

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 2, 1992 to May 18, 1993

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

In Senate Chamber
Monday
May 3, 1993

Senate called to Order by the President, Dennis L. Dutremble of York.

Senator **ESTY** of Cumberland moved that the Senate **INSIST**.

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

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Could we have this Tabled until later in today's Session?

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending motion by the same Senator that the Senate **INSIST**.

COMMUNICATIONS

The Following Communication:

**STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE**

April 28, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
Members of the 116th Legislature
State House
Augusta, Maine 04333

Dear Speaker Martin, President Dutremble and Members:

I am pleased to submit to you the 1993 report of the activities undertaken by the State Nuclear Safety Advisor.

This report discusses the activity highlights of the Nuclear Safety Advisor who is mandated to provide oversight and technical information on the operation of Maine Yankee to assure its safe operation. The Maine Yankee Nuclear Station continues to be of considerable interest in discussions of our energy needs in Maine, and I am sure the work of the State Nuclear Safety Advisor will contribute to informed decision-making.

Sincerely,

S/Stephen J. Adams
Acting Director

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

SENATE PAPERS

Bill "An Act Concerning the Eligibility of Children of Disabled Veterans to Obtain Education Benefits"

S.P. 444 L.D. 1411

Prayer by Reverend Carlton Gunn of the Pride's Corner Congregational Church in Westbrook.

REVEREND CARLTON GUNN: Let us pray. Good and gracious God gather us in today, prepare us in mind and body to do the work of your people. We come from many places with our cares and concerns for family and businesses with us. Keep us mindful of the importance of the trust which we have been called to, but also make us aware that we are members one of another, as we honor each other in the fascinating and frustrating diversity in which you have created us. Bless the people of this body, within the work that is before them, bless all of those who work in State Government so at the day's end they may adjourn to their homes contented in their accomplishments. We ask you to do these things, oh God, with humble hearts. Amen.

Reading of the Journal of Thursday, April 29, 1993.

PAPERS FROM THE HOUSE

Non-concurrent Matter

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Require Written Reason for Discharge, Demotion or Discipline"

S.P. 106 L.D. 309
(C "A" S-79)

Majority - **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-79)**.

Minority - **OUGHT NOT TO PASS**.

In Senate, April 27, 1993, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-79)**.

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

Presented by Senator **SUMMERS** of Cumberland
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on **AGING,
RETIREMENT & VETERANS** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Clarify the Extent of Insurable
Interests"

S.P. 448 L.D. 1415

Presented by Senator **HARRIMAN** of Cumberland
Cosponsored by Representatives: **DIPIETRO** of South
Portland, **PLOURDE** of Biddeford, **REED** of Dexter

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

Sent down for concurrence.

Bill "An Act to Amend Certain Corporate Laws"

S.P. 455 L.D. 1422

Presented by Senator **CONLEY** of Cumberland
Cosponsored by Representatives: **KETTERER** of
Madison, **OTT** of York, **SAXL** of Bangor
Submitted by the Department of the Secretary of
State pursuant to Joint Rule 24.

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

Sent down for concurrence.

Bill "An Act to Amend the Laws Governing the
Maine Arts Commission"

S.P. 445 L.D. 1412

Presented by Senator **HANLEY** of Oxford
Cosponsored by Senators: **SUMMERS** of Cumberland,
WEBSTER of Franklin

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

Sent down for concurrence.

Bill "An Act to Amend the Laws Governing the
Committee to Advise the Department of Human Services
on AIDS"

S.P. 451 L.D. 1418

Presented by Senator **MCCORMICK** of Kennebec
Cosponsored by Representative **RYDELL** of Brunswick

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

Sent down for concurrence.

Bill "An Act to Abolish Secrecy in the Courts on
Matters of Public Health or Safety"

S.P. 439 L.D. 1369

Presented by Senator **CONLEY** of Cumberland

Bill "An Act to Create a Noneconomic Damages
Award Act"

S.P. 446 L.D. 1413

Presented by Senator **CIANCHETTE** of Somerset
Cosponsored by Senator: **BERUBE** of Androscoggin,
Representatives: **CAMPBELL** of Holden, **PLOURDE** of
Biddeford, **PLOWMAN** of Hampden, **REED** of Dexter

Bill "An Act to Modify the Legal Doctrine of
Joint and Several Liability"

S.P. 447 L.D. 1414

Presented by Senator **CIANCHETTE** of Somerset
Cosponsored by Senator: **BERUBE** of Androscoggin,
Representatives: **CAMPBELL** of Holden, **JACQUES** of
Waterville, **PLOURDE** of Biddeford, **PLOWMAN** of
Hampden, **REED** of Dexter

Bill "An Act Concerning the Terminally Ill"

S.P. 453 L.D. 1420

Presented by Senator **CAHILL** of Sagadahoc

Which were referred to the Committee on
JUDICIARY and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Provide for Special Liquor
Licenses"

S.P. 442 L.D. 1372

Presented by Senator **CONLEY** of Cumberland

Bill "An Act Concerning the Out-of-State Purchase
of Alcoholic Beverages for Noncommercial Uses"

S.P. 443 L.D. 1410

Presented by Senator **LUTHER** of Oxford
Cosponsored by Senator: **WEBSTER** of Franklin,
Representatives: **LEMKE** of Westbrook, **MICHAEL** of
Auburn

Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.

Bill "An Act to Amend the Laws Concerning
Emergency 911"

S.P. 452 L.D. 1419

Presented by Senator **VOSE** of Washington
Cosponsored by Senator: **CARPENTER** of York,
Representatives: **ADAMS** of Portland, **CLARK** of
Millinocket, **HOLT** of Bath, **KONTOS** of Windham,
MORRISON of Bangor, **TAYLOR** of Cumberland
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.

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

Sent down for concurrence.

Bill "An Act to Amend the Laws Governing the
Hancock County Budget Advisory Committee"

S.P. 449 L.D. 1416

Presented by Senator **FOSTER** of Hancock
Cosponsored by Senator: **GOULD** of Waldo,
Representatives: **COFFMAN** of Old Town, **CONSTANTINE**
of Bar Harbor, **FARREN** of Cherryfield, **GRAY** of
Sedgwick, **SWAZEY** of Bucksport, **WALKER** of Blue
Hill, **ZIRNKILTON** of Mount Desert

Bill "An Act to Separate Cushings Island in Casco
Bay from the City of Portland and to Create the
Cushings Island Village Corporation as Part of the
Town of Long Island"

S.P. 454 L.D. 1421

Presented by Senator **CONLEY** of Cumberland
Cosponsored by Representative: **ADAMS** of Portland

Which were referred to the Committee on **STATE &
LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Implement the Recommendations of
the Special Commission on Governmental Restructuring
Pertaining to the Judicial Branch"

S.P. 441 L.D. 1371

Presented by Senator **CONLEY** of Cumberland
Cosponsored by Representative: **LIPMAN** of Augusta
Submitted by the Judicial Department and approved
for introduction by a majority of the Legislative
Council pursuant to Joint Rule 24 and 27.

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

On motion by Senator **ESTY** of Cumberland,
referred to the Committee on **JUDICIARY**.

Sent down for concurrence.

Bill "An Act to Establish an Alternate Elderly
Low Cost Drug Program"

S.P. 440 L.D. 1370

Presented by Senator **BERUBE** of Androscoggin
Cosponsored by Senators: **CIANCHETTE** of
Somerset, **HANDY** of Androscoggin,
Representatives: **AHEARNE** of Madawaska, **DUTREMBLE**
of Biddeford, **JOSEPH** of Waterville

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

Sent down for concurrence.

Bill "An Act Allowing the Town of Pittsfield to
Obtain Water from the Town of Burnham"

S.P. 450 L.D. 1417

Presented by Senator **CIANCHETTE** of Somerset
Cosponsored by Senators: **GOULD** of Waldo,
MARDEN of Kennebec, Representatives: **CLEMENT** of
Clinton, **TOWNSEND L** of Canaan
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.

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

Sent down for concurrence.

Off Record Remarks

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **EDUCATION** on Bill "An Act
Regarding Responsibilities of Union School Committees"
H.P. 456 L.D. 582

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (H-198)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-198).

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-198) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Require Removal of Ice Fishing Shacks from Private Property"

H.P. 339 L.D. 442

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-197).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-197).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-197) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **FISHERIES & WILDLIFE** on Bill "An Act to Change the Penalty for Night Hunting or Illegal Killing of Large Game Animals"

H.P. 229 L.D. 297

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-203).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-203).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-203) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **FISHERIES & WILDLIFE** on Bill "An Act to Amend the Laws Pertaining to the Distance Snowmobiles May Be Operated from Certain Buildings" (Emergency)

H.P. 424 L.D. 543

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-200).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-200).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-200) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **FISHERIES & WILDLIFE** on Bill "An Act to Restrict the Taking of Turtles and Snakes from the Wild for Export, Sale or Commercial Purposes" H.P. 485 L.D. 643

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-201).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-201).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-201) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HUMAN RESOURCES** on Bill "An Act to Clarify the Disbursement of Maine Children's Trust Fund Income"

H.P. 380 L.D. 493

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-196).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-196).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-196) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE & LOCAL GOVERNMENT on Bill "An Act to Increase Reimbursement to the State Police for Services Provided to Federal Agencies" H.P. 723 L.D. 982

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-204).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-204).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-204) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on TAXATION on Bill "An Act to Clarify That the Existing Sales Tax Exemption for the Aquaculture Industry Extends to Seaweed and Other Marine Plant Growers" H.P. 518 L.D. 702

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-202).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-202).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-202) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on LABOR on Bill "An Act to Conform Maine Law Related to Commission Salespersons with Federal Law" H.P. 183 L.D. 235

Reported that the same Ought Not to Pass.

Signed:

Senators:
HANDY of Androscoggin
LUTHER of Oxford

Representatives:
CLEMENT of Clinton
ST. ONGE of Greene
CHASE of China
SULLIVAN of Bangor
COFFMAN of Old Town

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-150).

Signed:

Senator:
BEGLEY of Lincoln

Representatives:
AIKMAN of Poland
CARR of Sanford
LIBBY J D of Buxton
RUHLIN of Brewer
LINDAHL of Northport

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

Which Reports were READ.

On motion by Senator ESTY of Cumberland, Tabled until Later in Today's Session, pending ACCEPTANCE of Either Report.

Senate

Ought to Pass As Amended

Senator MCCORMICK for the Committee on BANKING & INSURANCE on Bill "An Act to Reform the Insurance Code Laws" S.P. 342 L.D. 1039

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-99).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-99) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senator KIEFFER for the Joint Select Committee on CORRECTIONS on Bill "An Act Regarding the Holding of Juveniles in the Androscoggin County Jail" (Emergency) S.P. 26 L.D. 19

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-97)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-97) **READ** and **ADOPTED**.

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

Senator **KIEFFER** for the Joint Select Committee on **CORRECTIONS** on Bill "An Act to Amend the Provisions Related to the Supervised Community Confinement Program"

S.P. 269 L.D. 833

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-98)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-98) **READ** and **ADOPTED**.

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

Senator **BERUBE** for the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Amend the Composition of the Port Authority for the Town of Kittery"

S.P. 311 L.D. 944

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-100)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-100) **READ** and **ADOPTED**.

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

Senator **CARPENTER** for the Committee on **UTILITIES** on Bill "An Act to Provide Additional Powers to the Public Utilities Commission"

S.P. 100 L.D. 278

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-101)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-101) **READ** and **ADOPTED**.

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

Senator **VOSE** for the Committee on **UTILITIES** on Bill "An Act to Ensure Compliance with Existing Energy Efficiency Building Standards"

S.P. 241 L.D. 734

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-102)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-102) **READ** and **ADOPTED**.

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

Senator **VOSE** for the Committee on **UTILITIES** on Bill "An Act to Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority"

S.P. 263 L.D. 801

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-103)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-103) **READ** and **ADOPTED**.

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

SECOND READERS

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

House

Bill "An Act Concerning Property Tax Payment by Owners of Mobile Homes"

H.P. 557 L.D. 754

Resolve, to Continue the Commission to Study the Feasibility of a Capital Cultural Center (Emergency)
H.P. 747 L.D. 1014

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

House As Amended

Bill "An Act to License Flight Nurses within the Emergency Medical Services System" (Emergency)
H.P. 210 L.D. 272
(C "A" H-179)

Bill "An Act to Revise the Correction Facility Board of Visitors Laws"
H.P. 212 L.D. 274
(C "A" H-186)

Bill "An Act Authorizing Maine Banks to Export Certain Credit Terms"
H.P. 230 L.D. 298
(C "A" H-175)

Bill "An Act Clarifying the Laws Limiting Insurance Charged to Credit Cards"
H.P. 267 L.D. 345
(C "A" H-174)

Bill "An Act to Clarify the Laws Relating to Property Tax Abatements"
H.P. 283 L.D. 370
(C "A" H-182)

Bill "An Act to Assist Policy Makers in Establishing Health Care Policy"
H.P. 287 L.D. 374
(C "A" H-189)

Bill "An Act to Clarify the Process of Resolving Nuisance Complaints Involving Agriculture"
H.P. 386 L.D. 499
(H "A" H-205 to C "A" H-187)

Resolve, to Maximize the Availability of Federal Financing of Services for Families and Children (Emergency)
H.P. 450 L.D. 576
(C "A" H-188)

Bill "An Act to Amend the Motor Vehicle Laws"
H.P. 482 L.D. 619
(C "A" H-183)

Bill "An Act Clarifying Identification of Financial Institution Off-premise Facilities"
H.P. 580 L.D. 784
(C "A" H-173)

Bill "An Act to Increase the Penalties for Littering"
H.P. 608 L.D. 823
(C "A" H-181)

Bill "An Act to Amend Laws Related to Dependent's Group Life Insurance Coverage"
H.P. 628 L.D. 848
(C "A" H-172)

Resolve, to Direct Elected and Appointed Officials of the State to Work to Maintain Canadian Atlantic Railway Service through the State (Emergency)
H.P. 661 L.D. 899
(C "A" H-184)

Bill "An Act to Clarify the Role of the Child Abuse and Neglect Councils"
H.P. 664 L.D. 902
(C "A" H-190; H "A" H-206)

Bill "An Act to Amend Certain Provisions of the Maine Emergency Medical Services Act of 1982"
H.P. 674 L.D. 912
(C "A" H-180)

Bill "An Act to Authorize the Operation of Articulated Buses on Maine Highways"
H.P. 679 L.D. 921
(C "A" H-185)

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

Bill "An Act to Amend the Laws Governing the Task Force on Defense Realignment and the Economy" (Emergency)
H.P. 194 L.D. 257
(C "A" H-177)

Which was **READ A SECOND TIME**.

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

Senate

Bill "An Act to Amend the Medicare Supplement Insurance Regulatory Program" (Emergency)
S.P. 337 L.D. 1011

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Protect the Future of the United States Naval Shipyard at Kittery" (Emergency)
S.P. 114 L.D. 315
(C "A" S-90)

Bill "An Act to Amend the Statutory Provisions Governing the Time and Method of Paying Restitution"
S.P. 176 L.D. 590
(C "A" S-89)

Bill "An Act Regarding the Baiting of Animals"
S.P. 260 L.D. 798
(C "A" S-87)

Bill "An Act to Change or Clarify Language in the Maine Insurance Code Relative to Procurement of Surplus Lines Insurance and Pertaining to Licensing Procedures in Order to Provide for a More Efficient Regulatory System"
S.P. 273 L.D. 837
(C "A" S-93)

Bill "An Act Requiring School Suspension or Expulsion in Cases Involving Dangerous or Concealed Weapons"
S.P. 287 L.D. 857
(C "A" S-86)

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

Sent down for concurrence.

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

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

On motion by Senator **CAHILL** of Sagadahoc, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Require Written Reason for Discharge, Demotion or Discipline"
S.P. 106 L.D. 309
(C "A" S-79)

Majority - **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-79).**

Minority - **OUGHT NOT TO PASS.**

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by same Senator to **INSIST**

(In Senate, April 27, 1993, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-79).**)

(In House, April 29, 1993, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE.**)

Senator **ESTY** of Cumberland requested and received leave of the Senate to withdraw his motion that the Senate **INSIST.**

On motion by Senator **HANDY** of Androscoggin, the Senate **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE.**

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Conform Maine Law Related to Commission Salespersons with Federal Law"
H.P. 183 L.D. 235

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-150)**

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 3, 1993, Reports **READ.**)

(In House, April 29, 1993, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

Senator **HANDY** of Androscoggin moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator BEGLEY: Thank you Mr. President, Ladies and Gentlemen of the Senate. L.D. 235 amends the overtime pay exemption for commissioned sales persons under Maine law to be consistent with the exemption under Federal law. What we are concerned with here, as far as I'm concerned, is we are trying to cater to the consumer as much as anybody else because at times the major retail people are interested in having salespeople on commission, during hours, when they could not afford to have them on time and a half. If they do not have them then the people coming into the stores would not be serviced because they would not be allowed to have the expertise of those people. There is presently an exemption in Maine's overtime law for outside salespersons, whose earnings are derived in whole or in part from sales commissions and whose hours and places of employment are not substantially controlled by the employer. Maine's overtime law also presently has an exemption for automobile sales representatives, however, unlike the Federal overtime law the Maine overtime law does not currently contain an exception for other commissioned sales persons. The proposed amendment uses the same language as the Federal law to create an exemption from Maine's overtime law for persons employed by a retail or service establishment, provided that their regular rate of pay is in excess of one and one half times the State minimum wage and more than one half of the employee's compensation represents commissions. This law will be to the benefit of the consumer in Maine. The amendment to the law also contains a provision that requires the Maine Department of Labor to report back to the Labor Committee by January 30, 1995, to allow a formal opportunity to reconsider the Bill if there are any unforeseen, adverse consequences. It is my opinion that we should not accept the Ought Not to Pass Report. Thank you.

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

Senator HANDY: Thank you Mr. President, Ladies and Gentlemen of the Senate. To recap, this Bill would exempt from paying of overtime to people who work with inside commission sales so long as they make one and a half times the minimum wage. This Bill, in Committee, became known as the Sears Bill because Sears and their Brand Central would be the people primarily affected by this. It was put across in our Committee public hearing as well as the numerous work sessions we had on this Bill that the employees of Sears had been duly informed of the pending legislation. Quite a bit of time has transpired since this Bill was heard in a public hearing on February 26th. In order to afford myself and other members of the Committee time to look into this and to really get a first hand sense from the employees perspective as to how they would be affected by this law. Let me point out that I was originally a cosponsor of this legislation. I spoke to no fewer than a dozen and a half Sears employees employed throughout the State of Maine, not just in my hometown of Lewiston. Without exception all of them found this as detrimental to their ability to earn what one might term a fair wage. Most of these employees do make one and a half times the minimum wage so they would meet that qualification under this. The representatives from Sears put it across that this would enhance their opportunity to have more take home pay. Upon the investigation of myself and some of my other colleagues on the Labor Committee found that these employees, as it stands right now, don't spend a whole lot of time doing sales as it was propounded by the representatives who

spoke before the Labor Committee from Sears. They spend time cleaning, stocking shelves, working in the storeroom, in fact some of them said they spend an inordinate amount of time as required by some of the store's policies telemarketing send and service contracts. If the rationale here is to allow for more time to be spent on the sales floor, enabling the employee to take home more money, enabling Sears to turn over more stock, they're not exercising that ability within their own confines of forty hours and this is simply a way for Sears to get out from and around paying overtime. I hope you support the Majority Ought Not to Pass Report. Thank you.

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

Senator BEGLEY: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would take exception to the use of "Sears Bill". It is a term that has been used and I don't think it fully represents the [Due to technical difficulties, all of Senator Begley's remarks were not recorded.] Thank you.

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

Senator CARPENTER: Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a question. I also had a question as to why it was a Sears Bill and always mentioned Sears. I just have a question as are some of my small retail establishments such as furniture, TV, Refrigerator sales, retail outlets, also going to come under this Bill?

THE PRESIDENT: The Senator from York, Senator Carpenter has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator HANDY: Thank you Mr. President, Ladies and Gentlemen of the Senate. This became known as the Sears Bill because Sears was the only company in the entire State of Maine that spoke in favor of the legislation first of all. To answer specifically the question from the good Senator from York, this would affect any company in the State of Maine that pays their employees time and a half the minimum wage. So it would affect simply more than Sears sir. Thank you.

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

Senator CARPENTER: Thank you Mr. President, Ladies and Gentlemen of the Senate. I've been in sales pretty much most of my life, one type of sales or another, and it's always been commission sales. Being a commission salesman in the first place if you elect that type of employment the hours really mean nothing. You're going to spend the number of hours that you need in order to make a decent wage, whether it's inside sales or outside sales. It seems a little difficult to me not to understand why we shouldn't pass this Bill as amended to make it comply with Federal law and with that I hope we vote that way and I request a Division.

Senator CARPENTER of York requested a Division.

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

Senator **BEGLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. One other comment in regards to questioning workers at these particular retail outlets. In talking with the management people who presented themselves at the public hearing the question was would you insist on any worker working this particular system and the answer of course was no. They also stated outside of the hearing they did not intend to question or to even concern themselves with any kind of a position before their employer fees to find out where they stood because they felt it may be an unjust concern at that time. Thank you.

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

The President noted the absence of Senator **CAREY** of Kennebec, and Senator **MCCORMICK** of Kennebec, and excused them from today's Roll Call votes.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HANDY** of Androscoggin that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI**, **BERUBE**, **BRANNIGAN**, **BUSTIN**, **CIANCHETTE**, **CLEVELAND**, **CONLEY**, **ESTY**, **HANDY**, **LAWRENCE**, **LUTHER**, **MARDEN**, **O'DEA**, **PARADIS**, **PEARSON**, **PINGREE**, **TITCOMB**, **VOSE**, **THE PRESIDENT - DENNIS L. DUTREMBLE**

NAYS: Senators **AMERO**, **BEGLEY**, **BUTLAND**, **CAHILL**, **CARPENTER**, **FOSTER**, **GOULD**, **HALL**, **HANLEY**, **HARRIMAN**, **KIEFFER**, **LUDWIG**, **SUMMERS**, **WEBSTER**

ABSENT: Senators None

EXCUSED: Senators **CAREY**, **MCCORMICK**

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with No Senators being absent, and 2 Senators having been excused, the motion by Senator **HANDY** of Androscoggin, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Promote Equity in Wages and Benefits in Public Contracts with Private Contractors"
S.P. 142 L.D. 433

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-104)**.

Signed:

Senators:
HANDY of Androscoggin
LUTHER of Oxford

Representatives:
SULLIVAN of Bangor
CHASE of China
COFFMAN of Old Town
RUHLIN of Brewer
CLEMENT of Clinton
ST. ONGE of Greene

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

Signed:

Senator:
BEGLEY of Lincoln

Representatives:
AIKMAN of Poland
LINDAHL of Northport
CARR of Sanford
LIBBY J D of Buxton

Which Reports were **READ**.

Senator **HANDY** of Androscoggin moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

Senator **BEGLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. The Bill "An Act to Promote Equity in Wages and Benefits in Public Contracts with Private Contractors" is another one of those Bills that is going to look fairly favorable for Labor but is going to be somewhat detrimental to the private contractor and to, eventually, the State of Maine. The State depends a great deal on private contractors on basically small programs throughout the State depending on, not only urban, but rural areas. The private contractor cannot, from his own admissions, compete with that type of wage and stay in competition and in business. If he were to be forced to do that because of a Bill such as this he would probably not bid on State contracts and some of those contracts the State is not ready to do itself. So you are in a situation whereby it is going to cost the State more money and eliminate the opportunity of competition by small, private contractors when they bid on State jobs. Thank you.

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

Senator **LUTHER**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I recognize that this concept that we're dealing with is difficult, but I don't know how to separate the concept from the reality that what we're doing here is going to take work away from people who work for the State who do not earn a lot of money. This is just a way to lower people's wages and this Bill has been watered down a great deal from what was originally intended and I would like to read into the Record the Statement of Fact. "The original Bill required that all State contracts for services prescribed wage rates based on the prevailing wage rates in the State. The Amendment specifies that the prescribed wage rates are only required on contracts for services that are provided by State employees as of the effective date of the legislation. The amendment also provides that the wage rates to be used are those rates paid to State employees in comparable job classifications rather than prevailing rates in the State. The amendment transfers the responsibility for determining these rates from the Commissioner of Labor to the Bureau of Human Resources. The Amendment also adds a fiscal note." I think that what this is asking is that we treat State workers fairly. We have asked them to balance our budget twice, most of the State workers are not hired to long jobs, they do not earn a lot of money. All we're asking is that if you put this out to bid at least make them comparable, make the State workers able to compete. This is what the Bill is asking us to do. Thank you.

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

Senator **BEGLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. [Due to technical difficulties, all of Senator Begley's remarks were not recorded.] ... when he attempts to keep the employment in his area to the benefit of the State. Thank you.

Senator **BEGLEY** of Lincoln requested a Division.

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

Senator **HANDY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. This Bill as it has been amended in the Committee simply maintains that if we're paying a State employee a certain wage rate that if we're to contract out for similar services that those people that we hire through the State are afforded the same kind of wage. I request the yeas and nays. Thank you.

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

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

Senator **CIANCHETTE**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd just like to add a few comments to this and I understand the good intentions of the Majority Report but let me just read the fiscal note that's on the L.D. The fiscal note says, "requiring private contractors to adhere to wage and benefit guidelines when contracting with the State will increase the costs of contracts to all State Departments and Agencies who have access to these services. The amount of increased cost cannot be determined at this time since the projected use of

these private contracts cannot be estimated." I don't know if that's correct or not but I believe if we pass this Bill the public will feel that we are again adding costs. I keep getting letters from constituents and other citizens in the State of Maine and I keep reading in the newspapers that this Legislature still doesn't get it. I keep hearing that phrase over and over again. I'm not sure this is true, the fiscal note really will add a lot of cost, but at least it will go out in public that it does. I just think that it is absolutely wrong for this Legislature to overlook and forget the reputation we're getting and they say we "still don't get it". I'm going to ask you to vote against the motion. Thank you.

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

Senator **HANDY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. This Senator gets it. This Senator got it when this State made the move toward privatization of State services. For those of you who support that now is the time to belly up to the bar and pay the piper. It may be a mixed metaphor but I think it applies. If we're going to pay someone to do a job on behalf of the State we ought to make sure we're not taking advantage of that person, be it in wages or benefits. I think our constituents only expect us to do the right thing in this case. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **HANDY** of Androscoggin that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BERUBE, BRANNIGAN, BUSTIN, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

NAYS: Senators AMERO, BALDACCI, BEGLEY, BUTLAND, CAHILL, CARPENTER, CIANCHETTE, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER

ABSENT: Senators None

EXCUSED: Senators CAREY, MCCORMICK

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with No Senators being absent, and 2 Senators being excused, the motion of Senator **HANDY** of Androscoggin, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

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

Sent down for concurrence.

Signed:

Senators:

PINGREE of Knox
MARDEN of Kennebec

Representatives:

SPEAR of Nobleboro
AHEARNE of Madawaska
HEESCHEN of Wilton
NASH of Camden
CROSS of Dover-Foxcroft
KNEELAND of Easton

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

COMMITTEE REPORTS

Senate

Ought to Pass

Senator **CONLEY** for the Committee on **JUDICIARY**
on Bill "An Act to Clarify the Grounds for Civil
Action for Child Sexual Abuse"

S.P. 250 L.D. 769

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

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

The Bill **READ ONCE**.

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

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

Signed:

Senator:

PARADIS of Aroostook

Representatives:

TARDY of Palmyra
HUSSEY of Milo
STROUT of Corinth
ALIBERTI of Lewiston

Which Reports were **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled
1 Legislative Day, pending **ACCEPTANCE** of Either
Report.

Senator **CONLEY** for the Committee on **JUDICIARY**
on Bill "An Act to Implement the Recommendations of
the Criminal Law Advisory Commission Regarding
Revisions to the Maine Criminal Code"

S.P. 377 L.D. 1133

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

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

The Bill **READ ONCE**.

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the Tabled and
Specially Assigned (4/29/93) matter:

An Act to Prevent Discrimination

S.P. 92 L.D. 246
(C "A" S-57)

Tabled - April 26, 1993, by Senator **ESTY** of
Cumberland.

Pending - **ENACTMENT**

(In Senate, April 13, 1993, **PASSED TO BE
ENGGROSSED, AS AMENDED.**)

(In House, April 15, 1993, **PASSED TO BE
ENACTED.**)

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **AGRICULTURE** on
Bill "An Act to Extend the Repeal Date of the Laws
Governing Biosynthetic Bovine Somatotropin"
(Emergency)

S.P. 198 L.D. 634

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (S-105)**.

On motion by Senator **ESTY** of Cumberland, Tabled
1 Legislative Day, pending **ENACTMENT**.

The Chair laid before the Senate the Tabled and Specially Assigned (4/29/93) matter:

SENATE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Increase the County Share of the Government Operations Surcharge Fund"

H.P. 97 L.D. 139

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-114).**

Tabled - April 27, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE** (Division Requested)

(In Senate, April 26, 1993, Reports **READ**.)

(In House, April 15, 1993, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-114) AS AMENDED BY HOUSE AMENDMENT "A" (H-145)** thereto.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE** (Division Requested).

The Chair laid before the Senate the Tabled and Specially Assigned (4/29/93) matter:

Bill "An Act to Protect Consumers when Disconnecting Cable Television Services" (Emergency)
S.P. 195 L.D. 631
(C "A" S-58)

Tabled - April 27, 1993, by Senator **ESTY** of Cumberland.

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

(In Senate, April 13, 1993, **READ A SECOND TIME**.)

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

The Chair laid before the Senate the Tabled and Today Assigned (4/29/93) matter:

Bill "An Act to Amend the Hunting Laws"
H.P. 228 L.D. 296
(C "A" H-99)

Tabled - April 29, 1993, by Senator **ESTY** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, April 8, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-99)**, in concurrence.

(In House, April 28, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-99) AS AMENDED BY HOUSE AMENDMENT "A" (H-208)** thereto, in **NON-CONCURRENCE**.

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

Off Record Remarks

On motion by Senator **FOSTER** of Hancock, **ADJOURNED** until Tuesday, May 4, 1993, at 10:00 in the morning.