

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

Off Record Remarks

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

In Senate Chamber
Wednesday
June 14, 1995

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

Prayer by the Reverend Kenneth Dutille of the First Baptist Church in Bath.

REVEREND KENNETH DUTILLE: This is Flag Day, so I thought it would be appropriate to share a story by Ariel Hawkins. "I bought a flag today, Lord, for the little boy next door. His parents were taking him downtown to watch the parade and I thought he ought to have a flag to wave. As I watched him walking down the street between his parents, with the breeze rippling his flag he carried over his shoulder, I felt tears in my eyes. I suddenly realized what a beautiful flag it is. I understood what it meant, that a child could walk down the street, with his parents on each side of him. That's why I ask for your continual blessings upon this land that lovely flag graces."

Let us pray. Our Father, we give thanks for the State of Maine and this government today. We hold up, in prayer before you, the men and women who are in positions of authority. We pray, Lord, today for our Governor and the President of the Senate and these Senators. Today, as we celebrate flag day; the red, which stands for courage, the white, which stands for purity, and the blue, which stands for justice; we are, indeed, thankful for our veterans who, with our American flag, have fought for our nation's security. We declare with our mouths our people may dwell safely in this land and that we might prosper abundantly. We give thanks, again, for this great State, and for the leaders you have given to us. Amen.

Pledge of Allegiance led by **SENATOR RICHARD RUHLIN** of Penobscot.

Reading of the Journal of Yesterday.

PAPER FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Reduce the Maine Sales Tax and the Meals and Lodging Tax to 3%" (Emergency)
S.P. 470 L.D. 1266
(C "A" S-152)

In Senate, May 23, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-152).**

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

On motion by Senator **KIEFFER** of Aroostook, Tabled, pending **FURTHER CONSIDERATION.**

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Strengthen the Laws Concerning Damage by Dogs"
H.P. 1019 L.D. 1434

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-436).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-436).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-436) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Make Minor Technical Adjustments to Various Professional Licensing Boards"
H.P. 933 L.D. 1314

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-449)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-449)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-449) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Develop the Landowner Relations Program"
H.P. 148 L.D. 196

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-444)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-444)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-444) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Concerning the Confidential Employees of the Maine Technical College System"
H.P. 1022 L.D. 1437

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

Signed:

Senators:

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

Representatives:

AULT of Wayne
BARTH, JR. of Bethel
LIBBY of Buxton
MCELROY of Unity
BRENNAN of Portland

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

Signed:

Representatives:

MARTIN of Eagle Lake
DESMOND of Mapleton
STEVENS of Orono
CLOUTIER of South Portland
WINN of Glenburn

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

Which Reports were **READ**.

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

SECOND READERS

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

House As Amended

Bill "An Act to Amend the Substance Abuse Testing Laws"
H.P. 860 L.D. 1191
(C "A" H-415)

Which was **READ A SECOND TIME**.

On motion by Senator **BUSTIN** of Kennebec, Senate Amendment "A" (S-259) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Senate As Amended

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS**

June 12, 1995

Bill "An Act to Institute a Yearly Series Labor-Management Systems Conferences"

S.P. 395 L.D. 1083
(C "A" S-255)

Bill "An Act Concerning the Judicial Endorsement of Persons Held for Evaluation Treatment"

S.P. 501 L.D. 1360
(C "A" S-261)

Bill "An Act to Establish the Maine Judicial Compensation Commission"

S.P. 536 L.D. 1474
(C "A" S-260)

Bill "An Act Concerning Reports of Material Transactions and Other Provisions of the Maine Insurance Code"

S.P. 561 L.D. 1528
(C "A" S-257)

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

Sent down for concurrence.

ENACTOR

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

Bill "An Act to Provide a Tax Credit for the Rehabilitation of Historic Properties"

H.P. 715 L.D. 972
(C "A" H-322)

Comes from the House **RECOMMITTED** to the Committee on **TAXATION.**

On motion by Senator **KIEFFER** of Aroostook, **RECOMMITTED** to the Committee on **TAXATION**, in concurrence.

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

COMMUNICATIONS

The Following Communication:

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1259 An Act to Provide Reimbursement from the General Fund for Search and Rescue Operations of the Department of Inland Fisheries and Wildlife

L.D. 1462 An Act to Repeal the Medicaid Estate Recovery Law

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Dana C. Hanley
Senate Chair

S/Rep. George J. Kerr
House Chair

S.C. 236

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

The Following Communication:

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**

June 12, 1995

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1300 An Act Concerning the Practice of Professional Nursing
- L.D. 1553 An Act to Simplify the Process of Registering Business Entities

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Philip Harriman
Senate Chair

S/Rep. G. Steven Rowe
House Chair

S.C. 237

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

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Joan M. Pendexter S/Rep. Michael J. Fitzpatrick
Senate Chair House Chair

S.C. 238

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

The Following Communication:

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

June 12, 1995

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 629 An Act to Correct Problems Created in Implementing Recent Changes in the Adoption Laws
- L.D. 1182 An Act to Amend the Laws Governing Adoption
- L.D. 1265 Resolve, to Allow the Attorney General to Enter into Consortiums with Other States for the Purpose of Bringing Suit Against the Federal Government Regarding the Issue of Unfunded Federal Mandates
- L.D. 1307 An Act to Require that Fact-finding Hearings of the Maine Human Rights Commission be Recorded
- L.D. 1322 Resolve, Directing the Attorney General to Sue the Federal Government to Prohibit Unfunded Federal Mandates
- L.D. 1398 Resolve, to Authorize the Joint Standing Committee on Judiciary to Study and Make Recommendations Concerning the Enactment of the Uniform Adoption Act

The Following Communication:

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON HUMAN RESOURCES**

June 12, 1995

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Human Resources has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 858 An Act to Exempt the Charles A. Dean Memorial Hospital and Nursing Home from the Regulation of the Maine Health Care Finance Commission
- L.D. 1368 An Act to Expand Project Opportunity and Replace Welfare Entitlement Programs with Unemployment Programs
- L.D. 1388 An Act to Increase Employment and Training Opportunities for Welfare Recipients

- L.D. 1402 An Act to Promote Equity in Legal Advertising
- L.D. 1525 An Act to Increase Access to Public Information

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. S. Peter Mills S/Rep. Sharon Anglin Treat
Senate Chair House Chair

S.C. 239

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

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Norman K. Ferguson, Jr. S/Rep. Guy R. Nadeau
Senate Chair House Chair

S.C. 240

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

The Following Communication:

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

June 12, 1995

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 24 Resolve, Authorizing Gerald Finks to Sue Pineland Center and the State of Maine
- L.D. 240 An Act to Require Reporting by Political Action Committees That Endorse or Provide Funds to Local Municipal Candidates
- L.D. 1415 An Act to Establish Air Medical Services in the State in Conjunction with the Maine Army National Guard
- L.D. 1524 Resolve, to Create an Advisory Commission to Review Long-term Liquor Policies and Pricing
- L.D. 1527 An Act to Strengthen Oversight of Maine Elections and Campaign Finance Laws

The Following Communication:

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

June 12, 1995

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Natural Resources has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 88 An Act to Amend the Definition of Freshwater Wetland
- L.D. 1311 An Act Regarding the Motor Vehicle Emission Inspection Program
- L.D. 1485 An Act to Clarify the Definition of Subdivision

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Willis A. Lord S/Rep. Richard A. Gould
Senate Chair House Chair

S.C. 241

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

The Following Communication:

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON TAXATION**

June 12, 1995

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 5 An Act to Provide an Alternative Calculation of Hospital Assessment for Specialty Hospitals That Are Not Institutes for Mental Disease

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. W. John Hathaway S/Rep. Susan E. Dore
Senate Chair House Chair
S.C. 242

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

The Following Communication:

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY**

June 12, 1995

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Utilities and Energy has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 433 An Act to Reduce the Cost of Electricity and to Provide for Market Competition in the Production and Sales of Electricity

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. David L. Carpenter S/Rep. Carol A. Kontos
Senate Chair House Chair
S.C. 243

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

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

COMMITTEE REPORT

**Senate
Ought to Pass As Amended**

Senator **PINGREE** for the Committee on **MARINE RESOURCES** on Bill "An Act to Amend the Laws Pertaining to the Marine Resources Advisory Council" S.P. 441 L.D. 1209

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-263).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-263) **READ** and **ADOPTED.**

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

ORDERS OF THE DAY

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 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 13, 1995, by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT.**

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

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

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

The Chair laid before the Senate the 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 13, 1995, by Senator **LAWRENCE** of York.

Pending - the motion by Senator **AMERO** of Cumberland to **INSIST.**

(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, the Senate **INSISTED.**

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

HOUSE REPORTS from the Committee on **JUDICIARY** on Bill "An Act to Allow Physician Assisted Deaths with Dignity for Terminally Ill Persons in Maine"
H.P. 552 L.D. 748

Report A - Ought to Pass as Amended by Committee Amendment "A" (H-411). (5 members)

Report B - Ought Not to Pass. (5 members)

Report C - Ought to Pass as Amended by Committee Amendment "B" (H-412). (3 members)

Tabled - June 13, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF A REPORT.**

(In House, June 13, 1995, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**)

(In Senate, June 13, 1995, Reports **READ.**)

Senator **FAIRCLOTH** of Penobscot moved that the Senate **ACCEPT** Report "A" - **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411)** in **NON-CONCURRENCE.**

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

Senator **FAIRCLOTH:** Thank you Mr. President, Colleagues of the Senate. I would like to preface my remarks by noting that I am not a sponsor of this bill. I am not an enthusiast of so-called physician assisted suicide. It's not something that I would have thought of sponsoring or bringing before this body at all. I'm not a member of the Hemlock Society. It's not something that even crossed my mind, as a member of this Legislature. The reason that I signed on to Committee Report "A", and the reason I hope this body will not reject this matter outright, is because I had to, as a member of the Judiciary Committee, listen, take a few minutes to listen to some very moving testimony. Committee Report "A" simply provides for a task force. It does not pass legislation to create decision-making for the terminally ill at this point. It simply provides for a task force to study that issue. I want to explain, from the testimony of these constituents, why I think that is something that you ought to consider.

A woman testified before the Judiciary Committee. A very attractive, both physically and in terms of her personality, she was a very attractive person. She suffers from Lou Gehrig's Disease, and she is about my age. She realizes that her time on this earth may be quite limited. She is not morose, she is entirely dignified and appropriate about her situation, but she argues, eloquently, that she wants to make that kind of decision on her own, without the

government telling her what to do. This concept involves people who are in the last six months of life, as certified by two physicians, and then further certified by a psychiatrist to be competent to make such a decision. Somebody suggested to me the other day that this woman could shoot herself, or she could drive off a cliff. This dignified, decent, kind woman doesn't want to shoot herself or drive off a cliff. She is a good, decent person, who is faced with a very tough situation and her question to me is, "Why are you, the politician, why are you, the government, telling me what to do in this very difficult situation?"

A second person who testified to the Committee is familiar to some of you. That was the former Representative Sophia Pfeiffer, who is not suffering from a terminal illness, but is a person who is one of the softest people I have known in the legislature. Representative Pfeiffer has faced several cancer operations. She has overcome them all and right now she is healthy and doing fine. She says, again, as someone with a long life experience, far longer than mine, "Who are you, Mr. Politician, who is this healthy, arrogant thirty-five or forty-year-old telling me what to do in that situation?" She wants to make the decision on her own.

Third, I had a constituent, a man whose father was suffering from a terminal illness, who was very oversome by the emotion that his father wanted to make that choice, could not make that choice, and felt that he was cheated because of the pain that they suffered and the pain that he went through. So, all Committee Report "A" suggests is that we listen to these people, that we give them some opportunity to address this issue. The Judiciary Committee did an excellent job modifying Representative Richardson's proposal, but our Committee doesn't have any people who are senior citizens, it doesn't have people, as far as I know, there are not enough people who are involved who had family members who died of long terminal illnesses, their spouses or children. I think we need to have those people participate and that's all that this Committee Report provides for, that those people participate in this decision. That's all. That you have nurses who are very involved in these end of life decisions participate in the decision. I hope you will consider how it would affect you. Would you want to maybe consider whether, and that's all we are talking about here, maybe consider whether you might want to be able to make that decision on your own, without the government controlling that decision for you. So, again, I do not favor Representative Richardson's proposal, but what I do favor is looking at it in greater detail with the people who are most directly affected. I think that's decent, it's kind-hearted, and the task force does not pre-suppose a result, it specifically states that one possible result of the task force report would be to do nothing at all. I think we ought to give it a fair amount of consideration out of respect for people like this brave woman with Lou Gehrig's Disease, and like former Representative Pfeiffer, and my constituent, who face very tough situations.

Physician assisted suicide occurs now in the State of Maine. They do it surreptitiously, by

doctors providing extra amounts of morphine. Maybe, perhaps, we should consider a mechanism, after a long judicious study through a task force, about how to deal with it more appropriately, legally and justly, as this woman with Lou Gehrig's Disease, and former Representative Pfeiffer suggested. That's all Committee Report "A" would provide and I thank the members of the Senate for at least listening. 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 oppose the motion on the floor, only because I feel that we do know where we stand on this issue. You either agree or you disagree. Another study to look at this issue, I think, is not necessary. While I'm on my feet, I guess I would just say one thing, and that is, as things stand now patients do have a right to make medical decisions about their care and their treatment. You know, the right to make medical decisions includes the right to refuse treatment that is necessary to sustain life. Each adult has two types of avenues they can use, one of which is a living will, and the other is durable powers of attorney. A vote on euthanasia, I think, is a yes and no vote, so I would ask the members of the body to not support this study, because I think it's time to take a stand on the issue. Thank you.

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

Senator **LONGLEY:** Thank you Mr. President, Colleagues of the Senate. I am relieved that this vote today is giving us a chance to discuss the issue further. I think that mortality is an issue that none of us like to address. As a lawyer, the area of most procrastination among my clients is in their wills. I won't hear from them for a year after they have decided they want to do it. It's a tough issue. We don't want to address it. I'm relieved that we don't have to decide on the actual value of voting for death with dignity here. I had a father who didn't want to die and he was fighting the obvious for the last eight months when he was only supposed to live two, he kept fighting. He had an expression, "my strengths are my weaknesses", and that fight was his strength. To some, maybe at some point, that fight was a weakness. I have a dog that if it was about to die, I think that would be the kindest gesture I could do. I have friends who tell me to vote for the death with dignity act. I don't know where I stand. I do know that it's an important issue that we have to address and I'm happy to vote for the task study.

On the point of living will and durable power of attorney, for that to kick in you have to be in a permanent vegetative state. That's different, in my eyes, than somebody who is thirty-five and very aware of what is going on and not at that permanent vegetative state. So, for those reasons, I am happy to vote for this study. Thank you.

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

Senator **MILLS**: Thank you Mr. President, Members of the Senate. I don't think that this is one of those issues where any one of us can stand up and try to convince you to vote one way or the other. It's just something that you feel inside that you should vote for or against. But, I will share with you some of my own reflections, having sat through hours of public hearings on this issue. I came to the legislature with my mind totally unresolved on this issue. I came down, finally, in favor of passing the bill, for these reasons. One of them is that the public seems to have accepted this idea on a very broad front basis. Many of us sent out questionnaires and invited the public to respond on this rather sensitive issue. Most of us have received overwhelmingly favorable responses, along the order of 70% to 80% of those people responding have endorsed the idea that there should be such legislation. I think that reflects, accurately, the tenor of our public hearing on the issue. The second thing is that most doctors will tell you privately, or some of them not so privately, that this is going on now. If a person wants to end his life in some discreet way it can be made to happen. Doctors participate in some passive, and some not so passive, ways.

I think that the medical profession is a little concerned about the statute because it set up procedures to formalize this process, and if they had a reservation about the statute, their reservation was that right now we don't have these procedures, don't bother us. Maybe we should leave it sort of under the table and just let things slide along as they are until society comes around to accepting the notion more broadly, perhaps, than they have. My own concern is that if this practice, which I gather is widespread, continues without formal legislative action that at some point, some person in some party or interest, some relative perhaps of the person who has died, might make complaint about the doctor or the hospital or the nurse who may have participated in some such process. Our law behaves in a very clumsy way when it deals with this situation. It prosecutes for murder, which is not exactly what I think people would have in mind as the appropriate remedy for this kind of conduct. What I'm saying is that I think that there are many medical professional people who are walking a very thin line right now, between doing what they, in their own consciences may believe is right, but at the same time running a risk of having our criminal law come down on them in a very heavy-handed and unexpected way, maybe from an unexpected quarter. For that reason, I felt that some type of legislation was appropriate. That's why I signed on to the bill. The task force is also highly appropriate in my view, but my own reaction to it was that we have a task force of one hundred and eighty six people in this building who come from many walks of life. Most of us have some notion of how we would like to vote on this issue anyway. I would be content to pass the bill and see how it works and study it as it goes, however, having said that, I am also quite content to have a task force report back in the next session, which is what Senator Faircloth's, from Penobscot, proposal does. Thank you.

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

Senator **McCORMICK**: Thank you Mr. President, Men and Women of the Senate. I rise to support the majority report as well. I do it for the following reasons. One, I have received the most thoughtful letter from Reverend Tollander, who is the Chaplain at Togus, raising very good questions about the bill as printed. The definition of terminal he wonders about, the definition of determination of mental competency. I think those points deserve more thought, longer thought maybe than we can give here. On the other hand, I, too, have to look at this from a very personal point of view, and that is that a very close member of my family asked me if she were in complete and utter pain from her terminal illness would I help her die? I had to tell her, that because I was an elected member of the legislature and sworn to uphold the laws of Maine, that I could not. That was an untenable position for me to be in, to have to choose the laws of a government over the needs of my immediate family. I don't think we should be putting Maine citizens in that position, especially on an issue that is as important and personal as this one. The proposal we have before us today that the good Senator from Penobscot, Senator Faircloth, has moved is a modest proposal and I believe we should support it. Thank you.

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

Senator **FAIRCLOTH**: Thank you Mr. President. I just want to provide a couple brief points of legal information that I think might be a little bit helpful. The Karen Ann Quinlan case, that people recall from about 1976, in New Jersey, involved this issue of persistent vegetative state that most of us remember. One of the interesting distinctions about that is that Karen Ann Quinlan doesn't get to decide if she can live for a long time. Karen Ann Quinlan doesn't get to decide, someone else decides for her and she could live for quite a long time. With the situation we are talking about here, two physicians certify the person has less than six months to live and I would note, just for the good Senator from Kennebec, Senator McCormick, that in the amended version of Representative Richardson's proposal, it is very strict in making sure that unless you have got those two physician certifications, plus the psychologist certifying competence, nothing goes forward. I talked with a number of physicians who made clear that, as a practical matter, what would happen is that unless a person had only a few weeks to live, no doctor would certify less than six months. So we are really talking about people who only have a few weeks to live or no doctor is going to take that step. It's a very conservative, restricted approach, even in Representative Richardson's approach to the legislation. It's an odd position when you consider that now, under current law, people can do things which can lead to the death of a person who could live for quite some time. By contrast, that very person cannot make the decision when their life is going to be ending in a few weeks to decide if they want to choose their own exit. Also, on a legal note, there was a famous case of a doctor, Timothy Quill, in Rochester, New York who had a long-time relationship, as a family physician, with a young mother who came down with terminal cancer. She chose to say her good-byes to

her family in her own way, and after a long discussion with him, he helped her to end her life as she chose. He was brought up for indictment in that county in New York, because it is a violation of the law, as the good Senator from Somerset, Senator Mills, suggested, even though doctors do this now surreptitiously, it is potentially a violation of the criminal law. In that case the Grand Jury chose not to indict, even though I think based upon a strict reading of the statute, they probably should have. That's an odd thing, to prevent this young mother from making her own decision and saying good-bye to her family in her own way.

As to the task force proposal, people say you can't change your mind on this. Yes you can. I came in opposing this legislation. The reason I changed my mind is because I talked to a lot of people who are directly affected. What this task force proposes is having a lot of people who are directly involved, directly affected, consider the issue. I think that affects people. It affected me because I was opposed to the whole thing from the start, until I listened to people who are directly affected. That's what this report is about. Thank you.

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

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't want to minimize anybody's feelings on this bill, because it is a very, very personal bill. Unfortunately, what the law is in a negative position for those people who might want to access what this bill allows us to access. It did hit me personally, as it has hit others in this chamber. I'm a 59-year-old woman right now. My mother, when she was 58, lay in a hospital bed for 92 days. All of us knew, the physicians, the surgeon, everybody knew that there was absolutely no way that woman was going to live. She could die with the tubes in her, she could die on the operating table. The surgeon said this to me directly, so I know, or she could be terminated. In any case she was going to die. I brought that, as the dutiful daughter, to the rest of my family, and as you can imagine, there are sixteen children in that family, it was not an easy thing to do. They chose not to do anything but to keep the tubes in. She came out of her coma for a couple of days. You all know me, so you can well imagine that I got some of those genes from my mother. I can't imagine that that woman, my dear sweet mother, would have wanted to lay on that hospital bed for 92 days, I can't imagine that, but she didn't have the opportunity to make any other election. We had to make it for her. Because I wanted to pull the tubes out I was called the black sheep of the family for about ten years. They don't forgive easily. Had she been able to make that election, she could have made it and they would have had to follow it. This bill may or may not have been able to affect her, depending on what her state was or anything else, but the fact of the matter is that she did lie there for 92 days.

My oldest sister and I looked at each other when she died and said almost simultaneously, "You have got to make me a promise. If I ever reach that point, please slip me a mickey." We both promised each other that we would, whether we will do that or

not I don't know. We are both above the age of 58 now, but that's how personal I know it gets. I would support the bill being put in place now, but I am supporting the resolve if that is the only thing that we can get. 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. These debates are always difficult because they infringe on the most intimate moments of our lives. I'm afraid that sometimes that fact tends to cloud the issue. It's my sense that I will oppose the motion on the floor because it seems to me that the debate is taking place where it belongs, and the study is taking place where it belongs, and that is in our society at large. It does not seem to me to be particularly appropriate for government to attempt to convene a study of this nature when it is already going on in the community. The issues are difficult to understand, and many times are difficult to discuss. Cases where there is a family member and there is a debate about life support are frequently resolved by discussion among the family, and in a family where there is unanimous agreement among children of a parent who is ill, then the type of life support plan that is created is generally one to which both the physician and the family members agree. It's really only when the family members disagree that there are problems with that. So, with all sympathy to Senator Bustin for her family's situation, it nevertheless remains that if the family can agree on what the plan should be, there is usually no difficulty in executing that plan at the hospital level. It's only when the request is for some action that is not withdrawing life support, but has to do with administering lethal doses of medication, where things begin to get cloudy. So, I would submit that the best place to leave this debate is in the public forum in which it is taking place now, and that when the public and the State of Maine, or elsewhere, arrives at the point where they are comfortable with the decision, I believe it will then come to us in a form that will pass easily in this body and we don't need to try to steer that debate. Thank you.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate. I shall be opposing a further study of the issue, and I want to share with you the survey that I sent out earlier in the session on this question, whether my constituents were in favor of legalizing physician assisted suicide for terminally ill people. My constituents don't want a study, 71% said they favor such legislation. I think I agree with others who have spoken before me this morning that the issue is well known by our constituents, we don't need to study it further. In this regard, my constituents favor enactment of such legislation as this. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **FAIRCLOTH** of Penobscot that the Senate **ACCEPT** Report **"A" - OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411)** 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, BUSTIN, CIANCHETTE, CLEVELAND, FAIRCLOTH, LONGLEY, LORD, McCORMICK, MILLS, RUHLIN**

NAYS: Senators: **AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, MICHAUD, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senator: **ESTY**

10 Senators having voted in the affirmative and 24 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **FAIRCLOTH** of Penobscot to **ACCEPT** Report **"A" - OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411)** in **NON-CONCURRENCE, FAILED**.

On motion by Senator **PENDEXTER** of Cumberland, the Senate **ACCEPTED** Report **"B" - OUGHT NOT TO PASS**.

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

SENATE REPORTS from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Establishing the Maine Council on Privatization (EMERGENCY)

S.P. 81 L.D. 169

Report A - Ought to Pass as Amended by Committee Amendment "A" (S-254). (6 members)

Report B - Ought Not to Pass. (6 members)

Tabled - June 13, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT**.

(In Senate, June 13, 1995, Reports **READ**.)

Senator **KIEFFER** of Aroostook moved that the Senate **ACCEPT** Report **"A" - OUGHT TO PASS AS AMENDED**.

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

Senator **KIEFFER:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is legislation which I introduced last January. Generally speaking, I am opposed to additional studies and further studies, but in this particular case it is something that I had researched for a period of two years. I have tried to establish what has worked in states like Kansas, Michigan, Florida, and New Jersey. I have compiled a group of reports that were a foot high. Generally, when studies regarding departments in the interest of checking their efficiency, or inefficiency, or privatization or whatever you want to call it, they are very narrowly focused. They are instituted by a legislator that has perhaps an ax to grind about the operation of the department and how it affected him or a constituent or something in that fashion that was very narrowly focused. My intent in this particular piece of legislation is not partisan. It was designed to not only take a hard look at all of the segments of state government, from an efficiency standpoint, it is also designed to take a look and reward departments of state government that do operate in a very efficient and effective way, and perhaps even set up an award system to employees that do operate and could be held up as an example to other segments of government in the efficiency with which they do operate. It would also be the intent to single out departments that do not operate in such an efficient manner, and see if there isn't some way, by improving their efficiency, or making them competitive with the private sector by looking at the pros and cons of privatization of either the department or segments of the department, to see if there isn't a more efficient and effective way to make state government operate.

Since the bill was introduced, the Governor, through his budget process, has initiated his Productivity Task Force, which does some of the same things that the bill which I introduced are designed to do. However, I think there is a distinct difference in some parts of the two proposals. I believe his is more oriented to the short term, to the immediate biennium coming up, as he must reduce by some \$42 million the expenditures of state government in the very near term. I believe the legislation which I introduced is longer term than that. I believe we can be looking at a five-year proposal as I believe should be done in state government, as we should have a longer range plan in place to make state government more efficient and more effective over the long period of time. The amendment that has been added to this bill does, in fact, change the title of the bill. It now reads, Resolve, Establishing the Maine Council on Competitiveness. It also adds a fiscal note of some \$2,900 to the bill to pay the expenses of the people serving on this council. It also removes the emergency preamble in the bill.

During the course of the Committee hearings, and after the initiation of the Governor's proposal on the Productivity Task Force, I agreed to carry this bill over to see exactly how the Governor's Productivity Task Force, in fact, did work, and merely keep this as a back-up to that. That was not allowed by the Legislative Council, so it is before us here today. I would sincerely ask for your support on my motion of ought to pass. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President, Colleagues of the Senate. Twenty-nine hundred dollars for another study that is happening at the same time as the Productivity Task Force strikes me as \$2,900 that we might put into education or property tax relief. I guess I just don't see the need, especially given the fact that we had this major policy change with the Productivity Task Force. Working with the Senator from Aroostook, he has been more than pleasant and conciliatory, and I won't die if this becomes law, I just think it's not the best choice for the day. Thank you.

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

Senator **AMERO:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. Back in 1991 a special commission on restructuring state government was formed. That commission made several recommendations on how state government could be more efficient and more cost effective. One of the recommendations of that special commission was to investigate and to privatize certain areas of state government. In fact, the commission outlined some of the areas that we felt, I was a member of that commission, could be effectively privatized. Since that time, several states have, in fact, created councils on privatization, or councils on competitiveness, and have been able to save many state dollars and continue to provide outstanding services to the people in their state. During the public hearing I was very impressed by the number of people from the private sector who came to testify that their own businesses were in direct competition with some of the services being offered by the State of Maine. The least that we could do is to look into areas where we are providing state services that are in direct competition with those same services being offered in the private sector. I think any way, during these times of tough budgets, any time that we can find a way to provide the same services at a reduced cost, and to increase jobs in the private sector, we should do that.

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

Senator **BUSTIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would hope that you would oppose the pending motion and for a lot of the reasons that the good Senator from Aroostook, Senator Kieffer, has outlined. That is that in fact this is going to be addressed in the Productivity Task Force legislation that we have just passed. That's a \$45 million bite out of state employees that we have

already committed to make. Privatization is one of those things. The good Senator from Cumberland, Senator Amero, has also indicated that there already was a task force on this and that those findings are still there. So, all the Productivity Task Force has to do is to go and look at all of those studies that have been made on restructuring, privatization, et cetera. We have talked about parroting, we have talked about all kinds of things regarding this issue, and we don't need another council to do that. So, I would hope that you would defeat this motion and then Indefinitely Postpone this bill. I'm not making that motion right now, but I am asking for the yeas and nays when the vote is taken.

On motion by Senator **BUSTIN** of Kennebec, 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 **KIEFFER** of Aroostook that the Senate **ACCEPT** Report "A" - **OUGHT TO PASS AS AMENDED.**

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, CIANCHETTE, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

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

ABSENT: Senator: **ESTY**

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **KIEFFER** of Aroostook to **ACCEPT** Report "A" - **OUGHT TO PASS AS AMENDED, PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-254) **READ** and **ADOPTED.**

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

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

Bill "An Act to Amend the Law Relating to Municipal Service Fees and to Modify the Reimbursement Policy for Hospitals to Recover Service Fees Paid"

H.P. 550 L.D. 746

Tabled - June 13, 1995, by Senator LAWRENCE of York.

Pending - **ADOPTION of SENATE AMENDMENT "A" (S-258) TO COMMITTEE AMENDMENT "A" (H-244).**

(In House, June 12, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-244) AS AMENDED BY HOUSE AMENDMENT "A" (H-407)**, thereto, in **NON-CONCURRENCE.**)

Senate Amendment "A" (S-258) to Committee Amendment "A" (H-244) **ADOPTED.**

House Amendment "A" (H-407) to Committee Amendment "A" (H-244) **READ.**

On motion by Senator HATHAWAY of York, House Amendment "A" (H-407) to Committee Amendment "A" (H-244) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

Committee Amendment "A" (H-244), as Amended by Senate Amendment "A" (S-258), thereto, **ADOPTED** in **NON-CONCURRENCE.**

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

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

SENATE REPORTS from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Revise and Add to the Laws Regulating the Practice of Professional Engineering"

S.P. 475 L.D. 1271

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-243).** (12 members)

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

Tabled - June 13, 1995, by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In Senate, June 13, 1995, Reports **READ.**)

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

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

SENATE REPORTS from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Require That Additions to the Endangered Species List Be Approved by the Legislature" (EMERGENCY)

S.P. 167 L.D. 428

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-248).** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-249).** (1 member)

Tabled - June 13, 1995, by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In Senate, June 13, 1995, Reports **READ.**)

Senator HALL of Piscataquis moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-248)** Report.

Senator LAWRENCE of York moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED.**

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

Senator HALL: Thank you, Mr. President, Ladies and Gentlemen of the Senate. This report has a nine to one on it. The only reason it's not eleven to one is because the other two didn't get in in time to vote on it, I'm sure. I'm going to urge you to vote against the Indefinite Postponement so that we can move forward and pass the majority report that has been worked on extensively by the Fish and Wildlife Committee.

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

Senator MICHAUD: Thank you, Mr. President, Men and Women of the Senate. I will be supporting the motion of Indefinite Postponement. However, if that fails, hopefully we will defeat the pending motion so we can then go on to the minority ought to pass report. The Maine Endangered Species Act was passed in 1975 for the express purpose of protecting and maintaining all species of fish and wildlife found in this state. The act does require the Commissioner to designate a species to be endangered or threatened

when it finds that that is, in fact, the case. I do not believe that the Legislature should be required to review and propose legislation to enact legislation to put endangered species on the list. It is a cumbersome process that you have to go through. The department has made great strides over the years, and they base their process on scientific information and if someone is aggrieved by something being put on the endangered species list, then they are allowed to take it to court and appeal that decision. Although I am on the minority report, I do not believe that either report should pass this body, or the other body. There are current criteria and plenty of fall back positions that if an individual is aggrieved they can go through. Therefore, I will be supporting the Indefinite Postponement of this bill and all its accompanying papers and hope that you will support it too. Thank you.

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

Senator **CIANCHETTE:** Thank you, Mr. President, Members of the Senate. I sponsored this bill, and what prompted the sponsoring of the bill was there was a list, a new list, from the Commissioner of endangered species to be added to the list. I don't think there is anything wrong with identifying endangered or threatened species and putting them on the list of threatened and endangered species, but it's the next step that is of serious concern. When a species is listed, then there is the whole habitat question of how do you protect that species, and therein lies the problem. The Commissioner is required, under law, to identify threatened and endangered species, and he has certain criteria to list that species. He does it with all the scientific evidence that can be gained, and they are the right department to do that. But one thing that the Commissioner may not include in his analysis of whether a species is threatened or endangered is what happens to the social and economic situation that an endangered species may put someone in. The Commissioner may not consider that, it is not within his prerogative to consider that. Automatically, when that endangered species is on the list, it gets into the habitat situation that now gets involved with what goes on in the development of the State of Maine and what happens within the State of Maine for new development. It's a little tough for me to understand that we legislators don't have the capability of listening to the scientific evidence, and then listening to the social or economic concerns that this may have and make a valued judgement in the best interest of the people of the State of Maine. I won't go into a whole litany of situations that can and could develop out of this thing, but we legislators are elected by the people to make the laws in this State, and to totally delegate away from this Legislature, the authority to have significant, tremendous impacts on the people of the State of Maine, without the legislature being involved, I think is wrong. The way this bill is drafted, and if you accept the amendment that Senator Hall will be offering, you will see that the legislature will not act on any endangered species unless the Commissioner has recommended either adding or deleting from the list. The legislature will not have the authority to jump in the middle of things without any scientific knowledge and remove or add to the list. Only the

Commissioner is recommending adding or deleting, and the legislature can then get involved.

The motion to Indefinitely Postpone this bill, I think, is wrong. I think it's a good bill and I would very much like to see this bill move forward. I hope you will vote against the motion to Indefinitely Postpone. Thank you.

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

Senator **KIEFFER:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would just like to briefly clarify something that I believe I heard earlier. This legislation does not give this legislature, or any other legislature, the right to add or detract items from the endangered species list. It merely gives the legislature the final approval of the recommendations of the biologists, and therefore of the Commissioner, that would be submitted to the legislature. It, in turn, in fact, returns the final authority to the elected officials in the State of Maine.

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

Senator **FAIRCLOTH:** Thank you, Mr. President, Colleagues of the Senate. This endangered species law has been in place for two decades and my concern is if there is a problem we need to address that. I think all of us, I assume all of us agree that the general concept of endangered species, certainly as the good Senator from Somerset, Senator Cianchette, has articulated, that we agree there should be lists of endangered species and that fact should be taken into consideration. We do have a system in place for that now. My question is, over twenty years, over two decades, are there cases, can someone cite to me one case where a project has been stopped as a result of the endangered species designation? I would like to pose that question through the Chair. Thank you.

THE PRESIDENT: The Senator from Penobscot, Senator Faircloth, 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 good Senator's question, I cannot, right at this particular moment, cite you a particular example by name. But, there has been development stopped because of locations of bald eagle sites, et cetera. There has been many things that have happened as far as development goes. The big problem is yes, the system has worked, and there are times when things should not be developed because of an endangered or threatened species, but I see the problem happening, and I point to the spotted owl situation in another state. I'm sure everybody in this room knows about that. Just lately there has been information distributed that that was unnecessary. That once they looked into it they found that that spotted owl will mate and live in other places. Look at the hardship, look at the jobs that were lost out there, and so on and so forth. Times have changed. You and I, as legislators, go back home and we get blamed for everything that

happens in state government. Perhaps you know, perhaps you tell them that you don't have a thing to do with endangered and threatened species as a legislator in Augusta, Maine. That should be the answer you have been giving them, because you do not have any control over it. It is time that we take a little control back. This is only going to be adding one step to the process that is already in place. We are not changing that process, we are just adding a step. If I am going to be blamed for something, I want to be responsible for it. Please vote against the pending motion.

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

Senator **CARPENTER:** Thank you, Mr. President, Men and Women of the Maine Senate. I can recall a project that has been stopped because of the endangered species. It was in Kennebunk, the Kennebunk blueberry plains was being sold by the owner who harvested the blueberries, to a development and it was stopped because of a sparrow, a grasshopper and a snake. It was stopped, but fortunately it was picked up by Land for Maine's Future, so everything probably worked out fine. But, at the time the project was completely shut down because of endangered species.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. I know a developer who had a project stopped dead because of the black racer snake. He had to hire a specialist to prove that there were other black racer snakes in the area, and in the county, and he proved it but it cost him an arm and a leg. This is one thing that is happening that should be avoided if it possibly can. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President, Colleagues of the Senate. I'm sure there are reasons to question endangered species. I would like to take a different slant and just let you know what is already on the books. In terms of it being a step, I say it is an unnecessary extra step to add this to the books. Basically, the one-two here is that if a hundred people petition, or a person who is substantially affected by a rule and they file an application, it goes to the Leadership Council, they delegate it to the committee of jurisdiction. If one-third of them decide something is wrong here, then that's all it takes, one-third to correct. So, in terms of us having say over endangered species listings, if a hundred people petition, or if only one person who is substantially directly affected goes to the Leadership Council and it gets bounced to the committee of jurisdiction where one-third get to decide, that's part one. Part two is that whenever they promulgate a new rule, there are requirements already on the books on how they notify the legislature so we can retain our oversight and honor our oversight responsibilities. Basically, it starts with the fact sheet and is followed up by a long list that I will spare you today, and tell you about another day, but the point of the matter is, as I see

it, we already have ways on the books to bring it back and review and honor our obligations. For that reason I will be voting for the motion to Indefinitely Postpone. Thank you.

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

Senator **MCCORMICK:** Thank you, Mr. President, Men and Women of the Senate. The tenor of the debate, the way the volume was just sort of turned up, is exactly why I am going to be supporting the motion to Indefinitely Postpone. How can a grasshopper, a sparrow and a snake ever compete with a project, especially in this charged atmosphere that we find ourselves in, an economic development project, a project of any kind. There is no science, there is no reliance on science in the bill before us, in the majority report. That's where we should be. That's where our concern should be, vis-a-vis the Endangered Species Act, because you may laugh at a sparrow, a grasshopper and a snake. They may look funny. A mayfly may look funny, it may be very small, there may only be five of them. We could say oh well, it's just a mayfly, but contained in the mayfly, the grasshopper and the sparrow and the snake are chromosomes, chemicals, material that you may need at some point to save yourself from cancer or some disease that you don't yet have. I hope you don't have, because that is exactly what this is all about, science and preserving the biodiversity of this planet so that we human beings, of whom we have quite a lot of affection, can continue living and thriving on this planet. To do that, it's going to take a lot more species than just us.

The good Senator from Somerset, Senator Cianchette, brings up a very good point about habitat versus endangered species. He is absolutely right, habitat is important, but there is a separate rulemaking process for habitat. That is where the socio-economic considerations come in. That is where we weigh economic development versus habitat. The endangered species section of our process should be purely scientific. It's not going to be purely scientific if we support the majority report. I also wanted to bring up the whole eagle question. To my mind, I have heard and seen written, that since 1989 there have been no conflicts between development and eagle nests protection. The reason for that is because we have all, in our human being-type wisdom, developed task forces and processes to lower the volume and solve those problems and find other places for the development and that between 1989 and now, my information tells me there has been only one conflict that wasn't resolved by that process, and that is currently be resolved in another way. So, to my mind, absolutely, we have to be concerned with balancing economic development projects, buildings, pavement, manufacturing facilities, and balancing preserving the diversity of the species that we depend on. I believe that we have that. We have the socio-economic input in the habitat designation and rulemaking process, and we need to preserve the scientific basis for endangered species rulemaking.

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

Senator **LAWRENCE**: Thank you, Mr. President, Men and Women of the Senate. At the risk of making a bad joke, I think we are killing a fly with a sledge hammer here. The issue is really policy versus science. Whether or not you want to protect endangered species is a policy issue. That's an issue the legislature has decided. Whether or not a species is endangered is a scientific issue, and that's appropriately made by the people who have the ability to make that. The legislature does not have the ability to make a scientific judgment of whether or not something is endangered. To pull it back into the legislative process will not only burden the legislative process, but think how hard it has been for us to make difficult decisions, like education funding, like the budget, things like that. How many endangered species issues are going to become parochial issues after this? Where one part of the state is deciding what another part of the state should do. It becomes those types of issues. Is that any way to decide whether or not a species is endangered? If you want to change the policy, that's one thing, and I think maybe if people want to do that we ought to have a bill to try to change the policy in some fashion, but if you want to change the science of what is an endangered species, the legislature is not the place to do that. Thank you.

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

Senator **PARADIS**: Thank you, Mr. President. Briefly, I was young when the Dickey Lincoln Project was being debated here in Augusta. I was up north, in Saint Agatha. When the opponents of the project were running out of ideas to stop it, they came up with the idea of a lousewort, this was a little plant here that was endangered. There was no doubt in our minds that they were using it as an excuse. So, I'm against this motion because we use this endangered species, we make much ado about nothing. Usually there is a way around it, but I remember that when all else had failed, they used that as an excuse to stop the project. Thank you.

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

Senator **RAND**: Thank you, Mr. President, Men and Women of the Senate. I hope that you will go along with the pending motion to Indefinitely Postpone this L.D. It really puts me in kind of an uncomfortable position to suggest this, because of the sponsorship of the bill. I happen to think very highly of the good Senator from Somerset, Senator Cianchette, but I think that we have had ample testimony here today that proves that the social and economic impact of a decision of where an endangered species may be can adequately be dealt with, and has been dealt with. Maybe it is a little time consuming, and maybe, as one Senator pointed out, it is costly to a developer, but we have been granted a sacred trust here. We are not just here for the immediate concerns of the people of this State, we have to look long term. We have an obligation to listen to science when they tell us that a species may cease to exist if we don't protect it. That's the arena that should decide, and does decide, what is endangered and what isn't. The good Senator from York, Senator Lawrence, brought up, I think, a very interesting point and one that I was

thinking of while I was driving up here today. We have so much controversy now over the distribution of the school funding. It's got nothing to do with geography really, it's who are high receivers and who are low receivers, that's a mix all over the state. I do see us turning this whole endangered species business into a very parochial situation. I think we should accept the wisdom of the legislature of twenty years past who knew exactly what they were doing when they took this process and put it in the hands of the biologists and the scientists who will be able to identify and tell us what is endangered and what isn't. They also built in a mechanism for the social and economic impacts to be dealt with. Please, support the pending motion.

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

Senator **CASSIDY**: Thank you, Mr. President, Men and Women of the Senate. It's sort of interesting, some of the comments that I have listened to here on this debate this morning. Leaving all these things to science, I wanted to share with you a couple of downeast scientific discoveries we have made. If you happen to be travelling down Route 1, coming into Calais, off at the game refuge there you will see a couple of neat eagle's nests up there a few hundred feet from the road. As you know, we have a law in this State that we can't do anything within a quarter of a mile of an eagle's nest because, obviously, they are endangered and we love the national symbol, our eagle. But eagles don't agree with the scientists or with us, they decided to build this nest on top of a light pole down there. We get all sorts of tourists that stop and see the eagles, and since then the refuge has put up another pole with a little platform and they have built another nest. I don't think this science stuff always works. I think that eagles can learn to live with us and us with them. The other interesting thing I want to share with you, I was reading last summer about the endangered may fly. Just about a year ago, just after the sun had gone down, it was just starting to get dark, I had some friends visiting at my house. We walked out on the deck and the people said look at this. We couldn't believe it, the sky was black with may flies. I said to him I think the black fly is more endangered here in Washington County than the may fly. We would be glad to share some of both of those with you if you need any. So, I am not going to support the motion to table this bill. 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. This, as I have frequently said, is a very difficult decision for me. The last thing I want to see are debates on the floor of the legislature about species and whether they should be on the endangered species list or not. My original inclination was to oppose the situation where we would get ourselves into that sort of debate. I would like to share with you what helped me to change my mind about that. This is from a newspaper ad, which we are required to place, about rulemaking in the State of Maine. It's from this past winter. It states in the advertisement that the designation of mapped sites by rule would restrict

within these areas, any project that requires State or local permits, or are funded by or are carried out by state or local governments unless it is determined that the project will not significantly alter or unreasonably harm the essential habitat. It then goes on to say, "New bald eagle nest sites are being designated in the town of Adamstown Township, Boothbay, Bristol, Brunswick, Calais, Castine, Cutler, Deer Isle, Edmunds Township, Ellsworth, Flagstaff Township, Forest City Township, Franklin, Gouldsboro, Great Pond, Hartland, Jonesport, Lovell, Machiasport, Magalloway Plantation, Marion Township, Millinocket, Orland, Orrington, Osborn, Pembroke, Perry, Portage Lake, Sapling Township, Steuben, St. George, Swans Island, Topsham, Trescott Township, Verona, Vinalhaven, and Woolwich." I will spare you the letters and numbers of the unorganized territories. "Piping plover and least tern nesting sites, feeding and brood rearing areas are being designated in the towns of Cape Elizabeth, Georgetown, Kennebunk, Kennebunkport, Ogunquit, Old Orchard Beach, Phippsburg, Saco, Scarborough and Wells." It also mentions that a protected bald eagle nest in T-16 is being amended, but it does not suggest whether that amendment is with consent of the eagle or not. Thank you.

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

Senator **KIEFFER:** Thank you, Mr. President. I find the debate here very enlightening and very interesting, but the fact is much of it has gone far, far beyond the confines of this bill. This bill does not grant this legislature, or any other legislature, the right to add to or detract from endangered species lists as such. It only gives us the right to approve the biologists, through the Department's action, as far as listing of endangered species. It gives us the final word that the people back home sent us here to have. That's all this bill does. Thank you.

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

Senator **MICHAUD:** Thank you, Mr. President. This bill allows the legislature to either put on or take off the list. The legislature has the final authority for this bill. If the Department comes in and wants something put on the list, it will go to the Fish and Wildlife Committee. The Fish and Wildlife Committee will hear the bill. If the Fish and Wildlife Committee decides, and the legislature ultimately, that something else should be added to that list, it can add it to the list. There is nothing in this bill to prevent the legislature from not adding to the list. That was one of the questions that I asked the Attorney General's office, and he pretty much said the same thing. L.D. 428, as amended by Committee Amendment "A" removes the power of the Commissioner of Inland Fisheries and Wildlife to designate endangered species and reserves that power to the legislature. So, if the legislature wants to add anything to this list, it has the authority to do so. If someone is aggrieved by that decision of the legislature, tough luck, there is no recourse other than to repeal the law. The legislature will have the final authority. The way the law currently reads is if someone is aggrieved

then they can take it to court. I want to make that clarification. The legislature has the right, if this passes, to put anything on that list that it chooses, or take anything off the list that it chooses. The Commissioner of Inland Fisheries and Wildlife did tell the Committee that the Governor understands and shares the concern with the landowners, and feels that economic and social issues should be a part of the process, and they are currently working on that to help relieve that. But, I don't want this body to think that the legislature does not have the right to include anything because this bill, if passed, will give the legislature that right to include anything that it wants to.

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

Senator **CIANCHETTE:** Thank you, Mr. President. A couple of points. The last one first, perhaps. The Senator from Penobscot, Senator Michaud, is correct. I think that perhaps the bill does say that. There is a technical oversight in the bill that, when we finally pass this bill in the Senate, we will offer an amendment that will straighten that out so that the legislature may act only upon the Commissioner's recommendation to add or deduct from the list, which will tighten it up from today. The other thing I would like to talk about is this idea that this legislature is not qualified to deal with matters of science. If that is true then goodness, what are we doing trying to pass laws. Why don't we leave that to the Judiciary and the lawyers who really understand the laws. I'm not a lawyer, why should we be messing with trying to pass laws, we should leave that to the lawyers. Why should we here, most of us know very little about schools, why should we be making decisions about school. Why don't we leave that to the professionals, the teachers. Why do we get involved with schools in this legislature because we don't understand. Why is it that we get involved in human services. I'm not a social worker, most of us aren't social workers. Why don't we leave those decisions to the experts. Why do we get involved with those issues here in this legislature. Why do we get involved with marine resources. I'm not a fisherman, I don't know what's going on with marine resources. Why don't we leave that to the experts. Why don't we leave economic development to the economic development committee, and let them make the decisions for us. What are we doing that for. We're not economic development experts. This argument is ridiculous folks. Of course the legislature not only has the authority, but the responsibility to finally enact laws in this state. To abrogate those responsibilities, as we have done over the past, is exposing the state to people making laws that are not elected, are not answerable to the electorate, and this simply gives an oversight. It requires the legislature to have oversight over what the Commissioner does, relative to the endangered species list. I still hope you will vote against the motion to Indefinitely Postpone.

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

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

Senator HALL: Thank you, Mr. President, Ladies and Gentlemen. You have been told several times that the legislature will not be able to add or take off anything that they so wish to do. It's right here. Presently one individual in this state has the control over what goes on that list and what comes off that list. One person has that sole control. That person is the Commissioner of Inland Fisheries and Wildlife. Through the Administrative Procedures Act he has to do certain things before he makes that decision. He has an advisory committee. Does he have to accept what they tell him? No, it's an advisory committee. He is the sole authority over a very important issue. That's a little dangerous. It's been handled very well for twenty years, but what about the next twenty as this issue becomes more ultra-important? We are simply adding another check and balance to that procedure, people. A vote against the pending motion is not a vote against the environment. Actually, it's a vote to protect the environment with better controls. Please vote against the pending motion. Thank you.

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

Senator McCormick: Thank you, Mr. President. I have to disagree with my good colleague. The minority report, which I hope we eventually get to, allows for a dialog between the Committee on Inland Fisheries and Wildlife and the Department of Conservation, the department in question, and the DEP. It does expand our current process on this, which the Senator from Waldo, Senator Longley, pointed out, is not just controlled by one man. His acts are overseen by the Administrative Procedures Act, and their processes, so let's keep all this in perspective. If we ever get to the minority report, the minority report specifically, and I'm looking at it, on page two, provides for a dialog between the Department and the Committee. Both before designation and after, and that is important.

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

Senator HALL: Discussion should be on the majority report.

THE PRESIDENT: The Chair would advise the members to stay focused on the pending report.

Senator McCormick: I thought the pending motion was Indefinite Postponement.

THE PRESIDENT: The Senator from Kennebec, Senator McCormick, may continue.

Senator McCormick: Thank you. I also have a report here about how many endangered species we do have in Maine, let me just read a little from this, because there has been no development that has been stopped to date because of the State's Endangered Species Act. One of my colleagues in the other body that I served a wonderful two years with, up in Banking and Insurance, had a rule. He had a little piece of paper he would pull out, he is now in leadership over there, his rule was, if there is not a problem then why pass a law about it. This, I

think, falls into that category. If the worry of economic development and whether it's going forward, then let's examine the facts. My facts are that there has not been any development stopped because of the Endangered Species Act. Furthermore, when you look at the sites that are protected because endangered species live in these sites, they are mostly, something like 84% of them, are already on protected land, on conservation or other protected areas. So, I think we need to keep in mind what's before us and what's before us is, as the good Senator said, a sledge hammer trying to kill a mayfly.

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

Senator Michaud: Thank you, Mr. President, Men and Women of the Senate. I would just like to clarify the good Senator from Piscataquis' statement that one person has sole authority and that is the Commissioner of Inland Fisheries and Wildlife. That is not correct. If the advisory committee disagrees with him they can veto his decision to put something on the list. I also want to state that if one person is aggrieved by the situation under the current process, then that will put a stay on that individual species to be added to the list.

THE PRESIDENT: The pending question before the Senate is the motion of Senator Lawrence of York that the Bill and Accompanying Papers be INDEFINITELY POSTPONED.

A vote of Yes will be in favor of INDEFINITE POSTPONEMENT.

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, BUSTIN, CLEVELAND, FAIRCLOTH, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND

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

ABSENT: Senator: ESTY

12 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator Lawrence of York to INDEFINITELY POSTPONE the Bill and Accompanying Papers, FAILED.

THE PRESIDENT: The pending question before the Senate is the motion by Senator HALL of Piscataquis that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-248)** Report.

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. I hope that you will vote against the pending motion so we can move to the minority report. The problem I have with the majority report is it requires the legislature to adopt all the rules dealing with endangered species. If the majority report would allow for the legislature only to get involved in those situations where there is a problem, then I would support it. I cannot speak in favor of the minority report, but that is what the minority report does. So, I request a Division on acceptance of the majority report. Thank you.

Senator **MICHAUD** of Penobscot requested a Division.

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

Senator **FAIRCLOTH:** Thank you, Mr. President, Colleagues of the Senate. I posed a question earlier about what projects had been stopped, and the reason I posed that question was because information had been provided to me that no project had been stopped. I state, forthrightly, that I am not a member of this Committee and I don't claim to have any expert knowledge myself, I am simply wishing to be educated on the matter, but just for my further education I called Matthew Scott at the Department of Inland Fisheries and Wildlife and he confirmed, again, that no project in two decades has been stopped. He may be incorrect, he may not be telling the truth, if someone wishes to allege that he is incorrect or not telling the truth, but he stated to me flatly, without qualification, that no project has been stopped. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator HALL of Piscataquis that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-248)** 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: AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, CIANCHETTE, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: ABROMSON, BUSTIN, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

ABSENT: Senator: ESTY

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator HALL of Piscataquis to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-248)** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-248) **READ** and **ADOPTED**.

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

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

SENATE REPORTS from the Committee on **TRANSPORTATION** on Bill "An Act to Improve Bicycle Safety in This State" S.P. 580 L.D. 1557

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-256)**. (4 members)

Tabled - June 13, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT**.

(In Senate, June 13, 1995, Reports **READ**.)

Senator **STEVENS** of Androscoggin moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **STEVENS:** Thank you, Mr. President. This bill is on bicycle safety, which I think we are all very interested in, but I don't believe this bill is going to improve it. I'll read a little bit of the

statement of fact. "This bill amends the motor vehicle laws to clarify that it is legal for bicycles to travel in a normal speed of traffic when travelling in the same direction, and at similar speeds." Most of our accidents with bicycles have been with ten to fourteen-year-olds. Most of them have been during the week. I don't think that there is any way that we should tell them that they should be out in the line of traffic, other than with good common sense. I hope you will vote for my motion. 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 hope you will vote against this motion and go on to accept the minority of the Committee report. We have taken out the definition that the good Senator read to you in terms of where the bicycles would be allowed to operate on the roadway. We have basically just accepted the hand signals. Bicycling in Maine is becoming more and more of an issue. They are all over the road and we have to start dealing with this reality. This would be a beginning point. Thank you.

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

Senator CASSIDY: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I also was able to sit in on the Committee of Transportation to hear this particular bill, and I think it was mentioned earlier in our last debate, about not making a bill into a law if it really is not necessary. This particular bill, some of the original language said that bicycles would be able to travel on highways if they kept the same speed as a vehicle and that sort of thing. That would be quite a hard job to do for a long period of time. The bill is actually just common sense kinds of things where you pull over to the right, if you have a paved shoulder that you will be on the paved shoulder, you will use hand signals, and all the kinds of things that happen now. This bill would just be another situation where we are printing another law needlessly. I will support the motion. Thank you very much.

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

Senator BUSTIN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. This bill was presented by the Bicycle Coalition of Maine, and they happened to ask me to be the sponsor. I'm too old to cycle any more, actually nobody is too old to cycle any more, but I don't cycle unless it's a stationary lifecycle. I just happen to know the person who wanted to put this in. It is supported by the Maine Department of Transportation. It's curious that the majority of the Committee decided to go against it. As the good Senator from Aroostook said, Senator Paradis, that there is only one thing left in this bill for the minority report, and that is section two that would allow a right hand turn to be signaled by an outstretched right hand. What is current law is putting your hand up this way. One of the things Doctor Garter has studied, and he's the one who has brought this, Doctor Per Garter who is a Professor of

Civil Engineering at the University of Maine at Orono, and he had just completed a study of bicycle accidents in Maine. He's the one who is helping to push this. One of the things his study showed was that almost all bicycle/motor vehicle accidents occurred at intersections, and that the cyclist was most often at fault. We believe teaching that simply pointing to the direction they plan to turn will get children, and adults, to use hand signals in both directions more often. This right hand signal is easier to remember, is as visible to following cars as the left hand signal, and is more visible to cars in front of the bicycle. It is easier to perform and looks less like a wave or some other less friendly sign than the current left handed signal, and so, is more easily understood by drivers. This may be a somewhat insignificant bill, but it was significant to enough people who are involved in bicycling to feel that they needed to change the law. Unfortunately, the law is in place, so in order to change it you have to come back to this body. What we are really talking about, apparently, are kid's lives. They are taught from zero years on what is right and what is left, and right is not pointing to the sky. 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. If you want to get serious about saving kid's lives in the area of bicycle safety, the Committee should have supported the bill that the Senator from Penobscot and I sponsored which had everything to do with safety. So, if you want to get serious about safety, this is not really the area in which kids get injured. Wearing a bike helmet is all about saving kids injuries and preserving and just sort of preventing the serious head injuries that are present when kids do have bike accidents. So, if you want to get serious about bike safety, let's really do it right. This bill really does nothing. Perhaps next session we can really get serious about bike safety. Thank you.

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

Senator STEVENS: Thank you, Mr. President. It's probably hard to believe, but I do ride a bicycle occasionally. I'm left handed. It does make a difference whether you are left handed or right handed on how you make the signals. Just stop and realize, a ten or fourteen-year-old trying to keep their balance when they are sticking their arm out right instead of up. Thank you.

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

Senator BUSTIN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. This bill does not take out of the law the ability to put your hand up. It simply allows you to also put your hand out.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator O'DEA: Thank you, Mr. President, Men and Women of the Senate. I have been sitting here

listening to this discussion over this rather weighty piece of legislation for the last ten minutes and reading excerpts from this book, The Death of Common Sense, How Law Is Suffocating America, by Phillip K. Howard. I would strongly suggest that everybody obtain a copy of it and read it.

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

Senator **McCORMICK:** Thank you, Mr. President. I am absolutely going to read that book. I have heard great things about that book. But, I have also heard great things about this bill. The tenor of our discussion worries me here. This bill was brought to us by a group of constituents, probably of all of us, and I think they deserve respect. There has been a lot of thought in this bill, and I am going to vote for this bill. I am a co-sponsor because one of my constituents, who knows a whole bunch about transportation and bicycling says it is needed. That's good enough for me.

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

The Chair ordered a Division.

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

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

18 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **STEVENS** to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

Off Record Remarks

Bill "An Act to Make Minor Technical Adjustments to Various Professional Licensing Boards"
H.P. 933 L.D. 1314
(C "A" H-449)

Bill "An Act to Strengthen the Laws Concerning Damage by Dogs"
H.P. 1019 L.D. 1434
(C "A" H-436)

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

Senate As Amended

Bill "An Act to Amend the Laws Pertaining to the Marine Resources Advisory Council"
S.P. 441 L.D. 1209
(C "A" S-263)

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

Sent down for concurrence.

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

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

SECOND READERS

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

House As Amended

Bill "An Act to Develop the Landowner Relations Program"

H.P. 148 L.D. 196
(C "A" H-444)

On motion by Senator **CLEVELAND** of Androscoggin, **ADJOURNED** until Thursday, June 15, 1995, at 9 o'clock in the morning.