

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

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

In Senate Chamber
Monday
June 12, 1995

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

Prayer by the Reverend Darryl Witmer of the Monson Community Church in Monson.

REVEREND DARRYL WITMER: Your Sergeant-at-Arms has repeatedly encouraged me to be comfortable and to enjoy myself, and even to bring a word of greeting, so greetings from Piscataquis County, Monson, Maine, up on the Moosehead Trail, home of Moosehead Furniture Manufacturers and Monson Slate and all the moose that Newt Gingrich would ever want to see. He wouldn't have to get up at five o'clock in the morning to see them up our way. We saw seven on the way back and forth to Greenville just last week. Shall we pray?

Eternal and Almighty God, we now pause, bowing in reverence before thee in this morning's hour. Mindful of thy greatness, of thy holiness, and of thy great power in all of the earth, hallowed be thy name. We recognize, oh God, that with you alone is all wisdom and understanding, and that in you alone is all rule and authority. We acknowledge that apart from you we can do nothing, but know that with you all things are possible. We need you to remind us that thine is the kingdom and all of the power and the glory and we need you to forgive us when we try to claim for ourselves the kingdom or the glory or the power that rightly belongs to you. We need you to forgive us when we fail to look up, and when we fail to bow down, or to walk faithfully in the light of your lordship. This morning, oh Lord, we are very grateful for all of your provision and your protection and blessing in our lives. For this new day, and this new week, and for all of the opportunities that are before us to be a blessing to others who may be depending or counting on us as stewards of your grace. We want to be faithful to the privilege that is ours as citizens of America, and we pray your blessing on America today. We pray for President Clinton and his administration. We pray for Governor King and his administration. For all of our Congressional leaders in Washington. And, for our Judiciary and our Supreme Court Justices. Now, most especially, we pray on behalf of our State Legislators here in Augusta, and in particular on behalf of these State Senators and their staffs and their families. We are mindful, especially, of Senator Hathaway and his family, and ask your blessing and comfort to be theirs in this time of

loss and adjustment. I would also pray that you would grant them knowledge and wisdom for their very important work and endow them all with a sense of responsibility, as well as a spirit of humility. Deliver them from selfish interests. Cause them to rule in your fear and according to your will. We are grateful for your revealed word in the scriptures to which we can look for a standard of absolute truth and morality and as inspired wisdom for making even the most difficult decisions.

Now, also Lord, if there be someone here this morning, whether a Senator or a janitor or an aide, carrying a personal burden, or dealing with fear or anxiety or loneliness, or facing some crisis, I pray that you might make known to them your love and sufficiency and your power to heal and to save and to comfort and restore. We are dependent on you to deliver us from temptation and to move us through all of the trials of our lives. Draw us to know you. You to know is life eternal. We commend our day and our way to you and with thanksgiving I am bringing these requests to you, in the name of Christ. Amen.

Pledge of Allegiance led by Senator HALL of Piscataquis.

Off Record Remarks

Reading of the Journal of Thursday, June 8, 1995.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Clarify the Responsibility of an Insurance Agent in the Disclosure of Information"
H.P. 788 L.D. 1105
(S "B" S-177 to C
"A" H-252)

In Senate, May 24, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-252) AS AMENDED BY SENATE AMENDMENT "B" (S-177), thereto, in NON-CONCURRENCE.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-252) AS AMENDED BY HOUSE AMENDMENT "A" (H-403)**, thereto, in **NON-CONCURRENCE**.

Off Record Remarks

On motion by Senator **ABROMSON** of Cumberland, the Senate **RECEDED** from its action whereby the bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-252) AS AMENDED BY SENATE AMENDMENT "B" (S-177)**, thereto, in **NON-CONCURRENCE**.

On further motion by the same Senator, the Senate **RECEDED** from its action whereby it **ADOPTED** Committee Amendment "A" (H-252) as Amended by Senate Amendment "B" (S-177), thereto, in **NON-CONCURRENCE**.

On further motion by the same Senator, the Senate **RECEDED** from its action whereby it **ADOPTED** Senate Amendment "B" (S-177) to Committee Amendment "A" (H-252).

On further motion by the same Senator, Senate Amendment "B" (S-177) **INDEFINITELY POSTPONED**.

On further motion by the same Senator, Senate Amendment "D" (S-241) to Committee Amendment "A" (H-252) **READ**.

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

Senator **BUSTIN:** Thank you. Would somebody please explain to me what this amendment does and if it has the approval of the Banking and Insurance Committee? Thank you.

THE PRESIDENT: The Senator from Kennebec, Senator Bustin, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Abromson.

Senator **ABROMSON:** Thank you Mr. President. This amendment, which as you have heard, is five or six down the road, has the approval of the Committee on Banking and Insurance. What happened was there was a lot of technical amendments, and finally, I believe and hope, all parties agree to this. Thank you.

On motion by Senator **ABROMSON** of Cumberland, Senate Amendment "D" (S-241) to Committee Amendment "A" (H-252) **ADOPTED**.

House Amendment "A" (H-403) to Committee Amendment "A" (H-252) **READ**.

On motion by Senator **ABROMSON** of Cumberland, House Amendment "A" (H-403) to Committee Amendment "A" (H-252) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Committee Amendment "A" (H-252) as Amended by Senate Amendment "D" (S-241), thereto, **ADOPTED** in **NON-CONCURRENCE**.

The Bill **PASSED TO BE ENGROSSED, As Amended** in **NON-CONCURRENCE**.

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

SENATE PAPERS

Bill "An Act to Extend the Reporting Deadline for the Blue Ribbon Commission on Hunger and Food Security"

S.P. 583 L.D. 1568

Presented by Senator **PARADIS** of Aroostook

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

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

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Allow Smoking in One-room Establishments with Lunch Counters That Post Smoking Signs"

H.P. 984 L.D. 1392

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

Signed:

Senators:

PENDEXTER of Cumberland
BENOIT of Franklin
PINGREE of Knox

Representatives:

FITZPATRICK of Durham
JOYNER of Hollis
SHIAH of Bowdoinham
MARVIN of Cape Elizabeth
ETNIER of Harpswell
MITCHELL of Portland
LOVETT of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-324).**

Signed:

Representatives:

JOHNSON of South Portland
WINGLASS of Auburn
JONES of Bar Harbor

Comes from the House with the Minority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-324).**

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 As Amended

Senator **ABROMSON** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Amend the Laws Relating to Education"

S.P. 542 L.D. 1479

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-235).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-235) **READ** and **ADOPTED**.

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

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Clarify Insurance Coverage Regarding Breast Reconstruction after Mastectomy Surgery"

S.P. 80 L.D. 168

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-229).**

Signed:

Senators:

ABROMSON of Cumberland
SMALL of Sagadahoc
MCCORMICK of Kennebec

Representatives:

CHASE of China
GATES of Rockport
JONES, JR. of Pittsfield
MAYO, III of Bath
SAXL of Portland
MITCHELL of Vassalboro

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-230).**

Signed:

Representatives:

CAMPBELL of Holden
GUERRETTE of Pittston
LUMBRA of Bangor
VIGUE of Winslow

Which Reports were **READ**.

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

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Resolve, to Direct the Bureau of Insurance to Review the Uniform Classification System Used in Workers' Compensation Insurance

S.P. 157 L.D. 419

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-233).**

Signed:

Senators:

ABROMSON of Cumberland
SMALL of Sagadahoc
MCCORMICK of Kennebec

Representatives:

VIGUE of Winslow
CAMPBELL of Holden
CHASE of China
GATES of Rockport
GUERRETTE of Pittston
JONES, JR. of Pittsfield
LUMBRA of Bangor
PAUL of Sanford
SAXL of Portland

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

Signed:

Representative:
MAYO, III of Bath

Which Reports were **READ.**

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED.**

The Bill **READ ONCE.**

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

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Protect the Rights of Children Who Have Been Victims of Sexual Abuse"

S.P. 533 L.D. 1471

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-208).**

Signed:

Senators:
BENOIT of Franklin
HALL of Piscataquis
O'DEA of Penobscot

Representatives:
CLARK of Millinocket
BUNKER, JR. of Kossuth Township
CLUKEY of Houlton
MCALEVEY of Waterboro
WATERHOUSE of Bridgton

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

Signed:

Representatives:
GOOLEY of Farmington
PEAVEY of Woolwich
THOMPSON of Naples
WHEELER of Bridgewater
JOHNSON of South Portland

Which Reports were **READ.**

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-208) **READ** and **ADOPTED.**

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

Divided Report

The Majority of the Committee on **LABOR** on Resolve, Concerning the Workweek of Department of Corrections Personnel

S.P. 505 L.D. 1364

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

Signed:

Senators:
BEGLEY of Lincoln
MILLS of Somerset

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" (S-232).**

Signed:

Senator:
RAND of Cumberland

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

Which Reports were **READ.**

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

Off Record Remarks

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Increase the Number of Signatures Necessary for a Candidate to be Listed on a Ballot"

S.P. 403 L.D. 1091

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

Signed:

Senators:

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

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-237).**

Signed:

Senator:

MICHAUD of Penobscot

Representatives:

MURPHY of Berwick
TRUE of Fryeburg

Which Reports were **READ.**

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

SECOND READERS

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

House As Amended

Bill "An Act to Strengthen the General Fund's Unappropriated Surplus" (Emergency)

H.P. 268 L.D. 370
(C "A" H-380)

Resolve, Directing the Attorney General to Review Standards for Reporting Suspected Sexual and Physical Abuse of Minors

H.P. 1013 L.D. 1428
(C "A" H-385)

Bill "An Act to Provide Services for Children in Need of Supervision"

H.P. 1073 L.D. 1508
(C "A" H-382)

Bill "An Act Authorizing the Judicial Supervision of the Disclosure of Utility Records to the Attorney General"

H.P. 1076 L.D. 1515
(C "A" H-384)

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

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (Emergency)

H.P. 516 L.D. 706
(C "B" H-387)

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Consolidate the Functions of the Bureau of Consumer Credit Protection within the Bureau of Banking in Order to Streamline the Regulation of Creditors and Financial Institutions"

S.P. 294 L.D. 792
(C "A" S-234)

Bill "An Act to Establish Temperature Limits for Certain Existing Discharges" (Emergency)

S.P. 328 L.D. 909
(C "A" S-231)

Bill "An Act to Reduce Duplicative Reporting"

S.P. 385 L.D. 1062
(C "A" S-228)

Bill "An Act Concerning the Sites for Western Aroostook District Court"

S.P. 572 L.D. 1552
(C "A" S-226)

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

Sent down for concurrence.

Divided Report

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

The Majority of the Committee on **LABOR** on Bill "An Act to Allow Terminated Employees to Recover Damages from Employers Who Refuse to Provide a Written Reason for Termination"

S.P. 485 L.D. 1319

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

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

COMMITTEE REPORTS

Signed:

Senate

Senators:

Divided Report

BEGLEY of Lincoln
MILLS of Somerset

The Majority of the Committee on **LABOR** on Bill "An Act to Allow Employees to Recover Damages from Employers Who Refuse Access to Personnel Files"

S.P. 484 L.D. 1318

Representatives:

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

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-239).**

Signed:

Signed:

Senators:

BEGLEY of Lincoln
MILLS of Somerset

Senator:

RAND of Cumberland

Representatives:

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

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-238).**

Which Reports were **READ.**

Signed:

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

Senator:

RAND of Cumberland

Representatives:

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

Senator **BUSTIN** of Kennebec was granted unanimous consent to address the Senate off the Record.

Which Reports were **READ.**

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

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

On motion by Senator **BUSTIN** of Kennebec, **RECESSED** until 3 o'clock this afternoon.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Reform the Kennebec County Budget Process"

H.P. 1122 L.D. 1566

Bill "An Act to Establish a User Fee System for Towns Requiring Sheriff's Services"

H.P. 1125 L.D. 1570

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

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

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

Bill "An Act to Facilitate Sewer and Water Main Extensions"

H.P. 1123 L.D. 1567

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

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

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

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

COMMITTEE REPORTS

House

Committee of Conference

The Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Increase the Tax Exemption on Church Properties"

H.P. 284 L.D. 388 (C "A" H-71)

Have had the same under consideration and ask leave to report that they are Unable to Agree.

Signed on the part of the House:

Representative TUTTLE of Sanford
Representative TRIPP of Topsham
Representative MURPHY of Berwick

Signed on the part of the Senate:

Senator HALL of Piscataquis
Senator BEGLEY of Lincoln
Senator RAND of Cumberland

Comes from the House with the Report READ and ACCEPTED.

Which Report was READ and ACCEPTED, in concurrence.

Ought to Pass As Amended

The Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Improve Maine Students' Preparedness for the Global Economy by Enhancing Opportunities for Global Education"

H.P. 716 L.D. 973

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-396).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-396).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-396) READ and ADOPTED, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Prevent the Loss of Federal Impact Aid Funds to Schools Required to Reimburse under Federal Law"

H.P. 722 L.D. 996

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-397)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-397)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-397) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, to Create Educational Options for Exceptional Children

H.P. 1054 L.D. 1483

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-398)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-398)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (H-398) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding School Construction in School Administrative District No. 49" (Emergency)

H.P. 1092 L.D. 1535

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-399)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-399)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-399) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Make the Workers' Compensation Laws for Temporary Employees Consistent with Those Laws for Permanent Employees"

H.P. 85 L.D. 121

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-401)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-401)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-401) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act to Reestablish the Office of Environmental Evaluation and Lake Studies"

H.P. 1031 L.D. 1450

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-395)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-395)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-395) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require the Commissioner of Defense and Veterans' Services to Be Confirmed by the Legislature"

H.P. 935 L.D. 1324

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-394).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-394)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-394) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Create Fair School Bus Driver Licensing"

H.P. 950 L.D. 1339

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-388).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-388)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-388) **READ** and **ADOPTED**, in concurrence.

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 Allow the Sale of Irradiated Food in the State

H.P. 437 L.D. 603
(C "A" H-128)

An Act to Amend the Laws Regarding Use and Acquisition of State Property

S.P. 250 L.D. 647
(C "A" S-201)

An Act to Limit the Size of Drag Nets Used in South Bay in Eastport

H.P. 605 L.D. 815
(C "A" H-358)

An Act to Transfer Responsibility for Approval of Employee Assistance Programs

S.P. 350 L.D. 978

An Act to Amend the Probate Code Regarding Conservators

H.P. 911 L.D. 1287
(C "A" H-327)

An Act to Make Certain Changes to Postconviction Review

H.P. 955 L.D. 1344

An Act to Make Minor Adjustments to the 1993 Apportionment Plan

H.P. 977 L.D. 1386
(C "A" H-340)

An Act Pertaining to the Purchase Deposit on Automobiles

H.P. 1014 L.D. 1429
(C "A" H-326)

An Act to Prohibit the Sale of Firearms to Minors without Parental Approval

S.P. 550 L.D. 1509
(C "A" S-199)

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 Repeal Point-of-sale Fees for Future Disposal of Certain Items

S.P. 84 L.D. 203
(C "A" S-190)

Senator HANLEY of Oxford moved to place on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Senator HARRIMAN of Cumberland requested a Division.

Senator HANLEY of Oxford requested and received leave of the Senate to withdraw his motion to place on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

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

Senator HANLEY: Thank you Mr. President, Men and Women of the Senate. The reason this has been flagged to be placed on the Special Appropriations Table is because there is a potential budget conflict with this measure and L.D. 706, which is making its way through the body. Because these items would be in conflict, it is necessary to have this item placed on the Special Appropriations Table at this time. After the budget is resolved appropriate action can be taken.

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

An Act to Amend the Continuing Care Retirement Community Law

S.P. 338 L.D. 919
(C "A" S-194)

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

An Act to Exempt Goods Sold by Scouting Organizations from the Sales Tax

H.P. 776 L.D. 1073
(C "A" H-338)

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

An Act to Promote Long-term Economic Development through the Establishment of the Maine Technology Investment Fund

S.P. 511 L.D. 1370
(C "A" S-196)

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

An Act to Preserve Deteriorating and Irreplaceable Historic Battle Flags and Banners
S.P. 523 L.D. 1421

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

Emergency

An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1996 and June 30, 1997
H.P. 522 L.D. 712
(C "A" H-348)

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 Granting of Hotel Liquor Licenses to Establishments

H.P. 830 L.D. 1161
(C "A" H-330)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

H.P. 934 L.D. 1315
(C "A" H-337)

Resolve, Directing the Board of Osteopathic Licensure and the Board of Licensure in Medicine to Review Maine State Licensing Requirements for Medical Professionals Performing Medical Procedures for Maine Residents

S.P. 534 L.D. 1472
(C "A" S-197)

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

Emergency Resolve

Resolve, Establishing a Commission to Study the Trespass Laws

H.P. 954 L.D. 1343
(C "A" H-344)

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

Mandate

An Act to Amend the Medical Examiner Act
S.P. 438 L.D. 1206
(C "A" S-198)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Mandate

An Act to Amend the Kennebec Water District Charter by Allowing the Town of Vassalboro and the Town of Benton to have a Permanent Member on the Board of Trustees

H.P. 461 L.D. 627
(H "A" H-373)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

COMMITTEE REPORT

Senate

Ought to Pass As Amended

Senator **ABROMSON** for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Extend the Final Determination of a Fresh Start Policy Year Status"
S.P. 299 L.D. 838

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-240)**.

Which Report was **READ**.

On motion by Senator **KIEFFER** of Aroostook, Tabled Unassigned, pending **ACCEPTANCE** of the Report.

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

SECOND READERS

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

Senate As Amended

Resolve, to Direct the Bureau of Insurance to Review the Uniform Classification System Used in Workers' Compensation Insurance

S.P. 157 L.D. 419
(C "A" S-233)

Bill "An Act to Protect the Rights of Children Who Have Been Victims of Sexual Abuse"

S.P. 533 L.D. 1471
(C "A" S-208)

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

Sent down for concurrence.

Bill "An Act to Amend the Laws Relating to Education"

S.P. 542 L.D. 1479
(C "A" S-235)

Which was **READ A SECOND TIME.**

On motion by Senator **CARPENTER** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-235).

On further motion by the same Senator, Senate Amendment "A" (S-247) to Committee Amendment "A" (S-235) **READ** and **ADOPTED.**

Committee Amendment "A" (S-235) as Amended by Senate Amendment "A" (S-247) thereto, **ADOPTED.**

The Bill **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

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

HOUSE REPORTS from the Committee on **HUMAN RESOURCES** on Bill "An Act to Allow Smoking in One-room Establishments with Lunch Counters That Post Smoking Signs"

H.P. 984 L.D. 1392

Majority - **Ought Not to Pass.** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-324).** (3 members)

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

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, June 8, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-324).**)

(In Senate, June 12, 1995, Reports **READ.**)

Senator **PENDEXTER** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE.**

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

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like us to take a few moments, before we act on this bill, really to look at its consequences and the alternatives available. To continue not to pass this legislation would put an enormous burden on small businesses, small variety stores with a lunch counter. An alternative is available to us and I hope that you will reject this motion so we may go to that alternative that would provide for an opportunity for small variety stores, which happen to have a lunch counter and few seats and serves eggs in the morning with a cup of coffee to a few visitors, to be able to post a sign that says that smoking is allowed within that establishment. The reason that I ask you to consider not voting for this motion is that too often here, and I think this is one more example, is that we seek to impose perfection on each individual and each business when perfection is not the best outcome, nor is it possible. Really, in a situation where we have a small variety store, and there are only a few that also have a lunch counter and few seats where patrons can come in in the early morning to have a cup of coffee and talk over the days events, meet with their friends and try to solve the problems of the world. It's a gathering place, a town meeting hall in a lot of your local communities. Within that atmosphere it is physically not possible for those folks to separate out smoking and non-smoking situations. It's usually a small one-room situation, they don't have a separate kitchen. They cook on grills right there behind the counter so they aren't able to create a realistic smoking and non-smoking section. Frankly, those who have attempted to do so, find two or three benches at the end of the counter that they call non-smoking, and the rest of them are smoking and it achieves no real purpose anyway, nor does it meet the letter of the law. Really I think that many of these small businesses can make informed decisions, and the consumers there can make their decisions as well. It's not a case as though there isn't a choice that you can't go to another variety store, if, for some reason, you are opposed to smoke or it is troublesome to you. There are lots of places to go to eat. The problem is there are those who like to come and, when they have their breakfast or their lunch, like to light up a cigarette. What happens is, when the law is enforced, they tend not to come to those establishments. Really, these small lunch counters in variety stores are a tradition in Maine. It's where people gather. It's where many of us go to campaign to meet local folks and find out what the mood and opinion of the local public is. The individuals, owners and customers, can make decisions on what is best for them.

Let me suggest to you why this is important. I bring it up because I think it has a tremendous impact and I happen to have an insight that I think perhaps many of you haven't had the experience of yet. There are only four communities, currently, in the State of Maine that are allowed to enforce this law at the local level. My home city of Auburn, Lewiston, Portland and South Portland. The rest of it is enforced by the Department of Human Services.

They are now down ten inspectors so what is happening is it is not being enforced, because there aren't inspectors to do it. Of the four communities that I mentioned to you, only one, mine, happens to have a very diligent health inspector who is vigorously enforcing this law. It's on the book, it ought to be enforced, and she is enforcing it. The situation that we are having is we have a particular variety store, called Mark's Variety. They have a lunch counter, they have been there forever. They serve some eggs in the morning and a sandwich at noontime. Folks come in and talk things over. In this particular situation they can't separate it out and they have been told that if they don't abide by the law, it's not a fine, it's not a money cost, they are not going to issue them a license to operate. They are going to shut that business down. Since they have been enforcing this law, this particular business, and I think you will find it for many variety stores once they begin to enforce this law statewide, this is a warning to you. This store has lost 50% of its business due directly to this action. No other cause. They were doing \$1.2 million worth of revenue a year. Now they are doing about \$600,000. They have had to lay off four employees to make their budget balance, and what is happening is the folks who used to come there are going to Lewiston because they are not enforcing it, or they go to Minot or Mechanic Falls or some other establishment where the law isn't being enforced. So, it's just driving customers away to another location. It's not as though individuals who come there don't have a choice. There's a restaurant right across the street, Denny's, that has no smoking. They serve all the same kinds of food and are open twenty-four hours a day seven days a week. Folks are free to use that restaurant or McDonald's or lots of other places where they have either no smoking or non-smoking. But, the particular patrons of this store come because they do have a cigarette when they eat.

Not only have they lost the lunch counter business, which has meant some money, but they have also lost thousands and thousands of dollars in casual sales. While people were in there having their breakfast they remembered they had to pick something up. If they stopped in at noontime they remembered they needed to bring a quart of milk or a loaf of bread home. They have lost tens of thousands of dollars in casual sales as well. These small businesses have survived enormous challenges. They have survived Sunday sales, where they now compete with the big stores. They have survived competition from the large supermarkets that are open late into the evening or twenty-four hours a day. Some of them have tried to have a video section and rent out some videos to make a little extra money, and they have had enormous competition from large international and national video chain stores which has undercut their business. In this particular case they have also tried to extend it to have an agency liquor store, only to be undercut, once again, by Hannaford Brothers, who has a large store in the neighborhood. Really, this is only the beginning of the iceberg. What we are saying here is let's be fair. Let individuals decide what's best. Let's not look for perfection. People have choices and options that come in and there are many exceptions that already exist in the law. Bars can currently allow smoking.

beano and bingo halls allow smoking within their establishments. Restaurants can have separate sections. Bowling alleys allow smoking within their establishment. This is one of those that ought to fit in there if we really mean that we want to support small businesses.

Local individuals can make choices on where they wish to patronize and where they wish not to. We allow restaurants to make choices, or the little bars to make choices. If they don't wish to be smoking they can do that. Individuals can choose to go some place else. If we really mean that we want to support small business, if we really want to get government out of people's lives, get the intervention out where it is not necessary, where it doesn't achieve a useful purpose, this is one where we ought to support a change to the law. If we fail to do this, we are going to drive many small, local businesses out. People who have worked very hard, the little mom and pop variety stores, people who have mortgaged their homes, who have built these businesses over years and years of hard labor are going to find that they just cannot survive with this imposition. We simply ask you to let people make a choice. They can come in and patronize it, knowing full well they have been notified in advance that there is smoking allowed in that establishment, or they can choose not to. The customers can do that as well as the owner, who can decide whether or not it is best for his customers and his business to do that. I think there will be little, or minimal impact on the individuals to do that. But it will make an enormous difference if these small variety stores with these small lunch counters are to survive. They are not going to be able to do it otherwise and I strongly urge you to reject the motion on the floor, so that we make the motion to amend Committee Amendment "A". 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. I rise to disagree with the good Senator from Androscoggin. This is not a matter of small business or a matter of choice, this is a matter of public health. We do offer choices to our residents in the state, and I hope this legislature will continue to provide that choice, and that is entire legislatures, and I hope we will continue to support that choice, have said that in public places we will provide a smoke-free atmosphere. As much as I am against the whole smoking issue, those of you who know me well know that this is one of my hot buttons. I can go on and on and on on this issue, however, this is all about providing people who smoke, they can do whatever they want within the privacy of their homes. They made that decision to smoke, so be it for them. I will not judge people who smoke, however, when we are talking about public places, it's a totally different issue. I just want to correct a few things that the good Senator stated. When we talk about variety stores, we call them variety stores for a reason, because they all vary. One variety store certainly doesn't equal another variety store, and in the amendment that is presented in the other report, variety store is not defined. I know a variety store that has a pharmacy in it. As rural as we are in this state, some people

don't have any choices, that is the only variety store they can go to within twenty or thirty miles of their residence. In this particular pharmacy this is where they have their prescriptions filled. I find it ironic that people with respiratory problems, probably in some scenarios if this bill passes, will have to stand at the pharmaceutical counter and wait for their prescriptions for their inhalers, or whatever, and inhale tobacco smoke. It just doesn't make sense and I feel that if we vote against the ought not to pass motion, we will be moving backwards and this is not the way we should be going.

The penalty is merely, and I have a summary of the bill in front of me, a \$100 fine. There is no way, that I can see, that a business can be closed if they refuse to comply with this law. So, I think the community of Auburn is perhaps overstating the law. I don't see anywhere where that should happen. I just want to remind, while I'm on my feet, that those of us who have chosen not to smoke, when we are in the presence of what we call environmental tobacco smoke are, indeed, smoking. It's been proven, scientifically, that the same substances, and there are only about 4,000 of them, and they are considered poisonous gas, they are considered cancer producing agents, that those same substances that a smoker inhales at the end of a cigarette, are also the same substances that we all inhale when we are breathing in tobacco smoke. This is always the basis of my whole argument and why I adamantly oppose the choice issue when it comes to environmental tobacco smoke in public places, because there is no choice if you have to go into a smoke-filled place. I feel that when it is a public place we, as a legislature, certainly have a right to say that that place should be smoke-free in the name of public health.

You have on your desks the Moody's Diner article. I only use it to show you the scerio with Dotty Moody, who never smoked a cigarette in her life, and yet after waiting on tables and working in a smoke-filled atmosphere for thirty years had lungs that were as black as any smokers. Another example I always like to share is the Foundation for Blood Research, which is a research lab in Scarborough, who did a research study on infants. In fact, the office I work in participated in the project where we would send off wet diapers from the two-month visit. It was basically a study to see if infants were affected with tobacco smoke. To make a long story short, when you inhale tobacco smoke it has been found that you excrete, in your urine, a by-product of nicotine. So, they did a study on infants, and it was proven, they were able to find, by-products of nicotine in babies diapers. It was all related to the amount of tobacco smoke in the home. If there was just one parent, the presence of that substance was not as much as if there were two parents smoking. So, I say to you, I don't know what else I need to say other than if we can find nicotine by-products in the diapers of our babies, I don't know what else I have to say to you to convince you that we are all smoking, we are all exposed to environmental tobacco smoke. So, I hope that you will stick with the decisions that we have made in the past. As you continue to, in public places, maintain the fact that we do need to have that choice, and that choice is that we should all be able to breathe in smoke-free air. I ask you to support the motion on the floor. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It is always a pleasure to be able to stand up as a liberal and propose legislation on freedom of choice. The idea of the previous bill that was passed dealing with smoking in public places would have some credibility to it had it said across the board, there will be no smoking in public places. It did not do that. There are any number of reasons why it didn't, and I cannot explain that to all of you because some of you voted for it and some voted against it. But, it did not close off smoking in public places. It had exceptions. The idea, again, of a person running a business, and wishing to have some choice of how he runs his business, and being able to publicize what is going to be allowed inside his business, puts him at risk to be successful or unsuccessful. He should have that choice. I applaud Moody's Diner. I did two years ago on this floor, when they, before the law was passed, came out with a choice and said we will not allow smoking in our establishment. Certainly, I am sorry of the fact that Dot Moody died of lung cancer. I knew her and I knew her children and of course anything as sad as that certainly is touching. But, at the same time, remember that Moody's closed off by choice. The fact of this family member being caught in that certainly attributed to some of their decision, no argument, but at the same time it was a choice.

The people today are asking, once again, to give the small businessman the same choice that you gave to the restaurants, that you gave to the barrooms, and that you gave to some establishments, such as bowling allies and so forth. Again, the individual should have the right to run his business the way he wants.

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

Senator **CLEVELAND:** Thank you Mr. President, Men and Women of the Senate. This is really not a question about whether smoking is good for you or bad for you. We know the health risks of smoking. We know that everyone should stop smoking. As a matter of fact, if we really wanted to reduce cost and expenses, and save people's lives, we should make it illegal for people to smoke altogether. So, this isn't a question of whether smoking is good or bad. It's obvious that it's bad, and it's obvious that we ought to provide as many opportunities in legitimate public places, where there is not a choice to go someplace else, that individuals are not continually exposed to this. What we are talking about here are little mom and pop stores. They have a little lunch counter because they are trying to supplement their income because they don't sell enough Pepsi and bread and Twinkies to make it, so they try something else to go with it. Many of their patrons are addicted to smoking. They love to come in and socialize and they love to have a cigarette. Having that cup of coffee is not the same for them if they don't have the cigarette. I wish they didn't smoke. My mother has been smoking for fifty years and I have been trying to get her to stop. She has tried diligently and she

can't. There are lots of other people that way too, who frequent these kinds of businesses. If it's perfection that we are looking for, and what we are trying to do is save everyone, then why don't we tell bowling alleys that you can't smoke in there. Because there are other people who are going to bowl who may not want to breathe that smoke. We don't. Why don't we tell people who go to bingo halls, and if you have ever been to one there's more smoke coming out of there than a smokestack of an industrial plant, that you ought not to allow that because there are lots of folks in there who may not want to breathe it. We don't do that. If we are really concerned about people's health then let's tell the bars that they can't allow smoking. Or, if you ever go to a restaurant, I have been to several of them that have a smoking and a non-smoking section divided by a planter. I'm sure that planter is sucking up a lot of the smoke, but it's not getting all of it. It comes over to my table, but I recognize that and I make a choice as to whether I want to sit there or not. I decide. If I'm an employee of a bar, I work in an atmosphere where there may be some smoking. If I'm an employee of a restaurant, I have to wait on the tables where they smoke as well as the tables where they don't smoke. So if what we really want to do is say we want to protect everyone then let's do it, and let's intervene in everybody's lives, and let's tell everybody how to run their business and run their lives, and let's tell all adults what kind of choices they can make or can't make. We are talking about little variety stores. Only the ones with the lunch counter that has a few seats and serves some scrambled eggs and a cheeseburger once in a while. There are only a handful of them around the state, and I suggest to you there are darn few places in this state where there isn't a choice between going to someplace to get whatever it is you wanted to go into that variety store for, and someplace else you could go where you felt it wasn't abusive with smoke. You could choose that as a customer. That's all we are saying to do. I think it's about time that we listen to the needs of individuals and allow them some opportunity and give them the credit they deserve to make decisions. They are not all helpless children. We don't have to make decisions for every single one of them as long as there is opportunity where they can make a decision to go to another place. I strongly urge you, please don't turn a deaf ear, a blind eye, and a cold heart to these people who are struggling to make a living, and the customers who wish to patronize them and wish to be able to have a cigarette with their cup of coffee. If we really are intently interested in helping the small business person, here is a very small thing we can do, and I suggest to you, without taking one tiny step backwards towards our position that smoking isn't appropriate, that people ought to quit, and that they ought to have choices where choices are necessary and they will have one. They will go to the establishments where they can buy their bread and have a cup of coffee and a plate of eggs where they don't have smoking. Just allow those folks who are in business an opportunity to stay in business.

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

Senator PENDEXTER: Thank you Mr. President, Men and Women of the Senate. When this bill was presented to us in Committee, it was in the scenario that this was an enforcement issue, that Auburn is having a problem because the law is being enforced versus the city across the river that wasn't being enforced. So, if we are going to start changing legislation around here because of laws not being enforced, then I guess we have a lot of laws to get rid of. In the hearing, this particular business was the only business that came forth and made the claim that this law was negatively affecting their business. As has already been mentioned, the Senator from Androscoggin has already mentioned several other scenarios that have affected this particular business' bottom line. I find it amusing that all of a sudden it's just because of the smoking law. You know, 75% of the people in this state don't smoke. It's interesting to me that we have to continue to fight over and over and over again for a small percentage of people who smoke. Eighty-five thousand Maine citizens are handicapped with respiratory problems, and those people use variety stores, and those people have to go into these places. I think it would be criminal to post a big sign in the door and say smoking is allowed here. It is just totally taking the wrong road. Restaurants and bars and taverns are governed by a totally different statute. I didn't create that statute, if I had it my way, there would be no smoking in any public places. But, I have also been involved for five years in the Human Resources Committee and we have had these debates over and over and over. Sometimes we have to pass laws and we have to compromise with what we pass. I guess the argument with lounges and bars is that at least kids don't go there. People have to be 21 years old to go there, and if you want to go and inhale tobacco smoke, well you're an adult, you go figure it out. However, we should be concerned that the bars and taverns are workplaces and it's only a matter of time, men and women of the Senate, before we have some very serious workers' comp claims from people working in those smoke-filled atmospheres. But that's a debate for another day. Restaurants do offer options. Restaurants do have problems if they have a one-room scenario. However, there are still restaurants in the state that do a very good job of separating smoking from non-smoking, and there again I would venture to say to you, people who have respiratory problems, people who have kids, probably will go to those restaurants who do a good job of separating the smoking and the non-smoking. There is a choice. We don't have to go to that smoke-filled restaurant if we don't want to. So, let's not confuse the issue. Bars and taverns and restaurants are governed by a totally different statute.

You know, those of you who stood up and talked about auto emissions and clean air and all those scenarios, I would venture to say the Senator from Androscoggin was a big supporter of auto emissions, let me just share with you one statistic. Environmental tobacco smoke causes thirty times as many lung cancer deaths as all regulated air pollutants combined. So, if we really want to be serious about clean air, then we must support the motion on the floor and I hope you will support me. Thank you.

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

Senator **GOLDTHWAIT**: Thank you Mr. President, Ladies and Gentlemen of the Senate. One of our greatest weaknesses, I think, in government, but also one of the nicest things about us is our great reluctance to do anything that will injure any single person. It seems to me that this debate is really representative of that schizophrenia, if you will. In this case it is one variety store, and by the way, when I first envisioned this lunch counter I was thinking of six or maybe eight stools, but the amendment takes this exemption up to a facility with as many as thirty-five seats. Thinking about whether it was true that this place could be going out of business simply because they were not going to be allowed to continue to smoke there, it seems to me that the track record of places that have been notorious for smoking has been that their business has improved rather than the reverse. So, it is a bit difficult for me to understand or accept that in this case this store is virtually going out of business because of that. The most disturbing thing to me about this bill is that all the arguments made on behalf of allowing smoking at this particular variety store could be applied equally to any other business of any size in the State of Maine. Why isn't it an individual choice of that business. If they want to take the risk of having non-smoking customers not go there, why shouldn't that be up to them? That, to me, makes this a real step backwards from the efforts that we have made to prevent various types of respiratory disease, or to make it easier for people with those respiratory diseases to get out and go about their business. Because my concern here is that passage of this law would only add fuel to the fires of other businesses who may choose to offer their customers the opportunity to smoke, I am going to oppose this bill, and I hope you will do the same. Thank you.

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

Senator **CLEVELAND**: Thank you Mr. President. It may be hard to realize the economic impact on some of these small businesses, but I tell you it's true. I have had the opportunity to be privy to this individual's balance sheet, and this is not something that has happened because Denny's moved in, or Shop 'n Save is a block away, or that Sunday sales have come in. All of those things have occurred and this business has been able, through hard work and diligence and customer service, to maintain a relatively even revenue of about \$1.2 million. But when this law went into effect and our health officer decided to vigorously enforce it, as she should because it is on the books, that's the incident that made the difference. Not any of the others, but that particular incident. I suggest to you that you think about every little variety store with a lunch counter in your area. Is this what they want for their business? Do you suspect they would tell you there would be no economic impact on their business? I suggest that that is not the case at all. The difference here is that we are talking about an establishment that is not unique in service or the product they provide. It's not like many other buildings or public services that people go to. Whatever they have in a variety store, I can assure you, you will find anyplace else. They don't have

any unique products or a unique service or unique food. You can have lots of choices to go and get those services and products. These individuals recognize that with this imposition, one of the revenue makers for them will go away because many of the folks simply will not come there anymore because it simply is not pleasurable for them to have breakfast or lunch and know that they can't smoke.

Once again, if we are really interested in people's health and lives, then we will extend it to all and enforce this law everywhere and provide the funds to do it. But we are not going to do that, are we? I won't see one amendment to provide ten more enforcement officers to protect those people so they won't die from ambient smoke. We will have an unequal enforcement and many small businesses that will be enforced by local folks will go out of business. Mr. President, when the vote is taken, I request the yeas and nays.

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

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **PENDEXTER** of Cumberland that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:	Senators:	AMERO, BENOIT, BERUBE, BUSTIN, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, SMALL, and the PRESIDENT, Senator BUTLAND
NAYS:	Senators:	BEGLEY, CAREY, CARPENTER, CASSIDY, CLEVELAND, STEVENS
ABSENT:	Senators:	ABROMSON, CIANCHETTE, LORD, RUHLIN

EXCUSED: Senator: McCORMICK

24 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 4 Senators being absent and 1 Senator having been excused, the motion by Senator PENDEXTER of Cumberland to ACCEPT the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

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

SENATE REPORTS from the Committee on BANKING AND INSURANCE on Bill "An Act to Clarify Insurance Coverage Regarding Breast Reconstruction after Mastectomy Surgery"

S.P. 80 L.D. 168

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-229). (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-230). (4 members)

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

Pending - ACCEPTANCE OF EITHER REPORT.

(In Senate, June 12, 1995, Reports READ.)

On motion by Senator RAND of Cumberland, the Senate ACCEPTED the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-229) Report.

The Bill READ ONCE.

Committee Amendment "A" (S-229) READ and ADOPTED.

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

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

SENATE REPORTS from the Committee on LABOR on Resolve, Concerning the Workweek of Department of Corrections Personnel

S.P. 505 L.D. 1364

Majority - Ought Not to Pass. (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-232). (6 members)

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

Pending - ACCEPTANCE OF EITHER REPORT.

(In Senate, June 12, 1995, Reports READ.)

Senator BEGLEY of Lincoln moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report.

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

Senator BUSTIN: Thank you Mr. President, Ladies and Gentlemen of the Senate. This Resolve, concerning the workweek of the Department of Corrections personnel, what this is about is restoring the 2.67 hours that was lost when the legislature asked the state employees to make up \$7.5 million and to do it in side-bar agreements. The Corrections personnel refused to make a side-bar agreement because they felt it was a collective bargaining issue and that the legislature had taken that collective bargaining right away from them. So the state imposed taking away the 2.67 hours, they imposed that. What this bill does is ask that because all of the other state employees have been restored to their pre \$7.5 million position, that the Corrections personnel also be restored to that position. So, I would appreciate you voting against the pending motion and accept the Minority Ought to Pass report. Thank you.

On motion by Senator BEGLEY of Lincoln, 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 by Senator BEGLEY of Lincoln that the Senate ACCEPT the Majority OUGHT NOT TO PASS 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: ABROMSON, AMERO, BEGLEY, CARPENTER, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BERUBE, BUSTIN, CAREY,
CLEVELAND, ESTY, FAIRCLOTH,
LAWRENCE, LONGLEY, MICHAUD,
O'DEA, PARADIS, PINGREE, RAND,
RUHLIN

ABSENT: Senators: BENOIT, CIANCHETTE, LORD

EXCUSED: Senator: McCORMICK

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 3 Senators being absent and 1 Senator having been excused, the motion by Senator BEGLEY of Lincoln to ACCEPT the Majority OUGHT NOT TO PASS Report, PREVAILED.

Sent down for concurrence.

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

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

SENATE REPORTS from the Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Increase the Number of Signatures Necessary for a Candidate to be Listed on a Ballot"

S.P. 403 L.D. 1091

Majority - Ought Not to Pass. (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-237). (3 members)

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

Pending - ACCEPTANCE OF EITHER REPORT.

(In Senate, June 12, 1995, Reports READ.)

On motion by Senator FERGUSON of Oxford the Senate ACCEPTED the Majority OUGHT NOT TO PASS Report.

Sent down for concurrence.

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

SENATE REPORTS from the Committee on LABOR on Bill "An Act to Allow Employees to Recover Damages from Employers Who Refuse Access to Personnel Files" S.P. 484 L.D. 1318

Majority - Ought Not to Pass. (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-238). (6 members)

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

Pending - ACCEPTANCE OF EITHER REPORT.

(In Senate, June 12, 1995, Reports READ.)

Senator MILLS of Somerset moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report.

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

Senator RAND: Thank you Mr. President, Men and Women of the Senate. I would ask you to reject the pending motion on the floor so that we can go on to pass the amended version of the minority report. This bill simply makes a law that is presently on the books usable for the employees of this state. I would appreciate it if you would vote against this motion so I can go on to explain the amended version of this legislation. Thank you.

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

Senator CLEVELAND: Thank you Mr. President, Men and Women of the Senate. I am the sponsor of this original bill and I would urge you to vote against the pending motion so that we may consider what the real consequences of this bill are. It really is a very modest opportunity to try to provide to individuals what they always thought they had. Until a very recent law case, called Larabee versus Penobscot Frozen Food, it was always believed and always enforced that an individual had a right to the access to the courts, like we all expect that we have, to address our grievances. Unfortunately, in the interpretation of the language by that decision, resulted in the situation where it is now held that only the Attorney General can enforce this law. So, any of you, or any of your constituents find themselves in a position where they are refused access to their personnel file, which the law says they have access to, they currently cannot take any action to go to court to address those grievances because only the Attorney General may do that. Given the workload of the Attorney General and, of course, the many other important matters of homicide and rape and assault, there is no staff or time to enforce this. Nor is it the appropriate way. The bill would change nothing else, it would not increase any penalties, not allow for any attorneys fees, do nothing any different. It simply would say give an individual their day in court, or the Labor Department if the Labor Department chooses to pursue

it. That's all we are asking for. That's all this would do, is give someone their day in court, an opportunity, at their own expense and time, to retain an attorney to access their own personnel file that contains information about their record, their employment, their situation in the court. So, I would ask you not to support the motion so we can support, I think, the more appropriate minority report.

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

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I just want to, lest you think this does not happen and there is no need to be able to put a suit in court civilly, let me tell you that just last week I was in mediation on a case. It wasn't about whether or not the employee could access his personnel files, but in fact, in preparation for that mediation, I had asked the employee to get some items from his personnel file. He was refused by the employer to see his personnel file. They gave him three pieces of paper and I found out in the mediation that there were two other pieces of paper in that personnel file. So, it becomes a very, very important issue, that you be able to access your own file so that you can have the information to defend yourself in a grievance or mediation or arbitration. We will go to grievance on the fact that he was not able to access his file. Not all workers are unionized, as you well know, so they are not protected and they need some protection. So, I would appreciate your support for this bill. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President. I hope you will support the motion of ought not to pass. The idea of civil suits, once again, opens up the old aspect of court and litigation and money, particularly when, in most cases, we do not seem to find very many cases where they cannot be resolved with the employer and the employee and anybody else who is concerned with that type of arrangement. So, I hope you will support the ought not to pass report.

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

Senator **RAND:** Thank you Mr. President, Men and Women of the Senate. I think it's a travesty of justice if we have a law on our books, and we do presently have a law on our books that says an employee is entitled to a copy of their personnel file. There's no teeth to that law. There is really no way to obtain, if an employer decides they will take the fine, which is capped by the way at \$500, it can't go any higher than that, if for whatever reason an employer decides to take the \$500 fine and won't give you a copy of your personnel file, there is really nothing that an employee can do. All this does is allow an employee, at their own expense, to get a lawyer or act as their own lawyer before a court, before a judge, and ask to have the law upheld. This simply allows for a civil action. It does nothing else. It changes nothing else. Please, vote against the pending motion so we can go on to accept the minority report. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President. I rise to suggest to you that allowing an individual access to this mechanism will not increase litigation because currently the way it has been working, before this Larabee versus Penobscot Frozen Food, is an employee who felt aggrieved and felt that the law said what it meant, that you have access to your personnel files if you requested them, if they couldn't settle it with their employer, it would go to an attorney, the attorney would call the company and say this is what the law is. The employee has a right to those files. There is no particular reason why they ought not to. The law says they have to do it and an arrangement would be made so an employee could have access to the files, that's the way it works. Now, with this change in law, with this interpretation by the court, an attorney who I have great respect for in my area who does some employer/employee law now has found that the employers, through their attorneys, realize that with this Larabee versus Penobscot Frozen Food, they just simply have to say no. They recognize that only the Attorney General can bring suit and they know darn well that the Attorney General is not going to bring a suit. So, if you really believe an employee ought not to see what is in their personnel record, ought not to be able to review the facts, ought not to be able to suggest that perhaps material is either inadequate, incorrect, or have an opportunity to discuss it with their employer, knowing what's in there, because you can't have a coherent discussion until you look at your file, then you ought to support this motion. It's what you should do. But, if you really believe that it's fair and reasonable for an individual to look at their file then you must not support this so we can provide some mechanism by which individuals, employees and employer, can resolve whatever issues they have regarding their personnel files and individuals can look at those files as they ought to have a right to do. Mr. President, when the vote is taken, I ask for the yeas and nays.

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

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

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I, for one, surely believe that every employee should be allowed to look at his personnel file. Not only should he be allowed to look at it, but he should have a copy of every piece of paper that has gone in there, long before it gets there, or at the same time. I also realize that not all employees keep everything that is given to them, though they should, and they should keep their own personnel file to make sure they look the same. I would advocate that every employee go every couple of years and take a look at it and make sure that it is the same that he has at home. But, I'm a little concerned about allowing a lawsuit because that access is denied. I truly don't think that that's a good situation for any employee to do. I think that

by allowing this law to pass we could create a bigger problem for the employee than what we would be resolving. I think at issue is the fact that they are not being given access, then let's do something there. Let's pass a law somehow, if it's been overturned, which I wasn't aware of, I always thought that anyone could and always was able to, but I think this bill is going about it the wrong way. I agree with you, but let's do it a different way. Let's do it so it's not going to cause another problem to solve. I truly don't think this will work. Thank you.

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

Senator **CAREY:** Thank you Mr. President. I would like to pose a question through the Chair to the Senator from Piscataquis, Senator Hall. If we could somehow or other pass this bill, and if we could somehow or other strip off the fine, would it then be something that the Senator could support?

THE PRESIDENT: The Senator from Kennebec, Senator Carey, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President. In answer to the question, I would support definitely any bill that would allow the employee to look at his own personnel file. I think that's no more than fair. But, I'm afraid that if we allow that employee to sue, the relationship between the employee and the employer is going to do nothing but go downhill. If this bill could be amended to take this lawsuit out of it, yes, you would have my vote.

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

Senator **RAND:** Thank you Mr. President, Men and Women of the Senate. I would like to respond to the good Senator from Piscataquis, Senator Hall. We have a law on the books now, and that law says that an employee, or a terminated employee, you have a right to access to your personnel files kept by your employer. That law is on the books and there is also a penalty on the books if the employer does not comply with the law. The problem that we have run into since this ruling that the Senator from Androscoggin, Senator Cleveland, has told us about, the problem that we have run into is that the employee really has nowhere to turn. The only avenue right now is for the employee to contact the Attorney General's office and have the Attorney General's office deal with the situation. I don't know how many people there are now, but the last I heard the Attorney General's office was down something like twenty employees. It may be more or less, don't hold me to that, but I know that they are severely understaffed. These types of issues are not going to take precedence. What we are trying to do with this bill is to give some type of relief to an employee. Realistic relief. It's not a lawyer's bill. There are no lawyer's fees involved in here. It's an access bill. We have on the books a law that says, as the good Senator Hall has stated, it is a fair thing, it's a legitimate request and a fair law that we have on the books. We have run into a problem now

that it is not workable. I would ask you to please reject the pending motion so that we could go on to pass the minority report and rectify this problem. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President, Men and Women of the Senate. When I introduced this bill I was looking to make no dramatic changes within the law. As a matter of fact, my original language tended to be as minimal as possible simply to put the law back to the way it used to be. There have been a number of situations in the past, before the Larribee/Penobscot ruling, where employees came to a deadend, couldn't get it, and they went to court or they hired an attorney. That's the way the world worked. We wish to change the world in no way. As a matter of fact, voting ought not to pass doesn't guarantee that there won't be a suit, it just simply says that it has to be done by the Attorney General, which makes it much more difficult to happen. I would be happy to work with any member of this body to find language that is more appropriate. I made an honest effort to find some language, the Committee, in their wisdom, found, I thought, some language that improved beyond that. But, if there are those in this chamber who sincerely believe that we can find some language and other alternative methods that achieves the goal, that's all I want to do, that an employee when denied access to their employee file has some recourse to get to it, I'm happy to work with that individual and would entertain a motion to table from any individual who wanted to work on that.

Senator **BUSTIN** of Kennebec moved to Tabled for 1 Legislative Day, pending the motion by Senator **MILLS** of Somerset that the Senate **ACCEPT** the Majority **UGHT NOT TO PASS** Report.

Senator **KIEFFER** requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BUSTIN** of Kennebec to Table for 1 Legislative Day, pending the motion by Senator **MILLS** of Somerset that the Senate **ACCEPT** the Majority **UGHT NOT TO PASS** Report.

A Division has been requested.

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

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

12 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion of Senator **BUSTIN** of Kennebec to Table for 1 Legislative Day, pending the motion by Senator **MILLS** of Somerset that the Senate **ACCEPT** the Majority **UGHT NOT TO PASS** Report, **FAILED**.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **MILLS** of Somerset that the Senate **ACCEPT** the Majority **UGHT NOT TO PASS** 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: ABROMSON, AMERO, BEGLEY, BENOIT,
BERUBE, CARPENTER, CASSIDY,
FERGUSON, HALL, HANLEY,
HARRIMAN, HATHAWAY, KIEFFER,
MILLS, PENDEXTER, SMALL,
STEVENS, and the PRESIDENT,
Senator BUTLAND

NAYS: Senators: BUSTIN, CAREY, CLEVELAND, ESTY,
FAIRCLOTH, GOLDTHWAIT, LAWRENCE,
LONGLEY, MICHAUD, O'DEA,
PARADIS, PINGREE, RAND, RUHLIN

ABSENT: Senators: CIANCHETTE, LORD

EXCUSED: Senator: McCORMICK

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent and 1 Senator having been excused, the motion by Senator MILLS of Somerset to ACCEPT the Majority OUGHT NOT TO PASS Report, PREVAILED.

Sent down for concurrence.

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

SENATE REPORTS from the Committee on LABOR on Bill Bill "An Act to Allow Terminated Employees to Recover Damages from Employers Who Refuse to Provide a Written Reason for Termination"

S.P. 485 L.D. 1319

Majority - Ought Not to Pass. (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-239). (6 members)

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

Pending - ACCEPTANCE OF EITHER REPORT.

(In Senate, June 12, 1995, Reports READ.)

Senator MILLS of Somerset moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report.

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

Senator CLEVELAND: Thank you Mr. President. I would ask you not to support the ought not to pass report. What this bill does is related to the previous bill. Because of that language in the Larribee versus Penobscot Frozen Food, there is, once again, no redress, even though it says in the law that a reason for termination needs to be provided for an employee, if they are refused to be given a reason, to be able to get that reason. Once again, without depending on the Attorney General's office. This looks to do nothing more than reinstate what was originally intended in the bill. If a person is let go, often times, many of them do not realize the reasons for which they were let go. Many often feel they were doing a fine job, that they were meeting all of the obligations of their employment and often find it to be a shock that they were let go. For their own satisfaction, and for their opportunities for further employment, it is often very important to them to try to understand what happened and why they were terminated. When an employer refuses to provide that opportunity, or that reason, they feel somehow lost, let down, and confused. I simply ask you to reject this so we can go back to what we did in the past, allow individuals to have whatever reason the employer wants to give, it doesn't state what reason they have to give, other than they just have to give a reason, and it may be you were let go because we wanted to let you go, but they ought to be able to have access to that. So, I would ask you, for the fairness of the employee, to level the playing field, to have an opportunity for individuals to be able to access the information that they say, by the state law, that they ought to have, that you vote nay on this motion so we can give individuals the access to the rights that are written in the law but we are not allowing them to have.

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

Senator BEGLEY: Thank you Mr. President. Very briefly, the same reason for this bill, as in the past, that it is not needed. The number of cases are not enough to warrant opening up suits. I call for a Roll Call please.

On motion by Senator BEGLEY of Lincoln, 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 by Senator MILLS of Somerset that the Senate ACCEPT the Majority OUGHT NOT TO PASS 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

(In Senate, May 25, 1995, RECEDED and CONCURRED.)

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

(In House, June 6, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-116) AS AMENDED BY HOUSE AMENDMENT "B" (H-367), thereto, in NON-CONCURRENCE.)

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

NAYS: Senators: BUSTIN, CAREY, CLEVELAND, ESTY, FAIRCLOTH, LAWRENCE, LONGLEY, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

ABSENT: Senators: CIANCHETTE, LORD

EXCUSED: Senator: McCORMICK

The Chair laid before the Senate the second Tabled and Specially Assigned (June 8, 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 - June 7, 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.

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being absent and 1 Senator having been excused, the motion by Senator MILLS of Somerset to ACCEPT the Majority OUGHT NOT TO PASS Report, PREVAILED.

Sent down for concurrence.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment 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 (June 8, 1995) matter:

Resolve, to Strengthen Fish Hatchery Capacity within the State by Establishing a Partnership between Public and Private Organizations (Emergency) S.P. 365 L.D. 991 (H "A" H-298 to C "A" S-116)

Tabled - June 7, 1995, by Senator KIEFFER of Arostook.

Pending - FURTHER CONSIDERATION.

(In House, May 24, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-116) AS AMENDED BY HOUSE AMENDMENT "A" (H-298), thereto, in NON-CONCURRENCE.)

The Chair laid before the Senate the third Tabled and Specially Assigned (June 8, 1995) 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

Tabled - June 7, 1995, by Senator AMERO of Cumberland.

Pending - FURTHER CONSIDERATION.

(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.**)

(In House, May 30, 1995, **ADHERED.**)

(In Senate, May 31, 1995, **ADHERED.** Subsequently, on June 1, 1995, the Senate **RECONSIDERED** whereby it **ADHERED.**)

On motion by Senator **AMERO** of Cumberland, Tabled 1 Legislative Day, pending **FURTHER CONSIDERATION.**

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

HOUSE REPORTS from the Committee on **TAXATION** on Bill "An Act to Repeal the 7% Gross Receipts Tax on Nursing Homes"

H.P. 33 L.D. 27

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-372).** (1 member)

Tabled - June 8, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, June 7, 1995, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, June 8, 1995, Reports **READ.**)

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

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Two years ago the legislature enacted the 7% gross receipts tax on nursing homes as a way to generate more federal Medicaid money. This may sound familiar. This tax is based on expenses, not on income. It's probably the most unfair and regressive tax in Maine, if not in the whole country. An elderly person living in a nursing home would pay probably around \$2800 a year in gross receipts tax as a private pay nursing home

resident. On the state share the state would pay for a Medicaid patient about \$13,000 a year, where a private pay would pay almost \$44,000 a year. Not only is this, in my opinion, an unnecessary tax on these people, but it also helps the cost shifting and is used by the state for matching funds. So, I think that what we are really doing essentially is just taxing our elderly, who have worked hard to earn money so they could afford to have a nice, comfortable lifestyle in a nursing home as they grow older, we are just taxing the homes and the meals of these people. I don't think any of us pay a gross receipts tax on the privilege of living in our home or the privilege of eating meals at our home. I don't see why we should burden our elderly people who have worked hard to reach this point in their lives, and to know that they would like to live in a nursing home, and they have to pay this tax on top of it. So, I urge you to support this motion and I would ask for a roll call, Mr. President.

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 Waldo, Senator Longley.

Senator **LONGLEY:** Thank you Mr. President, Colleagues in the Senate. I couldn't agree more with what the Senator just said, and as soon as we pay our bills, and as soon as we better address the property tax relief issues out there, I am hereby declaring that the next on my list is the 7% gross receipts. But, I think we should pay our bills and then address property taxes first, and then get the nursing home gross receipts. 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. This wonderful tax originated in the bowels of the Human Resources Committee several years ago. Just the concept of charging a 7% lodging tax to patients in nursing homes just somehow doesn't sound right. It was quickly absolved by an argument on the other side that we would create some type of a tax relief scenario so that the money would be returned to the private pay people. Guess what? The feds figured it out before we could even enact such a scenario and they said you can't do that because you must treat everyone the same, whether they are on Medicaid or whether they are private pay. The wonderful State of Maine has continued to tax a 7% lodging tax to people in our nursing homes. If that isn't the epitome of all taxes, I don't know what it would be. It sounds a lot like the tax and match that we have heard over and over in these bodies, and it is pretty much the same type of scenario. We are balancing our budget on the backs of sick people, and people in our nursing homes. Yes, it creates a hole in the budget, but there comes a point in time when we just have to bite the bullet and say we cannot be doing this, it is not right, it's terrible public policy. Everybody talks about how we have to get our house in order. I have been here for five years now and I don't know when that will be. We just keep talking about we have to get our house in order, we never cut any

expenses around here. So, we have to start somewhere, and for me the scenario is the less we have the less we spend. Why don't we try that gimmick for a while, it might work. So, I ask you to really think about what you are voting for when you are continuing to perpetuate this tax. It's not right. It never should have happened in the first place. It's only on the books because some people in these bodies couldn't say no. I think enough is enough. Thank you.

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

Senator **PARADIS:** Thank you Mr. President, Men and Women of the Senate. I totally agree that this is one of the most repulsive experiences that I ever had to experience when I was on the Human Resources Committee, when the previous administration decided they were going to use this tax to plug holes in the budget. The rationale was that a lot of these people were very soon going to be on the state rolls, that they were spending down. It was very interesting that many people who came to lobby regarding this issue were people who had a lot of money. It was different for us to be lobbied in the Human Resources Committee by people who were very well off. But they were not so well off that they could afford to pick up the three or four thousand a year that it cost to keep their elderly parents in a nursing home. I agree that it was a very bad thing that happened to us, and the previous administration did present us with a lot of bad choices that we ended up being stuck with and are having to pay for today. Again, there are a lot of these other issues that we will be facing before the year is over to clean up this mess. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Members of the Senate. If you will look at the calendar, you will notice that there were twelve on the ought not to pass report, and one on the ought to pass report, indicating to me that there was strong bipartisan support for holding off on this and doing the responsible thing and waiting until our house was in order so that we could, in fact, do away with this tax. I don't think, with monies available to us, there would be a single person who would vote against the removal of this particular tax. Unfortunately, I'm afraid it's a little premature. So, I would ask that you defeat the motion, regretfully.

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

Senator **HARRIMAN:** Thank you Mr. President. Good evening Ladies and Gentlemen of the Senate. In the 116th Session of the Maine Senate, I had the pleasure of sitting on the Human Resources Committee. For those of you who may have been members of the legislature, or following public policy decision making closely, may recall that one of the troubling issues we faced was our escalating cost of providing nursing home care in Maine. I find it interesting that one of my colleagues who served on that Committee is now willing to stand up and say that this was an idea of the previous administration to

put a meals and lodging tax on nursing home residents, who, by the way, are only 20% of the people who pay their own way. That idea didn't come from the administration, it didn't come from the Human Resources Committee, it came from the nursing home industry. The industry said here's a gimmick. Put this 7% sales tax on the private pay, we'll draw down more money from Washington. When the private pay patient files their income tax return we will give them a credit. Everybody wins. Some of us in this chamber, including myself, then and now said it's a gimmick, it's not fair, it's not going to work. It's also interesting to note that in the very same session, we had another piece of legislation that said the State of Maine wants to encourage you to prepare for your long-term care needs. The legislation would have encouraged people to buy long-term care coverage. If someone went into a nursing home, who had long-term care coverage, and exhausted those benefits and then ended up on Medicaid, the legislation would have prevented the state from liquidating their assets and taking possession of their home. Do you know what happened? That bill failed and the gimmick prevailed. So, the message we have as public policy makers is number one, if you are preparing for the future and setting money aside to take care of your own long-term care needs, you're a fool. You're better off now, starting to gift it away to your children, get it out of your name so if you need long-term care you can go into a nursing home and the state will pay all of the bill. That's not right. That's not going to look out for our children and our senior citizens in the future. At some point in time we have to demonstrate the courage that we are willing to make difficult choices. This is one of them ladies and gentlemen. These are elderly people, the people who made this State and this country what it is today. We are telling them, as they go into their long-term care phase of their life, if you have prepared for your own way, we've got an additional penalty for you. I understand, and I respect the fact that the State of Maine has to start paying its bills. But, it also has to start restoring trust and respect to the people who send us here. This is one of those times when everyone of us needs to stand up and say no to a 7% meals and lodging tax on people who privately pay their way in a nursing home. Thank you.

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

Senator **PARADIS:** Thank you Mr. President. I cannot stress enough the trauma of that year when we were told that we were either to kick 6,000 elderly people out of nursing homes, we had to fix the problem in our Committee without raising taxes or without taking money from somebody else. It was a bloody nightmare. One of the results of that, I'm sure you have all gotten the phone calls, we changed the rules for allowing people into nursing homes. We have a lot of people right now who are sitting outside of nursing homes, who previously would have been there, especially people with cognitive problems, like dementia and Alzheimer's. So, there were no choices given to us. It was not pleasant, but this was the most unpleasant of all the unpleasant things we had to do.

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

Senator **CLEVELAND:** Thank you Mr. President, Men and Women of the Senate. This is another one of those gimmicks that has been indicated was used to balance revenues. When this was first proposed, I was one of a minority, for this reason and others, who voted against the budget. I didn't think it was appropriate. I don't think it's appropriate now. I think it ought to be repealed. As a matter of fact, if it was repealed it would actually provide more money for our municipalities, because the gross receipts tax on restaurants and bars and alcohol sales would then be a taxable sale and go towards part of the revenue sharing, two or three million dollars, which will be a great benefit to those communities and which was really something we took away from the communities when we created it. There are all kinds of reasons why this is bad, there's no question about that. What is too often easy to say we can't deal with the real tough problems, and that is to say if we pass this bill we are going to lose something like \$26 million a year in revenue that we are currently counting in our budget. We're the ones in control. The budget hasn't been passed. Those who really believe that this ought to be taken out ought to put it in the budget, because we ought not to go buy a new gimmick, and that is simply choke off the revenue stream and then deal with whatever the outcomes are, intended or otherwise. That's not more responsible. It's not more responsible to know that when you have incurred debt in your own personal life, and perhaps taken a part time job, and still have that debt, be it the house or the second mortgage or the car or the children's education, and those debts are incurred, to say that's a gimmick so I'm going to quit my second job, and not replace the revenue in some way in a responsible way or at least to say I'm going to sell the car, Johnny can go to school another year or earn his own money, or at least make some accommodation for the revenue loss. I suggest to you that those of us who really believe that this ought to be dealt with ought to do it in the real responsible way and make the real hard decision. I would ask the Appropriations Committee to present us with a budget that deletes this tax and tells us how it's going to be paid for so we can do both the revenue and the expenditure side together responsibly, knowing what the outcomes are going to be and living with them.

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

Senator **GOLDTHWAIT:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I just want to contribute a few words in the voice of a taxpayer from my district who is affected by this issue. It does seem to me to be an unfair one for a number of the reasons mentioned here. It's similarity to tax and match is rather startling. This constituent wrote to me and said, "In 1994 my mother's bills for the nursing home were \$50,305.41. This does not include medication costs. Of this figure, \$3,272.24 was for the gross state nursing home tax. I understand why they call it gross. A repeal of this tax would make it possible for those who can pay to pay for their nursing home care longer before their money runs out and they have to appeal to the State

for Medicaid assistance." This statement struck me as rather remarkable. That someone who is paying \$50,000 in nursing home care as a private pay patient was offering a way that they could do that for longer. It seems to me patently unfair to be taking advantage of the private pay patient in this way, so I urge you in helping to repeal this grossly unfair tax. 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'd like to just share with this chamber that it probably isn't often that the good Senator from Androscoggin and I agree on issues. Not that we agree, I think, on the bill before us, but we agreed in 1993 when the tax was placed on. I, too, didn't vote for that tax and for the same reasons. I guess I will part company with my good friend from Androscoggin, Senator Cleveland, at this juncture, and I will take some exception to his stance that if the Appropriations Committee was to have dealt with this gimmick, the 7% gross receipts, in the budget, that maybe he would be supportive. In fact the Appropriations Committee did deal with other gimmicks, addressed other Medicaid gimmicks in the budget, and I am just curious as to why those weren't supported as well. I will state publicly now to the good Senator from Androscoggin, if he is so inclined, I will make myself available to work with him personally to find the \$37 million necessary to repeal this in the upcoming biennium. I make that pledge now. I would only wish, I think I can bring my caucus, in all effort work to bring my caucus along, and if he will state the same, that he is willing to work diligently to bring his caucus along too, I would encourage that. The good Senator from Androscoggin is absolutely correct, you talk about property tax relief, there is property tax relief right here, right in this L.D. For all the reasons that the good Senator enumerated. There is another thing that the good Senator forgot to share with you, this will save over \$10 million from the General Fund that we won't be paying in on the gross receipts tax to leverage down those federal dollars. If I could share with you just a few excerpts from an editorial from one of the largest papers, with the largest circulation, in our state. They state, "The nursing home tax began in 1993 as a way to raise about \$22 million in Medicaid money annually for the state budget. Through a complicated series of maneuvers that included removing and re-establishing a restaurant meal tax, and praying that the federal government wouldn't notice the state's slight of hand, Maine began to receive the added Medicaid dollars. Private pay residents were to get a tax credit," the operative word here is "were", "to compensate for the added expense. Unfortunately, Congress did notice about six months later, because Maine was only one among many states milking the federal government to balance state budgets. A new federal statute was passed to prevent, among other things, the tax credit to non-Medicaid residents, leaving them stuck with a tax designed to leverage federal dollars that also took theirs." This is a very telling point here where it says, "75% of those in Maine nursing homes rely on Medicaid to pay their bills. The remaining 25% now have the choice of burying their assets, through some financial

finagling, or paying a tax they were never intended to pay. For instance, one severely ill elderly woman at a Houlton nursing home pays about \$117 a day for nursing home care. Including \$7.60 a day for tax. Over a year's time she is charged nearly \$2,800 just in taxes." And this doesn't include the medicine or the other sundries in her life. "Nearly 2000 Mainer's are in the same position, paying their hard-earned retirement dollars to a government which, in effect, said it just wanted to use their money but would send it back through a credit." The bill in front of us today, men and women of the Senate, L.D. 27, would cancel that 7% tax. As Francis Finnegan, Director of the Bureau of Medical Services at the Department of Human Services, accurately observed, this and other tax and match Medicaid plans, "these things are addictive, and it's hard to wean the state from it." Men and women of the Senate, I say, only half tongue in cheek, that I would like to have this state and this legislature adopt a Blue Ribbon, twelve-step, Task Force to wean us from this addiction to these federal dollars. Let's set policy, good public policy, first and let the chips fall where they may. Let's start, as the good Senator from Cumberland said, to restore the trust, respect and integrity of this chamber and the entire institution. For that, and all of the other reasons that have been enumerated, I wish that there had been a stronger vote out of the Taxation Committee, but in one you can find the strength of a thousand. For that I will be supporting with all good conscience and diligence the vote before us to repeal the 7% gross receipts tax.

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

Senator **RAND:** Thank you Mr. President. May I pose a question through the Chair? It would be my pleasure to vote with the minority on this tax, and I probably will if my question can be answered. Will the State of Maine be in danger of losing nursing home beds if we do, indeed, repeal this 7% gross receipts tax, or can we do that and still assure constituents, such as the good Senator from Hancock, Senator Goldthwait's constituent, that when she does spend down and has no more money left, can we assure her that a bed will be there if we repeal this tax? If I can be told that people who do spend down, and eventually become one of the 75% who do rely on the state for their care in nursing homes, if I can be assured that the repeal of this tax will not affect that situation then you will certainly have my vote. Thank you.

THE PRESIDENT: The Senator from Cumberland, Senator Rand, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President. I am unable to respond to the question posed by the good Senator from Cumberland, Senator Rand, but I am able to respond to the request made by the good Senator from Oxford, Senator Hanley. I would be happy, as our friends in Claremont did yesterday, to extend my hand and make a deal. You put in the budget some money and show me where we have taken it out, I will work with you in my caucus to get it passed.

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

Senator **CAREY:** Thank you Mr. President, Members of the Senate. I understood the good Senator from Oxford, Senator Hanley, to give us some remarks on what Fran Finnegan had said about the nursing home tax. I hope that Senator Hathaway doesn't go too far because he is apparently the last survivor on the Committee. When we had our meeting in Room 113 on yet another bill, we asked Fran Finnegan about who happened to have thought up the hospital tax. To show you how flexible Mr. Finnegan is, he pointed out that he was the brains behind putting on the hospital tax. So, on the one hand, a tax that could end up costing us some \$306 million seems to be okay with Mr. Finnegan, but a tax of \$22 million is atrocious. So, I would hope that you don't put too much faith in what Mr. Finnegan has to say.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, CARPENTER, CASSIDY, CLEVELAND, FAIRCLOTH, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, MICHAUD, MILLS, O'DEA, PENDEXTER, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BERUBE, BUSTIN, CAREY, ESTY, FERGUSON, LONGLEY, PARADIS, PINGREE**

ABSENT: Senators: **CIANCHETTE, LORD**

EXCUSED: Senator: **McCORMICK**

24 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 2 Senators being absent and 1 Senator having been excused, the motion by Senator **HATHAWAY** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE, PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-372) **READ** and **ADOPTED**.

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

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

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

Tabled - June 8, 1995, by Senator KIEFFER of Aroostook.

Pending - FURTHER CONSIDERATION.

(In Senate, May 31, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-299), in concurrence.)

(In House, June 7, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-299) AS AMENDED BY HOUSE AMENDMENT "A" (H-393), thereto, in NON-CONCURRENCE.)

On motion by Senator AMERO of Cumberland, Tabled 1 Legislative Day, pending FURTHER CONSIDERATION.

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

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

On motion by Senator MICHAUD of Penobscot, ADJOURNED, in memory of S. Glenn Starbird, Jr. of Kingman, until Tuesday, June 13, 1995, at 9 o'clock in the morning.