

MAINE STATE LEGISLATURE

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**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
FIRST SPECIAL SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Wednesday
May 28, 1997

Senate Called to Order by the President, Mark W. Lawrence of York.

Prayer by Reverend Art Roxby of the New Hope Community Church of the Nazarene in Berwick.

REVEREND ART ROXBY: Let's join our hearts in prayer. Almighty God, creator of heaven and earth and all that inhabits the earth, we humbly come before You at the beginning of a new day to acknowledge our dependence upon You and seek Your wisdom to lead us through this day. We confess before You this day the many ways in which we fall short of Your perfect will. Forgive us for our shortcomings and strengthen us to resist temptation, we pray. I thank You for the ladies and gentlemen of this Senate whom You've placed in their respective positions to lead the great State of Maine. I lift them before You in prayer today, asking that You bless them with all of the wisdom and discernment of heaven as they carry out their callings. I ask that You would give them the assurance of Your guiding presence as they make decisions today that will affect people from all walks of life for years to come. It is an awesome responsibility to lead and I pray that You will enable them to lead well. I pray that You would bless and honor their efforts on behalf of the people of this great state. Heavenly Father, I ask that You please anoint them with Your Holy Spirit and encourage their hearts with blessings from on high. May each Senator here feel Your guiding presence as they lead according to their hearts and conscience. Uphold them in Your strong right hand, we pray. Again, dear Father, we praise You, for You alone are worthy of praise. We ask all of these things in the name of Jesus Christ, our Lord. Amen.

Reading of the Journal of Tuesday, May 27, 1997.

Off Record Remarks

COMMITTEE REPORTS

Senate

Ought to Pass

Senator **PARADIS** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Child Care Regulation" S.P. 667 L.D. 1893

Reported that the same **Ought to Pass**, pursuant to Joint Order (S.P. 631).

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

The Bill **READ ONCE**.

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

Ought to Pass in New Draft under New Title

Senator **MURRAY** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Criminalize Certain Photographing of Children" S.P. 38 L.D. 36

Reported that the same **Ought to Pass in New Draft under New Title** Bill "An Act to Criminalize Certain Photographing of Children under the Clothing of a Person in a Public Place by Mechanical or Electronic Equipment" S.P. 664 L.D. 1892

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

The Bill in **NEW DRAFT** under **NEW TITLE** **READ ONCE**.

The Bill in **NEW DRAFT** under **NEW TITLE, LATER TODAY ASSIGNED FOR SECOND READING**.

SECOND READERS

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

House

Bill "An Act to Revise the Salaries of Certain County Officers" (Emergency) H.P. 1341 L.D. 1890

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

House As Amended

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$8,500,000 to Fund Capital Expenses for Vocational High Schools" H.P. 413 L.D. 558 (C "A" H-697)

Bill "An Act to Enhance the Collection of Unemployment Benefit Overpayments" H.P. 1080 L.D. 1517 (C "A" H-693)

Bill "An Act to Improve the Child Development Services System and Encourage Collaboration in Early Childhood Programs with School Administrative Units" H.P. 1125 L.D. 1581 (C "A" H-703)

Bill "An Act to Simplify the Process for Applying for State Services for People with Disabilities" H.P. 1200 L.D. 1700 (C "A" H-702)

Bill "An Act to Establish Family Development Accounts"
H.P. 1216 L.D. 1716
(C "A" H-704)

Bill "An Act to Amend Maine's Involuntary Commitment Laws"
H.P. 1276 L.D. 1806
(C "A" H-710)

Bill "An Act to Implement Federal Welfare Reform Mandates
for State Child Support Enforcement Laws and Recovery of
Overissued Food Stamps"
H.P. 1290 L.D. 1835
(C "A" H-699)

Bill "An Act to Authorize Department of Transportation Bond
Issues in the Amount of \$40,500,000 to Match Available Federal
Funds for Improvements to Municipal and State Roads and State
and Local Bridges"
H.P. 1299 L.D. 1842
(C "A" H-709)

Bill "An Act to Clarify the Charitable Status of Nonprofit
Hospital and Medical Service Organizations, to Permit Their
Creation of Health Insurance Affiliates and Their Conversion to
Stock Insurers and to Ensure Regulatory Equity"
H.P. 1306 L.D. 1849
(C "A" H-701)

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

Bill "An Act to Improve the State's Child Support Enforcement
and Overpayment Recovery Laws"
H.P. 1289 L.D. 1834
(C "A" H-700)

Which was **READ A SECOND TIME**.

On motion by Senator **MURRAY** of Penobscot, **TABLED** until
Later in Today's Session, pending **PASSAGE TO BE
ENGROSSED AS AMENDED**, in concurrence.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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

Senator **LIBBY:** Thank you Mr. President. Mr. President, is
the Senate in possession of L.D. 367?

THE PRESIDENT: The Chair would answer in the
affirmative, having been recalled from the Governor's desk
pursuant to Joint Order, S. P. 665, in concurrence.

RECALLED FROM THE GOVERNOR'S DESK

On motion by Senator **LIBBY** of York, the Senate
SUSPENDED THE RULES.

On further motion by same Senator, the Senate
RECONSIDERED whereby it **PASSED TO BE ENACTED:**

An Act to Provide That the Operator of a Motor Vehicle Is Not
Responsible for Securing in a Seat Belt a Passenger 18 Years of
Age or Older
H.P. 303 L.D. 367
(C "A" H-334; S "C"
S-218)

(In Senate, May 20, 1997, **PASSED TO BE ENACTED**, in
concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint
Order S.P. 665, in concurrence.)

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

On further motion by same Senator, the Senate
RECONSIDERED whereby the Bill was **PASSED TO BE
ENGROSSED AS AMENDED**, in concurrence.

On motion by Senator **RAND** of Cumberland, **TABLED** until
Later in Today's Session, pending **PASSAGE TO BE
ENGROSSED AS AMENDED**, in concurrence.

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

Senator **MURRAY:** Thank you Mr. President. Mr. President,
is the Senate in possession of L.D. 1571?

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

HELD BILL

On motion by Senator **MURRAY** of Penobscot, the Senate
RECONSIDERED whereby it **INSISTED** on:

Bill "An Act to Amend the Maine Bail Code"
S.P. 509 L.D. 1571
(C "B" S-315)

(In Senate, May 23, 1997, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "B" (S-315).**)

(In House, May 27, 1997, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-314)** in
NON-CONCURRENCE.)

(In Senate, May 27, 1997, on motion by Senator **RAND** of
Cumberland, the Senate **INSISTED.**)

Senator **RAND** of Cumberland requested and received leave
of the Senate to withdraw her motion to **INSIST.**

On motion by Senator **MURRAY** of Penobscot, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Sent down for concurrence.

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

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (5/8/97) Assigned matter:

Resolve, Directing the Commissioner of Transportation to Propose an Adopt-A-Highway Program S.P. 556 L.D. 1682

Tabled - May 8, 1997, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED**

(In Senate, May 8, 1997, **READ A SECOND TIME.**)

Which was **PASSED TO BE ENGROSSED.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/15/97) Assigned matter:

SENATE REPORT - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Provide Continuity and Flexibility for Long-term Care" S.P. 357 L.D. 1176

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-233)**

Tabled - May 15, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF THE REPORT**

(In Senate, May 15, 1997, Report **READ.**)

Which Report was **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-233) **READ** and **ADOPTED.**

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

The Chair laid before the Senate the following Tabled and Later (5/16/97) Assigned matter:

Bill "An Act to Amend the Retirement System as it Pertains to Qualified Survivors" S.P. 367 L.D. 1226 (C "A" S-238)

Tabled - May 16, 1997, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 16, 1997, **READ A SECOND TIME.**)

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/27/97) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Regarding the Self-governance of Biddeford Pool" H.P. 640 L.D. 865

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-698)** (6 members)

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 27, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**)

(In Senate, May 27, 1997, Reports **READ.**)

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE.**

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin Senator Nutting.

Senator **NUTTING:** Thank you Mr. President, men and women of the Senate. I had about a 45 minute speech prepared on this issue but I guess I left it at home today, so I won't go ahead with it today as planned, but I do feel as though I need to speak to this issue. The State and Local Government Committee spent longer on this issue, by far, than any other issue before us this year. We had a public hearing and several work sessions and voted on the bill once and then reconsidered and voted on the bill again. I know some people out lobbying against this bill are still calling this a secession bill and it is not. Seven members of the Committee voted Ought Not to Pass. Six members of the State and Local Government Committee, myself included, feel that the best thing for both parties, Biddeford and Biddeford Pool, would be for the people of Biddeford Pool to be allowed the opportunity to vote for a Village Corporation. What the Minority

report does, in a nutshell, is allow the people in Biddeford Pool to vote on whether or not they want to form a Village Corporation. They would get a certain percentage of taxes back. The assessment would still be done by the city of Biddeford. The harbor and the Harbor Master would still be controlled by the city of Biddeford. Really, the two things that the Minority signers felt the people of Biddeford Pool and actually, the people from Biddeford as well, had demonstrated to us was that the people of Biddeford Pool deserved the opportunity to do two things. Create and handle their own zoning and environmental ordinances and maintain their own roads, winter and summer maintenance, but that's all. We have several successful Village Corporations in Maine. Many of them do more than what is allowed for this Village Corporation to do, if they vote locally to do that. The reason I signed on with this Minority report, the city of Biddeford, I think, has made some progress in amending relations with the people in Biddeford Pool, but environmentally there has been case after case, after case where things have been done to the environment in the area of Biddeford Pool that have not been correct. They've been done without proper DEP permitting and I could have distributed a long list of those to everybody in the Senate. I did not. I was sent a note yesterday that said that I had distributed enough stuff under my name yesterday for the whole session, so I'm going to pass on that. But even as short a time as three weeks ago, with this bill before the State and Local Government Committee, there were bulldozers on the beach, on the ocean beach along Biddeford Pool without a DEP permit. These are the types of things that have been going on and going on, septic systems built in the flood plain, etc., etc., environmentally. So this is why I felt, in the end, the people of Biddeford Pool deserve the opportunity to vote on a very limited Village Corporation. A Village Corporation that doesn't have the powers that many of the other Village Corporations that we've already had in existence have but they did have the right, I felt, and the ability to handle their own zoning affairs and to maintain their own roads in the winter and summer. That's all this Minority report does. Thank you very much.

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

Senator LAFOUNTAIN: Thank you Mr. President, men and women of the Senate. I rise today and ask you to defeat the pending motion so that we can go on and accept the Majority Ought Not to Pass report. First of all, I'd like to thank the members of the State and Local Government Committee for the time and effort that they put into this bill. I know they went above and beyond the call of duty on this one and some have said that more time was spent on this bill than was spent in drafting the State budget. We have many bills before us this session of important issues to the people of Maine, such as the issues we debated yesterday on dioxin, the BIW Bill which is forthcoming, Learning Results and Workers Comp., but truly I must tell you that this bill has garnered the most attention from me and it's the most important bill for me here this session. And there's a simple reason you see, I'm a resident of Biddeford. I was born and raised in Biddeford and I've spent, with the exception of my college and Law School education, my entire life residing in the city of Biddeford. Many people have argued that this is an issue of class, of wealth versus those who are not so wealthy. First of all, I'd like to dismiss that argument because I don't have any evidence to support that. I can't tell you that it's the Have's versus the Have Nots. Some have also argued that it's an issue

of the out-of-staters coming into the State of Maine and telling us how to run our cities and I do not have evidence to support that. In fact, the people who have been lobbying you downstairs for the last couple of days, who have provided you with doughnuts and encouraged you to support either secession or Village Corporation, many of those people I have known all my life and they have been residents of the Biddeford Pool neighborhood for generations. Their families have been there for years and in fact I went to school with many of their children.

I'd like to tell you a little bit about what Biddeford Pool is not. Biddeford Pool is not like Frye Island. Biddeford Pool is not isolated like Frye Island. It does not sit in the middle of a lake or on the Atlantic Ocean. It is connected by a road to the city of Biddeford. Biddeford Pool is also not like Frye Island in the sense that we do not have a consensus of the parties involved. In fact, we have three factions here. We have those residents of the Biddeford Pool area who want to secede or will settle for a Village Corporation. We have those residents of the Biddeford Pool neighborhood who do not want to secede and do not want a Village Corporation, and we have a city council in the city of Biddeford who have voted unanimously not to support secession or Village Corporation. That begs the question, what exactly is Biddeford Pool? Biddeford Pool, as I indicated, is a piece of land and is a neighborhood of Biddeford. It is unlike neighborhoods in your community. Biddeford, I have considered for years to be a collection of neighborhoods. I myself reside in the Five Points area of Biddeford. We have the Cathedral Oaks section of Biddeford. We have the Biddeford Pool section of Biddeford. We have Fortunes Rocks. We have Granite Point. We have the Guinea Road section. We have Oak Ridge Road. We have the South Street area and the farming areas of Biddeford which all make up the community of Biddeford. They're all separate and distinct, but collectively they form the city of Biddeford. To fully appreciate what Biddeford Pool is, I think it's important that you know a little bit about Biddeford Pool. And I would like to thank the good Senator from Hancock, Senator Goldthwait, who actually took the time during this session, which has been a very busy session for this Legislature, and spent a day visiting the neighborhood of Biddeford Pool to find out what it truly is. And I also would like to thank the good Senator from York, Senator Libby, who has done the same and I know has lived in that area, who was fortunate enough to live in Senate District 32 for a period in his life. He, too, can appreciate what it's like down at Biddeford Pool.

Biddeford Pool is a beautiful area, there's no doubt about it. It's an oceanfront area which is also on the Saco River on one side. It has a rocky coastline. It has a beautiful stretch of beach which has been unspoiled by the proliferation of condominiums and commercial development that we have seen along the eastern seaboard. It's a neighborhood in which approximately 250 people reside year-round and in the summertime it's been estimated that the population swells to somewhere around 1,000. But it's also an area that is truly a seasonal commercial area. In the summertime, you can find a store named Goldthwait's. You can find a restaurant called Paddy's. You can find several churches. In fact, I belong to St. Mary's Parish which has a summer chapel down at Biddeford Pool, known as Saint Brendan's. You can find a post office. You can find a lobster pound, one or two gift shops and you can find a harbor with a pier which many commercial fishermen use alongside the numerous pleasure craft that are there throughout the summer. But it is seasonal in nature, for the most part. Come Labor Day, when Goldthwait's closes, you can not buy a loaf of bread at Biddeford

Pool. You can never buy gasoline for your automobile in Biddeford Pool. Paddy's, the restaurant, closes in the fall and doesn't reopen until late spring. Most of the churches close, with the exception of Union Church which stays open every other weekend through the winter. The gift shop closes. The pleasure crafts are pulled in and left to the commercial fishermen. What is left of Biddeford Pool then, during the wintertime, is a lobster pound and a post office.

The residents of the neighborhood of Biddeford Pool have alleged that the city has neglected their needs and has been detrimental to the environment down at Biddeford Pool. Well, if any of you have been to Biddeford Pool, you will notice, as I indicated earlier, we do not have the proliferation of commercial development that we see along the eastern seaboard. And I submit that the reason why that is is because the city of Biddeford has protected Biddeford Pool. You would be hard-pressed to go to Biddeford Pool today and be able to find a place to stay this evening. We do not have motels down there. We do not have hotels down there. What we have are rentals which you must rent weeks in advance in order to procure a place to stay in the summertime.

Since this bill was first introduced in the 117th Legislature, the city of Biddeford has spent over \$340,000 in the Biddeford Pool area to upgrade and to protect the area. This includes construction of Vine's Landing on Lester B. Orcutt Boulevard. The city has replenished and replanted the frontal dunes that are along the Biddeford Pool beach. They have also undertaken a program to repave the mile stretch road which leads into the Biddeford Pool neighborhood. They have also upgraded the fire equipment at the Biddeford Pool station which is a volunteer fire department. Yet, the city of Biddeford significantly contributes to the equipment used by that volunteer department. The city of Biddeford also, in the last couple of years, citywide, which includes the neighborhood of Biddeford Pool, has also undertaken a program of neighborhood policing. The city of Biddeford has located a police officer at University of New England, the former Saint Francis College, and that police officer is responsible for the community policing of the coastal regions, including Hills Beach, Biddeford Pool, Fortunes Rocks and Granite Point. The city has also undertaken and improved a waste treatment system which was developed approximately 10 to 11 years ago.

I'd like to give you a little history about L.D. 865 in this legislative session. This came before the State and Local Government as a secession bill. The initial hearing was held on March 3rd and work sessions were held on March 10th and 21st, April 1st, 10th, 28th and May 15th. Truly, State and Local Government put a lot of work into the initial aspects of this bill. Our city council in Biddeford also scheduled several sessions, those on April 15th and 22nd, to respond to the concerns of the State and Local Government Committee's inquiries. During each of these work sessions, the Committee attempted to forge a compromise acceptable to the city and to Biddeford Pool, but for a number of reasons were unable to do so. The final act of this drama occurred and the Committee voted on April 28th by a 10 to 3 report. Prior to their vote, I believe it was Senator Libby from York who suggested that maybe a Village Corporation might be the way to go and were the parties interested in working toward the Village Corporation? The Representative from the city of Biddeford suggested to the State and Local Government Committee that, "We will do whatever this Committee asks. If you want us to leave this room and negotiate a Village Corporation, we will attempt to do so." The response however,

from those who are what we consider the pro-secessionists, was quite different at that meeting. In fact, their Representative stood up and stated the following when asked the question if they would like to go out and negotiate a Village Corporation, he said, "We understand we are taking a great risk asking for a vote on secession, but this is where we must make our stand and this is our Declaration of Independence and it is with great pride that I will ask you for a straight vote up or down." Unfortunately for him, the vote was down. It was a 10 to 3 vote against the secession movement. What happened after that is unclear. I left the room thinking we would be facing a bill here in the Senate that was a 10 to 3 report against secession, but within the next two days there was a reconsideration by the State and Local Government Committee and following that, there was an attempt by the minority to create a Village Corporation. The Minority report is before you today and it forms a Biddeford Pool Village Corporation which, incidentally, was adopted without another public hearing. I submit to you that this truly may be a different bill, that actually didn't receive the scrutiny it should have.

There's a saying that, "Rome wasn't built in a day." Well, Biddeford Pool Village Corporation was actually built probably within a couple of hours. What you had was a number of the minority members actually, I think there were 6 minority members and only 2 or 3, actually, who spoke at the work session, who were throwing out figures to create a document which is before you today. And that document initially started out with asking that the city rebate or refund approximately 40% of property taxes collected back to the Village Corporation. That figure has since been whittled down to, I believe, it's 31. But in a document that I had distributed to you, it indicates some of the things this Minority report does which, in lots of ways I would argue and others would argue, would be a waste of money. What we're doing basically is duplicating services. In fact, within that budget is a police officer for that area, or a constable. This is a duplication of services. Biddeford has to continue to provide the same neighborhood community policing officer for the other areas, Hills Beach, Granite Point and Fortunes Rocks, so that the city of Biddeford would be saving no money while Biddeford Pool would be duplicating this and expending money for services, a service they don't really need. I ask you to take a look at the Minority report and see some of the problems that exist there and I'm not going to provide you with the argument that this is going to create a proliferation of secession movements, Village Corporations movements. That's something for you to decide, if that's going to happen throughout the State of Maine.

For those reasons, Mr. President, I encourage the members of this body to reject the Minority report so we can go on and accept the Majority report, and one final comment. We will be having a municipal election in the city of Biddeford during the month of November. We will be having a new administration of government in the city of Biddeford. I know that was a great concern for many members of the State and Local Government Committee, and certainly the members of the legislative body from the city of Biddeford will strongly be encouraging those members of our new City Administration that this is an issue we need to address locally. We need to pay great attention to it and the battle should be not fought in Augusta. Thank you.

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

Senator JENKINS: Thank you Mr. President. I just have a question, if I can ask through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **JENKINS:** Thank you Mr. President. To anyone that can answer, Sanford, Biddeford are much like the great city of Lewiston in many respects, but I guess my question is, where in fact, lies the University of New England? I understand there are many communities that make up the greater Biddeford area and Biddeford Pool is part of that composite, if you will. So, I guess part of my question is the University of New England, what is that considered part of? Biddeford Pool or elsewhere? Also, is there not a College of Osteopathic Medicine? Is that also a part of Biddeford Pool and, as well, a large convent that is down in that area? Is it considered, again, part of Biddeford Pool and how many people would be involved in those institutions? And lastly would be the question of, if this L.D. was successful where there was a sense of secession, if you will, would the taxpayers of Biddeford be compensated for those taken properties? Those are the questions I ask through the Chair to anyone that might be able to answer.

THE PRESIDENT: The Senator from Androscoggin, Senator Jenkins poses a series of questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you Mr. President. I will attempt to answer a few of those questions. The University of New England together with the College of Osteopathic Medicine is located on Route 9, which is also known as Pool Road in a section of Biddeford which commences the Hills Beach area. It would not be in the affected area of Biddeford Pool. The convent is Marie Joseph Academy. I don't remember the order of nuns who reside in that facility but I would estimate that there would probably be somewhere in the area of 20 residents year-round, and for those of you who don't know, Marie Joseph Academy is actually a convent, but also serves as a Retreat House, so at any given time, there are probably, any given weekend, there are probably 30 or 40 people visiting on retreat.

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

Senator **CAREY:** Thank you Mr. President. As I understood the Senator from Androscoggin, Senator Jenkins, in his concern for several of the institutions, I don't know that you really have to compensate even if this bill were to pass. I don't know that you have to compensate Biddeford for their loss because, I believe, they're tax-exempt.

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

Senator **LIBBY:** Thank you Mr. President. My best job at responding to the question of the Senator from Androscoggin, Senator Jenkins, I think probably the most accurate number that I can give you regarding the taxation situation between Biddeford Pool and Biddeford is that Biddeford Pool makes up about 9% of the tax base of the city of Biddeford. I believe that to be true.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: AMERO, HARRIMAN, MILLS, MITCHELL, NUTTING, SMALL

NAYS: Senators: ABROMSON, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

Senator **BENNETT** of Oxford requested and received leave of the Senate to change his vote from YEA to NAY.

6 Senators having voted in the affirmative and 29 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE, FAILED**.

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

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

Bill "An Act to Improve the State's Child Support Enforcement and Overpayment Recovery Laws" H.P. 1289 L.D. 1834 (C "A" H-700)

Tabled - May 28, 1997, by Senator **MURRAY** of Penobscot.

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

(In House, May 27, 1997, **PASSED TO BE ENGROSSED AS AMENDED**.)

(In Senate, May 28, 1997, **READ A SECOND TIME**.)

On motion by Senator **MURRAY** of Penobscot, Senate Amendment "A" (S-339) **READ** and **ADOPTED**.

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/27/97) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months" H.P. 123 L.D. 147

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-657)** (7 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 27, 1997, 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-657).**)

(In Senate, May 27, 1997, Reports **READ.**)

Senator **AMERO** of Cumberland requested a Division.

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

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. Just briefly, this is a bill that would essentially repeal, would repeal, a provision that is currently, has been in law for quite some time, pertaining to University employees. It would affect not only University employees but also employees of the Maine Technical College System and the Maine Maritime Academy. It is my understanding that these three institutions have seven separate labor contracts with seven separate bargaining units and that in at least some of them, the negotiators for the University rely, to a large extent, on this provision of state law which says that a public employee, who is employed by one of these entities, does not develop rights under the Maine Labor Relations Act and may not invoke the jurisdiction of the Maine Labor Relations Board until that new employee has been on board and continuously employed for six months. In at least some respects, this six month period functions as kind of a probationary period, although it is somewhat more than that because it makes it clear that the person hired and employed for that short a period of time may not invoke the jurisdiction of the Maine Labor Relations Board for any purpose. For good reasons or not, the employers who would be affected by this bill do, in practice, rely upon this provision of state law as a non-waiverable probationary period. It is one of the operating assumptions that underlies their contract negotiations with their employees. In many cases, a negotiated probationary period will go considerably beyond this initial six months. For instance, it's common knowledge that school teachers, although this does not apply to school teachers, but school teachers have a two-year period. College professors quite frequently have a six-year tenure period before they achieve full status. In any case, this first six month window is used by the employers, relied upon by them as an informal probationary period for all kinds of employees, whether they be teaching employees or maintenance people for the buildings and grounds. It's relied upon in all of their contracts. The elimination of this six month period will mean

that it will send these employers, the Maine Maritime Academy, the Technical Colleges, and more importantly and more significantly the University itself to the bargaining table at the next round of negotiations to see whether they can preserve this element of employment in their future discussions, dealings and negotiations with the bargaining units. The University has asked us to preserve this element of law, to leave it as it is. It is an element that is completely paralleled in the municipal sector and in some of the other public sectors where we have special laws dealing with the jurisdiction of the Maine Labor Relations Board. For all of those reasons, I would urge that you vote no on the pending motion and that we reject passage of this bill.

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

Senator **CATHCART:** Thank you Mr. President, men and women of the Senate. I ask you to vote in favor of this legislation, L.D. 147. I think it is a very important bill for employees of the University of Maine System as well as the other higher education institutions in the state. The fact is that this six month exclusion has been used as a probationary period by these institutions even though it is not technically a probationary period, and as has been said, there is really no reason that the University and others cannot put a probationary period into their contract with a new employee. They are able to do that. They have just substituted this six month exclusion and acted as though that were the probationary period. But as most of us know, for faculty at the University, the probationary period is already built in. Tenure track faculty serve a six year probationary period and only after they display an exemplary record of public service and teaching and research are they then made permanent tenured employees of the University. I do not say that this is detrimental to these institutions for higher education, but I do see that it gives even new employees the opportunity to join a union and to benefit from that. As it is, with the six month exclusionary period, they are not allowed to join a union or to bargain during that time and for most faculty at the University of Maine System, that really amounts to going to work at the beginning of September and not having that exclusion period up until around the first of March, which really excludes them from benefits that other employees have. So it seems only fair that we should pass this bill. Thank you Mr. President.

On motion by Senator **KIEFFER** of Aroostook, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **TREAT:** Thank you Mr. President, men and women of the Senate. I'll just add a couple of comments to the comments of the good Chair of the Labor Committee. I do support the pending motion. All of the opposition to this legislation was based solely on the inadvertent effect of taking away an assumed probationary period. Nobody testified that it was a bad thing for newly-hired employees to be able to join a labor union. The Committee Amendment addresses this problem to the extent that it has transition language which preserves any existing contract and basically any existing contract that's out there that does not have language providing for a probationary period will continue to assume a six month period based on the

current language of the law right now. Any new contract after the effective date of this Act would indeed have to write one in. There are, as has been mentioned, only seven contracts and although that sounds like a lot, it's actually quite few. The original bill came in addressed to all kinds of towns, communities, county governments and we did decide that to have every single town in the State of Maine negotiate contracts, come up with contracts where they actually don't have written contracts right now was a burden, but we didn't think that it was a burden for the University System and the Technical Colleges which are already in the process of doing contracts. It's something that they routinely do and as has been noted, they already have probationary periods written in to many of those contracts. I think this is a good bill. Again, the opposition to it was not to the substance of the bill. It was to this issue of the probationary period which they are fully capable of simply writing into a contract what that probationary period is. So I do hope that you will support the pending motion.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, JENKINS, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, MILLS, MITCHELL, PENDLETON, SMALL

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator PINGREE of Knox to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-657) **READ** and **ADOPTED**, in concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/27/97) Assigned matter:

Bill "An Act to Amend the Workers' Compensation Law as It Pertains to Employer-selected Health Care Providers"
H.P. 863 L.D. 1180
(C "A" H-615)

Tabled - May 27, 1997, by Senator PINGREE of Knox.

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

(In House, May 22, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615)**.)

(In Senate, May 27, 1997, **READ A SECOND TIME**.)

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

Senator **CATHCART:** Thank you Mr. President, members of the Senate. I will be brief and just go over again what this bill does. It simply allows an injured worker to pick his or her own doctor and go for one visit to that doctor during the first ten days after the injury occurs. Under current law, the employee must go to the doctor or healthcare provider that is chosen by the employer. This is very limited and it does not increase the cost. It simply says that if you have a relationship with a physician, or through your HMO you are referred to a physician, or there's a specialist that deals with the kind of injury you have that you have had a relationship with in the past, then you may make one visit to that healthcare provider after your injury. And I urge your unanimous support for this. Thank you Mr. President.

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

Senator **HARRIMAN:** Thank you and good morning, Mr. President. I first want to thank the Majority Leader for the courtesy extended to tabling this for me yesterday. I appreciate that, knowing the lateness of the session. Mr. President, I'd just like to, for the record, share why I will not be supporting the pending motion. I do so because in the past, before this law was put in place, it was not uncommon for people to seek medical care from two or more healthcare providers, literally creating what was then known as the "Dueling Doctors," which, in my view, contributed significantly to the adversarial atmosphere that was so prevalent in the Workers Compensation System in the past. Further, it adds an unnecessary visit for the first ten days which the employer is required to pay for, thereby creating two medical bills for the same medical issue. And I want to be clear, this is not a matter of the employer controlling the employee. It is an issue of the employer ensuring that the employee gets the best and the most appropriate treatment quickly and with an experienced specialist familiar with the employee's occupation. In fact, current law does allow an employee to change doctors after ten days from the date of an injury. Our current law fosters occupational medical care providers to become familiar with and understand the workplace and the injuries that do and may occur. If this bill passes, we will undermine that positive outcome that is now working well in the system.

And lastly, Mr. President, I would just mention that currently, the huge majority of injured workers are pleased with the healthcare they are receiving at their place of employment under the ten day rule, and most all of these problems, medically are solved quickly, expeditiously, and compassionately. To move away from that is going to return us to the adversarial atmosphere that once caused us so many of the problems we have solved. Thank you Mr. President.

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

Senator **MILLS**: Mr. President and men and women of the Senate. Years ago, it is true that the selection of medical care providers was a problem. It was a problem for a lot of reasons. Employees didn't know where to go when they were hurt, quite often. Employers certainly were less sophisticated about their own purchasing of medical services. It was before the age of managed care and so people would drift into the hands of medical providers who sometimes were lacking in experience or sophistication or knowledge about workplace injuries. Not that there's anything particularly unique about workplace injuries, but they do have their own questions that need to be addressed. And one of the most common questions that needs to be addressed very early is, "Should the employee go back to work and, if so, in what capacity and under what limitations and what restrictions?" And oftentimes general practitioners or family doctors or people who had perhaps little involvement with Industrial Medicine, as it is sometimes called, would take the conservative route, prescribe medications and essentially recommend that the employees stay out for some extended period of time just because they were nervous about recommending anything to the contrary. This was not really so much doctor-shopping as it was just good, conservative medicine. It was being careful and as a result, a lot of people stayed out of work, sometimes for several weeks when perhaps they could have gone back after several days. And this was not, by the way, employee lawyers telling people to stay out of work. The consistent advice given by most lawyers who would see people in these early phases was, "You need to follow the instructions of your doctor. Whether you go back to work or not is a medical decision, not a legal decision, and it is one that must be made in consultation with your selected medical doctor or provider." One of the most dramatic changes in the Workers Compensation System made by the Blue Ribbon Commission was to completely reverse the tables on this rather important and initial issue, so that now, within the first ten days following the event or the injury, the employer has completely unfettered control over where the employee may go for medical care. If the employee goes anywhere else, he is at risk of having to pay for it himself and if he takes the advice of someone to whom he has gone, he does it at his peril. So, in some cases, you have perfectly well-qualified Industrial Medicine Physicians, particularly in the larger settings like the paper mills where you have a paper mill doctor, and quite often these doctors are very responsible people, and they know the workplace setting and they know how to advise the employee appropriately about getting back to work gradually or going back for light duty or what have you. But with many smaller employers, you don't have that level of sophistication available within the community. Sometimes you have it at a hospital, at a clinic or other places and sometimes you do not. And regrettably, in other cases, you have employers who have very deliberately exploited, and very cruelly exploited, this right that they have to control the employee's medical treatment. A case in point quite recently stumbled into the offices of Wright and Mills up in Skowhegan where a fellow had undergone a great deal of lifting, or had been required to do a great deal of lifting at work followed by the appearance of a very large and mysterious bulge in the area where the inguinal nerve, artery and vein penetrate through the muscle structures of the abdomen and go down into the leg, commonly known as an inguinal hernia. The employee didn't know what it was. The employer didn't know what it was but the employer said, "It just looks like a lump. I am not sending you to a doctor and I want

you back at work and we have light duty work for you to do and it will go away." The wife, having somewhat more sense, I think, than the employee, took him to task and within a day or two, against the advice of the employer, over the objections, the vociferous objections of the employer, got into a competent local surgeon who admitted him immediately for repair of this lesion that was at that juncture threatening to occlude the blood supply to his left leg, and it was on the verge of doing some damage to the inguinal nerve. So we have this tension in this system that is unavoidable. Either you have the employee going out and finding help somewhere, Lord knows where, without guidance or assistance, and on the other hand you have the issue of employer control. There is no easy answer to this problem. It's been going on for years and years and years, probably as long as there has been a Workers Compensation Insurance. But the amendment, or the Committee bill, that is before you was an effort to at least establish some modicum of balance to this tension by saying, "Well, at the very least, if you have an established Gatekeeper, if there is someone who is in charge of your medical care perhaps under managed care, clearly you ought to have at least access to that physician at employer expense for at least one visit during this ten day window in which the decisions that are being made, are sometimes critical to your care. Or on the other hand, if you have a specialist who has seen you for a condition that has been aggravated or is directly related to the injury that you've just experienced, clearly you ought to have access to that specialist. For instance, an orthopedic surgeon that may have been treating you for perhaps hand and wrist ailments or back difficulties. So in these narrow exceptional cases, where there's an established relationship to a physician before the injury, it was the sense of the Committee that under those circumstances you ought to have the courtesy of at least one visit to those physicians. Otherwise the employer does remain in control of your medical care and the current law would remain. Thank you.

On motion by Senator **KIEFFER** of Aroostook, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MITCHELL, SMALL

ABSENT: Senator: BUTLAND

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/27/97) Assigned matter:

Bill "An Act to Establish the Maine Center for Arts Education"
S.P. 388 L.D. 1273
(C "A" S-310)

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 27, 1997, **READ A SECOND TIME.**)

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

Senator **MURRAY:** Thank you Mr. President and men and women of the Senate. Let me begin by thanking the Senator from Penobscot, Senator Cathcart, for tabling this matter which was taken up the other day when I wasn't able to be here. Let me also begin by stating that I think all of us understand and appreciate and recognize the value of the Arts, specifically as it relates to Arts Education on the secondary level, and even sooner, and the value and benefits that brings not only to the individual students involved, but also to us as a society. No one disputes that. The issue that I have concerns about with regard to this bill is the way in which we, as a state, are deciding how we best utilize our resources and allocate our funding in trying to recognize and achieve Arts Education as best we can, not only for one particular area, but also for the state as a whole. And because of that concern, I have to oppose the proposed bill before us and I would ask you to do the same. I do that for basically two fairly broad reasons. The first, as I alluded to, the way this proposal is structured, it tends to focus those very precious resources that we have as a state on one effort, in one area in Portland in particular, in developing a school for that area for the talented and gifted students who may have the opportunity to go there. When we have so limited resources in this area of Arts Education as we do in state government as a whole, I don't think it's appropriate for us to focus those precious resources on that one particular area at this time. Much better for the expenditure of resources if we have them and we're talking about a \$600,000 expenditure over the biennium and who knows what that expenditure may be in the future. It's far better, in my opinion, if we are going to make that kind of an expenditure in the area of Arts Education, it ought to be more broadly distributed around the state through our general formulas of education that will allow, I believe, more students around the state to take advantage of those opportunities in the area of Arts and the Performing Arts. That reason alone, I think, is sufficient reason to oppose this pending proposal. However, there is another broad reason why I would urge you to oppose this proposal as well as the equity issue of spreading the dollars more broadly across the state and that is the reality that in Maine we have a Maine School for the Arts in the development in Bangor that's attempting to do the very same thing on a private basis. I have concerns about efforts that this state, as a state government,

takes to compete with that private effort that is very much in the works and would be, quite frankly, very much affected by a competing statewide effort in the area of developing a state school for the Arts. Let me tell you that, with regard to the Maine School for the Arts in Bangor, that is well on its way to development. A building in downtown Bangor, in fact, the process of construction on that facility has already begun. Engineering plans and preliminary blueprints have been developed. Fundraising efforts have been initiated and the first phase of the project will require a \$3.5 million effort. There have been, in fact, an award-winning Hollywood screenwriter, Thomas Eberhard, has already agreed to write a script for a film which will end up being a major fundraising effort for that school. That is in the works. Mr. Eberhard has already been to the Bangor area and met with students from the greater Bangor and eastern Maine area at large to start developing this screen, the film for that purpose. The entire project will involve \$8.6 million of expenditures, but that dream is not just a pipe dream anymore. It's well on its way. The Bangor city council has come forward in its efforts to support the project and this has the potential for being a great opportunity, not only for Bangor and the Bangor area, but also to serve those Arts educations for the especially gifted students statewide. So for the reasons that I stated, and I think they are twofold, our state expenditure of resources needs to be more broadly distributed in the area of Arts education and it can be in a way other than this proposal. Secondly, we ought not be in the business of directly competing with a private effort to accomplish the same thing when that effort is well on its way and, in fact, if the state were to proceed may have very detrimental impact on that private effort. For all those reasons, men and women of the Senate and Mr. President, I would move the indefinite postponement of this bill and its accompanying papers and I would ask you to support me in that motion.

Senator **MURRAY** of Penobscot moved to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers.

THE PRESIDENT The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you Mr. President, men and women of the Senate. This Arts School in Portland was part of a two-phase plan that we enacted a number of sessions ago when we created the Math and Science School in Limestone and then we had proposals for an Arts School in the Portland area. We went first with the Magnet School in Limestone because that facility was more ready. The planning had advanced to a point where they were ready and able to get on with having a school there, but there was very beginning plans for the Arts School in Portland, so that one was on more of a delayed basis. But nevertheless, that Arts School proposal has evolved, not to a school where you stay right on campus such as the Limestone school, but a school where you would work in the afternoon at arts and science, much as we do in our vocational program. So it would affect a broad number of students because the proximity of the students to the Portland area covers a huge amount of students when you look at the population of Cumberland County, parts of York County and hopefully parts of Sagadahoc and other bordering counties. But it is a three-part plan. It's not just the afternoon school for students who live within a commuting distance, it's also that very essential part of teacher training so that we can effectively teach teachers to be able to incorporate art into their everyday teaching of their students and that goes

along with the Learning Results Bill that we passed in this body last week. And it also would have a summer program that all kids in the state would be able to take part in and not just the kids within a close proximity to the school as the afternoon program would involve. I think it's important to note when we do the teacher training, the teachers aren't going to be coming to Portland. The program is going to be going out into the schools and we even discussed in the Committee, because the school was going to be located in southern Maine, that it would be a three-year program to go out and teach the teachers. We would begin in northern Maine, then do central Maine and then finish up in southern Maine. So the first schools to really have the effect of this would be the schools that are the furthest away from the Portland school. I find it confusing to hear the argument first that we shouldn't be providing a school for only one area of the state and then the argument, well, you're in competition with another school in another area. It should be either one or the other, but I don't see how it can be both. I certainly applaud the Bangor school, which has been before our Committee before and raised concerns to our Committee before about the idea of another school in the state. However, I don't really see that they're going to have an impact on, at least with the day students because I can't see any of the students from Cumberland or Sagadahoc or York County commuting up to Bangor and I certainly don't see the Bangor students commuting down to Portland, so I don't really see that there would be a competition for these students.

The Maine Arts Council has already endorsed this plan as a way for them to work with the schools to help to implement the teacher training of the Arts, so they're very excited and very supportive of this concept and see it as a way to actually bring down the cost of doing this because there will already be other programs there. There will already be teachers there and there will be administrators there, so it actually could be very cost-effective for the state to allow more than one function to be going on at this school. But I think it's really critical that we also understand that this is intended to be a pilot program. I asked the question, "How's this going to help parts of my district that aren't within a one hour commute to Portland?" While this school itself probably will not be an afternoon resource for my students, if this school is successful I think we will see similar schools to this springing up all over the state. Maybe not in every area but certainly in areas where there is a focus on the Arts, where people have a real interest. I can see this springing up in Camden. I can see it springing up in towns that have a university campus in them, where there might be ready access to already some arts education, some arts programs on the university level. So I think, if we support this and if we see success, which I have every anticipation that we will see, if we see a success of this program I think we're going to see, across the state, a type of vocational program for the arts springing up in hopefully all kinds of locations. There are students that aren't able to get to Portland and there are students that aren't able to get to Bangor, and there are students that aren't able to get to Westbrook, that has a very good arts program, as the good Senator from Cumberland, Senator Esty, talked about last year. But he did support the Portland Arts School as well because he understood that there was a need for this type of program to help reach out to many other students that couldn't be served by these individual city schools. So, I hope you will support this. I hope we can give it an opportunity to show us what can be done with this type of regionalized approach to arts education. Then hopefully, across the state, our school districts or our communities that are interested in the arts will try to duplicate this and we'll see many

regional art programs that all our students can share. Thank you very much.

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

Senator **PENDLETON:** Thank you Mr. President. Mr. President and men and women of the Senate, I just would like to try to clarify a few things. I would like to tell you that the Committee report came out 11 to 2 from our Committee because we spent a great deal of time on this. Some of the issues that you're hearing this morning are the very issues that we discussed in our Committee. One issue that comes up over and over again is the argument of a Charter School. This particular piece of legislation does not ask for a Chartered School. I have a definition of a Chartered School in "Charter Schools, What Are They Up To?" This is a survey by the Education Commission of the states. It says, "Charter Schools operate independently of local school districts and are designed to exist outside of most rules and regulations." That is not what we're talking about in this piece of legislation. In the amendment from the Committee that is attached to this bill, we define "school" as, "a public school that, notwithstanding the positions of this title, may establish rules that modify or augment existing rules of the Department." As far as geographical area and that argument, because that also came up in Committee, geographic basis which is defined in the amendment says, "Geographic basis is to develop professional development programs in conjunction with the Maine Arts Commission that will reach teachers in all areas of the state." The Commission, when they came before our Committee when we were discussing this piece of legislation, told us that it would be very possible for the teachers' training, and some of the parts of this program, to be started in northern Maine if that's what we preferred to do, because there are three basic prongs to this piece of legislation. One is the professional development, one is summer programs and programs for children that excel in the Arts and the other is to set up programs throughout the state, through regular school systems. Something similar to the vocational or even maybe using vocational high schools. That also is defined in the amendment. What we did in the amendment is we said that we gave authority to sending schools as far as certification and rule-making. Certification and a promise to offer courses of study and grant diplomas and certification on completion of courses of study. The high school diploma must be issued by the sending school. That is not a Charter School because that is under our state school system. So please don't be confused by those issues. We would not be competing with a private school. One of the things that came up when we had our public hearings is we had many, many students from different areas of the state that came before us, students that excelled in art. These students brought to us the concern that private schools, even Charter Schools but mostly private schools, in art are very expensive and some of the students that came before us were excluded from being able to continue their education in the Arts because they were unable to afford the courses that other more affluent students would be able to afford. So I would urge you to vote against the motion to indefinitely postpone and please stay with us and the Committee and vote to pass this piece of legislation out. Thank you.

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

Senator **CATHCART**: Thank you Mr. President, men and women of the Senate. I really hate to rise and oppose a bill that would promote Arts Education in the State of Maine and yet, I feel I must. We just simply cannot afford this. Ten years ago I probably would have voted for it and I would have said, "Oh, what a good idea." I believe in the value of teaching art and the Arts to children and, as a parent, I paid privately for my children to have lessons in every kind of art they were interested in because it mattered a great deal to me. You've heard me, and the Education Committee has heard me, over and over lament the fact that the Alton Elementary School in my district had to do away with art and music and physical education. They had to lay off their teachers because of cuts to their budget from the State of Maine. Last night I attended the school budget hearing in the town of Orono where I live. Orono, since 1991 when the first time the School Funding Formula in the state were cut back, has lost more than \$3.5 million from the state in school funding. I cannot, in good conscience, support a bill which would spend \$600,000 in the next biennium and would be a continuing expense for the State of Maine which, I believe, would take away funding from the schools in my district that are already hurting so much. And for this reason, I ask you to support the motion to indefinitely postpone and Mr. President, if a roll call has not been called for, I request one. Thank you.

On motion by Senator **CATHCART** of Penobscot, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **BENOIT**: Thank you Mr. President, may it please the Senate. The other day when this came before us, I got up and said that I would reluctantly support this measure. I've had a change of agenda on this legislation. I want to share that with you. This morning at 6 o'clock, in Rangeley, I met with constituents on some of the pending matters before us and I wanted to have their thinking about this one, to be guided by it. I told you the other day why my support was reluctant. While I like the piece in this bill that talks about assisting teachers in my district to better service youngsters in the Arts, I stated that my teachers would have to drive Route 4 from Rangeley to Avon or the Farmington area on an unsafe stretch of road to get to Portland. That bothers me. My constituents this morning asked a very simple question. "Why should I vote to spend \$600,000 on this Center for the Arts at a time when Route 4, running from Avon to Rangeley is unsafe?" I've already told you at last session of this Legislature about two of my constituents who had a near-death experience in Avon going home one day when a slide came down of mud and pinned their vehicle against the guardrail just a few feet from the Sandy River at flood stage. There they were, pinned against the guardrail, mud on one side and the guardrail on the other until they were rescued. Now I ask you, am I going to vote to spend money on an Arts Center knowing that that road is unsafe? No. Let's get our priorities in the right order. First, we get our roads safe, then we go to the extras. Then we vote for Arts Centers after this state, and the whole of this state, has roads that are safe for our citizens. I've been harping about Route 4. I shall continue to harp about it because it's been neglected and I need support from you folks down here in southern Maine and on the coast to get roads in my area as safe as roads in your area. When they are, I will support

things like this, gladly support things like this. I support the Arts, I do, but first, please, let's take care of some of our roads and bridges in this state and when those are fixed so that our people can ride on them safely to Arts Centers, then I will support those Arts Centers. But our priorities are way out of whack in certain portions of this state. It isn't right, it isn't fair for my constituents to have to ride unsafe roads at a time when a bill like this seeks to raise money for a Center for the Arts. I'm sorry, but that's my constituents' agenda and that's my agenda. And I will be supporting this pending motion. Thank you.

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

Senator **AMERO**: Thank you Mr. President, ladies and gentlemen of the Senate. I think the two Senators from Penobscot, Senator Cathcart and Senator Murray, make the case very well for why we need more focus on the Arts in the State of Maine. They are accurate in saying that schools across this state are cutting back on the Arts. Senator Benoit makes the case of why we need to invest in roads, but we can't forget the Arts while some of our roads are not in top repair. The Maine Center for Education, first of all, would be an umbrella center actually located in Augusta to provide overall guidance across the state in how the state can better address the needs of our students who are not getting the programs in the Arts which they all deserve. The Maine Center would provide for staff development across the state. They would go to the different regions of the state to help our teachers who would like to have arts integrated into their classrooms and classroom programs. This program would provide for summer institutes across the state, not in Portland, not just in Augusta, but across the state. Two of the three parts of this program are statewide. The only piece that is a pilot, that is starting in Portland, because of the original legislation which asked for two magnet schools in this state, that program is now no longer a magnet school, it's an afternoon regional program that would draw from a 60 minute radius of the Portland area and would, in fact, affect 60% of the high school students in the State of Maine, giving them an opportunity to have experiences in the Arts that are not available to them at their local high schools. The funding of \$595,000, \$250,000 of that is for teacher preparation and for Arts Institutes across the state. The amount of money is far less than it would take to run a separate standing school in any location and it is a program that the Commissioner of Education and the Department of Education sees as the future for this state, if in fact we are going to be able to provide our Arts opportunities for our students. I don't see in the next decade any other approach that will work other than a regional approach. So, for the people who feel that not investing, investing nothing, in Arts programs is better than starting a program that could spread across the state and help all of our school districts, I think you're making a mistake. As far as the issue of a private school whether it be in Bangor or Westbrook, there are four or five private Arts Academies across the state. And I encourage and hope that they will flourish and hope that the Bangor program does get off its feet and will serve a number of students. We could use more schools like that across the state, but that shouldn't preclude us from offering in the public sector to students who can't afford these private experiences to have similar type opportunities. You know, we have, in every school district in this state, students who learn artistically and learn differently from programs that we're presently offering in our schools. And I think it behooves us to meet those students'

special needs. Here is an inexpensive approach of doing that that all parts of this state can benefit from and I hope that when the vote is taken on indefinite postponement that you will vote against this and give this new idea a chance to flourish across our state. Thank you.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: BENOIT, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, JENKINS, KILKELLY, LONGLEY, MICHAUD, MURRAY, RUHLIN, TREAT

NAYS: Senators: ABROMSON, AMERO, BENNETT, BUTLAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LAFOUNTAIN, LIBBY, MACKINNON, MILLS, MITCHELL, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, THE PRESIDENT - MARK W. LAWRENCE

13 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion by Senator MURRAY of Penobscot to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **FAILED**.

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

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/19/97) Assigned matter:

SENATE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Provide Funding for the Southern York County Business Resource Center" S.P. 618 L.D. 1821

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass** (2 members)

Tabled - May 19, 1997, by Senator **RAND** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 15, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In House, May 16, 1997, Bill and Accompanying Papers **RECOMMENDED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in **NON-CONCURRENCE**.)

On motion by Senator **MICHAUD** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

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

The Chair laid before the Senate the following Tabled and Later (5/21/97) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Promote Wildlife Rehabilitation Centers" H.P. 551 L.D. 742

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-535)** (4 members)

Tabled - May 21, 1997, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In House, May 19, 1997, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-535)**.)

(In Senate, May 20, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.)

(In House, May 20, 1997, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

On motion by Senator **RUHLIN** of Penobscot, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE**.

Senate at Ease

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (5/22/97) Assigned matter:

Bill "An Act to Remove the Large Lot Exemption from the Definition of "Subdivision" within the Laws Administered by the Maine Land Use Regulation Commission" S.P. 356 L.D. 1175 (C "A" S-245)

Tabled - May 22, 1997, by Senator **PINGREE** of Knox.

Pending - motion by Senator **AMERO** of Cumberland to **RECEDE** and **CONCUR**

(In Senate, May 20, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-245)**.)

(In House, May 21, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

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

Senator **KILKELLY:** Thank you Mr. President, men and women of the Senate. I would hope that you would vote against the pending motion to recede and concur and allow us to go on and insist and request a Committee of Conference. This bill came from the LURC Administration and the LURC members who felt that in their review of their Comprehensive Plan and the work that they have been doing that one of the issues that has been a pressing problem in some of the LURC jurisdiction is the exemption for 40 acre lot subdivisions. And those subdivisions are created without any oversight at all. So I would hope that we could go on to insist and would urge you to vote against the pending motion: Mr. President, I request a roll call.

On motion by Senator **KILKELLY** of Lincoln, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **HALL:** Thank you Mr. President, ladies and gentlemen. I think the present motion before you to recede and concur is definitely the best one. Talk about knowing "when to hold 'em and when to fold 'em," I think it's time to fold this particular bill. I think a lot of people, when they look at this and think about 40 lot subdivision, they're thinking only paper companies. Well, I can assure you that's not the case. As a matter of fact, an awful lot of our land in Unorganized Territories is owned by private individuals. I've had a couple of individuals that have spent the last week down here waiting for this particular bill to come forward because they own a couple hundred acres in Unorganized Territories and haven't sold their property, haven't divided it up, but want the opportunity to be able to do it without going through a subdivision plan. I also have another constituent that has a 500 acre lot. Now, these lots have been bought and held for a long period of time and people are counting on the sale of these lots for their retirement. Well obviously, if you've got 200, 500 or 1,000 acres of land and you break them up into 40 acre lots or 50 acre lots, then obviously you're going to get more money for them than if you have to sell them all as one piece or if you broke it in two and sold it. So, in consideration of the Maine people out here who own large tracts of land, then I think, and this has worked quite well in the past. It really hasn't been a wholesale problem. Maybe in somebody's mind apparently it has, or the bill wouldn't be here, but I'm going to urge you to vote for the present motion on the floor. Thank you.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, PARADIS, SMALL

NAYS: Senators: CATHCART, CLEVELAND, DAGGETT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: RUHLIN

Senator **LAFOUNTAIN** of York requested and received leave of the Senate to change his vote from YEA to NAY.

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **AMERO** of Cumberland to **RECEDE** and **CONCUR, PREVAILED.**

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-Stakes Bingo Game" H.P. 1307 L.D. 1855

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-686)** (7 members)

Minority - **Ought Not to Pass** (6 members)

In House, May 27, 1997, 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-686).**

In Senate, May 27, 1997, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**

On motion by Senator **PINGREE** of Knox, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE.**

Off Record Remarks

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/23/97) Assigned matter:

Emergency

An Act to Exempt Contract Dance Instructors and National Service Volunteers from the Unemployment Tax (Emergency)
H.P. 24 L.D. 49
(H "A" H-525)

Tabled - May 23, 1997, by Senator **RAND** of Cumberland.

Pending - **ENACTMENT**

(In Senate, May 21, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-525)**, in concurrence.)

(In House, May 23, 1997, **PASSED TO BE ENACTED.**)

On motion by Senator **RAND** of Cumberland, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

Sent down for concurrence.

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

Off Record Remarks

On motion by Senator **RAND** of Cumberland, **RECESSED** until 3:00 in the afternoon.

After Recess

Senate called to order by the President.

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

SECOND READERS

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

House As Amended

Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months"
H.P. 123 L.D. 147
(C "A" H-657)

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

Senate

Bill "An Act to Criminalize Certain Photographing of Children under the Clothing of a Person in a Public Place by Mechanical or Electronic Equipment"
S.P. 664 L.D. 1892

Bill "An Act Regarding Child Care Regulation"
S.P. 667 L.D. 1893

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Provide Continuity and Flexibility for Long-term Care"
S.P. 357 L.D. 1176
(C "A" S-233)

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **PARADIS** for the Committees on **HEALTH AND HUMAN SERVICES** and **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Create Quality Employment and Business Ownership Opportunities for Social Assistance Recipients"
S.P. 453 L.D. 1427

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-342).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-342) **READ** and **ADOPTED.**

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

Senator **RUHLIN** for the Committee on **TAXATION** on Bill "An Act to Change the Name of the Bureau of Taxation and to Allow Other Agencies of the State to Benefit from Its Services"
S.P. 623 L.D. 1826

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-341).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-341) **READ** and **ADOPTED**.

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

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

ENACTORS

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

An Act to Consider the Horse Supply in the Assignment of Race Dates
H.P. 202 L.D. 255
(H "A" H-539)

An Act to Amend the Laws Pertaining to Wine Tasting
S.P. 108 L.D. 387
(S "A" S-184 to C "B" S-122)

An Act to Establish Guidelines for the Utilization of Municipal Solid Waste Incinerator Ash and Its Derivatives
H.P. 344 L.D. 466
(C "A" H-646)

An Act Regarding the Penalty for Failure to Allow a Terminated Employee to Review Certain Files
S.P. 218 L.D. 677
(C "A" S-300)

An Act to Require Defendants to Pay Restitution, Monetarily or Through Work Restitution
S.P. 274 L.D. 882
(C "A" S-305)

An Act Pertaining to Parental Access to School Records
H.P. 839 L.D. 1144
(C "A" H-670)

An Act to Establish the Civil Violation of Creating a Police Standoff
H.P. 1010 L.D. 1402
(H "A" H- 676 to C "A" H-470)

An Act to Amend the Child Support Laws Concerning Notice to Co-owners of Property Subject to Support Liens
S.P. 454 L.D. 1428
(S "A" S-307 to C "A" S-294)

An Act to Authorize a Police Officer to Impound the Motor Vehicle of a Person Arrested for Operating Under the Influence or Driving with a Suspended or Revoked License
S.P. 496 L.D. 1527
(C "A" S-304)

An Act to Establish Breast Cancer Patient Protection
H.P. 1113 L.D. 1556
(C "A" H-668)

An Act to Provide a Funding Mechanism for the E-9-1-1 System
H.P. 1172 L.D. 1649
(C "A" H-666)

An Act to Establish and Implement a Pilot Program for Restorative Justice
S.P. 570 L.D. 1727
(C "A" S-303)

An Act to Improve the Delivery of Mental Health Services in Maine
S.P. 615 L.D. 1814
(C "A" S-312)

An Act to Enhance the State's Work Force Development System
S.P. 616 L.D. 1815
(C "A" S-246; H "A" H-634)

An Act to Make Changes to the Maine Economic Growth Council
S.P. 651 L.D. 1872

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

An Act to Encourage Art Education in the State
H.P. 29 L.D. 54
(C "A" H-349)

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

An Act to Ensure Funding for Snowmobile Law Enforcement Activities
S.P. 193 L.D. 611
(C "A" S-270; S "A" S-306)

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

An Act to Create an Elder Abuse and Fraud Unit in the Department of the Attorney General
H.P. 476 L.D. 647
(C "A" H-662)

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

An Act to Amend the Maine Criminal Code to Include the Loss of a Pregnancy
H.P. 541 L.D. 732
(C "A" H-604)

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

An Act to Implement the Recommendations of the Judicial Compensation Commission S.P. 322 L.D. 1062 (C "A" S-286)

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

An Act Regarding Reimbursement for Sand and Salt Storage Facility Construction H.P. 1130 L.D. 1586 (C "A" H-658)

On motion by Senator **O'GARA** of Cumberland, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**.

An Act to Optimize the Utility of the 5 Maine Veterans' Homes H.P. 1173 L.D. 1650 (C "A" H-651)

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

An Act to Allow the Town of Chester to Annex a Certain Parcel of Land S.P. 633 L.D. 1850 (C "A" S-296)

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

Emergency

An Act to Implement the Recommendation of the Harness Racing Task Force Requiring an Executive Director of the State Harness Racing Commission H.P. 1314 L.D. 1865 (C "A" H-652)

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

Emergency

An Act Concerning Certain Biennial Budget Bills and to Change Certain Provisions of the Law H.P. 1337 L.D. 1886

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with no Senators having voted in the negative, and 25 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.

Resolve

Resolve, Authorizing the Transfer of Land from the State to the Freeman Ridge Cemetery Association H.P. 1255 L.D. 1782 (C "A" H-635)

Resolve, Authorizing the Exchange and Sale of Certain Public Lands S.P. 608 L.D. 1809 (C "A" S-295)

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

Emergency Resolve

Resolve, to Examine the Impact of Federal Devolution Decisions on Municipalities and Other Local Agencies S.P. 499 L.D. 1561 (C "A" S-278)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with no Senators having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 6: Regulations Relating to Coordination and Oversight of Patient Care Services by Unlicensed Health Care Assistive Personnel, a Major Substantive Rule of the Maine State Board of Nursing H.P. 1328 L.D. 1877

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with no Senators having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter II, Section 67: Nursing Facilities Services, Maine Medical Assistance Manual, a Major Substantive Rule of the Department of Human Services, Bureau of Medical Services H.P. 1331 L.D. 1881

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with no Senators having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Mandate

An Act Amending the Compensation for Members of the Panel of Mediators H.P. 1001 L.D. 1393 (S "A" S-308 to C "A" H-587)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 25 Members of the Senate, with no Senators having voted in the negative, and 25 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.

Mandate

An Act to Prohibit Towns from Cancelling Health Insurance Provided to Retired Employees H.P. 1140 L.D. 1605 (C "A" H-497)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 25 Members of the Senate, with 1 Senator having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Mandate

An Act to Authorize Hancock County to Hold a Referendum Election in November 1997 on a Bond Issue of \$6,000,000 to Construct a New Jail and to Provide Necessary Renovations to the Courthouse to Comply with State Mandates H.P. 1312 L.D. 1860 (C "A" H-586)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 26 Members of the Senate, with no Senators having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve Mandate

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1997 H.P. 1335 L.D. 1884

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 26 Members of the Senate, with no Senators having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/15/97) Assigned matter:

SENATE REPORTS - from the Committee on **TRANSPORTATION** on Resolve, Regarding the Posting of Certain Roads by the Department of Transportation S.P. 412 L.D. 1333

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-220)** (1 member)

Tabled - May 15, 1997, by Senator **PINGREE** of Knox.

Pending - motion by Senator **O'GARA** of Cumberland to **ADHERE**

(In Senate, May 14, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In House, May 15, 1997, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-220)** in **NON-CONCURRENCE**.)

On motion by Senator **O'GARA** of Cumberland, the Senate **ADHERED**.

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

The Chair laid before the Senate the following Tabled and Later (5/21/97) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Provide for Removal of a State Auditor Who Fails to Meet the Statutory Qualifications for the Office" S.P. 440 L.D. 1414

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (S-279)** (7 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (S-280)** (3 members)

Report "C" - **Ought Not to Pass** (2 members)

Tabled - May 21, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE** of Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-279)**

(In Senate, May 21, 1997, motion by Senator **NUTTING** of Androscoggin to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-280)**, **FAILED**. Motion by Senator **RAND** of Cumberland to **ACCEPT** Report "C", **OUGHT NOT TO PASS, FAILED**.)

Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-279)**, **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-279) **READ** and **ADOPTED**.

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

The Chair laid before the Senate the following Tabled and Later (5/27/97) Assigned matter:

Bill "An Act to Regulate the Use of Personal Watercraft"
S.P. 137 L.D. 416
(C "A" S-311)

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - motion by Senator **KILKELLY** of Lincoln to **RECEDE** and **CONCUR** (Division Requested)

(In Senate, May 23, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-311)**.)

(In House, May 27, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-311) AS AMENDED BY HOUSE AMENDMENT "A" (H-689)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **HALL** of Piscataquis, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-311)**.

On further motion by same Senator, the Senate **RECEDED** from whereby **COMMITTEE AMENDMENT "A" (S-311)** was **ADOPTED**.

House Amendment "A" (H-689) to Committee Amendment "A" (S-311) **READ** and **ADOPTED**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-338) to Committee Amendment "A" (S-311) **READ**.

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

Senator **HALL:** Thank you Mr. President, ladies and gentlemen of the Senate. What this amendment will do is two things. It will remove the word "hovercraft" which we had discussed yesterday, and then it will also remove 7902-A which is the private civil action. It said that a person may bring "civil action in District or Superior Court against another person for imprudent operation of a watercraft." I feel that that's not necessary. I feel that it will cause confusion and do nothing but confuse the public. The present "imprudent operation of a watercraft" remains and one has to be harassed before that can occur. I only remind you that the citizens will still have to be involved in that, that the Law Enforcement Officer enforcing watercraft regulations cannot be the one being harassed. It has to be a private citizen, so the private citizen is still going to be involved, is still going to be the one that if they file a complaint

that are going to have to go to court and testify. So I think this is really a little overkill and that's why I'm trying to amend it out of the bill. Thank you very much.

Senator **KILKELLY** of Lincoln moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-338) to Committee Amendment "A" (S-311).

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

Senator **KILKELLY:** Thank you Mr. President, men and women of the Senate. I believe that this amendment basically guts the bill and leaves it with nothing, and as I mentioned yesterday, there was a great deal of concern that something, in fact, needs to happen in terms of personal watercraft. That we need to provide an opportunity to clarify what it is we're concerned about in terms of activities, and we need to provide some opportunity for redress. One of the reasons that we did not limit it to involving Law Enforcement Officers is because the Law Enforcement Officers that are dealing with boating, and now we've adopted this bill with the amendment from the other body which includes coastal waters. I've already heard from a couple of folks saying, "You know how many coastal wardens we have and how overworked they already are and you're going to expect them to do this work as well?" And my response to them was, "No, that's not what the Committee intended." The same issue holds true for the inland fish folks, that already we have them doing so much boating enforcement and in the wintertime doing snowmobile enforcement that there's very little time for them to be available to be enforcing fishing and hunting laws which is what, in theory, we provide them for. Also, the concern that the money that's being paid on the inland side, the money that's being paid for all this enforcement, is coming from hunting and fishing licenses, and we have worked diligently this year to reduce the number of things that they must be involved in, so that we are in fact providing more opportunities for them to be involved in Fish and Game issues and not just law enforcement.

The issue of hovercraft is an interesting one. I checked with the analyst and talked with a number of other people and for one thing, hovercraft is, in current law, under the definition of personal watercraft. My understanding for the reason for that is that technology is constantly changing, and while at this point there is not a jet-propelled hovercraft that's less than 14 feet long, there isn't any way of saying that there isn't going to be one in the near future. So what they had done, when they originally crafted the language for personal watercraft, which did not come out of my Committee but, as I said, is in current law, hovercraft, in fact, were included. So that's the reason that hovercraft are included in there.

So, I would urge you to indefinitely postpone this amendment so that we can get on to concur with the House and to, at least, pass an outline of legislation around personal watercraft and collect the information necessary to look at this issue further next year. And Mr. President, I request a roll call.

On further motion by same Senator, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **HALL**: Thank you Mr. President, ladies and gentlemen. I surely hope that you'll vote against this pending motion. Probably if you kill my amendment, you'll kill the bill. It's as simple as that. Now if that's what you want to do, then you go ahead and kill the amendment, but I won't vote for the bill, the way it is, without the amendment. And I know quite a few others won't either.

Let me try to explain something to you. Apparently, the Senator from Lincoln doesn't understand this bill. This leaves a lot in the bill. I can tell you right now that neighbor against neighbor is not going to work. Now picture this. A lives over here and B lives over here on the pond, and B's kid is out here running around, harassing A. Now, the way this law reads, unless we amend it, Mrs. A or Mr. A has got to go into court, swear out a civil action against B's children over here. Now think about that, and they're going to be living side by side, or neighbors, or whatever the case may be. It's not going to work. It's not going to work. It's no pleasure taking anyone to court and, from somebody who's taken thousands of people to court, I'm telling you it's not really a whole lot of fun. And neighbors are not going to do it. No way. So you really don't want that in there.

Now think of the coastline, as far as these jet-skis go. Most of your cottages and your homes are built up above the water level, high above, on cliffs. You think of the Maine coast. We don't build down in the marshland which is level with the water, with the tide, because of the tides and so on and so forth. The noise doesn't carry up the same. There's so much difference between inland waters and the coastal waters that you can't even compare them. I don't know of any complaints from jet-skis that have come from the coastal area. There may have been some, may well be some, but not like there is on the inland waters.

Now we've all received hundreds of letters, postcards, phone calls in reference to personal watercraft. Now everybody on the Fisheries and Wildlife Committee wanted to do something and I think we should do something, but I think we need to be careful of what we do, so that we don't make a larger problem than what we have right now. I think this bill will take care of the problem by adding a violation, but I can assure you that the game wardens are not going to be out there if somebody is doing circles for an hour and jumping their own wakes and screaming them babies out of the water, I'm telling you the way the law is. The warden cannot be the person that's harassed. The law doesn't work that way. It has to be a civilian, so a civilian is going to have to complain to the warden that they're being annoyed by this jet-ski. And that happens. This will give the warden the teeth to go out and do something and I hope, and I'm assured by the Warden Service that they will go out and warn the individual, "If you continue this type of action with your jet-ski, someone has complained, and if you continue this in this location I'm going to have to give you a summons to court." Now probably that'll take care of it. There are a few idiots that would move down 20 feet and continue the operation, that'll happen. That's life. But that is left in the bill, that's what will happen. But do not pit one neighbor against the other or, you know what those things lead to. It'll be constant harassment and I don't think the citizens out there really want that kind of action or want to get involved in that. I think this is a good amendment and I think you should vote against the pending motion to indefinitely postpone it and let's go on and pass some legislation that we can live with. Thank you.

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

Senator **KIEFFER**: Thank you Mr. President, ladies and gentlemen of the Senate. Yesterday, when I brought to your attention the situation regarding the propulsion and the motor capacity, which reads, "A personal watercraft means any motorized watercraft that is 14 feet or less in hull as manufactured, has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position." I believe that this legislation, as it is written, puts a hovercraft above the law. A hovercraft is equally at home on land as it is on water. Any type of a jet propulsion pump is something that would be academic on a watercraft because it will ride on a cushion of air. It has absolutely nothing to do with the water. You can take a hovercraft and run it over smooth land or down the highway just as readily as you can take it and put it on a body of water. I believe the way this legislation is worded, for that reason, places the hovercraft outside of the law entirely.

As far as enforcement is concerned, boat registrations as well as sea-doo registrations or whatever you want to call jet-propelled jet-skis, wet bikes or whatever, these funds do go the Department of Inland Fisheries and Wildlife and they're used for a variety of reasons. Of course one is law enforcement and for that reason, I believe, that this is a good amendment and I think it leaves plenty in the bill. I think it's something we can all live with. Thank you Mr. President.

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

Senator **NUTTING**: Mr. President and ladies and gentlemen of the Senate. I'll be voting with the motion to indefinitely postpone this amendment. I don't get a lot of time off from the farm but my family and I, the last two summers, have rented a very small place on an island on the coast and we are going to try it one more summer but, believe you me, the last two summers jet-ski's have made life there not pleasant at all, from daylight to dusk. I think having this bill extended to coastal areas, in my small experience, is very much necessary. Thank you.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, FERGUSON, HALL, HARRIMAN, KIEFFER, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, SMALL

Senator **AMERO** of Cumberland requested and received leave of the Senate to change her vote from YEA to NAY.

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **KILKELLY** of Lincoln to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-338) to Committee Amendment "A" (S-311), **FAILED**.

On motion by Senator **HALL** of Piscataquis, Senate Amendment "A" (S-338) to Committee Amendment "A" (S-311) **ADOPTED**.

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

Senator **LIBBY:** Thank you Mr. President. I'd just like to speak briefly on Committee Amendment "A" as amended. You know, I was talking to a good friend of mine over in the other body, the Representative from Penobscot, Representative Perkins, and we were kind of making a little bit of a joke about something that he said on the floor of the House and I'd just like to repeat it for you because you know, his words, I thought, were pretty profound. He said, "that you can make life so safe, it ain't worth living." And I have to agree with that. My caucus heard me talk about this yesterday and so they're probably pretty tired of this but, you know, they make jet ski's to do all of the things that you've been complaining about and I realize that it's a problem. I understand that, but it seems to me that anyone that jumps on a jet-ski now is going to be, even with the amended version, subject to harassment by those who would be, you know, authorities, game wardens and so on and I think that's too bad. I grew up as a young man, you know, rode a motorcycle, owned a snowmobile, all of the fun things that you do even into, I guess, all of our ages. Yeah, it's a nuisance and I wish there was a little more we could do about the nuisance rather than to just pit people against people as the good Senator from Piscataquis, Senator Hall, said. I think it's much more important to take, maybe, a step back and maybe a more holistic look at this and the reason that I say that is, Mr. President, we might not be able to solve this problem going down this road. That's what I'm worried about. It seems to me that there's got to be another way to look at it, whether it be that jet-ski's are used only certain hours of the day or whether it be that we ask the manufacturers to try to reduce the noise coming out of the jet-ski's. You know, we need to take our time, I think, to look at this problem and actually do something about it instead of making it a penalty to drive these things. That's not the answer. Maine is full of lakes. My district has so many lakes, it's unbelievable and I know yours do, too. We're very lucky to have those lakes and I want to remind everybody in this body, and I know you know it, that it's not the lakeshore frontage owners that own the body of water. It's all of us and that's where I'm coming from. You know, if I want to take a jet ski out there, I'm sure that I wouldn't be trying to harass anybody and those that are, probably ought to be punished, but I'm afraid that by the nature of these crafts, you're going to have some problems. Maybe we ought to take our time and look at the crafts themselves and say, "Well, is there something we can do that wouldn't be all that damaging to the industry and that wouldn't pit neighbor against neighbor," as I've heard it said earlier today. Maybe we can do something using that approach and that's precisely why I'm not going to vote for the legislation. I'd rather have the amendment on there than off, no question about that, so I supported it, you know, fearing that the legislation will pass, but I just don't think this is going to be the solution. I'd humbly ask that the Committee next year, both Committees that will be involved in this debate, that they take a look at inventive

ways of trying to solve this problem. That we don't just take it out on the owner or the driver of the vehicle, because I don't think that that's really the answer. Thank you.

The Chair ordered a Division.

On motion by Senator **HALL** of Piscataquis, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-311) as Amended by House Amendment "A" (H-689) and Senate Amendment "A" (S-338) thereto, in **NON-CONCURRENCE**. (Roll Call Ordered)

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator **MACKINNON** of York, **RECESSED** until 5:30 in the evening.

After Recess

Senate called to order by the President.

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

SECOND READERS

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

Senate As Amended

Bill "An Act to Provide for Removal of a State Auditor Who Fails to Meet the Statutory Qualifications for the Office"
S.P. 440 L.D. 1414
(C "A" S-279)

Bill "An Act to Create Quality Employment and Business Ownership Opportunities for Social Assistance Recipients"
S.P. 453 L.D. 1427
(C "A" S-342)

Bill "An Act to Change the Name of the Bureau of Taxation and to Allow Other Agencies of the State to Benefit from Its Services"
S.P. 623 L.D. 1826
(C "A" S-341)

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

Sent down for concurrence.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Open a Discount State Liquor Store in Calais" H.P. 277 L.D. 341

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-46)**.

Signed:

Senators:

CAREY of Kennebec
FERGUSON, JR. of Oxford

Representatives:

BIGL of Bucksport
TUTTLE, JR. of Sanford
LABRECQUE of Gorham
BELANGER of Wallagrass
FISHER of Brewer
CHIZMAR of Lisbon
TESSIER of Fairfield
TRUE of Fryeburg

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

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

GAGNE of Buckfield
GAMACHE of Lewiston

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-46) AND HOUSE AMENDMENTS "A" (H-122) AND "B" (H-636)**.

Which Reports were **READ**.

Senator **DAGGETT** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **DAGGETT:** Thank you Mr. President and members of the Senate. Earlier this year when this bill came to our

Committee, as you can see, it's L.D. 341, which is a relatively low number, we had hoped to deal with the issue before us of the whole system of State Liquor Stores, but have deferred that until the next session. It had been my intention at the time to deal with the issue of the Calais liquor store in the context of the issue of the liquor store, the state-run system as a whole. However, at this time, I feel that the Ought to Pass report, if we do pass this and if it's passed with a large majority, could be put into effect soon enough to give us some data that would be potentially helpful for us in dealing with the issue during the next session. So for that reason, I would be supporting and moving the Majority report. Thank you.

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

Senator **CASSIDY:** Thank you Mr. President, men and women of the Senate. I just quickly wanted to clarify a few questions that I've heard on this particular bill. What we have before us here is in the city of Calais, presently, we do have a state liquor store and years ago when the Legislature approved two liquor stores within the state, discount liquor stores, as you know there's one in Kittery that's been there quite a few years and the second store had never been there. So a lot of the merchants, Chamber of Commerce and folks, in the Calais area asked Representative Driscoll and I if we would present this particular legislation this year. And the intent here is to continue to have that liquor store, but it would just revert to a discount store. It wouldn't add a new store. It wouldn't do anything. We have 1.5 million vehicles cross into Canada from Calais. It's the sixth largest port of entry in the United States. We've had some real problems over the last few years with some of the retail stores that left the Calais area. Rich's for one, as you know, they closed many stores throughout the state and other stores, but recently we've had some hope. Some new things have happened there. As a matter of fact, shortly Marden's Discount Store will be going into the Calais area as well and we feel that this particular bill that would create a discount store for us there would also draw some folks to the area and really sort of help to give some influx of growth to the retail trade there in the Calais area. And I can assure you that this particular bill isn't going to create a new store. If someday the state decides to privatize, obviously this would become a private store. Some of these smaller stores, like Irving, purchased a building that had an agency store, whatever, and you know, someone said to me this evening as a matter of fact, "Well, why not let Irving have this private store?" Well, I'd hate to see more money go to New Brunswick from Maine people. I'd like to leave the taxes and the money we raise here in the State of Maine, so I ask you to support this and I'd appreciate your vote on this motion. Thank you.

At the request of Senator **HARRIMAN** of Cumberland a Division was had. 22 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **DAGGETT** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-46) **READ** and **ADOPTED**, in concurrence.

House Amendment "A" (H-122) **READ** and **ADOPTED**, in concurrence.

House Amendment "B" (H-636) **READ** and **ADOPTED**, in concurrence.

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

ORDERS OF THE DAY

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

Bill "An Act to Provide That the Operator of a Motor Vehicle Is Not Responsible for Securing in a Seat Belt a Passenger 18 Years of Age or Older"
H.P. 303 L.D. 367
(C "A" H-334; S "C" S-218)

Tabled - May 28, 1997, by Senator **RAND** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-334) AND SENATE AMENDMENT "C" (S-218)**, in concurrence

(In Senate, May 20, 1997, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order S.P. 665, in concurrence.)

(In Senate, May 28, 1997, on motion by Senator **LIBBY** of York, **RULES SUSPENDED RECONSIDERED ENACTMENT. RULES SUSPENDED, RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED.**)

On motion by Senator **LIBBY** of York, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "C" (S-218).

On further motion by same Senator, Senate Amendment "A" (S-343) to Senate Amendment "C" (S-218) **READ** and **ADOPTED.**

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

Senator **LIBBY:** Thank you Mr. President, men and women of the Senate. If I might just explain, I must say, it was very difficult to come up with an agreement between the Governor's Office, the Department of Safety, the Secretary of State's Office, the two Chairs of the Committee on Transportation and myself but I think we've done that. For those of you who haven't been able to follow because we've had so many other things, this bill was recalled from the Governor's desk. The Governor reviewed the bill and there was a minor problem with the seat belt revisions

as they were written. As they were written, completely unintended I might add, the passenger in an automobile would only be responsible for a seat belt fine, if the driver of that vehicle was fined. And that is, I have been told by the Governor's Office, a nightmare in administration, and I can understand that. So, we worked long and hard to try to come up with some kind of a solution and, actually I spent a lot more time on this bill than I would have liked, but I think we have. This amendment would, first of all, any passenger 18 years of age or older is subject to a fine for not wearing a seat belt regardless of what the operator does. That was problem number one, that we had to get by, not attaching any passenger in an automobile to an event that the driver was responsible for in a court of law. And we have done that. It also, for the driver, secondary enforcement, I think, is the term used for the driver, you must be pulled over for another violation in order to fined for not wearing a seat belt. But you can be fined under this amendment for not wearing a seat belt even if you are not fined for another violation. I want to make that clear because that's a change in the way the current law is. So what this does then, is make those who are in an automobile responsible for themselves, not to get too technical, but basically what it comes down to is, the people who are driving in any automobile are responsible for buckling their seat belts. They are not, if they are passengers, in any way related to anything the driver does. A driver may be forced to pay a fine for not wearing their seat belt even if they are not convicted of any other offense. So that's exactly what this bill does. If there are further problems with it, I'd be glad to answer them. All sides seem to agree that it is exceptionally well-crafted finally, and I ask you for your consideration. Thank you.

Senate Amendment "C" (S-218) As Amended by Senate Amendment "A" (S-343) thereto, **ADOPTED** in **NON-CONCURRENCE.**

Which was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-334) AND SENATE AMENDMENT "C" (S-218) AS AMENDED BY SENATE AMENDMENT "A" (S-343)** thereto, in **NON-CONCURRENCE.**

Sent down for concurrence.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Improve the Administration of Animal Welfare Law"
H.P. 982 L.D. 1362
(C "A" H-492)

In Senate, May 19, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492) AND HOUSE AMENDMENT "A" (H-717) in NON-CONCURRENCE.**

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION.**

Non-concurrent Matter

Bill "An Act to Establish the Maine Center for Arts Education"
S.P. 388 L.D. 1273
(C "A" S-310)

In Senate, May 28, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-310).**

Comes from the House, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

Senator **MURRAY** of Penobscot moved the Senate **RECEDE** and **CONCUR.**

The Chair ordered a Division. 8 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **MURRAY** of Penobscot to **RECEDE** and **CONCUR, FAILED.**

The Senate **ADHERED.**

Sent down for concurrence.

ORDERS OF THE DAY

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

Bill "An Act to Improve the Administration of Animal Welfare Law"
H.P. 982 L.D. 1362
(C "A" H-492)

Tabled - May 28, 1997, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 19, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492),** in concurrence.)

(In House, May 28, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492) AND HOUSE AMENDMENT "A" (H-717) in NON-CONCURRENCE.**)

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED.**

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

SENATE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Amend the Membership of the Maine Land Use Regulation Commission"
S.P. 347 L.D. 1166

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-244)** (5 members)

In Senate, May 22, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**

Comes from the House, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-244) in NON-CONCURRENCE.**

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED.**

Non-concurrent Matter

Bill "An Act to Regulate Recreational Vehicle Franchises"
H.P. 964 L.D. 1327
(H "A" H-628; H "B"
H-655 to C "A"
H-503)

In Senate, May 23, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503) AS AMENDED BY HOUSE AMENDMENTS "A" (H-628) AND "B" (H-655) thereto, in concurrence.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503) AS AMENDED BY HOUSE AMENDMENTS "A" (H-628); "B" (H-655) AND "C" (H-705) thereto, in NON-CONCURRENCE.**

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED.**

Non-concurrent Matter

Bill "An Act to Establish the Maine Economic Improvement Fund"
S.P. 637 L.D. 1854
(C "A" S-326)

In Senate, May 23, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-326).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-326) AS AMENDED BY HOUSE AMENDMENT "B" (H-720) thereto, in NON-CONCURRENCE.**

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

Non-concurrent Matter

Resolve, to Establish a Pilot Project Voucher System for Nursing Facility Level Care Reimbursement under the Medicaid Program (Emergency) S.P. 558 L.D. 1684 (C "A" S-256)

In Senate, May 20, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-256)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-256) AS AMENDED BY HOUSE AMENDMENT "A" (H-708)** thereto, in **NON-CONCURRENCE**.

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

Senate at Ease

Senate called to order by the President.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, were ordered sent down forthwith for concurrence.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Increase the Excise Tax on Cigarettes to Support a Tobacco Prevention and Control Program and Reduce the Individual Income Tax Burden" H.P. 1279 L.D. 1816

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

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

TRIPP of Topsham
TUTTLE, JR. of Sanford
GREEN of Monmouth
ROWE of Portland
GAGNON of Waterville
MORGAN of South Portland
LEMONT of Kittery

BUCK of Yarmouth

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-713)**.

Signed:

Senators:

RUHLIN of Penobscot
MILLS of Somerset

Representatives:

SPEAR of Nobleboro
CIANCHETTE of South Portland

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

Which Reports were **READ**.

Senator **RUHLIN** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-713)** Report in **NON-CONCURRENCE**.

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

Senator **RUHLIN:** Thank you Mr. President, Senators of Maine. This particular report before you recognizes a couple of basic things. It recognizes that we have a severe problem in the State of Maine, in fact, not a life-threatening problem but a life-costing problem. We have the highest youth smoking rate in the nation. I wish I could say, "Shame on us" and it would all go away, but it doesn't work that way. This bill recognizes that if we are going to correct that situation, we need to take meaningful steps to solve that problem which is probably, without any question, the number one health problem facing the people of the State of Maine. And that is the future health of our youth. One out of every three of those youths who will become addicted to smoking will die from that addiction. Those are not pleasant things to think about. This particular bill, this particular report, addresses that problem. It addresses that problem in a fiscally forthright and direct manner. It does it in a couple of ways. It recognizes that the cost of a product will have some influence on the availability and sale of that product, especially to the lower income level people. And I can remember, and I'm sure most of us can remember, when you're young you usually don't have much money in your pocket. And that's exactly the target that we want. Those people where an additional cost to the cost of cigarettes by itself will do something, not a lot, but something to deter. And from that rise in cost, take that money and advertise to do something to undo the ads of evil which we see rampant in every store, on billboards, that you see throughout our society, that glorify cigarette smoking. We can take those moneys from that increase in taxation and correct the image that is being shown to our young, to better protect them, to better warn them of the dangers of their actions. We can do that with this report. We can do it with this bill. We can also, in a limited way, recognize that there are those in our society who will continue with their addiction throughout their life and that's unfortunate, but there is a minority and, again, that's unfortunate but it is a

minority, who can be helped to leave that addiction. It takes some of those moneys from that tax and addresses trying to relieve that addiction, help the person overcome what is generally regarded the strongest addiction to a narcotic drug that there is, and that is nicotine. So the bill does that.

It also does one other thing that is unique to itself. It addresses a problem that we have in the State of Maine that's called the imbalance of our property tax system. As you went door-to-door in your campaigns, I'm sure you heard the citizens of this state tell you that they are bowing under the very heavy yoke of an improperly applied, out-of-balance property tax system, especially in the larger communities where, in major communities, you have as much as 50 or 55% of the properties tax-exempt, where you have mil rates that are nearly confiscatory in nature in the amount that a person has to pay in their property taxes, where, because of various actions and reactions due to economic events of our time, we have gone from a 36% dependence on the property tax as a part of our overall taxing system to a 44%. That is a heavy burden to place on the property owners of this state. This particular proposal, this bill would propose to, not cure that problem, but take a meaningful step toward addressing that property tax imbalance within the State of Maine. I know when you look at things that have a lot of sales appeal, a lot of aura, perhaps, speaking of property tax relief is not the most glamorous thing you can speak of. But I assure you it is sorely needed and it will be sorely appreciated. With that in mind, keeping in mind that we have an opportunity here tonight that we may not be able to duplicate in this session, to take a step, a real step in protecting our youth from the very evils of nicotine. Do not let this moment of opportunity leave us. Do not be misled by the siren song of another alternative that may or probably won't develop. At least keep this opportunity for us to make that choice for our citizens to help improve their health. Let us go forward and do that together as Senators of the State of Maine and let us do it tonight. Thank you.

Senator **MILLS** of Somerset moved to **TABLE 1** Legislative Day, pending the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-713) Report in **NON-CONCURRENCE**.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BENNETT, BUTLAND, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MICHAUD, MILLS, MITCHELL, NUTTING, RUHLIN, SMALL**

NAYS: Senators: **BENOIT, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND,**

TREAT, THE PRESIDENT - MARK W. LAWRENCE

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **MILLS** of Somerset to **TABLE 1** Legislative Day, pending the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-713) Report in **NON-CONCURRENCE, FAILED**.

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

Senator **HALL:** Thank you Mr. President, ladies and gentlemen. It seems to me that if we were so bent on programs to keep our young people from smoking and to help those that are now smoking, why don't we use some of the excise tax that's on cigarettes now? I am opposed to raising the tax any further. And for the other part of this, maybe it does to you, but it sure doesn't make sense to me to raise taxes to reduce taxes. I don't see any net result. I think it still puts us number four in the nation and I don't know if some people here want to be number one in that category also, but if you keep raising taxes, you're going to make it sooner or later. Please vote against this motion. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. A couple of points I really want to respond to from the good Senator from Piscataquis, and there seems to be confusion. "Why raise one tax to change another tax?" Well, let me tell you something. When you've got an imbalance in your tax system that is severe, that is pronounced, that is renowned if you will, the way that you do it is take the tax that's not so burdensome and use it to reduce the one that is burdensome. So if you want to talk about tax burdens, and Maine does have an inordinately high tax burden, the most regressive of which, the hardest one to bear is the property tax. If you, as the Legislature, want to address that tax burden problem, what you do is look at it intelligently, apply an attempt to put it back into balance and the way that you put it back into balance is you give direct property tax relief. You apply a tax to accomplish a hoped-for societal goal and you take those moneys and you apply them directly to where your tax system problem is. Simple Economics 101, that's how it's done. That's how you lower your overall tax burden and I hope you will note that and note that this is a fiscally responsible approach, trying to accomplish the first goal. Let's not lose sight of that, the first goal of helping to deter our youth from smoking. The secondary goal, and it's only secondary, is to address the imbalance of the property tax system. I hope you'll, therefore, vote for the Ought to Pass as amended report. Thank you.

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

Senator **BENOIT:** Thank you Mr. President, may it please the Senate. I'm not going to talk a whole lot about sending our cigarette business over to New Hampshire and down to Massachusetts such as an argument that I've heard by raising the tax on cigarettes. But I echo the good Senator from

Piscataquis, Senator Hall's, comment. You know, we're in the top 10 on tax burden for our citizens and it depends on when you look at the figures, whether we're 8th or 9th, 6th or 7th, and I think it's really a shame. Here we are, talking about raising a tax so that we can further put a tax burden on our citizens and move us closer, as he points out, to number one. There are some in the State House who have that dreaded legislative malady, taxitis, who won't be satisfied, I guess, until we are number one and that bothers me. For after all, the warnings about cigarettes are on the very packages that our young people hold in their hands. The ads that we see in the newspapers have the warnings and the ads for cigarettes in magazines have warnings as well. I would ask you to consider the consumption of marijuana in Maine, with our young people, is at an all-time high. Marijuana is illegal, still, it's at an all-time high, so if illegality doesn't do the trick, how will a few more pennies do the trick? So I would urge you to vote against the pending report because it just isn't going to work as we intend it to and we will be, all the while, working towards number one in this state for tax burden on our citizens. Thank you.

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

Senator **DAGGETT:** Thank you Mr. President, members of the Senate. I would ask you to oppose the motion on the floor. In response to some other comments that have come before me, it is not that I oppose a tax on cigarettes. I think that there is significant reason today to consider raising the tax on cigarettes and I would submit to you that this is not the vehicle to do that. The issue before us, in my opinion, is a public health issue. We're talking about smoking and the devastating effects on the health of the public. While I would, at some other time, be happy to get into a discussion of tax policy in the State of Maine, which I feel has been grossly misrepresented in a number of accounts, I would suggest to you that we need to focus on the health of our citizens. The question has been put to you earlier about why raise one tax to lower another? There are countless reasons to readjust taxes and to spread tax burden out. However, this bill does not do that. This does not spread the tax burden out. If it were a question of realigning tax structure then I think we have to look to some different type of vehicle, but when we're looking at the health of our citizens and our children and a way to address that health, there is a good linkage between raising a tax and addressing health issues. So for those reasons, I encourage you to vote against the motion on the floor so that we can accept the Ought Not to Pass report and move to make an appropriate linkage between cigarette taxes and the health of all of the people of the State of Maine. Thank you.

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

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. I've been looking at the amendment before us, H-713, and on this amendment it reads, "Replaces the increase in the property exemption amount in the bill with a new program of property tax relief for certain municipalities." Now it looks like we're being asked to buy a pig in a poke here. "Certain municipalities." Who are those municipalities? I certainly can't support any piece of legislation with language such as this in it, and I would urge all the members

of the Senate to vote against the pending motion. Thank you Mr. President.

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

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. The "certain municipalities" are very clearly identified at the top of page 2 of the bill under the paragraph called "Program Distribution." The money that is allocated to this element of the revenue-sharing program would be spent purely in proportion to the amount by which a town's mil rate or tax burden exceeds 10 mils. So that the money that is spent from the General Fund, to relieve high property tax rates, would be targeted to those communities that indeed have a high property tax rate. If you were one of the few communities in the state that actually has a tax burden of less than 10 mils, and there aren't very many, then there would be zero participation. For those whose mil rates are just above 10 mils at 11 or 12, for instance, the participation or the new revenue coming to those communities would be very small. For those whose mil rates are up at 20 and 22 and 25 mils, the weight or the largest portion of the distribution would fall to those communities whether they be Caribou, Portland, Bangor or where have you. The interesting thing about the proposal is that it makes targeted use of our valuable General Fund revenue in a way that directly impacts high property tax rates and does not squander that money by distributing it to communities whose property taxes are well below what anybody would regard as a problem. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: ABROMSON, CATHCART, GOLDTHWAIT, HARRIMAN, MICHAUD, MILLS, MURRAY, NUTTING, RUHLIN, SMALL

NAYS: Senators: AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CLEVELAND, DAGGETT, FERGUSON, HALL, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MITCHELL, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

10 Senators having voted in the affirmative and 25 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-713)** Report in **NON-CONCURRENCE, FAILED**.

On motion by Senator **DAGGETT** of Kennebec, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 332

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 28, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of G. Calvin MacKenzie of Bowdoinham, for appointment to the Commission on Governmental Ethics and Election Practices.

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

YEAS: Senators	3 Daggett of Kennebec, Carey of Kennebec, Ferguson of Oxford
Representatives	8 Tuttle of Sanford, Gamache of Lewiston, Fisher of Brewer, Gagne of Buckfield, Tessier of Fairfield, True of Fryeburg, Bigl of Bucksport, Belanger of Wallagrass
NAYS:	2 Rep. Chizmar of Lisbon, Rep. Labrecque of Gorham
ABSENT:	0

Eleven members of the Committee having voted in the affirmative and two in the negative, it was the vote of the Committee that the nomination of G. Calvin MacKenzie of Bowdoinham, for appointment to the Commission on Governmental Ethics and Election Practices be confirmed.

Signed,

S/Beverly C. Daggett
Senate Chair

S/John L. Tuttle, Jr.
House Chair

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS:	Senators: None
NAYS:	Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: O'GARA

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **G. Calvin MacKenzie**, for appointment to the Commission on Governmental Ethics and Election Practices was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Chair noted the absence of the Senator from Penobscot, Senator **RUHLIN**, and further excused the same Senator from today's Roll Call votes.

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

COMMUNICATIONS

The Following Communication: S.C. 333

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 28, 1997

The Honorable Mark W. Lawrence
 President of the Senate of Maine
 118th Maine Legislature
 State House
 Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Merle R. Nelson of Falmouth, for appointment to the Commission on Governmental Ethics and Election Practices.

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

YEAS: Senators 3 Daggett of Kennebec, Carey of Kennebec, Ferguson of Oxford
 Representatives 8 Tuttle of Sanford, Gamache of Lewiston, Fisher of Brewer, Gagne of Buckfield, Tessier of Fairfield, True of Fryeburg, Bigl of Bucksport, Belanger of Wallagrass

NAYS: 2 Rep. Chizmar of Lisbon, Rep. Labrecque of Gorham

ABSENT: 0

Eleven members of the Committee having voted in the affirmative and two in the negative, it was the vote of the Committee that the nomination of Merle R. Nelson of Falmouth, for appointment to the Commission on Governmental Ethics and Election Practices be confirmed.

Signed,

S/Beverly C. Daggett
 Senate Chair

S/John L. Tuttle, Jr.
 House Chair

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: SMALL

EXCUSED: Senator: RUHLIN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being 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 nomination of **Merle R. Nelson**, for appointment to the Commission on Governmental Ethics and Election Practices was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

COMMUNICATIONS

The Following Communication: S.C. 334

**STATE OF MAINE
 ONE HUNDRED AND EIGHTEENTH LEGISLATURE
 COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 28, 1997

The Honorable Mark W. Lawrence
 President of the Senate of Maine
 118th Maine Legislature
 State House
 Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Honorable Harriet P. Henry of Standish, for appointment to the Commission on Governmental Ethics and Election Practices.

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

YEAS: Senators 3 Daggett of Kennebec, Carey of Kennebec, Ferguson of Oxford

Representatives 10 Tuttle of Sanford, Gamache of Lewiston, Chizmar of Lisbon, Fisher of Brewer, Gagne of Buckfield, Tessier of Fairfield, True of Fryeburg, Labrecque of Gorham, Bigl of Bucksport, Belanger of Wallagrass

NAYS: 0

ABSENT: 0

Thirteen 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 Harriet P. Henry of Standish, for appointment to the Commission on Governmental Ethics and Election Practices be confirmed.

Signed,

S/Beverly C. Daggett
Senate Chair

S/John L. Tuttle, Jr.
House Chair

Which was READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on LEGAL AND VETERANS AFFAIRS be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: SMALL

EXCUSED: Senator: RUHLIN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being 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 nomination of **Honorable Harriet P. Henry**, for appointment to the Commission on Governmental Ethics and Election Practices was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

COMMUNICATIONS

The Following Communication: S.C. 335

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 28, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Willis A. Lord of N. Waterboro, for appointment to the Harness Racing Commission.

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

YEAS: Senators 3 Daggett of Kennebec, Carey of Kennebec, Ferguson of Oxford

Representatives 10 Tuttle of Sanford, Gamache of Lewiston, Chizmar of Lisbon, Fisher of Brewer, Gagne of Buckfield, Tessier of Fairfield, True of Fryeburg, Labrecque of Gorham, Bigl of Bucksport, Belanger of Wallagrass

NAYS: 0

ABSENT: 0

Thirteen 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 Willis A. Lord of N. Waterboro, for appointment to the Harness Racing Commission be confirmed.

Signed,

S/Beverly C. Daggett
Senate Chair

S/John L. Tuttle, Jr.
House Chair

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: SMALL

EXCUSED: Senator: RUHLIN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being 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 nomination of **Willis A. Lord**, for appointment to the Harness Racing Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

COMMUNICATIONS

The Following Communication: S.C. 336

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 28, 1997

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Goodwin O. Gilman of Newport, for appointment to the Harness Racing Commission.

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

YEAS: Senators 3 Daggett of Kennebec, Carey of Kennebec, Ferguson of Oxford

Representatives 10 Tuttle of Sanford, Gamache of Lewiston, Chizmar of Lisbon, Fisher of Brewer, Gagne of Buckfield, Tessier of Fairfield, True of Fryeburg, Labrecque of Gorham, Bigl of Bucksport, Belanger of Wallagrass

NAYS: 0

ABSENT: 0

Thirteen 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 Goodwin O. Gilman of Newport, for appointment to the Harness Racing Commission be confirmed.

Signed,

S/Beverly C. Daggett
Senate Chair

S/John L. Tuttle, Jr.
House Chair

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

Fisher of Brewer, Gagne of Buckfield, Tessier of Fairfield, True of Fryeburg, Labrecque of Gorham, Bigl of Bucksport, Belanger of Wallagrass

NAYS: 0
ABSENT: 0

ABSENT: Senator: SMALL
EXCUSED: Senator: RUHLIN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being 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 nomination of **Goodwin O. Gilman**, for appointment to the Harness Racing Commission was **CONFIRMED**.

Thirteen 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 Linda Cronkhite of Brunswick, for appointment to the Commission on Governmental Ethics and Election Practices be confirmed.

Signed,

S/Beverly C. Daggett
Senate Chair

S/John L. Tuttle, Jr.
House Chair

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

The Secretary has so informed the Speaker of the House.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

COMMUNICATIONS

The Following Communication: S.C. 337

The Doorkeepers secured the Chamber.

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

The Secretary called the Roll with the following result:

May 28, 1997

ROLL CALL

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

YEAS: Senators: None
NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

Dear Mr. President:

ABSENT: Senator: SMALL
EXCUSED: Senator: RUHLIN

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Linda Cronkhite of Brunswick, for appointment to the Commission on Governmental Ethics and Election Practices.

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:

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being 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 nomination of **Linda Cronkhite**, for appointment to the Commission on Governmental Ethics and Election Practices was **CONFIRMED**.

YEAS: Senators 3 Daggett of Kennebec, Carey of Kennebec, Ferguson of Oxford

Representatives 10 Tuttle of Sanford, Gamache of Lewiston, Chizmar of Lisbon,

The Secretary has so informed the Speaker of the House.

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

COMMUNICATIONS

The Following Communication: S.C. 338

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 28, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Peter B. Webster of Yarmouth, for appointment to the Commission on Governmental Ethics and Election Practices.

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

YEAS: Senators 3 Daggett of Kennebec, Carey of Kennebec, Ferguson of Oxford

Representatives 8 Tuttle of Sanford, Gamache of Lewiston, Fisher of Brewer, Gagne of Buckfield, Tessier of Fairfield, True of Fryeburg, Bigl of Bucksport, Belanger of Wallagrass

NAYS: 2 Rep. Chizmar of Lisbon, Rep. Labrecque of Gorham

ABSENT: 0

Eleven members of the Committee having voted in the affirmative and two in the negative, it was the vote of the Committee that the nomination of Peter B. Webster of Yarmouth, for appointment to the Commission on Governmental Ethics and Election Practices be confirmed.

Signed,

S/Beverly C. Daggett
Senate Chair

S/John L. Tuttle, Jr.
House Chair

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: SMALL

EXCUSED: Senator: RUHLIN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being 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 nomination of **Peter B. Webster**, for appointment to the Commission on Governmental Ethics and Election Practices was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

COMMUNICATIONS

The Following Communication: S.C. 339

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 28, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Richard A. Crabtree of Readfield, for reappointment to the Harness Racing Commission.

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

YEAS: Senators 3 Daggett of Kennebec, Carey of Kennebec, Ferguson of Oxford

Representatives 7 Tuttle of Sanford, Gamache of Lewiston, Fisher of Brewer, Tessier of Fairfield, True of Fryeburg, Bigl of Bucksport, Belanger of Wallagrass

NAYS: 3 Rep. Chizmar of Lisbon, Rep. Gagne of Buckfield, Rep. Labrecque of Gorham

ABSENT: 0

Ten members of the Committee having voted in the affirmative and three in the negative, it was the vote of the Committee that the nomination of Richard A. Crabtree of Readfield, for reappointment to the Harness Racing Commission be confirmed.

Signed,

S/Beverly C. Daggett
Senate Chair

S/John L. Tuttle, Jr.
House Chair

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND,

ABSENT: Senator: CAREY

EXCUSED: Senator: RUHLIN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being 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 nomination of **Richard A. Crabtree**, for reappointment to the Harness Racing Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

COMMUNICATIONS

The Following Communication: S.C. 340

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 28, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Dr. Charmaine A. Brown of Monmouth, for reappointment to the Harness Racing Commission.

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

YEAS: Senators 2 Carey of Kennebec, Ferguson of Oxford

Representatives 10 Tuttle of Sanford, Gamache of Lewiston, Chizmar of Lisbon, Fisher of Brewer, Gagne of Buckfield, Tessier of Fairfield, True of Fryeburg, Labrecque of Gorham, Bigl of Bucksport, Belanger of Wallagrass

NAYS: 0

ABSENT: 1 Sen. Daggett of Kennebec

The Following Communication: S.C. 341

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Dr. Charmaine A. Brown of Monmouth, for reappointment to the Harness Racing Commission be confirmed.

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 28, 1997

Signed,

S/Beverly C. Daggett
Senate Chair

S/John L. Tuttle, Jr.
House Chair

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

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

Dear Mr. President:

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Fred Lunt of Clinton, for appointment to the Harness Racing Commission.

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

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:

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

YEAS: Senators 3 Daggett of Kennebec, Carey of Kennebec, Ferguson of Oxford

The Chair noted the presence of the Senator from Penobscot, Senator **RUHLIN**.

Representatives 9 Tuttle of Sanford, Gamache of Lewiston, Chizmar of Lisbon, Fisher of Brewer, Gagne of Buckfield, Tessier of Fairfield, True of Fryeburg, Labrecque of Gorham, Bigl of Bucksport

ROLL CALL

YEAS: Senators: None

NAYS: 0

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: 1 Rep. Belanger of Wallagrass

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 nomination of **Dr. Charmaine A. Brown**, for reappointment to the Harness Racing Commission was **CONFIRMED**.

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Fred Lunt of Clinton, for appointment to the Harness Racing Commission be confirmed.

Signed,

S/Beverly C. Daggett
Senate Chair

S/John L. Tuttle, Jr.
House Chair

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

The Secretary has so informed the Speaker of the House.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

COMMUNICATIONS

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 nomination of **Fred Lunt**, for appointment to the Harness Racing Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

COMMUNICATIONS

The Following Communication: S.C. 342

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

May 28, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Natural Resources has had under consideration the nomination of Dennis L. Higgins of Mattawamkeag, for appointment to the Land for Maine's Future Board.

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

YEAS: Senators 2 Treat of Kennebec, Nutting of Androscoggin
Representatives 9 Shiah of Bowdoinham, Bull of Freeport, Cowger of Hallowell,

Jones of Greenville, McKee of Wayne, Dexter of Kingfield, Nickerson of Turner, Meres of Norridgewock, Foster of Gray

NAYS: 0

ABSENT: 2 Sen. Butland of Cumberland, Rep. Rowe of Portland

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 Dennis L. Higgins of Mattawamkeag, for appointment to the Land for Maine's Future Board be confirmed.

Signed,

S/Sharon Anglin Treat
Senate Chair

S/G. Steven Rowe
House Chair

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **NATURAL RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 nomination of **Dennis L. Higgins**, for appointment to the Land for Maine's Future Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

COMMUNICATIONS

The Following Communication: S.C. 343

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

May 28, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Natural Resources has had under consideration the nomination of Warren Balgooyen of Norridgewock, for appointment to the Land for Maine's Future Board.

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

YEAS: Senators 2 Treat of Kennebec, Nutting of Androscoggin

Representatives 10 Rowe of Portland, Shiah of Bowdoinham, Bull of Freeport, Cowger of Hallowell, Jones of Greenville, McKee of Wayne, Dexter of Kingfield, Nickerson of Turner, Meres of Norridgewock, Foster of Gray

NAYS: 0

ABSENT: 1 Sen. Butland of Cumberland

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Warren Balgooyen of Norridgewock, for appointment to the Land for Maine's Future Board be confirmed.

Signed,

S/Sharon Anglin Treat
Senate Chair

S/G. Steven Rowe
House Chair

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **NATURAL RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: KILKELLY

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Warren Balgooyen**, for appointment to the Land for Maine's Future Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

ORDERS

Joint Order

On motion by Senator **BENNETT** of Oxford, the following Joint Order: S.P. 668

ORDERED, the House concurring, that the Joint Select Committee on Research and Development is established as follows.

1. Establishment. The Joint Select Committee on Research and Development, referred to in this order as the "committee," is established.

2. Membership. The committee consists of 10 Legislators appointed jointly by the President of the Senate and the Speaker of the House. The 10 members must include at least one member from each of the following joint standing committees: the Joint Standing Committee on Appropriations and Financial Affairs; the Joint Standing Committee on Business and Economic Development; the Joint Standing Committee on Education and Cultural Affairs; and the Joint Standing Committee on Taxation.

3. Duties. The committee shall review the current policies and programs within the State in support of applied research and development in the following target areas:

A. Aquaculture and marine sciences and technology;

- B. Biotechnology;
- C. Composite materials engineering;
- D. Environmental sciences and technology; and
- E. Information sciences and technology.

4. Meetings. In conducting its duties, the committee may meet with any individuals, departments, organizations or institutions it considers appropriate. At a minimum, the committee shall meet with the representatives of the following:

A. The University of Maine System, including representatives of the chancellor's office, the University of Maine and the University of Southern Maine;

- B. The Maine Technical College System;
- C. The Maine Science and Technology Foundation;
- D. The Department of Economic and Community Development;

E. The Department of Marine Resources;

F. The State Planning Office; and

G. The Gulf of Maine Aquarium.

5. Plan. The committee shall develop and recommend a plan for the support of research and development in the 5 target areas within the State set forth in section 3. The plan must address the following issues:

A. The role of research and development in the economic development strategy of the State;

B. The relative role of educational institutions, governmental agencies, private research facilities and businesses within the State's research and development strategy;

C. The level of bonding for capital investments in support of research and development in the target areas and the manner in which such funds should be expended;

D. The level of funding for the Maine Economic Improvement Fund, established pursuant to L.D. 1854, the manner in which such funds should be expended and the source for the funding; and

E. The proper tax policy in support of research and development and, if that policy includes tax exemptions or other tax breaks, the method of funding that tax policy.

6. Appointments. All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the Chair of the Legislative Council shall call and convene the first meeting of the committee no later than October 15, 1997. The committee shall select a chair from among its members.

7. Staff assistance. The committee shall request staffing and clerical assistance from the Legislative Council, which must be provided within the available resources.

8. Compensation. Members of the committee are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings of the committee.

9. Report. The committee shall submit its findings and plan, along with any necessary implementing legislation, to the Second Regular Session of the 118th Legislature by January 1, 1998. If the committee requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

Which was **READ**.

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

Senator **NUTTING:** Thank you Mr. President. Mr. President, I wonder if I could pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **NUTTING:** I just finished reading this Joint Order and I am in support of it but I do have a question. I see on 3B it talks about biotechnology and I think that's very appropriate that that's there but then on number 4, it doesn't have the Department of Agriculture listed. And on number 2, it doesn't have anybody from, say, the Joint Standing Committee on Agriculture. Is that something that could be added to this?

THE PRESIDENT: The Senator from Androscoggin, Senator Nutting poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Treat.

Off Record Remarks

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

Senator **TREAT:** Thank you Mr. President. I don't understand the answer to the question since 2, membership lists several committees and I would just like to concur with the Senator from Androscoggin that I believe there is something missing here. I represent the town of Monmouth in which Highmoor Farm Research Facility is located. Highmoor Farm is a research facility for fruit trees and agriculture. It's basically been defunded by the University of Maine System and it's one of the premier; basically the staff there are known throughout New England as being, you know, tremendous resources. It just concerns me that, as we've talked about Research and Development money in the state and also as part of the University, we have sort of neglected any agricultural research and I just have some concerns and I'm wondering. There's been a big push to put money towards Research and Development and I certainly have been talking with my communities and all the farmers that rely on Highmoor Farms are saying, "Yes, if money is there or if there is attention to this, we're going to focus efforts to make sure that we don't completely obliterate the existing Research and Development that we have right now." I guess I would just share the concerns of the Senator from Androscoggin that I would like to see the Joint Order reflect those concerns, and I also just read this for the first time.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending motion by Senator **BENNETT** of Oxford to **PASS**.

Senate at Ease

Senate called to order by the President.

LEGISLATIVE RECORD - SENATE, MAY 28, 1997

On motion by Senator **MITCHELL** of Penobscot,
ADJOURNED until Thursday, May 29, 1997, at 9:00 in the
morning.