

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 7, 1994 to April 27, 1995

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
March 23, 1995

Senate called to Order by the President, Jeffrey H. Butland of Cumberland.

Prayer by Pastor Steven Seibel of the Wayside Bible Baptist Church in Livermore.

PASTOR STEVEN SEIBEL: I want to thank each of you for allowing me to come here this morning. I consider it a real privilege, and I consider it a privilege for being asked. I don't have any fancy speeches or jokes or anything like that, but I came to pray, to open the Senate, so I guess that is how I will start. Let's bow our heads and go to the Lord in prayer.

Father in Heaven, we do thank you for the privilege of being able to be here this morning. Lord, we know that this area of life, government, is one area that you have ordained. Father, each of the Ladies and Gentlemen here this morning represent this State and Lord, they need your wisdom. The Bible says if any man lacks wisdom let him ask and you would give that to them. Lord, in the decisions that they make today, and in the future, if you would help them to seek you and to make the right decisions and the right choices, that they would be men and women of integrity, that they would stand for those things that are right. We thank you Father, for their dedication and their time that they have been willing to give to this State to make it a good State and one that would, hopefully, honor and glorify you. We thank you for all of these things in Jesus' name. Amen.

Off Record Remarks

Reading of the Journal of Tuesday, March 21, 1995.

Out of order and under suspension of the Rules, on motion by Senator KIEFFER of Aroostook, the following Joint Order:

S.P. 356

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, March 28, 1995, at 9:30 o'clock in the morning.

Which was READ and PASSED.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

SENATE REPORTS—from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Establish the Chesuncook Soil Series as the Official State Soil"
S.P. 117 L.D. 292

In Senate, March 14, 1995, the Minority OUGHT NOT TO PASS Report READ and ACCEPTED.

Comes from the House, with the Majority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED in NON-CONCURRENCE.

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

Non-concurrent Matter

SENATE REPORTS—from the Committee on TAXATION on Bill "An Act to Aid the Administration of the Motor Vehicle Excise Tax by Ensuring that the Manufacturer's Suggested Retail Price is Made Available to the Excise Tax Collector"
S.P. 45 L.D. 75

In Senate, March 14, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-16).

Comes from the House, with the Minority OUGHT NOT TO PASS Report READ and ACCEPTED, in NON-CONCURRENCE.

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

House Papers

Bill "An Act Concerning a Moment of Silence in
Maine Public Schools"

H.P. 656 L.D. 879

Reference to the Committee on **EDUCATION AND
CULTURAL AFFAIRS** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee
on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **EDUCATION
AND CULTURAL AFFAIRS**, in concurrence.

Senator **CASSIDY** of Washington was granted
unanimous consent to address the Senate off the
Record.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 100

117TH LEGISLATURE

March 3, 1995

John Fitzsimmons, President
Maine Technical College System
State House Station #131
Augusta, Maine 04333

Dear John:

We are pleased to invite you to address a Joint
Session of the 117th Maine Legislature on Tuesday,
March 28, 1995 at 10:30 a.m. concerning the State of
the Maine Technical College System.

We look forward to seeing you then. Best Wishes.

Sincerely,

S/Jeffrey H. Butland
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

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

The Following Communication: S.C. 101

MAINE TECHNICAL COLLEGE SYSTEM
Office of the President
323 State Street
Augusta, Maine 04330

March 9, 1995

The Honorable Jeffrey H. Butland
President of the Senate
117th Maine Legislature
Augusta, ME 04333

The Honorable Dan A. Gwadosky
Speaker of the House
117th Maine Legislature
Augusta, ME 04333

Dear President Butland and Speaker Gwadosky:

It is with great pleasure that I accept your
invitation to address a Joint Session of the 117th
Maine Legislature on Tuesday, March 28, 1995. I
deeply appreciate the invitation and am honored that
I have the privilege of giving the first-ever State
of the Maine Technical College System address.

I look forward to the opportunity to talk about
the wonderful work that goes on each and every day
throughout our System.

Sincerely,

S/John Fitzsimmons
President

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

The Following Communication: S.C. 102

THE MAINE SENATE
OFFICE OF THE PRESIDENT

March 20, 1995

The Honorable May M. Ross
Secretary of the Senate
State House Station #3
Augusta, ME 04333

Dear Madam Secretary:

Pursuant to my authority under Title 12 MRSA, Section 7367, I am appointing Donna Moreland of Greenville to the Whitewater Safety Committee.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Jeffrey H. Butland
President of the Senate

Which was READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 103

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, 04333-0002

March 21, 1995

Honorable May M. Ross
Secretary of the Senate
117th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it failed to recede and concur on An Act to Create a Transitional Pharmacy Benefit Program (EMERGENCY) (H.P. 570) (L.D. 775)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 104

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY

March 21, 1995

The Honorable Jeffrey H. Butland
President of the Senate of Maine
117th Maine Legislature
State House
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 38 of the 117th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable John B. Beliveau of Lewiston, for reappointment as a Judge of the Maine District Court.

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

YEAS:	Sen. 3	Mills of Somerset, Pendexter of Cumberland, Faircloth of Penobscot
	Rep. 8	Treat of Gardiner, Richardson of Portland, Jones of Bar Harbor, LaFountain of Biddeford, Plowman of Hampden, Hartnett of Freeport, Madore of Augusta, Nass of Acton

NAYS: 0

ABSENT: 2 Rep. Lemke of Westbrook,
Rep. Watson of Farmingdale

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable John B. Beliveau of Lewiston, for reappointment as a Judge of the Maine District Court be confirmed.

Signed:

S/S. Peter Mills
Senate Chair

S/Sharon Anglin Treat
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on JUDICIARY has recommended the nomination of John B. Beliveau of Lewiston be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 117th 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 Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator CLEVELAND: Thank you Mr. President, Women and Men of the Senate. I would like to take a few moments this morning to tell you a little something about Judge Beliveau, who is from the Lewiston-Auburn area. Judge Beliveau is an outstanding jurist who has the confidence of the people of the Lewiston-Auburn area. He is a hard-working jurist who dispenses justice fairly and in a thoughtful and even-handed manner. He is well respected within the community and we think he is an outstanding member of the judiciary and are honored that he is being recommended for reappointment to the district court. Thank you very much.

Off Record Remarks

The Following Communication: S.P. 357

117TH MAINE LEGISLATURE

March 22, 1995

The President noted the absence of Senator BERUBE of Androscoggin, and excused her from today's Roll Call votes.

Senator S. Peter Mills
Representative Sharon Treat
Chairpersons
Joint Standing Committee on Judiciary
117th Legislature
Augusta, Maine 04333

Dear Senator Mills and Representative Treat:

THE PRESIDENT: Is the Senate ready for the question?

Please be advised that Governor Angus S. King, Jr. has nominated the Honorable William S. Brodrick of Kennebunkport for appointment as an Active Retired Justice of the Maine Superior Court.

The Doorkeepers will secure the Chamber.

Pursuant to Title 4, MRSA §104, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

The Secretary will call the Roll.

Sincerely,

ROLL CALL

S/Jeffrey H. Butland
President of the Senate

S/Dan A. Gwadodsky
Speaker of the House

YEAS: Senators: NONE
NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, FAIRCLOTH, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

Which was READ and referred to the Committee on JUDICIARY.

Sent down for concurrence.

ABSENT: Senators: BUSTIN, ESTY, GOLDTHWAIT

EXCUSED: Senator: BERUBE

SENATE PAPERS

Bill "An Act to Amend the Cruelty to Animals Laws by Defining the Term "Undue Suffering"
S.P. 351 L.D. 979

No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 3 Senators being absent, and 1 Senator having been excused, 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 John B. Beliveau, for reappointment as a Judge of the Maine District Court, was CONFIRMED.

Presented by Senator HANLEY of Oxford
Cosponsored by Senators: CASSIDY of Washington, PARADIS of Aroostook

The Secretary informed the Speaker of the House.

Reference to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY suggested and ORDERED PRINTED.

Which was referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Clarify the Display of Social Security Numbers on Insurance-related Identification Cards" (Emergency)

S.P. 345 L.D. 950

Presented by Senator **ABROMSON** of Cumberland
Cosponsored by Representative **CAMPBELL** of Holden

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 24.

Reference to the Committee on **BANKING AND INSURANCE** suggested and **ORDERED PRINTED**.

Which was referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Include the Emergency Medical Services' Board in the List of Boards Reviewing Criminal Convictions Before Licensing"

S.P. 346 L.D. 951

Presented by Senator **PARADIS** of Aroostook
Cosponsored by Senator: **HARRIMAN** of Cumberland,
Representative: **REED** of Falmouth

Submitted by the Department of Public Safety pursuant to Joint Rule 24.

Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Clarify Juvenile Detention"

S.P. 354 L.D. 982

Presented by Senator **BEGLEY** of Lincoln
Cosponsored by Senators: **ABROMSON** of Cumberland,
CAREY of Kennebec, **FERGUSON, JR.** of Oxford, **HALL** of Piscataquis, Representatives: **CLUKEY** of Houlton, **MCALLEVEY** of Waterboro

Submitted by the Department of Corrections pursuant to Joint Rule 24.

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

Which was referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Amend the Teacher Certification Laws Relating to Certification Waivers"

S.P. 353 L.D. 981

Presented by Senator **SMALL** of Sagadahoc
Cosponsored by Representatives: **AULT** of Wayne,
CLOUTIER of South Portland

Submitted by the Department of Education pursuant to Joint Rule 24.

Bill "An Act to Authorize the Towns of Mechanic Falls, Minot and Poland to Form a Community School District" (Emergency)

S.P. 355 L.D. 983

Presented by Senator **CLEVELAND** of Androscoggin
Cosponsored by Senator **STEVENS, JR.** of Androscoggin and Representative **AIKMAN** of Poland and Senators: **ABROMSON** of Cumberland, **AMERO** of Cumberland, **BERUBE** of Androscoggin, **BUTLAND** of Cumberland, **CARPENTER** of York, **CASSIDY** of Washington, **ESTY, JR.** of Cumberland, **FERGUSON, JR.** of Oxford, **HALL** of Piscataquis, **HANLEY** of Oxford, **HARRIMAN** of Cumberland, **HATHAWAY** of York, **KIEFFER** of Aroostook, **LORD** of York, Representatives: **AULT** of Wayne, **BARTH**, **JR.** of Bethel, **BIRNEY** of Paris, **BRENNAN** of Portland, **BUCK** of Yarmouth, **CLUKEY** of Houlton, **DAMREN** of Belgrade, **GAMACHE** of Lewiston, **GERRY** of Auburn, **JOSEPH** of Waterville, **JOY** of Crystal, **JOYCE** of Biddeford, **JOYNER** of Hollis, **KERR** of Old Orchard Beach, **MCELROY** of Unity, **NICKERSON** of Turner, **OTT** of York, **POULIOT** of Lewiston, **RICKER** of Lewiston, **UNDERWOOD** of Oxford, **WINGLASS** of Auburn

Reference to the Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and **ORDERED PRINTED**.

Which were referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Remove Outdated and Duplicative Provisions from the Statute Governing the Office of Substance Abuse"

S.P. 349 L.D. 977

Presented by Senator **STEVENS, JR.** of Androscoggin
Cosponsored by Senators: **BUSTIN** of Kennebec,
CASSIDY of Washington, **FERGUSON, JR.** of Oxford,
KIEFFER of Aroostook, **MICHAUD** of Penobscot,
Representatives: **BARTH, JR.** of Bethel, **CHIZMAR** of
Lisbon, **DAGGETT** of Augusta, **DONNELLY** of Presque
Isle, **LIBBY** of Kennebunk, **NADEAU** of Saco,
NICKERSON of Turner, **POIRIER** of Saco, **TRUE** of
Fryeburg

Submitted by the Office of Substance Abuse
pursuant to Joint Rule 24.

Reference to the Committee on **HUMAN RESOURCES**
suggested and **ORDERED PRINTED**.

Which was referred to the Committee on **HUMAN**
RESOURCES and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Transfer Responsibility for
Approval of Employee Assistance Programs"
S.P. 350 L.D. 978

Presented by Senator **STEVENS, JR.** of Androscoggin
Cosponsored by Senators: **BUSTIN** of Kennebec,
CASSIDY of Washington, **FERGUSON, JR.** of Oxford,
KIEFFER of Aroostook, **MICHAUD** of Penobscot,
Representatives: **BARTH, JR.** of Bethel, **CHIZMAR** of
Lisbon, **DAGGETT** of Augusta, **DONNELLY** of Presque
Isle, **LIBBY** of Kennebunk, **NADEAU** of Saco,
NICKERSON of Turner, **POIRIER** of Saco, **TRUE** of
Fryeburg

Submitted by the Office of Substance Abuse
pursuant to Joint Rule 24.

Reference to the Committee on **LABOR** suggested and
ORDERED PRINTED.

Which was referred to the Committee on **LABOR** and
ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act Regarding Liquor Licenses for Golf
Courses"
S.P. 348 L.D. 976

Presented by Senator **LAWRENCE** of York
Cosponsored by Representative: **OTT** of York

Bill "An Act to Amend the Charter of the Somerset
Woods Trustees to Eliminate the Cap on the Value of
Holdings"
S.P. 352 L.D. 980

Presented by Senator **MILLS** of Somerset
Cosponsored by Representative **HATCH** of Skowhegan

Reference to the Committee on **LEGAL AND VETERANS**
AFFAIRS suggested and **ORDERED PRINTED**.

Which were referred to the Committee on **LEGAL AND**
VETERANS AFFAIRS and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Ensure Consistency Between State
and Federal Environmental Requirements"
S.P. 347 L.D. 952

Presented by Senator **BUTLAND** of Cumberland
Cosponsored by Representative **GWADOSKY** of
Fairfield and Senators: **ABROMSON** of Cumberland,
AMERO of Cumberland, **BEGLEY** of Lincoln, **BENOIT** of
Franklin, **BERUBE** of Androscoggin, **CAREY** of
Kennebec, **CARPENTER** of York, **CASSIDY** of
Washington, **CIANCHETTE** of Somerset, **ESTY, JR.** of
Cumberland, **FERGUSON, JR.** of Oxford, **GOLDTHWAIT**
of Hancock, **HALL** of Piscataquis, **HANLEY** of
Oxford, **HARRIMAN** of Cumberland, **HATHAWAY** of York,
KIEFFER of Aroostook, **LORD** of York, **MILLS** of
Somerset, **PENDEXTER** of Cumberland, **RUHLIN** of
Penobscot, **SMALL** of Sagadahoc, **STEVENS, JR.** of
Androscoggin, Representatives: **AHEARNE** of
Madawaska, **AULT** of Wayne, **BAILEY** of Township 27,
BARTH, JR. of Bethel, **BIGL** of Bucksport, **BIRNEY**
of Paris, **BUCK** of Yarmouth, **CAMERON** of Rumford,
CAMPBELL of Holden, **CHICK** of Lebanon, **CLUKEY** of
Houlton, **CROSS** of Dover-Foxcroft, **DAMREN** of
Belgrade, **DEXTER** of Kingfield, **DIPIETRO** of South
Portland, **DRISCOLL** of Calais, **FARNUM** of South
Berwick, **GIERINGER, JR.** of Portland, **GOULD** of
Greenville, **GREENLAW** of Standish, **HARTNETT** of
Freeport, **HEINO** of Boothbay, **HICHBORN** of
LaGrange, **JACQUES** of Waterville, **JOY** of Crystal,
JOYCE of Biddeford, **JOYNER** of Hollis, **KERR** of Old
Orchard Beach, **KILKELLY** of Wiscasset, **KNEELAND** of
Easton, **LEMONT** of Kittery, **LIBBY** of Kennebunk,
LOOK of Jonesboro, **LOVETT** of Scarborough,
MARSHALL of Eliot, **MARVIN** of Cape Elizabeth,
MCALEVEY of Waterboro, **MERES** of Norridgewock,
MURPHY of Berwick, **NADEAU** of Saco, **NICKERSON** of
Turner, **O'GARA** of Westbrook, **PINKHAM** of Lamoine,
PLOWMAN of Hampden, **POULIN** of Oakland, **POULIOT** of
Lewiston, **REED** of Falmouth, **RICKER** of Lewiston,
ROSEBUSH of East Millinocket, **SPEAR** of Nobleboro,
STEDMAN of Hartland, **STROUT** of Corinth, **TAYLOR** of
Cumberland, **TRIPP** of Topsham, **TRUE** of Fryeburg,
TUFTS of Stockton Springs, **UNDERWOOD** of Oxford,
VIGUE of Winslow, **WATERHOUSE** of Bridgton,
WHITCOMB of Waldo

Reference to the Committee on **NATURAL RESOURCES**
suggested and **ORDERED PRINTED**.

Which was referred to the Committee on **NATURAL**
RESOURCES and **ORDERED PRINTED**.

Sent down for concurrence.

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

Senator LAWRENCE of York was granted unanimous consent to address the Senate off the Record.

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

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

After recess

Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on LABOR on Bill "An Act to Preserve the Solvency of the Unemployment Compensation Fund" (Emergency)

S.P. 303 L.D. 842

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-24)

Signed:

Senators:

BEGLEY of Lincoln
RAND of Cumberland
MILLS of Somerset

Representatives:

HATCH of Skowhegan
SAMSON of Jay
STEDMAN of Hartland
PENDLETON, JR. of Scarborough
JOY of Crystal
CHASE of China
LEMAIRE of Lewiston
WINSOR of Norway
TUTTLE, JR. of Sanford

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

Signed:

Representative:

JOYCE of Biddeford

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-24) READ.

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

Senator HATHAWAY: Thank you Mr. President, Ladies and Gentlemen of the Senate. I just want to point out that I think this is a very dangerous situation for us. It is a situation that I think came before this body two years ago when, in fact, at that time there was a temporary compromise reached. I see that this is an extension of another temporary compromise. I think it is an issue that needs to be resolved and I would hope that in the very near future that this issue would be resolved. I think this hits directly at the biggest problems that face the State at this time, that is job creation and the growth of our economy. I am afraid that once again the small business people of this State have not had a voice in the decision on this bill and that pains me greatly. I believe, once again, that we are just offering a quick fix to a problem that we are sweeping under the rug and I would hope that it is an issue that we can address, successfully, very quickly. I would like to have a division, if I could, on this. Thank you.

Senator HATHAWAY of York requested a Division.

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

Senator BEGLEY: Thank you Mr. President. The representation on both sides, labor and management, have asked for this as a point of cooperation between the two bodies and their membership, on both sides, have been notified of the proposal. It is not a case whereby one or two people are making this decision. It is a joint decision and it is one that we were told, in the Committee on Labor, that had been broken down and agreed to by those parties and they are

asking us to pass this for the betterment of both business and labor. Is it a solution? No. Are they going to work on a solution? We certainly hope so. But, at this juncture it is not a case where small business people have not been contacted and are completely ignorant of it. Their organizations have asked for this and said to us that they have notified their people. Nobody wants to pay the additional amount of money, but nobody wants to go broke and then turn and borrow money from the federal government at a very high rate of interest, because that is what you must do if you allow this to go into a situation where there is no money in the unemployment fund. Thank you.

Senator HATHAWAY of York requested and received leave of the Senate to withdraw his request for a division on Adoption of Committee Amendment "A" (S-24).

Committee Amendment "A" (S-24) **ADOPTED**.

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

Senator HATHAWAY of York requested a Division.

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

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.

30 Senators having voted in the affirmative and 1 Senator having voted in the negative, the bill was **PASSED TO BE ENGROSSED AS AMENDED**.

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

COMMITTEE REPORTS

House

Change of Reference

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Establish a Lead Poisoning Fund"

H.P. 560 L.D. 761

Reported that the same be **REFERRED** to the Committee on **TAXATION**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION**.

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

The Bill **REFERRED** to the Committee on **TAXATION**, in concurrence.

Ought to Pass As Amended

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Increase the Pay of Trustees of the Kingfield Water District"

H.P. 32 L.D. 26

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-25)**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT A" (H-25)**

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-25) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Decrease to Zero the Allowable Blood-alcohol Level of a Person Holding a Juvenile Provisional License"

H.P. 47 L.D. 41

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-22)**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT A" (H-22)**

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-22) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, to Change the Nature of the Commission to Study the Feasibility of a Capital Cultural Center and Its Powers (Emergency)
H.P. 154 L.D. 202

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-21)

Signed:

Senators:

SMALL of Sagadahoc
ESTY, JR. of Cumberland
ABROMSON of Cumberland

Representatives:

MARTIN of Eagle Lake
AULT of Wayne
BARTH, JR. of Bethel
DESMOND of Mapleton
STEVENS of Orono
CLOUTIER of South Portland
MCELROY of Unity
BRENNAN of Portland

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

Signed:

Representatives:

LIBBY of Buxton
WINN of Glenburn

Comes from the House with the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-21).

Which Reports were READ.

On motion by Senator SMALL of Sagadahoc, the Majority OUGHT TO PASS AS AMENDED Report ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-21) READ and ADOPTED, in concurrence.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Law Regarding the Administrative Suspension of a Driver's License for Operating under the Influence"

H.P. 189 L.D. 248

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-20)

Signed:

Senators:

BENOIT of Franklin
HALL of Piscataquis
O'DEA of Penobscot

Representatives:

CLARK of Millinocket
BUNKER, JR. of Kossuth Township
GOOLEY of Farmington
JOHNSON of South Portland
MCALEVEY of Waterboro
PEAVEY of Woolwich
THOMPSON of Naples

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

Signed:

Representatives:

CLUKEY of Houlton
WATERHOUSE of Bridgton
WHEELER of Bridgewater

Comes from the the House with the Minority OUGHT NOT TO PASS Report READ and ACCEPTED.

Which Reports were READ.

Senator BENOIT of Franklin moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report in NON-CONCURRENCE.

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

Senator BENOIT: Thank you Mr. President. May it please the Senate. This is a very straightforward and simple amendment to the law that the Committee on Criminal Justice voted ten to three, ought to pass, and really addresses the matter of fairness. As you know right now, the law says an administrative hearing before the Secretary of State's Office in an OUI case, the person who is the defendant in the case can ask for a continuance on the hearing, if good cause is shown. It is discretionary with the Secretary of State's Office to grant that request or not. The law does not allow that person's attorney to obtain a continuance of the hearing, no matter how valid the attorney's request is. This measure is sponsored by Representative Thompson, a practicing

attorney in the Naples area, who is not able to represent his client before the Secretary of State's administrative hearing, because another commitment in court would not release him. So, his client has to go to the hearing without counsel. A denial, in my view, of due process of law. This has come over from the House somewhat in error. There is a mistake here as to what happened in the House on this measure, because it indicates that the ought to pass report was accepted. Actually, the three Representatives prevailed in the House, and as I understand it, the action there was ought not to pass in the House. You are going to hear an argument on this measure from others in this body that this is a lawyers' bill, as if to say in our society attorneys are second-class citizens, if you will. I guess your vote today will either confirm that or not. I would like to think that in our society nobody is second-rate or second-class. If an attorney has as a legitimate reason for a continuance as a client, the attorney ought to be given a continuance, along with the client. Remember now, this does not add a number of continuances to the existing practice. In the law one continuance is allowed, that isn't going to change, that remains the same.

Another point that is important is that this measure still leaves with the Secretary of State's office the discretion to turn down the request. So, I guess in conclusion, what I am speaking to on this measure that was ten to three out of the Criminal Justice Committee for ought to pass, is a matter of fairness. A matter of manners. Let's give the attorney the same fairness we give to the client in a situation, and allow a continuance, just one if there be good reason, if in fact the attorney is making the request. Thank you Mr. President.

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

Senator PENDEXTER: Thank you Mr. President, Men and Women of the Senate. I ask you to oppose L.D. 248 because this bill will result in keeping drunk drivers on the road for as much as thirty to sixty days more after being arrested for drunk driving. The way the system works now is after someone is stopped by an officer and served an OUI conviction, he or she gets a letter from the Secretary of State that says their license will be suspended in fourteen days unless he can show cause why that shouldn't happen. Anyone has a right to request a fair hearing within those fourteen days. What happens at that point is the licensee is allowed to keep the license and continue to operate on our highways until the fair hearing date is reached. What this bill does is extend the stay of that suspension if the reason is the attorney cannot make the fair hearing date. The fair hearing very rarely turns any convictions around, so, I would say to you that we need to consider that in our decision when we vote on this bill, because the usual reason why the fair hearing doesn't stay is because the police officer just doesn't show up. So, I would remind you that our technology of today, where we do convict OUI drivers, holds up in fair hearings and in court. So, I would ask you to think about that as well. The other reason is to reschedule another fair hearing takes another thirty to sixty days, so what we are really doing is allowing OUI offenders to continue to drive

on our highways. In all due respect to the attorneys who defend OUI offenders, I have to say they can have their hearing date, if they so choose, but lets not do it on the back of highway safety. If they have to change their date, fine, they can have that, but they will have their license suspended. Nobody can deny that this will put our OUI laws backwards and OUI drivers will be allowed to continue to drive on our highways, more so than we are allowing them to do now. In a lot of situations where I have served on OUI task forces, as Chair of the Maine Highway Safety Commission, I have been involved a lot in these issues and I have really come to the conclusion that the biggest problem with our OUI offenders are the offenders themselves, and the attorneys who continue to defend them. Yes, there really is nothing wrong with that, but I would have to say that those are the two entities that we continue to fight all of the time. We have to stop and think about what are we here for. Are we here to protect our highways and the better good of our people? All you have to do is speak to families and victims of OUI offenders. There is no reason why we have to perpetuate laws that allow them to operate on our highways one more day than we have to. So, in all good deference to my colleague from Franklin County, I would ask you to vote against this legislation. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator HALL: Thank you Mr. President, Ladies and Gentlemen. The Senator from Franklin, Senator Benoit, has done a excellent job of presenting the majority case on this particular L.D. I would like to make just two brief points. Number one, though I'm not in favor of people who drive under the influence, and I really don't have too much mercy for them, I do believe that they do have a right to their particular counsel. That is a right they have, and their counsel cannot be there on a particular day, it is not their fault. Also, I would like to remind everyone that, indeed, if this were a perfect world that we live in, by taking someone's operator's license, they would never drive again, until it was reinstated. Probably the most common offense in motor vehicle court today, outside of speeding, is OAS, operating after suspension. I can assure you, by looking at those, that the person who has a problem with drinking and driving could care less whether he has a drivers' license in his pocketbook at the time or not, and he will continue to do that, as he has proven time and time again in the past. This bill, surely will not put a stop to that. Thank you.

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

Senator STEVENS: Mr. President, Members of the Senate. The Committee amendment will reduce the monies from the highway fund, although it could be a minor amount, no one knows for sure just what the cost would be. So, I will be voting against this bill to protect the highway monies.

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

Senator BENOIT: Thank you Mr. President. May it

please the members of the Senate. I guess when it comes to OUI offenses, historically I had earned a title, working in this area, as the hanging judge. Nobody in the State could claim to be tougher on drunk drivers than yours truly. But let me point out some things here, and I'm moving forward on fairness still, that is the whole issue here with me, fairness. The police officer can get a continuance, according to the Secretary of State's office, if there is a good reason for it. The police officer in the case can get a continuance. Still, there is a stay of suspension of the license. The person involved in the case can get a continuance for good cause, and still there is suspension of the license. I would wager that for good cause the hearing officer in the Secretary of State's office can get a continuance. Who can't get a continuance? The attorney that represents the respondent. We are denying due process of law to the client who is forced to go to that hearing without counsel. It isn't right. It isn't fair. You can talk and talk and talk, and I have heard it argued that it is going to extend the time that the person has a license. Yes, it will, but that again is up to the Secretary of State's office. They are in command of that. They are in control of that. Give the attorney the same right that everybody else in the case gets. A continuance for good cause, discretionary with the Secretary of State's office. Don't make the attorneys second-class citizens. Thank you Mr. President.

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. Our constitution, and the application of the constitution is predicated on the concept of due process, that we, as individuals of this State, and of this nation, have an opportunity to be fairly heard by a governmental tribunal before judgement is passed on us. The bill in front of you, which has garnered the support of the majority of the Joint Standing Committee on Criminal Justice, realizes that, realizes that there is a due process question here. Those individuals who do have counsel and who do have a defense against the State's claim that they have been operating under the influence, and the last time I checked you were still innocent until proven guilty, we have to maintain that whether we like it or not. I believe that every member of this chamber wants to do everything in our power to ensure that our streets are kept safe and that we do get the drunk drivers off our roads as quickly as possible, without undermining our system of due process. This may be just one little notch in the gear system of our due process, but I believe it is an important one. For that reason, I will be supporting the majority report.

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

Senator **PENDEXTER:** Thank you Mr. President, Men and Women of the Senate. I would just remind you that the OUI offender still has the right to due process. The question here is, are we going to extend the time until we suspend the license. We happen to be talking about attorneys at this point. I don't care who would come forth with a bill to ask

if they can get the extension, I would oppose any of that. The issue here is, are we going to weaken our laws so that we lengthen the time until we suspend that license from an OUI offender who has pretty strong evidence against them, in the sense that a breath test is pretty strong evidence. I would remind you again, I asked the Secretary of State's office how often do we get different results at these hearings? Very rarely does anything ever change. So the issue here is, yes, it is being made out that attorneys aren't being treated fair or whatever, I don't really care who would come before us and ask for an extension. I don't think we should grant it, because the issue here is are we going to weaken our laws to allow OUI offenders to continue to operate on our highways longer than the thirty days or so that we allow presently. This would extend it possibly another thirty days. Thank you.

Senator **BENOIT** of Franklin requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BENOIT** of Franklin that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

A Division has been requested.

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

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

13 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator **BENOIT** of Franklin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Off Record Remarks

On motion by Senator **LAWRENCE** of York, **RECESSED** until 4 o'clock this afternoon.

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

House Papers

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (Emergency)
H.P. 700 L.D. 958

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

Comes from the House, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

Bill "An Act to Require Licensure for Use of the Title Athletic Trainer"
H.P. 699 L.D. 957

Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.

Bill "An Act Concerning the Protection of Privacy Data Regarding Sex Offenders"
H.P. 698 L.D. 956

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**.

Which was referred to the Committee on **CRIMINAL JUSTICE**, in concurrence.

Bill "An Act Establishing Education as a Priority for the State by Expediting Consideration of the Education Budget"
H.P. 707 L.D. 964

Bill "An Act to Protect Maine's Maritime Heritage"
H.P. 708 L.D. 965

Bill "An Act to Improve Maine Students' Preparedness for the Global Economy by Enhancing Opportunities for Global Education"
H.P. 716 L.D. 973

Reference to the Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in concurrence.

Bill "An Act to Reimplement Statewide Child Sex Abuse Medical Teams"
H.P. 703 L.D. 960

Bill "An Act to Amend the Adult Protective Services Act to Allow Referrals of Cases of Abuse, Neglect and Exploitation to Law Enforcement Agencies"
H.P. 710 L.D. 967

Bill "An Act to Ensure the Continuation of Current Hospice Services"
H.P. 712 L.D. 969

Bill "An Act to Require Special Care Program Disclosure by Entities Providing Alzheimer Care"
H.P. 714 L.D. 971

Bill "An Act to Create an Advisory Board and State and Local Interagency Teams to Assist in the Provision of Care for Children and Adolescents with Severe Emotional Disturbance"
H.P. 717 L.D. 974

Reference to the Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **HUMAN RESOURCES**, in concurrence.

Bill "An Act to Limit Liability for Farm Pick-your-own Operations"
H.P. 696 L.D. 954

Reference to the Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.

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

Which was referred to the Committee on **JUDICIARY**, in concurrence.

Bill "An Act to Provide a Tax Credit for the Rehabilitation of Historic Properties"
H.P. 715 L.D. 972

Reference to the Committee on **TAXATION** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **TAXATION**, in concurrence.

Bill "An Act to Amend the Workers' Compensation Act As It Relates to Incarcerated Individuals"
H.P. 697 L.D. 955

Reference to the Committee on **LABOR** suggested and **ORDERED PRINTED**.

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

Which was referred to the Committee on **LABOR**, in concurrence.

Bill "An Act to Require Certain Motorists to Yield When Traveling under the Speed Limit"
H.P. 705 L.D. 962

Reference to the Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED**.

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

Which was referred to the Committee on **TRANSPORTATION**, in concurrence.

Bill "An Act to Require the Legislature to Set the Fees Imposed by Executive Agencies"
H.P. 704 L.D. 961

Bill "An Act Concerning County Sheriff Patrols in Municipalities with No Local Law Enforcement"
H.P. 709 L.D. 966

Bill "An Act to Establish the Department of Health and Family Services"
H.P. 718 L.D. 975

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

Come from the House, referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **STATE AND LOCAL GOVERNMENT**, in concurrence.

Bill "An Act to Protect the Integrity of the Maine Cellular Telecommunications Network"
H.P. 711 L.D. 968

Bill "An Act to Establish Qualifications for Public Utilities Commissioners"
H.P. 713 L.D. 970

Reference to the Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **UTILITIES AND ENERGY** and **ORDERED PRINTED**.

Which were referred to the Committee on **UTILITIES AND ENERGY**, in concurrence.

Pursuant to Public Law
WORKERS COMPENSATION BOARD and the
SUPERINTENDENT OF INSURANCE

Bill "An Act to Exempt Nursing Homes from the Rooms and Meals Tax"
H.P. 706 L.D. 963

The **WORKERS COMPENSATION BOARD** and the **SUPERINTENDENT OF INSURANCE**, pursuant to the Public Law 1993, chapter 619 ask leave to submit their findings and to report that the accompanying Bill "An Act to Amend the Workers' Compensation Board's Annual Assessment" (Emergency)

H.P. 695 L.D. 953

Be referred to the Committee on **LABOR** for Public Hearing and printed pursuant to Joint Rule 20.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **LABOR** and **ORDERED PRINTED**, pursuant to Joint Rule 20.

Which Report was **READ** and **ACCEPTED** and the Bill referred to the Committee on **LABOR** and **ORDERED PRINTED**, pursuant to Joint Rule 20, in concurrence.

**Pursuant to Statutes
ADMINISTRATOR OF THE UNORGANIZED TERRITORY**

The **ADMINISTRATOR OF THE UNORGANIZED TERRITORY**, pursuant to the Maine Revised Statutes, Title 36, section 1604 asks leave to submit its findings and to report that the accompanying Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1995-96" (Emergency)

H.P. 701 L.D. 959

Be referred to the Committee on **TAXATION** for Public Hearing and printed pursuant to Joint Rule 20.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **TAXATION** and **ORDERED PRINTED**, pursuant to Joint Rule 20.

Which Report was **READ** and **ACCEPTED** and the Bill referred to the Committee on **TAXATION** and **ORDERED PRINTED**, pursuant to Joint Rule 20, in 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. 702

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO SUPPORT THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the President and the Congress of the United States, as follows:

WHEREAS, the federal House Appropriations Subcommittee has voted to eliminate funding for the Low Income Home Energy Assistance Program; and

WHEREAS, approximately 60,000 families in Maine receive aid through the Low Income Home Energy Assistance Program; and

WHEREAS, the Low Income Home Energy Assistance Program is crucial to the Maine families who rely on the federal program to help with weatherization costs for their homes and winter fuel bills; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge that legislation be enacted by the Senate and the House of Representatives of the Congress of the United States to restore funding for the Low Income Home Energy Assistance Program; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

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

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

Joint Resolution

The following Joint Resolution: H.P. 693

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO STOP MANDATES THAT ARE BEYOND ITS CONSTITUTIONALLY DELEGATED POWERS

We, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the members of Congress of the United States as follows:

WHEREAS, the Tenth Amendment to the United States Constitution reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

WHEREAS, the Tenth Amendment defines the total scope of federal power as being that power specifically granted by the United States Constitution and no more; and

WHEREAS, the scope of power defined by the Tenth Amendment means that the Federal Government was created by the states specifically to be an agent of the states; and

WHEREAS, currently, the states are demonstrably treated as agents of the Federal Government; and

WHEREAS, numerous resolutions have been forwarded to the Federal Government by the Legislature of the State of Maine without any response or result from Congress or the Federal Government; and

WHEREAS, many federal mandates are directly in violation of the Tenth Amendment to the United States Constitution; and

WHEREAS, the United States Supreme Court has ruled in New York v. United States, 112 S. Ct. 2408 (1992) that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people of the State of Maine, claim sovereignty under the Tenth Amendment to the United States Constitution over all powers not otherwise enumerated and granted to the Federal Government by the Constitution; and be it further

RESOLVED: That this memorial serve as notice and demand to the Federal Government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the President of the Senate and the Speaker of the House of Representatives of each state legislature in the nation and each member of the Maine Congressional Delegation.

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

Comes from the House **READ** and **ADOPTED AS AMENDED BY HOUSE AMENDMENT "A" (H-45)**.

Which was **READ**.

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

Joint Resolution

The following Joint Resolution: H.P. 720

JOINT RESOLUTION IN HONOR OF THE MAINE FARMER AND MAINE AGRICULTURE

WHEREAS, one fifth of our national work force are farmers in the business of food and fiber production for world markets, accounting for 19% of the gross national product; and

WHEREAS, the Maine farmer provides \$500,000,000 in total farm income and is credited with a \$1,300,000,000 contribution to Maine's economy; and

WHEREAS, Maine farms provide not only food for families but scenic views, open spaces, employment opportunities and a tangible link to our culture and heritage; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred Seventeenth Legislature of the State of Maine, now assembled in the First Regular Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State and to pledge our support and encouragement, and urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agricultural industry; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources in token of the esteem in which those in this vital field are held.

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

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

Senate

Change of Reference

Senator **MILLS** for the Committee on **JUDICIARY** on Bill "An Act to Legalize Cannabis for Medical Treatment of Patients With HIV/AIDS"

S.P. 85 L.D. 204

Reported that the same be **REFERRED** to the Committee on **HUMAN RESOURCES**.

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

The Bill **REFERRED** to the Committee on **HUMAN RESOURCES**.

Sent down for concurrence.

Ought to Pass

Senator **O'DEA** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Correct Certain Statutory References in the Crime of Negotiating a Worthless Instrument"

S.P. 205 L.D. 548

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

Senator **GOLDTHWAIT** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Expand the Uses of the Economic Opportunity Fund" (Emergency)

S.P. 230 L.D. 596

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-23)**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-23) **READ** and **ADOPTED**.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Limit a Citizen's Right to Threaten the Use of Deadly Force against a Law Enforcement Officer Engaged in Carrying out Public Duty Except When Justified in Using Deadly Force"

S.P. 200 L.D. 543

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

Signed:

Senator:
BENOIT of Franklin

Representatives:
BUNKER, JR. of Kossuth Township
CLUKEY of Houlton
GOOLEY of Farmington
MCALEVEY of Waterboro
WATERHOUSE of Bridgton
WHEELER of Bridgewater

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

Signed:

Senators:
HALL of Piscataquis
O'DEA of Penobscot

Representatives:
CLARK of Millinocket
JOHNSON of South Portland
PEAVEY of Woolwich
THOMPSON of Naples

Which Reports were **READ**.

Senator **BENOIT** of Franklin moved that the Senate **ACCEPT** the Majority **UGHT TO PASS** Report.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate. This is an important measure that has come over from the Criminal Justice Committee, and looking at the calendar, you will notice that the ought to pass report was seven to six. Looking at the bill, and by the way, this measure comes from the Criminal Law Advisory Commission, this is not a measure that was off the wall, if you will, but is one that is given a lot of consideration by that group. A group put together by the legislature to study the criminal code and to make suggestions to change, whenever those changes are considered positive. This bill proposes to add one sentence to the criminal code. It is a measure that would diffuse violence, if you will. It says this, whenever a law enforcement officer approaches a citizen of the State with non-deadly force, in order to affect a purpose, a law enforcement officer's purpose, the citizen cannot react to the officer with a threat of deadly force. The citizen can react to the officer with the same kind of force the officer is exercising, which is non-deadly force, that is not taken away from the citizen. The bill is intended to diffuse violence. In other words, if the officer approaches you with non-deadly force, you should not threaten the officer back with deadly force. In a way, I guess I can't lose on this legislation, for this reason - for years I have contended our society

is a violent one. Our nation, our country, are probably one of the more violent societies in the world. For some reason we love our violence. I'm going to see if that is true, or not, today on this measure. Because to vote against ought to pass, you're going to be voting for violence. Voting ought to pass, you will be voting to diffuse violence between an officer and a citizen, thereby promoting a safer relationship, if you will, between the two. So, I would ask you to consider what this proposes to do, as a measure from the Criminal Law Advisory Committee.

Now, I know you are going to hear argument by the other side today that goes this way, "My home is my castle. Therefore, when an officer approaches me in my home, even with non-deadly force, I can repel the officer by threatening deadly force." I say to that this, a life is more important than a place. A life is more important than a place. That's what this measure recognizes. Not to honor a place beyond a person's life. It's a close one, seven to six, I understand there will be comments made, perhaps, for and against the measure, but remember what it intends to do. It will take a situation that is non-deadly, from the officers point of view, as you perceive the officer coming at you, and not to meet the officer with a threat of deadly force. So, I would urge you to support the motion, ought to pass. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator HALL: Thank you Mr. President, Ladies and Gentlemen of the Senate. It will probably not be many times that you will see me oppose the good Senator, my good friend from Franklin, Senator Benoit. But, this is one day that I have to do so. He has promoted that this bill will reduce violence. I do not agree. I think if anything, it may create more violence, but thank goodness this is the type of country where we can disagree and have differences of opinion. Having served twenty-one years in law enforcement, I have had occasion to knock on some doors where I might not have been very welcome. Sometimes I have had the door shut in my face, other times I have talked myself inside. I feel very strongly that the constitution of this country allows us a sacred place in our home. There are provisions in our law where a home may be searched, with a search warrant, a person may be taken from their home with a proper arrest warrant. We do live in a time of much crime, and I am sorry to see that. I do need to tell you that a police officer, when he has taken the oath, takes it very seriously, and he lives by it for as long as he carries that badge. When he is called out on a complaint, to go to a residence, his goal is to resolve that complaint, regardless of what it may be. But, his goal is to resolve it legally. We cannot expect our citizens to know what the law is on every issue. Most normal thinking people would not threaten a police officer, whether it was at their home, from their motor vehicle, from the sidewalk, or wherever. But, we are dealing with many people that are not all of the same mental balance, and everyone feels that if they are safe anywhere it is in their home. I can assure you that if a police officer wishes to incite the individual at their home, that most of them are qualified to do that, and

an illustration I will use is if the officer knocks on the door and the individual comes and answers the door with a sidearm strapped on their side. That is not so uncommon in some areas of the State. It would be quite easy for that officer to be able to entice that individual to threaten him. Then the officer would be within his right to arrest him if we passed this bill. What the officer should do in that situation, if nobody is within immediate danger, is to back off. One of the hardest things for any and most all law enforcement officers to do is to back off. There are times when it is needed, to re-group, re-think and do things legally.

This particular bill was brought to us out of a Law Court decision, and I will briefly go over it, hopefully precisely the way it happened. The police had received a report that they had not seen this woman for a couple of days, or whatever. They went to the house and knocked on the door to inquire. The husband answered the door. For whatever reason, whether he was a little unbalanced or didn't like police, or whatever, he refused to answer their questions. He was under no obligation to answer their questions. They would have liked to have had him to, but he apparently did not want to, and he either came to the door with a knife in each hand or got a knife and came back and threatened them. They arrested him for criminal threatening, which is an offense, but not in your home, apparently, according to the Maine Supreme Court. They overturned it. That is why we now have this bill before us today, so that that would have been legal for the police to do. To end the story, the man's wife turned up a couple of days later. She had apparently been away visiting or vacationing, or whatever the case the be. I do feel very confident that we should not pass this piece of legislation. There are plenty of laws to protect these situations and I'm afraid that instead of saving some violence that it could, indeed, create more. That would be tragic. I would urge you to vote against the ought to pass motion. Thank you.

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

Senator BENOIT: Thank you Mr. President. I appreciate the remarks of the good Senator from Piscataquis, Senator Hall. I would like to respond to those comments. See, we have got this bill because bad cases make bad law. If you take a look at the statement of fact you will see what the case is that Senator Hall remarked about, State versus Clisham, and the Senator is correct about it. That is a bad case and it stands for bad law because our Supreme Court held in that case that the threatening of deadly force, by the person with the knives, was equal to the officers' use of non-deadly force. A bad case makes bad law. Apples on one side, oranges on the other. You don't have the force of the officer, non-deadly, being met with non-deadly force, but the Law Court said with the knife the citizen was demonstrating deadly force, and it's equal. Even courts make mistakes, and to me, that is a bad one. It's bad law. This bill intends to correct that bad law. Now, this business of the officer backing off reminds me of the case in Farmington some years ago where some folks broke into the hospital there for drugs. Officers came to the scene to investigate,

the alarm went off, and they are pursuing people through the woods. Now, the officers do not have weapons drawn, they are just chasing through the woods trying to locate these people who have just left the hospital, having broken in and stolen drugs. One of the officers comes into a clearing, perceives a person pointing a weapon at the officer, whereupon the officer, thinking he is going to be shot, pulls his sidearm and shoots the person. What do we have? This law intends to prevent that from happening. If, in fact, the citizen, and we are all presumed to know the law, don't give me this argument as rational that nobody is going to know the law, because we have a presumption that we all are supposed to know the law. Otherwise, the simplest speeding case gets off, "Gee, I didn't know there was a speeding statute on the books." That doesn't hold water. If this law were on the books, the person who was presumed to know it was in the clearing, the officer approaching and chasing the person, with non-deadly force now, is met up by the person using deadly force. Nobody gets hurt. You diffuse the violence with this kind of measure. That is what this is all about, to diffuse violence, not to honor it and to give it some higher level.

Finally, I would say about the constitutional question. There is no constitutional question that I know about, or some case law, or statute that says if you are in your home, and somebody comes to your home with non-deadly force, that you can whip out a pistol or a knife and take their life. There is nothing like that in our law, that if somebody comes to your house, even in a trespass, with non-deadly force, that you can react with the treat of deadly force. This law intends to diffuse the situation, not to honor violence, but to diffuse violence. I guess what I do, in closing, is give our law enforcement community, that we create, we don't have vigilantes out there, we have a law enforcement community, we don't have posses going around in our society, we have a law enforcement community in place to keep the peace, to keep the honor. When you are approached by one of those of the community, you are not to react, this bill says, with the threat of violence when the officer is not giving you violence, but is giving you something less. Again, what are we going to do today? Vote for violence? I am voting to diffuse violence. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator O'DEA: Thank you Mr. President, Men and Women of the Senate. I would urge you to reject the motion before you at this time, and vote instead for the ought not to pass report. This bill received a great deal of play in the Committee. I was interested to hear the remarks of the good Senator from Piscataquis, Senator Hall, in Committee, who offered some insights that he has shared with this body that I thought were especially relevant. I don't think it is necessary to repeat them but I think there were a couple of interesting things said here today that do bear, perhaps, closer examination. The assertion was made by my Senate Chair on the Committee, the Senator from Franklin, that courts do make mistakes. This bill came as the result of a mistake that was made. The mistake was made at the lower court level, and the Law Court

remedied the mistake. Now what we have before us is an attempt to affect the Law Court decision through legislation. I don't know if that is an appropriate way to make public policy, but it certainly is one that bears questioning. Much of the discussion around this debate has been centered on whether or not we support law enforcement. I know this morning, in our Caucus, we had a discussion along those lines. This bill is not a referendum on whether or not people like the police, or whether or not they support law enforcement. If anybody had any notion to that effect, listening to the words of the good Senator from Piscataquis should dispell that. Nor is it a referendum on diffusing violence. I would suggest that if diffusing violence were as simple as passing a bill, or a law, that we would have a much more peaceable society in a heartbeat. What this bill is about, to my reading, is an attempt to tell a citizen that they cannot take what steps they deem necessary, in terms of making verbal threats, in order to insure the security of their person or their residence. The case that this bill revolves around is a perfect illustration of one where the police were acting outside of their authority, and where the citizen, whose job and whose constitution the officer is sworn to protect, was affected. So, I would urge you to vote against this bill, and I would suggest that there are things that are even more important than stopping violence and stopping pain and human suffering. I think we heard the remarks of the Senator from Franklin, Senator Benoit, that a life is more important than a place. I would suggest that the larger principles here are more important than one life or five lives, if indeed, that is what the discussion is about, and I doubt that it is. Many people have died in defense of the constitution and made supreme sacrifices. This is a discussion, I believe, about what is an appropriate regard for the constitutional principles that law enforcement officers are protecting, and what we are doing in protecting our constituents from their government. I would just urge you to vote ought not to pass on this measure. Thank you.

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

Senator MILLS: Thank you Mr. President, Ladies and Gentlemen of the Senate. About fifteen years ago I had the experience of representing a fellow who lived in Westbrook. He woke up in the middle of the night, hearing noises in his kitchen. He lived in an apartment on the second or third floor. He was a little, wiry fellow, a fairly nervous guy, and he had a gun that he kept near the bed. He and his wife both woke up. He took the gun, left the bedroom and peered out into kitchen. He saw a much larger man in the kitchen, looking very strange at him and behaving in an odd way. He picked up the gun and he ordered him to leave. The fellow looked at him in a wild way and did not respond verbally. At some point in this confrontation across the kitchen table the intruder picked up a chair and swung it over his head and heaved it at this little fellow with the gun. It was not a wise move, it was also his last move, the 357 magnum dispatched the intruder, it killed him. It achieved a certain notoriety in the press and brought the public's attention to some of these issues that we have been discussing this afternoon. The Attorney General investigated and exonerated my client for two

reasons. Number one, my client had pointed the gun and fired only after he verified the intruder was a stranger and had no right on the premises, and he had ordered him to leave. Three times as I recall, before the fellow finally responded by throwing the chair. He also was justified in firing the gun because the chair being thrown at him was a physical threat to his person. The story behind it was tragic. The fellow tested out at about 2.5 blood alcohol level, he was just bombed and thought he was home. He had a wife and two kids. It was just a bad night. Why he threw the chair or why he behaved in that way is still a mystery. It was an odd case but it illustrates some things that are already current in our law, that are important to bear in mind. You need to know this because if you are tempted to shoot somebody who comes into your home, don't do it. There is no law that says that you can kill somebody for coming into your home. What the law says is that you may use deadly force if he refuses to leave, or if you are physically threatened. There is no such thing as a law that says your home is your castle. Current law, without this bill, current law says you don't have the right to kill somebody just because they are in your home. You have to take some other measure to extricate the intruder, by telling to leave. It's the refusal to leave, or what have you.

This situation, that Senator Hall, from Piscataquis, described to you in the case, is different. The fellow who came to the door with two knives did not actually use them on the police officer. He would not have been allowed, under our law, to use those knives on the police officer. All he did was to kind of brandish them, and threaten, and say "Look, I don't want anything to do with you guys, even if you are in uniform." And he had some knives. Under our law that is okay, you can do that. You can threaten. It's the same thing as my little fellow holding his gun. He threatened, and he was fine at that point, but he had no right to shoot, and that fellow had no right to use his knives certainly, unless the intruder failed to respond to a direct order. That's the key to your ability to use something to protect your home. The problem, I think, with this bill is that if you have a person who just threatens force with knives or guns, and really doesn't intend to use them, but just threatens force, it allows the officer to perceive that there is a crime. He is being threatened, and he then has the excuse that he needs to come into your home that he didn't have because he has no warrant. It gives the officer a method by which to intrude into the home that he doesn't have under current law. Neither this bill, nor current law, authorizes the actual use of these weapons. That is important to bear in mind. This bill, if it passes, would give the officer a reason to say that there is a crime in progress, I'm being threatened by this gun, or this knife, or this weapon. That gives him some leverage that he doesn't have under current law. I'm not so sure that safety is the issue as it is an issue of creating a special rule for police officers.

I might add, also, that we are not talking just about households here, it means that in any situation where deadly force is authorized, in ordinary interchange with a police officer, there is a whole set of special rules now. There is one big special rule, which is in this bill. I think this is a

difficult, difficult area. Anybody who thinks it is simple doesn't understand it. I don't understand it completely, and I'm not pretending to. But, I think I comprehend the shift in balance that the bill is attempting to make and I am inclined to vote against it. I say so with some embarrassment. The bill is sponsored in my name. It happened without even my knowledge because it is customary procedure for bills that come from the Criminal Law Advisory Commission to be sponsored by the Chair of Judiciary, even though this year I don't have jurisdiction over criminal matters. In any event, be that as it may, it came into the process without my review or understanding, which is atypical of how I introduce legislation. Having thought about it at some length today, my inclination is to join with Senator Hall from Piscataquis in opposing this. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President, Women and Men of the Senate. I rise, as well, to oppose this bill because my concern is that it will create more harm and violence, rather than less. Also, I rise because I believe, as has been explained earlier, it is existing in law there are plenty of opportunities, and legal remedies, for the law enforcement officers to carry out their duties. Unfortunately, in our society, if it were just simply a question of a law and people not acting in any other way, contrary to the law, we could solve most problems by simply legislating it. Too often, in situations where an individual takes confrontational action with a law enforcement officer, oftentimes it is not a question that they are unfamiliar with the law, or familiar with it, it is a question that their judgement is often impaired. It is impaired by alcohol, it is impaired by drugs, it is impaired by a mental condition, either temporary or longer term, where their judgement is not clear. If their judgement were clear, they would act completely differently. So, it seems to me what this law does, is it enables a police officer, rather than reassessing the situation, it creates this opportunity where the individual now has violated a law. The officer then has the authority to try to arrest this individual, who has already indicated that they are not very receptive to the direction of the officer, and, therefore, feels put into a situation perhaps, where they might try to execute the threat that they may or may not have made on the officer. Too often, I have found at the local level, and I'm sorry to have to tell you that in my home municipality on occasion while I was Mayor, we had a number of hostage situations and stand-offs. The best action in those cases was not to rush in and arrest the individual, but to take an appropriate action to contain the situation, speak with the individual, calm the circumstances down. The individual who, oftentimes, is under the influence of some substance, after having been provided an opportunity, did the more rational thing, and no longer threatened themselves or anyone else.

I share Senator Hall's concern. This may be a situation where we will be creating more harm, rather than mitigating a circumstance, and for those reasons I will not be supporting it. Thank you.

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

Senator **BENOIT:** Thank you Mr. President. I rise for the final time. I have had my day in court, if you will, on this measure. Let me conclude, and if when we vote on this there would be a division please, let me reduce it to this simple example. My grandson, who is five, calls me "Grumpy", because at his first birthday party I put on my clown outfit and did magic tricks, which I take to hospitals and schools on occasion, and I appeared at his birthday party as "Grumpy the Clown". He says, "Grumpy, if we have a snowball fight, no fair throwing rocks. That wouldn't be right." Ladies and Gentlemen of this august body, it's as simple as that. If the officer confronts you with non-deadly force, is it right for the citizen to threaten deadly force in return? It's as simple as that. Diffuse the violence. Stay with snowballs in a snowball fight. Don't throw rocks. Thank you Mr. President.

Senator **BENOIT** of Franklin requested a Division.

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

Senator **FAIRCLOTH:** Thank you Mr. President. I rise because I am somewhat conflicted on this legislation. I have had opportunity in the past to work with the Criminal Law Advisory Commission, and I respect their opinions a lot, because I know the individual members, both prosecutors and defense attorneys, and the consensus that usually arises from that group. But I have a concern about this language that I hope those who support the legislation might address. When looking at proposed legislation I think it is sometimes useful to take an example, even an extreme example, to see if that example would fit in the situation. One example that comes to my mind is when an officer is coming to a person's home, and I would note that in every case where an officer is coming to a person's home, and I talked to Mr. Charlie Leadbetter, who is an Assitant Attorney General, about this and he agreed, that in every case here the officer would be acting illegally, by definition of the statute. Just to emphasize that again, this situation would not even arise unless the officer is acting illegally. If they have a warrant, if they have some other authorization to come into the home, no threats of non-deadly force are appropriate at all. This would only arise where the officer is attempting to come into the home in an illegal fashion. An officer who probably has a gun, coming into your home, illegally. And you are justified, as the first line makes clear, that you are otherwise justified in threatening the use of deadly force. That is the whole point, that you would be normally justified in making such a threat. There are cases in this country that have arisen where officers do inappropriate things. The vast majority of law enforcement officers are excellent and good people, but there are cases where they do things that are inappropriate. If you look at the example of what is happening in New Orleans today, we see that, where officers do do things that are entirely inappropriate. If an officer, a rogue police officer, is coming to your home, illegally attempting to get in, in this situation, with this language, you would almost be forced to let someone

in, even though you knew they were behaving in an illegal fashion, particularly when you look at the language in lines eleven and twelve. It says, "Unless the person in their own home knows that the law enforcement officer is not, in fact, engaged in the performance of their law enforcement officer's public duty" that standard would be very difficult to meet. It would be almost impossible for a person in their home to know in fact. If an officer is dressed in their uniform and they say they are coming in, even if you have strong suspicion that they are not acting in accordance with their duties, this would not give you much of an option. So, that is a concern that arises for me. It doesn't even say if you reasonably have a suspicion, or a reasonable understanding, it's you have to know in fact what they are doing, which is almost impossible. I think that provides such huge discretion for a law enforcement officer that it is cause for concern even though I generally respect the opinions of the Criminal Law Advisory Commission. So, if anyone would care to address that, I would be interested in their response. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BENOIT** of Franklin that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

A Division has been requested.

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

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

4 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion of Senator **BENOIT** of Franklin to **ACCEPT** the Majority **OUGHT TO PASS** Report, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

SECOND READERS

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

House

Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Year Ending June 30, 1995" (Emergency)

H.P. 119 L.D. 154

Bill "An Act Concerning Tie Votes among Candidates in Municipal Secret Ballot Elections"

H.P. 247 L.D. 349

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

Sent down for concurrence.

House As Amended

Bill "An Act to Exempt Adaptive Equipment Installed in Motor Vehicles Operated by Wheelchair Users from the Motor Vehicle Excise Tax"
H.P. 22 L.D. 16
(C. "A" H-16)

Bill "An Act to Increase the Debt Limit of the West Paris Water District" (Emergency)
H.P. 29 L.D. 23
(C. "A" H-17)

Bill "An Act to Amend the Charter of the Sewer District of the Town of Kennebunk by Expanding Its Territorial Limits" (Emergency)
H.P. 44 L.D. 38
(C. "A" H-18)

Bill "An Act to Reinstate Funding for the Saco River Corridor Commission"
H.P. 125 L.D. 173
(C. "A" H-13)

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

Senate

Bill "An Act to Repeal the Sunset on the Grandparents Visitation Act"
S.P. 19 L.D. 50

Bill "An Act to Allow Liens on Claims Not Sounding in Tort"
S.P. 144 L.D. 330

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Increase the Debt Limit of the Richmond Utilities District" (Emergency)
S.P. 151 L.D. 337
(C. "A" S-22)

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

ENACTORS

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

An Act to Amend the Laws Pertaining to Renewal of Liquor Licenses by Restaurants
S.P. 20 L.D. 51

An Act Concerning the Degree-granting Authority of Beal Business School
S.P. 115 L.D. 290

An Act to Allow Disclosure of Residential Natural Gas Costs
H.P. 235 L.D. 315

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

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

ENACTOR

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

Emergency

An Act to Preserve the Solvency of the Unemployment Compensation Fund
S.P. 303 L.D. 842
C "A" (S-24)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with 2 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.

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 first Tabled and Later Today Assigned (March 21, 1995) matter:

Bill "An Act to Dedicate a Percentage of the Actual Individual Income Taxes from Each Community to Be Returned to the Community for School Funding"
H.P. 613 L.D. 823

Tabled - earlier in the day, by Senator KIEFFER of Aroostook.

Pending - FURTHER CONSIDERATION

(Reference to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and ORDERED PRINTED.)

(In House, March 14, 1995, referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.)

(In Senate, March 14, 1995, referred to the Committee on TAXATION, in NON-CONCURRENCE.)

(In House, March 14, 1995, INSISTED.)

The Senate RECEDED and CONCURRED.

The Chair laid before the Senate the second Tabled and Later Today Assigned (March 21, 1995) matter:

Bill "An Act to Protect Landlords from Certain Types of Fraud"
S.P. 298 L.D. 837

Tabled - earlier in the day, by Senator KIEFFER of Aroostook.

Pending - FURTHER CONSIDERATION

(Reference to the Committee on LEGAL AND VETERANS AFFAIRS suggested and ORDERED PRINTED.)

(In Senate, March 14, 1995, referred to the Committee on LEGAL AND VETERANS AFFAIRS and ORDERED PRINTED.)

(In House, March 14, 1995, referred to the Committee on CRIMINAL JUSTICE, in NON-CONCURRENCE.)

The Senate RECEDED and CONCURRED.

The Chair laid before the Senate the third Tabled and Later Today Assigned (March 21, 1995) matter:

Bill "An Act to Amend the Laws Governing HIV Testing at the Request of Victims of Sexual Assault"
H.P. 589 L.D. 799

Tabled - earlier in the day, by Senator KIEFFER of Aroostook.

Pending - REFERENCE

(Reference to the Committee on JUDICIARY suggested and ORDERED PRINTED.)

(In House March 14, 1995, referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.)

Which was referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, in concurrence.

The Chair laid before the Senate the fourth Tabled and Later Today Assigned (March 21, 1995) matter:

Bill "An Act to Establish a Mobile Home Owners' Bill of Rights"
S.P. 322 L.D. 903

Tabled - earlier in the day, by Senator KIEFFER of Aroostook.

Pending - REFERENCE

(Reference to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT suggested and ORDERED PRINTED.)

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending REFERENCE.

The Chair laid before the Senate the fifth Tabled and Later Today Assigned (March 21, 1995) matter:

Bill "An Act to Repeal the Sunset Provision Regarding Drug Recognition Technicians and Amend the Definition of Drugs in the Operating-under-the-influence Statutes" (Emergency)
S.P. 332 L.D. 913

Tabled - earlier in the day, by Senator KIEFFER of Aroostook.

Pending - REFERENCE

(Reference to the Committee on TRANSPORTATION suggested and ORDERED PRINTED.)

Which was referred to the Committee on TRANSPORTATION and ORDERED PRINTED.

Sent down for concurrence.

The Chair laid before the Senate the sixth Tabled and Later Today Assigned (March 21, 1995) matter:

JOINT RESOLUTION relative to the death of Thomas F. Murphy of York Harbor.

SLS 54

Tabled - earlier in the day, by Senator LAWRENCE of York.

Pending - ADOPTION

(In Senate, March 21, 1995, READ.)

Which was ADOPTED.

Sent down for concurrence.

The Chair laid before the Senate the seventh Tabled and Later Today Assigned (March 21, 1995) matter:

Bill "An Act to Provide Greater Access to Health Care"

S.P. 343 L.D. 948

Tabled - earlier in the day, by Senator BUSTIN of Kennebec.

Pending - REFERENCE

(Reference to the Committee on HUMAN RESOURCES suggested and ORDERED PRINTED.)

(In Senate, March 21, 1995, referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED. Subsequently RECONSIDERED.)

Which was referred to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT and ORDERED PRINTED.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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

An Act Regarding the Functioning of the Department of Mental health and Mental Retardation and Several Professional Regulatory Boards (Emergency)
H.P. 483 L.D. 664

Tabled - March 21, 1995, by Senator CLEVELAND of Androscoggin.

Pending - PASSAGE TO BE ENACTED

(In Senate, March 9, 1995, PASSED TO BE ENGROSSED, in concurrence.)

(In House, March 14, 1995, Bill and Accompanying Papers COMMITTED to the Committee on HUMAN RESOURCES.)

Bill and Accompanying Papers COMMITTED to the Committee on HUMAN RESOURCES, in concurrence.

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

Bill "An Act to Increase Access to Primary Care by Redefining the Practice of Advanced Nursing"
S.P. 282 L.D. 754

Tabled - March 21, 1995, by Senator KIEFFER of Aroostook.

Pending - REFERENCE

(Reference to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT suggested and ordered printed.)

Which was referred to the Committee on BUSINESS AND ECONOMIC DEVELOPMENT and ORDERED PRINTED.

Sent down for concurrence.

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

Bill "An Act to Encourage Job Creation by Exempting Small Businesses from the Current Workers' Compensation System"

H.P. 664 L.D. 887

Tabled - March 21, 1995 by Senator LAWRENCE of York.

Pending - REFERENCE

(Reference to the Committee on BANKING AND INSURANCE suggested and ORDERED PRINTED.)

(In House, March 21, 1995, referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.)

(In Senate, March 21, 1995, referred to the Committee on LABOR, in NON-CONCURRENCE. Subsequently RECONSIDERED.)

Which was referred to the Committee on LABOR and ORDERED PRINTED in NON-CONCURRENCE.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on TAXATION on Bill "An Act to Aid the Administration of the Motor Vehicle Excise Tax by Ensuring that the Manufacturer's Suggested Retail Price is Made Available to the Excise Tax Collector"

S.P. 45 L.D. 75

Tabled - earlier in the day by Senator KIEFFER of Aroostook

Pending - FURTHER CONSIDERATION

(In Senate, March 14, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-16).)

(In House, March 21, 1995, the Minority OUGHT NOT TO PASS Report READ and ACCEPTED in NON-CONCURRENCE.)

The Senate RECEDED and CONCURRED.

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

Senator HARRIMAN: Thank you Mr. President. Allow me just a few minutes to recognize two very special people who have been with me all week, while the Senate has been in session. They are two young high school students in Yarmouth. Chris Pierce and John Howard have chosen this week to explore their future career opportunities in public service. I want to let you know that all week long these gentlemen have met me from 7:00 a.m. in the morning, they have been lobbied, they have listened to speeches, they have attended every public hearing, every Caucus, every session of the Senate, and I am very impressed with their attitude and their interest. If this is the sort of caliber of people who are interested in public service, I think the future is, indeed, bright. Thank you Chris and John, and thank you Mr. President.

Off Record Remarks

Senator LAWRENCE of York was granted unanimous consent to address the Senate on the Record.

Senator LAWRENCE: Thank you Mr. President, Men and Women of the Senate. With each day of this session passing, I become increasingly concerned about the delay in this legislative session. We are now nearly half way through the legislative session and not even one thousand, of the nearly two thousand bills, that we are scheduled to hear this session have even come up out of the Revisor's Office for us to consider. Today, on the calendar, there were between six and ten items that were tabled pending reference, they were not even sent to committees. We have seen a growing number of divided reports coming out from committees where problems aren't resolved. We are spending an increasing amount of time, we are here after 5 o'clock, and in afternoon sessions day after day, dealing with these divided reports and

other things that should be resolved more easily. My great fear is that we are going to see, come June and July, that we have a session that ends in gridlock. A session that ends with everything clogging up at the very end. The people who are going to suffer are the taxpayers, the people of Maine, when we have to stay here longer to finish business. We should finish more expediently. I was wondering, perhaps, if the President could update us with what is happening with the status of bills and what the prognosis for the rest of the session is. Thank you.

THE PRESIDENT was granted unanimous consent to address the Senate on the Record.

THE PRESIDENT: I believe that we have had a little over nine hundred bills referred to committee at this point. Many of them are still in committee. We have given the Chairs of the committees a deadline in which they will have 80% of the bills reported out to the body. The crunch of work in the committees is being complicated by the requirements from the Appropriations Committee to provide flat-funding budgets, and to also come in with prioritized lists of budget requests. We all are going to have to get down to business here. We had talked about taking the week off in April, and I know people are making plans for that, and it is certainly my intention that we stick with keeping the third week off in April for the Appropriation Committee, and possibly the Natural Resources Committee as it debates several of the emissions bills. We will prepare a detailed summation of where we are for your perusal in the first of the week. I realize that everybody is working as diligently as possible, and we need to continue along that vein. It has always been my experience that some of the new people learn to say the words "ought not to pass" a lot easier about a month down the road when everybody is feeling the pressure. It certainly is not our intention to have this session end in gridlock and I still remain optimistic. We will provide a written summation of where we are.

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **LAWRENCE** of York, **ADJOURNED** until Tuesday, March 28, 1995, at 9:30 o'clock in the morning.