

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

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STATE OF MAINE
One Hundred and Twelfth Legislature
First Special Session
JOURNAL OF THE SENATE
In Senate Chamber
Wednesday,
November 13, 1985

In Compliance with a proclamation of His Excellency, Governor JOSEPH E. BRENNAN, the Senators will convene in the Senate Chamber at nine o'clock in the morning.

Senate called to Order by the President.

Prayer by Father Joseph Holland of the Augusta Mental Health Institute in Augusta.

FATHER HOLLAND: Almighty, and Heavenly Father, while the world anxiously awaits the outcome of the upcoming crucial meeting between the world's super powers, do not let us forget the privileged service we owe to the good people of Maine. We are here to solve problems, neither trivial nor simple. But solve, we must to the satisfaction of our constituents.

That means we must approach them in the spirit of good will, honesty and fairness, despite our partisan positions. For that, we need You, Lord. Be in the minds and the hearts of our Senators, today. Let them strive for true justice for those segments of our society whose rights are endangered. And let them strive for peace in the minds of those whose lives and liberty are threatened by moral and economic fears. Let our motto be [We have come to serve, and serve that others may have life more abundantly] This we ask Lord, in confidence. Amen.

The Secretary will read the Proclamation.
**STATE OF MAINE
PROCLAMATION**

WHEREAS, there exists in the State of Maine an extraordinary occasion arising from the decision of the Maine Supreme Judicial court that certain provision of the forest fire suppression laws are unconstitutional; and

WHEREAS, it is essential to the proper protection of the people and resources of the State of Maine that these unconstitutional provisions of the forest fire suppression laws be corrected in a timely fashion in order to assure that sufficient funds are available during the current fiscal year to meet the fiscal obligations of the State; and

WHEREAS, the Legislature unintentionally repealed certain provisions of law which allowed certain businesses to be open on Sundays between Thanksgiving Day and Christmas Day; and

WHEREAS, failure to correct this inadvertent mistake will bar these commercial establishments from conducting business as intended by the Legislature during the Christmas shopping season;

NOW, THEREFORE, I, JOSEPH E. BRENNAN, Governor of the State of Maine, by virtue of the constitutional power vested in me as Governor, convene the Legislature of this State, hereby requesting the Senators and Representatives to assemble in their respective chambers at the Capitol in Augusta on Wednesday, the thirteenth day of November, 1985, at nine o'clock in the morning in order to receive communications, enact revisions in the forest fire suppression laws, re-enact the law allowing for certain businesses to operate on Sundays between Thanksgiving Day and Christmas Day, and conduct such other legislative business as may be necessary and appropriate.

In testimony whereof, I have caused the Great Seal of the State to be hereunto affixed GIVEN under my hand at Augusta this 28th day of October in the Year of our Lord One Thousand Nine Hundred and Eighty-Five.

S/ JOSEPH E. BRENNAN
Governor

S/ RODNEY S. QUINN

Secretary of State
A true copy.
Attest: S/ JAMES S. HENDERSON
Deputy Secretary of State
Which was **READ** and **ORDERED PLACED ON FILE**.

The Roll being called the following Senators answered to their names:

Senators, Andrews, Baldacci, Berube, Black, Carpenter, Chalmers, Clark, Diamond, Dow, Emerson, Erwin, Gill, Hichens, Kany, Maybury, McBreairty, Najarian, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Usher, Violette, Webster, The President—Charles P. Pray

29 Senators having answered to the Roll, the President declared that a quorum was present.

COMMUNICATIONS

The Following Communication:

**STATE OF MAINE
DEPARTMENT OF STATE
AUGUSTA, MAINE 04333**

October 8, 1985

To: Joy J. O'Brien, Secretary

State Senate

One Hundred and Twelfth Legislature:

In compliance with 3 MRSA Section 2, as amended, notification is hereby given of the following vacancy in the State Senate.

Peter W. Danton, Saco — District 31.

The Governor has set the date of November 5, 1985, in which to hold the special election to fill the vacancy.

Respectfully,
S/ JAMES S. HENDERSON
Deputy Secretary of State

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

The Following Communication:

STATE OF MAINE

OFFICE OF THE SECRETARY OF STATE
To: Joy J. O'Brien, Secretary of the Senate,
One Hundred and Twelfth Legislature:

In compliance with the Constitution and laws of the State of Maine, I hereby certify that a Special Election was held on November 5, 1985, in State Senatorial District 31 for the purpose of electing a State Senator to the One Hundred and Twelfth Legislature; that David T. Kerry of Saco having received a plurality of all votes cast in District 31, as contained in a report to the Governor on November 12, 1985, appears to have been elected a State Senator to the One Hundred and Twelfth Legislature.

IN WITNESS WHEREOF, I have caused the Great Seal of the State of Maine to be hereunto affixed this twelfth day of November in the year of our Lord, One Thousand Nine Hundred and Eighty-Five.

S/ RODNEY S. QUINN
Secretary of State

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

The Following Communication:

STATE OF MAINE

OFFICE OF THE SECRETARY OF STATE
November 12, 1985

To the Honorable Charles P. Pray, President of the Senate of the One Hundred and Twelfth Legislature:

* In compliance with the Constitution and laws of the State of Maine, I have the honor to herewith report the return of votes cast in State Senatorial District 31 at the Special Election held on November 5, 1985, according to a review of returns made by the Governor, to fill the vacancy that existed in that district, as follows:

E. Emerson Cummings, Old Orchard	3,034
David T. Kerry, Saco	4,963
Others	4

S/ RODNEY S. QUINN
Secretary of State

Which was **READ** and referred to the **SENATORIAL VOTE** Committee.

The President appointed Senator VIOLETTE of Aroostook to escort newly-elected Senator KERRY of York to the Governor's office to subscribe to the oaths of office before the Governor. The Sergeant-At-Arms escorted the Senators to the Governor's Office.

Senate At Ease

Senate called to Order by the President.

At this point a message was received from the House of Representatives through Representative DIAMOND of Bangor informing the Senate that a quorum was present for the consideration of such business as might come before the House.

Subsequently, Senator KERRY of York was escorted to his seat in the Senate Chamber, having subscribed to the oaths of office before the Governor.

Out of Order and Under Suspension of the Rules.

On Motion by Senator VIOLETTE of Aroostook, the following Senate Order:

ORDERED, that a message be sent to His Excellency, the Governor, informing him that a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

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

The President appointed Senator VIOLETTE of Aroostook to deliver the message to His Excellency, the Governor.

Subsequently, Senator VIOLETTE of Aroostook reported that he had delivered the message with which he was charged.

Out of Order and Under Suspension of the Rules.

On Motion by Senator CLARK of Cumberland, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

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

The President appointed Senator CLARK of Cumberland to deliver the message.

Subsequently, Senator CLARK of Cumberland reported that she had delivered the message with which she was charged.

The Following Communication:

**PENOBSCOT INDIAN NATION
INDIAN ISLAND
OLD TOWN, MAINE 04468
RESOLUTION
NUMBER 8-13-85-1
OF THE PENOBSCOT NATION**

WHEREAS, The Penobscot Nation is a federally recognized Indian Tribe; and

WHEREAS, The Penobscot Tribal Governor and Council is the duly authorized and elected governing body of the Penobscot Nation.

WHEREAS, The Penobscot Nation held a General Meeting on the 13th day of August, 1985, for the purpose of approving or disapproving legislation that has been submitted to the 112th Legislature for the State of Maine;

THEREFORE BE IT RESOLVED, That the Penobscot Nation approved Chapter 69 of the Public Laws of 1985, entitled "An Act Relating to the Time of Penobscot Nation Trust Land Acquisition," which was approved by the Governor of the State of Maine on April 5, 1985.

CERTIFICATION

I, the undersigned Governor of the Penobscot Nation, do hereby certify that the Penobscot Nation held a General Meeting on August 13, 1985, and that the foregoing resolution was duly adopted by an affirmative vote.

S/ TIMOTHY LOVE
Governor

IN WITNESS WHEREOF, I hereunto set my hand as Tribal Clerk of the Penobscot Indian Nation and affixed its Tribal Seal this 15th Day of August, 1985.

S/ LORRAINE DANA
Tribal Clerk

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

The Following Communication:

STATE OF MAINE
DEPARTMENT OF STATE
STATE HOUSE STATION 101
AUGUSTA, MAINE 04333

August 22, 1985

Governor Timothy Love
Community Building
Indian Island
Old Town, Maine 04468
Dear Governor Love;

I regret to inform you that the Resolution Number 8-13-85-1 of the Penobscot Nation approving Chapter 69 of the Public Laws of 1985 was delivered to the office of the Secretary of State more than 60 days after the adjournment of the Legislature. Since it was delivered to us on August 21, 1985, it does not meet the filing deadline established by section 2 of that public law.

As a consequence of this failure to file the approval on time, in the words of the Act itself, "This Act shall not be effective unless, within 60 days of the adjournment of the Legislature, the Secretary of State receives written certification by the Governor and council of the Penobscot Nation that the nation has agreed to the provisions of this Act . . ."

I suspect this will cause some difficulty for the Penobscot Nation, but I feel I have no alternative other than to follow the requirements of the Act. If you feel we have made an error in this, please feel free to contact me.

Sincerely,
S/ JAMES S. HENDERSON
Deputy Secretary of State

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

The Following Communication:

STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE HOUSE STATION 22
AUGUSTA, MAINE 04333

October 2, 1985

Charles P. Pray, President
The Senate of Maine
Augusta, Maine 04333
and
Representative John L. Martin, Speaker
The Maine House of Representatives
Augusta, Maine 04333

Dear Senator Pray and Representative Martin:
Enclosed please find "Commercial Whitewater Rafting: Review of Recreational Use Limit and Allocation System — A Preliminary Report." This report, jointly prepared by the Dept. of Inland Fisheries and Wildlife and the Bureau of Parks and Recreation is required under Section 6, PL 1983, Chapter 502. An Act to Regulate Commercial Whitewater Rafting.

We are filing a preliminary report at this time to make available the information that has been assembled to date. While much work has been completed, additional information and analysis is required before comprehensive findings and recommendations can be made. We expect to submit a Final Report on December 15, 1985. Copies of the Preliminary Report will be made available to outfitters, to the Whitewater Advisory Committees, to State personnel involved in rafting and to others, so that we may have the benefit of their response to preliminary findings and issues for the final report. Public meetings will be held in The Forks, Greenville and Millinocket areas so that the concerns of area citizens can also be reflected in the final document as well.

We would appreciate hearing your comments or questions on the information, findings or issues presented in the Preliminary Report.

Sincerely,
S/ HERBERT HARTMAN
Director

Which was **READ** and with accompanying papers **ORDERED PLACED ON FILE**.

Senate at Ease

Senate called to Order by the President.

The Following Communication:

FINANCE AUTHORITY OF MAINE
83 WESTERN AVENUE
AUGUSTA, MAINE 04330
TO: GOVERNOR JOSEPH E. BRENNAN
SPEAKER JOHN MARTIN
PRESIDENT CHARLES PRAY
CHAIRWOMAN JUDY KANY
& CHAIRMAN DAN GWADOSKY
MEMBERS OF THE JOINT STANDING
COMMITTEE ON STATE
GOVERNMENT
FROM: S/ STANLEY O. PROVUS
SUBJECT: 1985 ANNUAL REPORT OF THE
FINANCE AUTHORITY
OF MAINE

DATE: October 28, 1985

I am pleased to present to you herewith the 1985 Annual Report of the Finance Authority of Maine, reflecting the activity of the Authority's second year of operation for the period July 1, 1984 to June 30, 1985. The fiscal year ending June 30, 1985, was one of major accomplishment and impact for the Finance Authority of Maine. We are especially pleased to report that Authority approved and assisted financing totaled some \$259,726,647, far exceeding State-assisted financing programs from previous years. These financings, when taken together, clearly indicate that entrepreneurship is flourishing in the State — kindled by the spirit and talents of Maine's business community. Authority-assisted projects created over 1500 new permanent jobs and helped to retain over 9000 more. Many more construction and other jobs were generated from this activity in local economies.

I believe this Annual Report represents a period of substantial achievement, reflecting important contributions to the economic welfare of the State of Maine. I am confident that in Fiscal Year 1986 the Finance Authority will continue to produce active and innovative finance programs which encourage economic development, create jobs, and expand our State's tax base.

Which was **READ** and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication:

BUREAU OF TAXATION
STATE BUILDING
STATE OFFICE BUILDING
AUGUSTA, MAINE 04333

November 7, 1985

The Honorable Charles P. Pray
President of the Senate
State House Station # 3
Augusta, Maine 04333
Dear President Pray:

The accompanying report of State-owned real estate is submitted in accordance with the provisions of Title 36, MRSA, Section 1283.

This report includes four properties or interests acquired through liens maturing since the last Regular Session of the Legislature.

Part A (the Resolve) includes a legal description of each property, the entire amount of outstanding tax, interest and costs which have accrued, and recommendations for disposition. Part B includes a narrative description of each property.

Respectfully submitted,
S/ ANTHONY J. NEVES
State Tax Assessor

Which was **READ** and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication:

STATE OF MAINE
OFFICE OF THE PRESIDENT
AUGUSTA, MAINE 04333

Honorable Joy J. O'Brien
Secretary of the Senate
State House Station # 3
Augusta, ME 04333

Dear Madam Secretary:

Please note that I have made the following appointments:

Pursuant to my authority under MRSA 5, Section 7021, I have appointed Stephanie Locke of Sebec and Yolanda Bulley of Millinocket to the Maine Commission for Women.

Pursuant to my authority under the Resolves of 1985, Chapter 36, I have appointed Senator Beverly Miner Bustin to the Commission to Study Utilization of Vacant Buildings at Pineland Center.

Pursuant to my authority under the Resolves of 1985, Chapter 46, I have appointed Senator Melvin Shute to the Social Services Transportation Review Committee.

Pursuant to my authority under the Resolves of 1985, Chapter 47, I have appointed Senator Zachary Matthews to the Joint Select Committee on Nursing Home Care Needs.

Pursuant to my authority under the Resolves of 1985, Chapter 45, I have appointed Senator Paul Violette, Senator Thomas Perkins, James Giffune, John Melrose, and George Ezzy to the Joint Select Committee on Economic Development.

Pursuant to my authority under the Resolves of 1985, Chapter 42, I have appointed Senator Edgar Erwin to the Commission to Prepare a Revision of the State's Motor Vehicle Laws.

Pursuant to my authority under P & SL 1985, Chapter 65, I have appointed Senator Jean Chalmers and Senator Charlotte Sewall to the Commission to Study Family Matters in Court.

Pursuant to my authority under a study by the Legislative Council, I have appointed Senator Charlotte Sewall and Senator Edgar Erwin to the Secretary of State's Committee to Study the System of Traffic Fines Currently used in Maine.

Pursuant to my authority under P & SL 1985, Chapter 79, I have appointed Jody Harris of East Millinocket, Tim Honey of Portland, Severin Towle of Dover Foxcroft, Judy Guay of Bangor, and Senator Georgette Berube to the Special Select Commission on the Administration and Financing of General Assistance.

Pursuant to my authority under P.L. 1985, Chapter 309, I have appointed Senator Ronald Usher, Charles Frizzle of Augusta, Senator Jerome Emerson, Senator Judy Kany, Donald Hall of Sangerville to the Advisory Committee on Radioactive Waste.

Pursuant to my authority under the Resolves of 1985, Chapter 43, I have appointed Senator Larry Brown to the Joint Select Committee on the Special Education Needs of Learning Disabled Children.

Pursuant to my authority under the Resolves of 1985, Chapter 44, I have appointed Senator Beverly Miner Bustin to the Maine Commission on the Role of State Government in Providing Independent Living Opportunities and Services to Disabled Persons.

Pursuant to my authority under P & SL 1985, Chapter 36, I have appointed Senator Barbara Gill to the Commission to Study Social and Health Services for the Homeless.

Pursuant to my authority under P & SL 1985, Chapter 60, I have appointed Senator Jean Chalmers and Senator Walter Hichens to the Relocation Commission.

Pursuant to Senate Rule 36 and Joint Rule 13, I have appointed Senator Charles Dow as Chair of the Transportation Committee and Senator Georgette Berube as a member of the

Appropriations Committee.

Pursuant to Joint Rule 37, I have appointed Senator Larry Brown as Chair to the Senate Committee on Bills in the Second Reading.

Pursuant to the Senate Order passed December 5, 1984, I have appointed Senator Michael D. Pearson as Chair of the Senatorial Vote Committee.

Pursuant to my authority under the Resolves of 1985, Chapter 46, I have appointed Willis Spaulding of Bangor to the Social Services Transportation Review Committee.

Pursuant to Senate Rule 36 and Joint Rule 13, I have appointed Senator N. Paul Gauvreau as Chair of the Human Resources Committee, Senator Thomas Andrews as Chair of the Aging, Retirement, and Veterans Committee, and Senator David Kerry as a member of the Business and Commerce Committee and as a member of the State Government Committee.

Please let me know if you have any questions about these appointments.

Sincerely,
S/ CHARLES P. PRAY
President of the Senate

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

The Following Communication:
112TH LEGISLATURE
AUGUSTA, MAINE 04333

November 4, 1985

Hon. Joy J. O'Brien
Secretary of the Senate
State House Station # 3
Augusta, Maine 04333

Dear Madam Secretary:

Please be advised that the following are appointments we have made to several Committees and Commissions:

Joint Select Committee on
Nursing Home Care Needs

(Pursuant to Chapter 47, Resolves of 1985)

Sen. Georgette Berube
Sen. Beverly Bustin
Sen. Charles Dow
Rep. Merle Nelson
Rep. Donnell Carroll
Rep. Susan Pines
Rep. John Lisnik

Social Services Transportation
Review Committee

(Pursuant to Chapter 46, Resolves of 1985)

Rep. Thomas Duffy—Transportation
Provider Member

Social Services Transportation
Review Committee

(Pursuant to Chapter 46, Resolves of 1985)

Willis Spaulding—Transportation
Provider Member
(replacing Rep. Thomas Duffy)

Joint Select Committee on the
Special Education Needs
of Learning Disabled Children

(Pursuant to Chapter 43, Resolves of 1985)

Ms. Carolyn Delano—Representative
of the Maine Association for Children
and Adults with Learning Disabilities
Mr. Harvey Hayden—Representative
of the Maine School Management
Association

Mr. William Breton—Representative
of the Maine Special Education Ad-
visory Commission

Mr. Harold Ryder—Representative of
the Maine School Principals
Association

Ms. Carolyn Robinson—Representative
of Speech Language
Clinicians

Dr. Robert Scarlata—Representative
of Pediatricians

Ms. Susan Taylor—Representative of
the Maine Parent Federation

Ms. Kathryn Markovchick—Representative
of the University of Maine
Teacher Education Program

Dr. Ralph Newbert—Representative

of the State Protection and Advocacy
Agency

Ms. Linda Kinson—Representative of
Elementary School Teachers

Ms. Rae Bates—Representative of
Secondary School Teachers

Mr. James Sanborn—Representative
of the Association of Directors of
Services for Exceptional Children

Ms. Linda Felle—Representative of
the Orton Dyslexia Society

Mr. Dale Lowe—Representative of
the Developmental Disabilities
Council

Ms. Diane Richmond—Representative
of Parents of Learning Disabled
Children

Ms. Christine Bartlett—Representative
of the Department of Educa-
tional and Cultural Services

Ms. Carol Boston—Public Member

Mr. James Meehan—Public Member

Maine Commission on the Role of State
Government in Providing

Independent Living Opportunities
and Services to Disabled Persons

(Pursuant to Chapter 44, Resolved of 1985)

Ms. Betty Currie

Ms. Fran Fink

Mr. Steve Tremblay

Ms. Joan Derringer

Ms. Janet Brown

Mr. Karl Hall

Mr. Steve Richard

Mr. Robert Stone

Mr. Roland A. Ouellette

Mr. David Richard

Sincerely,

S/ CHARLES P. PRAY S/ JOHN L. MARTIN
President of the Speaker of the House
Senate

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

The Following Communication:
THE SENATE OF MAINE
AUGUSTA, MAINE 04333

October 3, 1985

Senator Charles P. Pray
President of the Senate
State House Station # 3
Augusta, ME 04333

Dear Senator Pray:

Pursuant to my authority under P & SL 1985, Chapter 74, I have appointed Senator Jerome Emerson to the Special Legislative Commission to Study the Feasibility of State Assistance to the Rail Industry.

If you have any questions about this appointment, please let me know as soon as possible.

Sincerely,

S/ R. DONALD TWITCHELL
Chair, Taxation Committee

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

The Following Communication:
THE SENATE OF MAINE
AUGUSTA, MAINE 04333

October 15, 1985

Hon. Charles P. Pray
President of the Senate
State House Station # 3
Augusta, ME 04333

Dear Mr. President:

Pursuant to my authority under P & SL 1985, Chapter 74, I am appointing myself to serve on the Special Legislative Commission to Study the Feasibility of State Assistance to the Rail Industry.

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

Sincerely,

S/ CHARLES DOW
Senate Chair

Transportation Committee

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

The Following Communication:

THE SENATE OF MAINE
AUGUSTA, MAINE 04333

October 15, 1985

Hon. Charles P. Pray
President of the Senate
State House Station # 3
Augusta, ME 04333

Dear Mr. President:

As Chair of the Transportation Committee I have made the following appointments:

1. I have appointed myself to serve on the two rail committees—the Summer Study Committee studying outdated laws related to the rail industry.

2. I have appointed myself to serve on the Special Legislative Commission to Study the Feasibility of State Assistance to the Rail Industry.

Please let me know if you have any questions about these appointments.

Sincerely,

S/ CHARLES DOW
Chair, Transportation Committee

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

The Following Communication:
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

October 29, 1985

Honorable Charles P. Pray
President of the Senate
Senate Chambers
State House
Augusta, Maine 04333

Dear Senator Pray:

This is to inform you that I am today nominating Elizabeth T. Greenstein of Portland for reappointment to the Maine State Housing Authority.

Pursuant to Title 30 MRSA Section 4602, this nomination will require review by the Joint Standing Committee on State Government and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,

S/ JOSEPH E. BRENNAN
Governor

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

The Following Communication:
SENATE OF MAINE
OFFICE OF THE SECRETARY
AUGUSTA, MAINE

October 29, 1985

The Honorable Judy C. Kany
The Honorable Dan A. Gwadosky
Chairs, Committee on State Government
112th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Elizabeth T. Greenstein of Portland for reappointment to the Maine State Housing Authority.

Pursuant to Title 30 MRSA Section 4602, this nomination will require review by the Joint Standing Committee on State Government and confirmation by the Senate.

Sincerely,

S/ JOY J. O'BRIEN
Secretary of the Senate

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

The Following Communication:
COMMITTEE ON STATE GOVERNMENT
ONE HUNDRED AND TWELFTH
LEGISLATURE

November 12, 1985

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on State Government has had under consideration the nomination of Elizabeth T. Greenstein of Portland, as a member of the Maine State Housing Authority.

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

YEAS: Senators 2
Representatives 7

NAYS: 0

ABSENT: 4 (Sen. Kany of Kennebec, Rep. Cote of Auburn, Rep. Boutillier of Lewiston, Rep. Wentworth of Wells)

Nine 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 Elizabeth T. Greenstein of Portland, as a member of the Maine State Housing Authority be confirmed.

Sincerely,

S/ JUDY C. KANY

Senate Chair

S/ DAN A. GWADOSKY

House Chair

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

THE PRESIDENT: The Joint Standing committee on **STATE GOVERNMENT** has recommended the nomination of **Elizabeth T. Greenstein** of Portland be **Confirmed**.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 112th Legislature, the vote will be taken by the yeas and nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators None

NAYS:—Senators, Andrews, Baldacci, Berube, Black, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Emerson, Erwin, Gauvreau, Gill, Hichens, Kany, Kerry, Maybury, McBreairty, Najarian, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Usher, Violette, Webster, The President—Charles P. Pray

ABSENT:—Senators, Brown, Dutremble, Matthews

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Elizabeth T. Greenstein** was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333**

October 30, 1985

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

This is to inform you that I am today nominating Peter M. Leslie of Cape Elizabeth for appointment to the Health Care Finance Commission.

Pursuant to Title 22 MRSA Section 383, this nomination will require review by the Joint Standing Committee on Human Resources and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,

S/ JOSEPH E. BRENNAN

Governor

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

The Following Communication:

**SENATE OF MAINE
OFFICE OF THE SECRETARY
AUGUSTA, MAINE 04333**

October 30, 1985

The Honorable Georgette Berube
The Honorable Merle Nelson
Chairs, Committee on Human Resources
112th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Peter M. Leslie of Cape Elizabeth for appointment to the Health Care Finance Commission.

Pursuant to Title 22 MRSA Section 383, this nomination will require review by the Joint Standing Committee on Human Resources and confirmation by the Senate.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

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

The Following Communication:

**COMMITTEE ON HUMAN RESOURCES
ONE HUNDRED AND TWELFTH
LEGISLATURE**

November 12, 1985

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Human Resources has had under consideration the nomination of Peter M. Leslie of Cape Elizabeth, as a member to the Health Care Finance 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
Representatives 7

NAYS: 0

ABSENT: 3 (Rep. Alfred L. Brodeau of Auburn, Rep. Kerry E. Kimball of Buxton, Rep. Priscilla G. Taylor of Camden)

Ten 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 Peter M. Leslie of Cape Elizabeth, as a member of the Health Care Finance Commission be confirmed.

Sincerely,

S/ GEORGETTE BERUBE

Senate Chair

S/ MERLE NELSON

House Chair

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

THE PRESIDENT: The Joint Standing Committee on **HUMAN RESOURCES** has recommended that the nomination of **Peter M. Leslie** of Cape Elizabeth be **Confirmed**.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 112th

Legislature, the vote will be taken by the yeas and nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators None

NAYS:—Senators, Andrews, Baldacci, Berube, Black, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Emerson, Erwin, Gauvreau, Gill, Hichens, Kany, Kerry, Maybury, McBreairty, Najarian, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Usher, Violette, Webster, The President—Charles P. Pray

ABSENT:—Senators, Brown, Dutremble, Matthews

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Peter M. Leslie** was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333**

October 30, 1985

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

This is to inform you that I am today nominating Michael W. Aube of Bangor for appointment to the Board of Trustees, Maine Vocational Technical Institutes.

Pursuant to 20-A, MRSA Section 12553, this nomination will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,

S/ JOSEPH E. BRENNAN

Governor

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

The Following Communication:

**SENATE OF MAINE
OFFICE OF THE SECRETARY
AUGUSTA, MAINE**

October 30, 1985

The Honorable Larry M. Brown
The Honorable Ada K. Brown
Chairs, Committee on Education
112th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Michael W. Aube of Bangor for appointment to the Board of Trustees, Maine Vocational Technical Institutes.

Pursuant to Title 20-A, MRSA Section 12553, this nomination will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

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

The Following Communication:

**COMMITTEE ON EDUCATION
ONE HUNDRED AND TWELFTH
LEGISLATURE**

November 12, 1985

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Education has had under consideration the nomination of Michael W. Aube of Bangor, as a member of the Board of Trustees, Maine Vocational Technical Institutes.

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
	Representatives	7
NAYS:		0
ABSENT:	2 (Rep. O'Gara of Westbrook, Rep. Small of Bath)	

Ten 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 Michael W. Aube of Bangor, as a member of the Board of Trustees, Maine Vocational Technical Institutes be confirmed.

Sincerely,
S/ SEN. LARRY M. BROWN
Senate Chair
S/ REP. ADA K. BROWN
House Chair

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

THE PRESIDENT: The Joint Standing Committee on **EDUCATION** has recommended that the nomination of **Michael W. Aube** of Bangor be **Confirmed**.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 112th Legislature, the vote will be taken by the yeas and nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators None

NAYS:—Senators, Andrews, Baldacci, Berube, Black, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Emerson, Erwin, Gauvreau, Gill, Hichens, Kany, Kerry, Matthews, Maybury, McBreairty, Najarian, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Usher, Violette, Webster, The President—Charles P. Pray

ABSENT:—Senators, Brown, Dutremble

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Michael W. Aube** was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

October 30, 1985

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

This is to inform you that I am today

nominating Michael W. Aube of Bangor for appointment to the State Board of Education.

Pursuant to 20, MRSA Section 51, this nomination will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Thank you for your assistance in this matter.
Sincerely,
S/ JOSEPH E. BRENNAN
Governor

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

The Following Communication:
SENATE OF MAINE
OFFICE OF THE SECRETARY
AUGUSTA, MAINE

October 30, 1985

The Honorable Larry M. Brown
The Honorable Ada K. Brown
Chairs, Committee on Education
112th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Michael W. Aube of Bangor for appointment to the State Board of Education.

Pursuant to Title 20, MRSA Section 51, this nomination will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,
S/ JOY J. O'BRIEN
Secretary of the Senate

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

The Following Communication:
COMMITTEE ON EDUCATION
ONE HUNDRED AND TWELFTH
LEGISLATURE

November 12, 1985

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Education has had under consideration the nomination of Michael W. Aube of Bangor, as a member of the State Board of Education.

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
	Representatives	7
NAYS:		0
ABSENT:	2 (Rep. O'Gara of Westbrook, Rep. Small of Bath)	

Ten 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 Michael W. Aube of Bangor, as a member of the State Board of Education be confirmed.

Sincerely,
S/ SEN. LARRY M. BROWN
Senate Chair
S/ REP. ADA K. BROWN
House Chair

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

THE PRESIDENT: The Joint Standing Committee on **EDUCATION** has recommended that the nomination of **Michael W. Aube** of Bangor be **Confirmed**.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 112th

Legislature, the vote will be taken by the yeas and nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators None

NAYS:—Senators, Andrews, Baldacci, Berube, Black, Brown, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Dutremble, Emerson, Erwin, Hichens, Gauvreau, Gill, Kany, Kerry, Matthews, Maybury, McBreairty, Najarian, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Violette, Webster, The President—Charles P. Pray

ABSENT:—Senators, Brown, Dutremble, Usher

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Michael W. Aube** was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

October 30, 1985

Honorable Charles P. Pray
President of the Senate
Senate Chambers
State House
Augusta, Maine 04333

Dear Senator Pray:

This is to inform you that I am today nominating H. Alan Timm of Manchester as Director of the Maine State Lottery Commission.

Pursuant to Title 8 MRSA Section 352, this nomination will require review by the Joint Standing Committee on Legal Affairs and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
S/ JOSEPH E. BRENNAN
Governor

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

The Following Communication:
SENATE OF MAINE
OFFICE OF THE SECRETARY
AUGUSTA, MAINE 04333

October 30, 1985

The Honorable Richard L. Trafton
The Honorable Polly Reeves
Chairs, Committee on Legal Affairs
112th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated H. Alan Timm of Manchester as Director of the Maine State Lottery Commission.

Pursuant to Title 8 MRSA Section 352, this nomination will require review by the Joint Standing Committee on Legal Affairs and confirmation by the Senate.

Sincerely,
S/ JOY J. O'BRIEN
Secretary of the Senate

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

The Following Communication:
COMMITTEE ON LEGAL AFFAIRS
ONE HUNDRED AND TWELFTH
LEGISLATURE

November 12, 1985

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Legal Affairs has had under consideration the nomination of H. Alan Timm of Manchester, as the Director of the Maine State Lottery 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
Representatives 8

NAYS: 0

ABSENT: 2 (Rep. Francis J. Perry of Mexico, Rep. John C. Bott of Orono)

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 H. Alan Timm of Manchester, as the Director of the Maine State Lottery Commission be confirmed.

Sincerely,
S/ RICHARD L. TRAFTON
Senate Chair
S/ POLLY REEVES
House Chair

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

THE PRESIDENT: The Joint Standing Committee on **LEGAL AFFAIRS** has recommended that the nomination of H. Alan Timm of Manchester be **Confirmed**.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 112th Legislature, the vote will be taken by the yeas and nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators None

NAYS:—Senators, Andrews, Berube, Black, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Dutremble, Emerson, Erwin, Gauvreau, Gill, Hichens, Kany, Kerry, Matthews, Maybury, McBreaarty, Najarian, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Usher, Violette, Webster, The President—Charles P. Pray

ABSENT:—Senators, Baldacci, Brown, Dutremble

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of H. Alan Timm was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Off Record Remarks

The Following Communication:
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

October 30, 1985

Honorable Charles P. Pray
President of the Senate
Senate Chambers
State House

Augusta, Maine 04333

Dear Senator Pray:

This is to inform you that I am today nominating Evelyn Jephson of Kennebunk for reappointment to the Board of Environmental Protection.

Pursuant to Title 38 MRSA Section 431, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
S/ JOSEPH E. BRENNAN
Governor

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

The Following Communication:
SENATE OF MAINE
OFFICE OF THE SECRETARY
AUGUSTA, MAINE 04333

October 30, 1985

The Honorable Ronald E. Usher
The Honorable Michael H. Michaud
Chairs, Committee on Energy and Natural Resources
112th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Evelyn Jephson of Kennebunk for reappointment to the Board of Environmental Protection.

Pursuant to Title 38 MRSA Section 431, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

Sincerely,
S/ JOY J. O'BRIEN
Secretary of the Senate
Which was **READ** and **ORDERED PLACED ON FILE**.

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

The Following Communication:
COMMITTEE ON ENERGY AND NATURAL RESOURCES
ONE HUNDRED AND TWELFTH LEGISLATURE

November 13, 1985

The Honorable Charles P. Pray
President of the Senate
Senate Chambers
State House

Augusta, Maine 04333

Dear Senator Pray:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the Maine Legislature, the Joint Standing Committee on Energy and Natural Resources has had under consideration the nomination of Evelyn Jephson, as a member of the Board of Environmental Protection.

After public hearing and discussion on this nomination, the Committee proceeding 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
Representatives 7

NAYS: 1

ABSENT 2 (Rep. Annette M. Hoglund, of Portland, Rep. Darryl N. Brown, of Livermore Falls)

Ten members of the Committee having voted in the affirmative and one in the negative, it was the vote of the Committee that the nomination of Evelyn Jephson of Kennebunk, as a member of the Board of Environmental Protection be confirmed.

Sincerely,
S/ RONALD E. USHER
Senate Chair
S/ MICHAEL H. MICHAUD
House Chair

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

THE PRESIDENT: The Joint Standing Committee on **ENERGY AND NATURAL RESOURCES** has recommended that the nomination of Evelyn Jephson of Kennebunk be **Confirmed**.

The pending question before the Senate is: "Shall the recommendation of the Committee on **ENERGY AND NATURAL RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, section 151 and with Joint Rule 38 of the 112th Legislature, the vote will be taken by the yeas and nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators None

NAYS:—Senators, Andrews, Berube, Black, Brown, Bustin, Chalmers, Clark, Diamond, Dow, Emerson, Erwin, Gauvreau, Gill, Hichens, Kany, Kerry, Matthews, Maybury, McBreaarty, Najarian, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Usher, Violette, Webster, The President—Charles P. Pray

ABSENT:—Senators, Baldacci, Carpenter, Dutremble

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Evelyn Jephson was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Bill "An Act Correcting an Error in the Law Relating to Business on Sundays Between Thanksgiving Day and Christmas Day" (Emergency) (S.P. 645) (L.D. 1662) (Presented by Senator CLARK of Cumberland) (Cosponsored by: Representative TELOW of Lewiston, Representative COTE of Auburn.)

Committee on **BUSINESS AND COMMERCE** suggested and **ORDERED PRINTED**.

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

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

ORDERS

Joint Resolutions

On motion by Senator KANY of Kennebec, (Cosponsors: Representative MITCHELL of Freeport, Speaker MARTIN of Eagle Lake, President PRAY of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35.) the following Joint Resolution: (S.P. 647)

JOINT RESOLUTION MEMORIALIZING RONALD W. REAGAN, PRESIDENT OF THE UNITED STATES AND JOHN S. HERRINGTON, SECRETARY OF THE UNITED STATES DEPARTMENT OF ENERGY NOT TO LOCATE A HIGH LEVEL RADIOACTIVE WASTE REPOSITORY WITHIN THE STATE OF MAINE

WE, Your Memorialists, the House of Representatives and Senate of the State of Maine of the 112th Legislature, now assembled, most respectfully present and petition the Honorable Ronald W. Reagan, President of the United States, and John S. Herrington, Secretary of the United States Department of Energy, as follows:

WHEREAS, there are 31 crystalline rock bodies in Maine being considered by the United States Department of Energy in their search for a national high level radioactive waste disposal site; and

WHEREAS, there are serious environmental concerns about the suitability of this crystalline rock for waste disposal; the Department of Energy itself say "fractures may provide pathways for unacceptable levels of ground water flow," and "little data are available about fractures and the presence or absence of ground water at repository depths (1500 to 3000 feet below the surface)"; and

WHEREAS, many of the crystalline rock bodies in Maine must be disqualified under the United States Department of Energy's own criteria, for example:

—Baxter State Park, Acadia National Park and Moosehorn National Wildlife Refuge are state or federally protected lands; and

—The Biddeford, Auburn and Ellsworth areas are in areas of high population; and

—The Sanford and Windham areas are in areas of relatively high and growing population density (nearing 1,000 persons per square mile); and

WHEREAS, a large fraction of the crystalline rock bodies present significant water problems. Several (6) are located around major lakes for example: Sebago, Belgrade, Rangeley, Flagstaff, Great Moose Pond and Moosehead; and several (3) are located in major river valleys and other major ground water discharge zones, for example: Saco River, Penobscot River and St. Croix River; and several (3) are located in major wetland areas, including the Great Heath and the coastal Waldoboro area; and

WHEREAS, transportation problems will be severe. Several (3) of the crystalline rock bodies are located on islands which are inaccessible by truck or rail; and over half of the crystalline rock bodies are located further than 30 miles from the interstate highway, which will make transportation to them exceedingly difficult and unsafe unless major expenditures are made on new roads; and the hostile climate in the State makes transportation dangerous especially during the winter; and the transportation routes from other states to Maine go in or near the most densely populated regions of the United States, thereby increasing the risk to the public; and

WHEREAS, several (4) of the crystalline rock bodies are located on the Canadian border; and a significant number (at least 7) of the crystalline rock bodies are located on Indian lands of the Penobscot and Passamaquoddy tribes; and several (4) of the crystalline rock bodies are located along the Appalachian Trail, a national treasure associated with the national park system; and

WHEREAS, high level radioactive waste requires isolation from the accessible environment for 10,000 years; and Maine's geology has changed dramatically in a similar length of time. The last glacier covered the State only 18,000 years ago and only left 13,000 years ago, producing heavy stress on the rocks; and

WHEREAS, the first high level waste repository is not expected to be operational until 1998 at the earliest, while Maine's only source of high level radioactive waste, the Maine Yankee Nuclear Power Plant will reach the end of its license soon after that, in 2008; and

WHEREAS, a significant part of the nation's high level waste is generated by the weapons program and none of that waste is generated in or near Maine; and

WHEREAS, Maine makes a very small contribution to the national high level waste problem. Maine will generate less than 1/2 of 1% of the nation's high level waste through the high level waste program planning period (i.e., through 2020); and

WHEREAS, the solution to this national problem should be carried out in an equitable

fashion; and

WHEREAS, the risk to public health and safety should be minimized; and

WHEREAS, there is little likelihood of finding an environmentally suitable site in Maine; and

WHEREAS, the Legislature, beginning in 1981 (the Maine Revised Statutes, Title 38, chapter 14-A) indicated its intent to conduct close oversight over the federal process for siting high level radioactive waste repositories; and

WHEREAS, the Governor of the State of Maine has publicly stated his strong opposition to the siting of any high level radioactive waste repository in Maine ever since 1980, when Maine was first included among the regions being considered; now, therefore, be it

RESOLVED: That We, your Memorialists, do hereby, respectfully but strenuously, oppose location of any high level radioactive waste repository within the borders of the State of Maine; and be

RESOLVED: That the President of the United States and the Secretary of Energy be respectfully urged not to locate a high level radioactive waste repository within the State of Maine; and be it further

RESOLVED: that duly attested copies of this Joint Resolution be immediately transmitted by the Secretary of State to the President of the United States, to the Secretary of the United States Department of Energy and to Members of the Maine Congressional Delegation.

Which was READ.

On motion by Senator KANY of Kennebec Senate Amendment "A" (S-367) READ and ADOPTED.

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

Senator PEARSON: I would like to pose a question through the Chair. Why are the Towns and areas that have been disqualified by the Department of Energy, being included in the Resolution?

THE PRESIDENT: The Senator from Penobscot, Senator Pearson has posed a question through the Chair to any Senator who may respond if they so desire.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: In answer to the good Senator from Penobscot, Senator Pearson's question. We included these areas in the Resolution only as examples, even though they had already been previously disqualified by the U.S. Department of Energy's own criteria.

Off Record Remarks

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

Senator PEARSON: In reference to my question of the disqualified towns under the Department of Energy's criteria, I understand Senator Kany's explanation, that they have already been excluded, and while I see no harm including these towns in the Resolution, I was curious to know why they would be in there if they were already excluded?

I would like to address myself to the Senate, the President of United States and all others that might take heed of it, that there are other areas in this State, of course, most particularly in my Senate District, that are very, very concerned about this particular matter.

They do not meet the criteria as established by them. I have three towns; Lincoln, Burlington and Lowell, in which the population is, well, it is fairly large in Lincoln and very low in Lowell and Burlington, and those people there are living in absolute fear that their particular community might be selected as a place for high level nuclear waste disposal site. I want to tell you, and I am sure, that is not necessary for the bulk of you people here, or anybody for that matter, the reason for their

concern is because they live in those towns, they have chosen to live in these towns, their fathers lived in those towns, their grandfathers and grandparents, their great grandparents and they have always been there.

Like most of you in this Senate, I can take one of those towns and name every family that has been there for one hundred years. In Maine, we have a tendency to have little communities like that. The good Senator from Aroostook, Senator Carpenter, could probably tell you, in the towns surrounding Houlton, and even in Houlton, you can name the families that have been there forever. They are there because they choose to be there, because they love that kind of life. If this particular thing were to come into their area, their entire life would be changed!

There would be guards, there would be fences, there would be transportation problems, there would be railroads, there would be all of those things that would change and upset their way of life. Now, I would suspect that probably somebody sitting in Washington would say "What will we do? We will go to a little town because they can give us the least amount of opposition." They have already protected themselves politically, you see, from these bigger towns, because they do not want to go through that hassle! But I want you to know, I want the Senate to know and the State to know, and the President of the United States to know, that if they come into our area, then we do not want them—they ain't seen nothing yet! Because we just will not put up with it! We do not want them there, we do not want anything to do with them, and we do not want to be ingored just because we're little!

You know, the Sibleys, Shoreys, Thurlows, Wakefield, in the little town of Lowell, they make up most of the town, some Champions, Curtises, and I am telling you, they do not want it there because they love the way they live right now! They work in the woods, they work in the factory in Lincoln and in Old Town, and the area around there, and I suspect they are going to be debating this issue in the future, and I want to tell you, that if it were in Jackman or if it were anywhere else, I would still be supporting whoever it was that got affected.

But, if it comes to my area, we are going to put up a show that the world will never forget!

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

Senator ANDREWS: Thank you Mr. President. Mr. President, Men and Women of the Senate. I stand to also support the Resolution before us, and to express my happiness that the Advisory Commission has in fact, gotten under way, and will be working on this very serious subject.

What you have heard today, so far in this debate, is absolutely the case. You do not have to be representing a small town whose directly affected by the possibility of a high level nuclear dump coming in to their area to have deep seated concerns as expressed by your constituents. The City of Portland, that I represent, has some very deep seated concerns. We are not being considered as an actual dump site, but Ladies and Gentlemen of the Senate, regardless of where you live in this State of Maine, even if we are a finalist, even if we fall into the category of being the finalist category, between fifteen and twenty sites, it is going to have an effect on the entire State of Maine!

Not only with respect to transportation, and of course, it is going to have to be transported not only to, perhaps someone else's District, but it is probably going to be transported through many, many Districts in this State Senate.

We have heard arguments from some Federal officials that the process to decide where a high level nuclear waste dump, and we're talk-

ing about, Ladies and Gentlemen, the most toxic and lethal substance ever produced, and we're storing it in concentrations greater than have ever been done in history. We're talking about a nuclear waste dump that will be one of two for the nation. Of all high level nuclear waste produced through the year 2020, a capacity of seventy thousand metric tons, and now there is discussion to expand that capacity to include military waste!

If you think the process is just technical, and just scientific and not political, you are sadly mistaken! Because of concern that has been expressed by my constituents, and as I called around the country to talk to other states, and other citizens who have expressed concerns about their States being considered. I spoke with a former Department of Energy engineer who was involved directly in the nuclear radioactive waste process for the Department of Energy. He expressed grave concerns to me over the phone. I invited him to the District for a Citizen Town Meeting, and three weeks ago, he came to the City of Portland, to talk about his experience as a Department of Energy engineer.

His testimony before my constituents, Ladies and Gentlemen, and I will offer to each and every one of you, copies of that testimony, was in a word, frightening! The process that was used, the mistakes that were made, the massive environmental contamination at the hands of the Department of Energy, who are responsible for this high level nuclear waste, would make your hair stand on end!

That former Department of Energy engineer, who is now a professor at a college in Augusta, Georgia, urged everyone in the State of Maine, and everyone in the Country, to participate actively in this process, and not be content with the rational the experts know what they are doing, the people that understand the technology and the science know what they are doing, let's leave it to them. As an engineer and as a scientist, he said the Department of Energy needs to hear your criticisms, your activism and your active participation.

I received a letter from a colleague in Vermont, a State Legislator from Vermont, and he underscored a letter that concerned not only for receiving a nuclear waste dumping ultimate site, but the concern he had for the his area, even if you are a finalist. Even if Maine should fall into one of those final sites. Let me quote a bit of this letter, I think it is important for The Record. "Once an area in your District of adjacent District is selected as one of the twenty sites for further study, what will be the economic impact in that area? In Vermont real estate agents and people who are considering expanding their businesses, already are having second thoughts about investing in the vicinity of one of our rock bodies under consideration. A cloud of uncertainty would hang over your communities for an indefinite period of time, regardless of whether or not the waste site is finally assigned to another part of the Country. What are the impacts on local control? Of the quality of your drinking water, and your appeal as a place where families would want to settle for the rest of your lives? How might you deal with massive dislocations of homes and businesses? And with security questions of this magnitude for literally thousands of years? What about all of the unanswered technical questions, such as the safe transport of the waste? The accident response capabilities of local communities, the fact that crystalline rock is brittle and lacks the ability to heal its cracks."

There is great concern everywhere in the State of Maine for this process. And as we Pass this Resolution today, let us resolve, not just to pass a Resolution to the President of the United States, and the Department of Energy. But let us resolve to actively involve our citizens in this process, to provide them with as much information as possible and encourage

their participation. And finally to seriously look, as a Legislature, at the questions that have been raised around the Country about the process that is being used. The process that has been established by the '82 Act, and the process that is now under way by the Department of Energy.

We produce nuclear energy. We therefore produce nuclear waste. It has to go somewhere. Someone is going to end up with the waste. But regardless of where that goes, we should be concerned number 1; that it does not end up in the State of Maine, and for all the reasons in the Resolution, but we should also be arguing and debating the serious flaws in the process that have been pointed out.

I want to tell you, as a matter of fact, we are under consideration as the second set of sites under consideration by the Department of Energy. The first sites were supposed to be, according to the '82 Act, be three or four years ahead of the second tier of sites. There have been so many technical problems with that first process, there have been so many legal problems with that first process, that now we read in the N.Y. Times, just a few weeks ago, that the second tier may become the first tier. We may become the guinea pigs!

Now, several states have already filed law suits against the Department of Energy for their process. I think it would become us and upon the Attorney General of the State of Maine to look seriously at the law suits and consider very seriously of joining those States, as the State of Vermont has recently done questioning and challenging that process.

This is a very serious subject. There are very deep seated concerns around the State, and in every District here, and that concern is well founded. As the Senator from Kennebec, Senator Kany has pointed out. There will be a public hearing tonight in Portland. You are all invited to attend. The Department of Energy is here and I will be very anxious to speak with them.

But, this is the time to debate, discuss and criticize the process. Not if we're chosen as a finalist state and not if we are chosen as a site, but right now, both the State of Maine and for any other location in the United States. Thank you.

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

Senator **KANY:** Thank you, Mr. President, and Fellow Senators. First of all, I think it is very important for all Senators present to articulate your feelings and their constituents feelings this afternoon, to the Department of Energy representatives. Senator Pearson was so eloquent in expressing his constituents values. Something people, perhaps who live in Washington, or elsewhere in this Country, may not be able to understand, but if it is so eloquently communicated, certainly they could be to, perhaps, understand the deep feelings that many Maine people have for their land, and for their community.

So, I urge each and everyone of you to step up to the representatives, who will be here this noon, and to express your feelings, because this is an opportunity, to do that, and your constituents would want you to do that. I ask you to do that first of all.

Secondly, as Senator Andrews so accurately and well expressed, that unfortunately, everything that has occurred so far in a search for a high level radioactive waste repository, everything has not necessarily been determined on a technical basis. And that is of great concern and should be a grave concern to everyone here. The more I learn and the more people I talk with elsewhere in the Country, finding there is always some reason why some State is out of the running for consideration. Some State's congressional delegation, way back when, years ago, might have been involved in the development of the Federal Law, in one case. I just received from the Department

of Energy, yesterday, in the mail, the memo of the understanding in which Louisiana would not be considered for high level radioactive waste depository, even though they have salt domes. Supposedly, technically, the best for housing radioactive waste, radioactive waste must be isolated from population and food chain for at least ten thousand years. Louisiana has been exempted because they are willing to have the emergency petroleum reserve there. And I would like to have that document xeroxed so that all of you could have a copy of it. It is startling to learn that they really have been exempted for political reasons.

Secondly, recently in Albuquerque, I asked the Department of Energy why no crystalline rock west of the Mississippi, other than in Minnesota, was under consideration in the crystalline rock project. The only reason really, so far, that has been given and I have not yet had the formal response which I requested, was for regionality, and the regionality is mentioned under the Federal law.

But, if indeed, granite or other crystalline rock is so wonderful, so stable, then in effect, certainly they should be examining some of the crystalline rock bodies in the West.

It is really, after returning from that meeting in Albuquerque, when I asked that question, and asked to have an actual copy of that Louisiana document, the memo of agreement, with Louisiana, and I decided that it was appropriate to go ahead and to have a Resolution, and to seek political and legal recourse, in addition to making certain that we have top geologist and other technical people, prepared to speak to our case. So that is why this Resolution, if before you now, and I urge you to Enact it.

Which was **ADOPTED, as Amended.**

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

On motion by Senator **PERKINS** of Hancock, (Cosponsors: Representative **RICE** of Stonington, Representative **ZIRNKILTON** of Mount Desert, and Representative **FOSTER** of Ellsworth) the following Joint Resolution: (S.P. 646)

In Memoriam

WHEREAS, few words of tribute to E.B. White could captivate more effectively or shine more brightly than the body of works he bequeaths; and

WHEREAS, the passing at age 86 of this consummate wordsmith recalls to us his love for the beauty and serenity of coastal Maine which he sought over the literary limelight; and

WHEREAS, the carefully selected and lovingly crafted words of E.B. White brought to the hearts of young and old, and all cultural levels an inestimable joy and a clearer understanding; and

WHEREAS, in all of his writing there is honesty and humor and clarity; in a style which will not merely linger but endure; and

WHEREAS, E.B. White's life and works bespeak a simple eloquence paralleled by few and aspired to by many; now, therefore, be it

RESOLVED: That the Members of the 112th Legislature now assembled in First Special Session enter upon our journals with deep regret the passing on October 1, 1985, of Elwyn Brooks White, and recall these words once cited in his honor: "If we are to be remembered as a civilized era, . . . it will be partly because of Elwyn Brooks White. The historians of the future will decide that a writer of such grace and control could not have been produced by a generation wholly lacking in such qualities, and we will shine by reflection in his gentle light." and be it further

RESOLVED: That a copy of this Joint Resolution, suitably engrossed be immediately transmitted with our deepest sympathy to his family.

Which was **READ.**

THE PRESIDENT: The Chair recognizes the

Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate. On a much milder note, but with sincerity, the passing of E.B. White leaves a distinct void in not only the State of Maine, but also his country. His contribution to the literacy of this Country and this State, and his gentle presence within Eastern Maine and the State of Maine are something that we will not quickly replace. His kind presence was felt and will be remembered with fondness not soon to be duplicated.

Which was **ADOPTED**.

Sent down for concurrence.

Off Record Remarks

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

Senator MATTHEWS: Mr. President, Men and Women of the Senate. I just rise briefly, to unfortunately have to state to this body the passing of a very, very dear friend of mine. I am sure a friend of many political people across the State. The Gentleman's name is Leo Trahan of Winslow. Leo was sixty-three years old. Was a strong public servant, who unfortunately died in an auto accident yesterday, I just wanted to let you know, for those of you who did not know him, that Leo was a very, very strong veteran, he fought very, very hard for the veterans across the State of Maine. He was a strong advocate for the V.F.W. He was also a very strong public servant. Leo served in the council in Winslow. Campaigned very, very hard across the State of Maine, and of course, in his home town of Winslow, for many distinguished people. Senator George Mitchell, Governor Brennan and others.

He was a very, very strong Democrat, and I think people knew him all over the State of Maine for the work he did, and rather than echo any kind of partisanship, or that kind of thing, I just wanted people to know, who believe very strongly in this process that Tom Andrews spoke about, he was a strong party man, a strong Democrat, and I think he believed very, very strongly in this State and what we stand for.

I just wanted to let everyone know that this service for Leo Trahan, the wake will be held this evening from seven to nine o'clock at the Gallant Funeral Home in Waterville. Tomorrow from two o'clock to four o'clock and again at seven to nine at the Gallant Funeral Home. The funeral will be held at Saint John's Catholic Church in Winslow at ten o'clock.

It is with a lot of sadness that I remember this person because he fought very, very hard for me, and was a good friend of mine, and I am sorry to see him go. Thank you.

Out of order and under suspension of the Rules, the Senate voted to consider the following:

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Fund and Implement Certain Collective Bargaining Agreements" (Emergency) (H.P. 1166) (L.D. 1663)

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

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**, in concurrence.

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

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Concerning the Requirements for a Rehabilitation Administrator Under the Workers' Compensation Act" (Emergency) (H.P. 1167) (L.D. 1664)

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

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**, in concurrence.

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

Out of order and under further suspension of the Rules, the Senate voted to consider the following:

PAPERS FROM THE HOUSE
House Papers

Resolve, Authorizing Kennebec County to Pay Deficits from Unappropriated Surplus (Emergency) (H.P. 1168) (L.D. 1665)

Committee on **LOCAL AND COUNTY GOVERNMENT** suggested and **ORDERED PRINTED**.

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

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

Senator TUTTLE: Mr. President and Members of the Senate.

Being the Chairman of the Local and County Government Committee, I would like a brief explanation of what this Resolve is authorizing. Can anyone from Kennebec County respond?

THE PRESIDENT: The Senator from York, Senator Tuttle, has posed a question through the Chair to any Senator who may respond if they so desire.

Senate at Ease

Senate called to Order by the President.

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

Senator TUTTLE: Mr. President. In reference to my question, I guess it has been answered. It pertains to Kennebec County and the "Garcia" decision on the overtime ruling. The money for the overtime provision was paid by the Country, so I have no problems with it. Thank you.

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**, in concurrence.

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act Allow the Finance Authority of Maine to Close any Project Initiated Prior to the Recent Changes in Finance Authority of Maine Legislation" (Emergency) (H.P. 1169) (L.D. 1666)

Committee on **STATE GOVERNMENT** suggested and **ORDERED PRINTED**.

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**, in concurrence.

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

Senate at Ease

Senate called to Order by the President.

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

COMMUNICATIONS

The Following Communication: (H.P. 1164)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333

October 30, 1985

John L. Martin
Speaker of the House
112th Legislature
Charles P. Pray
President of the Senate
112th Legislature

Dear Mr. Speaker and Mr. President:

On October 30, 1985, one Bill was received by the Clerk of the House

Pursuant to the provisions of Joint Rule 14, this bill was referred to the Joint Standing Committee on October 30, 1985 as follows:
TAXATION

Bill "An Act Establishing a Commercial Forestry Excise Tax and Providing an Appropriation for Refunding Maine Forest Fire Suppression Taxes Paid" (Emergency) (H.P. 1163) (L.D. 1661) (Presented by Representative CASHMAN of Old Town) (Cosponsors: Senator TWITCHELL of Oxford, and Representative MASTERMAN of Milo)

Sincerely,
S/ EDWIN H. PERT
Clerk of the House
S/ JOY J. O'BRIEN
Secretary of the Senate

Comes from the House **READ** and **ORDERED PLACED ON FILE**.

Which was **READ** and **ORDERED PLACED ON FILE**, in concurrence.

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

COMMUNICATIONS

The Following Communication: H.P. 1165

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333

November 5, 1985

Hon. Charles P. Pray
President of the Senate
Hon. John L. Martin
Speaker of the House

Dear Mr. President and Mr. Speaker:

You will find enclosed the "appropriate history" of Donald E. Davey as provided for in H.P. 373—L.D. 492: Chapter 29, Resolve of the 112th Legislature. Also enclosed are copies of the letters of transmittal as acknowledgment by the following organizations:

- Maine Historical Society
- Maine Historical Preservation Commission
- Maine State Archives
- Maine Department of Transportation
- Joint Standing Committee on Transportation
- 112th Legislature
- Lincoln County Cultural & Historical Association
- Friendship Historical Society

The requirements of Chapter 29 having been met, the bridge between Edgecomb and Wiscasset over the Sheepscot River is therefore and hereafter to be known as the Donald E. Davey Bridge.

Sincerely yours,
S/ JOSPEH W. MAYO
State Representative

Comes from the House **READ** and with accompanying Papers **ORDERED PLACED ON FILE**.

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE**, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1170
In Memoriam

WHEREAS, there was a beaming sensitive child from Manchester, Maine who would not accept man's inhumanity to man; and

WHEREAS, this then 11-year old school girl stood fast in the belief that peace and brotherhood could abide in her lifetime; and

WHEREAS, her heralded correspondence in 1983 with then President Yuri Andropov brought the world to her door, but did not change nor deter her; and

WHEREAS, with optimistic innocence Samantha Smith, with the support of her devoted father and mother, carried her inspiring message for peace to Russia and other nations of the world; and

WHEREAS, the lives of Samantha and Arthur Smith came to a tragic end on Sunday, August 25th, 1985, cutting short a future of promise, now, therefore, be it.

RESOLVED: That We, the Members of the 112th Legislature now assembled in the First Special Session, let our highest tribute to her be the remembrance of her vision and the will to achieve it; and be it further

RESOLVED: That we pause in a moment of understanding and prayer to inscribe this token of sympathy and condolence to all who share this great loss and respectfully request that when the Legislature adjourns this date it do so in honor and lasting tribute to the deceased.

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

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

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
EXECUTIVE DEPARTMENT
OFFICE OF ENERGY AND RESOURCES
STATE HOUSE STATION 53
AUGUSTA, MAINE 04333

September 16, 1985

President Charles P. Pray

State House Station 3

Augusta, Maine 04333

Dear President Pray:

I am pleased to submit to your the Office of Energy Resources' Comprehensive Energy Resources Plan for 1985. This Plan, which must be submitted on a biennial basis to the Governor and the Legislature according to state statute, represents a comprehensive analysis of the past, present and future trends and opportunities in the development of energy resources in the State of Maine.

I am sure you will find the Plan to be of considerable value as we discuss energy policy over the next few years.

I will send you additional copies of the Plan as soon as they are available from the printer.

Respectfully submitted,
S/ JOHN M. KERRY

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

Senator **VIOLETTE** of Aroostook was granted unanimous consent to address the Senate Off the Record.

Senator **PERKINS** of Hancock was granted unanimous consent to address the Senate Off the Record.

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

Off Record Remarks

Senate at Ease

Senate called to Order by the President.

Out of order and under further 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 Establishing a Commercial Forestry Excise Tax and Providing an Appropriation for Refunding Maine Forest Fire Suppression Taxes Paid" (Emergency) (H.P. 1163) (L.D. 1661)

Reported that the same **Ought to pass as Amended by Committee Amendment "A" (H-486)**

Signed:

Senators:

DIAMOND of Cumberland
TWITCHELL of Oxford

Representatives:

DIAMOND of Bangor
SWAZEY of Bucksport
CASHMAN of Old Town
MCCOLLISTER of Canton
NELSON of Portland
MAYO of Thomaston

The Minority of the Same Committee on the same subject reported that the same **Ought to Pass in New Draft under New Title Bill "An Act Making Adjustments and Appropriations to Provide for Refunding Maine Forest Suppression Taxes Paid and for the Repeal of the Forest Fire Suppression Tax" (H.P. 1171) (L.D. 1667)**

Signed:

Senator

EMERSON of Penobscot

Representatives:

INGRAHAM of Houlton
ZIRNKILTON of Mount Desert
WEBSTER of Cape Elizabeth
JACKSON of Harrison

Comes from the House, with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-486)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-486)**.

The Chair moved the Majority **Ought to Pass as Amended** Report.

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

Senator **PERKINS:** Mr. President, I would ask for a Roll Call.

THE PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll call it requires the affirmative vote of at least one-fifth of those Members present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise in their places and remain standing until counted.

Obviously, more than one-fifth having arisen a Roll Call is ordered.

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

Senator **WEBSTER:** Mr. President, I would like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **WEBSTER:** Could a member of the Committee explain the differences between the two Reports, as I am concerned about being sure to vote on the right side of this issue. Thank you.

THE PRESIDENT: The Senator from Franklin, Senator Webster, has posed a question through the Chair to any Senator who may respond if they so desire.

The Chair recognizes the Senator from Oxford, Senator Twitchell.

Senator **TWITCHELL:** Thank you, Mr. President, Members of the Senate. First, I would like to outline the Governor's proposal and when I get through outlining the Governor's proposal, I will outline the Republican proposal.

The Governor's proposal, number one, will

put into place between twenty-five and thirty cents per acre fee on all commercial forest land of five hundred acres or more. With the exception of non-commercial forest lands, which is blueberry barrens, peat bogs. The revenues from the tax is expected to finance half of the State's six million dollar forest fire protection program with the remainder coming from the General Fund, which derives its money from Income Tax.

Number two, A one time surcharge, between ninety-five cents and one dollar, per acre fee on the same land owners to finance the reimbursement due because the old tax was found to be unconstitutional.

Number three, the Governor has sent the Committee a Letter from the Attorney General indicating that the tax structure has been legally sound. And to be extra careful, he will ask for an opinion of the court before he signs the Bill. The funds will be made available as close as possible to May 1, 1986.

On the Republicans proposal is, number one, the State's six million forest fire protection be financed entirely from the State's General Fund, which gets its money from Sales and Income Tax revenues.

Number two, these reimbursements will be financed by an across the board cut in all State Departments of one half of one percent, which would raise approximately only 5.5 million for the next two years.

Number three, transferring 3.4 million from the F.A.M.E. reserve to the General Fund.

Number four, a 4.3 million dollar loan from the General Fund, Capital Reserve Operating Fund, to be paid back over the next five years.

Number five, the Republicans would like to have a new study on financing forest fire protection.

THE PRESIDENT: The pending question is **ACCEPTANCE** of the Majority **UGHT TO PASS AS AMENDED** Report of the Committee.

The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Mr. President, Ladies and Gentlemen of the Senate. We are here today mainly because of the action taken by a number of people in my District. As a matter of fact, I remember the initial meeting years ago now, when the Forest Family Tree Lot Association, or whatever name they used, formed. At that point, there was a feeling among many people that the forest fire tax was not constitutional and not uniform and fair.

It seemed, at that time, we were taxing people who had one hundred acres of land. We have since amended that, in last session, to five hundred acres of land. There has always been a feeling, out there in the public, that it was unfair to tax someone who only had one hundred acres of land, and then turn around and not tax someone who had ninety-eight acres. The same argument could be used today, that we are taxing people who have five hundred acres of land, but not someone who had four hundred and ninety-nine, who might be using that for commercial use.

Today, I am only going to say very briefly, that this proposal, the Majority Report, to me is another example of this Legislature's unwillingness to set priorities. In June, I stood here before this Body, and I debated my concern and I expressed to you my concern about spending twenty-six million dollars at the time, in new spending. It seem that we go and we spend twenty-six million dollars in new spending, on new programs, things that we've never spend money on before, but now we cannot seem to find four million dollars to take care of fire protection.

The day this Bill, the current law was ruled unconstitutional, I received a call from a newspaper and they asked me what I thought about it. Well, I said that it seems fair to me that since everyone benefits from the forest, and since the forest, a healthy forest produces

jobs because of the economy being good, the woods are cut, the land is producing fire wood or whatever, it might be using, we're having jobs, it seems fair to me, that everyone ought to pay for it.

Several years ago, we bonded money to build blueberry facilities in Machias, and we have done things for Aroostook County, through potato packing facilities, we have done things for Portland. I am paying for all of those things and none of those things are benefiting me directly. Cargo ports in Portland, do not help people in Farmington. Creating blueberry packing facilities in Machias do not help people in Farmington. But I believe that all of these things benefit everyone through an improved economy.

It seems fair to me that this Legislature should pay for fire protection. We should pay for it from the General Fund because that is where most of the money, the jobs are created, the taxes are paid, goes into the General Fund, and everyone benefits. I am going to vote against this proposal, this new tax, because it is the same proposal, the same type of thing we always do. If we can't solve the problem, raise another tax. That to me is the wrong approach. I think the priorities should be set, I believe that the twenty-six million dollars that we spent in June could have been better spent, portions of that could be better spent, for fire protection, so I am going to oppose this tax, and I will ask you to do the same.

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

Senator **TWITCHELL:** Thank you, Mr. President and Members of the Senate. I would like to point out to the good Senator from Franklin, Senator Webster, what we are doing here today is nothing more than addressing the issue to reimburse all of the land owners for the money we owe them for the refund checks for 1983 and 1984. We are not here today to rewrite the forest fire tax laws. We can do that next Session.

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

Senator **SEWALL:** Thank you, Mr. President and Members of the Senate. There are a lot of problems with this Bill. After all it is a divided report, it was no compromise. Many of them have been discussed in this building today. The one problem that bothers me the most in this proposal is that the Legislature is going to pass a law which will go into effect sometime in 1986, which is going to reach back and tax property in 1985 and 1984.

Essentially, sometime in early 1986, we are going to be saying to the people, "If you owned more than five hundred acres of forest land in Maine in April of 1985, you will have to pay the tax for 1985 ownership, even though we did not tell you about it officially until 1986." That strikes me as harsh and oppressive and I might also add there are very few people in Senate District 20 who are in this position, and I am speaking of it as a legal issue rather than as one directly, from my constituents.

Our Maine Constitution, in Article 1, section 6-A, says that "Government can't deprive a person of property without due process of law." Where is the due process of law in going back a year and telling people that now, we are going to tax them for things that happened in the past? There has to be law against that! This Bill says that we are going to tax a certain type of activity. The privilege of using one's land in commercial forestry enterprises. At the very best, that is a tax on the type of behavior activity.

We are now going to tax that behavior, but we are going to say that it is a tax on behavior that happened last year. That is a retroactive tax. That would be like passing a law today that said anyone who was under the age of twenty-one in 1984 and drank beer is in violation of the law. We are doing the same thing. We are telling people now that they have to pay tax

for 1985, that they never planned on and that they never contemplated. For that reason, I will be opposing this proposal today.

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

Senator **TWITCHELL:** Thank you, Mr. President and Members of the Senate. We never said that this Bill was perfect, but it happens to be the better of the two before us. As far as retroactive tax, I can remember several sessions ago when we had tax indexing. The Republicans were all hepped up to vote on that because it was retroactive, This Bill is not perfect, but it happens to be the better of the two.

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

Senator **SEWALL:** Thank you, Mr. President. I would like to inform the previous good speaker, Senator Twitchell, that the tax payers of the State of Maine voted for tax indexing.

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

Senator **MCBREAIRTY:** Mr. President, and Honorable Members of the Senate. I guess I have to take issue with my good friend in the back, Senator Twitchell. I think if he recalled, that is was a good Republican or even three Republicans that sponsored the Bill to repeal that retroactive section of the law. So, it wasn't totally a Democratic thing. I have no doubt that the tax Bill before us today is the most unfair tax Bill that I have seen in my eleven years in the Maine Legislature.

The Bill proposes to put some sort of surcharge on all taxpayers for 1985, in order to raise enough money to pay back the tax monies that the State illegally collected, because the law passed by this Legislature violated the people's right guaranteed to them by the Constitution of Maine.

Now we propose to rob Peter to pay Paul. Let's say for an example that there were land owners who owned six one hundred acre parcels of forest land, and each of the parcels was in a separate town. Because of that, under the old law, the Supreme Court said was a property tax, that the landowners did not pay any money at all, if they owned six one hundred acre parcels.

Then, there was the landowner, who would own more than five hundred acres of swamp, pasture, bogs and some forest land all in one town. That person paid tax under the old law. Well, now along comes this Bill, that says to the person that owns six one hundred-acre parcels in six different towns, you have to pay a tax so we can get enough money to give it back to the person who owns the bogs, pastures, and swamps, that we originally took the money from. That is unfair!

Now lets look at another situation. In February 1985, a landowner sells one thousand acres of land, forest land, to a purchaser and I know of instances where this has happened. The new owner under this legislation, is the owner of record on April 1, 1985. Therefore he gets to pay what is essentially three years taxes, 1983, 1984, and 1985, in order to generate the money necessary to pay a refund to the person who sold him the land. That is unfair! I think it is one thing to tax commercial activities from this point forward. that gives everybody the ability to decide whether they want to stay in the business or change the use of the land.

But, not to reach back in time, and punish certain landowners because this State, or rather this State Government, got caught trying to do something that the Constitution said was illegal. That is a bad way to try and solve the problem. I don't think we should be railroaded into quick action. The message that this Bill gives to many people in the State is a negative message. It is not a question of getting even, it isn't a question of beating up on a particular category of citizens. It is a question of basic fairness! State Government got

caught up with it's hand in the cookie jar. When the State fines individuals, illegally taking money, we have forced them to pay the penalty, of paying back or serving some time.

I say that we as a Government should practice what we preach and be forced to dig into the State resources in some way, even if it takes several years to pay back this refund, and then go on from there with a fair tax.

I am going to give you just a few figures here that I got from Conservation. In 1984, to show you how unfair this tax is, in 1984, the landowners in Aroostook County paid 1.1 million toward this tax, under the five hundred acre exemption. Cumberland County paid \$5,000. Cumberland County in 1984 had one hundred and eighty-three fires. Aroostook County had eighty-eight.

It cost more for fire suppression in Cumberland County in 1984 than it did in Aroostook. That is really unbelievable, but it is true. In 1985, Cumberland County, under this municipal refund got \$8,817, nearly twice what they had paid in, just in town refund. Portland, where we feel there is no forest land at all got \$2,339, refund for fighting forest fires in 1985. So there are a lot of things wrong with this law besides the way we are taxing it. It should be straightened out.

Aroostook, in 1984 & 1985, all of Aroostook only got \$3,700 in town refunds. So, the service is needed state wide. If we are going to tax property, then we should tax all of the property in the State, not just a few. Thank you.

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

Senator **BALDACCI:** Mr. President and members of the Senate. The Governor's Bill that was before the Taxation Committee is a fair bill, in that the State will pay fifty percent of the fire suppression tax. The fact of the matter is that ten or twelve large land owners own fifty-nine percent of the land in question. I think fifty percent of the General Fund may be too generous, that it should be more in line with forty to forty-one percent. The Republican proposal is for the General Fund to pay one hundred percent. Now, that is ridiculous! And the way they want to fund it is even more ridiculous. They want all of the Departments to cut one-half of one percent from their budget. But, they don't tell you where in the budgets they want it to be cut. We are here today, for one day only to resolve an issue that was brought to us because of the ruling of unconstitutionality by the Supreme Court.

The interest on that judgement is being built up daily. We are going to have to start paying it out fairly soon. The issues about the technicalities and the intricacies of the law itself, is an issue that can be dealt with by the Governor, and the other members of Leadership have agreed that it should be brought up in January and discussed and debated. Because I have certain strong feelings about the percentages that we are now paying. Where is this one half of one percent from all of the Departments coming from? Does it mean that Mental Health Services and Bangor Mental Health or Augusta Mental Health or Pine-land should be reduced? Does it mean that the State Police can stop patrolling in the rural areas? Does it mean that the Human Services programs and the cries that we hear that the drug program monies are not forthcoming, that the elderly need that drug program and there is not money for that particular fund.

Or perhaps some other Human Service program for the needy. Are the Republicans suggesting that the worker's in Bangor and Biddeford and Lewiston, are they suggesting that they should start to pay more in sales taxes, in income taxes and property taxes so a few large landowners get off with a free ride? That is typical. Here we are today having a debate over whether the working people of this State of Maine should have to have the sweat come

off their forehead for a few rich people. It is typical that it split down Democratic and Republican lines.

We have a compassionate Governor who is concerned about the well being of the State. Where are we going to come up with the money for those needy programs when they are being asked to cut their budgets? Where is that money coming from? I think the Governor is doing a very generous job by suggesting fifty percent and I think we have an obligation to support that proposal.

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

Senator **EMERSON:** Mr. President and Ladies and Gentlemen of the Senate. I would like to speak to the fairness of this tax this certain Majority proposal. I voted against the original Bill in 1983 because I thought it was unfair and I have not seen anything in this proposal that makes me believe that it is any more fair than the original one. In fact, in some respects, it is probably more unfair. If we are going to tax commercial forest resources, we ought to do it on a fair basis. All we are doing is saying that everybody who owns 500 acres of trees in this State is in the commercial forest business. There are probably many people in this State who own parcels of land scattered around various towns which would amount to more than 500 acres. According to this Bill, that person is in the commercial forest business and I don't see that there is a basis for reaching that conclusion. I don't believe that anyone has taken a survey to find out who's in the commercial forest business and who isn't. This legislation will probably cause all kinds of law suits as tax payers are forced to fight with the tax assessors about whether or not their land is commercial forest land. Secondly, how is the State ever going to prove if the land to be harvested is for commercial forest use? How do you know it's going to be until it is? We are trying to look into the future with this tax. We are trying to tax people for what they might do in the future. The legislation is flawed and is unfair. It is a quick fix that doesn't need to be done right now. I urge that this Body reject the legislation and give everybody the opportunity to take the time to develop a fair and equitable solution. Not only to the current problem, but also to the long term problem of how we, as a State, handle the cost of fighting forest fires.

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

Senator **MAYBURY:** Men and Women of the Senate, I rise to oppose the Majority Report on LD 1661. We are told that this Bill is as close a parallel to the original legislation, adopted by the Legislature, as could legally be constructed. However, my reading of this Bill indicates that this is a far cry from the legislation which we originally enacted. As a legislature, we decided to impose a tax on the owners of land for the purpose of generating revenues to assist in paying for forest fire suppression activities in this State. I thought we had made it clear in the law that that was the purpose of raising that money and taking those landowners. This Bill says nothing about forest fire suppression except in the appropriations section and the statement of fact. All this is, Ladies and Gentlemen, is a General Fund tax. I agree that is a thinly disguised property tax. However, even if thinly disguised, it should at least be specific in what the revenue raised will be used for. There is nothing in the Bill that says the monies raised have to be used for forest fire suppression. If things got tough, we could decide that these monies should be more appropriately allocated to some other particular State service. We could even decide to increase the tax rate to raise additional revenues for some other worthy purpose. This is just a new tax bill to raise General Fund revenues. There is no dedication of the monies raised to fight forest fires. There is no recogni-

tion that the monies will be held in some special account and used only for specific purposes. There is no recognition that the monies will be kept in the account and utilized in subsequent years for the same purposes if they are not expended in a particular year. This Legislature has gone a long way through this Bill in changing a specific revenue measure dedicated for specific purpose to a general fund tax increase without any assurance of how the funds will be used in the future. I will be voting in opposition to the Majority Report and I urge you to vote against it. Thank you.

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

Senator **DIAMOND:** Than you, Mr. President, Men and Women of the Senate. I think I'd like to bring this back, if we could, to the reason why we have this Bill before us today. As the good Chairman of the Taxation Committee, Senator Twitchell, pointed out to us, the problem before us now is a funding problem based on a decision by the Maine Supreme Court. To be attacking such things as thresholds on taxation, such as 500 versus 495 really isn't pertinent or fair because we have thresholds and taxation right now. We have thresholds that we abide by on individual property taxes as well as income taxes, corporate taxes, thresholds are not unprecedented Ladies and Gentlemen. We know that. To say that it is unfair because we are starting a new tax, or we're leveling a new tax, and that almost sounds like next June or next November. It almost sounds like campaign kinds of thing, and or course we know that is not the case here, because this is only November. But, it has that little tinge to it. We are not starting anything new, we are simply reaffirming in a different way what the Committee on Taxation, which I was not a part of at the time, voted 11-2 to endorse, and this Legislature, or that Legislature in the 11th endorsed as well. Now there's nothing wrong with asking for this legislation or for anyone else who is acquainted with us, to come back and give us maybe a better idea. In fact, during the hearing on this very bill, before the Committee on Taxation, I asked a member of the Advisory Council, in fact the chairman of that group to in fact, come back to us with a better idea. In the meantime, since I don't know where we can find ten million dollars and nobody on the Minority Side in the Taxation Committee came up with a way to find ten million dollars, there's just no way we can possible do that. Now there was one solution to that problem, and that was to cut across the board, one half of one percent in State Government. Now, that can be rhetorically enthusiastically supported by saying our budget was 1.9 billion dollars. You mean to tell me we can't find a half of one percent? Sounds good. But, their Bill said a mandated one-half percent across the board, cutting, whether a Department had that excess money or not. Now I can tell you after studying the Department of Human Services Child Protection, in the Committee on Audit Review, we're not going to be able to find any cuts for the first time in three years in that area. In fact, we're going to ask you to give more money to Child Protection Services because they don't have enough. And so, to pass something, an alternative, that said in fact, we're going to cut across even that Department is not reasonable. It does not make sense. so, we're back to the issue of correcting the problem, in the wording we had in the first Bill that was passed. I asked Mr. Hintz, who is manager of a major land company in the state. I said to him: "Is it, in fact, unfair for us to expect you to pay your fair share, i.e., 50 percent?" He said "no." He said it on the record before the Taxation Committee. He said "no, I don't mind. That's a fair way to do it." He was opposed to the retroactive part of this. But, he did agree, as did others, that their fair-share payment was not unreasonable and indeed it isn't. So I would

just urge you to try to stay away from if we could, some of the political rhetoric. It almost sounds like campaign rhetoric and let's get back to the issue. And that is we need ten million dollars. 7.9 and 2.7 and we need to have that pretty soon, and this time we're going to deal with it, right this session. We were called in by the Governor to do that, so let's do it. Let's do it and do it fairly and certainly if it needs to be corrected, if the philosophy is wrong, if the structure is wrong, then we'll come back and people can deal with it at a later date. But that's not why we're here now. Thank you very much.

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

Senator **EMERSON:** Mr. President, I would like to help the Senator from Cumberland, Senator Diamond, recall the Republican position. He spoke about a one-half percent cut across the board. That was not the proposal. The proposal was a one-half of one percent cut in the 21 percent increase for next year's budget.

I think we all realize that the State of Maine is in competition with every other state in the nation for businesses, and also many foreign countries. I think we ought to think about this before we vote on this. Another thing that this man said, and they are large landowners, he mentioned about protecting the forest from fire with their equipment, their own crews, by doing it themselves. Now they hadn't considered this seriously, he did not say that if this tax continued, they would have to think about that. I happened to ask him a question, if they were protecting the land themselves, would they feel that it might be necessary to restrict the use of those lands, to keep people out of there because as we've been told, it is the people who cause the fire hazards, it isn't the tree, unless one happened to get struck by lightning, which does not happen often. I guess.

He said, "yes, they might have to restrict the use of the land." So I think that is another thing we ought to think about and vote against this proposal.

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

Senator **BROWN:** Mr. President, Men and Women of the Senate, you know we've heard this particular issue that's before us today referred to in a number of different ways. We've heard the Chairman of the Taxation Committee say it's not a perfect Bill. That there's a lot of problems with it. We all knew that when we passed this thing back some time ago, as far as I was concerned and now we're going to deal with a bad Bill that we passed before and get it back in the courts again. We heard it referred to as "this is a band-aid." A colleague from Cumberland County, who sits next to me, says let's deal with it next session again. What we're doing Ladies and Gentlemen, is reaffirming the position that we passed before, by passing, again, a measure that deals with it. It was an unfair tax at that time, it's an unfair tax now. What we're trying to do is to try to single out a class of landowners, i.e., those who own 500 acres or more. We're going to single those people out to unfairly tax them to pay back some money and then unfairly tax them on, as far as I'm concerned, on a service that's provided. We've talked about the fact that it's unfair to take it from the one-half of one percent of whatever the figures being used here. It's unfair to do that. It was unfair when we passed through some bogus tax measures, an educational bill which required millions of dollars on a cigarette tax, that we were told in Congress was going to be, we hoped, would not be left on by Congress, we'd have that money to spend. Of course, that was changed. So we can't find the money to deal with this issue in our budget this year and we can't find the money to deal with this issue because of the shortfall we're going to have and we want to

unfairly pass it on and there is not a one in here that sees me as a proponent speaking up for the paper companies. I can't be accused of that. But we want to unfairly pass onto large landowners, those above 500 acres, a very unfair tax. We talked about, "we'll deal with it again. You know, we've had the Forest Advisory Commission, I think on two different studies they recommended that 100 percent of the money going for forest fire suppression should come from the General Fund. I have people in my area who would say, "well it's private land." We're talking about the private versus the public. That land is open to where people can come and hunt and fish. We're talking about the number of fires that took place, the good Senator from Aroostook, Senator McBreairey, mentioned Portland and Cumberland County and how they compared to Aroostook County. You know why? It's because of the number of people that are in the areas compared to the number of people in Aroostook County, and probably if the hunters and fishermen didn't come to his area we would probably have even less to deal with. Ladies and Gentlemen, the fair way to deal with the forest fire suppression is to have it come 100 percent, from the General Fund. And for us to put a band-aid on a bad Bill to try to get it through until we can deal with it next Session is a very shoddy way to be doing business in this Body. So, I expect to also vote with the Minority party on this one and vote against it. Thank you Mr. President.

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

Senator **DIAMOND:** Thank you, Mr. President, and Members of the Senate. I need to just respond to two things. One, the good Senator from Penobscot, Senator Emerson, who indicated that this wasn't a cut. That in fact, it was a reduction of a 21 percent increase. What he was trying to tell you, I think that's what he said, in case you're not mislead. In fact, the budget that we have approved as a Legislature, is the budget that the Minority Report was suggesting. That we cut across the board by one-half percent and that cut was mandated across the board. It did not take into consideration whether or not an agency had money left over which might equal 3/4 of a percent or a 1/4 of a percent. It did not take into consideration any of those things. It simply said a one-half of one percent cut across the board and that is a cut because it is based on the budget that was approved by all of us in this Legislature and that may have increased 21 percent over the year before or it may have increased 15 percent or 30 percent. The fact of the matter is, it is the approved budget which every Department had been told they can operate on. So, in fact, it is actually a cut and in terms of the fairness issue which the good Senator on my left just alluded to, I think it is fair. I think it's fair to the point were we are asking those folks who are getting protection to participate at least half way for that protection. That's not asking too much, and in terms of cutting off and whether if someone at 400 versus 500, we've already talked about that and I think that the fairest is just that and that's why this Bill talks about. I think the Governor should be commended for it and I would ask you to join me and move on and pass this. Thank you.

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

Senator **GILL:** Mr. President and Members of the Senate, we are talking about fairness here today and I think the proposal brought forth by the Minority program would be the fairest program. We have asked them to cut a half of a percent across. We have given that authority to the Commissioners and the Department Heads involved and they alone know where in their budgets they can make that discretionary cut. It's far better than the sweeping threats we have heard in the past, when cuts have been proposed that we would lay off hundreds of employees, that we would do away with

wellmeaning programs and good programs and we've all been accosted in the halls in the past from those people who were in fear of doing away with their programs or having their jobs done away with. In this particular proposal we'd allow the Department Heads to make those discretionary cuts in the areas that they felt best they could be made. It doesn't really matter what we call this particular tax. The Legislature cannot make a horse out of a camel. A horse is a horse and a property tax is a property tax and this tax certainly looks like a property tax. It operates like a property tax and it sounds like a property tax, and in my opinion we are deluding ourselves and we are deluding our constituents and all the citizens of this State by refusing to recognize that there has to be, there must be, a better way to handle this situation. We tell everybody in the State who owns more than 500 acres of trees that they are somehow engaged in a commercial enterprise and that somehow, if they harvest a tree, then they are in fact in that enterprise whenever they owned the property. When they own 500 acres of property, if they have no present plans to harvest any in the future they're still going to be taxed this way. So, it is an improper tax. This tax is different from all the other excise taxes that tax business, per se. We've heard about the potato industry and they don't tax on the land, they tax on the potatoes that are harvested. This Bill does not propose to tax people on the number of trees they harvested, they're talking about taxing on the 500 acres. So, I ask you to look at the Minority Report and please go along with it. The Majority Report is not a good program.

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

Senator **GAUVREAU:** Thank you, Mr. President, and Men and Women of the Maine Senate. I hadn't planned to address this Body this afternoon, but I must share with you my concern over some of the tenor of the debate. I certainly would agree with previous speakers that if you have a fundamental philosophy that the General Fund should support entirely the forest fire tax suppression activities then certainly you would be advised to reject the Majority Plan and go with the Minority Report. That is not my philosophy, in fact, I have a rather ambivalent leaning towards a partnership between state government and the commercial forestry industry in the State of Maine to jointly address issues of forest fire suppression. But, my primary reason for rising at this point is to discuss, be it in some cursory fashion, the legal issues which have been addressed. Seems to me we've heard some intriguing fulminations on due process implications presented by this Legislation and when this issue first arose, after the Law Court has decided the Eastler case, I was intrigued with the remarks of our Governor that said, "I'm not in the habit of introducing unconstitutional legislation." I think he's right. In fact the Governor's office very carefully screens all legislation before it submits it to this Body. I think we all recognize that. But, we've heard in this debate, I think a legitimate concern is that whatever we do passes constitutional muster. Are we going to impinge the due process rights of property owners in this State if we adopt the current taxation plan before us? Well, we did take this matter before the Attorney General and it's my understanding that the Attorney General has advised us that this is an appropriate method of taxation. But, further more, in addressing the legitimate concerns of the Minority, the Governor has indicated that he would not take any action to sign this measure if adopted into law until first of all, he received an advisory opinion from the Supreme Judicial Court. So, I think it lays to rest the concerns articulated by some that we ought not to be going out passing this Bill un-

til we're certain whether or not it does not offend due process of law. I took the time to read Eastler, after Justice Broody decided the case at the Superior Court level and also after the Law Court rendered its decision this fall, and my understanding the primary teaching of Eastler is that if one is going to have an excise tax then you have to have it structured in such a fashion that it's reasonably related to commercial harvest activities and I think many of us agree that the way this tax was originally structured it seemed to bear very little reasonable relationship. It did in fact look more like a property tax. Now I would submit to you, although somewhat arbitrary, 500 acres is as reasonable a talisman as any for the State to decide what is or what is not to be appropriately referred to as commercial harvesting forestry practices and I would submit to you that using that as a linchpin, I think that is tax does fairly address and does fairly tax those industries in the State of Maine, which do, in fact, reap substantial profit for commercial forestry in this State. Nothing wrong with that. But, I think we certainly have a right to expect that commercial forests pay their fair share in dealing with an industry problem to wit, fire suppression.

The other issue I want to leave with you is the core issue of fairness. I would really be taken to task, I submit, if I returned to Lewiston and talked to concerned tax payers in that city and say, "well today in the guise of fairness I voted for a measure which would really subsidize the operations of International Paper, Boise Cascade, St. Regis, and the large commercial forests in this State." Seems to me there's no fairness in that issue. People in my district pay, they pay a property tax to put out the fires in the City of Lewiston and if you're going to raise the issue of fairness, what is fair in requiring the people in my district, or all of your districts, the residents, the property owners, the small property owners, what is fair in asking them to pay twice? First for the fires in their cities and also for the General Fund to subsidize commercial forest activities. So, for these reasons, I would urge you to go along with the Majority Report and vote to pass this measure. Thank you.

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

Senator **WEBSTER:** Mr. President, Ladies and Gentlemen of the Senate, it's been brought to my attention, actually weeks ago, that 90 percent of the fires in this State, the forest fires do not occur where most of the major forests are in this state. Mostly areas where you're going to have 500 acres of land is not where the fires are being had anyway. Most of the fires are in southern Maine and obviously most of the forest land is in northern Maine or central Maine. It's hard for me to believe that this Legislature expects this legislation to pass the straight-face test. It's interesting to me, having been here for a while, how some of these bills pass and some of the rhetoric that goes on. I heard previously, that, as a matter of fact, very previously, that this Bill was subsidizing the paper companies and I don't think any of us want to do that. I don't remember hearing any of the speakers that mentioned that, I'd be interested to know how they supported the Keyes issue. You talk about subsidizing, I want them to go home and talk to the people on the street and tell them we gave \$900,000 to Keyes Fibre Company and that's more important than spending a fourth of that in fire protection. I don't think you can really use that for an argument. And I've heard that, this has really upset me today, heard that supposedly because I'm a Republican I'm big for business and because some of you aren't Republicans, you're for the working people, and I'd like to know how many years ago that stopped being. And, I'd like to know why, because I happen to feel this Bill is unfair, that I'm big for business? I got a call last night from a lady who was very concerned.

It seemed that fifty years ago her great grandfather left her 600 acres of land and she's going to have to sell it now if we pass this because she's got no way to pay the tax. The lady's on Social Security. She said, "What am I going to do? Here I am, I've never cut this land. I've never done anything but pay taxes on it and now you're going to tax me \$1.00 an acre so I've got to sell this land and my grandchildren aren't going to get it." She has her will all prepared. She wants to give this land, pass it on in the family and all of a sudden you're making her a commercial forest. That's the most ludicrous thing I've ever heard. I don't think this is any issue of Democrat-Republican, I think it's fairness and I can't believe that this Legislature, this Senate really believes this Bill passes the straight-face test. It's unbelievable! You know, we talk about cuts of one-half of one percent. I'm a little bit of history buff, and I think you'll find that many years ago Mr. Muskie, any of you know that Mr. Muskie when he was Governor, made some broad based cuts in State Government. Much more than one-half of one percent. So don't say that it can't be done and hasn't been done because precedent was set back then. So, I don't buy the argument that we can't make cuts. You know if something happened to my income, and I don't have the amount of income I had last year, I guarantee you I'll do something without starving, something that won't effect the poor and the handicapped, that won't hurt my budget enough so I can survive. You know, anyone who tells me that State Government can't make one half of one percent cut is not talking to the same people I am. You know, I think today is time that we set priorities and I think the Minority Report is fairer. I think it doesn't impose a tax on those people, many of those people who can't afford it. You want to talk about jobs in the State, let's look at one of the paper industries in my district, which just laid off 80 people. That's a lot of people for my town the size of Farmington. 80 people and over 30 of those people, I'm sure, came right from my hometown. You know that's a lot of jobs; and we impose a tax of a dollar an acre. Who's going to pay that? How many people are going to be unemployed? You know, I think we ought to be thinking here about what we're doing. I don't like innuendos, I don't like somebody saying that I'm not for the working people, because I'd like to find somebody here who works with their hands anymore, or any less than I do. You know I don't like that kind of rhetoric. If you want to stand up here and give a good argument, then give it but don't accuse me or anyone here of representing big business or anything else unless you've got some proof behind it.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate, in response to one of the statements made by the Senator from Franklin, Senator Webster, I do remember a little bit about history, too, and I remember that Governor Muskie's financial cut was in the last couple of months of the second year of the biennium and, as I recall it, he established a freeze on hiring and asked the Departments to economize. It wasn't in the middle of a biennium, it was towards the very end.

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

Senator **BALDACCI:** Members of the Senate, in listening to the discussion today in regards to this particular measure, in the fairness of this particular measure and asking State Government to coldly cut one-half of one percent off a budget and about a woman who has to pay on 600 acres just because she's just above the threshold, I'd like to ask that good Senator what he tells that elderly couple that's \$5.00 below the income guidelines that are established and don't meet assistance levels for the elderly tax and rent refund program? What do

they tell those nice old people who are trying to get by; that are too proud to ask for assistance? Well, we don't have the money because we gave to 10 or 12 large property owners so we would have to be fair to them. What do you tell the elderly when they're looking for drugs that they need and there's no money in the till? They need that appropriation. Is that fair to them? What about the Marine Wardens, the nursing home beds, the day care centers, the toxic waste dumps, not to speak of the phone bills, electric bills for the needed assistance types for those people. The good Senator from Washington talks about fairness when he proposes probably one of the largest increases for teacher's salaries. Where does that money come from? We want to be fair all the way around, but the General Fund represents the general interest of the citizenry. Where are we going to come up with the money? Well, we're going to mandate these cuts. Where? I don't know where but they have to do it. I submit to you, based on the people in my area, they want the State to help them out. They want the State, the City of Bangor receives \$65,000 for property that the State owns in lieu of taxes. That's been cut back somewhat, but it receives that aid. We're looking at education funding dropping off from the federal government and local revenue sharing from the federal government. The towns are going to need assistance. Where is the money coming up from? The long sited approach is saying, well, lets be fair to the large property owners and then turn around and have a crisis with the local governments and the educational systems or the elderly. That's why I think the proper approach has been of a sharing between the large property owners and the State. Because the share together not one against the other. I work with my hands as hard as anybody else in this Chamber and I think it's the importance of working people in the State of Maine getting together for the best interest of all not to work against each other. So, I would submit to you Mr. President, Members of the Senate, it's out of that fairness that we accept the Majority Report.

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

Senator **EMERSON:** Mr. President and Ladies and Gentlemen, I don't know that I'm going to make a campaign speech for the fall of 1986, but I think I will rehash some of the rhetoric of the fall of 1984. I remember in talking with people that I talked about creating a favorable business climate to improve job opportunities, and I wouldn't be surprised that about almost everybody in this room had similar language. And I am reminded of a couple of points that one of the opponents to this present proposal presented to our Committee. This man was a representative of one of the major paper companies and I'm looking at his testimony. He talked about when our Maine mills go before our corporate directors for capital expansion dollars we have to compete with mills in other states and the nation where costs are less and overall business conditions are better. "Competing for investment dollars by our Maine mills is increasingly more difficult," and he goes on and says that "special taxes such as the recently declared unconstitutional forest fire tax and the special excise tax before you today send very negative signals to our corporate offices. In no other state where we do business is there a special tax levied exclusively on the large landowners to pay the cost of forest fire control."

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

Senator **SEWALL:** Thank you, Mr. President and Members of the Senate I would like to respond very briefly to the remarks of the good Senator from Penobscot, Senator Baldacci, when he talked about all the ills of government that we don't seem to be able to cure, and I would like to suggest that is exactly the argu-

ment that we are now using against this tax. That is, the government can't now, and never will be able to cure all of the ills of society, nor support everyone always in everything they do. But it is no way to solve the ills of society, to tax one minority, one class, one activity, in this extraordinary way!

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

Senator **PERKINS:** Mr. President and Ladies and Gentlemen of the Senate. In all the State of Maine, and in all of this country of ours, there are many diverse people. And in all of the State of Maine's woodlands, there are many diverse woods. Were it not for the diversity of the land and the woods, we would not be here today. It is because of this diversity for which this Bill was questioned. The previous Bill made no accommodations for swamps, it made no accommodations for ledges or for rock outcroppings. Nor does this Bill, which we are talking about today, make any differentiation between lots of poplar trees or maple trees, or the value therein. The value of harvesting, whether it be a poplar tree or maple tree, if you are burning firewood, or a pulpwood tree, softwood tree, if you are looking for pulpwood for paper making.

With these things in mind, and the diversities, it would seem to me that this is one of the original flaws, and the flaw is carried through. We have spent a fair amount of time these past few years talking of the family farm, and the preservation of the family farm. Yet, it would not be unusual for the family farm to carry on its' holdings five hundred acres.

Are we now predicting or preserving these people a method to disburse the family farm. We, in this State, have a large amount of public lands, ourselves. So lets before we get rushing into the fact, that we are doing this fire preservation only for the large landowners, perhaps we might be protecting some of our own and rightfully so. But also, let's talk a little bit about jobs. I do not recall in the last two or three months of any of our major companies saying that their sales or profits were up. In fact, I think the reverse is true. If they are not up, and they are on their way down, which is what I seem to recall reading. I am not the historian of some others here nor am I as adept at some of the other things. It seems to me if profits are down, then are we adding to the misery, or adding to the poor business climate, or are we just helping it?

I think we are cutting the cloth to fit the mold or something that is here. A penalty for which we are designing a tax. No question, there is a problem, no question we want to protect in one form or another, the lands we have and the lands of our neighbors — nobody ever said that. But, it would seem to me that this is a poor vehicle for addressing that subject. I too will be voting against the acceptance of this Report.

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

Senator **DIAMOND:** Mr. President, Members of the Senate. We have had our little Bill put up here before you and we have had some shots taken at it, and I expect that is the way the system should be, and that is why we are all here, and that is why the process is such I have no problem with that. Maybe that is good, it strengthens the Bill and maybe strengthens our understanding of what we are trying to do.

Now, just to wrap the whole thing up, let's just take a moment and look at the alternatives before us. The alternative is one half of one percent, we have already discussed that. No one tells us where the money is going to come from, just one half of one percent.

The other alternative is to drain the FAME reserve fund down to zero. That has many complications, especially when our State Treasurer has told us on the Record that he has had to go down to Washington, and New York about

our bond rating at the end of this year, and that may be a problem, said his testimony.

So, that is the other part of the alternative that we have to choose from. That is not a very likeable kind of choice. And then thirdly, of course, we are talking about taking 4.35 million from the Capital Reserve Fund, which in effect is a deficit borrowing of four million. You know, if you add all of those up, one-half of one percent and no one knows where the money is coming from, just say one-half of one percent. The second one, draining the FAME reserve fund down to zero, and the third, let's take and borrow in the future on a four million loan. That doesn't really sound terribly responsible either.

For those of us, who would like to point their finger and say, this is a bad Bill, and it is your right to do that certainly, but where is your alternative? What are we doing with this Bill before us now is simply reinstating a program we already had. That is all we are doing. Putting it back in. If you want to restructure it, and come up with some proposals with specificity, and I ask you not to just sit back and take pot shots without an alternative that is feasible. That is responsible, and yes, that is fair. Thank you.

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

Senator **SHUTE:** Mr. President and Ladies and Gentlemen of the Senate. I think, and I do not see how this Legislature can take what was a bad Bill last year and use the same Bill and make a good Bill this year. I can say that because I didn't vote for the last Bill three years ago, I guess it was. I have no intentions of voting for this one that is before us right now.

It bothers me to have people say that we can't cut the State budget by one half of one percent. Now, as it has been mentioned, the Honorable Edmund S. Muskie cut the budget ten percent during an economic down turn. The State still kept on its' business. I don't think there was any great outcry against that. The forest in the State, whether its' a fifty acre lot or a thousand acre lot, everybody in the State uses them, for hunting, fishing, hiking, camping or whatever. They all use them, and at no charge, I guess.

I have heard remarks the other day that, and I am glad that my good seat mate, the good Senator from Penobscot, Senator Baldacci, brought it up, that what is fair about the Elderly Householder Property Tax and Rent Relief Act. Well, three or four years ago, I was the one that presented an amendment on a Bill to make that tax more equal. It would be on a sliding scale. But the Democratic majority said "No, they didn't want that on a sliding scale, they wanted to keep it as it was." So, if we are talking about fairness, there are plenty of places in taxation that we can make tax bills more fair.

Under suspension of the Rules, **READ ONCE** without reference to a Committee, in concurrence. House Amendment "A" (H-489) **READ** and **ADOPTED**, in concurrence.

Senator **BROWN** of Washington who would have voted Nay requested and received permission to pair his vote with Senator **DUTREMBLE** of York who would have voted Yea.

THE PRESIDENT: The pending question before the Senate is the **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report of the Committee.

A vote of Yes will be in favor of Accepting the Committee Report.

A vote of No will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Andrews, Baldacci, Berube, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Erwin, Gauvreau, Kany, Kerry, Matthews, Pearson, Twitchell, Usher, The President—Charles P. Pray

NAYS:—Senators, Black, Emerson, Gill,

Hichens, Maybury, McBreairty, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Webster

ABSENT:—Senators, Najarian, Violette
18 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators Pairing their votes and 2 Senators being Absent, the Motion to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report of the Committee **PREVAILS** in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-486) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME**.

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

Senator **WEBSTER:** Mr. President, Ladies and Gentlemen of the Senate. Because of my strong feelings about this measure, I ask for a Roll Call on Engrossing.

THE PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call, it requires the affirmative vote of at least one-fifth of those members present and voting.

Will all those Senator in favor of ordering a Roll Call, please rise in their places and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

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

A vote of Yes will be in favor of Passage to be Engrossed as Amended.

A vote of No will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Andrews, Baldacci, Berube, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Erwin, Gauvreau, Kany, Kerry, Matthews, Pearson, Twitchell, Usher, The President—Charles P. Pray

NAYS:—Senators, Black, Brown, Emerson, Gill, Hichens, Maybury, McBreairty, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Webster
ABSENT:—Senators, Dutremble, Najarian, Violette

18 Senators having voted in the affirmative and 14 Senators in the negative, with 3 Senators being absent, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Fund and Implement Certain Collective Bargaining Agreements" (Emergency) (H.P. 1166) (L.D. 1663)

In House November 13, 1985, **PASSED TO BE ENGROSSED**, without reference to a Committee.

In Senate November 13, 1985 **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-488)** in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.
Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Relating to Surety Bonds Filed by Motor Vehicle Dealers" (H.P. 1173) (L.D. 1668)

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

Comes from the House under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-489)**, without

reference to a Committee.

Under suspension of the Rules, **READ ONCE** without reference to a Committee, in concurrence. House Amendment "A" (H-489) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, as Amended, without Reference to a Committee, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1172
JOINT RESOLUTION IN HONOR OF DR. ALONZO H. GARCELON, SPORTSMAN, CONSERVATIONIST, NATIONAL RIFLE ASSOCIATION PRESIDENT, CIVIC LEADER, PUBLIC AND PRIVATE HEALTH DENTIST

WHEREAS, in the death of Dr. Alonzo H. Garcelon, Augusta, conservationist, sportsman's leader, civic leader, and public and private health dentist, at Portland On November 4, 1985, the people of Maine have lost an active and well-known advocate for the State's fish and wildlife resources and the sporting tradition for which the State of Maine is famous; and

WHEREAS, this conservation leader, co-founder and Honorary President for Life of the Sportsman's Alliance of Maine, cofounder of the Natural Resources Council of Maine, chairman of the Advisory Council, Maine Department of Inland Fisheries and Wildlife, from 1959-1978, member and leader of many other groups concerned with sport hunting and fishing, because a sportsman's leader of national prominence through his election to the presidency of the National Rifle Association in April 1985; and

WHEREAS, Dr. Garcelon's dedication to maintaining the quality of Maine's fish and wildlife resources had been acclaimed by conservation leaders throughout the State and honored through the naming of a wildlife management area for him by the Maine Department of Inland Fisheries and Wildlife; and

WHEREAS, the people of the State of Maine benefited from the Augusta dentist's distinguished professional career, including service as Director of Dental Services for the State Department of Human Services and leadership roles in professional organizations promoting high ethical and health care standards; and

WHEREAS, Dr. Garcelon also promoted quality in the education of Maine people, through his membership on the New England Board of Higher Education and involvement with Unity and Westbrook Colleges; and

WHEREAS, this sportsman who loved and cared about Maine's people as well as he did this State's great outdoor resource was much loved and will be sadly missed by all those who shared his concerns, now, therefore be it.

RESOLVED: That We, the members of the 112th Legislature, pause in our deliberation to acknowledge and recognize the lasting contributions which Dr. Garcelon has made to his native state; and express the deep affection and respect which we as representatives of the people of Maine share with the citizens of Maine for his memory; and be it further

RESOLVED: That an engrossed copy of this resolution be immediately transmitted to his bereaved family in testimony of the sympathy and compassion which we share with them in their loss.

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

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

ENACTORS

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

An Act Concerning the Requirements for a

Rehabilitation Administrator Under the Workers' Compensation Act (H.P. 1167) (L.D. 1664)

This being an Emergency Measure and having received the affirmative votes 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

An Act to Allow the Finance Authority of Maine to Close any Project Initiated Prior to the Recent Changes in Finance Authority of Maine Legislation (H.P. 1169) (L.D. 1666)

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

Emergency Resolve

Resolve, Authorizing Kennebec County to Pay Deficits from Unappropriated Surplus (H.P. 1168) (L.D. 1665)

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

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

On motion by Senator **KERRY** of York, **RECESSED** until the sound of the bell.

After Recess

Senate called to Order by the President.

ENACTORS

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

Emergency

An Act Correcting an Error in the Law Relating to Business on Sundays between Thanksgiving day and Christmas Day (S.P. 645) (L.D. 1662)

This being an Emergency Measure and having received the affirmative votes of 24 Members of the Senate, with 3 Senators having voted in the negative, and 24 being 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.

Senator Hichens of York was granted unanimous consent to address the Senate On the Record.

Senator **HICHENS**: November 28th is Thanksgiving Day this year.

It's also quite a special day for two of our members here,

Who will celebrate their birthday on that very special day

And so we offer our best wishes as they travel on life's way

One of these Senate members joined our ranks five years ago

And quickly made herself a name as one in the know

On legislative matters, and her voice is often heard

When certain issues we may face and

she's oft not deterred

By arguments in opposition to the stand she takes

And each Senator must be impressed with the remarks she makes

The other member won her seat, left forecasters in a daze

When she topped incumbent Senator, Professor Kenneth Hayes

Tho settling down quite easily she often is distracted

By seat mate Charlie Webster—who to her seems attracted

Yet her decisions oft are made before debates begin

And she stand firms on her convictions—mid debators din

So on this Legislative Day in Special Session here

I hope you will join me in giving a loud cheer

For these two lady Senators—Maybury and Sewall

And wish for them the very best in another year's renewal.

Off Record Remarks

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

Senator **DIAMOND**: Thank you Mr. President, Just to correct the Horseblanket, the Record we see every day that is printed for our benefit. On or about June 14, 1985, during the Workers' Comp debate, there was one three letter word left of my testimony, before this Body and that word was **NOT**. The issue was the Right to Work Legislation, and I had said at the time that **'I do not support that and had not supported it'** in response to Senator Matthews. During transcribing of that debate the word was left out which changed the total connotation of my presentation. I have never, do not now, and never will support that philosophy. I just wanted to make sure that was corrected for the Record, Mr. President.

I would also like to thank whoever sent the fine gift on my desk. A nice picture of Spiro T. Agnew, and a nice note that says "Good Luck on your campaign for Governor, the monetary rewards are great if you play your cards right." Signed Spiro T. Agnew. (Laughter).

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Permit the Northern Maine General Hospital of Eagle Lake to Maintain Juvenile Home" (Emergency) (H.P. 1174) (L.D. 1669)

Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**, in concurrence.

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

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

ENACTORS

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

An Act Establishing a Commercial Forestry Excise Tax and Providing an Appropriation for Refunding Maine Forest Fire Suppression Taxes Paid (H.P. 1163) (L.D. 1661) (C "A" H-486)

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

Senator **WEBSTER**: Mr. President, I request a Roll Call on this matter of enactment.

THE PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise in their places and remain standing until counted.,

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

Senator **TRAFTON** of Androscoggin who would have voted Nay requested and received permission to pair his vote with Senator **ANDREWS** of Cumberland who would have voted Yea.

Senator **TUTTLE** of York who would have voted Nay requested and received permission to pair his vote with Senator **KANY** of Kennebec who would have voted Yea.

Senator **BROWN** of Washington who would have voted Nay requested and received permission to pair his vote with Senator **DUTREMBLE** of York who would have voted Yea.

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

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Baldacci, Berube, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Erwin, Gauvreau, Kerry, Matthews, Pearson, Twitchell, Usher, The President—Charles P. Pray

NAYS:—Senators, Black, Gill, Hichens, Maybury, McBreairty, Perkins, Sewall, Shute, Stover, Webster

ABSENT:—Senators, Emerson, Najarian, Violette

16 Senators having voted in the affirmative and 10 Senators in the negative, with 6 Senators Pairing their votes, and 3 Senators being absent, the Bill was **PASSED TO BE ENACTED**, and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act Relating to Surety Bonds Filed by Motor Vehicle Dealers (H.P. 1173) (L.D. 1668) (H "A" H-489)

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

Emergency

An Act to Fund and Implement Certain Collective Bargaining Agreements (H.P. 1166) (L.D. 1663) (H "B" H-488)

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

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

Senate at Ease

Senate called to Order by the President.

At this point, a message was received from the House of Representatives through Representative **DIAMOND** of Bangor, informing the Senate that the House had transacted all business before it and was ready to Adjourn, Sine Die.

Off Record Remarks

Senate at Ease

Senate called to Order by the President.

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

ENACTORS

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

Emergency

An Act to Permit the Northern Maine General Hospital of Eagle Lake to Maintain a Juvenile Home (H.P. 1174) (L.D. 1669)

This being an Emergency Measure, and having received the affirmative votes of 23 Members of the Senate, with 2 Senators having voted in the negative, and 23 being less than two-thirds of the entire elected membership of the Senate, **FAILED OF ENACTMENT** in **NON-CONCURRENCE**.

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

Off Record Remarks

On motion by Senator **GILL** of Cumberland, **RECESSED** until the sound of the Bell. The Senate called to order by the President.

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

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

Bill "An Act to Permit the Northern Maine General Hospital of Eagle Lake to Maintain a Juvenile Home" (Emergency) (H.P. 1174) (L.D. 1669)

In House November 13, 1985, **PASSED TO BE ENACTED**.

In Senate November 13, 1985, **FAILED OF PASSAGE TO BE ENACTED** in **NON-CONCURRENCE**.

Comes from the House that Body having **ADHERED**.

The Chair movd to **RECEDE** and **CONCUR**.

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

Senator **PERKINS:** Mr. President. I request a Roll Call.

THE PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call, it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise in their places and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is to **RECEDE** and **CONCUR**.

A vote of Yes will be in favor of the motion to Recede and Concur.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Baldacci, Black, Brown, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Emerson, Erwin, Gauvreau, Gill, Hichens, Kerry, Matthews, Maybury, McBrearty, Pearson, Perkins, Sewall, Shute, Stover, Traf-ton, Tuttle, Twitchell, Usher, Webster, The President—Charles P. Pray

NAYS:—Senators None

ABSENT:—Senators, Andrews, Berube, Dutremble, Kany, Najarian

29 Senators having voted in the affirmative and No Senators having voted in the negative, with 6 Senators being absent, the Senate **RECEDED** and **CONCURRED** to **ENACTMENT** and having been signed by the President was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the

Rules, the Senate considered the following:

ORDERS**Senate Orders**

On motion by Senator **PEARSON** of Penobscot, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives informing them that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

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

The President appointed Senator **PEARSON** of Penobscot, to Deliver the message. The President requested the Sergeant-At-Arms to escort Senator **PEARSON** of Penobscot, to the House.

On motion by Senator **CLARK** of Cumberland, the following Senate Order:

ORDERED, that a message be sent to His Excellency, Governor Joseph E. Brennan, informing him that the Senate had transacted all business which has come before it and is ready to Adjourn Without Day.

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

The President appointed Senator **CLARK** of Cumberland to deliver the message. The President requested the Sergeant-At-Arms to escort Senator **CLARK** of Cumberland to the Governor's Office.

Senate at Ease

Senate called to Order by the President.

Subsequently Senator **PEARSON** of Penobscot reported that he had delivered the message with which he was charged.

Subsequently Senator **CLARK** of Cumberland reported that she had delivered the message with which she was charged.

On motion by Senator **STOVER** of Sagadahoc, at 5:14 p.m., on Wednesday, November 13, 1985, President **CHARLES P. PRAY** declared the Senate of the First Special Session of the 112th Legislature, Adjourned Sine Die in memory of Samantha Smith, her father Arthur Smith and E.B. White.