

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Index

SECOND CONFIRMATION SESSION

May 20, 1992

Index

THIRD CONFIRMATION SESSION

August 19, 1992

Index

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

Index

FOURTH SPECIAL SESSION

October 16, 1992

Index

FOURTH CONFIRMATION SESSION

November 19, 1992

Index

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

Wednesday

March 25, 1992

Senate called to Order by the President.

Prayer by the Honorable Beverly Miner Bustin of Kennebec.

SENATOR BEVERLY MINER BUSTIN: I would like to give a reading from the prophet Gibran. It is on reason and passion. "And the priestess spoke again and said, Speak to us of reason and passion. He answered saying, your soul is often times a battlefield upon which your reason and judgement wage war against your passion and your appetite. Would that I could be the peacemaker in your soul, that I might turn the discord the rivalry of your elements into oneness but how shall I unless you yourselves be also the peacemakers. Nay, the lovers of all your elements.

Your reason and your passion are the rudder and the sails of your seafaring soul. If either your sails or your rudder be broken, you can but toss and drift or else be held at a standstill and in mid sea. For reason, ruling alone, is a force confining. Passion, unattended, is a flame that burns to its own destruction. Therefore, let your soul that your reason to the height of passion that it may sing. Let it direct your passion with reason that your passion may live through its own daily resurrection and like the phoenix rise above its own ashes. I would have you consider your judgement and your appetite even as you would two loved guests in your house. Surely, you would not honor one guest above the other. For he who is more mindful of one loses the love and faith of both.

Among the hills when you sit in the cool shade beneath the white poplars sharing the peace and serenity of distant fields and meadows, then let your heart say in silence, God rests in reason. When the storm comes and mighty winds shake the forest and the thunder and lightning proclaim the majesty of the sky, then let your heart say in awe, God moves in passion. Since you are a breath in God's sphere and a leaf in God's forest, you too should rest in reason and move in passion." Amen.

Reading of the Journal of Tuesday, March 24, 1992.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Establish the Petroleum Market Share Act"

S.P. 844 L.D. 2148
(S "B" S-657 to C "A" S-640)

In Senate, March 23, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-640) AS AMENDED BY SENATE AMENDMENT "B" (S-657) thereto.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-640) AS AMENDED BY SENATE AMENDMENT "B" (S-657) AND HOUSE AMENDMENT "B" (H-1229) thereto, in NON-CONCURRENCE.

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

Non-concurrent Matter

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

S.P. 877 L.D. 2238
(S "A" S-638 to C "A" S-633)

In Senate, March 17, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-633) AS AMENDED BY SENATE AMENDMENT "A" (S-638) thereto.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-633) AS AMENDED BY SENATE AMENDMENT "A" (S-638) AND HOUSE AMENDMENT "A" (H-1214) thereto, in NON-CONCURRENCE.

On motion by Senator KANY of Kennebec, the Senate RECEDED and CONCURRED.

(See action later today)

Non-concurrent Matter

Bill "An Act to Amend the Underground Oil Storage Facilities and Ground Water Protection Laws and the Uncontrolled Hazardous Substance Sites Laws"

S.P. 919 L.D. 2358
(C "A" S-665)

In Senate, March 23, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-665).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-665) AS AMENDED BY HOUSE AMENDMENT "A" (H-1212) thereto, in NON-CONCURRENCE.

The Senate ADHERED.

On motion by Senator CLARK of Cumberland, the Senate RECONSIDERED its action whereby it ADHERED

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

Joint Resolution

The Following Joint Resolution: H.P. 1757
JOINT RESOLUTION REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO PROSECUTE CERTAIN CASES IN PENOBSCOT COUNTY

WHEREAS, Officer Norman Harrington of the Old Town Police Department has been assigned to desk duty since R. Christopher Almy, the District Attorney for Penobscot County has repeatedly refused to prosecute cases initiated by Officer Harrington; and

WHEREAS, the refusal of the District Attorney stems from the fact that Officer Harrington has sued the District Attorney for violations of his civil rights arising out of sexual abuse charges; and

WHEREAS, Officer Harrington has never been charged with a crime, but nevertheless is unable to perform his function as a patrol officer due to the District Attorney's refusal to prosecute his cases; and

WHEREAS, in order for Officer Harrington to return to patrol duties it is necessary for a prosecuting official to agree to process the cases that he generates, and as the only other practical

alternative is for the Department of the Attorney General to handle these matters; now, therefore, be it

RESOLVED: That the Legislature requests that Attorney General Michael Carpenter move this matter to a positive resolution that will allow Officer Harrington to perform all the duties of an Old Town police officer; and be it further

RESOLVED: That suitable copies of this Joint Resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Michael Carpenter, Attorney General of the State of Maine.

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

Which was **READ**.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I was not aware of the contents of the proposed Joint Resolution until I arrived at my desk about five minutes ago. I have had occasion in perusing fashion to read the proposed Joint Resolution. I must say I have some questions. If what is said in the Joint Resolution is accurate, apparently, the officer in question, Officer Harrington has brought an action against the District Attorney and the prosecutorial district of Penobscot County, probably under the Federal Civil Rights Act. I understand that this Joint Resolution would have this Legislature urge the Attorney General to take over prosecution of claims generated by Officer Harrington.

All I know of this matter is what I have read in the "Maine Sunday Telegram" a week or two ago. It was a very sympathetic article in support of Officer Harrington. One certainly can have a good deal of sympathy for his particular plight. I have no personal knowledge of the situation attendant to the allegations of misconduct by him. I am wary and most reluctant to rely upon the statements of a newspaper reporter as a basis for us taking Legislative action. My concern is that since there is pending litigation in a lawsuit of Officer Harrington against the District Attorney in Penobscot County, my question is if we as a legislative body take action to direct the Attorney General to intercede and take over prosecution of cases generated by Officer Harrington, would this possibly have any impact on a civil case? I don't know the answer to that question but I must admit I am reluctant to take action on a Joint Resolution until I have more information. Thank you.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is a local matter in Old Town that has been going on for five years. We are asking for some resolution and this resolution has been coordinated with the Attorney General's Office. It asks that the Legislature requests that the Attorney General, Michael Carpenter, move in this matter. Consequently, I would ask you if you would please pass this Joint Resolution. I must say I did not expect this at all. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the sentiment behind this Joint Resolution but I think the problem is bigger than just this one case. I have been contacted by two constituents in this same

situation. It seems to me it bears looking into by our Judiciary Committee. The situation being that when a person is investigated for sexual abuse and the District Attorney does not bring charges, there is never a conclusion to that process. We do not have in Law a conclusionary event. My understanding of this case is charges may not be brought up for five or ten years. I would pose a question to the good Senator from Androscoggin, Senator Gauvreau. Could further looking into this by this Body bring some resolution to cases where there are no charges brought? I presume there were no charges brought because there was not enough evidence found to bring those charges. There is no gold star or stamp that this is the end of this process. Thank you.

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

COMMUNICATIONS

The Following Communication:

ONE HUNDRED AND FIFTEENTH LEGISLATURE COMMITTEE ON FISHERIES AND WILDLIFE

March 6, 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 Fisheries and Wildlife has had under consideration the nomination of Eugene L. Churchill of Orland, for reappointment to the Inland Fisheries and Wildlife Advisory Council.

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

YEAS: Senators 2
Representatives 10

NAYS: 0

ABSENT: 1 Sen. Summers of Cumberland

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Eugene L. Churchill of Orland, for reappointment to the Inland Fisheries and Wildlife Advisory Council be confirmed.

Sincerely,

S/Sen Michael D. Pearson S/Rep. Dorothy A. Rotondi
Senate Chair House Chair

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

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **STATE & LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1992 (Emergency)

H.P. 1758 L.D. 2443

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1507.

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

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

The Resolve **READ ONCE**.

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

The Committee on **STATE & LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1992 (Emergency)

H.P. 1759 L.D. 2444

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1507.

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

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

The Resolve **READ ONCE**.

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

The Committee on **STATE & LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1992 (Emergency)

H.P. 1760 L.D. 2445

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1507.

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

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Require Out-of-control Children under 15 Years of Age to Receive Needed Substance Abuse and Mental Health and Educational Services Involuntarily"

H.P. 1626 L.D. 2289

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1225)**.

Signed:

Senators:

GAUVREAU of Androscoggin
BERUBE of Androscoggin

Representatives:

CATHCART of Orono
PARADIS of Augusta
ANTHONY of South Portland
FARNSWORTH of Hallowell
RICHARDS of Hampden

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

Signed:

Senator:

HOLLOWAY of Lincoln

Representatives:

HANLEY of Paris

COTE of Auburn

OTT of York

KETTERER of Madison

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1225)**.

Which Reports were **READ**.

Senator **GAUVREAU** of Androscoggin moved that the Senate **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **HOLLOWAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I do want you to know that this is an excellent Bill. The fiscal note on it is so high I felt we should not pass this on to the Appropriations Committee at this time. I would be able to vote for it if it were not to pass with this fiscal note. Thank you.

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

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

A Division has been requested.

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

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

14 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **GAUVREAU** of Androscoggin, to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1225) **READ** and **ADOPTED**, in concurrence.

The Bill as **AMENDED**, **LATER ASSIGNED FOR SECOND READING**.

Senate

Ought to Pass As Amended

Senator **BERUBE** for the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Restructure State Government" (Emergency)

S.P. 929 L.D. 2384

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-680)**.

Which Report was **READ**.

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

Divided Report

The Majority of the Committee on **AGING, RETIREMENT & VETERANS** on Bill "An Act to Restore Maine State Retirement Service Credit to Certain Part-time, Seasonal, Intermittent or Legislative Employees"

S.P. 809 L.D. 2008

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

Signed:

Senator:

WEBSTER of Franklin

Representatives:

JALBERT of Lisbon

HEINO of Boothbay

DUTREMBLE of Biddeford

AULT of Wayne

MERRILL of Dover-Foxcroft

STEVENSON of Unity

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-683).**

Signed:

Senators:

MCCORMICK of Kennebec

CLARK of Cumberland

Representatives:

MICHAEL of Auburn

HANDY of Lewiston

O'DEA of Orono

WENTWORTH of Arundel

Which Reports were **READ.**

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

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We have just passed out a sheet entitled "Your Guide to the Now Minority Report on L.D. 2008." I would like to briefly take you through this Bill so you will know what is in it.

In order to save money and time to the State of Maine, we put five different issues on this one vehicle. They are described in this sheet that you should have before you. Section 1 says that if an employer or local school district or participating local district in the Maine State Retirement System makes a mistake or incorrectly applies the statute the cost to the system should be borne by that employer unless the Maine State Retirement System gave them incorrect information. Section 2 is a resolution to the part time/seasonal/temporary employee situation that our committee has been embroiled in for several months that started when the IRS ruling came down. Basically the Board of the Maine State Retirement System developed a rule that caused quite a bit of disruption in the Department of Conservation & Transportation which have the most part time/seasonal/temporary employees. They need to have these employees back every year. This section fixes that and asks the Maine State Retirement System to go to rulemaking again and give us the criteria for which those rules should be developed around.

Section 3 permits State employees laid off during this biennium to buy service credit into the system at no cost to the system. It is very important that this is at no cost to the system. If someone is laid off and they have 23 or 24 years and they have the money to purchase the service credit, they are welcome to do that. Section 4 continues the 80% retirement option for one more year. It was the Legislative intent, last July, that this be a biennium program but the Human Resources Department interpreted it as a one year program. In order to get the \$1,000,000 salary savings to the State we need to continue this for a biennium. I have met with Representatives from Sawin Millett's office and the Committee got a letter from him saying this is

fine with him. No one thinks this should be continued any more than through the biennium or else it will start costing us money instead of saving us money. It seems that everyone is agreed that this should continue for another year.

The last section of the Bill clears up the situation for one group of employees called Library Technicians who recategorized. In the Department of Education last year we categorized certain positions. Some people were left between a rock and hard place between MSRS System and Social Security. The Education Committee fixed that last year for most people but it failed to fix it for the Library Technicians. This gives the Library Technicians the ability to choose whether they want to stay in Social Security or if they want to come into the MSRS System. That is L.D. 2008.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Senator from Franklin, Senator Webster who appears on the opposite report is on his way here. He had an emergency hearing call at his business and I would respectfully ask that this be tabled until later so we can hear his perspective. Thank you.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **MCCORMICK** of Kennebec, to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

Divided Report

The Majority of the Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act Regarding Plastic Rings and Other Plastic Holding Devices"

S.P. 967 L.D. 2446

Reported that the same **Ought to Pass**, pursuant to Public Law 1991, chapter 415, section 4.

Signed:

Senators:

TITCOMB of Cumberland

BALDACCI of Penobscot

LUDWIG of Aroostook

Representatives:

JACQUES of Waterville

COLES of Harpswell

HOGLUND of Portland

GOULD of Greenville

LORD of Waterboro

ANDERSON of Woodland

MARSH of West Gardiner

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

Signed:

Representatives:

SIMPSON of Casco

POWERS of Coplin Plantation

MITCHELL of Freeport

Which Reports were **READ.**

The Majority **OUGHT TO PASS** Report **ACCEPTED.**

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED.**

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

Off Record Remarks

SECOND READERS

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

House

Resolve, to Extend Certain Meeting and Reporting Deadlines for Study Committees and Commissions

H.P. 1752 L.D. 2440

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

House As Amended

Bill "An Act to Make Supplemental Allocations of Funds from the Highway Fund for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (Emergency)

H.P. 1677 L.D. 2354

(C "A" H-1195)

Which was **READ A SECOND TIME**.

On motion by Senator **DUTREMBLE** of York, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate As Amended

Bill "An Act to Ensure Financial Solvency of Insurers through Accreditation"

S.P. 957 L.D. 2425

(S "A" S-660; S "B"

S-670 to C "A" S-649)

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

Sent down for concurrence.

ENACTORS

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

An Act to Amend Certain Motor Vehicle Laws

H.P. 1477 L.D. 2089

(S "A" S-655 to C "A"

H-1163)

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

Emergency

An Act to Amend the Laws Governing Construction of Utility Lines

H.P. 1726 L.D. 2417

(S "A" S-668)

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

Emergency

An Act to Create the Fort Kent Utilities District

H.P. 1736 L.D. 2424

(S "A" S-663)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in the negative, and 27 being more than two-thirds of the

entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Authorize Construction on a Wharf in Long Lake at Naples

H.P. 1741 L.D. 2429

(H "A" H-1165)

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

Emergency

An Act to Clarify the Boundaries between the Towns of Howland and LaGrange and the Towns of Howland and Edinburg

H.P. 1745 L.D. 2433

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

**ORDERS OF THE DAY
Unfinished Business**

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

The Chair laid before the Senate the following matter:

HOUSE REPORT - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Reorganize the Bureau of Alcoholic Beverages" (Emergency)

H.P. 1503 L.D. 2116

Report - **Ought to Pass As Amended by Committee Amendment "A" (H-1194)**.

(In Senate, March 24, 1992, the Chair had laid before the Senate the pending question of **ACCEPTANCE** of the **OUGHT TO PASS AS AMENDED REPORT**. A Division was in progress.)

(In Senate, March 24, 1992, Report **READ**.)

(In House, March 23, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1194)**.)

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the **OUGHT TO PASS AS AMENDED REPORT**, in concurrence.

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

THE PRESIDENT: The pending question before the Senate **ACCEPTANCE** of the **OUGHT TO PASS AS AMENDED REPORT**, in concurrence.

A vote of Yes will be in favor of **ACCEPTANCE** of the **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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 **WEBSTER** of Franklin who would have voted **NAY**.

Senator **PEARSON** of Penobscot who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **ESTY** of Cumberland who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BOST, CLARK, CLEVELAND, CONLEY, ESTES, GAUVREAU, KANY, MCCORMICK, TITCOMB**

NAYS: Senators **BALDACCI, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, COLLINS, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, MILLS, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, THE PRESIDENT - CHARLES P. PRAY**

ABSENT: Senators None

10 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 4 Senators having paired their votes and No Senators being absent, **ACCEPTANCE** of the **OUGHT TO PASS AS AMENDED** Report **FAILED** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Pursuant to Statutes

COMMITTEE ON AUDIT AND PROGRAM REVIEW

The Committee on **AUDIT AND PROGRAM REVIEW**, pursuant to the Maine Revised Statutes, Title 3, chapter 33, ask leave to submit its findings and to report that the accompanying Bill "An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act" (Emergency)

H.P. 1748 L.D. 2436

Be referred to the Committee on **AUDIT & PROGRAM REVIEW** for Public Hearing and printed pursuant to Joint Rule 18.

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

Which Report was **READ** and **ACCEPTED**, in concurrence and the Bill **REFERRED** to the Committee on **AUDIT & PROGRAM REVIEW** in **NON-CONCURRENCE**.

Sent down for concurrence.

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:

ORDERS

Joint Order

On motion by Senator **VOSE** of Washington the following Joint Order:

S.P. 968

ORDERED, the House concurring, that Bill, "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State," H.P. 1669, L.D. 2345, and all its accompanying papers, be recalled from Engrossing to the Senate.

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

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

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **STATE & LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1992 (Emergency)

H.P. 1761 L.D. 2447

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1507.

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

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1756

JOINT RESOLUTION RECOGNIZING THE SELECTION OF THE WESTBROOK HIGH SCHOOL MARCHING BAND AS A PARTICIPANT IN THE 1993 TOURNAMENT OF ROSES AND ROSE PARADE

WHEREAS, the Westbrook High School Marching Band has been notified by the Tournament of Roses Committee that the band has been selected to participate in the Tournament of Roses and the Rose Parade on New Year's Day, 1993; and

WHEREAS, the invitation to the Westbrook band is the first ever received by a band from our State; and

WHEREAS, this recognition of the excellence of the Westbrook High School Marching Band is particularly significant, as only 11 bands from outside the State of California have been so honored; and

WHEREAS, the Westbrook band has an exemplary competition record, which includes first-place finishes in many state competitions, as well as a National Championship Award from the Chocolatetown competition in Hershey, Pennsylvania; and

WHEREAS, the selection of the Westbrook High School Marching Band is not only a recognition of that group's skill, but is also an acknowledgment of the high level of talent present among the many marching bands from the State that have participated in the competitive events that honed the skills of the Westbrook unit; and

WHEREAS, the Westbrook band will appear before a worldwide television audience next New Year's Day; now, therefore, be it

RESOLVED: That the Westbrook High School Marching Band is recognized as the representative of the State of Maine and its people; and be it further

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the Second Regular Session, pause in our deliberations to send our warm congratulations to the Westbrook High School Marching Band, the members of the band, and its supporters, boosters and friends; and be it further

RESOLVED: That we wish the Westbrook High School Marching Band and its members continued success in their efforts to bring recognition and honor to our State and nation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Superintendent of Schools of the City of Westbrook for presentation to the band and its members.

Comes from the House **READ** and **ADOPTED**.
Which was **READ** and **ADOPTED**, in concurrence.

ORDERS OF THE DAY
Unfinished Business

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

The Chair laid before the Senate the Tabled and Later Assigned (3/24/92) matter:

Bill "An Act to Provide Regulatory and Permitting Assistance to Businesses" (Emergency)

H.P. 1673 L.D. 2349

Tabled - March 24, 1992, by Senator **DUTREMBLE** of York.

Pending - **ADOPTION** of Committee Amendment "A" (H-1164), in concurrence

(In House, March 19, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1164).**)

(In Senate, March 23, 1992, Committee Amendment "A" (H-1164) **READ**.)

Committee Amendment "A" (H-1164) **ADOPTED**, in concurrence.

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

The Chair laid before the Senate the Tabled and Later Assigned (3/24/92) matter:

Bill "An Act to Expand the Membership of the Animal Welfare Board"

S.P. 696 L.D. 1861

Tabled - March 24, 1992, by Senator **VOSE** of Washington.

Pending - **ADOPTION** of Committee Amendment "A" (S-639) As Amended by Senate Amendments "A" (S-647) and "B" (S-667) thereto

(In Senate, March 24, 1992, Senate Amendments "A" (S-647) and "B" (S-667) to Committee Amendment "A" (S-639) **READ** and **ADOPTED**.)

On motion by Senator **PEARSON** of Penobscot, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Senate Amendment "B" (S-667) to Committee Amendment "A" (S-639).

On further motion by same Senator, Senate Amendment "B" (S-667) to Committee Amendment "A" (S-639) **INDEFINITELY POSTPONED**.

On further motion by same Senator, Senate Amendment "F" (S-689) to Committee Amendment "A" (S-639) **READ**.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is the dog portion of the Animal Welfare Bill we talked about yesterday. I was very pleased that the Senate stood with me on that, however, I have modified it a little bit by allowing dogs to be euthanized if a veterinarian says the illness is of such a nature that the dog is not adoptable. That was a request of various members of the Committee on Agriculture and it seemed reasonable to me to do that. I have included that in this particular amendment. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair to the good Senator from Penobscot, Senator Pearson. I understand that this amendment extends the time that a dog may be held at a shelter. Does it also pay for that time? Currently the State reimburses for six days of sheltering. Will the shelters be reimbursed for all eleven days? Thank you.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This particular amendment would require that after the six days the shelter shall establish and collect fees for reclaimed or adopted animals to offset the cost of keeping the dog beyond six days. In other words when someone comes in to adopt a dog or to recover the dog, they would have to pay a fee. That does not require a fiscal note. Thank you.

On further motion by same Senator, Senate Amendment "F" (S-689) to Committee Amendment "A" (S-639) **ADOPTED**.

On motion by Senator **GAUVREAU** of Androscoggin, Senate Amendment "D" (S-681) to Committee Amendment "A" (S-639) **READ**.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Committee on Judiciary was decidedly delighted to deliberate on Senate Amendment "D" to this L.D. As you may recall I asked that this matter be set aside a few days ago. The Senate Chair on the committee of jurisdiction, Senator Twitchell of Oxford graciously consented to have this matter set aside in order that the Committee on Judiciary could review a very narrow portion of this Bill dealing with Tort liability.

What we have before us now in Senate Amendment "D" (S-681) is, in fact, the language which is being recommended unanimously by members of the Joint Standing Committee on Judiciary. Our language would delete a posting requirement. There was no apparent rhyme or reason to having a posting requirement in the Bill as currently formulated. We, therefore, recommended we take that out. Of more substance we are also recommending deletion of a certain portion of the Bill which described inherent risk of equine activities. It was not clear what the actual affect of that definition would be. It may have an affect on Tort liability in the area known as the assumption

of the risk. Under the document of assumption of the risk, if a party is injured even if the person is injured as a result of the behavior of a third party, that person can have no recovery if it is determined that person had assumed the risk of a particular activity. We do not know how this language would or would not affect the common law on assumption of risk. We think it is best that the language be deleted so we do not disturb the current law in that regard. Thank you Mr. President.

On further motion by same Senator, Senate Amendment "D" (S-681) to Committee Amendment "A" (S-639) **ADOPTED.**

On motion by Senator VOSE of Washington, Senate Amendment "E" (S-685) to Committee Amendment "A" (S-639) **READ.**

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

Senator VOSE: Thank you Mr. President. Ladies and Gentlemen of the Senate. This amendment clarifies the transition provisions of the committee Amendment. The Committee most recently appointed the Humane Society Representative, Betty Sawyer and any incumbent to serve out the remainder of their terms as members of the Animal Welfare Board. Thank you.

On further motion by same Senator, Senate Amendment "E" (S-685) to Committee Amendment "A" (S-639) **ADOPTED.**

Committee Amendment "A" (S-639) As Amended by Senate Amendments "A" (S-647); "F" (S-689); "D" (S-681) and "E" (S-685) thereto, **ADOPTED.**

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

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

Bill "An Act to Improve Educational Public Broadcasting Statewide" (Emergency)
S.P. 945 L.D. 2409

Tabled - March 24, 1992, by Senator DUTREMBLE of York.

Pending - **ADOPTION** of Committee Amendment "A" (S-666)

(In Senate, March 24, 1992, Committee Amendment "A" (S-666) **READ.**)

On motion by Senator ESTES of York, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-666).

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

Bill "An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs"
H.P. 1749 L.D. 2438

Tabled - March 24, 1992, by Senator CLARK of Cumberland.

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

(Committee on **AUDIT & PROGRAM REVIEW** suggested and **ORDERED PRINTED.**)

(In Senate, March 24, 1992, **READ A SECOND TIME.**)

(In House, March 23, 1992, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. We are still awaiting

amendments on this Bill and I would ask if someone could table it until we receive them. Thank you.

On motion by Senator BALDACCI of Penobscot, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence.

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

Bill "An Act to Rescind Changes in the Driver Education Evaluation Program" (Emergency)
S.P. 931 L.D. 2386

Tabled - March 24, 1992, by Senator BALDACCI of Penobscot.

Pending - **ADOPTION** of Committee Amendment "A" (S-673)

(In Senate, March 24, 1992, Committee Amendment "A" (S-673) **READ** and **ADOPTED.** Subsequently, **RECONSIDERED.**)

On motion by Senator GAUVREAU of Androscoggin, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-673).

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

An Act Relating to Legislative Confirmation Hearings
S.P. 894 L.D. 2299

(H "B" H-1148)

Tabled - March 24, 1992, by Senator CLARK of Cumberland.

Pending - **ENACTMENT**

(In Senate, March 19, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-1148)**, in concurrence.)

(In House, March 23, 1992, **PASSED TO BE ENACTED.**)

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

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

An Act to Clarify the Administrative Practices of the State Tax Assessor Pertaining to State-issued Licenses
H.P. 1497 L.D. 2109

(C "A" H-1093)

Tabled - March 24, 1992, by Senator BOST of Penobscot.

Pending - **ENACTMENT**

(In Senate, March 16, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1093)**, in concurrence.)

(In House, March 18, 1992, **PASSED TO BE ENACTED.**)

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

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

Bill "An Act to Certify Nonprofessionals Working in Chiropractic Offices"
S.P. 959 L.D. 2428

Tabled - March 24, 1992, by Senator BALDACCI of Penobscot.

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

(Committee on BUSINESS LEGISLATION suggested and ORDERED PRINTED.)

(In Senate, March 18, 1992, READ A SECOND TIME.)

On motion by Senator BALDACCI of Penobscot, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED, without reference to a Committee.

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

Bill "An Act to Strengthen the Campaign Finance Reporting Laws"

H.P. 1679 L.D. 2356

Tabled - March 24, 1992, by Senator CLARK of Cumberland.

Pending - ADOPTION of Committee Amendment "A" (H-1131) As Amended by Senate Amendment "B" (S-659) thereto, in NON-CONCURRENCE

(In Senate, March 23, 1992, Senate Amendment "B" (S-659) to Committee Amendment "A" (H-1131) READ and ADOPTED. House Amendment "B" (H-1140) to Committee Amendment "A" (H-1131) READ and INDEFINITELY POSTPONED in NON-CONCURRENCE.)

(In House, March 18, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1131) AS AMENDED BY HOUSE AMENDMENT "B" (H-1140) thereto, AND HOUSE AMENDMENT "A" (H-1141).)

On motion by Senator MILLS of Oxford, Tabled until Later in Today's Session, pending ADOPTION of Committee Amendment "A" (H-1131) As Amended by Senate Amendment "B" (S-659) thereto, in NON-CONCURRENCE.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

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

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

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

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H .P. 1762

ORDERED, the Senate concurring, that Bill, "An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for

Maine citizens," H.P.1707, L.D. 2388, and all its accompanying papers, be recalled from the legislative files to the House.

Comes from the House READ and PASSED.

Which was READ.

Pursuant to Joint Rule 15, this Joint Order requires the affirmative vote of two-thirds of the members present and voting. 26 Senators having voted in the affirmative and 2 Senators having voted in the negative, and 26 being more than two-thirds of the members present and voting, the Joint Order was PASSED, in concurrence.

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

RECALLED FROM ENGROSSING

Bill "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State"

H.P. 1669 L.D. 2345

(C "A" H-1174)

(In Senate, March 24, 1992, PASSED TO BE ENGROSSED as Amended, in concurrence.)

(RECALLED from Engrossing, pursuant to Joint Order S.P. 968, in concurrence.)

On motion by Senator VOSE of Washington, the Senate RECONSIDERED its action whereby Bill was PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

On further motion by same Senator, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-1174), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-688) to Committee Amendment "A" (H-1174) READ and ADOPTED.

Committee Amendment "A" (H-1174) As Amended by Senate Amendment "A" (S-688) thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

Off Record Remarks

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 Establish the Motor Vehicle Emission Inspection Program"

H.P. 1645 L.D. 2308

(C "A" H-1154)

In House, March 23, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1154) AS AMENDED BY HOUSE AMENDMENT "A" (H-1181) thereto.

In Senate, March 24, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1154) in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1154) AS AMENDED BY HOUSE AMENDMENT "C" (H-1249) thereto, in NON-CONCURRENCE.

Senator BALDACCI of Penobscot moved that the Senate RECEDE and CONCUR.

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

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I am looking at the amendment H-1249 and it deals with the Bill on Motor

Vehicle Emissions Inspection Program that went through here yesterday without any debate. As I look at the amendment I am reading from the Statement of Fact which directs the Board of Environmental Protection to establish an exemption for the inspection fee.

If you look at the Body of the amendment it says it would exempt people from the inspection fee for persons for whom, in the judgement of the Board, the fees would impose an unreasonable economic burden. It seems to me that we are setting up a Board who now is going to determine through rules and regulations that it would be a burden on low income people. I guess my question is will this be done by rules and regulations? Thank you.

THE PRESIDENT: The Senator from Sagadahoc, Senator Cahill has posed a question through the Chair to any Senator who may choose to respond. The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Thank you Mr. President. Ladies and Gentlemen of the Senate. This is nothing unusual. We do this with many other Boards, allowing rulemaking to take place to take those things into consideration. We did deal with this issue yesterday and there was a tremendous amount of concern with many Legislators that the expense of this program and inspection would be prohibitive for some people who are low to middle income people. There ought to be some limit on the fee and that was not possible because we will be contracting out for these services. It was thought that the best thing to do is to give the issue to the Board of Environmental Protection so they could develop some sort of guidelines for that to be taken into consideration. Thank you.

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

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is my understanding that the fees are going to be used to fund the program. If we start forgiving fees in certain situations, does that mean there will be a fiscal note with this Bill? Thank you.

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

Senator BALDACCI: Thank you Mr. President. Ladies and Gentlemen of the Senate. The Senator from Sagadahoc, Senator Cahill is asking some very good questions. It is our hope and belief that the Board of Environmental Protection would be taking all those things into consideration when it is developing its program. That is all I can say at this time. At this time there is nothing specific so there is no cost to it. They will have to develop something and maybe when that is developed we will have to report back on it. It was much better than some of the other alternatives. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator BALDACCI of Penobscot, to RECEDE and CONCUR.

The Chair ordered a Division.

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

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

20 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion

by Senator BALDACCI of Penobscot, to RECEDE and CONCUR, PREVAILED.

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 Establish a Supervised Community Confinement Program for Certain Prisoners of the Department of Corrections"

S.P. 916 L.D. 2353

(C "A" S-632)

In Senate, March 17, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-632).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-632) AND HOUSE AMENDMENT "A" (H-1248) in NON-CONCURRENCE.

The Senate ADHERED.

(See action later today)

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

JOINT ORDER - recalling Bill, "An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine citizens," H.P. 1707, L.D. 2388, and all its accompanying papers, from the legislative files to the Senate.

S.P. 966

In Senate, March 24, 1992, READ and PASSED.

Comes from the House, READ and INDEFINITELY POSTPONED in NON-CONCURRENCE.

The Senate ADHERED.

(See action later today)

On motion by Senator CLARK of Cumberland, the Senate RECONSIDERED its action whereby it ADHERED 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

(C "A" S-632)

In Senate, March 17, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-632).

In House, March 25, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-632) AND HOUSE AMENDMENT "A" (H-1248) in NON-CONCURRENCE.

On motion by Senator BUSTIN of Kennebec, the Senate RECEDED and CONCURRED.

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

SECOND READERS

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

House As Amended

Bill "An Act to Require Out-of-control Children under 15 Years of Age to Receive Needed Substance Abuse and Mental Health and Educational Services Involuntarily"

H.P. 1626 L.D. 2289

(C "A" H-1225)

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

Senate As Amended

Bill "An Act to Expand the Membership of the Animal Welfare Board"

S.P. 696 L.D. 1861
(S "A" S-647; S "D" S-681; S "E" S-685; S "F" S-689 to C "A" S-639)

Which was **READ A SECOND TIME** and **PASSED 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
Non-concurrent Matter**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the House of Representatives

H.P. 1660 L.D. 2337
(C "A" H-1173)

In Senate, March 24, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1173) in NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1173) AND HOUSE AMENDMENT "B" (H-1175) in NON-CONCURRENCE**.

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

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 Anatomical Gifts Under the Motor Vehicle Laws"

S.P. 900 L.D. 2319

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-694)**.

Which Report was **READ and ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-694) **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.

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

**PAPERS FROM THE HOUSE
Joint Resolution**

The Following Joint Resolution: H.P. 1764

**JOINT RESOLUTION REQUESTING
BAXTER STATE PARK AUTHORITY
TO ALLOW RECOGNITION OF DAICEY POND CAMPS
AND KIDNEY POND CAMPS AS HISTORIC SITES**

WHEREAS, at the turn of the century, within the splendor of the beautiful backwoods regions of Maine, numerous sporting camps catering to those who enjoyed the recreational opportunities presented by those regions flourished; and

WHEREAS, there is a deep and meaningful pride in the heritage belonging to Maine's sporting camps; and
WHEREAS, our state has been truly enriched by 2 such sporting camps, the Kidney Pond and Daicey Pond Camps, that date back to the early part of this century and are now under the jurisdiction of the Baxter State Park Authority; and

WHEREAS, it would be a fitting tribute to preserve the rich heritage of Maine's sporting camps by having the Kidney Pond and Daicey Pond Camps recognized as historic sites; now, therefore, be it

RESOLVED: That, We, the Members of the One Hundred and Fifteenth Legislature of the State of Maine now assembled in the Second Regular Session, express the desire of the citizens of Maine that the Baxter State Park Authority in cooperation with the Maine Historic Preservation Commission take necessary steps to ensure that Kidney Pond and Daicey Pond Camps be considered for recognition in the National Register of Historic Places; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the members of the Baxter State Park Authority and the Maine Historic Preservation Commission.

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

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

Senate at Ease

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE
Non-concurrent Matter**

Bill "An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act" (Emergency)

H.P. 1748 L.D. 2436

In House, March 23, 1992, under suspension of the Rules **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

In Senate, March 25, 1992, referred to the Committee on **AUDIT & PROGRAM REVIEW** and **ORDERED PRINTED in NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-1255) AND "B" (H-1266)**, without reference to a Committee, in **NON-CONCURRENCE**.

Senator BUSTIN of Kennebec moved that the Senate **RECEDE and CONCUR**.

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

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. I wonder if someone who serves on that Committee could explain House Amendment "A" (H-1255). There is a page and one half dealing with the Maine Government Enforcement Agency Advisory Board. Does it differ with what is in their original L.D. 2436. Does it differ with the BIDE Bill that has come out of State & Local Government? Thank you.

THE PRESIDENT: The Senator from Androscoggin, Senator Berube has posed a series of questions through the Chair. The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. In answer to the

question, I believe it does not differ with the adjustment that has already been made in the other BIDE Bill because that is the adjustment that was recommended by a staff member where the Governor has to make the appointment after being recommended by the different areas. It is because of a legal problem that you cannot override that. That is the only change I know of that the amendment had. Thank you.

On further motion by same Senator, the Senate RECEDED and CONCURRED.

ORDERS OF THE DAY

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

Bill "An Act to Establish the Petroleum Market Share Act"

S.P. 844 L.D. 2148
(S "B" S-657 to C "A" S-640)

Tabled - March 25, 1992, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION

(In Senate, March 23, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-640) AS AMENDED BY SENATE AMENDMENT "B" (S-657) thereto.)

(In House, March 24, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-640) AS AMENDED BY SENATE AMENDMENT "B" (S-657) AND HOUSE AMENDMENT "B" (H-1229) thereto, in NON-CONCURRENCE.)

Senator BALDACCI of Penobscot moved that the Senate RECEDE and CONCUR.

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

Senator BALDACCI: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is my understanding that this amendment that remits the two associations to nominate either a representative of a petroleum firm or the executive director of the association to serve on the Petroleum Advisory Committee. Thank you.

On further motion by same Senator, the Senate RECEDED and CONCURRED.

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

NOMINATION - of Eugene L. Churchill of Orland for reappointment to the Inland Fisheries and Wildlife Advisory Council

Tabled - March 25, 1992, by Senator CLARK of Cumberland.

Pending - CONSIDERATION

(In Senate, March 25, 1992, Communication from the Committee on FISHERIES & WILDLIFE READ and ORDERED PLACED ON FILE.)

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

On motion by Senator MATTHEWS of Kennebec, the Senate RECONSIDERED its action whereby it ADHERED on:

JOINT ORDER - recalling Bill "An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine citizens," H.P. 1707, L.D. 2388, and all its accompanying papers, from the legislative files to the Senate.

S.P. 966

In Senate, March 24, 1992, READ and PASSED.
In House, March 24, 1992, READ and INDEFINITELY POSTPONED in NON-CONCURRENCE.

Senator MATTHEWS of Kennebec moved that the Senate RECEDE and CONCUR.

THE PRESIDENT: The pending question before the Senate is the motion by Senator MATTHEWS of Kennebec, to RECEDE and CONCUR.

The Chair ordered a Division.

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

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

25 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator MATTHEWS of Kennebec, to RECEDE and CONCUR, PREVAILED.

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

**PAPERS FROM THE HOUSE
Non-concurrent Matter**

Bill "An Act Creating the Victims' Compensation Board"

H.P. 1265 L.D. 1834
(H "C" H-1074 to C "A" H-965)

In Senate, March 16, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-965) AS AMENDED BY HOUSE AMENDMENT "C" (H-1074) thereto, in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-965) AS AMENDED BY HOUSE AMENDMENT "D" (H-1233) thereto, in NON-CONCURRENCE.

On motion by Senator GAUVREAU of Androscoggin, the Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act Pertaining to the Assessment of Fees on Nuclear Power Plants"

S.P. 829 L.D. 2133
(C "A" S-610)

In Senate, March 11, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-610).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-610) AS AMENDED BY HOUSE AMENDMENT "A" (H-1234) thereto, in NON-CONCURRENCE.

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

Non-concurrent Matter

Bill "An Act to Facilitate Cooperative Agreements among Maine Hospitals"

S.P. 882 L.D. 2254
(C "A" S-648)

In Senate, March 23, 1992, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-648).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-648) AS AMENDED BY HOUSE AMENDMENT "A" (H-1235) thereto, in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **HUMAN RESOURCES** on Bill "An Act to Protect Children from Lead Poisoning" (Emergency) H.P. 1584 L.D. 2234

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1218)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1218) AS AMENDED BY HOUSE AMENDMENT "A" (H-1244)** thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1218) **READ**.

House Amendment "A" (H-1244) to Committee Amendment "A" (H-1218) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-1218) As Amended by House Amendment "A" (H-1244) thereto, **ADOPTED**, in concurrence.

Off Record Remarks

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 **EDUCATION** on Bill "An Act to Establish a Professional Standards Board for Maine Educators"

H.P. 1316 L.D. 1902

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1223)**.

Signed:

Senators:

ESTES of York

MCCORMICK of Kennebec

Representatives:

OLIVER of Portland

HANDY of Lewiston

PFEIFFER of Brunswick

O'DEA of Orono

CAHILL of Mattawamkeag

O'GARA of Westbrook

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

Signed:

Senator:

BRAWN of Knox

Representatives:

CROWLEY of Stockton Springs

AULT of Wayne

NORTON of Winthrop

BARTH of Bethel

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1223)**.

Which Reports were **READ**.

Senator ESTES of York moved that the Senate **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. You will be delighted to know this is the last divided report from the Education Committee. I rise to ask you to vote against L.D. 1902 this Bill to establish a Professional Standards Board for Teachers. I would like to briefly explain to you why.

The Committee Amendment now takes the place of the Bill but I have two concerns with it. For the record, the House Chair of the Education Committee voted against this Bill also and he is a former teacher. This Bill sets up a whole new bureaucracy. It has an Executive Director and a secretary. It is a whole new layer of bureaucracy that will be run by the teachers themselves. I, myself, am a Certified Teacher and I am very supportive of teachers. The difference in this Bill, in my mind, is that teachers are public servants. You and I don't choose who our childrens teachers will be. You can choose your pharmacists or doctor but teachers are public servants. My first concern is that we are setting up a whole new bureaucracy that doesn't have a check and balance. Even here in the Legislature there are checks and balances and I am one who is supportive of that in anything.

My second concern is certification. I will be honest with you and tell you I cannot understand every bit of that complex way that certification goes through. We have changed that law everytime since I have been here. It is very complex and I don't think we should be giving that over to this whole new Board. I would ask for a Division and ask you to vote against the pending motion. Thank you.

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

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

A Division has been requested.

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

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

19 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator ESTES of York to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1223) **READ** and **ADOPTED**, in concurrence.

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

Committee of Conference

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature, on Bill "An Act to Encourage Private Sector Investment in Tourism"

S.P. 911 L.D. 2331

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

Signed on the part of the House:

Representative MELENDY of Rockland

Representative GRAHAM of Houlton

Representative LORD of Waterboro

Signed on the part of the Senate:

Senator MATTHEWS of Kennebec

Senator **CLARK** of Cumberland
 Senator **HOLLOWAY** of Lincoln
 Comes from the House with Report **READ** and
ACCEPTED.
 Which Report was **READ** and **ACCEPTED**, in
 concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as
 truly and strictly engrossed the following:
 An Act to Ensure That Funds Collected from
 Restitution and Fines Are Deposited in
 Interest-bearing Accounts

H.P. 1536 L.D. 2169
 (C "A" H-1112)

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

ORDERS OF THE DAY

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

Bill "An Act to Certify Nonprofessionals Working
 in Chiropractic Offices"

S.P. 959 L.D. 2428

Tabled - March 25, 1992, by Senator **BALDACCI** of
 Penobscot.

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

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

(In Senate, March 18, 1992, **READ A SECOND TIME**.)

On motion by Senator **BALDACCI** of Penobscot,
 Senate Amendment "A" (S-699) **READ**.

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

Senator **BALDACCI**: Thank you Mr. President.
 Ladies and Gentlemen of the Senate. This is the
 product of the Committee work session with the Bureau
 of Insurance and all the parties involved. This is a
 unanimous amendment to that particular Bill and I
 would urge the membership to adopt it. Thank you Mr.
 President.

On further motion by same Senator, Senate
 Amendment "A" (S-699) **ADOPTED**.

Which was **PASSED TO BE ENGROSSED**, As Amended,
 without reference to a Committee..

Sent down for concurrence.

HELD BILL

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

Senator **VOSE**: Mr. President, is the Senate in
 possession of L.D. 2238?

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

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

S.P. 877 L.D. 2238
 (H "A" H-1214 to C "A"
 S-633; S "A" S-638)

(In Senate, March 17, 1992, **PASSED TO BE
 ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"
 (S-633) AS AMENDED BY SENATE AMENDMENT "A" (S-638)**
 thereto.)

(In House, March 24, 1992, **PASSED TO BE ENGROSSED
 AS AMENDED BY COMMITTEE AMENDMENT "A" (S-633) AS
 AMENDED BY SENATE AMENDMENT "A" (S-638) AND HOUSE
 AMENDMENT "A" (H-1214)** thereto, in **NON-CONCURRENCE**.)

(In Senate, March 25, 1992, **RECEDED** and
CONCURRED.)

On motion by Senator **VOSE** of Washington, the
 Senate **RECONSIDERED** its action whereby it **RECEDED** and
CONCURRED.

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

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

NOMINATION - of Eugene L. Churchill of Orland for
 reappointment to the Inland Fisheries and Wildlife
 Advisory Council

Tabled - March 25, 1992, by Senator **CLARK** of
 Cumberland.

Pending - **CONSIDERATION**

(In Senate, March 25, 1992, Communication from
 the Committee on **FISHERIES & WILDLIFE READ** and
ORDERED PLACED ON FILE.)

THE PRESIDENT: The Joint Standing Committee on
 Fisheries and Wildlife has recommended the nomination
 of Eugene L. Churchill of Orland be confirmed.

The pending question before the Senate is:
 "Shall the recommendation of the Committee on
 Fisheries and Wildlife 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, BROWN, BUSTIN, CAHILL,
CARPENTER, CLARK, CLEVELAND, COLLINS,
CONLEY, DUTREMBLE, EMERSON, ESTES,
ESTY, FOSTER, GAUVREAU, GILL, GOULD,
HOLLOWAY, KANY, LUDWIG, MATTHEWS,
MCCORMICK, MILLS, PEARSON, RICH,
SUMMERS, THERIAULT, TITCOMB, TWITCHELL,
VOSE, WEBSTER, THE PRESIDENT - CHARLES
P. PRAY

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

The Secretary has so informed the Speaker of the
 House.

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

**PAPERS FROM THE HOUSE
Joint Resolution**

The Following Joint Resolution: H.P. 1763
**JOINT RESOLUTION REGARDING RECENT DECISIONS
OF THE PUBLIC UTILITIES COMMISSION**

**AS THEY AFFECT ELECTRICITY
COSTS FOR RESIDENTIAL CUSTOMERS**

WHEREAS, rates charged by the State's largest electric utility have increased by more than \$170,000,000 since January 1990 as a result of final orders in proceedings involving fuel costs and base rates at the Public Utilities Commission; and

WHEREAS, this major increase in total costs has put pressure on all customer groups during a time of economic recession, employee layoffs and high unemployment; and

WHEREAS, the Public Utilities Commission placed into effect on December 1, 1991 a complete redesign of rates charged to each customer class of Central Maine Power Company and changed substantially the share of total utility cost that each customer class must pay; and

WHEREAS, the Public Utilities Commission adopted in that decision a new methodology for determining the share of total cost that each class must pay based on projections of future costs of power; and

WHEREAS, the Public Utilities Commission in that decision permitted increases or decreases to each customer class to be as much as 8% annually, engendering month-to-month increases during the heating season of as much as 100% for certain residential customers; and

WHEREAS, the effects of this recent decision have caused distress and outrage throughout southern and central Maine on the part of many residential consumers of electricity; now, therefore, be it

RESOLVED: That we, the members of the One Hundred and Fifteenth Legislature now assembled in the Second Regular Session, take this occasion to notify the Public Utilities Commission of our deep concern with the magnitude of recent increases in the cost of electricity for residential customers in southern and central Maine; and be it further

RESOLVED: That in the case of Central Maine Power Company at present, and for the State's other electric utilities in the implementation of future rate designs cases, the Public Utilities Commission refrain from imposing an annual increase on any class of customers that exceeds 4%; and be it further

RESOLVED: That the Public Utilities Commission identify mechanisms for the conversion of electric heat customers to alternative fuels in a manner consistent with the requirements of Public Law 1991, chapter 253, enacted in the First Regular Session, and do so with all possible speed in order to make such a conversion program available prior to the next heating season; and be it further

RESOLVED: That the Public Utilities Commission give close consideration to the need for affordable, predictable and stable electric rates for all customers of Maine's electric utilities and particularly their residential customers; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to each commissioner of the Public Utilities Commission.

Comes from the House **READ** and **ADOPTED AS AMENDED**
BY HOUSE AMENDMENT "A" (H-1265).

Which was **READ**.

House Amendment "A" (H-1265) **READ** and **ADOPTED**, in concurrence.
Resolution, as Amended, **ADOPTED**, in concurrence.

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

ENACTORS

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

An Act to Improve the Efficiency and Effectiveness of the State's Natural Resources Protection Programs

H.P. 950 L.D. 1372
(C "A" H-1190)

An Act to Provide a Private Remedy for Violation of the Lead Poisoning Control Act

H.P. 1515 L.D. 2127
(S "A" S-646 to C "A" H-1066)

An Act Relating to Unredeemed Deposits

H.P. 1519 L.D. 2131
(H "C" H-1197 to C "A" H-1034)

An Act to Require Group Insurance Companies to Notify Covered Employees of Nonpayment of Premiums by Employers

H.P. 1617 L.D. 2278
(H "A" H-1185 to C "A" H-1155)

An Act to Require Insurance Companies to Honor Assignment of Medical Benefits for Clients of the Department of Human Services

S.P. 889 L.D. 2282
(C "A" S-653)

An Act to Ensure the Safe Collection and Management of Certain Household Hazardous Wastes

H.P. 1632 L.D. 2296
(C "A" H-1176)

An Act to Amend the Maine Civil Rights Law Regarding Violations of Constitutional Rights

S.P. 899 L.D. 2318
(C "A" S-651)

An Act to Enact Article 4-A of the Uniform Commercial Code

H.P. 1654 L.D. 2321
(C "A" H-1201)

An Act to Establish the Nontraditional Occupation Act

H.P. 1701 L.D. 2381
(C "A" H-1178)

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

An Act to Amend the Election Laws

S.P. 820 L.D. 2019
(H "C" H-1187 to C "A" S-617)

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

An Act Concerning the Early Establishment of Counseling for Children in Foster Care

H.P. 1543 L.D. 2176
(C "A" H-1179)

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

An Act to Provide for Periodic Review and Modification of Child Support Orders
S.P. 893 L.D. 2293
(C "A" S-654)

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

An Act Concerning Site Protection at Former Mining Operations

H.P. 1715 L.D. 2400
(C "A" H-1177)

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

An Act to Implement the Recommendations of the Advisory Committee on Medical Education

H.P. 1722 L.D. 2408
(C "A" H-1167)

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

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

H.P. 1725 L.D. 2416

On motion by Senator **BRANNIGAN** of Cumberland, the Senate **RECONSIDERED** its action whereby Bill was **PASSED TO BE ENGROSSED**, in concurrence.

On further motion by same Senator, Senate Amendment "B" (S-631) **READ** and **ADOPTED**.

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

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

Emergency

An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection's Bureau of Hazardous Materials and Solid Waste Control

H.P. 1502 L.D. 2114
(C "A" H-1191)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with No Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act Concerning the Bureau of Intergovernmental Drug Enforcement

H.P. 1629 L.D. 2292
(H "A" H-1186 to C "A" H-1106)

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is the Legislation we debated at length several days ago. I would ask members of the Senate to oppose it on that. Thank you.

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senators None

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, with No Senators being absent, the Bill **FAILED OF ENACTMENT** in **NON-CONCURRENCE**.

Sent down for concurrence.

Emergency

An Act to Abolish the Second Injury Fund and Repeal the Employment Rehabilitation Fund Assessment

H.P. 1648 L.D. 2310
(C "A" H-1171)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Repeal a State Mandate Requiring a National Plumbing Code

H.P. 1681 L.D. 2361
(C "A" H-1105; H "A" H-1188)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Assist the State's Shellfish Industry

H.P. 1719 L.D. 2404
(C "A" H-1193)

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

Emergency

An Act to Amend the Charter of the Rangeley Water District

S.P. 964 L.D. 2437
(S "A" S-678)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1992

H.P. 1751 L.D. 2439

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

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

On motion by Senator ESTES of York, **RECESSED** until 7:30 in the evening.

After Recess

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE
Non-concurrent Matter**

HOUSE REPORT - from the Committee on STATE & LOCAL GOVERNMENT on Bill "An Act to Reorganize the Bureau of Alcoholic Beverages" (Emergency)

H.P. 1503 L.D. 2116

Report - Ought to Pass as Amended by Committee Amendment "A" (H-1194).

In House, March 23, 1992, the **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1194)**.

In Senate, March 25, 1992, Report **READ** and **FAILED OF ACCEPTANCE** in **NON-CONCURRENCE**.

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

Senator **MILLS** of Oxford moved that the Senate **ADHERE**.

Senator **BERUBE** of Androscoggin moved that the Senate **RECEDE** and **CONCUR**.

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask for a Division. I want to get up and mention at the debate before I thought the Senator from Kennebec, Senator **Bustin** had pointed out a good fact that two years ago we reorganized this Bureau. We ought to continue on with that reorganization. The Senator from Sagadahoc, Senator **Cahill** mentioned the Appropriations Budget. I know we have not had a chance to vote on it yet and it also has reorganization in it. I feel that we should go ahead with those and see how they work out. I certainly understand the good Senator from Androscoggin, Senator **Berube's** interest in trying to do even more but I feel if we go ahead with what has been done it would probably be a good thing. I hope you will defeat this motion. Thank you.

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

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

A Division has been requested.

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

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

10 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion of Senator **BERUBE** of Androscoggin, to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **MILLS** of Oxford, 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
Non-concurrent Matter**

Bill "An Act to Allow Municipalities to Appeal the New State Valuation" (Emergency)

H.P. 1692 L.D. 2372
(H "A" H-1168; S "A" S-661 to C "A" H-1136)

In House, March 19, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1136) AS AMENDED BY HOUSE AMENDMENT "A" (H-1168)** thereto.

In Senate, March 24, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1136) AS AMENDED BY HOUSE AMENDMENT "A" (H-1168) AND SENATE AMENDMENT "A" (S-661)** thereto, in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1136) AS AMENDED BY SENATE AMENDMENT "A" (S-661)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **CLEVELAND** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act Regarding Advisory Boards and Occupational and Professional Licensing Boards" (Emergency)
H.P. 1664 L.D. 2341

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-1180).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-1180) **AS AMENDED BY HOUSE AMENDMENT "A"** (H-1264) thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1180) **READ**.

House Amendment "A" (H-1264) to Committee Amendment "A" (H-1180) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-1180) As Amended by House Amendment "A" (H-1264) 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 **TAXATION** on Bill "An Act to Tighten Eligibility for the Maine Residents Property Tax Program"
H.P. 1710 L.D. 2394

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

Signed:

Senators:

- BOST of Penobscot
- ESTY of Cumberland

Representatives:

- DIPIETRO of South Portland
- NADEAU of Saco
- DUFFY of Bangor
- MURPHY of Berwick
- DORE of Auburn
- TARDY of Palmyra
- MAHANY of Easton
- CASHMAN of Old Town

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-1259).

Signed:

Senator:

- COLLINS of Aroostook

Representatives:

- BUTLAND of Cumberland
- HEPBURN of Skowhegan

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

Which Reports were **READ**.

On motion by Senator **BOST** of Penobscot, Tabled Unassigned, pending **ACCEPTANCE OF EITHER REPORT**.

ORDERS OF THE DAY

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

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

S.P. 877 L.D. 2238
(H"A" H-1214 to

C"A"

S-633; S"A" S-638)

Tabled - March 25, 1992, by Senator **VOSE** of Washington

Pending - **FURTHER CONSIDERATION**

(In Senate, March 17, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-633) **AS AMENDED BY SENATE AMENDMENT "A"** (S-638) thereto.)

(In House, March 24, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-633) **AS AMENDED BY SENATE AMENDMENT "A"** (S-638) **AND HOUSE AMENDMENT "A"** (H-1214) thereto, in **NON-CONCURRENCE**.)

(In Senate, March 25, 1992, **RECEDED** and **CONCURRED**, Subsequently **RECONSIDERED**.)

On motion by Senator **VOSE** of Washington, the Senate **RECEDED** from its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

On further motion by same Senator, the Senate **RECEDED** from its action whereby it **ADOPTED** Committee Amendment "A" (S-633) As Amended by Senate Amendment "A" (S-638) thereto.

House Amendment "A" (H-1214) to Committee Amendment "A" (S-633) **READ**.

On motion by Senator **VOSE** of Washington, House Amendment "A" (H-1214) to Committee Amendment "A" (S-633) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "B" (S-701) to Committee Amendment "A" (S-633) **READ** and **ADOPTED** in **NON-CONCURRENCE**.

Committee Amendment "A" (S-633) As Amended by Senate Amendments "A" (S-638) and "B" (S-701) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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

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

An Act Requiring the Provision of Information to Victims of Gross Sexual Assault

H.P. 359 L.D. 513
(C "A" H-963)

Tabled - March 18, 1992, by Senator **CLARK** of Cumberland.

Pending - **ENACTMENT**

(In Senate, March 18, 1992 **RECONSIDERED ENACTMENT**.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order S.P. 955, in concurrence.)

On motion by Senator **CLARK** of Cumberland, the Senate **SUSPENDED THE RULES**.

On motion by Senator **GAUVREAU** of Androscoggin, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-963), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-692) to Committee Amendment "A" (H-963) **READ**.

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

Senator **GAUVREAU**: Thank you Mr. President. Ladies and Gentlemen of the Senate. L.D. 513 is a hold over Bill from last session. This Bill allows, in certain circumstances, victims of the crime of gross sexual misconduct to secure a court order to have a person convicted of gross sexual offense to be tested to determine if they have the HIV virus. The amendment I have just offered would ensure that when the test results are completed they are made available to the victim witness advocate who is governed by confidentiality requirements. The victim witness advocate will release the information to the victim and ensure that appropriate post test counseling be available to the victim in these circumstances. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-692) to Committee Amendment "A" (H-963) **ADOPTED**.

Committee Amendment "A" (H-963) As Amended by Senate Amendment "A" (S-692) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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

The President requested the Assistant Sergeant-at-Arms escort the Senator from Penobscot, Senator **BOST** to the Rostrum where he assumed the duties of President Pro Tem.

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

The Senate called to Order by the President Pro Tem.

On motion by Senator **WEBSTER** of Franklin, the Senate removed from the Later Today Assigned Table, the following:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the House of Representatives

H.P. 1660 L.D. 2337
(C "A" H-1173)

Tabled - March 25, 1992, by Senator **WEBSTER** of Franklin.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 24, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-1173) in **NON-CONCURRENCE**.)

(In House, March 25, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-1173) **AND HOUSE AMENDMENT "B"** (H-1175) in **NON-CONCURRENCE**.)

On motion by Senator **PRAY** of Penobscot, the Senate **RECEDED** from its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

House Amendment "B" (H-1175) **READ**.

On further motion by same Senator, House Amendment "B" (H-1175) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-702) **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. As you all recall yesterday there were only eight of us who voted in opposition to this Bill of reducing the size of the House. I think the Senator from Penobscot, Senator

Pearson explained rather well the concerns of those of us in rural Maine have on the reduction on the size of the Legislature. Also in consideration of the concerns that were expressed by members of this Body, there is a desire to see a reduction. The proposal I am presenting is a reduction of the size of the House similar to the current status of the Constitution for the Senate.

Currently, our State Constitution says the Senate will be of an odd number of 31-35. The difference of the four individuals that could serve in the State Senate is a difference of 11.4%. If you took the number of 35 and reduced it to 31, it would be an 11+ percentage reduction. Taking that same formula of 11.4% and applying it to the number 151 and allowing the Body to be the determining factor of its size, it would only be appropriate that the House be the Body to make the determination if that is ratified by the citizens of this State. This amendment would set the House number at an odd number from 135 to the current number of 151. I would ask the support of the members for this amendment. 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 wish to pose a question to the sponsor of the amendment. After thinking about that, would an increase in population determine whether or not if 31, 35, 135, or 151 would be the number? Is it correct that this would depend on the fluctuation of the population? 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. It is a Federal Court rule as well as our own Constitution that sets the determination of the sizes of each of the Legislative Bodies. In the Senate, we used to have a different interpretation of representation. In 1966, the U.S. Supreme Court ruled one person, one vote. We had to redesign our Senate Districts to reflect that. Our Constitution had been set at an earlier date that the Maine Senate could be of an odd number of 31-35 determined by this Body. In 1984, I had the privilege or misfortune of serving on the Reapportionment Commission and prior to that time when I served in this Body we had 33 Members. It was the determination of the Reapportionment Committee to adjust for the growth of the population in the southern part of our State.

The Senator from Sagadahoc, Senator Cahill who posed a question is in one of the Districts that was created. My seatmate, the Senator from Cumberland, Senator Titcomb is in the other district that was created by this expansion. Those two areas had had significant population growth. Excluding those two districts we kept the remaining districts at 92% of districts that had existed prior to that on the average. That was one of the requirements of reapportionment. It had to remain consistent but the determining factor was done by this Body. Everybody clearly understands that those proposals are Legislative proposals and have to go through both branches. Either Branch can amend the other one but traditionally they have been left alone. Whatever recommendations the House made would establish how reapportionment would occur and whatever recommendation the Senate made is how the reapportionment would occur in that particular Body.

The gist of the question by the Senator from

Sagadahoc, Senator Cahill, population fluctuation would not be the determining factor as to how many seats there would be. It would be the House that would make the determination as to whether or not they would want to reduce. Currently, they do not have that option available to them because the Constitution sets them at 151 members. This would provide a flexibility if they would so desire to reduce on their own they could do so. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-702) **ADOPTED**.

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

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

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

The Assistant Sergeant-at-Arms escorted the Senator from Penobscot, Senator BOST to his seat on the Floor.

Senate called to Order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act to Ensure Continuing Knowledge of the Identity and Whereabouts of Convicted Sex Offenders"

H.P. 1652 L.D. 2315

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1271)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1271)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1271) **READ** and **ADOPTED**, in concurrence.

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

ORDERS OF THE DAY

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

Bill "An Act to Improve Educational Public Broadcasting Statewide" (Emergency)

S.P. 945 L.D. 2409

Tabled - March 25, 1992, by Senator ESTES of York.

Pending - **ADOPTION** of Committee Amendment "A" (S-666)

(In Senate, March 24, 1992, Committee Amendment "A" (S-666) **READ**.)

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

Senator BOST: Thank you Mr. President. Ladies and Gentlemen of the Senate. It's very seldom that the good Senator from York, Senator Estes, who is a very good friend of mine and I disagree on an issue. I notice he's shaking his head. We've fought a number of very good battles together and I've been

around this legislature long enough to know when I'm engaging in an uphill fight of sort. The issue of public private merger has been lobbied intensely in this legislature by a very expensive, high powered lobbying firm. I'm sure you've all been approached in one form or another over the last two or three weeks. I could only think of the good Senator from Aroostook, Senator Theriault, who likened his position on an issue last session to being engaged in a fight between David and Goliath and I think this situation is quite similar.

I hope members of this body will think very carefully before endorsing this proposed merger of WCBB and MPBN. I believe that this initiative raises more question than answers, among them: Why were the employees of both entities deliberately excluded from discussions about the merger and denied an opportunity, for the most part, to participate in the process? Why are the staff, who are calling me and a number of my colleagues from both WCBB and WPBN, voicing legitimate concerns about the merger afraid to go public for fear of retribution? That's very real and was reiterated to me tonight by a number of people who are involved. Why would the University of Maine system be so enthusiastic about relinquishing one of its greatest assets, a broadcasting system, which reaches into hundreds of thousands of Maine homes? Why would the University promote the dilution of one of its greatest outreach tools? Why would WCBB hire the services of a prestigious firm to lobby this bill full time at great expense? Who's picking up the tab? Why the intense interest in the sudden passage of this bill? Why is this bill being rushed through the process? Why should we be compelled to adhere to an arbitrary time frame set by the management at WCBB? Why does the Chancellor indicate that if this bill doesn't pass that the concept is dead for another five or ten years? What safeguards are in place for existing employees after the first year of operation? And, finally, in my estimation the most important question, Why would we, as a Legislature, approve dissolving a public broadcasting system funded in large part by a general appropriation and send that same appropriation to a private corporation when we don't have sufficient funds available to insure the solvency of some of our most basic programs in State Government? Why should we be earmarking millions of dollars to a private, essentially autonomous entity? What's going on here? I don't know. I've been trying to find out, it's very difficult to get information. You have to ask the right questions in order to get the answers that you want. And that's been a very frustrating exercise. I know that it's been frustrating for the Education Committee because they've been placed in a situation where they've had to deal with a bill of tremendous significance and substance in a very compressed time period. And much of what I think has needed to take place, in terms of discussion and thoughtful deliberation about this proposal, has not taken place simply because of the time element. I know that's been frustrating for a number of people that have been involved in this discussion. As far as I'm concerned these questions need to be resolved before I can vote for this measure. Thank you.

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

Senator ESTES: Thank you Mr. President. Ladies and Gentlemen of the Senate. I wish that I had had the opportunity to have gone up to the lounge earlier

this evening to flex my muscles and pump me up for this debate but I will try my best to give you some points that I think are important and I know that the good Senator from Penobscot, Senator Bost, does have some serious concerns.

We have literally debated this for hours and hours over the last several days. We have even tried flipping coins and arm wrestling and have come to no agreement on this issue. This is, I think, a very important step that the State Legislature is taking in approving this unification. I think it's an important step that is really going to have significant benefits for the people of Maine, not only in the near future but in the long run. The idea of unifying Maine's two public broadcasting organizations actually rose to serious discussion last spring. It became more of a public issue last October when there was an article in the Maine Sunday Telegram, I believe, and since then there's been considerable press coverage in both the station's program guides which are sent to more than 60,000 Maine households have reported about the plan. The public comments that have been received by both stations have been very favorable. You also may note that there's been many editorial endorsements that have been given by major newspapers. I would like to return to that in just a minute because I have had a little bit of frustration with the way that this was reported.

The idea of the merger has been on the minds of people at both organizations for many years. It is the consensus of management and the boards that oversee these two institutions that unification is inevitable and that it is time to get on with it. The Boards of Trustees of the University of Maine system and WCBB have endorsed the plan and the Colby, Bates and Bowdoin College boards have also approved.

I want to talk just a little bit about the convoluted schedule because it has been very frustrating for the Education Committee. We knew that there was going to be a merger bill coming at some point in time this session and during the month of February there was a title that was before legislative council but unfortunately the legislative council did not act on it until the 2nd of March. They approved it, I believe it was a unanimous vote, and the bill had to go through its final drafting. It was on the 9th of March that the bill was referred to Committee. Because of the deadline for reporting bills out the Committee was facing, we held a very quick public hearing the following day and began extensive work sessions on the bill to get it out on time to meet the 5:00 deadline on the March 13th. Since that time, when a unanimous report came out of the Education Committee, the bill has been downstairs for final drafting and then finally appeared on Monday on the calendar for our consideration. In the meantime I've been a little dismayed with some of the coverage in the press which I think has really confused the situation.

There's been some speculation of what's happened to the bill, why has it dragged on, why has it been hidden from time to time. I have myself called one editor of one of our daily newspapers and another columnist from another paper to set the record straight and I hope that those corrections will be coming shortly in the paper in those respective papers. Also, I do want to bring your attention to information that I did pass out which I think gives you some substantial background. Yesterday I had

distributed to the body a letter to Representative Jim Oliver from the President and General Manager of WCBB answering some outstanding questions that certain members of the committee felt were in need of a fuller response. I've also submitted to you a status report dated March 14 which gives you the history, the goal of the unification, the proposal, the legislation and the legislative process and then what remains to be done over the next several months in order for the unification to take place on July 1.

One of the questions that has been raised is the question of public accountability, by allowing this bill to pass we, the legislature, will neither be giving up accountability of public broadcasting nor losing the value of the existing MPBN assets. The new organization will be required, through the Committee Amendment, to report to the legislature about the transition in the merger in April of '93 and in February a final report in '94 on what the effects of the transition have been. Also the Chancellor of the University and 3 University of Maine system trustees will serve on the new organization's board of trustees along with the Presidents of Bates, Bowdoin and Colby Colleges. The new corporation will depend on tens of thousands of individual contributions for the largest share of its financial support. Thus retaining the public accountability for programming and other activities which has guided both MPBN and WCBB management over the last 30 years. Finally, the new organization will depend on the State for approximately one quarter of its total budget. Public accountability is clearly a cornerstone of this new organization. The University has invested heavily in developing a sophisticated broadcasting network as has Colby, Bates, Bowdoin Educational Telecasting Corporation. The University, under this unification agreement, retains forever its financial interests in the assets of the new organization. There will be no loss of assets under this plan any more than there will be any loss of accountability.

I believe that this is an extremely responsible plan that fully protects the public investment and the public interest that we have made in public television. I would also call your attention to the articles of incorporation which specify what will happen if there is to be a dissolution or termination. The assets that were transferred will return to the University of Maine system and the State and that the appropriations that would be coming from the State would go for the maintenance and expansion of the infrastructure and those assets would also be returned on the event of a termination of the agreement or a dissolution. Finally, you have to keep in mind that the cost of television broadcasting and production are very expensive. By maintaining two entirely separate systems to serve the relatively small population of Maine we are not making the best use of public resources.

Take for example the current pledge week operations that are being broadcast separately from Lewiston and Bangor. One half of the expense of these separate operations is unnecessary. By unifying the stations only one pledge week operation would be needed, remaining resources could be used to produce more programs like Made In Maine or Kiosk or one of the other fine productions about Maine's culture, work places or public affairs. Certainly all viewers would benefit from such a change. I believe that other advantages will be found in the

future as the cost of replacing extremely expensive equipment will be reduced after unification. I believe that long term savings are an important goal in approving this legislation. I urge your support. Thank you.

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

Senator **BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. One of the things that concerns me about this merger is the fact that the University, is going to be allowing an asset, a six million dollar asset, to be utilized by a private, non-profit corporation and the State is not receiving any type of a fee for the utilization of that asset. I'd like to know if the State is receiving any fee at all for the utilization of that asset.

The other thing in the letter that Mr. Gardiner has sent to Mr. Oliver, talks about the proposed expenses but it doesn't say anything about the revenues. I would be interested to know if there is any projected revenues from this proposed merger? I get conflicting information in the letter that Mr. Gardiner sent to Mr. Oliver where he says that "because the legislation hasn't taken effect, they haven't worked on any organizational charts" and then further in the letter talks about they've got a membership director, new entities may choose to have a director of membership or renewal director and he talks about particular positions. He has either worked on it or he hasn't worked on it.

I think as a further commitment to the members of this body that you would not have as many people here that are under that particular organization and concerned about what was going to be happening and to be staying here morning, noon, and night to watch what was going on if there was communication from Mr. Gardiner in the organization at WCBB and MPBN. Something that's been talked about for 20 years and then all of a sudden two years ago, or a year ago, they said it was going to be done in a couple of years. All of a sudden they're told that under the gun it's going to happen in six months. Nobody's told them anything, and this shows that there's going to be a lot of problems down the road. Before the ship is leaving the port I think it's very important to make sure that it doesn't have any holes in it, because it would be lucky to get out to sea. In this letter Mr. Gardiner states that they're undergoing a big voluntary contribution effort and they don't want the cloud of no legislation. Mr. Gardiner doesn't seem to realize that the University and MPBN relies 43% on a state appropriation and 29% on voluntary contributions. He doesn't seem to be aware of those facts.

This communication hasn't been both ways, I'm not opposed to a merger, what I am opposed to is not receiving anything for an asset utilization only as the Good Senator from York, Senator Estes, has pointed out that we will make sure we still have that, we're not giving up that asset. We're not receiving any fee for the use of that. To me that's a loss, the other thing is that we're talking about a private non-profit corporation who, under my reading of the statutes and I'm not an attorney and there are many here and they can correct me, but they're not susceptible to the public's right to know. The books are not open. I think that as far as the public's concerned that we should have a few of these things answered before we go any further down this road. Thank you Mr. President.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am delighted to be the sponsor of this bill. I think that it is a wise move on the part of the state and the University to begin to pool their assets in this endeavor with the very successful operation of WCBB. I don't see it as a loss at all but an enhancement of the money we spend, and enhancement of the assets that we have been able to build up. There will be no fee, this is a merger. The good that will come from this is a much better use of public television and radio.

We certainly are unfortunate we have been unable to support this effort as well as we would like to have, as well as we have in the past. We have had to cut back on MPBN in the same way we've cut back on other parts of State Government. It hurts their program. I believe that this merger is a very valuable way to use our assets. In any merger both parties give. We're giving our assets and future contributions and we are getting a great deal of the strength that MPBN has, that WCBB has, and the trustees will be a solid partner in this merger group. I'm delighted that we're moving in this direction and I hope that the questions that people have are not sufficient to keep them from helping us get on with this important matter. Thank you.

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

Senator **ESTES:** Thank you Mr. President. I would like to respond to the questions that were asked by the good Senator from Penobscot, Senator Baldacci. The first question was is there going to be any fee transmitted from the corporation for the use of the assets from the University system. The answer is no, there's not going to be any money up front. You have to keep in mind that both corporations are giving up their assets, WCBB and MPBN, to the new corporation which will be called the Maine Public Broadcast Corporation. Both of them in the event of a termination of the agreement or a dissolution would receive back any of the assets that they originally came into the new agreement with.

The other thing that you have to keep in mind is that one of the reasons we do not see this finely structured, in terms of what will take place on July 1, is that the first year is going to be a transition year and we will have set up under this legislation a transition board of directors comprised of the Chancellor as Chair, 3 members of the Board of Trustees of the University of Maine system and the 3 Presidents of Colby, Bowdoin and Bates. There will be the addition of 8 to 12 public members, those public members will actually come from names that are recommended by the subscribers to the new corporation. It will be the transition board that will be setting up the structure and determining what will be happening with the employment and positioning within the new entity.

One of the things that is planned at this time is to run not just one public television station but a second station with additional programming, not duplicate programming, which will mean that employment will stay at a relatively high level. We will need to have people doing duplicative work within the two stations that will be operating in terms of television broadcast. In terms of the amount of money that the corporation will need for operation, it is an estimated budget of approximately

\$8.3 million. 25% of that, excuse me \$8.3 million over a biennium period, 25% of that would come from the State appropriation, the remainder of that would come from voluntary contributions, corporate contributions and there would be federal money for public television that would also be coming in. I do not have the exact breakdown on those figures.

We have seen public and private partnerships in education work successfully in a lot of other areas. Library services is a good example, course offerings between the public University system and the Private Colleges to eliminate duplication, and to make the most effective use of public and private resources. Cooperation between the new corporation and the University of Maine system interactive television system will continue, I think that Maine's Public Broadcasting Corporation can be and will be an outstanding example of how various types of institutions can benefit from new partnership arrangements. I hope those have answered some the questions.

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

Senator BOST: Thank you Mr. President, Men and Women of the Senate. I appreciated listening to the exchange between the good Senator from Penobscot, Senator Baldacci and the Senator from York, Senator Estes, however I would respectfully submit that all of the alleged safeguards that the good Senator from York referenced have been put in place rather hastily over the last few days to make certain that there's some measure at least some measure of accountability are insufficient. What we need as a safeguard ultimately is to put a hold on this freight train that's leaving the station and think it out and put the onus back on WCBB and on MPBN to work out an agreement to flesh out something that's tangible.

To look at a structure that we can analyze, to look at some financial data and as the Senator from Penobscot, Senator Baldacci so appropriately indicated, look at revenue projection, look at things like this that are so important to us in the public domain on virtually every other issue why should this issue be an exception? Why are we rushing this issue through the process? I truly believe that this is a sweetheart deal, this bill represents a sweetheart deal for certain people that are involved in the merger design, not the least of which is an individual by the name of Rob Gardiner. Let's put it all out on the table Ladies and Gentlemen, we're about ready to adjourn Sine Die in a couple of days and this is either going to be cum laude or postponed. Let's put it out on the table, let's call a spade a spade.

I ask you, if we were to create a new department within State Government now, today, if we had the resources and obviously we don't, would we write into the enabling legislation who the commissioner is going to be? I don't think so. That's precisely what we're doing by passing this legislation. There is an heir apparent to the throne at the new entity called Maine Public Broadcasting Corporation, he has the job, it's all ready for him. Now I have no objections to the individual, I don't know him but I object to the process. The Senator from Penobscot, Senator Baldacci, read to you or referenced rather the letter that we've been all waiting for with baited breath from Mr. Gardiner which presumed to answer the questions that were asked of him by a

couple of legislators from the other body. The letter which I had high hopes of answering some of my concerns is riddled with inaccuracies and assumptions.

It indicates on the first page that MPBN staff has been reduced by 15 positions it's been reduced by 22 positions. That's an easy answer to find. I'm surprised that the mistake was made. There is an indication that there will be no headquarters for this new entity, please that's like saying there will be a State Government but there will be no headquarters, there will be no State House. I don't think we're being intellectually honest here ladies and gentlemen. We're talking about the MPBN and CBB investing in a large amount of production time and resources in producing station break materials etc.. The inference here is that this is a sizable chunk of their time at WCBB and if we merge we can better manage our time etc. etc. I'm told at MPBN that they spend approximately one day a week on this. Is that a burden? You ask yourself. One of the most disturbing things that I've come across over the last 24 hours is what I consider to be some of the rather deceptive ways in which this has been introduced to the very people that are going to be asked to carry out this new entity, this new program, this new corporation. Supposedly the framework is not there the organizational chart has not been fleshed out, however, when the question was asked what are you going to do with such positions as the membership director a very clear answer came back in the form of this letter which said we may consider revamping the membership director position. A call was placed last night to the existing membership director at MPBN, she had never heard of this. So I ask myself, as I posed earlier to this body, is it now a case of just asking the right questions. I don't have time to familiarize myself with this issue to the point where I know all the right questions to ask to get the appropriate answers. I don't think that we should be put in a position like that.

Another inaccuracy was that both the stations receive the largest part of their revenues from voluntary contributions, the good Senator from Penobscot appropriately pointed out that this is another inaccuracy. MPBN receives 43% of its operating revenue from general appropriation, 29% from members and 7% from business supporters, I'm not clear on what WCBB garners, but I'm sure they have that information available. Once in a while we get a glimpse at the thought process that goes on beyond the public view, if you will, and I was, I became privy to minutes of a staff meeting at WCBB which I think that in order for you to be better educated on this topic you need to hear. On March 19 a staff meeting was held at the request of management at WCBB at headquarters to discuss an article that appeared in the Bangor Daily News that obviously someone over there felt was unfavorable. Somebody actually questioned the validity of this project. So a major staff meeting was called and the minutes were furnished to a number of members of this body and I will quote from some of the more eloquent conversation that went on in that room, I wish I'd been there. Russ continues, "Rob Gardiner didn't want to put mention of WCBB in the legislation because it will make MPBC a public institution. The legislature wants to have control for the next three years," Russ explained how that control angers him. Now what Mr. Pieter, and again an individual I have not met, I do not know, what it appears to be he is

implying here is that every effort was made to straddle the public/private fence and that while management at WCBB courts the legislature for its blessing AND it's appropriation, the most important part, it wants nothing to do with anything that could place it in the public domain. Open to public scrutiny. But more bluntly, it wants to reorganize privately with public monies. If legislative control angers this gentleman perhaps he and his colleagues should look to the private sector for full funding because I believe the scrutiny of this merger, or as they prefer to refer to it as consolidation, will only intensify with time. It goes on, Russ Pieter continues, "The part that bothers me the most is that this isn't a public organization what is implied is that the state is giving up equipment and giving it to a private company like Dow Chemical, they want to talk about public accountability and that" expletive deleted, I'll replace it with "that really gets my blood boiling." for the purpose of the legislative record.

Now we move from concern about control to anguishing about accountability. MPBN must be accountable for their funds, they have a separate line in the budget as we're all aware, they have a separate line and we should expect no less from this new entity. Russ continues talking about what will happen if this bill doesn't pass, "if it doesn't fly you're looking at two very wounded organizations, we'll be out there trying to raise funds and looking like losers. Not only will we be competitors, we'll have to tell people why this didn't work. You can almost bet this bill will get on the floor but it will be amended. It will be a bill that we don't want." Now let's look at that statement carefully. If the merger doesn't occur there should be no wounded organization, it should be business as usual. Unless, everything has taken place, all the mechanisms are in place, all the movement has taken place and all this is is merely a stamp of approval. If that's been done there may be some wounded organizations, but if we're taking them at their word there should be no wounded organizations.

Maybe there are issues that we aren't aware of, is WCBB financially solvent? I don't know, the question needs to be asked. Has there been commitments made by groups involved in this discussion that they somehow can't back out of? I don't know. The questions need to be asked. Why would there be wounds if this failed passage except for maybe a few egos? Why would they feel like losers when fundraising? I don't understand that. MPBN's corporate and individual contributors will still be there. WCBB's individual and corporate contributors will still be there. Where are they going to go in the interim? Why would failure to approve this merger suddenly make the two stations competitive? And lastly he says "an employee then stated that if this falls apart we'll be in oblivion". Russ states "I have a feeling if it doesn't happen now we'll die for five or ten years, then the legislature will take the heat, there will be lots of layoffs at MPBN because the legislature hasn't budgeted for MPBN next year." Well, I appreciate the political analysis that this gentleman has provided, however, he obviously hasn't spent much time talking with legislators. If he had he would learn that rather than having to wait five or ten years to try again all WCBB and the University of Maine system need to do is formulate a well thought

out plan for implementation, how people would be impacted. Many of these staff have worked for Maine Public Broadcasting Network and WCBB for years, they deserve to know what's going to happen to them. And some sort of meaningful cost analysis, these kinds of things need to take place. And it hasn't been done and it's not the fault of the Education Committee.

They had only three days to hammer this bill out it's the fault of the people that have kept this plan essentially to themselves until it got to this point in the legislative process. I will close with what I believe to be an appropriate analogy, approximately three years ago when I had the good fortune of serving on the Joint Stating Committee on Education with the Senator from York, Senator Estes, we had before us a bill which surfaced very much like the bill we are debating tonight. It was a bill which appeared in the latter days of the legislative session to create a Maine Education Authority, which would funnel student aid services and consolidate virtually every student loan fund available currently to students in the state. But ladies and gentlemen, most of the members of the Education Committee, they couldn't quite put their finger on it but something was wrong with that picture. There was an individual who was prepared to assume the mantle of this new authority and it was preordained, once the authority was in place, received legislative approval, this individual would take the helm. Something wasn't right with the proposal, and fortunately the education committee at that point had more time than it had this time, and looked into the matter and found out that no in fact it wasn't a good deal for the people of this state and provided an alternative to that authority which, in my estimation, would have been a fiscal albatross, and placed instead those functions under the Finance Authority of Maine, where they sit today and I might add, very successfully. I think that situation is analogous to this issue that we are debating here tonight. There's something wrong here, and I simply can't put my finger on it. But I think the questions need to be asked and we need more time. This is simply not the point in which to move.

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

Senator ESTES: Thank you Mr. President, Ladies and Gentlemen of the Senate. There have been again a series of questions and comments that I think need to be reacted to on the record. And I would like to say to the good Senator from Penobscot that I firmly believe that there is not a boogey man in every closet. I know that the process has been the problem with this bill coming before this legislature on this day. I am convinced that it has not been the people who have been involved in the discussions for almost a year now on what they could be and how they could become what they wanted to be.

I will say that I have known Mr. Gardiner, the general manager, for probably three years now and have served with him as a member of the Commission on the Common Core of Learning, and also on the Coalition on Education Excellence. At some of the meetings for the Coalition back in the fall, we talked about the possibility of this legislation coming up in this particular session. I think what is particularly troublesome is the fact that the Committee was put in an awkward situation of having to consider this in such a short period of time. It was difficult getting specific answers to questions.

Some of that I think was due to individual's lack of familiarity with the process, the fact that the process had been sped up to an incredible pace, where the bill was referred on a Monday night and a hearing is held on Tuesday afternoon and the work sessions to hammer the bill out take place over those next several following days.

In instances where concessions had to be made by WCBB, they did so and did so willingly. They supplied us with the papers of incorporation that were filed with the Secretary of State's Office on February 7, they supplied us with the draft copies of the bylaws dated February 4, we were able to resolve some outstanding situations as they pertain to personnel at WCBB and protection of their rights currently covered by collective bargaining agreements. Guaranteed job security, and salary and benefit provisions during the first year of transition. Assurances were also given by MPBC leaders that all other employees would be offered similar guarantees.

In terms of the organization, there were certain aspects of the bylaws pertaining to the composition of the Board of Trustees, and the President of the corporation that were cottified in the committee amendment. I also have mentioned the fact that there will be transition reports coming in both in '93 and in '94. In terms of the letter that is dated March 24, that happens to by yesterday, this was in response to a letter that went out on March 23. And I don't think one day is to much time to turn around on a total of 9 questions, and fairly intricate questions. I guess my problem with the funny feelings that a number of legislators have had about this is that this bill was reported out of committee on the 13th of March, a unanimous report of the committee, not a divided report, there could have been a divided report and then I think the debate here tonight could have been fair game.

I sat up here last week with all of our committee work done with time on my hands, time on my committee members hands, twiddling our thumbs; no one mentioned what about the boogey man, we should talk about this some more. It really wasn't until I arrived here late Monday morning that there were all sorts of stirrings that had gone on. In fact I made mention in caucus today that not only on this bill but on a couple of other bills that came out of the Education Committee, people have had opportunities to talk about problems that they've had with the bills and whether those problems could be fixed or should be fixed and it's almost as if I've been ignored, and I find that rather strange, rather troublesome. I would also like to put on the record, because I know this is a question that has come up, about the public right to know, the good Senator from Penobscot, Senator Bost, talked about financial disclosure and being able to look at their records, those are available, by state and federal law those are available.

Under Maine's Charitable Solicitation Act for non-profit corporations the station and the new corporation must file an annual report of revenues and expenditures, including the types of expenditures. This assures the public a disclosure of how much money is spent on everything, including administration. The station is also required to disclose salaries of all of its top management who earn over \$30,000.00 a year. The FCC requires the station to maintain an extensive public file at the

station which must be available on demand. This file contains information about programming, correspondence from the public, records and information about the station. As the station currently now, and in the future, the new entity will receive money from the corporation for public broadcasting i.e. the Feds, WCBB now files, and the new corporation will have to file, an extensive detailed report containing information on such matters as financing, public access, and equal employment. In addition, the station is required to provide public notice of all trustee meetings which are now open to the public and will continue to be open to the public, that notice is by advertising of the upcoming meeting by on-air notices with the television station. The minutes of these meetings are also available in the public file for public access. So the FCC, the Corporation for public broadcasting, the Maine law, IRS regs, all require extensive disclosure of information. And I believe that that should be satisfactory in terms of people getting whatever it is that they want to know. The last thing that I would say is that we have an interim board of trustees, 7 members, 4 from the University system, 3 from the 3 private colleges. They will be the ones that will be overseeing this merger and setting up the organization. The President of the Corporation is chosen by the Board of Trustees for a one year term and must be reappointed at each annual meeting. At the first annual meeting you will have all board members, public as well as the 7 designated in statute, and they will choose the President who has the responsibility of the operation and management of the corporation's facilities and activities, is responsible for supervising all personnel employed by the corporation and reports directly to the Board. I hope that those answer some of the other concerns that were out there and I urge you again to support this legislation. Thank you.

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

Senator BRAMM: Thank you Mr. President. Ladies and Gentlemen of the Senate. I did not plan to rise on this issue but after listening to the tone of some of the debate, I made some notes and feel compelled to speak briefly. I want to commend, publicly here on the floor of the Senate, our good Chairman the Senator from York, Senator Estes who, if I was tired and could do a job like you just did you should be patted on the back. Senator Estes has always been professional and above board in our Committee and as he has stressed and I can't stress it enough, this was a unanimous committee report, unanimous.

I was at that public hearing and I was there all morning, I thought it was very professional, there were many questions asked, they all would be on the record downstairs. I also applaud him this morning for getting this letter and everything on our desks to answer questions. I think there's no doubt that I'm concerned about the tone when I've made such notes as "we waited with baited breath" or "financially solvent" or I mean is this a set up or vendetta or what's going on here? I'm really concerned about this. I want to just make a couple more points that Rob Gardner has always been, I don't know him either, I wouldn't know him if he walked in here, and he might have been one of the men there that morning. I listen to people, I don't put a name with a person, I listened to every person that was

there, but everything in this, if you read it again, is right up front, he's already in here twice said he'd be glad to answer any more questions. They have been right up front as far as I'm concerned. And you know, we have to be patient when we understand this has been a very packed in session. And if you're given a notice that you've got a public hearing the next day and you show up and you're there you can't expect miracles of having everybody to know. I just want to, for the record, say that I feel very comfortable with this merger, I never for one minute felt it was a sweetheart deal of any type. I don't feel a bit uneasy. I urge you to support this and Mr. President I would ask for a roll call.

On motion by Senator **BRAWN** of Knox, supported by A Division of one-fifth of the members present and voting, a Roll Call was order.

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

Senator **BOST:** Thank you Mr. President and men and women of the Senate. I'm pleased to know that I'm so quotable. There are a couple of other issues that I think at least need to be discussed, I know that the members are growing weary of this debate, but we are on the threshold of moving into a new era in public broadcasting and I think these, potentially anyways, I think that these issues need to come to the surface.

One of them is that it is my understanding and I would pose this in the form of a question to my good friend and colleague from York, Senator Estes. If the employees, current employees of MPBN, move from essentially employees of the University of Maine system into the new entity, are they, is the University obligated under contractual agreement to provide them with severance pay? If they are required, how much? Is the severance pay, how much would it be worth, the information that I've been provided is that it would be roughly \$500,000.00. That figure may be wrong, up or down somewhat, but if we could get some clarification on that issue that would be helpful.

Secondly is the issue of cost effectiveness and efficiency. I was told about an instance, not long ago, where a number of engineers from WCBB traveled to the Bangor studios of MPBN to share with them the new plan, the new transmitting plan. And did so less with any inclination toward getting input but more to provide them with the plan and tell them that this is essentially the way it was going to be. The plan as it was described to me, and I will share it with you in laypersons terms because I'm not entirely knowledgable about this, but the plan was to feed the northern Maine area from southern Maine and to feed southern Maine from northern Maine. And the engineers at MPBN were left scratching their heads, they said wouldn't it be more efficient to have northern Maine service northern and central Maine and southern Maine service southern Maine? That was dismissed, that idea was apparently novel.

In a supervisory staff meeting back on October 7 of 1991 at MPBN, present were the director, Ed Winchester and others, it was shared in the staff minutes that Tony Paine of Maine Media was here last week for a meeting with Barb, Mary Lou etc. etc., Mr. Paine's specialty is crisis management, he discussed the importance of disseminating accurate information regarding the consolidation, will be preparing a report etc. He stressed the importance of using the word consolidation which is what is planned, and not

merger because people would get confused and there are perhaps weightier implications of the word merger instead of consolidation. But the most important part of this memo is the fact that it said "the following items were tentatively agreed upon at a meeting of the task force," and among them, "there will be no forced moves for two years," from a point, I'm assuming, from the point of the merger. Now obviously that has been scaled back to one year. What is to prevent that from being scaled back further at some point? I don't know. There are, I understand, adequate protections in the legislative language to make certain that most of this doesn't happen, but the communication that's going on and the credibility of some of the correspondence would lead one to believe that not necessarily everything is on the table. And my final question to the good Senator from York, Senator Estes, if he could be so kind to provide it, has there been any analysis of the impact on membership, whether it be at WCBB level or MPBN or as a combined unit. Thank you.

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

Senator **ESTES:** Thank you Mr. President. In regards to those multiple questions, I will try to hit on a response for each of them. Pardon me if I do forget, I did take down a few notes here. In terms of the employees and what is being done in regards to severance, those negotiations are currently going on. That is, the MPBN employees who are represented by the Maine Teachers Association and the non-unions are doing their negotiations with management at MPBN, they will be taken care of, I don't know what that figure is, I'm not involved in the collective bargaining at this time. Those employees that maintain employment after July 1, within the new corporation by their choice, are guaranteed employment and the agreed upon salary and benefits for the first year of the corporation. Undoubtedly, they are nervous about this move, anyone would be. If you had an organization that has existed for 30 years, or nearly 30 years, to come July 1 to a situation where there is a consolidation, and I think consolidation is a reasonable word to talk about the first year, because the first year is going to be a transition where the staff of both institutions are going to be getting to know each other and working with each other and planning what the structure is going to be for the future of the new corporation.

It's a nervous time out there for anyone in an employment situation, whether they're employed by State Government or whether they're employed by the University system or one of the private colleges or a private business out there. Everyone's been nervous because of the crisis in our State Government and because of the state of our economy. I do say, with some interest, that I was unaware that there was an MPBN meeting, staff meeting, on October 9 I believe it was with an individual by the name of Mr. Paine, but that seems to me to suggest that there have been some serious ongoing discussions about what if this merger, or consolidation, is allowed to take place by the legislature. In terms of cost effectiveness and efficiency, those are part of the bugs that are going to be worked out over the next year and it will be, undoubtedly, a struggle and there will be, undoubtedly, some false starts and corrective actions that may have to take place. I don't believe we can even expect that this new corporation will be able to

hit the ground running on July 1 or August 1 or September 1, it is going to take time, it is going to take planning and that's, I believe, an essential part of this first year of transition.

In terms of membership support, I do know that from WCBB that the information they have gotten from their subscription membership is very positive to this consolidation, very positive to this consolidation. And it is the belief of individuals who have been working on this, and are supportive of this, is that with expanded potential of the new corporation will be reaching out to almost every corner of the state and providing more extensive programming that membership is very likely to grow over the early years of this corporation. I hope those answer the questions. Thank you.

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

Senator **BALDACCII:** Thank you Mr. President, Mr. President and members of the Senate I'd like to thank the good Senator from York, Senator Estes, for answering questions and to have as much information at his fingertips and to be able to try to respond to some of the concerns that we do have. However, the concerns that I would have, very simply are, people were marching on the streets here in Augusta on Monday because we were asking people to have a cut in their pay, we're struggling to make ends meet financially, we're having a hard time. Is this being done to save money, I haven't heard it yet. The only thing I have heard is that we are possible going to be on the book for \$500,000.00 in severance pay. On top of the appropriation that's already going there.

I have heard people say, this is good, statewide coverage. Would you please tell me, even the good commissioner of Mental Health had the decency to talk about savings that were going to take place. Nobody has mentioned any savings from this merger. Senator from Penobscot, Senator Bost, he asked about some studies that have been done, there are other universities that have merged with private entities in Wisconsin, what happened? Nobody is opposed to this merger, we want it to happen. All we're saying is is it thought out? Are plans and structures established? There obviously is not a good working relationship in any school I've ever gone to if the top doesn't get the bottom involved there won't be anything to work on. It seems like everybody has to be working together. It doesn't seem to be very good teamwork, I mean the evidence is staring you in the face, it's been here all day. There have been no financial studies, there's been no studies on what happens to membership, there's been no studies of other entities, in other parts of the country what's been happening. And in spite of the comments by the good Senator from York, Senator Estes, there are several amendments that are going to be offered in as far as public right to know in regards to this particular matter.

I'm not sure as to the information on charitable solicitation and those laws which the committee on Business Legislation has jurisdiction over but I think that the concern that I have in the review by the people in legal profession is that this private, this private non-profit corporation is not subject to the public right to know laws. They're not subject, but maybe if I want to call the IRS and I want to tell them that I'm the State Senator from Bangor, Senator Baldacci, and I'd like a copy of that corporation's filings, if the right hand knows what

the left hands doing, I may be fortunate. If not I'm going to be somewhere, stuck in some office in IRS land, where ever that happens to be. But as far as any filings with the State of Maine, none of that information is available. There is no salaries over \$30,000.00, there is none of that information available under the charitable solicitation laws. None of that information is available. And I'm not looking, I'm not suggesting that Mr. Gardner's situation at WCBB, being a private non-profit corporation could possibly compare with the United Way and what took place with that private, non-profit corporation. I'm not suggesting that, all I'm suggesting that if there ever was a concern that the public would have the right to that information. Seeing that the public, the public who you were elected to represent, are handing over 6 million dollars in assets for them to use. We're supposed to be satisfied because the Chancellors on the Board and 3 trustees are. But you forget to look down at the bottom where it says 8 to 12 members other than those people will be appointed. Ladies and Gentlemen of the Senate, 8 to 12 vs. 4 looks like an overwhelming majority.

We're handing over two and a half million dollars of state appropriations. I'd just like to know, somebody maybe from the financial and appropriations committees could explain to me what dollar savings are we taking place with this particular merger. All I've heard here tonight is we're going to be on the hook for severance pay. Somebody point out some saving for the State for what we're going through. I'd be very interested to hear it. Thank you.

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

Senator **FOSTER:** Mr. President, men and women of the Senate. For the many years I've served on the appropriations committee, I've always had to look after Big Bird. And I will tell you the story of Maine public broadcasting and why I'm a co-sponsor of the bill, they have a separate line item in our budget and even the days when we had lots of money they never got their request, their full request, until the very last night, and if there was a little extra money I'd say "let's give it to Big Bird", because we were very enthralled in giving it to every other group in the State of Maine. Our answer was "you can get it with these shows, call in \$25, \$75 etc. etc." and I said to Ed Winchester, why don't you combine and get one public broadcasting system so that we can all have the same dollars going in together. Because we didn't have enough money for Ed to pay for his plumbing his heating, I mean he had a bare boned budget and he is the nicest man going and we really prevailed upon him to look at the big picture for all of Maine.

Why have 2 public radio stations buy one good program? I mean I sit there night after night and listen please call, and in this day when public dollars are fewer and where are the dollars coming from? Canada. Every night the Canadians call in. On that radio station night after night, I mean that's not a credit to the people of the State of Maine when we're getting all those dollars from Canada. And then again with the general dollars getting scarcer, now if you get squeeze feeling in your stomach about there's a big black boogey man out there the big black boogey man to me is that we might not have public dollars or general fund dollars to keep that radio station going. And I believe that the time is

to merge and if we can't rely on some people that know, now I respect your thinking about the employees and I got that very, that's a very strong message you have and I'm concerned and we should be, but I do believe that we first of all have got to look after preserving Maine public broadcasting and by doing the merger we will have one great public radio station for the state of Maine. And I think that's the number one priority. Let's think of that, number one priority is have one good public broadcasting system in the state of Maine. And we will have with this merger. Thank you very much.

Senator **BOST** of Penobscot moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BOST** of Penobscot to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

A vote of Yes will be in favor of the motion to **INDEFINITELY POSTPONE** 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**, **BUSTIN**, **CONLEY**, **PEARSON**, **THE PRESIDENT** - **CHARLES P. PRAY**

NAYS: Senators **BRANNIGAN**, **BRAWN**, **CAHILL**, **CARPENTER**, **CLARK**, **CLEVELAND**, **COLLINS**, **DUTREMBLE**, **EMERSON**, **ESTES**, **ESTY**, **FOSTER**, **GAUVREAU**, **GILL**, **GOULD**, **HOLLOWAY**, **KANY**, **LUDWIG**, **MATTHEWS**, **MCCORMICK**, **MILLS**, **RICH**, **SUMMERS**, **THERIAULT**, **TITCOMB**, **TWITCHELL**, **VOSE**, **WEBSTER**

ABSENT: Senators None

7 Senators having voted in the affirmative and 28 Senators having voted in the negative, with No Senators being absent, the motion of Senator **BOST** of Penobscot, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **FAILED**.

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of Committee Amendment "A" (S-666).

A vote of Yes will be in favor of **ADOPTION** of Committee Amendment "A" (S-666).

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**, **BRAWN**, **CAHILL**, **CARPENTER**, **CLARK**, **CLEVELAND**, **COLLINS**, **DUTREMBLE**, **EMERSON**, **ESTES**, **ESTY**, **FOSTER**, **GAUVREAU**, **GILL**, **GOULD**, **HOLLOWAY**, **KANY**, **LUDWIG**, **MATTHEWS**, **MCCORMICK**, **RICH**, **SUMMERS**, **THERIAULT**, **TITCOMB**, **TWITCHELL**, **VOSE**, **WEBSTER**

NAYS: Senators **BALDACCI**, **BOST**, **BUSTIN**, **CONLEY**, **MILLS**, **PEARSON**, **THE PRESIDENT** - **CHARLES P. PRAY**

ABSENT: Senators None

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, with No Senators being absent, Committee Amendment "A" (S-666) **ADOPTED**.

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

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act to Protect Taxpayer Rights by Amending the Taxpayer Bill of Rights and Making More Equitable Tax Penalty and Appeal Provisions"

H.P. 1583 L.D. 2233

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-1260).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1260)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1260) **READ** and **ADOPTED**, in concurrence.

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Restructure the Department of Administrative and Financial Services" (Emergency)

H.P. 1663 L.D. 2340

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-1267).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1267)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-1267) **READ** and **ADOPTED**, in concurrence.

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

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

H.P. 1707 L.D. 2388

In Senate, March 9, 1992, **FAILED OF ENACTMENT**. **RECALLED** from the Legislative Files pursuant to Joint Order H.P. 1762, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "E" (H-1262)** in **NON-CONCURRENCE**.

On motion by Senator **MATTHEWS** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

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 to Adopt a New Article for the Uniform Commercial Code"

S.P. 680 L.D. 1802

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-695)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-695) **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.

ORDERS OF THE DAY

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

SENATE REPORT - from the Committee on **JUDICIARY** on Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)

S.P. 849 L.D. 2162

Report - **Ought to Pass as Amended** by **Committee Amendment "A" (S-676)**.

Tabled - March 24, 1992, by Senator **CLARK** of Cumberland.

Pending - **ACCEPTANCE OF COMMITTEE REPORT** (In Senate, March 24, 1992, Report **READ**.)

Which Report was **ACCEPTED**.

The Bill **READ ONCE**

Committee Amendment "A" (S-676) **READ**.

On motion by Senator **GAUVREAU** of Androscoggin, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, Senate Amendment "A" (S-696) to Committee Amendment "A" (S-676) **READ**.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is the long awaited and much heralded amendment to the Bill out of the Joint Standing Committee on Judiciary. As usual the men and women who serve on that committee have diligently and laboriously gone over hundreds of pages of technical information. This is truly a technical Bill. The only amendment we are offering now is in the category of technical substance which means they are technical errors but not simply areas of numeration or typographical errors. In our judgement they are all technical areas. I would be glad to answer any questions. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-696) to Committee Amendment "A" (S-676) **ADOPTED**.

Committee Amendment "A" (S-676) As Amended by Senate Amendment "A" (S-696) thereto, **ADOPTED**.

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

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

JOINT RESOLUTION - Requesting the Department of the Attorney General to Prosecute certain cases in Penobscot County

H.P. 1757

Tabled - March 25, 1992, by Senator **CLARK** of Cumberland.

Pending - **ADOPTION**, in concurrence

(In Senate, March 25, 1992, **READ**.)

(In House, March 23, 1992, **READ** and **ADOPTED**.)

On motion by Senator **PEARSON** of Penobscot, Senate Amendment "A" (S-700) **READ** and **ADOPTED**.

Resolution, As Amended, **ADOPTED**, in **NON-CONCURRENCE**.

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

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

Bill "An Act to Make Supplemental Allocations of Funds from the Highway Fund for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (Emergency)

H.P. 1677 L.D. 2354

(C "A" H-1195)

Tabled - March 25, 1992, by Senator **DUTREMBLE** of York.

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

(In Senate, March 25, 1992, **READ A SECOND TIME**.)

(In House, March 23, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1195)**.)

On motion by Senator **DUTREMBLE** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-1195), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-703) **READ**.

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I was wondering if the sponsor of this amendment might be able to explain it. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The answer to the good Senator from Oxford, Senator Mill's question is yes. Thank you.

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I know many of us were wondering whether or not he would be able to explain his amendment. Now that he has told us that he can explain the amendment, I was wondering if he might be so kind as to do so? Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This amendment does away with a part of the Highway Budget that borrows the money. That is what the amendment does.

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I was trying to figure out why there has been so much debate on this particular Bill. After hearing the debate earlier on the Public Television and a few other debates, I finally realized the reason we have had so much

debate on this Bill is because it was a unanimous report out of committee. That seems to be par for the course.

I must also mention that the other Senator from Oxford, Senator Twitchell was unable to be there so he was not able to vote on the issue. I would like to mention that this amendment is basically the same as tax anticipation. This Bill would be very similar to a tax anticipation note from a town. It is a creative way to do financing to move ahead with the Portland/South Portland Million Dollar Bridge, Bath/Woolwich Carlton Bridge, Waterville/Winslow Bridge, and the Brunswick/Topsham By Pass. It is money that has been passed to us from the Federal Government that we are going to a Municipal Bond Bank to get a credit line. The Municipal Bond Bank would be the ones who would be allowing us to do that. They would be at risk if for some reason the Federal Government did not send the money through. It would not be State Tax dollars. I would hope we would go ahead with this and allow these projects to go forward. I would hope we would defeat this amendment and go on to pass the Transportation Budget with this measure. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I want to make it clear that I am not opposed to these projects. I think they should follow the same procedure that these projects have always followed. Right now this is a drastic departure from what we normally do. We had a difficult time passing the Bond Issue in this very Body. We refused to let the people of this State vote on issues. We didn't even want to let it go out and let the people vote on it. Here we are making the decisions ourselves to borrow an amount that could be greater than what was on the Bond Issue. It doesn't make any sense to me.

Money that is borrowed will have interest on it. We will have to pay interest with taxpayers money. I have been told that the money we are going to get has been guaranteed just like the money that was guaranteed by the Department of Labor that we were told we didn't have this morning, \$8,000,000. All of a sudden we almost passed a Bill that would have left us in a terrible hole because of guaranteed money from the Federal Government that wasn't there. Now I am hearing "trust us" from Washington, D.C. I don't think we can take that gamble with the peoples money of this State. It is a drastic departure from what we have done. I question whether or not it is constitutional. It has been done too quickly. I hope you would support this amendment so we can pass the rest of the budget. Thank you.

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I wanted to point out one other fact I failed to mention earlier in the brief amount of time I spoke. The 3% interest which would be the rate the Bond Bank would be giving on this line of credit, the money paid back on that is from Federal funds not State funds. I want to make sure people understand that. You can make the argument that in essence those Federal funds could be used somewhere in the State. It is not State funds but Federal funds that will be paying that back. I hope you will be able to support the unanimous committee report. If this amendment does pass, I hope we will work something out. Thank you.

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

Senator **GOULD:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I fully concur with the Senator from Oxford, Senator Mills. I really think this would be a way of jump starting this economy. As Senator Mills from Oxford has said, a 3% interest is a good deal for us. The interest would be paid out of anticipatory borrowings for projects authorized. Senator Mitchell from Washington has done us a good deed by approving these projects and getting \$187,000,000 for us. Thank you.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I ask for a Division. I was sitting here thinking about jump starting the economy and how many other times we issued revenues in tax anticipation notes. Municipalities used them all the time. The Maine Turnpike Authority exists on revenue bonds. We use revenue bonds and moral obligation bonds for the Maine State Housing Authority. That is what has built much of the housing in the State of Maine. It is not uncommon and I think it sounds like a good deal and a good way to get started now. It would provide jobs in this State very quickly for monies that we are quite sure will be there. It is a much lower interest rate than we would get if we issued general obligation bonds which would have to be approved by the voters. I support the work of the Transportation Committee on this and I applaud their initiative. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I wanted to state that it may be used and allowed by the constitution in other areas but it has never been used or allowed in this area. It seems to me this has been done without a lot of discussion from other people than those who are on the Transportation Committee. We have just gone through two of the most horrendous years of financial instability with our budget because of the types of things we have done in the past. Haven't we learned anything from that? Should we try something new like this without having any real guarantees? Haven't we learned anything? Thank you.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Certainly we have had very difficult times in our economy. These major projects will boost the economy. This is the type of borrowing that has been done and is done in many cases and many ways. Our staff has looked at this because it is new for us. It isn't something that is just a day or two old. We have been talking about it for several weeks.

I saw a fax from Senator Mitchell's office that showed the vote to award money for these projects was 78-8. I think because it is specifically for these projects and the support is so strong, the revenue string which guarantees these funds is very strong. I hope you will not support this amendment and go on to pass this budget. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **DUTREMBLE** of York to **ADOPT** Senate Amendment "A" (S-703).

A Division has been requested.

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

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

11 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator **DUTREMBLE** of York, to **ADOPT** Senate Amendment "A" (S-703), **FAILED**.

Committee Amendment "A" (H-1195) **ADOPTED**, in concurrence.

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

Off Record Remarks

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

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

H.P. 1712 L.D. 2397
(C "A" H-1150)

In House, March 19, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1150) AS AMENDED BY HOUSE AMENDMENT "A" (H-1159)** thereto.

In Senate, March 24, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1150)** in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1150) AS AMENDED BY HOUSE AMENDMENT "B" (H-1246)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **TWITCHELL** of Oxford, the Senate **RECEDED** and **CONCURRED**.

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

Senate at Ease
Senate called to order by the President.

On motion by Senator **KANY** of Kennebec, **ADJOURNED** until Thursday, March 26, 1992, at 9:00 in the morning.