksport are fighting a hard battle and I think they will win because they simply don't want it there. You must remember they haven't got their permits in line. The good Senator from Kennebec, Senator McCormick has said that. Right now there is a stalemate. They are in litigation. I am not sure we should interfere with that at this time. Thank you.

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

Senator **HOLLOWAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. My question is regarding the permitting process. Will that continue during the 18 month moratorium? Thank you.

THE PRESIDENT PRO TEM: The Senator from Lincoln, Senator Holloway has posed a question through the Chair to whomever would care to respond. The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The answer to the question is that the moratorium only affects the issue of the permit. If there is any process that needs to continue it may continue. It only restricts that the permit cannot be issued. Thank you.

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 wanted to clarify something for the Senate. A Certificate of Public Convenience would require that the Public Utility Commission determines that there is need. That is what it is all about. It would be the determination there is the need for that capacity. That is what our Maine Utilities have to go through either to build a facility in this State or to purchase capacity elsewhere. That is what it would be. Clearly, during a moratorium, development of Law regarding this type of facility as it affects Maine people and ratepayers is needed. All public utility law centers on the economics of it and the allocation of scarce resources. That is what economics is all about. It is an economic question of the need for capacity when we know full well we have excess capacity in Maine and that is why we are paying these outrageous rates now. Thank you.

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

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The reason I stand is

to tell you that we brought this Bill to you only asking for a moratorium to explain to you what is happening in Maine. Otherwise, how would you know what is happening? How would you know that a coal fired plant was disrupting the lives of many. I think you are well aware of the problems. In the next 18 months there are going to be some here who will be submitting Legislation for further study. That is why we say give us 18 months to work with you. We are not trying to put an end to everything in the State of Maine. We are asking for time because the Legislature needs it. That is who needs the time. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CLEVELAND** of Androscoggin, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

A vote of Yes will be in favor of **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **ESTES** of York who would have voted **NAY** requested an received Leave of the Senate to pair his vote with Senator **BUSTIN** of Kennebec who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BOST**, **BRANNIGAN**, **CARPENTER**, **CLARK**, **CLEVELAND**, **COLLINS**, **CONLEY**, **DUTREMBLE**, **ESTY**, **GILL**, **HOLLOWAY**, **PEARSON**, **PRAY**, **SUMMERS**, **THERIAULT**, **VOSE**, **PRESIDENT PRO TEM - N. PAUL GAUVREAU**

NAYS: Senators **BERUBE**, **BRAWN**, **CAHILL**, **EMERSON**, **FOSTER**, **GOULD**, **KANY**, **LUDWIG**, **MCCORMICK**, **MILLS**, **RICH**, **TITCOMB**, **WEBSTER**

PAIRED: Senators **BUSTIN**, **ESTES**

ABSENT: Senators **BALDACCI**, **MATTHEWS**, **TWITCHELL**

17 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators having paired their votes and 3 Senators being absent, the motion by Senator **CLEVELAND** of Androscoggin, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

The President Pro Tem appointed Senator **MATTHEWS** of Kennebec to serve as President Pro Tem for the Session on March 18, 1992.

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

Senator **PRAY** of Penobscot was granted unanimous consent to address the Senate off the Record.

On motion by Senator **PRAY** of Penobscot, **ADJOURNED** until Wednesday, March 18, 1992, at 8:45 in the morning.