

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

On motion by Senator KIEFFER of Aroostook, the Senate RECEDED and CONCURRED.

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

In Senate Chamber
Friday
June 16, 1995

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

Prayer by the Honorable I. Joel Abromson of Cumberland.

SENATOR I. JOEL ABROMSON: Thank you Mr. President. I was asked to give the prayer in Hebrew by Senator McCormick. I told her I had already chosen a prayer by a Christian. The brief prayer that I have chosen this morning was written by the Reverend Peter Marshall, who is the late Chaplain of the United States Senate, back in the 1950's and 1960's. This was his prayer.

Lord, grant us the vision to know where to stand and what to stand for, because if we don't stand for something we will fall for anything. Amen.

Reading of the Journal of Yesterday.

PAPER FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Encourage the Use of Tire-derived Fuel"

H.P. 558 L.D. 759
(C "A" H-409)

In Senate, June 13, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-409), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-409) AS AMENDED BY HOUSE AMENDMENT "A" (H-486) thereto, in NON-CONCURRENCE.

SENATE PAPER

Bill "An Act to Further Extend the Workers' Compensation Deficit Evaluation Proceeding" (Emergency)

S.P. 588 L.D. 1573

Presented by Senator ABROMSON of Cumberland (GOVERNOR'S BILL)

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

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on AGRICULTURE, CONSERVATION AND FORESTRY on Bill "An Act to Require the Disclosure of the State of Origin of Farm Products"

H.P. 973 L.D. 1382

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-481).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-481).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-481) READ and ADOPTED, in concurrence.

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

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Maine Bail Code"

H.P. 1000 L.D. 1411

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-483)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-483)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-483) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Clarify the Forcible Entry and Detainer Law"

H.P. 982 L.D. 1390

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-479)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-479) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Create the Overhead High-voltage Line Safety Act"

H.P. 894 L.D. 1247

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-484)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-484)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-484) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Establish Safety Standards for All Utility Facilities"

H.P. 997 L.D. 1407

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-472)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-472)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-472) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act Concerning the Liability of Governmental Entities for the Use by Employees of Private Motor Vehicles"

H.P. 824 L.D. 1155

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-423)**.

Signed:

Senators:

ABROMSON of Cumberland
SMALL of Sagadahoc

Representatives:

VIGUE of Winslow
CAMPBELL of Holden
GUERRETTE of Pittston
JONES, JR. of Pittsfield
LUMBRA of Bangor

The Minority of the same Committee on the same subject reported that the same **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-424)**.

Signed:

Senator:

MCCORMICK of Kennebec

Representatives:

CHASE of China
GATES of Rockport
MAYO, III of Bath
PAUL of Sanford
SAXL of Portland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-423)**.

Which Reports were **READ**.

Senator **ABROMSON** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-423)** Report, in concurrence.

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

Senator **MCCORMICK:** Thank you, Mr. President, Men and Women of the Senate. The story behind this bill is that it is because of a recent court case. The court ruled that for employees who are asked to use their vehicles in the course of their job, for state employees who are asked to use their vehicles in the course of their job, that the State Risk Management Fund must be in the primary position in terms of liability. That's what the court ruled. Previous to that we had thought, and the budget had reflected, us, the State Risk Management, being in a secondary position for liability. This bill was brought in order to countermand what the court said was fair, in order to make the State be in a secondary position in liability. The six members of the Banking and Insurance Committee who signed the minority report feel that the court was expressing what is fair and just, but, of course, their position would have cost us half a million dollars. So, our minority report is a compromise, is a slight gesture towards fairness. I would urge you to oppose the majority report which basically countermands the court's decision, and seriously consider the compromise minority report which would merely ask the State to pay for any increase in premium caused by accidents for State employees who are asked to use their vehicles in the course of their job.

Some interesting statistics on this, if you are

interested. The total mileage of State employees who are asked to use their vehicles in the course of their job is about 20 million miles per year. They have about 50 accidents per year, and that is all. So, we are talking about an increase in premium to 50 policies. We believe that it is the cheapest way of getting towards fairness. Thank you.

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

Senator **ABROMSON:** Thank you, Mr. President. What the bill does is eliminates the sunset which currently exists where governmental entities can continue their current practice of not defending or indemnifying an employee who used a privately-owned vehicle in the course of employment. When we first heard this we said this doesn't sound very fair if somebody uses their own car to carry out their employer's work. But we had testimony from Risk Management, and as we all know, in private industry, current practice is consistent with most other states and with private businesses. The change in practice now would cost the State at least half a million dollars to purchase primary liability insurance for its employees. So, what we would like to do is continue the way we are going and we also, I believe, will come up with a separate bill in which we believe that the way to handle this is to treat employees like the federal employees and many private employees, by increasing the mileage allowance so that would take care of their insurance as well.

Another problem with trying to do the difference between if they have an accident and their premium goes up, and they change cars or they have a child who becomes eligible, there are so many variables in just trying to figure how much this change in premium would be that it is a nightmare. So we feel that the best way is to continue the way we are going and try to put in a change in the mileage allowance. I would urge the passage of the majority report. Thank you.

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

Senator **MCCORMICK:** Thank you, Mr. President. Just to clarify. The change in the mileage reimbursement to state employees, which is currently at twenty-two cents a mile, was endorsed by every member of the Committee, but it is totally outside of our control. It is a negotiated item and state employees are way behind what the IRS allows for reimbursement. The minority report is the compromise and moves us a baby step towards fairness for employees who are required to use their own vehicles in the course of their jobs. Thank you.

On motion by Senator **MCCORMICK** 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 **ABROMSON** of Cumberland that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-423)** Report, in concurrence.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senators: AMERO, CIANCHETTE, O'DEA

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator ABROMSON of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-423) Report, in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-423) READ and ADOPTED, in concurrence.

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

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act to Require a 24-Hour Waiting Period before an Abortion May Be Performed"

H.P. 464 L.D. 630

Reported that the same Ought Not to Pass.

Signed:

Senators:

MILLS of Somerset
PENDEXTER of Cumberland
FAIRCLOTH of Penobscot

Representatives:

TREAT of Gardiner
RICHARDSON of Portland
LEMKE of Westbrook
WATSON of Farmingdale
LAFOUNTAIN, III of Biddeford
JONES of Bar Harbor
HARTNETT of Freeport
NASS of Acton

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-474).

Signed:

Representative:

MADORE of Augusta

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

Which Reports were READ.

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

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 you would vote against the pending motion, so we can go on to the minority ought to pass report. I will not belabor this. I think most of us know how we are going to be voting on this issue. The minority report requires a twenty-four hour waiting period before an abortion can be performed. Mr. President, when the vote is taken, I request a Roll Call. Thank you.

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

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

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, BEGLEY, BENOIT,
BUSTIN, CARPENTER, CLEVELAND,
ESTY, FAIRCLOTH, FERGUSON,
GOLDTHWAIT, HARRIMAN, LAWRENCE,
LONGLEY, McCORMICK, MILLS,
PENDEXTER, PINGREE, RAND,
RUHLIN, SMALL, STEVENS, and the
PRESIDENT, Senator BUTLAND

NAYS: Senators: BERUBE, CAREY, CASSIDY, HALL,
HANLEY, HATHAWAY, KIEFFER, LORD,
MICHAUD, PARADIS

ABSENT: Senators: AMERO, CIANCHETTE, O'DEA

22 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator MILLS of Somerset to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence, PREVAILED.

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act to Require Parental Notification for Minors Seeking Abortions"

H.P. 467 L.D. 633

Reported that the same Ought Not to Pass.

Signed:

Senators:

MILLS of Somerset
PENDEXTER of Cumberland
FAIRCLOTH of Penobscot

Representatives:

TREAT of Gardiner
WATSON of Farmingdale
LAFOUNTAIN, III of Biddeford
RICHARDSON of Portland
LEMKE of Westbrook
HARTNETT of Freeport
JONES of Bar Harbor

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-475).

Signed:

Representatives:

PLOWMAN of Hampden
NASS of Acton
MADORE of Augusta

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

Which Reports were READ.

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

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

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

Senator BEGLEY: Thank you, Mr. President. I will vote against the motion for the obvious point that as a parent in a situation such as this I would hope that there would be 100% involvement. I'm reading what's wrong with mandating parental involvement. "Such laws lead to more distress and family violence". That is possibly true and you can probably prove it by fact. But it isn't proven, necessarily, at times that notification either before or after the fact, and I would accept notification even after the fact, because then I, as a parent, would certainly wish to be able to work with members of my family. I am not interested in a consent law. I am a person who, as you know, believes in choice. So, this notification is not a consent law. They will tell you that there is already a consent law on the books, and yet it is skirted around. It says here it will "force teens to endanger their health". That's very likely. "Intimidating public court system", that is already on the books. It is not in the notification law, it is in the consent law, it is already on the books that there has to be a certain amount of consent from somebody, skirting around parents, and I am not in favor of that. "Do not increase parents involvement", I would hope that such a thing as this would in that respect. I am of the opinion that the young person, or adult woman, has the right of choice. I wouldn't take that away from her. The minor child, I would ask, definitely, that there be more parental involvement in that, and I think this bill tends to do that. Will it satisfy everything? No, however, as a side issue, I would also say to those of you who are speaking today for the choice issue, please listen to those echoes that are up there in the ceiling that there was no choice in three or four other bills that were presented to us this year. They did not have the effect, or the potential effect, that this situation does have. Yet you are telling me today that as a parent I should not ask for parental notification, either before or after. I find that rather strange because I hope, and you can call me a pie in the sky parent, I hope that I have that right to know what is happening to my minor child. Thank you.

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

Senator MILLS: Thank you, Mr. President, Members of the Senate. Maybe I should begin by just reflecting on the fact that there are certain issues that crop up over and over and over again, every two years that members of this body are elected to come back and consider important social issues. It's interesting to look back at the record of the Senate from ninety or a hundred years ago. The hot issue at the turn of the century was something called recommissioning, which was a word that doesn't mean anything to us today, but what it meant was the repeal of Maine's temperance laws. Every biennium there was a huge floor fight with lengthy speeches about the advisability of repealing Maine's anti-liquor laws. That debate eventually passed into history. In our age the debate is one over abortion and restrictions on the right of abortion. This debate came to a head in the Maine Legislature in a very significant way in 1989. The Judiciary Committee at that time was chaired by two men who had a laudable public hearing. The issue was parental notification, parental approval, adult involvement,

all of the issues that are addressed in some measure by the bill that is now before you. The law that they structured in 1989 was fought out over many, many hours of negotiations and drafting and redrafting and compromise. It resulted in a bill that is now the law of this State and has been the law of this State for six years. It is a law that does not require, by its terms, parental notification, but it does encourage parental involvement and parental notification and it does require adult involvement in different ways. The law that was structured in 1989 was a compromise that made neither side of the issue particularly happy, but it is a law that has been used now by many other states as a model of how to reconcile these very troublesome social issues. It is a law that has worked very successfully here in the State of Maine for the last six years, at least we were so informed by many, many people who testified at the public hearing that we held earlier this year.

My concern at this stage is that if we should pass the bill that is now before you, it would upset the delicate compromise that was so successfully achieved in 1989 and has worked so well since then. For that reason, I don't need to go into all of the substantive reasons pro and con, because you have been flooded with colored literature that gives you both sides of the issue, and I'm sure you have read it, but for the reason that this body dealt with the issue so intelligently in 1989, I have neglected to tell you the end of the story. The report out of the Judiciary Committee at that time was twelve to one. One of the co-Chairs refused to go along. That remaining member, the thirteenth member of the Judiciary Committee showed up in tandem with his former co-Chair at our public hearing, and he said I am now of that view. So, this bill that we now have, the law that we now have on the books represents, in retrospect, a thirteen member consensus vote of the Judiciary Committee of 1989. I, for one, respect deeply the work of that Committee and the people who were on there at that time. For that reason, among many others, I urge you to vote in favor of the pending motion. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President. Good morning Ladies and Gentlemen of the Senate. I rise to encourage you to support my good friend and colleague from Somerset, Senator Mills. I do so because of two very special people in my life. Their names are Jocelyn Burrill and Madeline Caron, my two daughters who I love very dearly and have a very special and loving relationship with. On the surface you would think that I would want to oppose the pending motion because if something ever happened to them, or if they were faced with a question that is so very personal that I would want to be involved. I am convinced that the relationship I have with Jocelyn and Madeline would include me in their decision. But a few years ago I had the opportunity to walk the streets of Portland and to go into some of the resource centers and to talk with some of the very people who don't have a father like Jocelyn and Madeline do. These are the people who are not living at home, who are in harm's way in many ways. What I discovered that day was that not every home has a

present and loving parent, and not every person who is not living at home is doing so voluntarily, but sometimes out of fear, out of necessity, and indeed, out of neglect. This bill, if it passed, would just add to that unbearable situation for many youngsters. I am confident, as the Senator from Somerset, Senator Mills, stated, that there is adult involvement in this decision, and that satisfies me and I hope it will satisfy you. Thank you Mr. President.

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

Senator **PARADIS:** Thank you, Mr. President, Men and Women of the Senate. It is, indeed, very unfortunate that this whole issue has been broken down with rhetoric from politicians, usually, especially at the national level, whose own lives are sewers, who are the ones who abdicate for a pro-life position. If you come to the Saint John Valley you will see that most of our cemeteries are located on the choicest pieces of real estate because our dear departed ones are honored in death. We honor from conception to death. That's why we have worked very hard, at mom's knees, to teach children about the sacredness of life. It's unfortunate, like I said, that it has oozed into the public arena where it really has no place. I will be voting against this bill because we, in many areas of the State of Maine, the parents have done a great job and will continue to do so. We are essentially driving a wedge between that relationship.

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. I rise this morning to speak to you about this issue more as a parent than as an elected member of this body. I have had the opportunity, my wife and I, to pretty well raise four children. We have three older boys and a teenage daughter. Of course all these issues, as parents, mean a lot to us. I also have my oldest son who has been teaching for three years. I told him, when he got out of college, that I was breaking his dinner plate. I thought that would end it, but it doesn't work that way, you still continue to give them advice. The thing is, over the years, raising the boys, and now my daughter, the issues would come to us. I remember that one of my son's decided that he was so proud of his Irish heritage that he wanted to have a shamrock tattooed on his shoulder. We discussed that for a while, and if you ever see him with his shirt off, he won out. I'm saying something as simple as that, he came to me and said, "Dad, I'm going to do this." and we talked about it. There are other issues like what college they would go to, what would they major in, why they were doing so bad with their ranks, issues as simple as that that are big issues to kids who are thirteen or fourteen or seventeen or nineteen years old. I think it's pretty sad that if my daughter should come to the situation where she is considering having an abortion, and that very well could be the final decision, who knows, that she couldn't come and discuss this with me. Also, some of the things I have read about folks who have had abortions, it's something that they live with for the rest of their lives and if they can't

share that with their parents, even if that is the decision, I think it's pretty sad that we can't have a bill that would allow me, as a parent, and my wife to talk with my daughter if we needed to make those decisions. Obviously, I will be supporting this bill and I hope you folks who have children will think about some of the issues that you have dealt with with them over the years, and I hope you don't vote for this bill. 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 have to disagree with my good colleague from Washington County, Senator Cassidy. I don't believe that this whole arena is an area where government should interfere, nor where government is effective at interfering. All we have to do is look at a couple of states in this country who have tried passing requirements that both or one parent be notified, that would be Minnesota, and see if it accomplished the goals that any of us would want accomplished. I think we might even all agree on what we might want accomplished in this whole debate, and that would be one, that kids talk to their parents more about these kinds of issues, and two, that there be a reduction in the number of teen pregnancies and hopefully then a reduction in the number of abortions. There was a study done of Wisconsin and Minnesota, since they are so close together, Minnesota having a parental consent law and Wisconsin not, and the study was done in 1984 by Blum and Stark. They found, in both cases, that the law had absolutely no effect on increasing communication between children and parents. I want to just read a paragraph from an article about this study. "When we assess the behavior of adolescents in the two states," that's Minnesota and Wisconsin, "we found that there was no significant difference in the proportion of those who notified one or both parents versus the proportion of those who notified neither parent. The reasons for not notifying a parent were striking." They studied these reasons and they itemized them, and they were, "One, fear of abuse. Two, threats to their fragile family system. Three, adolescents who have never known their father due to desertion or divorce." So, we come to our situation. We are informed by the past experience of Minnesota and Wisconsin, and what has been shown there is that parental consent laws do not work. It does not work for government to order children to talk to their parents.

Maine has taken a different tack, as was so eloquently described by Senator Mills from Somerset. We have said, and we have all agreed that yes, young people need the guidance of a caring adult in these decisions. That is what our law reflects. Generally we change laws because there is a problem with that law, or there is a danger in what that current law proposes, but at the hearing in May on this bill there was not one piece of testimony indicating that Maine's adult involvement law is not working. So, I again reiterate, government cannot and should not attempt to mandate parent and child communication. Thank you.

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. This whole issues boils down, simply, to this, as far as I am concerned. A parent should be involved in the important issues concerning their children, not because government decrees it so, but because there is a positive relationship between the two, and you can call it love if you want to. I'll just suggest this, if there is a lack of this positive relationship, love, you won't be involved, and maybe you shouldn't be.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BENOIT, BUSTIN, CARPENTER, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, McCORMICK, MILLS, O'DEA, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BEGLEY, BERUBE, CAREY, CASSIDY, HALL, HANLEY, HATHAWAY, KIEFFER, LORD, MICHAUD, PARADIS, STEVENS**

ABSENT: Senator: **CIANCHETTE**

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MILLS** of Somerset to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Concerning the Posting of Political Signs"

H.P. 992 L.D. 1403

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-459)**.

Signed:

Senators:

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

Representatives:

NADEAU of Saco
CHIZMAR of Lisbon
BUCK of Yarmouth
LABRECQUE of Gorham
GAMACHE of Lewiston
TRUE of Fryeburg

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

Signed:

Senator:

MICHAUD of Penobscot

Representatives:

FISHER of Brewer
LEMONT of Kittery
MURPHY of Berwick

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

Which Reports were **READ.**

Senator **FERGUSON** of Oxford moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE.**

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

Senator **FERGUSON:** Thank you, Mr. President. This is a bill, and I'm going to read it because it is very short, "Political signs - Signs bearing political messages relating to an election, primary, or referendum, and those devices used to hold the signs in the ground, must be biodegradable and non-metallic." What it does is prohibit the use of plastic signs and metal wire to support those signs. This was brought about by the wire getting entangled in farmer's mowing machines. The Committee thought that this was a hazard and it would be a benefit to the environment if we prohibited the use of such. Thank you.

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 you would reject the majority report. This bill does prohibit those wire signs, but we currently have a law on our books that signs have to be taken down so many days after the election. The other problem with this is it might not only prevent the wire signs as well. Those of you who plan on running for re-election, when you start out making signs, you might decide to make the signs out of pressure-treated wood, or for stakes for your wooden signs. If that is, in fact, the case, is that biodegradable? I'd say no. So, I would hope that the intent is to eliminate those metal signs. I

think there is also a question that was brought before the Committee about the first amendment right, allowing people to express their views any way that they would want to, I think this would also infringe upon that right by prohibiting primarily those wire signs. I checked around with several people on what their definition of biodegradable is. We do have different definitions. The majority report does not include a definition of biodegradable, so you could conceivably be prohibiting those people who have signs or stakes that are pressure treated, so I would hope that you would vote against the pending motion. I request a Division.

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

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

Senator **ABROMSON:** Thank you, Mr. President. Some time ago we discussed stranded investment, with respect to Car Test. I own quite a few of those wire signs, and I think, should this pass, it would be a stranded investment. However, I think it's a step in the right direction and will vote for the bill.

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

Senator **HALL:** Thank you, Mr. President. Number one, though we do have a law that all political signs will be picked up, I can assure you I don't know anybody that has been charged with failure to do so. I'm sure most of you, like I, being the conscientious people we are, if we didn't pick up other people's signs they would still be out there. I, myself, have picked up an awful lot of them, especially for people who run for state-wide office. Once the election is over they seem to lose all of their campaign workers and they just stay out there, and stay out there, and stay out there. If this law doesn't pass, if anybody wants some wire holders, I've got quite a few in my back yard that I have picked up, and I can't find any use for them, because I surely don't want to use them. I think this is a good bill. I think the argument as far as using pressure treated wood for sign posts is a little far out there if you have priced that wood lately. I don't think, unless you are very wealthy, that you would be using that kind of wood. I would urge you to support the pending motion. Thank you.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. There is nothing more frustrating than taking a mowing machine, or a mowing conditioner, into a field that you have just sharpened up the knives and got it going good to cut the grass properly, then to run onto one of those wires. Either you're going to take the section right out of the knife, or you're going to dull the knife. If you get two wires that means you could take out two sections or dull them. On the mower conditioner that I have, when I have to change the knives there are about forty bolts that I have to loosen up to change the knife. That takes time. Let me tell you, once in a while if you saw a blue cloud going by, it was probably when I had something to say. I think

this is a good bill and it should be passed. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. I believe, in a way, this is a little overkill. I'm wondering if maybe the Senator from Cumberland, Senator Abromson, might consider that he might be in conflict because of the large volume of wires that he has. I would say that facetiously, obviously. I'm more concerned with the sign itself. We have gotten more and more into plastic signs, and plastic-coated signs. Obviously those are not as biodegradable as maybe the plastic envelopes. I recall ex-Governor Brennan running, and I used to pick up most of his signs that flew off the wires, and stick them back on the wires, sort of as a good will gesture, obviously it was not too successful. I think we are going a little further than we really have to, and I would hope that maybe an amendment could come out of the Committee which would exclude, I realize the wires are a problem, but if that's the only problem, then maybe that's what we ought to confine our corrections to, to that particular problem. I don't know how many members here have gone into the plastic signs, but I have seen some that are very well done, and, in fact, could be used in future elections. Thank you.

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

Senator **MILLS:** Thank you, Mr. President, Men and Women of the Senate. I would hope that this bill is not wired through to conclusion already. I share the comments that were just made. It seems to me that the wire, and I have a mowing machine that I own and use, and I share the sentiments of Senator Lord on the topic of wires sticking up from the ground, but every sign that is put out now by printing companies has some measure of plastic coating on it. I don't think there are very many signs now that are produced that are just raw cardboard. I don't know that having some measure of plastic, or using plastic signs, is a particularly bad thing. I don't think that they are harmful. We do have a law that says pick them up in any event, so if this bill does pass, I would hope that the sponsors would entertain an amendment to deal with the wire issue alone and not interfere with the use of signs that have non-biodegradable material in them. Thank you.

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

A Division has been requested.

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

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

14 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion of Senator **FERGUSON** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**, **FAILED**.

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

Senate

Ought to Pass As Amended

Senator **BEGLEY** for the Committee on **LABOR** on Bill "An Act Concerning the Participation of Teachers of Adult Education in the Maine State Retirement System" S.P. 214 L.D. 556

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-278)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-278) **READ** and **ADOPTED**.

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

Divided Report

The Majority of the Committee on **LABOR** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Prohibit Future Unfunded Liabilities and to Maintain the Current Amortization Schedule S.P. 70 L.D. 158

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-276)**.

Signed:

Senators:
BEGLEY of Lincoln
MILLS of Somerset
RAND of Cumberland

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended** by **Committee Amendment "B" (S-277)**.

Signed:

Representatives:

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

Which Reports were READ.

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

Divided Report

The Majority of the Committee on NATURAL
RESOURCES on Bill "An Act to Ensure Consistency
Between State and Federal Environmental Requirements"
S.P. 347 L.D. 952

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-275).

Signed:

Senators:

LORD of York
HATHAWAY of York
RUHLIN of Penobscot

Representatives:

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

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

Signed:

Representatives:

BERRY of Livermore
SHIAH of Bowdoinham

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report
ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-275) READ and ADOPTED.

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

SECOND READERS

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

House As Amended

Bill "An Act to Authorize the Issuance of a
Credit Card to Benefit the Land for Maine's Future
Fund"

H.P. 852 L.D. 1183
(C "A" H-325)

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

Bill "An Act to Amend the Substance Abuse Testing
Law"

H.P. 645 L.D. 868
(H "A" H-485 to C
"A" H-420)

Which was READ A SECOND TIME.

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

RESOLUTION, Proposing an Amendment to the
Constitution of Maine to Establish a Contractual
Obligation for Members of the Maine State Retirement
System

H.P. 680 L.D. 931
(C "A" H-314)

Which was READ A SECOND TIME.

THE PRESIDENT: The pending question before the
Senate is PASSAGE TO BE ENGROSSED AS AMENDED, in
concurrence.

Senator AMERO of Cumberland requested a Division.

On motion by Senator GOLDTHWAIT of Hancock,
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 PASSAGE TO BE ENGROSSED AS AMENDED, in
concurrence.

A vote of Yes will be in favor of PASSAGE TO BE
ENGROSSED AS AMENDED, in concurrence.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: BENOIT, BERUBE, BUSTIN, CAREY, CASSIDY, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, HALL, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, SMALL, STEVENS

NAYS: Senators: ABROMSON, AMERO, BEGLEY, CARPENTER, GOLDTHWAIT, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, PENDEXTER, and the PRESIDENT, Senator BUTLAND

ABSENT: Senator: CIANCHETTE

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the Bill was PASSED TO BE ENGROSSED, As Amended, in concurrence.

Senate As Amended

Bill "An Act to Implement the Recommendations of the Maine HIV Advisory Committee Concerning HIV Testing"

S.P. 129 L.D. 321 (C "A" S-269)

Bill "An Act to Provide for Public Health Standards in Public Schools Similar to Standards Required in Private Industry"

S.P. 433 L.D. 1201 (C "A" S-272)

Bill "An Act Relating to the Establishment of a Continuum of Quality and Affordable Long-term Care and Service Alternatives"

S.P. 519 L.D. 1401 (C "A" S-271)

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

Sent down for concurrence.

ENACTORS

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

An Act to Make the Workers' Compensation Laws for Temporary Employees Consistent with Those Laws for Permanent Employees

H.P. 85 L.D. 121 (C "A" H-401)

An Act to Amend the Teacher Certification Laws Relating to Certification Waivers

S.P. 353 L.D. 981 (C "A" S-225)

An Act to Prevent the Loss of Federal Impact Aid Funds to Schools Required to Reimburse under Federal Law

H.P. 722 L.D. 996 (C "A" H-397)

An Act Relating to the Renewal of a Teacher Certificate That Has Lapsed for More Than 5 Years

H.P. 759 L.D. 1033 (C "A" H-400)

An Act to Clarify the Responsibility of an Insurance Agent in the Disclosure of Information

H.P. 788 L.D. 1105 (S "D" S-241 to C "A" H-252)

An Act to Require the Commissioner of Defense and Veterans' Services to Be Confirmed by the Legislature

H.P. 935 L.D. 1324 (C "A" H-394)

An Act to Create Fair School Bus Driver Licensing

H.P. 950 L.D. 1339 (C "A" H-388)

An Act to Strengthen the Laws Concerning Damage by Dogs

H.P. 1019 L.D. 1434 (C "A" H-436)

An Act to Amend the Laws Relating to Education

S.P. 542 L.D. 1479 (S "A" S-247 to C "A" S-235)

An Act to Implement the Recommendations of the Commission to Study Potato Quality Issues

H.P. 1060 L.D. 1489 (C "A" H-408)

An Act to Include Child Care Centers in the Property Tax Exemptions and to Amend the Review Schedule for Property Tax Exemptions

H.P. 1066 L.D. 1501 (C "A" H-406)

An Act Concerning the Sites for Western Aroostook District Court

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

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

An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services by Providing Mandatory Reimbursement to Counseling Professionals who are Licensed to Assess and Treat Intrapersonal and Interpersonal Problems

S.P. 38 L.D. 68
(C "A" S-211)

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

An Act to Develop the Landowner Relations Program

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

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

An Act to Reestablish the Office of Environmental Evaluation and Lake Studies

H.P. 1031 L.D. 1450
(C "A" H-395)

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

Emergency

An Act to Strengthen the General Fund's Unappropriated Surplus

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

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

Emergency

An Act to Establish Temperature Limits for Certain Existing Discharges

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

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

Emergency

An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1995-96

H.P. 701 L.D. 959
(C "A" H-336)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senator having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Reduce Duplicative Reporting

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

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senator having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolves

Resolve, to Create Educational Options for Exceptional Children

H.P. 1054 L.D. 1483
(C "A" H-398)

Resolve, to Extend the Reporting Deadline for the Blue Ribbon Commission on Hunger and Food Security

S.P. 583 L.D. 1568
(H "A" H-433)

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

Emergency Resolve

Resolve, to Provide Clear Title for the Maine Judicial Center
S.P. 507 L.D. 1366

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senator having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Mandate

An Act to Protect the Rights of Children Who Have Been Victims of Sexual Abuse
S.P. 533 L.D. 1471
(C "A" S-208)

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

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Resolve, to Create the Teacher Retirement Advisory Committee
H.P. 761 L.D. 1035
(C "A" H-311)

In Senate, June 1, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-311)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-311) AS AMENDED BY HOUSE AMENDMENT "A" (H-434)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **KIEFFER** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Resolve, to Create a Task Force on Economic Development Tax Incentives (Emergency)
H.P. 858 L.D. 1189
(C "A" H-339)

In Senate, June 8, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-339)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-339) AS AMENDED BY HOUSE AMENDMENT "A" (H-473)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **KIEFFER** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

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

In Senate, June 14, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-449)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-449) AND HOUSE AMENDMENT "A" (H-503)** in **NON-CONCURRENCE**.

On motion by Senator KIEFFER of Aroostook, the Senate RECEDED and CONCURRED.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Establish Tuition Rates for the Unorganized Territory Schools Based on a State Average"

H.P. 651 L.D. 874

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-476).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-476) AS AMENDED BY HOUSE AMENDMENT "A" (H-506), thereto.

Which Report was READ.

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending ACCEPTANCE of the Report.

The Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act to Clarify the Registration of Snowmobiles by Nonresidents"

H.P. 604 L.D. 814

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-375).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-375) AS AMENDED BY HOUSE AMENDMENT "A" (H-410), thereto.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-375) READ.

House Amendment "A" (H-410) to Committee Amendment "A" (H-375) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-375) as Amended by House Amendment "A" (H-410), thereto, ADOPTED, in concurrence.

Divided Report

The Majority of the Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Improve the Education of Exceptional Children"

H.P. 800 L.D. 1117

Reported that the same Ought Not to Pass.

Signed:

Senators:

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

Representatives:

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

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

Signed:

Representative:

WINN of Glenburn

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

Which Reports were READ.

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

Senate

Divided Report

The Majority of the Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Provide Greater Access to Health Care"

S.P. 343 L.D. 948

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (S-279).

Signed:

Senators:

HARRIMAN of Cumberland
CIANCHETTE of Somerset
GOLDTHWAIT of Hancock

Representatives:

ROWE of Portland
BRENNAN of Portland
CAMERON of Rumford
DAVIDSON of Brunswick
KONTOS of Windham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B"** (S-280).

Signed:

Representatives:

BIRNEY of Paris
LIBBY of Kennebunk
POVICH of Ellsworth
REED of Dexter

Which Reports were **READ**.

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

ENACTOR

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

An Act to Change the State's Air Quality Standard for Ozone to the Federal Standard

H.P. 199 L.D. 258
(C "A" H-293)

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Resolve, Establishing the Maine Council on Privatization (Emergency)

S.P. 81 L.D. 169
(C "A" S-254)

In Senate, June 15, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-254).

Comes from the House with Report "B" **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

Senator **CAREY** of Kennebec moved that the Senate **RECEDE** and **CONCUR**.

Senator **CAREY** requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **CAREY** of Kennebec that the Senate **RECEDE** and **CONCUR**.

A Division has been requested.

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

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

14 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion of Senator **CAREY** of Kennebec to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **AMERO** of Cumberland, the Senate **INSISTED**.

Sent down for concurrence.

Non-concurrent Matter

Bill "An Act to Forbid an Employer from Hiring Replacement Workers during a Strike"

H.P. 236 L.D. 316

In House, June 5, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-310).

In Senate, June 6, 1995, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-310) **AS AMENDED BY HOUSE AMENDMENT "A"** (H-389), thereto, in **NON-CONCURRENCE**.

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

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

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senator: CIANCHETTE

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator LAWRENCE of York to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator AMERO of Cumberland, the Senate **INSISTED**.

Sent down for concurrence.

Non-concurrent Matter

Bill "An Act to Revise and Add to the Laws Regulating the Practice of Professional Engineering" S.P. 475 L.D. 1271

In Senate, June 15, 1995, **RECOMMITTED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-510)**, in **NON-CONCURRENCE**.

Senator HARRIMAN of Cumberland moved that the Senate **RECEDE** from its action whereby the Bill and Accompanying Papers was **RECOMMITTED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**.

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

Senator HARRIMAN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is a bill that I sponsored that when it was reported out of Committee, for some administrative reason, an error occurred. The majority report had the minority wording, my wording. I could have looked the other way and let it go through, but I'm sure there are others in the Chamber who would have risen to object. The proper thing to do, at the time, seemed to be to send it back to Committee and have the jackets signed properly and brought back to us. My colleague in the House, and I, in an effort to help expedite the business of working our way towards adjournment agreed that in the House they would make the necessary corrections and send it back to us. In doing so, the ability to move the report in the Chamber, which was my bill, was removed when it went down to the House, so in an effort to do that, Mr. President, I would like to move that we substitute the bill for the reports.

On motion by Senator HARRIMAN of Cumberland, the Senate **RECEDED** from its action whereby the Bill and Accompanying Papers was **RECOMMITTED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**.

On further motion by the same Senator, the Bill was substituted for the Reports.

The Bill **READ ONCE**.

House Amendment "A" (H-510) **READ**.

On motion by Senator HARRIMAN of Cumberland, House Amendment "A" (H-510) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Senator HARRIMAN of Cumberland moved that the Senate **SUSPEND THE RULES** for **SECOND READING**.

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

Senator GOLDTHWAIT: Thank you, Mr. President. If you will forgive my lack of experience, I am unable to keep up with what is happening here and I no longer know where I need to be voting. If you could help me sort out where the good sam amendment now is or where it's going, I would appreciate it.

THE PRESIDENT: The Chair would advise the body that the suspension of the Rules to give this bill it's second reading is not debatable.

Senate at Ease

Senate called to order by the President.

On motion by Senator HARRIMAN of Cumberland, the Rules were **SUSPENDED** for **SECOND READING**.

Which was, under suspension of the rules, **READ A SECOND TIME**.

On motion by Senator HARRIMAN of Cumberland, Senate Amendment "A" (S-281) **READ**.

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

Senator HARRIMAN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. Thank you for allowing us to put this bill back where it could have been, and should have been, when it first reached us. The only difference between the Committee reports that caused the majority and minority reports to come back to you, was an amendment, which I put before you now, that would include a good samaritan law in the area of the Board of Practice and Professional Engineering. Very simply, what this amendment says is that if you are a professional engineer and a state, local, or national official requests that you help with an emergency, such as an earthquake, fire, explosion, building collapse, flood, hurricane, tornado, or some other similar disaster, that if you are called upon by a state, local, or national official, and you do so, free of charge, voluntarily, in an effort to help a fellow citizen in your community, or state, or nation, that you will be held harmless from liability and that this immunity from liability applies only to voluntary professional service that occurs within thirty days of an emergency or catastrophic event. If you can think back for a moment to a time when we had flood stages on the Kennebec River, or the deplorable incident in Oklahoma, and imagine, if you will, the Governor of the State of Maine, or the President of the United States, calling you in your capacity as a professional engineer and asking for your services in a time of need. This would assure that you could do so without finding yourself in a liability lawsuit. To not adopt this amendment would be to send the message that if the Governor of the State of Maine called upon you for your expertise you better say no, because the next thing you could find yourself in a liability lawsuit.

Before signing out this report on behalf of the Business and Economic Development Committee, I consulted with the Chair of the Judiciary Committee, who indicated that he was comfortable with it, that this was narrow in scope, that it was designed for specific instances, triggered by specific people, and he found no objection to it. I hope you will join me in supporting the Board of Professional Engineering in voting in favor of the pending motion. 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. Although I certainly respect, as highly as anyone, the input of the Chair of the Judiciary Committee, in this case this is an amendment in which the remaining twelve members of the Committee and the Governor were not comfortable with, for the following reasons. The good samaritan immunity has traditionally been one applied to health professionals who respond at the scent to some sudden, life-threatening, incident and who provide temporary, short-term care until the official system arrives and can take over care of that victim. Engineering services offered on a voluntary basis, following a crisis, tend to be rather more far-reaching in scope and in length of time. Though one certainly would not want to discourage volunteers of any sort from responding to an emergency, and certainly recent events in this country lend some emotional strength to the argument that they should receive the benefit of an exemption from liability, assuming no reckless misconduct, the fact remains that this is an issue rather larger in scope. There is the shadow issue, if you will, of what other groups will then come forward requesting some sort of immunity if they volunteer their services, whether that's people providing food to the site of an emergency, as happens in all of our towns when we have fires. Should they be immune from food poisoning charges, et cetera? So, the sense of the Committee, I find, representing it accurately, and I think that I am, as well as the testimony from the Governor's office was that this was an unnecessary amendment and could, indeed, be one that got us into more trouble than it got us out of. I urge you to vote against the pending motion. Thank you.

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

Senator LONGLEY: Thank you, Mr. President. May I pose a question through the Chair? This time I need help and clarification. Are we on House Amendment 510?

THE PRESIDENT: The Chair would respond that we are on Senate Amendment "A", with a filing number of S-281. It should be in the books or on the desks somewhere. The Chair recognizes the Senator from Waldo, Senator Longley.

Senator LONGLEY: Thank you. May I pose another question through the Chair? I will continue to dig for that amendment, and read it, what occurs with the dialog is, is there a definition of emergency so it is time sensitive and doesn't continue?

THE PRESIDENT: The Senator from Waldo, Senator Longley, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator HARRIMAN: Thank you, Mr. President. The answer to the good Senator from Waldo, Senator Longley, is that the time sensitive part of your question would be best answered by the amendment, on line 39, that says "At the request of a national, state, or local public official, law enforcement, public safety official, or building inspection

official, acting in an official capacity." Then above that it indicates that it must be a declared national, state, or local emergency caused by an earthquake, hurricane, tornado, fire, explosion, building collapse, or other similar disaster or catastrophic event. Once that event has been triggered, this amendment would only be applicable for thirty days. Forgive me for belaboring this point. I would just like to add, before we do take a vote, that in another phase of my life I used to volunteer my time as a fireman and was honored to rise to the rank of Lieutenant, where I was in charge of a 100-foot aerial ladder truck. In that capacity I was involved in a number of life-threatening situations. One in particular was the infamous fire across the street from L.L. Bean that began the transformation of what is now the Rodeo Drive of Maine. Another incident that will never leave my memory is a time when I responded to a house fire in a second story of a house where a multiple murder had just occurred. As I think back on those years of service, I often wonder now, today, if I would even consider doing it. When you end up at an emotionally charged scene and someone in command says to do this or do that, you instinctively react. Today we have created a situation in our society where people think twice, or three times. Unfortunately, many times, the answer is no, I'm not going to help, for fear of being sued. This is just one step in an area that affects your state, or our country, where we can be assured that people who are asked, in a time of crisis, to come to our help, can do so, knowing that we appreciate and respect their efforts and that they will not be subject to liability. Thank you.

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

Senator MILLS: Thank you, Mr. President, Men and Women of the Senate. I need to make just a couple of technical points. I was asked by the good Senator from Cumberland, Senator Harriman, to look at the wording of the amendment that he proposed. He asked if I had any input. I made some input and he very graciously accepted two or three small changes that I had suggested to him. In regard to the substance of the bill itself, or the amendment, I think it misconceives a couple of things. First of all, in Maine law already the courts do not, if someone is responding to an emergency situation that he has not created, if there is a crisis of some kind, or a casualty that is being responded to, it is already true in Maine law that you are not held to quite the same standard that would be applied to you if you were doing something deliberately over time with an opportunity to reflect on your behavior. In other words there's a very real difference if you consider two separate cases. If a design engineer is being held responsible for something that he has designed, some document that he has produced, or a building that he has constructed, then he has had plenty of time to reflect on it and it has been something that has been developed over time, and he is held to a standard of due care. Just the way that doctors are held to a standard of due care, lawyers are held to that standard, and people who drive automobiles are held to that standard. When a person is responding, however, to an emergency, or to a crisis, or to a general casualty in our society, the standard of care shifts or changes in a certain way, so it is

recognized that you are responding to an emergency. You are not held to the same kind of judgement standard that would apply if you were doing something in less exigent circumstances. So, for that reason, my own sense of the amendment is that it probably didn't serve much purpose. It didn't add very much to the existing law. As far as the wording of the amendment goes, I took no exception to the way in which it was worded.

I can also tell you that in twenty-two years of my own experience in the practice of law, I have never seen an engineer sued under these circumstances. I have never seen a fireman sued for something that he did at the scene of a fire under emergency circumstances. I don't know of the existence of any kind of claim like that in Maine. In fact, I can't think of any elsewhere for that matter. I will vote against the amendment, mainly because I think it is an unnecessary addition to Maine law and not because I necessarily disagree with the notion. Thank you.

On motion by Senator **HARRIMAN** of Cumberland, 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 **HARRIMAN** of Cumberland that the Senate **ADOPT** Senate Amendment "A" (S-281).

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

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, BEGLEY, BENOIT, BERUBE, CARPENTER, CLEVELAND, ESTY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, O'DEA, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **AMERO, BUSTIN, CAREY, CASSIDY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, PARADIS, PINGREE, RAND, RUHLIN**

ABSENT: Senator: **CIANCHETTE**

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **HARRIMAN** of Cumberland to **ADOPT** Senate Amendment "A" (S-281), **PREVAILED**.

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

Sent down for concurrence.

Divided Report

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Reduce the Legislative Budget"

H.P. 500 L.D. 681

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

Signed:

Senator:

BERUBE of Androscoggin

Representatives:

KERR of Old Orchard Beach
JOSEPH of Waterville
MORRISON of Bangor
TOWNSEND of Portland
POULIOT of Lewiston
DIPIETRO of South Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-346).**

Signed:

Senators:

HANLEY of Oxford
BEGLEY of Lincoln

Representatives:

DONNELLY of Presque Isle
AIKMAN of Poland
OTT of York
SIMONEAU of Thomaston

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

Which Reports were **READ.**

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

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending the motion by Senator HANLEY of Oxford that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE.**

The Majority of the Committee on **LABOR** on Bill "An Act to Repeal Laws Regarding Minimum Wages on Construction Projects"

H.P. 673 L.D. 924

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

Signed:

Senators:

MILLS of Somerset
RAND of Cumberland

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-381).**

Signed:

Senator:

BEGLEY of Lincoln

Representatives:

JOY of Crystal
JOYCE of Biddeford
STEDMAN of Hartland
WINSOR of Norway

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

Which Reports were **READ.**

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Returnable Beverage Container Laws"

H.P. 956 L.D. 1345

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-450)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450) AS AMENDED BY HOUSE AMENDMENT "A" (H-465)**, thereto.

Which Report was **READ**.

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

Senator **McCORMICK:** Thank you, Mr. President. I would just like to pose a question through the Chair. What is the amending action that we would be taking here?

THE PRESIDENT: The Senator from Kennebec, Senator McCormick, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. The most recent amendment, not the Committee amendment, the House Amendment is a fiscal note in the amount of \$3,020 for expenses for a task force to review the beverage container deposit laws.

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

Senator **McCORMICK:** Thank you, Mr. President. So, we are going to repeal the beverage container law, and instead, study it? Is that what we are doing?

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. To respond to the good Senator from Kennebec, Senator McCormick, the answer to your question is no. We are not repealing the bottle law, but we are taking a fresh look at it to make sure that it is serving the needs of the public and distributors, and will come back to the legislature with a report by November of this year. If you look at filing number H-450, beginning on page 3, line 10, it will give you a list of what this goal is.

Which report was **ACCEPTED**, in concurrence.

On motion by Senator **LONGLEY** of Waldo, the Senate **RECONSIDERED** its action whereby it **ACCEPTED** the Report.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Report. The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President. In honor of possibly saving a \$3,000 expense, I request a Division. Thank you.

Senator **LONGLEY** of Waldo requested a Division.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President. If it is appropriate, I would offer a further explanation of what this bill accomplishes. Since the time that the original bottle laws were enacted, there has been a great number of issues that arise, everywhere from unredeemable things to things from out of state being redeemed and costing our distributors money, to new types of containers. So no one is sure of what applies to what. Amendment 450, which now is the bill, explains the task of the task force, which is to review the existing laws, take into account some of those new products and new types of containers that have been developed, in terms of what should or shouldn't be redeemable. The recycling projects in Maine have made a big difference in terms of what goes where and the task force is designed to look at all those issues that have arisen since the institution of the original laws, and certainly is in no way an effort to repeal any of those laws, but rather to accommodate some things that were not around when we made the original laws. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. In support of the Senator from Hancock, Senator Goldthwait, I would also add that there has been some incidents on the border where stuff is coming in from New Hampshire that isn't even labeled. We have been, and the Bureau of Redemption feels, paying for those things. I think there will be serious thought by the task force to license redemption centers so that, in fact, if they continue this practice they would lose their license. So, the task force study is really necessary and it is not to do away with the returnable bottle bill.

Senator **LONGLEY** of Waldo requested and received leave of the Senate to withdraw her motion for a Division.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-450) **READ**.

House Amendment "A" (H-465) to Committee Amendment "A" (H-450) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-450) as Amended by House Amendment "A" (H-465), thereto, **ADOPTED**, in concurrence.

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

The Committee on TRANSPORTATION on Bill "An Act to Improve Highway Signing Information" H.P. 691 L.D. 942

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-491).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-491).

Which Report was READ.

On motion by Senator LONGLEY of Waldo, Tabled 1 Legislative Day, pending ACCEPTANCE of the Report.

The Committee on HUMAN RESOURCES on Bill "An Act to Establish the Board of Licensure of Water Treatment Plant Operators" H.P. 1090 L.D. 1534

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-489).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-489).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-489) READ and ADOPTED, in concurrence.

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

Divided Report

The Majority of the Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act Concerning a Moment of Silence in Maine Public Schools" H.P. 656 L.D. 879

Reported that the same Ought Not to Pass.

Signed:

Senators:

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

Representatives:

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

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Clarify and Expand the Powers and Duties of Lake Arrowhead Community, Incorporated, and to Change Its Name to Lake Arrowhead Community Municipal Services Corporation" (Emergency) H.P. 909 L.D. 1285

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-490).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-490) READ and ADOPTED, in concurrence.

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

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

Signed:

Representative:

LIBBY of Buxton

Comes from the House with the Minority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Reports were READ.

THE PRESIDENT moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE.

Senator **LONGLEY** of Waldo moved to Table 1 Legislative Day, pending the motion to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

Senator **AMERO** of Cumberland requested a Division.

Senator **LONGLEY** of Waldo requested and received leave of the Senate to withdraw her motion to Table 1 Legislative Day, pending the motion to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

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

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

Senator **SMALL:** Thank you, Mr. President, Men and Women of the Maine Senate. I hope you will accept the majority ought not to pass report. This bill requires local school districts to hold a moment of silence in Maine public schools. This is already permissible under current statute if a school district chooses to implement a moment of silence. This legislation would mandate it, and for what? A moment of silence out of the school day. There are already many moments of silence during the school day, without a state law to require it. I have heard many complaints, many in this body, against all the education mandates that have been passed in Augusta, but if you are really consistent, and if you believe that local school boards are elected to run the schools, and not individual legislators, then you must vote with the majority ought not to pass report. We do not need to add any new mandates to our school day. I want you to think about some that like this mandate, but there are going to be other mandates that are going to come along, and maybe you won't like it but someone else will and they will want to put it not only on their school district, but on your school district. In the brief time, well the long time that I have been on the Education Committee, but in the brief time that I have had to sit back and think of some of the mandates that we have attempted to pass on the school day but have been able to overturn, we have had a mandate to regulate the amount of intercom time during the day. We had a potential mandate to require all schools to teach CPR courses. We had a mandate to teach nuclear power courses. That was brought in by the anti-nuclear power lobby. We had a mandate to require 2% milk be served in the schools. While some may think that's a good idea, I really think that's a local decision. We had a mandate to offer gun safety courses. These are all things that can be done on the local level, they don't need a state law to do that. If you have constituents in your district who think they ought to have a moment of silence in their school, then they should go to the school board and they should have that on the agenda and let the school board vote for it, not mandate it into my town and not mandate it into my seatmate's town, but on the local level where it belongs. I hope that you will support the majority ought not to pass report. Thank you.

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. I agree, sometimes, when I think about all the local mandates and local control and all of those kinds of situations. But, I have also read for years and years of all the situations going on in our country and in our schools, the violence and the drug abuse and all the things that we all read and hear and wish wasn't happening. Maybe if we had a moment of silence in our schools the students and teachers might reflect and maybe cut some of those problems that we are having. That's why I'm supporting the minority report and hope that we can defeat this motion that we have on the floor. Thank you.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, HARRIMAN, KIEFFER, LAWRENCE, LONGLEY, McCORMICK, MILLS, O'DEA, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **CASSIDY, FERGUSON, HALL, HANLEY, HATHAWAY, LORD, MICHAUD, PARADIS, STEVENS**

ABSENT: Senator: **CIANCHETTE**

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being absent, **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

Senate

Ought to Pass As Amended

Senator **LORD** for the Committee on **NATURAL RESOURCES** on Bill "An Act to Amend the Laws Pertaining to the Regulation of Borrow Pits" (Emergency)

S.P. 525 L.D. 1423

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-283).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-283) READ and ADOPTED.

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

Senator STEVENS for the Committee on TRANSPORTATION on Bill "An Act to Widen the Maine Turnpike"

S.P. 489 L.D. 1323

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-282)

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-282) READ and ADOPTED.

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

ENACTOR

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

An Act to Expedite the Hearing Process Relating to the Uniform Classification System Used in Workers' Compensation Insurance

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

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

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

ORDERED, the Senate concurring, that Bill, "An Act to Establish the Maine Judicial Compensation Commission," S.P. 536, L.D. 1474, and all its accompanying papers, be recalled from the Engrossing Department to the House.

H.P. 1130

Comes from the House READ and PASSED.

Which was READ and PASSED, in concurrence.

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

ORDERS OF THE DAY

Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment has preference in the Orders of the Day and continues with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the following Tabled and Specially Assigned (June 15, 1995) matter:

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

H.P. 17 L.D. 11

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

Minority - Ought Not to Pass. (3 members)

Tabled - June 14, 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 KIEFFER of Aroostook, Tabled
1 Legislative Day, pending ACCEPTANCE of Either
Report.

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

HOUSE REPORTS from the Committee on **BUSINESS AND
ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Laws
Pertaining to the Duties of Skiers and Tramway
Passengers by Defining Inherent Risks"
H.P. 801 L.D. 1118

Majority - Ought to Pass as Amended by Committee
Amendment "A" (H-404). (6 members)

Minority - Ought Not to Pass. (4 members)

Tabled - June 15, 1995, by Senator KIEFFER of
Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT.

(In House, June 14, 1995, PASSED TO BE ENGROSSED
AS AMENDED BY COMMITTEE AMENDMENT "A" (H-404).)

(In Senate, June 15, 1995, Reports READ.)

Senator HARRIMAN of Cumberland moved that the
Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED
Report, in concurrence.

Senator MILLS of Somerset requested a Division.

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

Senator HARRIMAN: Thank you, Mr. President. If
the Senate would allow, I would like to just share
with you what the pending motion will do. Current
Maine law says that skiers are, when they take to a
ski slope, accepting some inherent risks. Yet the
definition of what inherent risks are are not spelled
out and therefore, from time to time, law suits have
been filed where the defendant has to incur
substantial amounts of time and legal expense to
demonstrate that the reason for the suit was, indeed,
an inherent risk of skiing. Another provision of
this bill would make it clear that the inherent risks
of skiing would require that the ski operator list,
and present to the public, exactly what those
inherent risks of skiing are, and they would be
posted by the ski schools, it would be posted by the
place where you buy your ticket. It also makes it
clear in the legislation that an operator of a ski
facility cannot be held liable for improper design,
as indeed, there are no design standards for ski
slopes. That is not to say, however, that if the

skiing public found itself in an injury situation
because of improper maintenance, then they would,
indeed, have a claim. I also want to point out that
it is clearly the intent of this legislation to
address the areas of inherent risks of skiing, not
poor design for golf courses, condominiums and the
like. This is designed to protect ski operators from
claims arising out of inherent risks of skiing. It's
interesting to note that New Hampshire has a very
similar law in their state, like the one we are
proposing here, yet, in Maine, similar types of
insurance premiums, insurance coverage, costs ski
areas fifty cents more per one hundred dollars in ski
lift ticket revenue. The ski industry has seen their
liability premiums increase 300% to 400% in the last
ten years and that takes into account many of the ski
areas who are self-insuring a very large part of the
potential claim. In one instance, \$50,000 of
self-insurance before seeking coverage of their
insurance carrier. This is an opportunity to clarify
what is in Maine law, and it is an opportunity to
help the industry avoid itself from potential
litigation. I hope you will support the pending
motion. 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. I think the
effort to protect ski areas from frivolous suits, or
unnecessary suits, or suits that soon get thrown out
of court but incur a lot of costs for the ski areas,
is one in which I concur. What troubles me about
this bill, as it is presently drafted, are a few
items which indicate that the great breadth of
immunity that we are providing here, and in
particular on page one of the bill, on lines 41 and
42, the immunity specifies for the purpose of using
any of the facilities of the ski area, including but
not limited to ski slopes and trails. This would
include shops, restaurants, tennis courts, golf
courses, any other facility that happened to be
within the ski area for summer use, or any other type
of use that might have nothing to do with skiing. I
suggest that the bill, as it is currently drafted, is
too broad. Thank you.

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

Senator CAREY: Thank you, Mr. President, Members
of the Senate. In the amendment, which has been made
a part of the bill, obviously, we are talking about
surface or subsurface conditions, such as dirt,
grass, bare spots, rocks, stumps, trees and forests.
Nothing in the bill says anything about those being
off the trail. Those, in fact, could be on the ski
trail itself. I would strongly suggest that if, in
fact, some of those conditions existed that that
trail would be closed to skiers. But there is
nothing in here that says the operator has to close
those particular trails. It gives the ski operator a
lot more protection than I would like to give them.

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

Senator HARRIMAN: Thank you, Mr. President.
Just for the record, I want to iterate that this bill

is intended for ski operators and their ski slope facilities. It is not intended to grant immunity from other operations they may have. I would also like to say, in response to my very good friend from Kennebec, Senator Carey, that if that situation you described occurred, that would not prevent someone from seeking a claim because of improper maintenance. As those of you who ski know, from the time you hit the slopes in the morning, what may be fresh powder quickly becomes ice. As skiers go by you expose the subterrain of the ski slope. All of those things are an inherent risk of skiing. Clearly, a ski operator who properly manages his trails is going to know when those situations occur and he is going to close them, or put up warning indications. Those are proper management techniques, not inherent risks of skiing. Thank you.

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

Senator MILLS: Thank you, Mr. President, Members of the Senate. Just a couple of statistics, because I followed this bill, in some measure, through the Committee process and I was very anxious to hear from the industry itself on what sort of problems they are having under the current law that might have given rise to this bill. The evidence, or the testimony, was largely anecdotal, but one of the largest ski areas in the state did come forth with some statistics, at the request of the Committee. We found that under the current law, which does provide a large measure of immunity to ski areas in this state, we have a law on the books already which defines the inherent risks of skiing, and gives the ski areas immunity for such things as collisions between people, and collisions with objects, and all of the obvious things which most common sense people wouldn't sue for anyway, and very few apparently do. But the statistics are these: for ski area injuries, and you must consider that there are probably hundreds, maybe thousands of them every year, there were only three claims per year asserted under our current law for the last eleven years. Fewer than one per year resulted in any payment or disposition by settlement or judgement. We are dealing with an industry which is responsible for hundreds of injuries every year and yet there is no tort crisis relating to this industry because the number of claims being asserted, the number of claims being filed, are so extraordinarily few in comparison with the harm that is often accompanied by this sport. You can imagine that in those very few cases, under current law, where someone does make a claim, there has been some grotesque oversight on the part of the ski area, perhaps the failure to close an unusually hazardous trail, or some other such phenomenon. The bill that the industry came down to the Committee with, this bill that is in front of you, is, in essence, an effort to grant them complete immunity from any responsibility, to give them no responsibility whatsoever to the public. It is almost complete immunity for all of their operations, and I suggest that the bill, as it is worded, encompasses not only the ski areas, but all of their collateral, businesses, and everything that is adjacent to the slopes, perhaps the golf course. There is an expression for this, when I have a lawyer on the other side of me who is writing a contract, and he puts into the contract everything he wants his

client to have, and he throws it at me, and it has everything including the kitchen sink in it, I call it hog drafting. You usually call the lawyer up, in a friendly way, and you say start over again and let's be reasonable. This bill is not reasonable, at least in my judgement.

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

Senator FERGUSON: Thank you, Mr. President, Ladies and Gentlemen of the Senate. As you know, I reside in Oxford County and one of the largest, if not the largest, ski area in the State is in my district, Sunday River. What they are trying to do here is to define what inherent risks are. There's quite a few of them. Rather than reading them all, I would like to refer to them as common sense items. The first time you go out to ski, don't put on your skis and go to the top of the hill and point them straight down, you're going to be in trouble. That's not the ski area's, or the owner's, responsibility, that's a responsibility that you have to assume. That's what this bill defines. In regards to what my good friend, Senator Mills, the Senator from Somerset, stated, on section 7 of the bill it says actions that are not prohibited. The negligent operation of a ski area, or the negligent design, construction, operation, or maintenance of passage tramways. That means that if they do not operate their facility in a responsible manner they are subject to suit. Another point I would like to make is that we would like a level playing field with New Hampshire and Vermont. As Senator Harriman, the Senator from Cumberland, stated that their insurance rates are fifty cents per one hundred dollars of revenue generated by lift tickets. That maybe doesn't sound like much but when you start multiplying that by millions of dollars of revenue it certainly adds up. So, I would ask the body to support the pending motion in a positive manner. Thank you.

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

Senator BENOIT: Thank you, Mr. President. May it please the Senate. Please do not be overtaken by some of the arguments that you are hearing, which to me is a snow job. This bill does not absolve ski areas completely from responsibility. If you take a look at the statement of fact, it indicates that negligent maintenance of an area is not an inherent risk, and that's the way it should be. The way in which a ski area maintains the operation ought to be something available to people to go to court about. There is this statement as well, that liability is not to be rested upon the design of the ski area. That's a good feature as well, because if you are mindful of weather in Maine, as it impacts ski areas, Mother Nature has a lot to do with design. You can have a pretty good snowfall and you can change the slope of the trail. I can tell you, from experience, skiing one day at Black Mountain, in New Hampshire, when I did a lot of downhill skiing, it was late in the day. The ski areas close around four o'clock, it was about three thirty, and I was coming down the last slope. I guess the grade of the slope was close to a twelve pitch on a chalet roof, it was pretty steep. That's the way it was designed. I took a

spill and nearly broke an ankle. Both skis came off, one windmilling like a propeller prop cut through my clothing and I got a pretty good gash out of it. Now, is that the fault of the ski area at Black Mountain? Of course not. That's my fault, coming down too fast in the flat light of the day, and taking a spill. I urge you to give support to this legislation, because in my area, with Sugarloaf and Saddleback, we need this type of assistance for our industry. In conclusion, let me note that I bet lawyer groups in Maine are in opposition to this bill. That's probably one of the main reasons why I will be voting for it. Thank you.

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

A Division has been requested.

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

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

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **HARRIMAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-404) **READ** and **ADOPTED**.

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

Senator **GOLDTHWAIT** of Hancock was granted unanimous consent to address the Senate on the Record.

Senator **GOLDTHWAIT:** Thank you, Mr. President. As I listened to the testimony a little earlier today on an issue, I thought about Father's Day, which is coming up on Sunday. As I listened to the good dad from Lincoln, Dad Begley, and the good dad from Washington, Dad Cassidy, speak, I was very much aware that they were the kind of fathers who would support their kids no matter what. I would like to request that when we adjourn today, we do so in memory and honor of Andrew McKeen Murdock, and all other loving dads. Thank you.

Off Record Remarks

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

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

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

Off Record Remarks

On motion by Senator **GOLDTHWAIT** of Hancock, **ADJOURNED**, in memory of Andrew McKeen Murdock and all of the fathers who will be honored on Sunday, until Monday, June 19, 1995, at 9 o'clock in the morning.