

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 2, 1995 to June 16, 1995

Non-concurrent Matter

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

Bill "An Act to Further Support the Community Service Volunteer Programs of the National Senior Service Corps of Maine"

H.P. 889 L.D. 1242

In Senate Chamber
Wednesday
May 31, 1995

In House, May 24, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-267).

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

In Senate, May 25, 1995, the Minority OUGHT NOT TO PASS Report READ and ACCEPTED, in NON-CONCURRENCE.

Comes from the House, that body having ADHERED.

Prayer by the Honorable Jane A. Amero of Cumberland.

Senator KIEFFER of Aroostook moved that the Senate INSIST.

SENATOR JANE A. AMERO: It's an honor today to share with my colleagues, the creed of that courageous, gentle, tough, caring, gracious, principled lady, who was a role model to so many, and to many of us in this Chamber today. Margaret Chase Smith was not prone to lengthy speeches. She had a great ability to be concise, to use simple words, to convey great thoughts. In that spirit I would like to read to you today her seventy-word creed, which reflects her heartfelt feelings of what the true meaning of public service is all about.

Senator LAWRENCE of York moved that the Senate RECEDE and CONCUR.

Senator KIEFFER of Aroostook requested a Division.

"My creed is that public service must be more than doing a job efficiently and honestly. It must be a complete dedication to the people, and to the nation, with full recognition that every human being is entitled to courtesy and consideration. That constructive criticism is not only to be expected, but sought. That smears are not only to be expected, but fought. And that honor is to be earned, and not bought."

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator LAWRENCE of York that the Senate RECEDE and CONCUR.

A vote of Yes will be in favor of RECEDING and CONCURRING.

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.

Off Record Remarks

ROLL CALL

YEAS: Senators: BUSTIN, CAREY, CIANCHETTE, CLEVELAND, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, PARADIS, PINGREE, RAND, RUHLIN

Reading of the Journal of Yesterday.

NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, CARPENTER, CASSIDY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

Off Record Remarks

ABSENT: Senators: BERUBE, ESTY, O'DEA

PAPERS FROM THE HOUSE

14 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 3 Senators being absent, the motion of Senator LAWRENCE of York to RECEDE and CONCUR, FAILED.

On motion by Senator KIEFFER of Aroostook, the Senate **INSISTED**.

Non-concurrent Matter

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1995 (Emergency)

H.P. 1098 L.D. 1542
(S "A" S-174)

In House, May 23, 1995, **PASSED TO BE ENGROSSED**.

In Senate, May 25, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-174), in NON-CONCURRENCE**.

Comes from the House, that body having **ADHERED**.

Senator KIEFFER of Aroostook moved that the Senate **ADHERE**.

Senator RUHLIN of Penobscot moved that the Senate **RECEDE and CONCUR**.

Senator KIEFFER of Aroostook requested a Division.

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

Senator MICHAUD: Thank you Mr. President, Men and Women of the Senate. I hope that you do Recede and Concur. The Penobscot County Delegation has deliberated the Penobscot County budget over and over again, way too many times. I can understand where Senator Hall is coming with his amendment. Actually, I do agree with some of the items that he has in his amendment, however, the County Delegation approved the budget by a vote of twenty-eight and twenty-six, two members voted against the budget, Senator Hall being one and Representative Winn being the other person. Although none of us likes everything that is in the budget, it's in the budget, and it came out of the Committee on State and Local Government unanimously. I do not feel that this legislative body should be playing around with a County Delegation's budget, even though there are some items in there that I wish were not in there. They are in there, however, but I am going to support the County Delegation recommendation to the full Legislature, and the unanimous report of the State and Local Government Committee. So, I hope that you would vote to Recede and Concur. Thank you.

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

Senator HALL: Thank you Mr. President. Not to want to take a lot more time on this particular subject, though it may be unpleasant serving on the

oversight of a county budget, and it may take a lot of meetings, that's the way the process works. The way this process will continue to work, if the motion to Adhere is accepted, after we reject the motion to Recede and Concur, basically what would happen then is the Delegation will, indeed, have to meet again. We will go back and start again and see if we can't reach some sort of a compromise that can be brought forward and that all our taxpayers can live with. Thank you.

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

Senator FERGUSON: Thank you Mr. President. County budgets are something that I know a little about, as most of you know. I tell you one thing that really used to frost me was when the Oxford County Legislative Delegation used to put money in our budget after it had been approved by the Budget Committee at that time, which was advisory. The Delegation, in this instance, does have the authority, and myself, as a Legislator from Oxford County, I don't think I should be interjecting myself into the Penobscot County Delegation's budget. Therefore, I am going to be voting for the pending motion, as much as I dislike it. Thank you.

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

Senator RUHLIN: Thank you Mr. President. I just want to point out for the rest of the Honorable Senators in this Chamber, that the County Delegation did vote on this budget, after several meetings. The vote was twenty-eight to two. It was a bipartisan vote. In all my years down here it has been the custom, that I have observed, that the Legislature accepts the recommendation of the particular County's Delegation to the budget process. If we are going to break that tradition and that process, I assure you that you may very well have a Senator from Penobscot County looking into the budget of Aroostook County, or a Senator from York County looking into the budget of Washington County. I think we all have enough to do. I think we all have our responsibilities here, and we are trying to take them very seriously. As a Senator who represents two counties, Penobscot and Hancock County, but when I go to the Penobscot County meetings I do my very best to represent Penobscot County, to see what is in that budget. We have several meetings on the subject and I try to do what I think is best for the county, as a whole, and as a citizen of that county as well. I wish that you would take into consideration on this Recede and Concur motion that the vote in Delegation was twenty-eight to two, and that you go along with the tradition of supporting the specific Delegation's recommendations on their County budget. Thank you.

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

Senator HALL: Thank you. Twice I have heard the mention of the vote was twenty-eight to two. The final vote was twenty-eight to two, I believe, two of us voted against it. There were six or seven others who would have voted against it, but felt that it was a waste of their time, that nothing could be done. The traditional rubber stamp that has gone on in this

legislature. I will not be a part of that. As a Legislative Delegation, if we are going to add pet projects to that county budget, whether it is Penobscot or any county, then we are telling the people back home that sit on a Budget Advisory Committee "you're wasting your time, you might as well stay home and watch TV, because we are going to do what we want to do, regardless of what your thoughts are." While we are at it, we might as well get rid of the County Commissioners, because we are not taking their advice, we are not allowing them to do the job that they were elected to do. It's their job, they're the ones who are staying home day in and day out, and answering to the taxpayer. We're sheltered down here, and go home once in a while, basically, and don't listen to them. I'm sorry, I didn't come down here to go along with everything.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **RUHLIN** of Penobscot to **RECEDE** and **CONCUR**.

A vote of Yes will be in favor of **RECEDING** and **CONCURRING**.

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: **BUSTIN, CAREY, CIANCHETTE, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, LONGLEY, McCORMICK, MICHAUD, PARADIS, PINGREE, RAND, RUHLIN**

NAYS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, CARPENTER, CASSIDY, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senators: **BERUBE, ESTY, O'DEA**

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

14 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 3 Senators being absent, the motion of Senator **RUHLIN** of Penobscot to **RECEDE** and **CONCUR**, **FAILED**.

Senator **KIEFFER** of Aroostook moved to send the Bill and Accompanying Papers forthwith for concurrence.

THE PRESIDENT: Is it now the pleasure of the Senate to **ADHERE**?

Senator **LAWRENCE** of York moved to **TABLE 1** Legislative Day, pending the motion to **ADHERE**.

Senator **HALL** of Piscataquis requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **LAWRENCE** of York to **TABLE 1** Legislative Day, pending the motion to **ADHERE**.

A Division has been requested.

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

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

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **LAWRENCE** of York to **TABLE 1** Legislative Day, pending the motion to **ADHERE**, **FAILED**.

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

Senator **BUSTIN:** Thank you Mr. President. I have been here, Ladies and Gentlemen of the Senate, for fifteen years now, next year it will be sixteen. There are certain rules of courtesy that are usually followed in these bodies. One of those courtesies is on a county budget. We usually allow the majority of the county people what their vote is. One of the things that we do, as a courtesy here, is when there are absent members of that delegation, we allow them the courtesy of being here in order to speak on that budget. There is a member absent, a very prominent member of that delegation from Penobscot County, who is absent. To deny a Tabling motion, so that that Senator may have a chance to vote on his own budget, I think is disgraceful and we ought to reconsider. Thank you.

Senator **BUSTIN** of Kennebec moved to **TABLE 1** Legislative Day, pending the motion by Senator **KIEFFER** of Aroostook to **ADHERE**.

Senator **KIEFFER** of Aroostook requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BUSTIN** of Kennebec to **TABLE 1** Legislative Day, pending the motion by Senator **KIEFFER** of Aroostook to **ADHERE**.

A Division has been requested.

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

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

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **BUSTIN** of Kennebec to **TABLE 1** Legislative Day, pending the motion by Senator **KIEFFER** of Aroostook to **ADHERE**, **FAILED**.

Senator **RUHLIN** of Penobscot moved to send the Bill and Accompanying Papers forthwith.

THE PRESIDENT: The Chair would advise the Senator from Penobscot, Senator Ruhlin, that the motion that was just defeated was a Tabling motion. The motion presently in front of the Senate is for the Senate to Adhere.

On motion by Senator **KIEFFER** of Aroostook, the Senate **ADHERED**.

THE PRESIDENT moved to **SUSPEND THE RULES** to send all matters thus acted upon forthwith to the other body for concurrence.

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

Senator **CLEVELAND:** I object.

THE PRESIDENT: The pending question before the Senate is the motion to **SUSPEND THE RULES** to send all matters thus acted upon forthwith to the other body for concurrence.

The Chair ordered a Division.

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

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

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, and 18 being less than two-thirds of the membership present and voting, the motion to **SUSPEND THE RULES** to send all matters thus acted upon forthwith for concurrence, **FAILED**.

Off Record Remarks

COMMUNICATIONS

The Following Communication:

117TH MAINE LEGISLATURE

May 30, 1995

Senator Willis A. Lord
Representative Richard A. Gould
Chairpersons
Joint Standing Committee on Natural Resources
117th Legislature
Augusta, Maine 04333

Dear Senator Lord and Representative Gould:

Please be advised that Governor Angus S. King, Jr. has nominated the Honorable John F. Marsh of West Gardiner and John D. Tewhey of Gorham for appointment as members of the Board of Environmental Protection.

Pursuant to Title 38, MRSA Section 341-C, these nominations will require review by the Joint Standing Committee on Natural Resources and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

S.P. 578

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

Sent down for concurrence.

The Following Communication:

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002**

May 30, 1995

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

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted the Majority "**Ought Not to Pass**" Report of the Committee on **Business and Economic Development** on Bill "An Act to Coordinate Low-income Energy Assistance Programs" (S.P. 270) (L.D. 721)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

S.C. 204

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Clarify the Discretion of the Commission on Governmental Ethics and Election Practices in Assessing Penalties" (Emergency)
H.P. 685 L.D. 936

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-308)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-308)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-308) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Amend the Law Regulating 53-foot Semitrailers"
H.P. 508 L.D. 689

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-305)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-305)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-305) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Amend the Motor Vehicle Laws"
H.P. 679 L.D. 930

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-306)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-306)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-306) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Make Changes to the Public Utilities Laws"
H.P. 1040 L.D. 1459

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-307)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-307)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-307) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Require That School Buildings Be Renovated Unless New Construction Is More Cost-effective"
H.P. 600 L.D. 810

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

Signed:

Senators:

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

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-304).**

Signed:

Representatives:

DESMOND of Mapleton
LIBBY of Buxton
WINN of Glenburn

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

Which Reports were **READ**.

The Majority **UGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act to Change the State's Air Quality Standard for Ozone to the Federal Standard"
H.P. 199 L.D. 258

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-293).**

Signed:

Senators:

LORD of York
RUHLIN of Penobscot

Representatives:

GOULD of Greenville
POULIN of Oakland
SAXL of Bangor
BERRY of Livermore
MERES of Norridgewock
SHIAH of Bowdoinham
GREENLAW of Standish
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass.**

Signed:

Senator:

HATHAWAY of York

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-293).**

Which Reports were **READ**.

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

Senate

Ought to Pass

Senator **BEGLEY** for the Committee on **LABOR** on Bill "An Act to Transfer Responsibility for Approval of Employee Assistance Programs"

S.P. 350 L.D. 978

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

Senator **ABROMSON** for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Amend the Continuing Care Retirement Community Law"

S.P. 338 L.D. 919

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-194).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-194) **READ** and **ADOPTED**.

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

Senator CIANCHETTE for the Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Promote Long-term Economic Development through the Establishment of the Maine Technology Investment Fund" (Emergency)

S.P. 511 L.D. 1370

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

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-196) READ and ADOPTED.

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

Senator CIANCHETTE for the Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Require That Physicians Providing Services from Another State to Patients Located in Maine Be Licensed by the State"

S.P. 534 L.D. 1472

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

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-197) READ and ADOPTED.

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

Senator MILLS for the Committee on JUDICIARY on Bill "An Act to Amend the Medical Examiner Act"

S.P. 438 L.D. 1206

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

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-198) 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 Environmental Registration Plates" (Emergency) H.P. 1103 L.D. 1550

Which was READ A SECOND TIME.

On motion by Senator STEVENS of Androscoggin, Senate Amendment "A" (S-200) READ.

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

Senator STEVENS: Thank you Mr. President. This amendment just corrects the figures on the document itself.

On further motion by the same Senator, Senate Amendment "A" (S-200) ADOPTED.

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

Sent down for concurrence.

House As Amended

Bill "An Act to Establish the Maine Outdoor Heritage Fund" I.B. 3 L.D. 717 (C "A" H-279)

Bill "An Act Protecting a Citizen's Right of Petition under the Constitution" H.P. 576 L.D. 781 (C "A" H-300)

Bill "An Act to Amend the Laws Governing HIV Testing at the Request of Victims of Sexual Assault" H.P. 589 L.D. 799 (C "A" H-299)

Bill "An Act to Allow for Decreased Municipal Liability Regarding Ice-skating Rinks" H.P. 750 L.D. 1024 (C "A" H-301)

Senate As Amended

Bill "An Act to Promote the Use of Alternative Dispute Resolution in State Government"

H.P. 772 L.D. 1069
(C "A" H-302)

Bill "An Act to Increase the Formula Used for ATV's and Snowmobile Reimbursement"

H.P. 802 L.D. 1119
(C "A" H-297)

Bill "An Act to Restore State Funding for State Expenses at County Jails" (Emergency)

H.P. 803 L.D. 1120
(C "A" H-287)

Bill "An Act to Ensure Public Review and Legislative Oversight of Proposals Regarding the Introduction or Reintroduction of Threatened or Endangered Species"

H.P. 884 L.D. 1237
(C "A" H-288)

Bill "An Act to Amend the Laws Governing Civil Liability for Individual Medical Providers with Whom the Department of Corrections Contracts"

H.P. 925 L.D. 1306
(C "A" H-294)

Resolve, to Direct the Land and Water Resources Council to Develop Alternatives to the Site Location of Development Laws That Protect the Environment and Improve the Effectiveness and Efficiency of the State's Land Use Laws

H.P. 947 L.D. 1336
(C "A" H-303)

Bill "An Act to Establish Periodic Adjustments in the Mileage Reimbursements"

H.P. 974 L.D. 1383
(C "A" H-291)

Bill "An Act to Add Types of Pharmacies That Are Subject to Record Seizure"

H.P. 1057 L.D. 1486
(C "A" H-296)

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

Bill "An Act to Decrease the State's Share of Real Estate Transfer Taxes"

H.P. 821 L.D. 1152
(C "A" H-265)

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

Sent down for concurrence.

Bill "An Act to Amend the Laws Governing Reciprocity in the Licensure of Pharmacists"

S.P. 96 L.D. 236
(C "A" S-187)

Bill "An Act to Promote Economic Development by Establishing a Research and Development Tax Credit"

S.P. 217 L.D. 559
(C "A" S-188)

Bill "An Act Amending the Maine Residents Property Tax Program Allowing Persons Having Sole Responsibility for Property Maintenance the Entire Exemption"

S.P. 311 L.D. 892
(C "A" S-193)

Bill "An Act to Modernize Vital Statistics Reporting"

S.P. 545 L.D. 1493
(C "A" S-192)

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

Sent down for concurrence.

ENACTOR

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

Mandate

An Act to Combine the Sabattus Water District and the Sabattus Sanitary District

S.P. 411 L.D. 1099
(C "A" S-131)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 27 Members of the Senate, with No Senator having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

COMMITTEE REPORTS

House
Divided Report

The Majority of the Committee on **LABOR** on Bill
"An Act to Allow Employees to Observe Holidays"
H.P. 497 L.D. 678

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

Signed:

Senators:

BEGLEY of Lincoln
MILLS of Somerset
RAND of Cumberland

Representatives:

JOY of Crystal
JOYCE of Biddeford
PENDLETON, JR. of Scarborough
STEDMAN of Hartland
WINSOR of Norway

The Minority of the same Committee on the same
subject reported that the same **Ought to Pass as**
Amended by Committee Amendment "A" (H-313).

Signed:

Representatives:

HATCH of Skowhegan
CHASE of China
LEMAIRE of Lewiston
SAMSON of Jay
TUTTLE, JR. of Sanford

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

Which Reports were **READ.**

The Majority **UGHT NOT TO PASS** Report **ACCEPTED,**
in concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND**
VETERANS AFFAIRS on Bill "An Act to Qualify the
Secretary of State's Ability to Invalidate a
Petition"

H.P. 659 L.D. 882

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

Signed:

Senators:

FERGUSON, JR. of Oxford
STEVENS, JR. of Androscoggin
MICHAUD of Penobscot

Representatives:

NADEAU of Saco
BUCK of Yarmouth
CHIZMAR of Lisbon
FISHER of Brewer
GAMACHE of Lewiston
LABRECQUE of Gorham
TRUE of Fryeburg
LEMONT of Kittery

The Minority of the same Committee on the same
subject reported that the same **Ought to Pass as**
Amended by Committee Amendment "A" (H-309).

Signed:

Representative:

MURPHY of Berwick

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

Which Reports were **READ.**

The Majority **UGHT NOT TO PASS** Report **ACCEPTED,**
in concurrence.

Senate

Ought to Pass

Senator **SMALL** for the Committee on **EDUCATION AND**
CULTURAL AFFAIRS on Bill "An Act to Preserve
Deteriorating and Irreplaceable Historic Battle Flags
and Banners"

S.P. 523 L.D. 1421

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

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

The Bill **READ ONCE.**

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

Ought to Pass As Amended

Senator **HALL** for the Committee on **CRIMINAL**
JUSTICE on Bill "An Act to Prohibit the Sale of
Firearms to Minors without Parental Approval"

S.P. 550 L.D. 1509

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-199)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-199) **READ** and **ADOPTED**.

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

Senate at Ease

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

JOINT RESOLUTION IN MEMORY OF MARGARET CHASE SMITH

WHEREAS, Margaret Chase Smith, who died at her home in Skowhegan, Maine on May 29, 1995, was a great and noble American from the State of Maine; and

WHEREAS, Margaret Chase Smith served in Congress for 32 years and was perhaps best known for her "Declaration of Conscience" speech before the Senate in 1950; and

WHEREAS, Margaret Chase Smith was the first woman ever to be elected to both the United States House of Representatives and the United States Senate and nominated for the United States presidency; and

WHEREAS, Margaret Chase Smith was born in Skowhegan, Maine in 1897; was a teacher at the Pitts School; and worked at the Independent Reporter, a weekly newspaper in Skowhegan; and

WHEREAS, Margaret Chase Smith campaigned vigorously for her husband, Clyde H. Smith, in the 1936 and 1938 elections for Congress and ran for his seat after his death, winning the general election in 1940 and serving 5 terms in the United States House of Representatives, where she maintained a perfect attendance record; and

WHEREAS, Margaret Chase Smith was known in the Senate as "the Lady from Maine," recognized by the single red rose on her suit jacket every day; and

WHEREAS, Margaret Chase Smith's interest in world affairs and military preparedness was demonstrated by her service on the House Naval Affairs Committee during World War II; by her role as a leader on the Senate Armed Services Committee; and by her efforts to seek permanent status in the military for women; and

WHEREAS, Margaret Chase Smith, after retiring from political life, became a visiting professor and lecturer with the Woodrow Wilson National Fellowship Foundation; and

WHEREAS, Margaret Chase Smith has welcomed thousands of visitors to the library that bears her name, advancing the education of schoolchildren; and

WHEREAS, Margaret Chase Smith was awarded the Presidential Medal of Freedom, the highest honor given to a civilian; and

WHEREAS, it is the desire of the Members of the Senate and the Members of the House of Representatives and the citizens they represent to formally recognize the accomplishments of Margaret Chase Smith and to express the high esteem and affection we have for this outstanding native of Skowhegan, Maine; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Seventeenth Legislature, now assembled in the First Regular Session, take this opportunity to honor Margaret Chase Smith and to recognize her distinguished service to the people of the State of Maine over many years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be presented to her relatives as a tangible token of our high esteem.

H.P. 1109

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

Which was **READ**.

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

Senator MILLS: Thank you Mr. President, Men and Women of the Senate. I called my brother last night, who has the family encyclopedia in his head. He is one of these people with a photographic memory that has not been passed on to any of the others of us. I asked him what he thought Margaret would like to have said about her today. He said, "Well, there are so many things you could say about Maragaret; but you know, Margaret would probably like to have you say a couple of words about Clyde." It's so popular nowadays to talk about couples: the Clintons, the Kennedys, the Roosevelts, the Doles. Let us not forget that they started out as a couple. Clyde came down here from Hartland, Maine, in 1897, at the age

of 21. He was elected to the Maine House of Representatives. He was successful in 49 elections, never was defeated. When you put the two of them together, as a couple, they have an unbroken consistent string of 75 years of continuous elected service to the people of Maine, from 1897 to 1972. There is no couple in the history of the world that can duplicate that, I think. I'm sure that she would want a few words said about him today.

She is also very famous for the Declaration of Conscience speech in 1950. I was 7 years old at the time and have only the vaguest memories that somehow we were all very proud to be represented by this new Senator from Central Maine. I don't remember the political context, although four years later I was allowed to stay home from school, in the fifth grade, and watch the Army/McCarthy hearings that were the result of all of that. But, the one that I remember is the second Declaration of Conscience speech that she gave June 1, 1970, twenty-five years ago tomorrow. It was also the twentieth anniversary of her first such speech. I remember it with some poignancy, because I was then 27 years old, and was just in the process of emerging from five years of active duty in the Navy. I was coming back to a nation, a country, with my short hair and my little uniform, and it seemed as if I was returning to a foreign country. You could walk through an airport, or a bus station, and the sense of contempt was absolutely palpable. She took the floor of the Senate on June 1, 1970, and said, "Look," and I am going to paraphrase very badly, "twenty years ago I came here to speak about a threat from the right wing of our nation. A threat that was manifested by lies and deceit and attacks on our governmental institutions. Now, in 1970, we have similar forms of attack, some of it physical and violent. But, look where it comes from, it comes from the left, the extreme left of our political spectrum." The pendulum had somehow swung. Her point was it matters not where the threat comes from, but when our institutions are under attack, from one extreme or the other, in this fashion, it is wrong.

I wish that she were here, or available, to speak to us again tomorrow, about the swings that we see current in our country today. The pendulum, she might say, has again swung to the right in some respects, and there needs to be a correction from people with common sense and dignity. When people stoop to the level of blowing up daycare centers in federal buildings, when they make remarks on the radio about using the image of the President for target shooting, things have gone too far in another direction. What she was most famous for, in my memory, was not something that would be characterized as being "middle of the road". She was anything but "middle of the road". What she had was a sense of the center, and where it lay, but it combined with a fierce independence, so that there were occasions when civil rights were at issue that she voted with Lyndon Johnson. She was one of five Republicans who voted for Medicare in 1965. Yet, on national defense issues, as a member of the Armed Forces Committee, she took a fiercely, I would say, Republican stance. One that was vindicated, I think, in the Reagan years of the 1980's.

She reminds me, in many ways, of Robert Frost. One of the themes that crops up in Robert Frost poetry is that revolutions are best when they only happen by half. That there's an interesting contrast between the French Revolution, which went all the way, and the American Revolution, which only went half the way and was managed by some people with a lot of common sense. When our Country falls into the pit, any country, of succumbing to a revolution that is totally successful, it requires three or four more revolutions in order to correct the imbalance, as we saw in French history in the early nineteenth century. She thought of government as something that needed to be constantly pulled back to a center that we were constantly groping for. She made that manifest in her voting record, and in the speeches she gave on the House and the Senate floors. She never forgot her origins. Her mother was a shoemaker in Skowhegan. Margaret, herself, worked in a textile factory where she was the bookkeeper. She paid people .26 an hour. People who had to work 100 hours a week in order to pay the rent. She never forgot her origins and she was prepared to vote her own mind and her own view of what was independently correct.

Mr. President, when we adjourn this evening, I ask that we do so in the memory, and in the honor, of Margaret Chase Smith. Thank you.

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

Senator **LONGLEY:** Thank you Mr. President, Men and Women of the Senate. I have passed out what I wrote the other night. I spent Memorial Day going through the wonderful letters I have received from the Senator, and realized how lucky I was to have her as a friend. I'm going to try to read through, it could be, that if I don't make it, you will have it on your desks to read. I feel like Oksana Baiul, when she won the gold medal. She was so thrilled, she couldn't help but cry. I'm so thrilled to have had the honor, and the blessing, of Senator Margaret Chase Smith's friendship that I may look like Oksana Baiul, but I'll be okay in a little bit. I'd like to read. Thank you.

Remembering Margaret Chase Smith: My Declaration of Thanks.

As Shakespeare wrote, some of us achieve high honors, and some of us have honors thrust upon us. To many of us, having the chances to be with Senator Margaret Chase Smith was an honor thrust upon us, especially for those of us from her same home State of Maine.

I first met and spoke at length with this very dignified public servant a decade and a half ago. At that point in her career, she had returned to her home in Skowhegan to build her library. Realizing this opportunity, I designed an independent study course with the Senator, also using the valuable resources in her library. As hoped, Senator Smith gave me full access to her books, tapes and film footage, and she also gave me hours upon hours of her time. This began our many memorable years of sharing her remarkably detailed personal and political memories of work with 6 U.S. Presidents over her 32

years in Congress, 24 of which were in the U.S. Senate, over which time, all tallied, she cast almost 3,000 votes.

My notes and academic papers, as well as the papers, articles and books of many other historians and journalists have, can, and will go into great detail. Here and now, however, my purpose is not any of that. Instead, my purpose here is simply to share my more personal, very meaningful, and often fun times with this very remarkable and dignified lady, that so many of us have come to love and respect.

It has also been with great pride that I tell people that Senator Margaret Chase Smith and I share birthdays. Many a mid-December day, I would drive to Skowhegan, she would be wearing her trademark suit, complete with a fresh rose in her lapel, high heels on her feet, coat and hat for head and we would be off to lunch at her favorite place. In addition, over the years, we frequently spoke over the phone, and always, she encouraged younger people like me to continue to call on her.

In hindsight, it seems as if we managed to squeeze many a joke between many a serious discussion. Mostly, our laughs concerned some of the really interesting predicaments that this very stately lady from Maine managed to get herself into simply because she was the first, and only, woman, at that time, to serve in both the House and the Senate, and the first to seek the Presidency of the United States.

Some of my favorite insights on the Smith story concern her love for hopping in whatever vehicle was available and heading off somewhere. Some of her less-known doings include the following: One evening, as I mentioned last week, as she raced to Lewiston to give a speech, in the process, she also managed to hit the side-rail on the right and swerve away in such a way that, next she knew, she was also hitting the side-rail on the left. Then, there was the time she campaigned in a general store along the Maine - New Hampshire border, only to be kindly informed by one storekeeper that she best drive back a few miles, as she had crossed the border and odds were that she would not be meeting many in his area that could vote for her. She would laugh after each of these stories. A few years ago, as many may remember, many of us thought for sure her time had come when she choked while eating airplane food - of all things! Because she felt a need to get the word out quickly that she had fully recovered and did not want, or need, any more get-well cards, she decided to find a friend with a snowmobile and, on a cold winter day, she called the press to come along for a ride. Needless to note, the elder statesperson from Maine managed to convince her many well-wishers that she was doing just fine, thank you very much!

Evidently, this woman had learned from her years in public service that hopping into fast vehicles accomplished lots, fast. After all, look at this list of times as an elected official that she did just this: No doubt her hopping into that F100 jet fighter and proceeding to be the first woman to break the sound barrier helped her with the quick-fix snowmobile idea. Then, too, she also knew to hop onto a destroyer made in the Bath shipyard to make

her point about being strong on defense. And, she knew that she could increase her reputation at home and look like a world leader if she hopped on a plane to meet and interview the so-called world leaders of the time. In the process, she would also be the first woman to set foot on some of our international bases, and, in retelling these stories, I might add, she could not help but laugh as she detailed how all the then-male soldiers would go to such great lengths to arrange themselves, and their quarters, for this woman of dignity and distinction. And these war stories inevitably led to her retelling, again and again, the story about the base in the South Pacific where the chief officer had a big, hot-pink bathtub, and did a really bad job of trying to cover up the fact. He had given her his quarters for the night. She no more had to hint at her ability to publicize this fact than she convinced this officer that her request for a certain constituent serving under him had best be met immediately! Obviously, Senator Smith had a terrific sense of humor, and it was always my proof of her health, especially in recent months, up until our last conversation earlier this month, to hear her laugh. Needless to say, any reference to that pink bathtub would result in a chuckle that I much appreciated hearing.

Lest the record look too light-hearted, let me also note that Senator Smith was very concerned with all issues of the day. And, always, she stressed the importance of our learning to disagree agreeably. Eventually, she and I always seemed to conclude that the solution was in education. For this reason, it only makes sense that she dedicated all her pre- and post-political years of her life to teaching. "Always remember," she would stress, "education is the one thing no one can ever take away from any of us." And many a conversation of ours focused on the importance of investing in our newest generation of Americans so that they could live up to future responsibilities. And, always, the stories came back to her that the next generations continued to learn from her examples. On one of our last birthday celebrations, I brought along a couple more friends eager to meet Senator Smith and delight her with the finest birthday greetings for which any mortal could hope. One friend recounted how she had first learned of Senator Smith as a young girl in 1964. For her 12th birthday, her dad had taken her to hear a soon-to-be presidential contender speak to a University of Illinois audience. Years later at this lunch, this friend - now a successful woman in her own right - had the life-honoring opportunity to tell that speaker over lunch many years hence that it was she who was the first to help her realize that girls could do anything, even be president.

After lunch, we headed back to her glass home - yes, the porch on her house was glassed in, and I cannot think of anyone who had the right to live in a glass house more than Senator Smith. We talked about those who threw stones in the anti-Communist, pro-Joe McCarthy, Red Scare era. While in this glassed enclosure, another very fine friend took her turn and shared her appreciation for the Senator's achievements. As a young Jewish girl of parents who were deeply worried of being accused of being traitorous commie sympathizers, this friend expressed her sincere gratefulness that the Senator had stepped forward as a national leader and had helped protect her family from such hysterical insults.

On a serious note, I always will be infinitely impressed how this same woman, in whose eyes I could occasionally see tears, and on whose cheeks flowed some of those tears, and who told me of her loneliness, had also been the one leader in our nation who had had the guts to risk all and dare banishment from her party and her friendships with her famous Declaration of Conscience speech.

A few months later, about a year ago now, I re-visited the Senator, as I was in a State Senate race and needed a dose of the U.S. Senator's advice. I invited her to dinner. However, this toweringly influential Senator had moved into a walker and at this point was hesitating about going out. Rather than decide, she headed to the bathroom to wash up and put on lipstick. Next I knew, she emerged, having decided to admit that she was not up to going out and that we were going to eat at home. I honestly thought she looked like the cat that had eaten the canary as she announced this, and I told her so. And, yes, I can say that I have shared at least one wonderful moment where this first woman to ever break the sound barrier showed me that she also had the ability to stay put.

I am happy to report that many of us told her many, many times that we deeply appreciated how she chose to live her life. Especially over these last few years, many of us lavished her with thanks, with roses, with visits with large pan-fulls of chicken soup that she always said were her favorite, and with more calls and eternal thanks for her daring lead. Lots of us, I presume, let her know that she was still very much alive in our lives. After my election, I called to thank her for being such a positive influence on me. After a meeting with an official who had the Senator's courtesy quote above his desk, I called to tell her that others in my travels seemed to heed her advice often as well. And I reminded this 97-year-old of her words from a much earlier day, which we heard the good Senator from Cumberland, Senator Amero, share with us this morning. After reminding her with a verbatim repeat, although I possibly did not need to, I went on to inform her that many of us continued to try to learn from her example and live by her creed.

As a candidate, and now as a State Senator, I am proud to report that I made it a point to call her often, but only when I was having an especially good day. Given her encouragement to run, I thought it the least that I could do to call this 90-something year old lady when times were good. "Yes," I can hear her say, "Isn't a political life wonderful!" I wish I could have her voice and say that. And she would chuckle. To which I actually could respond with an equally enthusiastic "yes" at that well-chosen moment.

And, each month this year, Senator Smith slowed down even more noticeably. No sooner did she take on a walker, then she even kicked off the famous high-heeled shoes and began sporting slippers. I might add that she made it a point to ask me if I noticed that the slippers had a slight heel! Then, the Senator moved to a heavily-pillowed chair, then into a recliner. The last time I saw her, I moved into her bedroom to hold her hand as she lay on her

side. And again, this time in more of a meaningful whisper, I re-conveyed some of my all-time most heartfelt appreciation for her fine friendship for me and my hopefully long-lasting best wishes for her. Even on this last visit, in February, Senator Smith's eyes, ears and limbs may have stopped working, but her mind and her heart seemed as alive as ever. As always, she acknowledged and reciprocated, and, in turn, made me feel like she knew exactly what I was trying to do for her, and, as she always did, she made me feel very appreciated. In hindsight, we were both really good at thrusting honors upon each other.

And, so, the above is my late-night attempt to explain why it was my supreme honor to have Senator Margaret Chase Smith befriend me. Once my work in the State Senate slows down, I will be re-pouring over my Smith notes and reflecting on her political and personal life based on my new experiences as an elected official as well. Should her spirit spur me on, I will be back for more. For now, though, let me end as I began, this time paraphrasing Shakespeare and ending this piece with lots of love and respect and gratitude on this night of her death and in celebration of her life by saying, "Good night sweet Senator. And flights of angels sing thee to thy rest."

The President requested the Sergeant-at-Arms to escort the Senator from Waldo, Senator **LONGLEY** to the Rostrum where she assumed the duties as President Pro Tem.

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

The Senate called to Order by the President Pro Tem.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Butland.

Senator **BUTLAND:** Thank you Madam President, Ladies and Gentlemen of the Maine Senate. I didn't mean to put the good Senator from Waldo, Senator Longley, on the spot this morning, but I did want to say a few words in regards to Margaret Chase Smith, and I, quite frankly, felt uncomfortable speaking before a Joint Resolution from the podium.

I think my first recollection of political campaigns goes back to 1960. That was a very significant election in the course of this country's history. Most of the people my age remember it very vividly. What most people remember is the Nixon/Kennedy presidential debate. I remember that. But, my most vivid memories are of Margaret Chase Smith. I remember being a fourth grade student at

the Lyseth School in Portland, which is located in North Deering and located in the Senator from Cumberland, Senator Abromson's, district. For some reason or other, Margaret Chase Smith inspired me, caught my attention, and I remember doing a report on her before the class. I think the article in the Portland Press Herald, recently, probably summed up what the people of the State of Maine, and what I have felt about Margaret Chase Smith for so long. The Portland Press Herald said, "She rose from humble roots to power and fame as a national political leader. But, the gentlewoman from Skowhegan never lost her sense of being one of the people. Gentle, yet tough, a Mainer to her soul."

She certainly wasn't one who took the path of least resistance. She was, in fact, a risk taker, back before risk taking was in vogue. As you will remember, in 1940, she ran to fill the seat of her deceased husband in the U.S. Congress. In 1948 she ran for the U.S. Senate. She faced a field of three opponents in the Republican Primary, and I am happy to report that she received more votes than the three gentlemen combined. In 1950 she presented her Declaration of Conscience, a speech which was delivered against Senator Joseph McCarthy of Wisconsin. In 1957 she was the first civilian woman to break the sound barrier, while riding in an F100 aircraft. In 1964 she decided to run for President, the first woman to be nominated for President, even though she stated she didn't have the time, she didn't have any money, and she didn't have any organization. She felt it was important to send a message. On a lighter side, in 1990, she took her first snowmobile ride. Who could ever forget, in 1992, her attendance at the bean supper at the Canaan Grange Hall. Probably the most famous bean supper in the State of Maine.

She was a role model for me, and she was a role model for many young men and women in the State of Maine. She continued, after her defeat in 1972, at the hands of Senator William Hathaway, no relation to the Senator William Hathaway from York who sits in the State Senate today. She travelled the State, and she spoke. She entertained many groups of young children at the library up in Skowhegan. She continued to be a role model right until the very end. We will all miss her for she was a woman of conviction and compassion, and a woman who was able to achieve her dreams. Thank you very much.

The Joint Resolution **ADOPTED**, in concurrence.

Senate at Ease

Senate called to order by the President.

On motion by Senator **KIEFFER** of Aroostook, **RECESSED** until 5 o'clock in the afternoon.

After Recess

Senate called to order by the President.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, sent forthwith.

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

SENATE PAPERS

Bill "An Act to Extend the Workers' Compensation Deficit Evaluation Proceeding" (Emergency)
S.P. 579 L.D. 1556

Presented by Senator **ABROMSON** of Cumberland (GOVERNOR'S BILL)
Cosponsored by Representative **VIGUE** of Winslow and

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

Which was under suspension of the Rules, **READ TWICE**, without reference to a Committee.

On motion by Senator **ABROMSON** of Cumberland, Senate Amendment "A" (S-203) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Off Record Remarks

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Authorizing the Town of Dennysville to Transfer a Certain Parcel of Property
H.P. 1030 L.D. 1449

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

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

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

The Resolve **READ ONCE**.

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

Ought to Pass As Amended

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Simplify the Licensure Requirements of the Board of Counseling Professionals Licensure"

H.P. 844 L.D. 1175

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-317).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-317).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-317) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **MARINE RESOURCES** on Bill "An Act Concerning Inspection at Sea"

H.P. 929 L.D. 1310

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-320).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-320).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-320) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Require That Public Schools Permit Participation in School Activities and Classes by Students Who Are Receiving Home Instruction"

H.P. 1027 L.D. 1442

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

Signed:

Senators:

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

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass**.

Signed:

Representative:

WINN of Glenburn

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

Which Reports were **READ**.

Senator **HATHAWAY** of York moved that the Senate **ACCEPT** the Minority **UGHT TO PASS** Report in **NON-CONCURRENCE**.

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

Divided Report

Senator **HATHAWAY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would just like to say that home instruction is becoming ever more popular and I would just like to ask you to consider that these are people who also pay their property taxes and contribute greatly to the financing of our educational system. I think it is only proper and right that we allow them to at least participate in our local activities that are paid for with taxpayers' money, including their own. Thank you.

On motion by Senator **HATHAWAY** of York, 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 Lincoln, Senator Begley.

Senator **BEGLEY**: Thank you Mr. President. I would almost agree with the previous speaker, with the exception of the word "require". I wholeheartedly agree that public schools should be open to all students, regardless of whether they are receiving home instruction or not. I'm a little caught up on the requiring. I'm not too sure if anybody from the Education Committee would wish to comment on the reason for requiring, and I'm not sure they will. That is the one thing that bothers me, otherwise I would wholeheartedly agree with the gentleman who spoke previously.

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

Senator **HANLEY**: Thank you Mr. President, Men and Women of the Senate. I rise because I am intrigued by the bill. I realize that usually with a twelve to one report it's pro forma. I wish that maybe the good Senator from Sagadahoc, and the good Senator from Cumberland, Senator Small and Senator Esty, were here as well to go into more detail as far as the point the good Senator from Lincoln raises. I, too, have a lot of home schoolers in my district. In fact, a lot of my friends I graduated with from high school, have chosen to home school their children. I am concerned about the require language, and I don't know if maybe we can have some further discussion. It may warrant it. I'm not quite sure exactly how this would impact the people of Senate District 25 at this time.

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending the motion of Senator **HATHAWAY** of York to **ACCEPT** the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE**.

The Majority of the Committee on **LABOR** on Resolve, to Create the Teacher Retirement Advisory Committee

H.P. 761 L.D. 1035

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-311)**.

Signed:

Senators:

BEGLEY of Lincoln
MILLS of Somerset
RAND of Cumberland

Representatives:

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

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

Signed:

Representatives:

JOYCE of Biddeford
PENDLETON, JR. of Scarborough
WINSOR of Norway

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-311)**.

Which Reports were **READ**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

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

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

Senate at Ease

Senate called to order by the President.

Senate

Ought to Pass As Amended

Senator **CARPENTER** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Regarding Use and Acquisition of State Property"
S.P. 250 L.D. 647

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

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-201) **READ** and **ADOPTED**.

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

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

ENACTORS

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

An Act to Limit Nuisance Actions and Noise Ordinances Relating to Sport Shooting Ranges
 H.P. 60 L.D. 96
 (H "B" H-274 to C "A" H-251)

An Act to Protect the Integrity of Seawalls and Retaining Walls
 S.P. 72 L.D. 160
 (H "A" H-97 to C "A" S-36)

An Act to Reduce the Number of Days a Tenant May Be in Arrears for Rent Payments
 S.P. 76 L.D. 164
 (C "A" S-28)

An Act to Apply the Hospital Cooperation Act of 1992 to a Broader Range of Health Care and Social Service Agencies
 H.P. 548 L.D. 744
 (C "A" H-266)

An Act to Add the Prohibition of False Official Statements to the Maine Code of Military Justice
 H.P. 554 L.D. 755

An Act to Exclude Services Provided by Home Stitchers from the Definition of Employment for Purposes of Unemployment Compensation
 H.P. 688 L.D. 939

An Act to Require Special Care Program Disclosure by Entities Providing Alzheimer Care
 H.P. 714 L.D. 971
 (C "A" H-255)

An Act Regarding Liquor Licenses for Golf Courses
 S.P. 348 L.D. 976
 (C "A" S-155)

An Act to Amend the Law Dealing with Agreements for Recovery of Personal Property
 S.P. 359 L.D. 985
 (C "A" S-154)

An Act to Facilitate the Regulation of Alcohol in Auditoriums
 H.P. 739 L.D. 1013

An Act to Allow Part-time Police Officers to Acquire Liquor Licenses
 S.P. 393 L.D. 1081

An Act to Amend the Law Governing Municipal Zoning with Respect to Community Living Arrangements
 S.P. 408 L.D. 1096
 (C "A" S-150)

An Act to Provide Immunity for Clinicians Contracted by the State Forensic Service
 S.P. 413 L.D. 1136
 (C "A" S-166)

An Act Concerning Employee Leasing Companies
 S.P. 418 L.D. 1141
 (C "A" S-162)

An Act to Continue the State's Dioxin Monitoring Program
 H.P. 823 L.D. 1154
 (C "A" H-250)

An Act to Clarify Recent Amendments to the Laws on Guardianship and Conservatorship
 H.P. 833 L.D. 1164

An Act to Correct a Fishing Zone Definition Error
 H.P. 840 L.D. 1171

An Act to Modify and Update Certain Laws Pertaining to the Importation and Possession of Wild Turkeys
 H.P. 855 L.D. 1186
 (C "A" H-257)

An Act to Conform State Unemployment Compensation Laws to Federal Requirements
 S.P. 437 L.D. 1205
 (C "A" S-163)

An Act to Correct Certain Errors and Inconsistencies in Employer's Contributions and Coverage in Unemployment Compensation
 S.P. 439 L.D. 1207

An Act to Amend the Maine Criminal Code to Ensure Fairness in Classifying a Crime Based on the Value of Loss or Damage
 H.P. 879 L.D. 1234
 (C "A" H-260)

An Act to Require County and State Inmates to Pay a Health Care Fee
 H.P. 891 L.D. 1244
 (C "A" H-270)

An Act to Authorize Certain Employees of the Department of Corrections to Use Deadly Force
 S.P. 454 L.D. 1250
 (S "A" S-149 to C "A" S-133)

An Act to Clarify Notice Requirements and a Party's Opportunity to be Heard

H.P. 905 L.D. 1281
(C "A" H-249)

An Act to Correct Obsolete References to Justices of the Peace

H.P. 906 L.D. 1282

An Act to Remove Outdated Provisions from the Public Utilities Law

H.P. 908 L.D. 1284

An Act to Repeal Boards That Have Not Filed Annual Reports with the Secretary of State

H.P. 961 L.D. 1350

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

An Act to Increase the Number of Primary Care Practitioners in the State

S.P. 119 L.D. 294

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

An Act to Amend the Child Labor Laws to Prohibit 14-year-old Minors from Working in Any Restaurant or Eating Place

S.P. 146 L.D. 332
(C "A" S-164)

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

An Act to Exempt from the Sales Tax Automobile Equipment Necessary for Paraplegics or People Who are Confined to Wheelchairs

H.P. 540 L.D. 736
(C "A" H-241)

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

An Act to Amend the Trust Fund Provisions of Cemeteries and Crematories

H.P. 561 L.D. 762
(C "A" H-248)

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

An Act to Improve Public Access to the Maine State Museum

S.P. 483 L.D. 1317
(C "A" S-168)

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

Emergency

An Act to Authorize the Use of Loon Plates on Baxter State Park Authority Vehicles

H.P. 819 L.D. 1150
(S "A" S-175 to C
"A" H-259)

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

Emergency

An Act Regarding the Schedule of the Distribution of Funds from the Maine Environmental Trust Fund

S.P. 468 L.D. 1264
(C "A" S-132; H "A"
H-271)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senator 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 Authorize the Town of Topsham to Increase the Amount the Town May Contribute to the Construction Costs of Sewers That Belong or May Later Belong to the Topsham Sewer District

H.P. 943 L.D. 1332
(H "A" H-290 to C
"A" H-269)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senator 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, Requiring a Study of the State's Export Financing Services

S.P. 378 L.D. 1055
(C "A" S-167)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senator 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.

Mandate

An Act Limiting the Types of Municipal Investments

H.P. 892 L.D. 1245
(C "A" H-262)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 28 Members of the Senate, with No Senator 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.

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Require That Public Schools Permit Participation in School Activities and Classes by Students Who Are Receiving Home Instruction"

H.P. 1027 L.D. 1442

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass** (1 member)

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook

Pending - the motion of Senator **HATHAWAY** of York that the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE**.

(In House, May 30, 1995, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, earlier in the day, Reports **READ**.)

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

Senator **SMALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I apologize for not being here earlier when this was brought up. We were still in work session in our Committee. The reason this bill is Ought Not to Pass is because we already have another bill that is similar to this that we had last session in the Education Committee. Because there are a number of unresolved issues within that bill and, frankly, a lot of different perspectives on what should be allowed in the schools, or what should be mandated to the schools, as far as home school access, we decided to get all the stake holders together and have them work out a compromise. So, currently we have a task force that is meeting that includes the Department, the Superintendents, the School Board members, teachers, home schoolers, members of the home school organizations, and they are meeting now and have a legislative deadline of next session to come back to us with proposed legislation. Hopefully they will come up with a proposal that will be embraced by all, that can pass, that will allow at least some minimum standards for home schoolers to be able to use the public school facilities. That's why we are killing this bill this year, because there is already one that is being worked on now. I hope you will support the Majority Ought Not to Pass Report.

Senator **HATHAWAY** of York moved to **TABLE** 1 Legislative Day, pending the motion by the same Senator to **ACCEPT** the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE**.

Senate at Ease

Senate called to order by the President.

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

Off Record Remarks

Senator **HATHAWAY** of York requested and received Leave of the Senate to withdraw his motion to **TABLE 1** Legislative Day, pending the motion by the same Senator to **ACCEPT** the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE**.

Senator **HATHAWAY** of York requested and received Leave of the Senate to withdraw his motion for a Roll Call.

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

Senator **ESTY:** Thank you Mr. President, Men and Women of the Maine Senate. I do want to reiterate what the good Senator from Sagadahoc, Senator Small, had said earlier. This is an issue that many people view as being very important. It will be given the consideration that it is due. We have set up a mechanism in which to do that. This simply isn't the right vehicle. We all know, in our Committees, that often you have a number of approaches or bills that do similar kinds of things, you need to dispose of some of them so that you can get at the issue with one of them. This is simply a way for us to dispose of this particular bill while making sure that the issue is given the consideration it deserves. So, I would support the Majority opinion, which was Ought Not to Pass.

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

Senator **HANLEY:** Thank you Mr. President. First, I would like to extend my thanks to the Senate Majority Leader for having Tabled this item before, and I appreciate the opportunity to speak with both of the Senators, from Cumberland and Sagadahoc, on this issue. It's my understanding, with assurances from the Senate Chair of Education, that we will have an opportunity to vote on this very important issue come the Second Session, therefore, I will be voting against the motion.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **HATHAWAY** of York that the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE**.

The Chair ordered a Division.

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

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

No Senator having voted in the affirmative and 28 Senators having voted in the negative, the motion of Senator **HATHAWAY** of York to **ACCEPT** the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE**, **FAILED**.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

ORDERED, the Senate concurring, that Bill, "An Act Concerning Grandparents' Rights of Visitation and Custody," H.P. 364, L.D. 484, and all its accompanying papers, be recalled from the Governor's desk to the House.

H.P. 1108

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

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

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

HOUSE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act to Change the State's Air Quality Standard for Ozone to the Federal Standard" H.P. 199 L.D. 258

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-293)** (12 members)

Minority - **Ought to Pass** (1 member)

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook

Pending - **ACCEPTANCE** of Either Report

(In House, May 30, 1995, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-293)**.)

(In Senate earlier in the day, Reports READ.)

Senator **RUHLIN** of Penobscot moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Once bitten, twice shy, I'll try again. I would ask you to support the Ought to Pass Minority Report. I will explain, very simply, why. I applaud the effort of the Majority Report to change our State standard of .08 to .12. It does, in fact, level the playing field for our paper industry. What I am concerned about, also, is our tourist business. Amendment "A" allows the State to use the .08 standard in broadcasting to tourists that we have a bad air day, which I think is very unfortunate because in attaining the .12 federal standard we are still well below the recommendations and the guidelines of EPA of .15. So, while I applaud the effort to change the State standard to .12 and bring it into compliance with the federal standard, I would hope that we would do so across the board and not make it a level playing field just for our paper industry, but also for our tourist business, and only the original Ought to Pass Report does that. So, I am going to ask you to support that today. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President, Honorable Senators of Maine. I would like to point out to you the difference in the two reports. Both of them do go to a federal standard of .12 parts per million of ozone producing volatile organic compounds, however, the twelve members of the Committee who stayed in work session and worked rigorously, felt that we should have, in fact, what we call a "truth in breathing" amendment. We had volumes of testimony that said those people who suffer from asthma, cystic fibrosis, and other breathing illnesses, may be negatively impacted once the air quality declines to more than .08 parts per million. Recognizing that, that it should serve as a warning, we set up two things in the amendment, the "truth in breathing" amendment. One was that we would warn people that this clean air state, still has the cleanest and freshest air in New England, but you should perhaps be aware, if you have asthma. Because if they are coming from New Jersey or Massachusetts, on a high ozone day, believe me, they are severely troubled and they are happy to be here. So, we can afford to tell the truth. The other thing is if you are a parent, or a guardian, or a custodian, of a child, or a parent, or a sibling, that has a breathing problem, it probably would be kind of nice to call up, somewhere in the State, and find out what the ozone level will be that day. This amendment establishes that hotline. I hope you will, therefore, vote for the Majority, twelve to one, Report. Thank you.

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I assure you that in the summertime, or anytime of the year, anyone from New Jersey would rather be in Maine. The EPA recommends a standard of 1.2, which is below their guideline of 1.5. For some reason, we decided in this State, for purposes of tourism and air quality, to use the .08. If, in fact, even as proven in studies supported by the EPA, that if you were on a mountaintop in Colorado, 1000 miles from any automobile, the best standard you could achieve is only a .05. So, I think that we should come in line with the rest of the states in this country, and move our standard across the board to .12. There have been many studies to show that there has been an increase in respiratory problems and asthma, even though our ozone in recent years has improved dramatically. There are many studies to show that the worst place you could be, if you have asthma, is indoors, because a lot of studies show that is why we have an increase in respiratory problems, because of our new airtight buildings. So, I would ask you to take that into consideration and please treat all of our industries in this State the same, and support the Ought to Pass so that we have the .12 standard across the board. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. I just want to say I agree with everything that the previous Senator said. We should go to .12. The Majority Report takes us to .12. I hope you will consider that when the time comes to vote. Thank you.

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

Senator **PENDEXTER:** Thank you Mr. President, Men and Women of the Senate. My ears naturally perk up when people start talking about cystic fibrosis and asthma, because, as you know, in my other life I do practice in a pediatric practice, and we deal a lot with those issues. I would venture to say that the problems with asthma tend to be allergic triggers. You are talking about grass, trees, those types of scenarios, which actually have nothing to do with ozone. Now I'm not denying the fact that ozone doesn't play a part in our Clean Air Act, but when you start talking about asthma, the triggers are things other than ozone. I just sort of want to clear the debate here where we are getting into some of these health scenarios. I would argue that if people, who have asthma and cystic fibrosis and other respiratory illnesses in other states, have to live by the .15 standard I don't see why Maine has to be any different. So, I think the health care scenario here, or the health issue, is being played up a little bit more than it should be. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Men and Women of the Senate. I had a brief fright a few minutes ago. I thought the good Senator from York, Senator Hathaway, said there was going to be a public notice when we were having a bad hair day. I was a

little afraid that we were going to have those types of notices, but now I understand what he was talking about. I have to tell you, I appreciate the good Senator from York, Senator Hathaway, being a new resident of our County, wanting to protect the tourism industry. But I haven't heard from one person in the tourism industry who has worried about this standard ever affecting tourism. I think people have a right to know. I think they should know. There is a sign when you come into Maine that says, "Maine, the way life should be." I think it's time that we stood up to that quality we try to keep in the State of Maine, to notify the public when the air standards could potentially affect their health. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. I would just like to reassure the good Senator from Cumberland that I am fully aware. Being an asthmatic myself, I am fully aware of the trigger of asthma. I'm also fully aware of the effects of ozone on asthmatics. So, she needn't have any fears of our heading off in the wrong direction.

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

Senator **MCCORMICK:** Thank you Mr. President, Men and Women of the Senate. My understanding of this bill, and I would love to be corrected if I am wrong, is that it does, as the Senator from Penobscot says, take us to the national industrial standard, which is lower. But it preserves Maine's .08 standard for health. The two are very different. So, one, we are talking about ozone, and we're talking about announcements about what the air quality is, we are talking about health. It seems to be very appropriate that we would be using the health standard, not the industrial standard. So, I urge us all to support the Majority, twelve to one, report, as well.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **RUHLIN** of Penobscot that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The Chair ordered a Division.

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

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

24 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-293) **READ** and **ADOPTED**, in concurrence.

The Bill, as Amended, **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 first Tabled and Specially Assigned (May 30, 1995) matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit State Spending and Establish a Reserve Fund.

H.P. 630 L.D. 855
(C "A" H-177)

Tabled - May 25, 1995 by Senator **AMERO** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-177)**, in **NON-CONCURRENCE**.

(In House, May 3, 1995, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

On motion by Senator **AMERO** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-177)** in **NON-CONCURRENCE**.

The Chair laid before the Senate the second Tabled and Specially Assigned (May 30, 1995) matter:

HOUSE REPORTS from the Committee on **TAXATION** on Bill "An Act to Increase the Property Tax Exemption for Farm Machinery"

H.P. 17 L.D. 11

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-242)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 25, 1995, by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, May 18, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-242).**)

(In Senate, May 23, 1995, Reports **READ.**)

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

The Chair laid before the Senate the third Tabled and Later Today Assigned (May 30, 1995) matter:

SENATE REPORTS from the Committee on **TAXATION** on Bill "An Act to Repeal Point-of-sale Fees for Future Disposal of Certain Items"

S.P. 84 L.D. 203

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-190)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-191)** (6 members)

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

Pending - the motion by Senator **HATHAWAY** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

(In Senate, May 30, 1995, Reports **READ.**)

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I will repeat, one more time, that I think our tax policy should be simple, it should be honest, and it should help restore trust between our people and our government. All parties agree that the Waste Management Agency is to be terminated. The good programs, and the people to go along with those programs, will be transferred to other areas for those programs to continue. The budget, under the Minority Report, will be \$1.8 million. The issue is not whether to terminate the agency, but when do we terminate the fees that support it? Amendment "A" says that we should terminate the agency today but keep the fees for another two years. Amendment "B" says if we are going to terminate the agency, we should terminate the fees. I think this is the only honest thing to do between our people and our government. To do otherwise is the ultimate in hypocrisy. As I mentioned before, when you buy a mattress at Daly Brothers in Biddeford, the extra \$5 fee, on a \$50

mattress, is, essentially, a 10% tax. The same if you go to Walsh's Furniture in Kittery. As Mrs. Walsh watches furniture being delivered from Portsmouth, to Maine customers, because Portsmouth doesn't charge the 6% sales tax, nor the extra disposal fee. The issue is, of course, the people who are paying this disposal fee for this mattress, think it is going to somehow dispose of their mattress or some old mattress or something. In fact, that is not the case. If we continue to take these fees from people and use them for other methods it is the ultimate in hypocrisy. So, I am going to ask you to please vote for honesty in government, and vote for the Minority, Amendment "B", motion. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Men and Women of the Senate. I, again, appreciate the good Senator from York's remarks. I am very concerned about my part of the county, in Kittery. I just want to point out a couple of things, because I have debated back and forth over which side of this bill to support. I, too, want to eliminate the fees, and in fact, as I found out, both Reports eliminate the fees. The question is when. The fact is that even though we are eliminating that agency, many of the functions performed by that agency are going to continue that these fees go for. I simply want to point out one other thing. The good Senator mentions that a constituent of mine, a furniture company in Kittery, who constantly sees furniture being delivered to people and Maine, and not paying the taxes, the Chair of the Taxation Committee should know that any furniture delivered to the State of Maine must have a tax paid on it and they will not deliver to the State of Maine unless that tax is paid. I know, I have run into that situation with my business.

The other thing that affected my decision was hearing from a business in my district, Seaward Construction, which runs a tire-chipping facility in my district, and their strong concern if the Majority Report does not pass is the affects on DEP and what happens to the tire fees, which are currently used to assist them. They feel that if the Majority Report does not pass that those fees will have to go for other purposes. For those reasons, I urge you to support Committee Amendment "A".

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

Senator **RUHLIN:** Thank you Mr. President, Honorable Senators of Maine. I would point out to you probably the most important thing. It has been proposed that we abolish the Maine Waste Management Agency, but there is one thing that we cannot abolish, and that is solid waste itself. Just because we abolish the agency, the waste will still continue, and it still is a problem that must be addressed. The Committee that has the oversight of addressing that is the Natural Resources Committee. That Natural Resources Committee has met long, hard, and often in trying to find a way to meld into a newer, more efficient and effective State government, those services that are still needed in handling waste management. You know something, I came to a

conclusion in that whole process. Trying to end the life of a department, believe me, is one heck of a lot harder than trying to start a department. It has not been an easy task, but I think that Committee, again, twelve members of that Committee came together and made a proposal to the Taxation Committee that would, in fact, allow those services to continue if the fees were continued for a short period of time. In keeping with the Governor's proposal, and in keeping with our own proposals. We tried to work with the Taxation Committee. We are sorry that the Report came out seven to six. We would point out to you that acceptance of the Minority Report, which not only abolishes the agency like we all want to do, but abolishes fully the fees, will do one of two things. It will take and put those people in DEP, and I have a list here, those people who issued 1230 certificates and licenses for asbestos abatement, those people who issued 96 licenses for sludge, ash and residuals. These are all paid, by the way, with these fees that we are talking about. Those people who issued 265 licenses for landfills, 280 for facility and inspections with the communities, 250 for inspections of sludge. All these services are being funded from those fees. Not only that, but we proposed this year to do something entirely different, we want to dispose of, at the very least, 800,000 tires and get those chipped up. We have an abundance of old tires in the State of Maine. They are a catastrophe waiting to happen. We will take \$400,000 of that, for the first time ever, and put that to chipping those tires. I hope that you will look at the functions that need to be done by that Department, and see to it that they have the funds to carry them out to a dedicated revenue source. If not, the alternative is to put them into the General Fund where you will open up a huge hole in the budget. If you want to have another hole, at this point in time, in the budget process, I suppose I wouldn't advise that and I would heartily discourage you from doing that. The other thing is if you don't want to do that you can end the fees and emasculate the Department of Environmental Protection, and we can all go to the dump together. So, I hope that you will go along with the Majority Report and defeat the motion to end the fees. Thank you.

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

Senator HATHAWAY: Thank you Mr. President, Ladies and Gentlemen of the Senate. Frankly I am outraged at some of the rhetoric that is rampant on this issue. We are talking about two separate bills, 203 has to do with the disposal fees, 229, which has been in Natural Resources for a few months now, will be coming forth at a later date. You will have every opportunity to vote on how those fees are spent. L.D. 203 raises a budget of \$1.8 million. In fact, over the next two years, 203 will raise \$1.5 million from tire fees, of which L.D. 229 and the Majority Report, Amendment "A" here, only spends \$600,000 out of \$1.5 million collected in fees on the tire problem. We have a tire problem. Let's spend the money we collect on tire fees to get rid of the tire problem. We don't need to take money we collect from people, the hard-working people of this State, \$5 at a time to fund 9 positions in DEP that used to be funded from the General Fund. If those positions need to be, then bring them to the General Fund, put

them on the table, let's see if they are worth it, but don't charge people \$5 every time they buy furniture or a mattress to pay for these positions that used to be funded in the General Fund. Don't charge people \$5, or \$1 for a battery, or \$1 for a tire, to once again collect \$500,000 to pay Lincoln Pulp and Paper to continue the contract, for which the \$500,000 was already once set aside, which came in a supplemental budget to this body, which is now being spent by another agency, along with another \$1 million that was collected, \$5 and \$1 at a time, from the hard-working people of the State of Maine, which is now being spent by another agency. This is a total outrage. If you want to continue to be dishonest with the people who work hard for their money in this State, then go ahead and vote for the Majority Report. If you want to finally stop these gimmicks, and start being honest with the people of the State of Maine, then vote to terminate the agency and terminate the fees that people pay, at the same time. Thank you.

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

Senator CAREY: Thank you Mr. President, Members of the Senate. Up until the last speaker spoke, there had been no mention of the Lincoln Pulp and Paper site. I would like to point out to you that to date, \$2.3 million in site surveys, in licensing requirements; licenses have not been granted yet, but in license requirements; have been spent. The property has not been purchased yet. If we were to turn our back on it today, and the licensing continues, it would belong to Lincoln Pulp and Paper, and we would have given them a gift of \$2.3 million. For the additional \$500,000 that site will become the property of the State of Maine and will be the second site. Sawyer's is almost full, Norridgewock is filling up very fast. There are no other sites in the State. This site, in a remote township to the east of Lincoln has been tested, will be licensed very shortly, and will become ours upon the payment of the \$500,000. That site, I would tell you, if this Legislature doesn't want to run a landfill, could pass a law which would allow yet one more commercial landfill in the State, and that site would be worth anywhere from \$12 million to \$15 million on the market. If, at that point, the State decides they don't want to get into the landfill business, they could pass this law, allow one more commercial site, and reap a \$12 million to \$15 million, not a profit because by then we would have \$2.8 million involved, but at least we would get a return on our money. If we don't go ahead with this bill we will just simply lose the investment that we already have in there. So, I would hope that you do not support the Minority Report, and yet go along with the Majority Report, which was a seven to six report of the Committee.

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

Senator HATHAWAY: Thank you Mr. President, Ladies and Gentlemen of the Senate. Once again, I would like to point out that L.D. 203 has to do only with the fees, and not what the money is spent for. I would be happy to stand here and argue the merits of whether or not we should continue to pay the

\$500,000 to Lincoln Pulp and Paper contract, when, in fact, the \$500,000 is already set aside for it, given in the supplemental budget earlier this year. The fact is that the State, even though advertising that they don't want to be in the business, has a monopoly on the business, and, in fact, is the only one that can operate the site, the only one that can buy the site, the only one that can permit the site. That is a whole different issue, one which I would love to debate at any other time. The issue is a return of our money. I would like to point out that it is not our money. Every dollar that we collect, after October 1, is their money, the taxpayers money. Every dollar, every \$5 fee. If we want to put it to any use then we should tell them what we are using it for, and we should get it out of the General Fund if we want to fund those 9 people in DEP, we should get it out of the General Fund like we used to. We shouldn't scam the people of this State, telling them that we are collecting fees to use for one purpose, and use it for a totally different purpose. If we are going to terminate this agency, we should terminate these fees, and we should do it now.

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

Senator **RUHLIN:** Thank you Mr. President, Honorable Senators of Maine. Here it is, 6:30 on a nice spring night, the rhetoric sure does go on, and on, and on, and on. I would ask you to bear with me for just a couple of moments, just consider a couple of things, basic facts, nothing more than that. First of all, when you buy a battery, that doesn't make you a taxpayer. It makes you a consumer. So these are consumer dollars, not taxpayer dollars. There's nobody taxing someone, these are consumers. When you buy a bed, you are a consumer, you're not a taxpayer. When you buy a mattress, you are a consumer. When you consume you contribute to the waste stream. When you contribute to the waste stream, you contribute to the problem this State has in handling its waste. So, we ask you to pay a fee to help us, it's called a user fee in many areas, we ask you to pay a fee to help us handle that problem. The issuing of licenses through DEP, the issuing of all of these various things that we do to control the stream of waste, so we don't start swimming in it, is done with these dollars. These dollars are put to use by the Department. You can abolish the Waste Agency. I think they had 16 employees, 10 of those are gone. We have done a better job, I think, than any other department. It's gone. Those jobs don't exist anymore. They're gone. We had to keep six, because somebody has got to do some record keeping. Somebody has got to keep an eye on what's going on, so those jobs were transferred to the State Planning Agency. There is still somebody who has to issue the licenses, that check on the solid landfills, to check on Norridgewock and make sure they don't flood the Town of Norridgewock with the trash. We have to have some people at DEP to do that. They are going to get paid with these dedicated funds. It's a user fee. It's from consumers who consume the products that go into the waste stream. I hope you will keep that in mind when you vote. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. I have very few regrets in my legislative service. Regrets of votes I have taken. Because to me it has been a complaint that has been lodged to me that I do see the world as black and white. I will tell you, I was hornswoogled, and I am going to have an opportunity tonight to remedy that vote. That was a vote I took as a member of the other Body, to impose these fees on the people of the State of Maine. I was just a young legislator then, naive and idealistic. I listened to the rhetoric of the good Representatives of the other Body. That rhetoric told me that if I voted for this, this fee on the people of the State of Maine, that money would go directly back to the municipalities for them to deal with the tires, the mattresses, the white goods. Well, imagine my chagrin when I found out that wasn't the case. When I went back to my towns and they said, "Where's the money? Where are the fees?" When I went to my local tire dealers and they asked where this money was going. I found out, some of it, yes, went back through grants, but the bulk of it, as far as for the agency, was not utilized for the purpose I was told. I was sold a false bill of goods. I could not concur more with the good Senator from York, who says it's time for us to start being honest with the people of the State of Maine. If we are not going to have the agency, that these fees were put on for, then we should do away with those fees and we should not wait, we should do it now. I thank the Committee for sending this forth, so I can remedy that vote many years ago.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **HATHAWAY** of York that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B"** (S-191) 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: **BENOIT, BERUBE, CASSIDY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, PENDEXTER, SMALL, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **ABROMSON, AMERO, BEGLEY, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, PARADIS, RAND, RUHLIN, STEVENS**

ABSENT: Senators: **BUSTIN, LORD, O'DEA, PINGREE**

12 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 4 Senators being absent, the motion of Senator HATHAWAY of York to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-191) Report, FAILED.

The Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-190) Report ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-190) READ and ADOPTED.

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

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

Bill "An Act to Increase Moose Hunting Permit Application Fees"
H.P. 841 L.D. 1172
(C "A" H-263)

Tabled - May 30, 1995, by Senator HALL of Piscataquis.

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

(In House, May 24, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-263).)

(In Senate, May 30, 1995, READ A SECOND TIME.)

On motion by Senator HALL of Piscataquis, the Senate SUSPENDED THE RULES for the purpose of RECONSIDERATION.

On further motion by the same Senator, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-263), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-205) to Committee Amendment "A" (H-263) READ.

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

Senator HALL: Thank you Mr. President, Members of the Senate. This is basically a bookkeeping move, whereas under L.D. 1172 we anticipate increased revenue to the Department of Fish and Wildlife to the tune of \$215,600. Basically, what we are doing with this amendment is we have a carryover account, consider it, if you would, like a savings account. Out of next year's budget we anticipate taking three quarters of a million out of that savings account.

What we want to do with this anticipated revenue, it has to be appropriated to something, so we are going to appropriate this to the general operating budget of Fish and Wildlife and decrease taking out of the savings account by this same amount. That's basically what we are trying to do with this amendment. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-205) to Committee Amendment "A" (H-263) ADOPTED.

Committee Amendment "A" (H-263) as Amended by Senate Amendment "A" (S-205), thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, sent forthwith.

Off Record Remarks

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

On motion by Senator LONGLEY of Waldo, ADJOURNED in memory of Senator Margaret Chase Smith of Skowhegan, until Thursday, June 1, 1995, at 8:30 o'clock in the morning.