

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 5, 1990 to May 20, 1991

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

Senate at Ease

Senate called to order by the President.

In Senate Chamber
Tuesday
May 7, 1991

Resolve, to Postpone the Adoption and Implementation of the BOCA Plumbing Code by the State (Emergency)

H.P. 1228 L.D.-1792

Senate called to Order by the President.

Comes from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Prayer by the Honorable Muriel D. Holloway of Lincoln.

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

SENATOR MURIEL E. HOLLOWAY: Let us bow our heads. Let us ask the dear Father in heaven, that He will give us the strength, and the courage, and the guidance that we need as we weave our way through these most difficult times facing our state right now. We ask these things in Your name. Amen.

Resolve, to Help Schools Incorporate Economic and Global Education

H.P. 1223 L.D. 1781

Reading of the Journal of Monday, May 6, 1991.

Resolve, to Establish the Commission to Study Secondary Vocational and Technical Education in Maine (Emergency)

H.P. 1243 L.D. 1809

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Relating to Unfair Trade Practices in the Insurance Industry"
H.P. 1237 L.D. 1803

Come from the House referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **EDUCATION** and **ORDERED PRINTED**, in concurrence.

Comes from the House referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**.

Bill "An Act to Amend Certain Provisions of the Inland Fisheries and Wildlife Laws"
H.P. 1226 L.D. 1784

Which was referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Modify the Maine Land Use Regulation Commission Requirements Relating to Deer Wintering Areas"
H.P. 1232 L.D. 1796

Bill "An Act to Prescribe the Duties and Liabilities of Ice-skating Rink Operators and Persons Who Use Ice-skating Rinks"
H.P. 1217 L.D. 1775

Come from the House referred to the Committee on **FISHERIES AND WILDLIFE** and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **FISHERIES AND WILDLIFE** and **ORDERED PRINTED**, in concurrence.

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee, and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Bill "An Act to Encourage Business Investments" (Emergency)
H.P. 1211 L.D. 1769

Sent down for concurrence.

Bill "An Act to Appropriate Funds to the Maine Council on Economic Education" H.P. 1214 L.D. 1772

Come from the House referred to the Committee on **HOUSING AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **HOUSING AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Establish a Trauma Advisory Committee and a Voluntary Trauma Reporting System" H.P. 1233 L.D. 1797

Bill "An Act to Establish the Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities" H.P. 1234 L.D. 1798

Bill "An Act to Ensure Payment of Reasonable Costs of Operating Community-based Facilities for the Mentally Retarded" (Emergency) H.P. 1240 L.D. 1806

Bill "An Act to Revise the Membership of the Committee to Advise the Department of Human Services on AIDS" (Emergency) H.P. 1242 L.D. 1808

Come from the House referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Minimum Requirements for Emergency Medical Technicians" H.P. 1230 L.D. 1794

Committee on **BUSINESS LEGISLATION** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

On motion by Senator **BALDACCI** of Penobscot, referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

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

Bill "An Act to Require Parental Consent to Adoption before a Probate Judge" H.P. 1215 L.D. 1773

Bill "An Act Concerning Indian Territory under the Maine Indian Claims Settlement Laws" H.P. 1218 L.D. 1776

Bill "An Act to Provide More Effective Recovery of Child Support" H.P. 1222 L.D. 1780

Come from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

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

Bill "An Act to Amend the Laws Pertaining to Certification of Law Enforcement Canines" H.P. 1231 L.D. 1795

Committee on **LEGAL AFFAIRS** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Procedure for Revoking a Law Enforcement Officer's Certification as a Result of the Conviction of a Crime" H.P. 1213 L.D. 1771

Bill "An Act to Grandfather Mobile Home Park Lots in Existence Prior to June 30, 1989" H.P. 1216 L.D. 1774

Bill "An Act to Ensure Fairness to Tenants" H.P. 1220 L.D. 1778

Come from the House referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

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

Bill "An Act to Reduce the Administrative Cost of State Government by Abolishing the Division of Community Services and the Department of Economic and Community Development and Transferring Their Essential Functions"

H.P. 1210 L.D. 1768

Resolve, to Establish the Academy for Public Service Study Committee

H.P. 1224 L.D. 1782

Bill "An Act to Clarify the Economic Impact Analysis in Administrative Rule-making Procedures"

H.P. 1235 L.D. 1799

Bill "An Act Concerning the Bonding Authority of the Cumberland County Recreation Center"

H.P. 1238 L.D. 1804

Bill "An Act to Appropriate Funds for the Save Loring Committee" (Emergency)

H.P. 1239 L.D. 1805

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

Which were referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Laws Relating to Watercraft Registration and Excise Tax"

H.P. 1212 L.D. 1770

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Give School Districts Taxing Authority

H.P. 1241 L.D. 1807

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

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

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

Bill "An Act to Create Special Veteran Plates and Emblems"

H.P. 1221 L.D. 1779

Comes from the House referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Deregulate Mobile Telecommunications Services"

H.P. 1219 L.D. 1777

Bill "An Act to Amend the Waldoboro Sewer District Charter" (Emergency)

H.P. 1225 L.D. 1783

Come from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which were referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

Joint Order

The following Joint Order: H.P. 1236

ORDERED, the Senate concurring, that Bill "An Act to Compensate Landowners for Land Value Lost because of Wildlife Restrictions," H.P. 1039, L.D. 1512, be recalled from the legislative files to the House.

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

Which was **READ**.

THE PRESIDENT: The pending question before the Senate is **PASSAGE**. Pursuant to Joint Rule 15 this Joint Order requires a two-thirds vote of those present and voting.

Will all those members in favor of **PASSAGE**, please rise in their places and remain standing until counted.

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

30 Senators having voted in the affirmative and 2 Senators having voted in the negative, The Joint Order was **PASSED**, in concurrence.

Joint Resolutions

The Following Joint Resolution: H.P. 1227

**JOINT RESOLUTION COMMEMORATING
THE 100TH ANNIVERSARY OF THE
INCORPORATION OF THE CITY OF WESTBROOK**

WHEREAS, one of the enduring threads in the fabric of our State's history is comprised of the communities that have labored to transform Maine's great natural resources into products for our nation and the world; and

WHEREAS, the City of Westbrook is a sterling example of one of those abiding centers of commerce and productive energy, having continually produced useful energy and products since 1748; and

WHEREAS, the first settlement at the site of Westbrook was the village of Saccarappa, founded in 1748 by Joseph Conant within the Town of Old Falmouth; and

WHEREAS, in February 1814 the village was separated and incorporated as the Town of Stroudwater, and the name of the community was then changed to Westbrook in 1814 in honor of Colonel Thomas Westbrook, the King's Mast agent who founded Stroudwater; and

WHEREAS, Westbrook was granted a charter in 1889 and was incorporated as a city on March 23, 1891; and

WHEREAS, this vigorous community has been engaged in an ambitious celebration of its incorporation; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the centennial anniversary of the incorporation of the City of Westbrook, and to commend the inhabitants and officials of this town for the success that they have achieved together for a century, and to extend to each our sincere hopes and best wishes for continued achievement over the next 100 years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

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

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

The Following Joint Resolution: H.P. 1244

JOINT RESOLUTION IN RECOGNITION OF YOUNG THESPIANS

WHEREAS, the Perth Theatre in Perth, Scotland is producing the musical "Peace Child" with members of their own Youth Theatre and an international cast of young people from Europe, Africa, the Middle East and the United States; and

WHEREAS, Joan Knight, Artistic Director of Perth Theatre, in an acknowledgment of her enjoyable and productive experiences attending theatrical productions in Maine during her 1977, 1987 and 1989 visits to our great State, and directing a production for the Penobscot Players, Bangor, in 1989, contacted her goddaughter, Christine Holden of Lewiston, to coordinate the selection of young people from Maine, who will be the sole representatives from the United States; and

WHEREAS, Katie McCarthy, Amy Morin, Leslie Corey, Cheryl Hamilton, Delia Lamore, David Townsend, Josh Mitchell and Philip Guerette of Lewiston and Auburn have been selected as cast members, and will be accompanied by Judy Walker of Lewiston and Bill McCarthy of Auburn as chaperones; and

WHEREAS, this experience will contribute to their academic and theatrical growth, and will contribute to greater world understanding through the musical's message of the responsibility of young people for peace and the environment; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the First Regular Session, congratulate all involved with this splendid undertaking, and send the good wishes of the Maine Legislature to the people of Perth and all the participants in the May 1991 production of "Peace Child"; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Joan Knight, Katie McCarthy, Amy Morin, Leslie Corey, Cheryl Hamilton, Delia Lamore, David Townsend, Josh Mitchell, Philip Guerette, Judy Walker and Bill McCarthy.

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

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

The Following Joint Resolution: H.P. 1245

**JOINT RESOLUTION COMMEMORATING
NATIONAL MUNICIPAL CLERK'S
WEEK**

WHEREAS, the week of May 5 to May 11 has been proclaimed National Municipal Clerk's Week; and

WHEREAS, public service is one of the most important ways in which the citizens of a democracy can show devotion to their community; and

WHEREAS, the men and women who make the machinery of our local government run effectively, who meet our human needs and who make our State a better place to live deserve our gratitude and respect; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize Municipal Clerk's Week and to commend the clerks of our towns and cities for their dedication and efforts in our behalf and for the success which they have achieved, and to extend to each our sincere hopes and best wishes for continued achievement; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Municipal Association, in order that our sentiments may be transmitted to the municipal clerks of our State.

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

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

COMMUNICATIONS

The Following Communication:

**DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
STATE HOUSE STATION 45
AUGUSTA, MAINE 04333**

May 3, 1991

The Honorable Charles P. Pray
President of the Senate
State House Station 3
Augusta, Maine 04333

Dear President Pray:

I am pleased to submit the second annual report on substance abuse testing in Maine, in accordance with 26 M.R.S.A. Section 690.

The report covers the calendar year 1990 which was the first full year under the law.

This report was prepared by the Department of Labor, with the assistance of Philip Haines, P.h.D., Director, Public Health Laboratory, Department of Human Services and Thomas Hughes, Employee Assistance Program Coordinator, Office of Substance Abuse. The cooperative efforts of both Dr. Haines, Mr. Hughes, and William Peabody, Deputy Director, Bureau of Labor Standards, goes a long way in explaining the progress to-date in the successful implementation of the law.

If you have any questions or comments about this report, please do not hesitate to contact me at 289-6400.

Sincerely,

S/James H. McGowan
Director

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

The Following Communication:

**WORKERS' COMPENSATION COMMISSION
STATE HOUSE STATION 27
AUGUSTA, MAINE 04333**

April 30, 1991

Honorable Charles P. Pray
President of the Senate
State House Station 3
Augusta, Maine 04333

RE: Quarterly Report for the First Quarter of
Calendar 1991 39 M.R.S.A. §92(3).

Dear President Pray:

This letter and statistical attachments are the first quarterly report of Commissioner caseload and progress mandated by 39 M.R.S.A. §92(3).

The Commission received 3,982 petitions in the first quarter of 1991 and disposed of 3,885 by decision or dismissal. The backlog of pending petitions grew from 10,026 to 10,123. Although total backlog increased, Commissioners reduced the number of petitions undecided for more than two years to 178, an all time low. By way of comparison, total backlog at the end of 1986 was 7,499 with 492 petitions pending more than two years. Each litigated case involves an average of 1.4 petitions.

Although the Commission is making progress at reducing delay at the formal hearing level, current budget restraints may have a severe effect on our other responsibilities. The agency is facing a loss of roughly 30% of its staff. Under current targets, the Office of Employment Rehabilitation, the Abuse Investigation Unit, and the unit inputting benefit payment information face suspension of operations. Computer system development will be curtailed. Assistance to injured workers before informal conferences will be further reduced.

There have been no formal complaints or filings concerning the 30 day decision rule of 39 M.R.S.A. §99-B as implemented by Commission Rule 22.11. Informal complaints about the timeliness of decisions following the close of evidence have increased.

A summary of caseload and dispositions is presented in the attached tables. I would be happy to discuss this report further if you wish.

Sincerely,

S/Ralph L. Tucker
Chairman

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

SENATE PAPERS

Bill "An Act to Provide for the Orderly Transfer of Contracts from Union Schools to Separate School Systems upon Dissolution"

S.P. 682 L.D. 1810

Presented by Senator **MCCORMICK** of Kennebec

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

Sent down for concurrence.

Bill "An Act to Annex the Town of Richmond to Lincoln County"

S.P. 683 L.D. 1811

Presented by Senator **CAHILL** of Sagadahoc
Cosponsored by Representative **STEVENS** of Sabattus
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Discourage Motor Vehicle Theft"

S.P. 684 L.D. 1812

Presented by Senator **TWITCHELL** of Oxford

Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED.**

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **REFERENCE.**

Study Report
COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS
SUBCOMMITTEE ON FEDERAL AND DEDICATED FUNDS

Senator **PEARSON** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS, SUBCOMMITTEE ON FEDERAL AND DEDICATED FUNDS** to which was referred by the Legislative Council the Study Relative to Dedicated and Federal Fund Budget have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act Concerning Federal and Other Special Revenue Funds in Maine State Government"

S.P. 685 L.D. 1819

Be referred to the Joint Standing Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** for Public Hearing and printed pursuant to Joint Rule 19.

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

The Bill referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED,** pursuant to Joint Rule 19.

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **BANKING AND INSURANCE** Bill "An Act to Require that Health Care Provide Guaranteed Insurance"

H.P. 917 L.D. 1314

From the Committee on **BANKING AND INSURANCE** Bill "An Act to Prohibit Financial Institutions from Selling Certain Accounts without Sufficient Notice"

H.P. 1017 L.D. 1490

From the Committee on **BANKING AND INSURANCE** Bill "An Act Relating to Workers' Compensation Insurance for Leased Employees"

H.P. 1104 L.D. 1603

From the Committee on **BANKING AND INSURANCE** Bill "An Act to Provide More Affordable Health Insurance for Small Businesses"

H.P. 1187 L.D. 1730

From the Committee on **BUSINESS LEGISLATION** Bill "An Act to Expand the Grounds for Discipline of Osteopathic Physicians and Surgeons"

H.P. 788 L.D. 1120

From the Committee on **BUSINESS LEGISLATION** Bill
 "An Act to Improve Credit Reporting"
 H.P. 791 L.D. 1123

From the Committee on **BUSINESS LEGISLATION** Bill
 "An Act to Prohibit Pawn Brokers from Imposing Unfair
 Interest Rates"
 H.P. 906 L.D. 1303

From the Committee on **BUSINESS LEGISLATION** Bill
 "An Act to Amend the Sunday Sales Laws"
 H.P. 911 L.D. 1308

From the Committee on **FISHERIES AND WILDLIFE** Bill
 "An Act to Provide for Accountability for Travel
 Expenses in the Department of Inland Fisheries and
 Wildlife"
 H.P. 795 L.D. 1141

From the Committee on **FISHERIES AND WILDLIFE** Bill
 "An Act to Amend the Laws Governing the Moose Lottery"
 H.P. 1088 L.D. 1588

From the Committee on **HUMAN RESOURCES** Bill "An
 Act to Provide Assistance, Support and Supervision
 for Foster Homes"
 H.P. 1074 L.D. 1568

From the Committee on **JUDICIARY** Bill "An Act to
 Eliminate the Need for Notice of Claim When the
 Government Is Aware of a Claimant's Inquiries"
 H.P. 941 L.D. 1363

From the Committee on **LEGAL AFFAIRS** Bill "An Act
 to Enhance the Capabilities of the Commission on
 Governmental Ethics and Election Practices"
 H.P. 52 L.D. 73

From the Committee on **LEGAL AFFAIRS** Bill "An Act
 to Prohibit Corporations from Contributing to
 Political Campaigns"
 H.P. 701 L.D. 1005

From the Committee on **LEGAL AFFAIRS** Bill "An Act
 Concerning Voting by Absentee Ballot"
 H.P. 716 L.D. 1021

From the Committee on **LEGAL AFFAIRS** Bill "An Act
 to Inform the Public About Drug-free School Zones"
 H.P. 723 L.D. 1027

From the Committee on **LEGAL AFFAIRS** Bill "An Act
 Concerning the Placement of Campaign Signs Along
 Roads"
 H.P. 734 L.D. 1038

From the Committee on **LEGAL AFFAIRS** Bill "An Act
 to Prohibit Certain Activities in Polling Places"
 H.P. 807 L.D. 1161

From the Committee on **LEGAL AFFAIRS** Bill "An Act
 Concerning Gaming Conducted by the Passamaquoddy
 Tribe"
 H.P. 856 L.D. 1222

From the Committee on **LEGAL AFFAIRS** Bill "An Act
 to Clarify the Authority of Law Enforcement Officers
 to Release Certain Arrested Individuals on Their
 Personal Recognizance"
 H.P. 896 L.D. 1293

From the Committee on **LEGAL AFFAIRS** Bill "An Act
 to Establish a Reward for Reports of Operating under
 the Influence Offenses"
 H.P. 929 L.D. 1349

From the Committee on **STATE AND LOCAL GOVERNMENT**
 Bill "An Act to Modify the Territory of the Northport
 Village Corporation"
 H.P. 58 L.D. 86

From the Committee on **STATE AND LOCAL GOVERNMENT**
 Bill "An Act to Ensure That Towns Do Not Have to Pay
 for Ambulance or Emergency Vehicle Responses on
 Controlled Access Highways within Their Town Lines"
 H.P. 232 L.D. 323

From the Committee on **STATE AND LOCAL GOVERNMENT**
 Bill "An Act to Establish a Center for Nonprofit
 Development" (Emergency)
 H.P. 357 L.D. 487

From the Committee on **STATE AND LOCAL GOVERNMENT**
 Resolve, to Amend the Master Plan for the Capitol
 Area (Emergency)
 H.P. 476 L.D. 670

From the Committee on **STATE AND LOCAL GOVERNMENT**
 Bill "An Act to Require the State to Participate in
 Maintenance and Construction Expenses for the Capitol
 Area"
 H.P. 490 L.D. 684

From the Committee on **STATE AND LOCAL GOVERNMENT**
 Bill "An Act to Provide Funds for the Purchase of a
 Fire Truck"
 H.P. 628 L.D. 898

From the Committee on **STATE AND LOCAL GOVERNMENT**
 Bill "An Act to Increase Participation at Town
 Meetings" (Emergency)
 H.P. 640 L.D. 914

From the Committee on **STATE AND LOCAL GOVERNMENT**
 Bill "An Act to Concerning the Somerset County Budget"
 H.P. 664 L.D. 943

From the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act to Authorize Municipalities to Create Regional Public Safety Districts"

H.P. 768 L.D. 1102

Leave to Withdraw

The following **Leave to Withdraw** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **BUSINESS LEGISLATION** Bill "An Act to Provide Licensing Bureaus, Boards and Commissions with the Authority to Order Restitution to Injured Consumers"

H.P. 758 L.D. 1092

From the Committee on **BUSINESS LEGISLATION** Bill "An Act to Require Disclosure of the Per Therm Price of Propane Gas"

H.P. 971 L.D. 1412

From the Committee on **HOUSING AND ECONOMIC DEVELOPMENT** Bill "An Act to Establish Priority for the Development of Community-based Nonprofit Housing at the Maine State Housing Authority"

H.P. 1063 L.D. 1552

Ought to Pass

The Committee on **BUSINESS LEGISLATION** on Bill "An Act Relating to the Sale of Business Opportunities"

H.P. 840 L.D. 1206

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-211)**.

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

The Bill **READ ONCE**.

House Amendment "A" (H-211) **READ** and **ADOPTED**, in concurrence.

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

Ought to Pass As Amended

The Joint Select Committee on **CORRECTIONS** on Bill "An Act to Notify the Probation Officer and the Probationer When a Motion Is Filed to Terminate Probation at a Time Earlier Than That Provided for in the Sentence"

H.P. 878 L.D. 1269

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-207)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-207)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-207) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act to Improve the Administration of Municipal Accounts"

H.P. 518 L.D. 746

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-206)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-206)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-206) **READ** and **ADOPTED**, in concurrence.

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

Off Record Remarks

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Establish the State of Maine Credit Card"

H.P. 248 L.D. 339

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

Signed:

Senator:

KANY of Kennebec

Representatives:

MITCHELL of Vassalboro
ERWIN of Rumford
TRACY of Rome
KETOVER of Portland
RAND of Portland
PINEAU of Jay
HASTINGS of Fryeburg
CARLETON of Wells

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

Signed:

Senators:

THERIAULT of Aroostook
BRAWN of Knox

Representatives:

GARLAND of Bangor
JOSEPH of Waterville

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-197)**.

Which Reports were **READ**.

Senator **KANY** of Kennebec moved to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is a very serious question that we are going to decide, in my opinion, and I rise to ask you to vote against the Majority Report, and would like to share with you why.

I listened at the Hearing, and I asked several questions at all of the work sessions, and there were several on this Bill. Two concerns that I have are the precedent that we are setting by establishing a State of Maine credit card, and second, I believe that there is an un demonstrated need for a State of Maine credit card. Now, I have asked several people's opinions on this matter, and outside of this Body, I may add, in many towns and areas, restaurants, banks, all kinds of places so that it isn't one person, and no one that I asked would say that they would be in support of having a State of Maine credit card.

Now, as you all know, I am new on the Banking and Insurance Committee, and I must confess to you that I

enjoy it very much, and I respect all of the people on it. It is a very good learning experience. But, you need to know, and I took time this afternoon to copy them all off, and I will read if you like, but if you don't, I have them here. We have heard at least ten different Bills on credit cards. Some want to freeze the interest, others want them to say State of Maine Bank on it, because they aren't State of Maine banks, they are out-of-state banks that have credit cards. There are only two banks that will do credit cards, because they are not profitable. So, keep that in mind as part of this debate. Others have asked for clearer notification to customers when banks sell credit cards to out-of-state banks. There is one on our Calendar today, **Ought Not To Pass**, if you would turn back a page, about clearer definition. I just want to share that I think there are a lot of concerns about plastic credit cards. I was born in Maine, I care very much about what the State of Maine does, and I think as you ask more questions, perhaps, you have will no answers or negative answers about this Bill.

I would just like to share a little bit from a letter about credit card business that came from a very reputable source. It said, "Maine protecting its citizens (with very good intentions) passed legislation to keep the credit card fee at \$12 per year, an interest rate ceiling at 18%. What has happened since then? Every bank is constantly under pressure to generate overhead economies by combining or consolidating backroom functions. Those that operate in multiple states, logically pick up one location and consolidate those operational functions."

Every major bank in Maine, except two, as I said, Key and Peoples, has now moved their operation for credit cards out of state, and they export the credit card bank into Maine. Why didn't they pick up Maine to consolidate in? Maine is too restrictive. There is no latitude. In 1992, this next year, I believe Key will also consolidate their credit card operations with the ten banks as well, not in Maine, ladies and gentlemen, but in Utah. I believe Maine is dead last on the list of desirable states to do business in because of the excessive restrictions.

There was another part to my decision. It is obvious that many out-of-state banks are the ones that are doing the credit cards. I know we are not supposed to make mention to people in the other Body, but one of the people on the Minority Report of the other Party than myself, by the way, and I had a very nice conversation this morning about what I wanted her permission to share some of the testimony, and the problem that she had with credit cards, and sending in a full payment, because it was out-of-state, and by the time they get it and got it back, she still had to pay more interest. There are a lot of questions about credit cards today that need to be answered.

Let me finally finish by telling you that I voted against this measure, and I hope that you will give serious consideration to it, because I think it sets a precedent. Now, if we pass this, I can guarantee you that the next person who is going to want to come in here and have a State of Maine credit card is going to be the Department of Education. Because if they think that by getting a piece of plastic with the State of Maine on it, and everybody will go get that, and it will help bring in money, and we are all

dealing with our school situations and less General Purpose Aid coming back, so they will be the next one to come in. Then there will be others to follow. I think we are opening a can of worms. I truly do. You may laugh at this, and think that this is not possible, but if you stop and think about it tonight, will this continue to lead us to a cashless society?

I could go on, but I really won't. But, the question that I really hope that you will take seriously is, do you want the State of Maine involved in the credit card business? Remember, I don't think there is any demonstrated need. You are voting to set a precedent. Thank you for your consideration in voting against the pending motion.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I do not disagree with any of the facts stated by the good Senator from Knox, Senator Brawn, in her very accurate presentation. And by the way, I do agree with her that it is highly unusual for a Committee to be on opposing sides, especially the Senators. This is the first time, and I have thoroughly enjoyed working with my esteem Senate colleagues on that Committee. But, in this instance I do disagree. Clearly, we have had a lot of interest in credit cards this year. I would say that in addition to the fact that we have a limit on an annual fee that can be charged for a credit card, there is another reason why the assets have been sold to out-of-state banks. The credit card asset is a very valuable one, and a liquid asset, so our banks hurting, as they were in all of New England, and here in Maine, especially, and they were looking for a valuable asset to sell outside of the state. So, that is probably the main reason in addition to the limit on the fee, why they were sold just recently. We have had that limit on the fee for sometime. But, it is because of the value of that asset that we are left with just two major banks, and a couple of the smaller ones now, having the credit cards. In fact, the smaller ones are even having the credit cards administered out-of-state. So, it is primarily two big banks, as Senator Brawn said, Key and Peoples who have credit cards. Key Bank testified in favor of the Bill, which is before you, stating that they thought it was a good idea. They believed that it would bring some business back into Maine if they were allowed to bid for the State of Maine credit card, because the State of Maine and its symbols, whether they are Mt. Katahdin, or the Atlantic salmon, or whatever, are very appealing to Maine people, and Maine people go out of their way to support Maine businesses. It is very clear going to the grocery store and seeing the products that people select. Most Maine people, given the choice, would rather help out a Maine business, and help out the State of Maine, than choose to give business to out-of-state business or another country. It is basically for that reason that this Bill is before you. The banks, particularly Key Bank, thought it would be a positive thing to lure back Maine peoples' business, to be able in some way to share with the State of Maine the proceeds that are received on the annual \$12 fee, and the percentage of money that is charged on any balance. That is really where the money comes from. It is basically a lucrative business. The Bill as it is set up now would allow a State of Maine credit

card in the state. Then, not the DEP, but the state itself would actually contract with a Maine bank, and only a Maine bank, to use the State of Maine's name bank to entice that existing credit card business to do its business here in Maine with that card, and to have the state share with this Maine bank in the proceeds of this lucrative business, instead of having most of it go out-of-state. So, for that reason alone it is a positive thing.

Second, it would allow the people of Maine the choice, and others the choice of doing this. They would not have to purchase Maine credit cards, they could purchase others, and it would allow them the choice to invest in Maine's future. It could help small communities and other organizations interested in investing in Maine's future. That is really what it is all about. It is probably not the most important piece of legislation to come before this Body, and nor was it the most important to come before our Committee. But, listening to the evidence, and understanding that there would be no risk to the State of Maine, but that all citizens of the state and a Maine business could benefit from passage of this legislation, I came down on this side along with eight other members of our thirteen member Committee.

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It really hurts me to stand up here today and oppose my good Senator from Kennebec, Senator Kany, but I feel that I have to do it. I never cease to be amazed with some of the things that we come up with around here. We seem to thrive on gimmicks. We lie to ourselves and we believe it. We come up with new ways to come up with balancing our Budget. I am telling you, the list is just endless! And then when I first saw that Bill, I initially thought it was a joke. I would put it in the same category as my Square Dance Bill at best. I couldn't believe that we were on this type of departure, to think that if government would now become involved in that type of business. To me, I just can't imagine doing that kind of thing. To me, that is nothing more than a gimmick. I think the time has come for us to stop with our gimmicks. I truly believe that government should do only those things that government do. And it is certainly not to be in the credit card business. I understand at times that the state has to be involved in some business endeavors, such as the sale of liquor, or maybe a game of chance, but the main reason that the state is involved with that is to insure proper controls will be exercised over these things. Sometimes I question that maybe we should take another look at that and change our system. Basically, the bottom line is, the state should not be involved in that kind of business. Let's say that we pass this Bill, and let's say that it does raise a few thousand dollars for the state. You know, the way that we think around here, next year we will probably have a Bill here requiring all Legislators to live in a state-owned dormitory, and why don't we place it in Capitol Park. It will be close to the Capitol, and it would save a lot of money. And maybe in the summer we could rent rooms, and make a few bucks for the state. Where are we going to go with this thing! To me, this is a foot in the door, and we need to stop that.

I know that we are having difficult times. Money is scarce. But, I think we have to make a realization in our mind, and decide that we need to balance the Budget the old fashioned way. And that is, to live within our means. And I don't go for any of this gimmickry. I hope that you defeat this motion, so that this Bill can be given its proper rest.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Not to belabor the issue, but I do want to compliment the good Senator from Kennebec, Senator Kany. But, I just want to clarify before you cast your vote, and everybody has to vote their own conscience, and I am well aware of that. But, the good Senator from Kennebec, Senator Kany, has said that this will give you a choice, and I just want to point out to you that had that been the case, I think it probably would have had a better chance of passage. But, if you will read the Bill and the amendment closely, you will see that we decided that there is really not a choice, because number one, if you pass the Bill, and number two, if it works, and if there is any money there, that money will go to what they call a Natural Resources Protection Act, and the fund will be used to protect or acquire critical wildlife habitats, acquire public lands, threatened or endangered species, restore and protect lakes, wetlands and marine environment, and provide public education and information about the environment. I think that is wonderful. That is a very, very critical issue. But, in today's economy, when we are talking about shutting down government, shutting down schools, is that a choice, is that the very best choice that we should have? Maybe it is, I am not saying whether it is or not, but as long as you know that this isn't a choice, that if there is any money, that is where the money is going to go, even though we have other industries that are raising monies to buy lands, whatever, but that decision has already been made, and that is just a point of clarification. Thank you.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Perhaps I didn't make myself clear. I just really wanted to say that the choice is of the consumers, if the consumer chooses to buy the State of Maine credit card, or chooses to buy the Visa, or the Mastercard, or whatever it is from out-of-state or elsewhere. That is the choice.

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

A Division has been requested.

Will all of those in favor of the motion by Senator **KANY** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, please rise in their places and remain standing until counted.

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

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **KANY** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report was **ACCEPTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **FISHERIES AND WILDLIFE** on Bill "An Act to Provide for Safer Hunting of Deer During the Firearms Season"

H.P. 347 L.D. 477

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

Signed:

Senators:

MATTHEWS of Kennebec
TWITCHELL of Oxford
SUMMERS of Cumberland

Representatives:

ROTONDI of Athens
PAUL of Sanford
SWAZEY of Bucksport
JACQUES of Waterville
FARREN of Cherryfield
DUFFY of Bangor
CARROLL of Southwest Harbor

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

Signed:

Representatives:

CLARK of Millinocket
GREENLAW of Standish
TRACY of Rome

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

Which Reports were **READ**.

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

The Bill **READ ONCE**.

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

Senate

Ought Not to Pass

The following **Ought Not to Pass** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **MCCORMICK** for the Committee on **AGING, RETIREMENT AND VETERANS** Bill "An Act Regarding Survivor Benefits in the Event of Remarriage"

S.P. 549 L.D. 1453

Ought to Pass

Senator **MCCORMICK** for the Committee on **AGING, RETIREMENT AND VETERANS** on Bill "An Act to Amend and Clarify the Definition of Earnable Compensation in the Maine State Retirement System Laws"

S.P. 443 L.D. 1187

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

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

The Bill **READ ONCE**.

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

Divided Report

The Majority of the Committee on **LEGAL AFFAIRS** on Resolve, to Allow Scott Keirstead and Don Keirstead, Who Are a Partnership Farming Operation Located in Presque Isle, Known as Keirstead Farm, to Bring a Civil Action against the State

S.P. 360 L.D. 962

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

Signed:

Senators:

- MILLS of Oxford
- KANY of Kennebec
- SUMMERS of Cumberland

Representatives:

- LAWRENCE of Kittery
- PLOURDE of Biddeford
- DAGGETT of Augusta
- POULIN of Oakland
- RICHARDSON of Portland
- STEVENS of Sabattus
- TUPPER of Orrington
- HICHENS of Eliot
- BOWERS of Sherman

The Minority of the same Committee on the same subject reported that the same **Ought to Pass** as Amended by Committee Amendment "A" (S-119)

Signed:

Representative:

JALBERT of Lisbon

Which Reports were **READ**.

The Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**.

Sent down for concurrence.

SECOND READERS

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

House

Bill "An Act Relating to the Employment of School Board Members"

H.P. 903 L.D. 1300

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

House As Amended

Bill "An Act to Include the Testator's Birth Date in Statutory Living Wills" (Emergency)

H.P. 77 L.D. 105
(C "A" H-186)

Resolve, to Establish the Commission to Study the Use of Professional Strikebreakers (Emergency)

H.P. 139 L.D. 199
(C "A" H-185)

Bill "An Act to Clarify Ownership of Public Ways"

H.P. 275 L.D. 395
(C "A" H-187)

Bill "An Act to Appropriate Emergency Funds for the Maine Potato Breeding Program" (Emergency)

H.P. 394 L.D. 568
(C "A" H-193)

Bill "An Act to Enhance the Protection of Children Who Have Been Removed from Their Homes"

H.P. 528 L.D. 756
(C "A" H-202)

Bill "An Act to Provide Greater Public Input into Public Lands Management"

H.P. 589 L.D. 840
(C "A" H-190)

Bill "An Act Concerning Taxation of Time-share Condominiums"

H.P. 593 L.D. 844
(C "A" H-189)

Bill "An Act to Encourage Recycling of Waste Oil"

H.P. 658 L.D. 937
(C "A" H-191)

Bill "An Act Relating to Name Changes During Divorce Proceedings"

H.P. 794 L.D. 1140
(C "A" H-188)

Bill "An Act to Promote Volunteer Emergency Medical Services through Changes to the Unemployment Laws"

H.P. 866 L.D. 1246
(C "A" H-196)

Bill "An Act to Change the Geographic Representation of the Maine Potato Board"

H.P. 951 L.D. 1378
(C "A" H-194)

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

Senate

Bill "An Act to Regulate Conflict of Interest within the Maine Science and Technology Commission" (Emergency)

S.P. 299 L.D. 797

Bill "An Act Concerning the Suspension of Licenses by the Commissioner of Marine Resources"

S.P. 457 L.D. 1233

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

Sent down for concurrence.

Senate As Amended

Bill "An Act Regarding Purchase of Service Credit by Teachers Who Previously Taught in Other than Public Schools"

S.P. 158 L.D. 370
(C "A" S-115)

Bill "An Act to Regulate Water Utility Contingency Reserve Funds"

S.P. 171 L.D. 426
(C "A" S-113)

Bill "An Act Relating to the Knox County Budget Process" (Emergency)

S.P. 290 L.D. 772
(C "A" S-116)

Bill "An Act to Clarify the Confidentiality of Public Employee Disciplinary Records"

S.P. 322 L.D. 878
(C "A" S-114)

Bill "An Act to Require Door-to-door Sellers of Frozen Foods to Disclose Actual Unit Prices"

S.P. 430 L.D. 1151
(C "A" S-118)

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 Amend the Maine Uniform Transfers to Minors Act to Permit the Holding of Custodial Property Registered under a Street or Nominee Name

S.P. 112 L.D. 209
(C "A" S-77)

An Act Concerning Requests for Treatment Records

H.P. 298 L.D. 419
(C "A" H-157)

An Act Relating to Alcohol Licenses for Golf Clubs

S.P. 195 L.D. 504
(C "A" S-79)

An Act to Continue Support for the Maine Hospice Council and to Change Certain Provisions of the Law Necessary to the Proper Operations of the Maine Hospice Council

H.P. 412 L.D. 595
(C "A" H-159)

An Act Regarding the Licensing of Nurses

H.P. 436 L.D. 619
(C "A" H-154)

An Act to Move the Registry of Persons Who Sustain Head Injuries from the Bureau of Rehabilitation to the Bureau of Health
H.P. 613 L.D. 873
(C "A" H-156)

An Act Relating to the Computation of Flow for Wastewater Discharges
H.P. 644 L.D. 918
(C "A" H-167)

An Act to Modify the Maine Residents Property Tax Program
S.P. 385 L.D. 1062
(C "A" S-76)

An Act to Change the Title of the Office of Dental Health
H.P. 801 L.D. 1147
(C "A" H-163)

An Act to Modify the Radiation Protection Laws
H.P. 904 L.D. 1301

An Act to Clarify Appellate Procedures under the Public Sector Labor Laws
H.P. 925 L.D. 1322

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 Relating to Assumption of Medical Expenses by the State in Child Protection Investigations
S.P. 211 L.D. 538
(C "A" S-81)

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

An Act to Amend the Laws Concerning Postgraduate Education in the Field of Medicine
H.P. 430 L.D. 613
(C "A" H-165)

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

An Act to Appropriate Funds for the Maine Potato Breeding Program
H.P. 809 L.D. 1163
(C "A" H-168)

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

Resolve

Resolve, to Assure that an Appropriate Number of Child Care Vouchers are Allocated to the Children of Substance Abusers
H.P. 174 L.D. 259
(C "A" H-158)

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

Emergency

An Act Concerning Postsecondary Student Immunization Requirements
H.P. 198 L.D. 289
(C "A" H-164)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Clarify the Laws Relating to Insurance Coverage for Mammograms
H.P. 452 L.D. 642
(C "A" H-166)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the University of Maine System Charter

S.P. 325 L.D. 881
(C "A" S-80)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

On motion by Senator **CLARK** of Cumberland, the Senate removed the Tabled and Later Today Assigned matter:

Bill "An Act to Discourage Motor Vehicle Theft"
S.P. 684 L.D. 1812

Tabled - May 7, 1991, by Senator **CLARK** of Cumberland

Pending - **REFERENCE**

(Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED.**)

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Leave to Withdraw

The following **Leave to Withdraw** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **TITCOMB** for the Committee on **ENERGY AND NATURAL RESOURCES** Bill "An Act Concerning Enforcement of Land Use Regulations"
S.P. 617 L.D. 1621

Change of Reference

Senator **LUDWIG** for the Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Provide Access for Persons with Physical Disability to the State's Recreational Areas"

S.P. 568 L.D. 1488

Reported that the same be **REFERRED** to the Committee on **HUMAN RESOURCES**.

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

On motion by Senator **DUTREMBLE** of York, **REFERRED** to the Committee on **JUDICIARY**.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

Ought to Pass As Amended

Senator **TITCOMB** for the Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act Concerning Special Waste Landfills" (Emergency)

S.P. 472 L.D. 1264

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (S-124).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-124) **READ**.

On motion by Senator **MATTHEWS** of Kennebec, Senate Amendment "B" (S-126) to Committee Amendment "A" (S-124) **READ**.

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

Senator **TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I apologize for my delay, I was waiting for the Senator to address the amendment that he had presented. I have a great deal of concern at this point in the siting of a special waste landfill, to see the addition of amendments that would derail the process that has been very troubling, very difficult for us to put into place. But, whether we like it or not, the State of Maine has a volume of special waste, and we have to deal with it. I believe that there is a program in place with siting criteria that is adequate to deal with the situation, and if we attach this amendment, that will derail the process and limit the areas that we can look at responsibly. Then, I don't believe we are going to have a special waste landfill, and unless someone has some magic

solution to snap their fingers and make this special waste go away, I believe that we should deny acceptance of this amendment.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. First of all, I want to thank the good Senator from Cumberland, Senator Titcomb, and the members of the Committee of Energy and Natural Resources for their hard work. And certainly, the good Senator from York, Senator Dutremble, and his work of trying to slow down the process here. I offer this amendment which simply gives the local municipalities an opportunity to vote yes or no at their own local referendum, whether or not they want this facility. I know that raises a great deal of concern about where we are going to put a site and all of the kinds of questions that have been raised by the good Senator from Cumberland, Senator Titcomb. However, I feel I must represent my constituents from Benton, and I will be offering another amendment. I must do that, that is the oath that I have taken, and my responsibility to the people I represent. They are very much opposed to the site being located in their community, and so I offer this amendment. Thank you Mr. President.

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

Senator **TITCOMB:** With all respect for the sincerity presented by the Senator from Kennebec, Senator Matthews, again, I would say that if the State of Maine at this point is going to produce special waste, we all know that no one wants it, and I think if there were any agenda that any of us could follow through on, it would be to continue insuring that the siting process is fair and technically sound. I would like to think that those two sites that border my district could be eliminated by a sixty percent vote, which I am sure there would be if the towns were given the opportunity. But, in fact, if we are truly genuine in seeking a responsible site, this is not the way to go about doing it.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. What is the definition of special waste? I do not see it in any of these Bills.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Special waste is not the usual municipal solid waste, and not really toxic waste, but it does contain some toxic substances, and often is ash, sludge, or anything just a little bit unusual, just a little bit different than the usual municipal solid waste. It needs a little extra containment, a little bit extra care in the landfilling or the disposing of it.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the good Senator from Kennebec, Senator Kany's explanation, and she worked hard, and is very, very knowledgeable on these matters. But, I would just mention for the membership here to remember, that we are also talking about utility waste, we are also talking about asbestos, we are talking about hazardous materials, not the kind of materials that we generate in the kitchen, but things that are very harmful. And the good Senator from Kennebec, Senator McCormick's question is a good one. I think many people do not understand what special waste is. We are not talking about casual kinds of things that are not harmful to public health. We are talking about serious toxins and hazardous materials. Thank you Mr. President.

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

Senator **BALDACC:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is a unanimous Committee Report that the Committee on Energy and Natural Resources has recommended to the Legislature, and the Committee did provide for additional public comment. There is an extensive section on environmental review that has to be conducted, and we have allowed for more and more citizen participation. I really feel that the amendment is somewhat redundant to the policies and procedures that are already established with the Waste Management Agency in their review, and I would hope that you would vote against this pending amendment. Thank you Mr. President.

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

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As a Senator who has an area that they have been looking at for two of these dump sites, naturally, I am concerned. But, I am more concerned, because I went before the Energy and Natural Resources Committee, asking for a study of what would happen if in Bucksport, Maine, AES burned fifteen hundred tons of coal a day, what were they going to do with the ash? Because, ladies and gentlemen, I am really frightened that they are going to burn fifteen hundred tons of coal in Bucksport, and then truck it to Ellsworth, Maine, and put it in an ash dump. I got a unanimous Ought Not To Pass out of that Committee just to look at that. So, I hope you do support this amendment, because I think ash and where you put it is very detrimental to the people that get it. I think it is very detrimental if it is in the air. So I hope that you support it.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise to support the Senator from Hancock, Senator Foster, and I apologize to the members of the Energy and Resources Committee, but, this is sort of a "I told you" so speech.

I had a private entrepreneur, who is friend and neighbor of mine, who along with several other investors, invested over a million dollars trying to develop a site. They could not get off second base because of this regulation, and that regulation, stalling, and finally, turned down by The Department of Environmental Protection. It is easy, I think, if you don't have your name on one of these lists to say, "Well, I am not effected, so I really don't care that much". Senator Foster from Hancock, has two sites in the Ellsworth area. I have one in Alton and one in Howland, and not all of those are going to be picked, but one of those are going to be picked. There are two in Benton, I think, maybe three or four. Although I have never thought about it before, if the site in Ellsworth is not chosen, which is I suppose, the closest you could get to Bucksport, they would truck that to Benton, or Howland, or Alton. And the MERC Plan in Orrington will be trucked to one of those places. I am not sure that the pieces to the puzzle comes all together here, because surely, if there is a coal plant in Bucksport, it is going to have an effect on wherever the site is, and I think people ought to have a say in that.

Really, I must say, that I regret that the Senator from Kennebec, Senator Matthews' amendment does not seem to address unorganized towns. I wish that it did. But surely, in an unorganized town, people ought to have a say, and I don't think that they do the way the situation is right now. Just try to put yourself in our shoes if it were your town.

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

Senator **TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. A couple of points that I think are very important to be addressed. The first is an issue that was raised by the good Senator from Hancock, Senator Foster, concerning the Bill that came before our Committee on Energy and Natural Resources dealing with the coal facility that had been proposed, in an effort for our Committee to establish a Study Committee to look at this proposal. Now, on first blush, that looks like a very good idea. But, I would inform this Body that there is presently a Study Committee that looks at all proposals for the State of Maine, and that Department is called the DEP. Now, there is criteria in place for siting, emission standards, for a whole gambit of tests that our Committee is not qualified to perform. If it is our Committee's job to decide if a facility should be sited in the State of Maine, we don't have the expertise to do that. The DEP has the expertise. Now, if there is something wrong with the way the process is proceeding, we may address that issue. But, to have our Committee second guess at this point of the game, the DEP's process, which is only beginning to go into full motion, would be really inappropriate, looking at the role that our Committee has. I am very concerned that it would even be perceived, not only in this particular Bill, but in other Bills, that our Committee should have jurisdiction over decisions that are made in the state for siting facilities, or dredging harbors, or whatever the case might be, because we have had many this year. I don't think there was any question that the Commission that we were asked to put together was, and I can understand this, was an attempt to keep us from siting that coal facility in the state.

I don't like the idea of the coal facility in the state. But, I don't believe that our Committee should be put in the position where we are to decide yes or no on a public policy, or if we will accept a coal fired plant in the state. That is not our job. If that is the issue we want to address, let's have that issue before us. But, to have us set up a Study Committee, when the DEP is doing the very study that this Committee would do, is not only a waste of time, but it is highly inappropriate at this time.

The second issue that I would like to address is, and I sound as if I am repeating myself, I don't like landfills. If there was anyone in this Body that would be deeply troubled by the siting of a landfill, you are looking at that Senator, because I have been through this on a personal level. So, it makes it very, very difficult for me to try to be objective, and try to support scientific, technological approaches, when everything inside me tells me to be emotional, because this is an issue dealing with special waste. If it isn't dealt with properly, and unemotionally, if it is not dealt with scientifically, than it indeed becomes a threat to anyone and everyone around it. I hope that this Body will recognize that the scientifically sound approach to siting a facility is the number one criteria, not whether or not we want it, and I believe that it is our responsibility to ensure that it takes place. If there is a problem with the process, bring it to us. But, if you are just looking to come up with legislation that will stop it, than stop producing it. It seems as if that every time we try to site anything, chickens come home to roost. If we make it, we had better take responsibility for dealing with it, and we should deal with it scientifically, unfortunately, not emotionally.

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Speaking to you today as an individual who represents thirty-eight towns in this state, thirty-eight towns and small plantations, it seems to me that there is much concern in rural Maine with the way we have been approaching this issue. I, for one, would like to commend the good Senator from Kennebec for his amendment, and ask you to support it. It seems to me that if it is fair to allow the citizens of a municipality to vote by a sixty percent vote on the siting of a low level waste depository, than it would make equal sense that those same people would have a right to vote. At least it makes sense to me that those same citizens would have a right to vote on whether they have a special waste facility in their town. I don't happen to have any potential sites in my district, but I do represent the town of Norridgewock, which is fast becoming the largest dump in the state, and the people in that area of my district feel very strongly about this issue, and wish they had the chance to deal with whether they wanted this facility in their town. So, I would just ask you to ask yourself why we have a law on the books that says, "Low level waste facilities need a sixty percent vote by the municipality". Why shouldn't the same vote be taken for towns when they have a special waste facility? I would ask that you support the amendment before you. Thank you.

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

Senator FOSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. You know, when you are getting a double whammy, I guess you do get a little bit hot under the collar. But, I must back up on the AES Plan. I have listened to the DEP as studying it, etc., and my concern was if you are going to study it, but at the same time, if the AES Plan comes, there is no provision for the ash. No provision. That was my concern! I was up front with the Committee, and told them, because I knew that we in this session of the Legislature were looking at sites for ash, and I looked at what effect it was going to have on my area. Number one, if I was not able to bring to the attention of the people in the Legislature that there was going to be a tremendous amount of ash residue left from this plant, and number two, that a Bill was coming forward that I didn't think was strong enough to then prevent the ash from coming to an area where they didn't want it, so when I looked at the provisions in this amendment, naturally, I thought perhaps we will get something, because there is not provision if the DEP is looking at the burning of it. But, are they going to say where the ash is going? No! You are going to have all of this ash, and some community is going to have an ash dump. They are going to get the ash. That takes care of it, doesn't it? Doesn't that make sense to you? If there is an ash dump somewhere in Maine, they can take the ash from that plant and put it there? It does make sense to me. Thank you.

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

Senator DUTREMBLE: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. By reading the amendment, I understand the community has to have a sixty percent vote before an ash dump can be sited. My question is, what if no community votes for it, what happens to the ash?

THE PRESIDENT: The Senator from York, Senator Dutremble, has posed a question through the Chair to any Senator who would care to respond. The Chair recognizes the Senator from Cumberland, Senator Titcomb.

Senator TITCOMB: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would say if no community were to accept the facility, than those communities that deal with special waste, including the community of the good Senator from Franklin, Senator Webster, would have to deal with the burden that was not being dealt with in what may truly be a newer, more scientifically sound approach.

I must commend members of this Legislature for finally doing what I was hoping that the Senators and the Representatives from this state would finally do, and that is, to begin to question the same, like the farmer from my district said to me one day, "When the barn fills up with manure, it is time to get rid of the cow". I think if we are going to begin to be concerned about where we are going to store this manure, whether it be low level waste, toxic waste, special waste, hazardous waste, or any other kind of waste, than we had better very, very

conscientiously begin to look at where it is coming from. I do not like being stuck with the barn end of this process in the Energy and Natural Resources Committee, but, I do not alone produce that special waste. There is a lot of things that I don't like. We are looking at the barn end of this, and we are not looking at the cause of this, and if someone has legislation that will address these positive issues, bring it to our Committee, and I am sure we will give it a very fair, very generous Hearing process. But, chickens do come home to roost, and until we change our ways of doing business, we will have to deal with the waste. And I don't want it in District 25. But, that doesn't solve our problem.

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

Senator LUDWIG: Thank you Mr. President. Ladies and Gentlemen of the Senate. I cannot add to the eloquent statements already made by the good Senator from Cumberland, Senator Titcomb. She has stated our case very well, indeed. I rise merely to say that as the third member of the Energy and Natural Resources Committee, I want to support what she has said wholeheartedly, and I hope you will oppose the amendment proposed by the good Senator from Kennebec, Senator Matthews.

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

Senator DUTREMBLE: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. If the case does happen where all communities refuse to take the ash, what is going to happen?

THE PRESIDENT: The Senator from York, Senator Dutremble, has posed a question through the Chair to any Senator who would care to respond. The Chair recognizes the Senator from Cumberland, Senator Titcomb.

Senator TITCOMB: Thank you Mr. President. Ladies and Gentlemen of the Senate. I will answer, and then I will ask a question myself. The special waste will have to be deposited at an expansion at one of the present waste sites. We have one in Norridgewock at the Sawyer site. And I would now pose a question of the good Senator from Kennebec, Senator Matthews. Where might he feel would be the responsible place for us to deal with it? I know that those people who are represented by the good Senator from Franklin, those people don't want an expansion. They have lived with this for a very long time, and that would be the choice that I would offer. I would ask the good Senator from Kennebec, Senator Matthews, to offer his choice.

THE PRESIDENT: The Senator from Cumberland, Senator Titcomb, has posed a question through the Chair to any Senator who would care to respond. The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Ladies and Gentlemen of the Senate. First of all, I want to answer the good Senator from Cumberland, Senator Titcomb's question by first backing up a little bit. One has to look at this process from my

prospective, as the Senator from Kennebec, representing part of the County of Kennebec and the town of Benton. I have some concerns. I have the greatest deal of respect and admiration for the Energy and Natural Resources Committee, and their hard work and for the Maine Waste Management Agency, and Sherry Huber. But, what I run into at town meetings in Benton, and people on the street asking me if this process has been fair, then how is it that the town of Benton, Maine, a small community, ended up with five out of ten of these sites? I don't have an answer for that from the agency. I have some real questions. The other, to answer directly the question by the good Senator from Cumberland, Senator Titcomb, about what to do when every town in the State of Maine decided through referendum that they did not want the site, than I would answer the question this way. First of all, we are as a Legislature an elected Body of Representatives here to be the voice of the public, the people. We have communities from Kittery to Fort Kent, and across the east/west of this State that are founded with municipal home rule. We believe in the rights of the individual to effect change in our society. I have a great deal of faith and belief that through the preparatory process of the public having input, having the right of decision making, that we under the Constitution give them, that we would collectively come up with an answer.

The good Senator from Penobscot, Senator Pearson's words echo very strongly to this good Senator, today. I have had the pleasure of meeting some of the individuals that were involved in dealing with the site that the good Senator mentioned. We have to do our job. My job is to represent the people of Senate District 13. I will do that no matter what it costs! I have a great deal of respect for the Committee and all of you here, and I appreciate those colleagues in this Body that agree with this amendment. This simply gives the right of decision making to these communities.

I will share with you a very short human side of this issue. Here is a gentlemen from the town of Benton, him and his wife, here is a gentlemen who has now built his home, a log cabin, him and his wife and two children, they did not get a loan, paid for it out of their blood, sweat, and tears from the bottom up. They came to Maine to escape state problems that the citizens could not effect change in the state where they had previously lived. They came to Maine because he believes that the communities have a great deal of power here, and are also listened to by the Legislature. He believes very much in what we talk about here in this great state. He has a young child that has a terminal illness, so he didn't want to borrow money from the bank, scraped every penny to build his home in Benton, and now they are going to put a site right in the middle of his house! That is the human side, and I know doggone well how strongly that the good Senate Chairman, Senator Titcomb, feels about those issues, because she has been a leading voice in this Chamber, fighting against the Environmental Protection Agency. She is a real strong supporter as I am of the human side of events. But, I will tell you, that stuck with me after speaking to that gentlemen, and I said as your Senator I will do everything in my power to bring the human side of this selection process to the floor. I can only fight a good fight. If I lose, so be it,

but I am going to fight the good fight. I have to fight the good fight for the people who elected me, and some that didn't vote for me. But I owe it to them. Thank you Mr. President.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill is a Bill that I introduced because I have been fighting the good fight for five or six years now. It deals with ash being generated from incineration plants, which we have in my home town. Now we have an ash dump in my home town, and if we continue, if anything else could come out of these things, I bet you that we would have that in my home town, too.

I am little disturbed about this amendment, however. I am disturbed because it doesn't correct or answer the question as to what we are going to do if an amendment like this passes, and communities across the state refuse to have ash in their own back yards. I think it is pretty reasonable to assume that every community would vote not to have ash in their own back yard. Given the choice to vote in my community, I would vote no. We have discussed this, and I was present at the Committee Work Sessions on this Bill, and we tried all kinds of things to see what we could do to accommodate the concerns that the people had around the state because of these ash landfills. This is basically the Bill that you see before you. This is the most that we could get at this particular time. What is important to remember, because of the Committee amendment, we were able to buy time until next March, if this passes, at which time we can come back in the next session and try to correct anything we see that is not being done right. My fear is, the fact that we had a unanimous Committee Report, and my fear with this amendment is, that where there was agreement, there will not be with this particular amendment, and that this Bill will get lost between the two Bodies, and die. Or, this Bill will pass the two Bodies, and will die another death, because I can't imagine anybody who is in a leadership role, allowing this to go in knowing that we have all these problems dealing with waste in the state. What my fear is, we may win this battle here, but we are going to lose the whole thing, and what we could have done to correct it between now and next March, is going to be lost, because it will happen in July, and that is just a few months down the road. So, where I would normally jump for joy at an amendment like this, I have to now vote against it!

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Senator from York, Senator Dutremble, has given me cause to think. I must say that his thoughts are really very interesting, and I absolutely understand what he said. It has caused me to think. But, I must say, to Senator Dutremble from York and others, that if you are hoping that you could correct any situation next March, let me give you a thought.

James River Corporation in Old Town is looking for a site for their biproduct, sludge. They are exempted from having to have a siting approval by legislation that was passed through the Energy and Natural Resources Committee, and through this Legislature. They have to meet DEP approval, but they don't have to have a particular site approval, as long as they site it on their own property. Well, I wish you could see the show at home. What I think most people thought was, they have some property around the mill and they will place it there. Well, they didn't! They just spent a lot of money and bought some property wherever they wanted to, and they are now trying to change the zoning of the city, and maintaining that the city has no right to zone them out because state law doesn't allow them to be zoned out, and want to place it in a residential community. That community, which is called West Old Town, has risen to a person to try to fight this, and it looks like they can't fight it. They came to me and said, "Would you attend our meetings"? And of course I did, because I believe in communities. Old Town has many communities. Sixth Street is a community, Seventh Street is a community, West Old Town is a community, Stillwater is a community, Great Works is a community, and French Island is a community, it is all made up of different communities. So they said, "Would you go to Augusta and make them meet the requirements that everybody else does, by introducing a piece of legislation"? By that time it was too late! They would have already been grandfathered. And so, we have this ongoing fight at home.

I am just trying to say to Senator Dutremble and others that I am not so sure that you can correct situations later on after they get started. But I do understand and appreciate what he just said about losing the whole Bill, and I am worried about that, too, for his sake and everybody's. I am really at a quandary now.

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

Senator **SUMMERS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise in support of the Senator from York, Senator Dutremble. And the Senator from Penobscot, Senator Pearson, mentioned something that both Senator Dutremble and myself have talked about before. I think it is true, it is very difficult to correct something once it gets started. That is what we are trying to do by allowing ourselves more time. Right now, in Senator Dutremble's home town, in Biddeford, they are trying to correct something that got started. If we can allow ourselves some time on this to next March, hopefully, it will give us the time to have enough foresight, or we won't have to be backtracking, and we won't have to try and correct something that we did, and go back and say, "Gee, that was a bad idea". So, I support Senator Dutremble. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **MATTHEWS** of Kennebec to **ADOPT** Senate Amendment "B" (S-126) to Committee Amendment "A" (S-124).

The Chair ordered a Division.

Will all of those in favor of the motion by Senator **MATTHEWS** of Kennebec to **ADOPT** Senate Amendment "B" (S-126) to Committee Amendment "A" (S-124), please rise in their places and remain standing until counted.

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

7 Senators having voted in the affirmative and 26 Senators having voted in the negative, the motion of Senator **MATTHEWS** of Kennebec to **ADOPT** Senate Amendment "B" (S-126) to Committee Amendment "A" (S-124), **FAILED**.

On motion by Senator **MATTHEWS** of Kennebec, Senate Amendment "A" (S-125) to Committee Amendment "A" (S-124) **READ**.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Let me first state to this Body how I appreciate the debate, and I appreciate all of the concerns, especially from the good Senator from York, Senator Dutremble, who has lead the fight down here, and has great concerns and has represented his constituents with distinction. Each one of us in this Body has to vote on occasion the way we have to vote, on our conscience and our constituency, but I think the debate on the last issue has made the Senate continue to be a Body of distinction.

I offer this amendment, ladies and gentlemen of the Senate, because again, in my community of Benton, talking to those who reside in that community, at a town meeting, where they have a town of about five thousand, and about five hundred people show up at a town meeting, you know you have got a hornets nest, and you have a lot of very concerned citizens. This particular amendment is submitted to prevent risk to the health of the public, and to insure protection of natural resources, and the environment by prohibiting the siting of the landfill that may contain special waste, which includes incineration ash, asbestos, oil, industrial waste, sludge waste, and waste from chemical spills, within a quarter mile of any school, food producing agricultural lands, water utility water sheds, rivers, great ponds, and archaeologically important sites and historic sites.

In my community, a small community, we have a very long standing agricultural community in the town of Benton. A lot of farms that have been there for generations, and they are proud, they are God fearing, they believe very much in America. This particular siting of the landfill in the middle of Benton will radically change for the detriment of this community. It will put a lot of farmers out of business, and a lot of farmers we know don't need any more pressure to go out of business. They are having a hard enough time as it is. It will severely impact in a very negative fashion two very important rivers, the Kennebec and the Sabastacook. It will have a profound impact on a bid of important archaeological work that has been done by the state and the municipal town fathers and mothers of Benton in dealing with finding some very important sites for the original Maine Indians along the Sabastacook.

And lastly, it runs very much counter to a local effort on behalf of the citizens of Benton to put together a brand new school system. The site that has been proposed in these five sites out of ten, are all within a stones throw of a brand new school with young elementary children. We forget about when we talk about these facilities, what about air born particles and contamination? How are we going to prevent that? We have heard from the agency and again, I want to thank the agency and Sherry Huber for sending a gentlemen who did a Yeoman's job of trying to explain the process here to those residents. But, I think of a young mother standing up with her young child, who will be starting elementary school, and asking the question, "With all due respect, what are you going to do about the air contamination? When that wind blows from that site to that school, what are you going to do?"

The process, as it was mentioned in the last debate, how do you change the process? I think the process has had some flaws. We learned that night at the town meeting, and this is information that I know that the Committee on Energy and Natural Resources has also gotten into, and has asked a lot of questions of the agency, why did you not use a more through process of siting these facilities? Why did you not use the most advanced and technology sound consulting team to look at the best site? Why did you not look at the school system? Why did you not look at residential homes and farmland? I had a lot of residents in Benton ask me, "We voted for, and we heard you talk to us about bond issues for public lands. Why do you want to do this to us in Benton when we have public lands? Are there not any public lands held in public trusts that are suitable for a site?" And when you talk about transportation, I know the criteria of fifty miles within the MERC Plant was used. But, you know, again a towns person in Benton said it all when they said in response to trying to site the facility within fifty miles of the plant, "You have got waste coming up from out-of-state, being trucked hundreds of miles. Why can't you truck it a little further where people don't live, young children aren't going to school, where farmers aren't getting up trying to hold onto their farm land?"

So I have some concerns with the agency about the process, and why wasn't the best consultant team used? Why was the team that had very little knowledge in siting these facilities used? A great deal of questions unanswered. But again, I applaud the agency, at least I have been able to ask the questions. I still haven't got the answers that are suitable, but at least they have been there for me to ask. But I am here again with this amendment, because it is important to the people in my community that I represent. It is a small community, but it is an important community. We all have these towns in our districts, so I offer this amendment. Thank you Mr. President.

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

Senator **BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask for a Division and I would just state that the agency is doing a very thorough job, and it is covering all the environmental bases. It is going to be in charge of

the operation, and there won't be out-of-state trucking to that particular site, and it is being overseen by the Department of Environmental Protection, and it is being overseen by the Legislature. All I can tell you is that you couldn't have a more thorough review being done, and I take exception with the fact that the agency was cited by the good Senator from Kennebec, Senator Matthews, that the agency wasn't using the best of its abilities. It is certainly trying to do the best of its abilities, and I haven't found reason to fault. The Department of Environmental Protection hasn't been one of my favorites, so if I found that, I would have let you know about it. Thank you Mr. President.

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

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In response to the good Senator from Penobscot, Senator Baldacci, I appreciate his comments, and I just want to clarify and set the record straight.

My concern about not hiring the best consultant team to do this work, just doesn't come from me or a constituent, it came from the agency itself, and their Representative at the town meeting. They did not, and did not for reasons I do not understand, hire the most reputable and most knowledgeable with respect to geology and containment, and all those issues. We are talking about advanced technology here. I look at my good Senator from Kennebec, Senator Kany, and she knows this issue. We are talking about a serious issue, and you better have the best people involved in determining what site is appropriate. From the agency Representative at the town meeting, the statement was, "We did not. We had to go with another group that does not have the qualifications that we would have liked." You know, it is like a game of horse shoes, closest to the pin, but it is scary, I don't want to just miss. These sites are very important and to a lot of people it is their livelihoods, their health, and a lot of other things are hanging in the balance.

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

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. If indeed, this special waste landfill is approved, and the AES Plant is constructed, will the ash from that plant be open to accept that ash? Will that site be acceptable for that?

THE PRESIDENT: The Senator from Hancock, Senator Foster, has posed a question through the Chair to any Senator who would care to respond. The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I no longer serve on the Energy and Natural Resources Committee as you know, but I feel guilty just sitting here not helping out, since I helped in the development of the law which the current members of the Committee are having to defend and deal with. First of all, the answer to

the good Senator from Hancock, Senator Foster's question is, that there are other special waste landfills in the state. They are the commercial facilities which we outlawed so we wouldn't have to accept lots of ash and sludge from out-of-state, because the commercial landfills can choose who their customers will be. We as a state are not allowed to tell them who their customers can be, because the U.S. Constitution's Interstate Commerce clause prohibits us from doing so. Therefore, the commercial landfill in the good Senator from Franklin's District, Senator Webster, that landfill being a private commercial facility can choose not to take the waste from AES, it has its choice being a private facility, but the public facility would have a responsibility to accept waste generated within the state, and therefore, it would have to accept it. That is the answer to that question.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to address the question that was posed from the Senator from Hancock, Senator Foster, because I think I know the answer, because it is happening in Old Town. What will happen I believe, in Bucksport, is the AES people will buy some land in Bucksport, and they will place their ash there, and they will not have to go through any siting criteria that is required by the state, because that is what is happening in Old Town. They will have to go through the DEP to find out if the site is acceptable, but you will find that they will muscle and bully until they get a site in Bucksport, and the people will have little or nothing to say about it.

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

Senator **TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am not going to argue about the comments that have been made on the AES Plant, but I would suggest that the AES facility is of concern, and the question as to whether or not it should be sited is the issue that should be dealt with. If it is something that people feel needs to be stopped, than I would say that is the agenda that they should have to stop the AES Plant.

The other thing, just to make it a little clearer for those people who will be voting, the basic Bill that we are looking at extends the siting date until next March. That gives us time to do a better job. It also gives us time to provide for more public meetings, for more Public Hearings. There will be another amendment that we will be hearing on this Bill that will provide a mechanism so that can happen. We are doing everything that we can do to provide full public access of participation in the siting process. If the criteria that is in place, if you feel that your site does not qualify under that criteria, I would certainly hope that you will be at these Public Hearings to present that testimony specific to the site in your district. I hope that everyone who has been opposed to this will be there at every Public Hearing in the state to insure that the process is good, because that is what our responsibility is. Responsibility, the right to participate has responsibilities that go with it, and

fighting the end result is not the only one, so I would ask you to help educate your constituents to what the cause is, and why we are having this problem. And please, be there when we have the Public Hearings, so if there are problems in your district with the site that has been selected, you will have the opportunity to speak out about them, and I will insure you that the testimony that you give will be listened to, and that the siting criteria will be applied to each and every site in the state.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Just again to clarify and restate this amendment. We are talking about protecting a public or private school, active farm land, water shed areas, rivers and great ponds, and important historical and archaeological sites. Let's not lose sight of what this amendment does. I would ask the question, since the amendment goes to the heart of public health, and since the importance of dealing with the issue of waste is, I hope, public health, what is the opposition to this amendment? And I would ask that of anyone on the Committee on Energy and Natural Resources. What is the opposition to this amendment?

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. My opposition to this amendment is the same as the first one. It was all things that we had discussed downstairs in the Committee, we came out with a unanimous Report on what the most we could get because of the problem of waste that we have in this state. My fear is, that supporting this kind of amendment, which normally I would jump for joy for, is one that is going to kill the whole Bill, and we won't have the delay until next March, and come July, my constituents and yours, and anybody else is going to ask why didn't we allow for more time to allow the communities to gather the information that they are now gathering to make their case to the Waste Management Agency. That is what my fear is. My fear is not that this would be a bad amendment by itself, my fear is that this has been discussed, the Committee has decided that this is not what they want to do, and that they want to proceed in a way that the Bill has been drafted. That is basically why I oppose this amendment.

I do want to point out, by the way, that many of the things that have been asked for in this amendment, many of them are items that the Waste Management Agency has to look at when they go through the final selection process. Some of the stuff is already being done, and I say some, because I am not sure exactly what they are, but I do remember seeing some of these things in the law. So, I would hope that this amendment would also be defeated.

Off Record Remarks

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Just very quickly, I want to respond to the good Senator from York, Senator Dutremble. I appreciate his concerns and remarks. I would like to have a little more clarification, maybe from the Energy Committee, as to the criteria that the agency will use, because it is not clear to me that they are going to look at these issues of public schools, and proximity residential homes, all these issues that have been mentioned. I am not so sure that is going to happen. And again, I made two separate amendments, because this is a separate issue, ladies and gentlemen. I can understand the concerns with the last amendment, because I fully admit that there are questions about where do you put the site if the public local control people have the opportunity to decide. Although I support it, I understand that there are some questions.

But this amendment, it seems to me, puts public health at the forefront. If someone on the Committee can state for me that schools, human habitation, active farmland, all of these kinds of issues that are public health issues are going to be part of the siting process, then maybe I don't have to offer my amendment. But, I am not sure that this going to happen. And again, I have some real questions about how things have happened with respect to the agency. Their heart is in the right direction, but we are proceeding in the dark. Again, thank God for the good Senator from York, Senator Dutremble, because he put in the Bill, which I do not want to jeopardize, a slowing down process, and to some extent it has been running a little bit out of control, and it is the good Senator from York, Senator Dutremble, that has brought the reins in and said, "Listen, let's work with the Energy and Natural Resources Committee, and let us work together making sure that we have the best criteria and the best system in place". I am not just sure if the agency is really going to look at these issues, and doggone it, that scares me. I would ask again for someone on the Committee to state clearly for the Record that these are part of the criteria. Thank you.

Senate at Ease

Senate called to order by the President.

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

Senator **TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In response to the question that was issued about the siting criteria, I would tell you that the exclusion criteria include, "Sand and gravel deposits, archaeological/historical sites, 100 year flood plains, coastal sand dunes, public/private preserves, LURC Aquifer protection subdistricts, unusual areas, wet land protection areas, federal wilderness areas, significant wildlife/critical areas,

sanctuaries/refugees/wildlife management areas, unstable areas (known landslides), areas requiring filling of ten acres of Class II or III wetlands, 100 feet from perennial rivers, streams and brooks, 300 feet from great ponds, Class A, AA, and SA surface waters, Class I wetlands, 1000 feet from municipal water supplies, downgradient surface water, supply intakes, state and federal parks, outstanding river segments, one quarter mile from LURC Class 1, 2 and 4 lakes. One half mile from LURC Class 6 lakes. Prefer sites with the following characteristics; land use away from primary viewing location, not on academic research lands, close to waste generators, transportation systems, leachate treatment, minimum conflict with adjacent land use. Preference criteria also prescribe minimum setbacks on many excluded features/characteristics." And I would note that one of those characteristics that came from Waste Management was schools, and the preference criteria goes on. I will read just one more page. "Prefer sites with the following characteristics; hydrology; outside of 500-year flood plain, not within ground water discharge area, not requiring alteration of an intermittent stream, not filling less than five acres of Class II and III wetlands, greatest depth to ground water. Geology; greater than fifteen feet of bedrock, less than eight percent average slope, soils containing less than fifteen percent cobbles, stones, and boulders, and soils are predominantly silt and clay." Thank you Mr. President. I can get copies of this for the rest of the Body if they choose to have it later on.

THE PRESIDENT: Senator Matthews of Kennebec requested and received leave of the Senate to speak a sixth time.

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It sounds to me, ladies and gentlemen of the Senate, and I appreciate the good Senator from Cumberland, Senator Titcomb's answer and putting that on the Record, it sounds to me that my amendment is very, very close. I still have a few more concerns, and I would wonder whether or not if I were given a little bit more time here to iron these out, maybe without having to go through this amendment, but if I could just get a little bit more time, and I am not asking postponement of a day, but at just a little bit of time so I can talk with members of the Committee. I am asking this be tabled, if possible.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **MATTHEWS** of Kennebec to **ADOPT** Senate Amendment "A" (S-125) to Committee Amendment "A" (S-124) (Division Requested).

Senator **CLEVELAND** for the Committee on **UTILITIES** on Bill "An Act to Clarify the Regulation of Water Districts"

S.P. 426 L.D. 1138

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-122).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-122) **READ** and **ADOPTED**.

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

Divided Report

The Majority of the Committee on **HUMAN RESOURCES**
on Bill "An Act to Clarify the Misbranded Food Laws"
S.P. 354 L.D. 956

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (S-123)**

Signed:

Senator:

CONLEY of Cumberland

Representatives:

MANNING of Portland
GEAN of Alfred
GOODRIDGE of Pittsfield
WENTWORTH of Arundel
TREAT of Gardiner
SIMONDS of Cape Elizabeth
CLARK of Brunswick

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

Signed:

Senators:

BOST of Penobscot
GILL of Cumberland

Representatives:

PENDLETON of Scarborough
DUPLESSIS of Old Town
PENDEXTER of Scarborough

Which Reports were **READ**.

Senator **CONLEY** of Cumberland moved to **ACCEPT** the
Majority **OUGHT TO PASS AS AMENDED** Report.

THE PRESIDENT: The Chair recognizes that same
Senator.

Senator **CONLEY:** Thank you Mr. President. Ladies
and Gentlemen of the Senate. Although this has a
very fancy title, as one can see from looking at the
supplement, actually what this Bill deals with is the
famous or infamous issue of MSG. I thought that
would bring a hush over the crowd. MSG stands for
monosodium glutamate, most frequently found in foods
served in Oriental restaurants. This issue was
visited, for the first time I believe, by the
Committee on Human Resources, some two years ago.
The present law really calls for all restaurants who
serve food with MSG in it to disclose it in some

fashion. Actually, if it is in it in any form, they
must disclose it and put something on the menu next
to the item which may contain MSG.

The piece of legislation before the Body at this
moment was submitted by the Maine Restaurant
Association in order to clear up some of the
confusion in the area of these laws pertaining to
MSG. It now makes it clear that the only thing that
must be disclosed, is when a restaurant owner applies
MSG directly through essentially a shaker. It would
make it a lot easier for restaurants to comply with
what is a very serious health issue. We have had a
number of consumers come before the Committee this
year. Two years ago there were more consumers who
talked about everything from serious illness suffered
after eating food with MSG, to suffering hot flashes,
which no matter how much of the stuff I eat, I can't
seem to get. But, some people have very serious
problems with this particular substance, and I think
disclosure is only fair, and it has only been in
effect for two years. This modifies it in such a way
so that it makes it a little bit more workable for
people in the restaurant industry. For those
reasons, I find it to be an acceptable compromise,
and the majority of the Committee has accepted that
compromise.

This is one of two Bills which will be coming
before the Body on MSG. There is another Bill to
prohibit or to repeal the MSG Law altogether.
Certainly, this is a compromise that the majority of
the Committee settled on. Thank you Mr. President.

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

Senator **GILL:** Thank you Mr. President. Ladies
and Gentlemen of the Senate. I would ask for a
Division when the vote is taken, but I have signed
onto the Minority Report of this Bill, because it
seemed very onerous to me that we would continue to
ask restaurants to put on their menus next to where
they might use MSG. And I would say like in an
Italian restaurant, where they use it in spaghetti
sauce, they put it in meatballs to make the meatballs
softer, and to enhance the flavor of it, that we
would have to put on the menu next to the item that
it contained MSG. I realize that MSG is a problem
for some people, and it can be a severe problem for
some people. It can stop them from going into
certain restaurants that use this in the form that we
are talking about here. But, this Bill only deals
with the crystal type of MSG, and not the kind that
is in a bottle of ketchup, or marketable products in
your grocery store that already have MSG in them,
this doesn't have anything to do with that. It is
not the real solution to the problem. For that
reason I have signed onto the Minority Report. I
think there is a problem, and we should address it,
but I don't think this is the way to do that. I
think that this is just too difficult. I hope you
vote against this Bill.

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

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

Senator **PEARSON**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I know someone who suffers dramatically when she consumes MSG, as a matter of fact, I understand she testified at the Hearing on the Bill, and is related to a Legislator, and told me she was contemplating eating a little bit of it and coming in and vomiting on the floor of the Committee so that they would know exactly how much it effects her. What would happen, I would ask the good Senator from Cumberland, Senator Gill, if this caused a real severe case of the hives? Wouldn't you want to know that? I mean, having recently been a victim of that particular problem, it affects people even more dramatically than that. It is sort of like a truth in eating Bill, instead of a truth and lending Bill, and I don't see any problem with telling the public that if you eat this food you might get sick.

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

Senator **GILL**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think if people know that they are allergic to MSG, and they break out in hives, and the woman who testified knew, in fact, that she was, you would ask when you go into the restaurant if it has MSG in it, whether it is lasagna, whether it is another mixed vegetable delight with meat and all put together in a casserole, you could ask if that particular item on the menu contained MSG. Then you could make the decision for yourself to order something else if, in fact, it did. There is a problem with it, there is no question about it.

In fact, did I relate to you, Senator Pearson, a little story about the hives? I happened to have some honey roasted peanuts last week, or two weeks ago, and I broke out in hives from them because they had MSG on the peanuts. I found out that I am also allergic to MSG. I certainly will watch what I buy, and the fact that it is listed on every commodity in the grocery store. This particular Bill calls for the crystal being put in a particular meal in a restaurant or in a take out place, and everything that has a crystal in it has to be listed as far as having MSG. I think if we are going to be in MSG, let's ban it. If we are going to deal with the problem, let's deal with it, but not in this particular Bill.

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

Senator **GAUVREAU**: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is with some trepidation that I rise to add intellectual nourishment to this invigorating debate this evening on monosodium glutamate additives to food products. I rise because in the past Legislative session, I had the opportunity to serve as the Senate Chair of the Committee on Human Resources, the Bill to which the original Bill was, in fact, preferred. Hearing the debate this evening, it is my impression that the Human Resources Committee, when it first recommended disclosure of MSG additives on restaurant menus, did intend to limit the scope of the Bill to additives at the restaurant. I do recall there were many representatives of the Maine Restaurant Association who initially testified against the Bill, and felt that it would impose an undo and unreasonable burden

on Maine restaurant owners if they were required to disclose the presence of any MSG additive prior to the delivery of the food product at the restaurant. That seemed to be reasonable to me as I look at the amendment being offered by the majority on the Committee, it seems to me that it is congruent with the original legislative intent, and I think we should pass this measure. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CONLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

A Division has been requested.

Will all those in favor of the motion by Senator **CONLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, please rise in their places and remain standing until counted.

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

17 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **CONLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-123) **READ** and **ADOPTED**.

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

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **WEBSTER** of Franklin, **RECESSED** until 8:00 p.m. in the evening.

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act to Declare Western Style Square Dancing as the Official State Dance"

S.P. 183 L.D. 492

Reported by Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act Concerning the Establishment of a Coal-fired Plant for Electrical Energy Production"

S.P. 199 L.D. 508

Reported by Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act to Clarify the Voting Requirements for a Board Containing 3 or More Members"

S.P. 285 L.D. 767

Reported by Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act Concerning the Maine Turnpike Authority"

S.P. 410 L.D. 1124

Ought to Pass

Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Regarding the Issuance of Identification Cards"

S.P. 452 L.D. 1228

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Eliminate Mandatory Participation in the E-9-1-1 Program"

S.P. 246 L.D. 655

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-127)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-127) **READ** and **ADOPTED**.

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

Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, to Permit Certain Uses of the State Seal (Emergency)

S.P. 371 L.D. 996

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-128)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (S-128) **READ** and **ADOPTED**.

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the Tabled and Specially Assigned (5/6/91) matter:

HOUSE REPORT - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Increase Funding to Programs Dealing with Domestic Violence"

H.P. 239 L.D. 330

Report - **Ought to Pass As Amended** by **Committee Amendment "B" (H-179)**

Tabled - May 1, 1991, by Senator **CLARK** of Cumberland.

Pending - Motion of Senator **PEARSON** of Penobscot to **INDEFINITELY POSTPONE** Bill and Accompanying Papers

(In House, April 29, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-179)**.)

(In Senate, April 30, 1991, Report **READ**.)

Senator **PEARSON** of Penobscot requested and received leave of the Senate to withdraw his motion to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

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

The Bill **READ ONCE**.

Committee Amendment "B" (H-179) **READ**.

On motion by Senator **BRANNIGAN** of Cumberland, Senate Amendment "C" (S-121) to Committee Amendment "B" (H-179) **READ**.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This amendment removes the dedication of this fund. Thank you Mr. President.

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

Senator **LUDWIG:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill has been fatally flawed since the beginning. If there is a real need to increase the amount charged for marriage licenses, birth certificates, and the like, let us raise the fees in a straight forward and reasonable manner. It is not reasonable, in my opinion, to raise the fee for a marriage license from \$10 to \$45 or \$50 in one swoop. The idea of dedicating the revenue gained by this increase to programs dealing with domestic violence, is totally inappropriate. Suggesting that one of those about to be married should make a down payment on a shelter where temporary escape can be sought after the inevitable battering occurs. What kind of message does this send to those who have chosen to live together legally?

Unfortunately, we live in a society where violence is not uncommon. And I would suggest that we spend more time trying to root out its causes on prevention rather than trying to pick up the pieces after it has occurred. Marriage, per say, does not necessarily cause violence. The Bill has not been improved by its amendments. If we are now going to undedicate the money and send it directly to the General Fund, why not be honest about it, and call it a tax instead of a fee. A tax on marriage, the home, and the family. This is a bad Bill. I agree wholeheartly with what the good Senator from Penobscot, Senator Pearson, said the other day, and I now move that L.D. 330 and all accompanying papers be Indefinitely Postponed. Thank you Mr. President.

Senator **LUDWIG** of Aroostook moved to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We are now considering the amendment as offered by the Senator from Cumberland, Senator Brannigan, which will now undedicate the funds that the original Bill would have raised. This Bill is a unanimous Report out of the Committee on Human Resources. It is a very important Bill. We listened to probably a full two hours worth of testimony from a group that has been sent a message by this Legislature, and by the second floor, and by anybody else who has been listening to what is going on with the Budget problems in this state, to come up with some creative ideas for raising monies if they wanted to keep their programs around. They took that call seriously, because they care about the program and shelters that they run.

Just this year there has been a forty-seven percent increase in domestic abuse across this state. These shelters are critical for the women and children who live in our districts, and depend on the protection which these places afford them. These places are run on shoe string budgets. If we had the state in there trying to run these things, it would cost a fortune. The Appropriations Committee, formed particularly with the Chair and other members from this Body as well as the other Body, have done their best to fund these shelters to make sure they stay around. When they got the message that there wasn't going to be any money this year, because monies are being cut for everybody, they went out and developed an idea, and this idea is not novel. We have gone around in our own caucuses, and I am sure you have in reference to the dedicated issue, and I am in favor of taking the dedication off. But, twenty-four other states have a Bill which specifically dedicates monies. I understand peoples concerns with that. I am willing to let the dedication come off because I trust the people on the Appropriations Committee that make sure whatever crumbs there are on the table, that this very important program and these shelters across the state get something for coming up with what is a very good idea, and what I hope will be adopted by this Body.

Yes, it is a serious increase, its a significant increase, I am not unaware of that. This Bill also kicks back monies to the towns. Five dollars out of that increase goes to our town clerks, and on copies of birth certificates and death certificates, which are included in here, have also been significantly increased. From somebody that does get certificates from towns, death certificates in particular, they produce a lot of these certificates, most of which go into the Probate Court for state purposes and other reasons, and the towns will make a lot of money on the reproduction of those certificates. That is part of this Bill. So, there is some small measure of property tax relief that is going on in this very Bill.

What I am interested in doing, is getting this Bill to the Appropriations Committee, it has been well thought out, well considered, and except for the dedicated portion, which I understand the objections to it, although I disagree, I can live with letting the Appropriations Committee look at this Bill at the end, take the monies that are there, and do what they think is right with them. But not forgetting, because I don't think they will forget, to take care of these very important programs. So this Bill is important.

I understand the concerns of the Senator from Aroostook, Senator Ludwig, I know what you are talking about, it doesn't look good when you say we are raising this fee because of abuse, and marriage is now related to abuse. That is not what was intended. People pay for fishing licenses. Why? So we can have wardens to go out and get the bad people who are abusing our resources. It doesn't mean that everybody does it. Or the Alcohol Premium Tax, what do we have that for? Everyone doesn't abuse alcohol, but for those who do, we have that tax in place to provide services for those people. Auto insurance, health insurance, the reason you pay insurance is not for the good driver or the healthy person, it is for the bad driver or the unhealthy person. This is not a bad Bill, this is a good Bill, and I hope that the

members of the Appropriations Committee will do a good job at the very end when they decide all the monies that we are going to need to keep some of the vital services that we need in place. So I hope that you will go along with this unanimous Committee Report. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am going to support this Bill, and although I greatly respect the opinions of my colleague, Senator Ludwig of Aroostook, I guess the numbers overwhelm me. It is not that we are talking about one in a hundred families having to deal with domestic violence, we are not even talking about one in ten families having to deal with domestic violence, we are talking one-third of the families, one-third of the marriages are touched by domestic violence. That is an epidemic. That is almost a majority, and that warrants this kind of action. Not only that, but we in this Legislature have passed Bills and rules that have increased the volume of the cases that shelters have had to deal with. It is now the rule when a police officer comes to a home where a domestic violence is occurring and sees eminent harm, that person, that officer has to take that spouse to a shelter. They cannot just leave that person, usually a woman and children, in harms way, but must take them somewhere. So this has caused an astronomical increase in the cases that these very leanly funded projects are dealing with.

The other thing that I experienced, and I am sure you did, too, at your town meetings, I sat at town meeting after town meeting, and always at the town meeting there was a representative of the Augusta Family Violence Shelter, and they were there waiting for their line on the warrant that asked for their per family fee. They figure out their cost per family served per town. So for Gardiner, it was this many, and West Gardiner it was this many, and so everyone is helping to pay for these most essential services, and I want us to do our share. Thank you.

THE PRESIDENT: The pending question is the motion by Senator **LUDWIG** of Aroostook to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

The Chair ordered a Division.

Will all of those in favor of the motion by Senator **LUDWIG** of Aroostook to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, please rise in their places and remain standing until counted.

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

6 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion of Senator **LUDWIG** of Aroostook to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **FAILED**.

On motion by Senator **BRANNIGAN** of Cumberland, Senate Amendment "C" (S-121) to Committee Amendment "B" (H-179) **ADOPTED**.

Committee Amendment "B" (H-179) as Amended by Senate Amendment "C" (S-121) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

The Chair laid before the Senate the Tabled and Specially Assigned (5/6/91) matter:

Bill "An Act to Modify the Language Governing the Special Commission on Governmental Restructuring" (Emergency)

S.P. 669 L.D. 1767

Tabled - May 1, 1991, by Senator **CLARK** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED**, without reference to a Committee

(Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.)

(In Senate, May 1, 1991, under suspension of the Rules, **READ TWICE**, without reference to a Committee.)

On motion by Senator **BUSTIN** of Kennebec, Senate Amendment (S-120) **READ** and **ADOPTED**.

Which was, under suspension of the Rules, **PASSED TO BE ENGROSSED**, as Amended, without reference to a Committee.

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

The Chair laid before the Senate the Tabled and Specially Assigned (5/6/91) matter:

NOMINATION - of Rebecca A. Flechtner of Old Town for appointment to the Maine State Housing Authority.

Tabled - May 1, 1991, by Senator **CLARK** of Cumberland.

Pending - **CONSIDERATION**

(In Senate, May 1, 1991, Communication from the Committee on **HOUSING AND ECONOMIC DEVELOPMENT** **READ** and **ORDERED PLACED ON FILE**.)

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I expect that this person is a very good nominee from Old Town, I wish that I knew her, I wish that I had known that she was being nominated.

THE PRESIDENT: The Joint Standing Committee on Housing and Economic Development has recommended the nomination of Rebecca A. Flechtner of Old Town, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Housing and Economic Development be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A Vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MCCORMICK, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BALDACCI, COLLINS, EMERSON, MILLS,

No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 4 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Rebecca A. Flechtner, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Chair laid before the Senate the Tabled and Specially Assigned (5/6/91) matter:

NOMINATION - of George B. Terrien of Portland for appointment to the Maine State Housing Authority.

Tabled - May 1, 1991, by Senator **CLARK** of Cumberland.

Pending - **CONSIDERATION**

(In Senate, May 1, 1991, Communication from the Committee on **HOUSING AND ECONOMIC DEVELOPMENT READ and ORDERED PLACED ON FILE.**)

THE PRESIDENT: The Joint Standing Committee on Housing and Economic Development has recommended the nomination of George B. Terrien of Portland, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Housing and Economic Development be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A Vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MCCORMICK, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BALDACCI, COLLINS, EMERSON, MILLS,

No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 4 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of George B. Terrien, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require Administrative Agencies to Create Municipal Fiscal Impact Statements When They Create Rules"
S.P. 403 L.D. 1079

Majority - **Ought to Pass.**

Minority - **Ought Not to Pass.**

Tabled - May 6, 1991, by Senator **CLARK** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 6, 1991, Reports **READ.**)

Senator **BERUBE** of Kennebec moved to **ACCEPT** the Majority **OUGHT TO PASS** Report.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask for a Division on this matter and ask to speak to my motion. This is a Bill that I do not want to oppose, and I repeat, I do not want to oppose this Bill, because it is a good Bill. It is a municipal impact Bill, and certainly, we have put a fiscal impact on our Bills, we put a corrections impact on our Bills, and I certainly think we should be a municipal impact on our Bills. There is one thing wrong with this particular Bill, it is untimely. Because it will cost money, even though the fiscal note will tell you that it won't, it will cost money, because we don't have a mechanism yet to measure the fiscal impact of municipalities on any mandation or rules. That is because the Maine Municipal Association and others are working with the public policy at the University of Southern Maine, and it will take five to ten years before the computer model is up and running to do this kind of measurement. I don't know what we do in the meantime. You can put a fiscal note on it, but it will not make a whole lot of difference.

I would like to read into the Record part of letter from the Director of Income Maintenance from the Department of Human Services in which is said, "Several of the Department's Programs, including General Assistance itself, promulgate regulations which may have a direct/indirect impact on the amount that municipalities expend on welfare programs. At times it would be impossible to develop a fiscal note which would accurately reflect the anticipated increase or decrease in local fundings. For instance, a rule might be proposed in the General Assistance Program, which would impact on fuel payments. During the past two years, the price of oil has fluctuated so much, that a fiscal note developed in the spring would be totally inaccurate by the winter."

So, we do not have the computer model, we do not have a good way to give you a municipal fiscal note, even though I would like to see a piece of legislation like this pass, I know that is it going to cost money, and I know that we are not ready for it. So with trepidation, I ask that you vote against

this motion to accept this. One other thing, one of the things that some of us had suggested in Committee was, that we put the least restrictive or fiscally impacted approach language in this Bill. That was not something that the Committee felt that they wanted to do, so it did not get into the Bill, and now you just have a straight Bill asking for a fiscal impact statement from the municipalities. I think it would become a nightmare at this particular point in time. I think it is timely at a future date when we have the computer model and when the bugs are worked out of it. I would urge you to vote Ought Not To Pass on the motion. Thank you.

Senator **BUSTIN** of Kennebec requested a Division.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am delighted to hear the Senator from Kennebec say it is a wonderful Bill, and I hope she will have a change of heart and vote for it. She gave some good reasons why. The main good reason is that it is not a mandate Bill as we have heard. Number one, this is a Bill that tells the departments when you promulgate rules and regulations, that you do it in such a way that it can be implemented fiscally at the local level. Number two, that you give them a general estimate of the overall costs. This Bill does not call for a minute description of what the costs would be, it just says if we are going to mandate, that you do such and such a thing, like with the Landfill Bill, you can expect to spend ten million dollars. That's all. At least we know that it would be ten million and not twenty-three million as one landfill has cost. Many times the departments exceed legislative intent, and they have no accountability, but we do. We certainly have accountability with our people, the people who send us here, but, departments, agencies, and bureaus have none of that. They go out and they promulgate rules and regulations that many times are well meaning, but cannot be implemented. So, all that this says is, that a general estimate of the overall cost of what it will cost to heat those multitude of regulations upon the municipalities.

Many agencies have the necessary information presently to comply with L.D. 1079. The Bill simply requires that they share that information with the local municipal officials, at least to alert them. Another thing that the Bill does, it would call for a public notice, so that once the people were aware that a particular rule would cost and "X" number of dollars, they would be prepared to question the reasoning of the rationale behind this rule, and secondly, possibly working together, they could arrive at a less expensive way of implementing that particular rule. If you were listening tonight, you heard a Bill earlier that would be a property tax savings measure. Well this, I think, will be, because it tells the public first what it will cost to implement a rule and regulation, and if it is too expensive, they will know how to deal with it. I ask you to please support the Ought To Pass Report, which is the Majority Report. Thank you Mr. President.

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

Senator **CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise as a former municipal official, as I know many of you are as well. As former Mayor of the City of Auburn, one of the things that we were always concerned about is the cost of government that is transmitted back to local government from the actions of the state.

I think that this is a responsible Bill. What it does is, as we do here, tries to determine what the cost of an action or a requirement is on a particular level of government. I think it is responsible, it is good government, we ought to have some estimation on what an item costs. Certainly, individually as we each go to the store and purchase, we look at the price of the item to determine whether we can afford it or not. I think municipal government deserves no less. Clearly, it will not be a perfect tool, but I think we cannot afford to wait five to ten years to have a perfect instrument. I think this tool now, beginning to be implemented, will provide a meaningful service, and hopefully, will expedite the improvement of the tools used so that they will be more meaningful, more quickly, and I would urge the Senate to support it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report.

A Division has been requested.

Will all of those in favor of the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report, please rise in their places and remain standing until counted.

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

28 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report, **PREVAILED**.

Under suspension of the Rules, The Bill **READ TWICE**.

On motion by Senator **BERUBE** of Androscoggin, Senate Amendment "A" (S-130) **READ**.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Very briefly, this simply adds the fiscal note to the Bill that we just accepted.

On further motion by same Senator, Senate Amendment "A" (S-130) **ADOPTED**.

Which was, **PASSED TO BE ENGROSSED, as Amended**.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

NOMINATION - of Gary Cobb of North New Portland for appointment to the Inland Fisheries and Wildlife Advisory Council

Tabled - May 6, 1991, by Senator **CLARK** of Cumberland.

Pending - **CONSIDERATION**

(In Senate, May 6, 1991, Communication from the Committee on **FISHERIES AND WILDLIFE READ** and **ORDERED PLACED ON FILE**.)

THE PRESIDENT: The Joint Standing Committee on Fisheries and Wildlife has recommended the nomination of Gary Cobb of North New Portland, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Fisheries and Wildlife be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A Vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators **BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY**

ABSENT: Senators **BALDACCI, COLLINS, EMERSON**

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Gary Cobb, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

Bill "An Act Concerning Special Waste Landfills" (Emergency)

S.P. 472 L.D. 1264

Tabled - May 7, 1991, by Senator CLARK of Cumberland.

Pending - the motion by Senator MATTHEWS of Kennebec to ADOPT Senate Amendment "A" (S-125) to Committee Amendment "A" (S-124) (Division Requested)

(In Senate, May 7, 1991, on motion by Senator MATTHEWS of Kennebec, Senate Amendment "A" (S-125) to Committee Amendment "A" (S-124) READ.)

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

Senator TITCOMB: Thank you Mr. President. Ladies and Gentlemen of the Senate. Before action is taken on this, I did want to put on the Record that I have met with the good Senator from Kennebec, Senator Matthews, and have assured him that although many of the criteria for exclusions are presently included in the siting criteria, I have assured him that I will sit down with the agency, along with himself, and any other concerned parties, and aggressively address the issues that he raised in this amendment, hoping that we can more totally cover the areas that need to be exempted. I did offer this on the public Record for the benefit and the concern of the good Senator from Kennebec, Senator Matthews.

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

Senator MATTHEWS: Thank you Mr. President. Ladies and Gentlemen of the Senate. I wanted to thank the good Senator from Cumberland, Senator Titcomb, for taking time out and to talk with me about the concerns that she just mentioned and we discussed at great length. I do want to state, however, for the Record, that in the words of the good Senator from Cumberland, Senator Titcomb, her concerns, and it also seems to be the concerns of the Committee on Energy and Natural Resources, that public schools and educational facilities should not be in harms way with respect to one of these facilities, and that active farmland should also be a strong consideration. I look forward to participating in the discussion with the agency and its Director to that end, and I appreciate her efforts.

Senator MATTHEWS of Kennebec requested and received leave of the Senate to withdraw his motion to ADOPT Senate Amendment "A" (S-125) to Committee Amendment "A" (S-124).

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

Senator ESTES: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to commend the good Senator from Kennebec, Senator Matthews, for raising a number of important issues earlier this afternoon in regards to the siting process.

I, too, feel that there are some very serious flaws with the way the process has proceeded. I hesitated to speak at that time, and once I heard the assurances from the good Senator from Cumberland, Senator Titcomb, that she would be very willing to sit down and talk with fellow Legislators about their concerns with the process so far, and knowing that we have this window of time until March 1st, I feel confident that I can well represent my people as we also struggle with being one of the three southern sites in Kittery. In fact, our motto is not "NIMBY", "Not in My Back Yard", nor it is "NIMOFY", "Not in My/Our Front Yard". The site that they have chosen in Kittery, one of the three southern sites, happens to be right along side Route 95, the gateway of Maine, directly opposite the Information Center.

I think that some of the things that were raised today are some important questions that we are going to have to ask ourselves over the next ten months. One of those questions is, "What is the definition of garbage"? I read with interest last week the discussion that is going on in Portland about what is recyclable and what is not recyclable. For example, food waste from restaurants, and Christmas trees, should they be composted and recycled? Or are they fuel for our refuge to energy plants? I am also very concerned about importation of out-of-state special waste. We are hearing rumors in our part of the state that a lot of the debris that come from the renovation of Pease Air Force Base will eventually find its way into our landfills, and to our trash to energy plants, and eventually to our special waste dumps.

I think it is incredibly ironic that Kittery is placed in the situation that it is placed in having a comprehensive plan, which does not allow the importation of special waste, or a special waste site into our town that would be superseded by eminent domain. The fact that four days after we were announced as one of the final sites, we had the Executive Director of the Waste Management Agency come to Kittery and officially cut the ribbon to open our recycling facility, which she claimed to be not only a model for the State of Maine, but a model for the nation. In less than twelve months, the citizens of Kittery have turned to recycling with a better than seventy-five percent participation. It is increasing every week. The other thing that is rather interesting is that we were one of the first towns to pull out of our LURC contract back in November. We happened to send our nonrecyclable waste to Turnkey in Sommersworth, N.H..

I will join with the good Senator from Kennebec, Senator Matthews, the good Senator from Cumberland, Senator Titcomb, as we follow the process through. It isn't over. We are looking in Kittery at some incredible inconsistencies with the siting process that has taken place to date. For example, they did not know that there were five major water pipes that traversed that property, one which provides the primary source of water to the Kittery Naval Ship

Yard. It has been estimated by our Water District that it would cost between two and a half to five million dollars to move those pipes off the site so the site would be suitable for that development.

The other thing that I will say is, that there are people who will be thinking about some very creative ways to advertise the State of Maine with a 250 foot high mountain that would be right along side of Route 95. We are also looking for any Revolutionary War Veterans who would like to be buried in one of the early eighteen hundred cemeteries that are on that site, and we are also welcoming any endangered species that might want to locate in that area, if they haven't located in that area. Thank you.

On motion by Senator **DUTREMBLE** of York, Senate Amendment "D" (S-132) to Committee Amendment "A" (S-124) **READ**.

THE PRESIDENT: The Senator recognizes that same Senator.

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Just to explain to the Senators what this amendment does, it stripes the fiscal note and it allows Public Hearings for people to have the opportunity to go and voice their opinions.

On further motion by same Senator, Senate Amendment "D" (S-132) to Committee Amendment "A" (S-124) **ADOPTED**.

Committee Amendment "A" (S-124) as Amended by Senate Amendment "D" (S-132) thereto, **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, as Amended.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require the State to Pay Municipal Permit Fees for New Construction or Improvements to State-owned Buildings"

S.P. 226 L.D. 580

Majority - **Ought Not to Pass**.

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-117)**

Tabled - May 6, 1991, by Senator **CLARK** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 6, 1991, Reports **READ**.)

Senator **BERUBE** of Androscoggin moved to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask that the Secretary read the Reports, and I would also ask for a Division.

Which Reports were **READ**.

Senator **BUSTIN** of Kennebec requested a Division.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Unlike the previous Bill which I was on the other side of the good Senator from Androscoggin, Senator Berube, even though I am on the other side of this Bill, I am passionately attached to this Bill. This is, I will make no mistake about it, an Augusta Bill. But it is not just an Augusta Bill. It is any municipality who has to review plans for state government in order to give them a permit to continue the building. All this does is allow the City of Augusta to be able to collect a permit fee, or charge a permit fee for doing that review.

I would have almost accepted the Majority Report, except when the Fire Marshall's Office came before us after we had heard this Bill. I found out from the State Fire Marshall's Office that this state has to pay the State Fire Marshall's Office for it to do its inspection of state buildings. In other words, the state even pays itself, but it doesn't pay the City of Augusta for almost exactly the same thing. It doesn't pay any other municipality either when that municipality has buildings in that area, and they choose to review buildings for new codes. That is all this Bill is about. It is not an expensive Bill, it would land on the Appropriations Table, but it wouldn't have a fiscal note, because there wouldn't be any permits requested as of right now. It isn't a Bill that is going to have a fiscal impact in this Legislature. It is a Bill that would have an impact on the City of Augusta and other municipalities throughout this state when this state wants to build or renovate buildings, and the municipalities want to review it. Everybody else pays. The state even pays its own self. I do not understand why they cannot simply pay the municipalities when they are reviewed.

During that time, in order for the City Council of Augusta to make the Committee, and hopefully, this Legislature understand, that their review of the buildings was not, and I repeat, was not contingent on payment of the fee, they voted whether or not the state paid the fee, they would always review the building plans. So it is not the case of this municipality not wanting to review the buildings, we absolutely do. We think that is a responsible way for government to react, to anybody who wants to put up a building in our municipality. It is an ultimate

fairness issue. I urge your support. Thank you very much.

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

A Division has been requested.

Will all of those in favor of the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, please rise in their places and remain standing until counted.

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

16 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Deappropriate Certain Expenditures and to Make Technical Corrections for the Fiscal Year Ending June 30, 1991" (Emergency)
H.P. 1259 L.D. 1827

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED**.

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

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Authorize Employees of a Participating Local District to Participate in a Qualified Alternative Pension Plan"
H.P. 1248 L.D. 1815

Comes from the House referred to the Committee on **AGING, RETIREMENT AND VETERANS** and **ORDERED PRINTED**.

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

Bill "An Act Relating to Tax Refund Anticipation Loan Disclosures"
H.P. 1246 L.D. 1813

Comes from the House referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**.

Which was referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Allow Municipalities to Request Extensions under the Growth Management Laws" (Emergency)
H.P. 1249 L.D. 1816

Bill "An Act to Create the Maine Local Land Trust Board"
H.P. 1250 L.D. 1817

Comes from the House referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Provisions Regarding Post-judgment Interest"
H.P. 1247 L.D. 1814

Comes from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Create a Sales Tax Trust Fund for Maine's Future" (Emergency)

H.P. 1251 L.D. 1818

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

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

Leave to Withdraw

The following **Leave to Withdraw** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **HUMAN RESOURCES** Resolve, to Provide for the Study of Fraud and Overcompensation Involving Recipients of Aid to Families with Dependent Children and Food Stamps Assistance (Emergency)

H.P. 1146 L.D. 1671

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **AGING, RETIREMENT AND VETERANS** Bill "An Act to Equalize Health Benefits for State Retirees Eligible for Medicare"

H.P. 659 L.D. 938

From the Joint Select Committee on **CORRECTIONS** Bill "An Act to Establish a Shock Incarceration Program"

H.P. 1185 L.D. 1728

From the Committee on **JUDICIARY** Bill "An Act to Amend the Adoption Laws to Permit an Unmarried Person or Persons to Adopt Children"

H.P. 684 L.D. 983

From the Committee on **JUDICIARY** Bill "An Act to Allow Disclosure of Litigation Information in Cases That Settle"

H.P. 985 L.D. 1430

From the Committee on **LABOR** Bill "An Act to Ensure the Equitable Payment of Costs Associated with Unemployment Compensation during a Strike"

H.P. 209 L.D. 300

From the Committee on **LABOR** Bill "An Act to Require the Maine Job Training System Service Providers to Make Teen Parents a Priority"

H.P. 955 L.D. 1382

From the Committee on **MARINE RESOURCES** Bill "An Act Concerning Mooring Assignments"

H.P. 779 L.D. 1111

Change of Reference

The Committee on **JUDICIARY** on Bill "An Act to Amend the Maine Human Rights Act to Make Effective Provisions against Employment Discrimination"

H.P. 720 L.D. 1024

Reported that the same be **REFERRED** to the Committee on **BANKING AND INSURANCE**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **BANKING AND INSURANCE**.

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

The Bill **REFERRED** to the Committee on **BANKING AND INSURANCE**, in concurrence.

Divided Report

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act Related to Theft of Services for Rental Property"

H.P. 520 L.D. 748

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

Signed:

Senators:

MILLS of Oxford
KANY of Kennebec
SUMMERS of Cumberland

Representatives:

LAWRENCE of Kittery
PLOURDE of Biddeford
DAGGETT of Augusta
POULIN of Oakland
RICHARDSON of Portland
STEVENS of Sabattus
TUPPER of Orrington
HICHENS of Eliot
BOWERS of Sherman

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-212)**

Signed:

Representative:
JALBERT of Lisbon

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 was **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act to Fund the Replacement of a Passenger Ferry of the Casco Bay Island Transit District"

H.P. 295 L.D. 416

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

Signed:

Senators:
THERIAULT of Aroostook
MILLS of Oxford
GOULD of Waldo

Representatives:
SMALL of Bath
RICKER of Lewiston
BAILEY of Farmington
MARTIN of Van Buren
STROUT of Corinth
MACOMBER of South Portland
HUSSEY of Milo
BOUTILIER of Lewiston
TAMMARO of Baileyville

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-209)**

Signed:

Representative:
HALE of Sanford

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 was **ACCEPTED**, in concurrence.

Senate

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **CLEVELAND** for the Committee on **UTILITIES** Bill "An Act to Amend the Laws Governing the Kennebec Water District"

S.P. 622 L.D. 1626

Reported by Senator **CLEVELAND** for the Committee on **UTILITIES** Resolve, to Establish a Commission to Study the Effects of Higher Utility Charges on Nonprofit Institutions (Emergency)

S.P. 636 L.D. 1684

Ought to Pass As Amended

Senator **CLEVELAND** for the Committee on **UTILITIES** on Bill "An Act to Grant Enforcement Powers to Sewer Districts"

S.P. 509 L.D. 1358

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-129)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-129) **READ** and **ADOPTED**.

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

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

Off Record Remarks

On motion by Senator **CONLEY** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Mechanic Lien Laws"
H.P. 1007 L.D. 1475

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

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

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

The Bill **READ ONCE**.

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

The Committee on **JUDICIARY** on Bill "An Act to Clarify the Scope of Review Obtainable by the State When the Defendant Has Appealed to the Law Court in a Criminal Case"
H.P. 1035 L.D. 1508

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

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

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

The Bill **READ ONCE**.

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

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Disseminate More Rapidly Information Concerning Missing Children"
H.P. 797 L.D. 1143

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

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

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

The Bill **READ ONCE**.

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Restructure Boards of Assessment Review"
H.P. 478 L.D. 672

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

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

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

The Bill **READ ONCE**.

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Clarify the Appointment and Dismissal of the Warden of the Maine State Prison"
H.P. 775 L.D. 1107

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

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Authorize Recovery of Certain Collection Costs"
H.P. 643 L.D. 917

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-239)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-239)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-239) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Prohibit the Sale of Disease Insurance Policies that Provide Only Minimal Protection"
H.P. 869 L.D. 1255

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-237)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-237)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-237) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Clarify Regulation of Private Label Credit Cards"
H.P. 895 L.D. 1292

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-238)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-238)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-238) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Regulate the Construction of Chimneys and Fireplaces"
H.P. 480 L.D. 674

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-231)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-231)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-231) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION** on Bill "An Act to Permit Maine School Administrative District Number 53 to Apply for State School Construction Aid for a Building to be Operated in Conjunction with Maine Central Institute"
H.P. 857 L.D. 1223

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-232)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-232)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-232) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Extend the Eligibility Period for Reimbursement of Municipalities for Landfill Closure"
H.P. 324 L.D. 454

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-215)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-215)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-215) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Amend the Natural Resources Protection Laws" (Emergency)

H.P. 398 L.D. 572

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-216)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-216)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-216) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act Relating to the Use of Material-separated, Refuse-derived Fuel" (Emergency)

H.P. 439 L.D. 622

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-214)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-214)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-214) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Require State Review of Chemical Spill Clean-up Plans"

H.P. 537 L.D. 724

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-219)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-219)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-219) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Facilitate Municipal Review of Commercial Hazardous Waste License Applications and the Collection of Municipal Fees Levied on Commercial Hazardous Waste Facilities"

H.P. 590 L.D. 841

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-217)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-217)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-217) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Provide Certain Municipalities with an Exception to the Waste Facility Siting Laws"

H.P. 973 L.D. 1414

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-213)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-213)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-213) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on FISHERIES AND WILDLIFE on Bill "An Act to Clarify Municipal Authority in Regulating Activities on Local Water Bodies Concerning Fishing or Ice Fishing"

H.P. 899 L.D. 1296

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-222).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-222).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-222) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act to Provide that General Assistance Payments be Made in Vouchers and in Greater Compliance with General Assistance Laws" (Emergency)

H.P. 842 L.D. 1208

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-220).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-220).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-220) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Increase Public Awareness of the Availability of Living Wills"

H.P. 201 L.D. 292

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-226).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-226).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-226) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Improve the Collection of Data by the State Bureau of Identification"

H.P. 429 L.D. 612

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-223).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-223).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-223) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Clarify the Time for Taking an Appeal by the State from the Juvenile Court to the Superior Court"

H.P. 898 L.D. 1295

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-227).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-227).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-227) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AFFAIRS on Bill "An Act to Amend the Campaign Finance Reporting Laws"
H.P. 375 L.D. 529

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

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-233).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-233) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act Concerning the Franklin County Budget"
H.P. 15 L.D. 18

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-225).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-225).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-225) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Improve Transportation Energy Efficiency"
H.P. 203 L.D. 294

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

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-235).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-235) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Make the Wild Blueberry the Official State Berry"
H.P. 291 L.D. 412

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-236).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-236).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-236) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Establish a Budget Advisory Committee in Oxford County"
H.P. 433 L.D. 616

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-234).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-234).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-234) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on TRANSPORTATION on Bill "An Act to Provide Operating Funds for the Casco Bay Island Transit District"

H.P. 543 L.D. 780

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

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-208).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-208) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The following proceedings were conducted after 12:01 a.m., Wednesday, May 8, 1991.

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

ENACTORS

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

An Act to Exempt Certain Activities from the Site Location of Development Laws

S.P. 62 L.D. 114
(H "A" H-184 to C
"A" S-64)

An Act to Revise Transition Services for Disabled Students

S.P. 79 L.D. 142
(C "A" S-85)

An Act to Amend the Domestic Relations Law

H.P. 194 L.D. 285
(C "A" H-171)

An Act Concerning the Role of Guardians Ad Litem and Other Children's Advocates

H.P. 226 L.D. 317
(C "A" H-169)

An Act Regarding Transfer Stations and Recycling Facilities

H.P. 285 L.D. 406
(C "A" H-181)

An Act to Protect the Health and Safety of Nuclear Waste Site Workers

H.P. 287 L.D. 408
(C "A" H-180)

An Act to Improve Consumer Access to Physical Therapy Services

S.P. 184 L.D. 493
(C "A" S-93)

An Act to Require Prompt Payment of Wages Due Upon Discharge for All Employees

S.P. 220 L.D. 547
(C "A" S-98)

An Act to Exempt Certain Students from Eligibility for Unemployment Compensation Benefits

S.P. 222 L.D. 549

An Act to Amend the Provisions Regarding Prejudgment Interest

S.P. 230 L.D. 584

An Act to Provide for the Recovery of Overpayments by the Maine State Retirement System
S.P. 242 L.D. 646
(C "A" S-97)

An Act to Provide an Opportunity for Complainants to be Heard before the Board of Registration in Medicine

H.P. 503 L.D. 697
(C "A" H-177)

An Act to Amend the Wrongful Death Laws

H.P. 572 L.D. 823
(H "A" H-199)

An Act Concerning Training and Certification of Code Enforcement Officers

H.P. 595 L.D. 846
(C "A" H-183)

An Act Concerning the Judicial Review of Children in Custody of the Department of Human Services

H.P. 614 L.D. 874
(C "A" H-174)

An Act to Provide Funds to Dental Clinics

S.P. 333 L.D. 908
(C "A" S-91)

An Act to Revise Provisions for a New Birth Certificate after Adoption

S.P. 339 L.D. 929

An Act to Provide for the Payment of Late Fees by School Administrative Units and Participating Local Districts That Are Delinquent in Paying Contributions to the Maine State Retirement System

S.P. 361 L.D. 963
(C "A" S-102)

An Act to Ensure More Equitable Hunting Opportunities

H.P. 725 L.D. 1029
(C "A" H-172)

An Act to Increase the Probationary Period for Police Officers

S.P. 413 L.D. 1127
(C "A" S-99)

An Act to Repeal Certain Redundant Laws Relating to the Bureau of Air Quality Control

S.P. 425 L.D. 1137
(C "A" S-94)

An Act Regarding the Relaying of Shellfish

S.P. 439 L.D. 1183
(C "A" S-88)

An Act to Increase the Debt Limit of the Kingfield Water District from \$350,000 to \$2,000,000
H.P. 828 L.D. 1194

An Act Regarding Deer Hunting Apparel Requirements
H.P. 900 L.D. 1297

An Act to Create a Duty of Fair Representation under the University of Maine System Labor Relations Act
S.P. 489 L.D. 1327

An Act to Reconcile Dates Barring Claims in the Probate Code
S.P. 559 L.D. 1463

An Act to Permit Orderly Consideration of Department of Environmental Protection Applications
H.P. 1019 L.D. 1492

An Act to Amend the Reduction in Toxics in Packaging Laws
S.P. 572 L.D. 1526
(S "A" S-95; S "B" S-105)

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 Ban Tree Spiking
S.P. 116 L.D. 211
(C "A" S-89)

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

An Act to Amend the State Law Library System
H.P. 176 L.D. 261
(C "A" H-173)

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

An Act to Reduce Duplication at the Department of Human Services
S.P. 247 L.D. 656
(C "A" S-103)

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

Resolve

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory
S.P. 367 L.D. 969
(H "A" H-198 to C "A" S-84)

Resolve, to Name the Bridge Spanning the Little Madawaska River in Caribou the "B. Morrell Bridge"
S.P. 380 L.D. 1057
(C "A" S-96)

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

Emergency

An Act Pertaining to Community Corrections Programs
S.P. 207 L.D. 534
(C "A" S-83)

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Implement the Recommendations of the Travel Information Advisory Council Concerning Informational Signs"

H.P. 86 L.D. 121
(H "C" H-102; S "A" S-58 to C "A" H-72)

In Senate, April 17, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-72) AS AMENDED BY HOUSE AMENDMENT "C" (H-102) AND SENATE AMENDMENT "A" (S-58)** thereto, in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-72) AS AMENDED BY HOUSE AMENDMENT "F" (H-247) AND SENATE AMENDMENT "A" (S-58)** thereto, in **NON-CONCURRENCE**.

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

Senator **LUDWIG:** Thank you Mr. President. Ladies and Gentlemen of the Senate. When this issue came before us, I voted in favor of L.D. 121 as amended. Coming as I do from a rural part of the state where so much of the local economy depends upon agriculture, I tend to favor any legislation which might benefit my farmers, "the little guys", as the eloquent Senator from Aroostook, Senator Theriault, refers to them. It didn't seem like much to ask when they work so hard during a pitifully short growing season to put food on our tables, to grant them the right to put up a few extra signs directing the public to their fresh produce. The signs would be temporary, after all, and could hardly be considered a blight on the landscape. Or so I thought.

I did know that Marion Fuller Brown had served on the Travel Information Advisory Council, whose year long study has provided invaluable information for the original Bill. She currently Chairs the Council to which she was appointed by Governors' Longley, Brennan, and McKernan. This former Legislator is highly regarded for her work to improve the environment in the Pine Tree State, and I assumed that the final report must have met with her approval. We each received a copy of that report, it had a blue cover, but as you know, we receive a great many reports, and I admit that I did not read this particular one, setting it aside to read later. I now wish I had taken the time to read it before voting on L.D. 121, because it provides a great deal of background on what we have come to know as the "Billboard Bill", banning the billboards. One of Marion Fuller Brown's legislative accomplishments was the passage of the law to ban billboards on our highways. We take it for granted now, but there was a time not too long ago when there was such a proliferation of billboards along our highways that the scenic wonders of our state were nearly obliterated. I think it was Ogdon Nash who borrowed a line from Joyce Kilmer when he wrote, "I think that I shall never see, a billboard as lovely as a tree. In fact, unless the billboards fall, I will never see a tree at all". Well, thanks to Marion Fuller Brown, the billboards in Maine fell, and we are all the beneficiaries of this wise decision.

I recently received a call from Marion Fuller Brown. She had been out-of-state for three weeks, and returned to learn that L.D. 121 as amended, was a far cry from the recommendations of the Travel Advisory Commission. The idea of allowing signs within the right of way is particularly disturbing to her, as to the fact that the Council's strong recommendation for a needed increase in permit fees was totally ignored. In its present form, she feels that passage of this Bill will open the door permitting other groups to advertise their wares on the highway, and seriously erode the great improvements to the landscape, which occurred following the successful passage of the billboard ban. Mr. President, men and women of the Senate. I

will try it one more time. I deeply regret my previous vote in favor of L.D. 121. I will seek other ways to help my farmers advertise under the existing law. I move Indefinite Postponement of L.D. 121 and all accompanying papers.

THE PRESIDENT: The Chair would advise the Senator that the item is a Non-Concurrent matter, and her motion is not appropriate. The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER** of Franklin moved that the Senate **ADHERE**.

Senator **THERIAULT** of Aroostook moved that the Senate **RECEDE** and **CONCUR**.

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

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The hour is late, and I am confused, quite frankly. Would you explain what the motion to Recede and Concur would do? Keep the Bill or kill the Bill?

THE PRESIDENT: The Chair would answer that to Recede and Concur would put the Senate in agreement with the House. The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Perhaps a knowledgeable member of the Committee could explain for the Senate the difference between (H-247) and (H-102).

THE PRESIDENT: The Senator from Franklin, Senator Webster, has posed a question through the Chair to any Senator who would care to respond. The Chair recognizes the Senator from Aroostook, Senator Theriault.

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The amendment that is attached to this Bill from the other Body, is strictly clarifying language, and it does not change the intent of the Bill as we had it here the last time.

This Bill has been debated in this Body and we gave it the proper vote, and I would urge you to do that once again. I know that Marion Fuller Brown has been campaigning quite heavily in opposition to this Bill. They, I mean the Commission that she was Chair of, had recommended in their Report that farmers be allowed to have two sixteen foot signs advertising their product. Because the farms are in rural Maine, and most of them are off the beaten path, we found out through our Public Hearings that two signs would not really help them much because it would not lead them to their place of business. So, the Committee decided that in keeping with the thirty-two square feet allowed by the Report, that we would allow four signs of eight square feet apiece, which equals thirty-two square feet. In this particular situation, the farmers could have a sufficient number of signs to direct them to their place of business. The reason you originally voted for this Bill still

holds true, and I certainly hope that you will continue to vote for this Bill.

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

Senator **LUDWIG:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I will not read to you this entire report, including the background, but I would like to give you the part of the report which I think has been eroded seriously, and would permit people who are not just farmers, but were growers of many types of fruit or vegetables, or anything of the sort that grows, to put their signs in the right of way, to have more signs that are necessary.

Let me just read to you what the original recommendation of the Committee was. "Signs erected by farms advertising fresh fruit, berries, and vegetable crops in season from June 15th through November 1st of each year. These signs must be erected on the private property with the landowners permission, and the signs must be removed by November 1st of each year. Further, these signs are limited to two signs not exceeding sixteen square feet per sign." I am not going to argue over the relative measures of whether two sixteen square foot signs are superior to four eight square foot signs, but there were several departures from the original suggestions of the Commission. "Moreover, they should be located within five miles of the farmstand, and this exemption shall apply only to farms primarily selling their own produce, raised on their respective farms, and not for commercial fruit and produce stands." One of the most recent amendments clearly would open the way for commercial stands to be served under the changed sign size.

I hope that you understand what I am talking about, and I do feel that the farmers are better off now under the current law, which allows them something like ten different signs, and full use of the markers that are available, the business directional signs that are available to all people who wish to advertise where their farms are located, including how many miles from an intersection they are should anyone care to go out in the country to find them. I hope you will see my point of view when it comes time for the Division. Thank you.

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I know that Ms. Brown and her Commission worked very hard on this, and they need to be commended for the work that they have done. But, what they did, they came around with a recommendation. Our Committee had a Public Hearing. There is a purpose to Public Hearings, it is not a formality that we go through to satisfy the people who appear before us by giving them the pleasure of saying what they need to say, and subsequently disregard what they tell us. They convinced the Committee that the Report as written did not meet the requirements that they needed. We listened, and we did what would help them, and this is what is in this Bill. I hope that you will continue to support this Bill. This is not going to be blight on our highways, these are not big signs, they are not going to be there permanently, and it is

going to help those farmers sell their products, and they are having enough problems as it is right now without us giving them anymore. I hope that you vote for the Bill.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Marion Fuller Brown is not the only one who has worked on this particular issue over the years, I missed the first debate, and sorry I was not here to at least express some of the history that is involved in the present law, and the relationship that the farm folks had to that law.

First of all, the Business Legislation Committee for many years initiated the Billboard Law, and felt it was the keeper of that law. Being a member of that Committee, and then House Chair of that Committee for many years, we worked on it diligently, protected it diligently. In the early eighties, however, an exception was made for farm signs, because the Vermont Law which preceded us was having some problems, but we weren't at the time. So we made some exceptions, it came up to the floor of the House, and before we could even pass it, Camp Ground owners had jumped on it, and they had gotten an exception right on the floor of the House. We decided that an extensive study should be made. It was one of the better studies that we had ever been involved in. We went around the state and held Hearings. It was a directional signs issue and was fully debated and discussed. The Department of Transportation worked on this for months and months with the Committee, and we formed a group that included the Farm Bureau, the apple growers, campground owners, several that owned lobster pounds, all the groups that wanted exceptions. An agreement was made in the early eighties that exceptions would be made through the signing that we now have. They got much cheaper signs, they have got a great deal of flexibility, and willingly the farm people gave up their exemption that they had, and the apple growers and everybody else, so that they could put their logos on and have them inexpensively done. They could either have them done themselves, or the Department of Transportation would do them, and they would have the number of signs allocated. That whole agreement was worked out very carefully. Now, it may be that something has changed since then that makes it necessary to put out these kinds of home made signs. But, it wasn't agreed on then. One of the things that I am concerned about is, that some of the same people are back here lobbying for this Bill, when they got a tremendous amount of flexibility during that very comprehensive, well thought out, and well hammered out study. So, I hope you will vote against this motion, and kill this Bill now, and stay with the very well crafted directional sign law that we have. Thank you very much.

On motion by Senator **GOULD** of Waldo, 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 Holloway.

Senator **HOLLOWAY**: Thank you Mr. President. Ladies and Gentlemen of the Senate. Just briefly, I wanted to make a remark that we have to remember, that these are perishable items we are talking about. A strawberry only lasts three or four weeks at the very most. Blueberry season goes by just as rapidly. I think that this is a point that we have missed in debating this Bill. We are talking about perishable items. We are not talking about lobsters, and we are not talking about real estate signs, we are talking about something that has to be passed on quickly to the consumer.

Secondly, if we are going to crab about highway signs for the farmers with their produce, we should crab about our campaign signs. They go up the first of October, and they stay up until election time for six or seven weeks, and I see no reason why the farmers can't be allowed the same option. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **THERIAULT** of Aroostook to **RECEDE** and **CONCUR**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BOST, BRAWN, CAHILL, CARPENTER, GOULD, HOLLOWAY, MATTHEWS, MILLS, PEARSON, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY**

NAYS: Senators **BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, FOSTER, GAUVREAU, KANY, LUDWIG, MCCORMICK, RICH**

ABSENT: Senators **BALDACCI, COLLINS, EMERSON, GILL**

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

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **THERIAULT** of Aroostook to **RECEDE** and **CONCUR**, **PREVAILED**.

Senate at Ease

Senate called to order by the President.

Senator **BOST** of Penobscot moved that the Senate **RECONSIDER** its action whereby it **RECEDED** and **CONCURRED**.

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

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **THERIAULT**: I can't believe that we are going to be denying the smallest of the small amongst us. We are talking about our small farmers, denying them an opportunity to try to sell what they are growing so that they can scratch a living from the land. I think we owe these farmers a lot. First of all, they are preserving the beautiful countryside that all of us like to tour through. Can you imagine without those small farmers what will happen? I have seen what happens in my part of the country when the farmers had to leave their farms because they couldn't make a living. It has now grown up in alders, not very nice to see if you are touring the countryside. But, in order for those farmers to keep preserving the sights for us who like to tour, they need to be able to make a living. I don't think that allowing them to install four small signs, indicating the direction to their place of business, is going to be such a blight on our highway. So I hope that you will vote against this motion before us, and give those farmers a little bit of a fighting chance. Thank you.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **BOST** of Penobscot to **RECONSIDER** **RECEDING** and **CONCURRING**. (Division Requested).

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

ENACTORS

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

Emergency

An Act to Deappropriate Certain Expenditures and to Make Technical Corrections for the Fiscal Year Ending June 30, 1991

H.P. 1259 L.D. 1827

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

Senator **KANY**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I am sorry to say that I am rising to speak in opposition to enactment of this Emergency Budget measure. This is the first time that I have done so in seventeen years as a Legislator. I have voted for every final Appropriations Bill, but I just can't swallow this one. The reason is that, I believe that there was inadequate attention given to major public policy

that needed to be made. We have a fiscal crisis. We have an emergency situation regarding our finances, and we can expect further crisis in the near future. We can expect further emergencies. We need to develop policy and how to act in time of such emergency, and we have failed to do that in the Appropriations Bill that is before us. We need to look at state government, and what state government must go on in time of an emergency. There are essential services that need to be carried on to protect the citizens of this state. Public health and safety measures that need to be funded. There are certain personnel in this state that we need to protect the lives of our loved ones and the citizens in all the Senate Districts of the State of Maine. We owe it to the people of Maine to determine a reasonable public policy in time of fiscal emergency such as this. We need to decide what type of government must be carried on, regardless of fiscal emergencies. We need to determine which personnel should be paid to stay on the job when all other government services can be shut down, and we did not do that, and I am very sorry to have to vote against this Appropriation Bill. I am very disappointed in it, and the lack of attention to policy in emergencies.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise to oppose this Budget Bill for lots, and lots, and lots of reasons. But most importantly, I guess I am just a tad tired of managing state government, because I wasn't hired to manage state government. I was hired to set policy for the State of Maine, and that is what I intend to do. I cannot tell you what employees should be laid off, and what employees should not be laid off. I cannot tell you whether they need to be furloughed, or they don't need to be furloughed. I cannot tell you whether we should shut down state government, or we shouldn't shut down state government, only the Chief Executive Officer of this state can do that, and that is the person who should do that. When you talk about shutting down state government for two days, that should be done by Executive Order. I have no problem with voting on a Bill to deappropriate those funds, but I cannot make a decision on which employees are asked to work and which employees are asked not to work, which employees get paid and which employees do not get paid, what are essential services and what are not essential services. That is up to the Executive. That is called management. That is what we pay lots of money for the managers to do. I don't get paid it, all I do is set the policy, and that is all I want to do.

Folks, we don't have to take a vote here tonight. Anything else in this Bill can be handled other than at 12:40 a.m. in the morning, on May 8th. This is not a time to make that kind of a horrendous decision. I had decided before this afternoon that I wasn't going to vote for this Bill, simply because I think that it should be done by Executive Order if it is going to be done. But, when I went to the Corrections Summit that we had all day, trying to solve the problems of Corrections, and at the very end of the day, one of the guards, one of the line officers, informed me, along with Commissioner Allen,

of the feelings that were rife at the Maine State Prison. Now I have to tell you that this is only an example of one institution in this state, and what could happen with this kind of "management" from the State Legislature. Incredible that the State Legislature should manage. And what would happen, is that you are asking line officers to handle an already overcrowded situation, and further than that, say to them, "I am not going to pay you". And we are going to have other people take days off and we are not going to pay them, but we are also not going to ask them to work. So, they can do their "Victory Gardens", and that is probably what we are going to need is "Victory Gardens" this year, for the state that we are in. But the very idea of asking already over worked, already over furloughed, already over stressed employees, to come in and manage your state system for you so that you don't have a riot, so that you don't have another prisoner knocking out the teeth of another prisoner, so that you don't have to have a lock down, is unconscionable, absolutely unconscionable.

The figures today for the population in the prison system in the State of Maine, the census figures, are 1701. The most you could possibly get out of this system for bed space, and then you are pushing it, is 1200 people. Simple math will tell you that is five hundred extra people! It is probably more people than you have in this building, more than likely it is more people you have in this building, right here, this morning. Can you imagine handling people who are caged, five hundred extra of them in a system like that? And on top of that say, "Sorry about that, we are not going to pay you". I think that is absolutely incredible. It should never happen. I do not want to be part of that, and I will not give my vote, and I will hope that we do not pass this Bill tonight.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Before we enact, or perhaps, not enact this proposal this evening, I would like to offer a few remarks for the Record that I think are pertinent to this discussion.

I would characterize, and I have to members of my own Caucus, this package as a "Pain Deferral Plan". It is a series of proposals that presumably allow us to move quickly beyond the new supplemental deficit of the 77 million dollars, and focus on the Biennial shortfall now estimated at roughly 1.2 billion dollars. Now strategically, given the time remaining in the Session, this would appear to be a prudent move, and I will be voting for this proposal, because it is the only proposal before us. I am well aware of the enormous task ahead for not only the Appropriations Committee, but my Committee, as well as the full Legislature.

Having said that, however, I hope that we all recognize what this document does and does not do. It clearly sends a message to Bond Houses, who are increasingly sensitive to the "bailing wire" method of budgeting, that we are not about the task of trimming the size and the scope of state government. While they may appreciate the good intentions of the Governor and of the Legislature to quickly address

the ever-expanding problems within the current year Budget in order to move to the 1992-1993 Budget, nevertheless, their bottom line remains the same. And that is, at least as it has been conveyed to me, that there must be an appropriate mix of cut backs and expanded revenue if our Bond rating is to remain what it is. This proposal contains neither. Neither does it contain any bold new initiatives. I think we are all aware of that. What was labeled a mere six weeks ago as unpalatable and politically expedient, is now viewed as a fix-it-all of sorts for our short term dilemma. Deferring 40 million dollars in General Purpose Aid, using Teacher Retirement monies with considerable long term cost implications, the cutting back, as the Governor states in his Executive Order, the "unnecessary spending". One would hope that we did that long ago, but apparently, that was a novel idea of about a week ago. Now, we are adding to that list higher education, that will be deferred. I heard something disturbing just a few minutes ago, that the message was conveyed to certain University officials that this may not be a deferral in the long run, that it may, in fact, be translated into a cut. Finally, in order to dramatize our plight, we will be shutting down state government for two days. So, perhaps as the Bangor Daily News suggested in this morning's addition, "No one will notice". That remains to be seen.

One of the inherent flaws with this proposal, from my stand point, is that it does not contain any cutbacks of any sort, no gesture toward that end, an omission, in my estimation, which places further burden on the Biennial process. Obviously, new revenue is not being considered due to the fact that virtually no tax proposal could generate monies in such a limited time frame. My fear is, that by not including some additional bureaucratic cuts in this proposal, while at the same time exhausting virtually every budgetary deferral mechanism known to state government, that we have made the task ahead all that much more ominous.

As we debate this proposal and the process by which we will arrive at an eventual consensus, hopefully, on the 1992-1993 shortfall, we must forget that the very foundation upon which all of this rests, that being our ability as a state to accurately forecast revenue remains unchanged. An analogy could be made to a used car. Even with new paint, the frame is rusted, and its structural integrity, as well as its value is in question. The WEFA Forecasting Model, and for those of you who are not familiar with that term, it stands for the Worton Economic Forecasting Associates, they are a firm that is based somewhere in Pennsylvania. They are employed by the State Planning Office to predict the ebb and flow of our economy. That model by the admission of the State Planning Office, is "overly optimistic", and they have known that for some time. It has been month, after month, after month, yet, little is being done if anything to make it more reliable. Once the national WEFA Forecast is made available, the State Planning Office plugs in the State WEFA Forecast, and even if tangible signs are there, for instance, pointing to a lull or even a downturn in economic activity, little if anything is done to reshape the final figures. It is little wonder that we have been off the mark twenty out of the last twenty-six months, ladies and gentlemen.

A few days ago I sat in on an exchange between the Appropriations Committee and four economists appearing before the Committee to give their short and long term prospectives on the Maine economy. It was a conversation, in my view, that was long over due, and one which I hope sets a precedent with regard to the involvement of such experts both within academia and the private sector. The question was asked of the State Economist by a member of the Committee as to the extent of any hands on effort by that office to get accurate inventory data from business and industry. It would seem to be a simple task. Inventory, as most of you are aware, is widely seen as a reliable indicator of activity, or lack thereof. The reply, and I heard it, was that there has been no such effort, that the WEFA Data was used as the barometer. Asked why this was so, given the unreliability of that data, the answer was that they neither had the staff nor the time to do so. I would maintain, ladies and gentlemen of this Senate, that we are spending that time on our end of the equation, time that should have been spent at the other end assembling reliable Budget data.

Not suprisingly, the Planning Office did not, and does not know the actual inventory variable, and I use this by way of example, it is one of many variables that they plug into the model, they don't know what it is. However, the Committee member who asked that question of the Economist then made a brief phone call to one of the state's largest paper makers. A few minutes later, he was told by that person in that mill, that "Yes", without hesitation, there inventory was very, very high. A simple phone call could have attained that data.

When one looks at the comparison of principle assumptions in the WEFA Fall and Spring forecasts, we see the following trends, and I don't mean to bore you, but I think it is important to enter it into the Record. Personal income for the fall of 1991, the WEFA Forecast was 4.3%. In the Spring, it was downsized, revised to 3.3%. Unemployment, the Fall forecast from WEFA was 13.6%. The Spring forecast was 36.1%. New car registrations, the Fall WEFA forecast was 1.3%, that was revised to 2.4%. The change in forecast is documented, and I will share those figures with you. In the personal income line, the change from the budgeted figure to the actual amount in personal income, was 1.2%, and in 1991 - 1.0%, in 1992 - 0.1%, in 1993 - 0.2%. I could go on down through the categories. It is error, after error, after error, translated into actual dollars, that same model produced the following discrepancies in year to date figures. Sales in Use Tax, the budgeted figure, \$361,690,000, the actual figure, \$355,918,000, down 1.6%, or a little over 5 million dollars. The Corporate Income Tax budgeted, \$55,845,000, the actual \$48,321,000, down 13.5%. Cigarette and Tobacco Tax, budgeted \$14,386,000, actual, \$33,151,000, down 3.6%. I could go on, and on, and on through this list.

Now we all recognize that at this point we have serious Budget problems, and we cannot simply point to factors such as consumer confidence, or declining industrial base, or geographic positioning, or regional economic slump. We cannot identify those without also looking very seriously at the quality of our economic forecasting ability. Whether the solution is a separate entity within the Legislative

Branch designed to produce that data, I believe that the Senator from Androscoggin, Senator Gauvreau, has been a champion on that issue, and I am certain that we will hear from him again, or whether we adopt a revenue forecasting by consensus model, something that is being batted about, or whether we just abandon the current forecasting model all together for something that is at the very least, ladies and gentlemen, realistic. Something must change. Absent such a change we will continue to witness numbers which fluctuate on a routine basis, and potentially reach, in my estimation, what could be a state of paralysis, both politically and economically. I think we can all agree that this will serve no one, and would further erode the confidence that Maine people have in state government.

There are many factors that effect our economy that are outside of our sphere of influence. The first that comes to mind, and perhaps that most notable, are the policies of the Federal Reserve. But, there are many items that are, in fact, within our control. Realistic, economic forecasting, I maintain, is one of them. I hope that we will hold those that have generated this faulty data accountable, just as we all will be accountable for the manner in which we finally solve this fiscal crisis. Thank you.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It is my hope of this morning that you will pass this particular Budget Bill. We are obviously very close to the end of the Fiscal Year. We are a matter of fifty some odd days to the end, and this has been quite an eventful year for us in as much as we have had four different changes in revenue figures, we will have three different Bills that we will have to deal with before we are through. I understand the frustrations that the Senator from Penobscot, Senator Bost, has expressed. I wish that he and others would know that he is not alone in his frustrations. I think that we are probably more frustrated than anybody else, and that means every member of the Appropriations Committee.

This Bill is not like every other Bill that we ever had, it is not a perfect Bill, it is not everything that we would like to have it be. It is certainly a rush job for the end of the fiscal year. Someone asked me just a little while ago if this would be the end of it. I can't even answer that, I hope that it is, but we could be in a situation that we are in here again. That question was asked several times.

This has been a very difficult time for everyone of us, and the times are going to get worse. Everybody is going to find, including myself, something that they don't want to be cut. And on the subject of cuts, we have cut, and we have cut, and we have cut. It is very frustrating to hear people ask, "What are you going to cut?" I need to ask those people for suggestions, and ask them to be forthcoming. I have asked a number of Chairman on the Committees and Committee members to give us some cuts in the different Committees that they Chair and the Departments that they oversee. I hope to have

that information soon, but we have not had any yet. But we need help, we need help from people who know their areas better than we do. I know that this is not an easy Bill, nor will the next one be for people to vote for, but I hope that you can find it within yourself to understand that it is the bigger picture that we have to look at as a group, as a state, as a people, and try to rise to the occasion of a sinking economy and join with us, and I mean sincerely, in the effort that we have made, to save as many jobs as we possibly can. A lot of people say, that we are not concerned about people who work for the state, and I can assure you that absolutely the opposite is true within our Committee. We have made as many efforts as we know how to keep as many people employed by the state. These are valuable people, and we do appreciate that fact. Thank you Mr. President.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to bring to your attention just one part of this Budget proposal, and that is the one that relates to deferment of the Teacher Retirement payment.

I would just like to point out that this is different than the other two deferrals, and I think that you ought to know that. The deferral of the General Purpose Aid to Education of 40.8 million dollars has a definite date of payment, and will be repaid on July 5th, so says this document. Deferment of the Higher Education Payment of 14.2 million dollars will be paid on July 5th, or so says this document. But, the Teacher Retirement Payment is different, and I think that you should know that it carries a larger cost. Our Committee, Aging, Retirement and Veterans Committee, asked the Maine State Retirement System's actuaries, to give us the figures on that, and if I just might read what they had to say, "Assuming that no other changes are made in the current twenty-seven year schedule for pay back of prior years unfunded liability, if the additional unfunded liability resulting from the 13.5 million dollars deferral is paid back over the same twenty-seven year period that is in the year 2017, the total cost to the state will be 99 million dollars. The deferral would also add two months to the current pay back schedule." So, this particular 13.5 million dollars, which would be a deferral of the employer contribution to the Teacher Retirement Fund, will ultimately cost the state 100 million dollars, so it is different.

I also want to say, I feel that we have been going around in a state of business as usual since last December. Early on, many of us suggested changes in the process that we use to handle this crisis. We suggested an assessment of our priorities, an assessment of what is essential services, what is not. We suggested cuts, and none of that has really happened. I feel like we are an alcoholic family that is sitting around the kitchen table and the father is drunk, and nobody is talking about it, because we have been playing footsie about taxes for the last four months. I think that this has had an economic cost. I think that people out there are dying for us to take leadership in this state and call the spade a shovel, and admit that we have a problem, let's deal with it. I think that

there is lack of confidence in leadership that has been coming out of everywhere here, and I think we all have to take that blame, and that has had an economic consequence. If you look at the sales tax revenues starting in December, they are like a stair case down to the basement. Why is that? There is many reasons for that, but people are not spending because they don't see a way out of this. They don't see a way out of this because no one is pointing a way out of this, no one is suggesting a solution, right or wrong. No one is out there talking about it. The only solution that we have had so far is to burden the least able to pay in our society, to burden women, to burden the poor, and to burden state workers. The only people who we have taxed so far is state workers. So I am at the end of my rope, and I am going to vote "no" on this, for no other reason than to be uppity and to say enough is enough. Thank you.

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

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I feel compelled to make some remarks tonight. As you look down on the revenue adjustments that have been proposed in this Budget, you see that 69.4 million dollars are deferrals, or shut down impacts on education. Some of you may say that on the Supplemental Budget that we did six weeks ago, education got off fairly easily, and now, maybe it is its turn. But, there are some peculiarities about some of these deferrals, and I think there are shut down impacts on education that people should be aware of. The Senator from Kennebec, Senator McCormick, made reference to the July 5th payment, which you have to realize is that what we are doing is forgetting about the June payment. We are taking the end of July payment and we are rolling it to on or by July 5th, so the June payment that used to come in the middle of the month, and the Commissioner moved it to the end of the month. That payment is now out there free floating in time and space, until sometime when we are going to make it up, we make it up. We have to keep that in mind, because that is going to have some significant impacts down the road.

The second is, that we have built into this Budget permissive language for schools to take up to two days and close them. Nothing says that they have to, and that really raises a reality question to me. What is the realistic impact of this permissive legislation to close schools for up to two days? The reality tells me that what is going to end up happening is, that the low receiving districts, the more well to do districts are going to get by, the high receiving districts, they are going to be tight, hard-pressed, because we are at the end of the year, money has already been committed. Effectively, we are taking that 1.9 million dollars from those school districts and pushing it back on the property tax-payers.

I have found this process to be so frustrating this year. I am growing angrier and angrier as this Session moves on. My Committee has been earnest in doing its part. We have sat in with the Appropriations Committee on the Departments, on the Higher Education Institutions, on the Cultural Agencies, and gone through that Budget. We told the

Appropriations Committee that we would go and we would do that ourselves, again, to come up with suggestions for savings for the Biennium, thinking that six weeks ago, we were somewhat in the clear, and would not be coming back to do a Supplement, and now, wondering if we are going to be coming back before the end of this Session to do Supplement to this Supplement. We had set our schedule up, we had finished our rather heavy schedule of Bills to meet the deadline last week, and we set our schedule up to begin working on the Department, all week long, to go into the Department, line by line, and identify what possibly could be considered a savings of cuts for the next Biennium. We were all prepared to start at 12:30 yesterday, only to find out that we were having a Press Conference on the second floor, and that the Governor was announcing that the shortfall for the remainder of this fiscal year topped 75 million dollars, and that the two year Budget hole deepened. That no one could have realistically predicted that we would be this bad off, I find that so hard to believe, so difficult to fathom, when we saw the third quarter of this fiscal year, we saw those Budget projections deeply in the red, and we didn't stop and say, "Hey, what is happening"? Let's watch what is going on very carefully, and be better prepared than what has been for most of us a day and a half notice that this is what we are going to end up having to eat, to hopefully make it to the end of the year. And Lord knows what the impact is going to be for the Biennium.

That leads me to the second reality question. What is the realistic impact of this action on next year's Budget? It makes it tough to sleep at night wondering. I think we have undertaken a very dangerous Budget journey this session, and I am afraid that the Scout Master hasn't been using a map, and doesn't have a compass. We had better get our act together in the next few weeks ahead of us in dealing with this Biennium problem that has grown into now a 1.25 billion dollar problem. I will not be supporting this Budget, and unless I see some serious input coming from us, if we are expected to swallow the first Supplemental Budget, and we are expected to swallow this, don't expect a lot of us to be in a position of swallowing the Biennium Budget if we don't have some realistic input into it. Thank you.

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

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We are a caring people. And the State Employees are very dear to our hearts. And we have been criticized for not getting rid of a lot of them, and cutting down the size of government. Our Committee has looked at federal positions and put state workers into those to save their jobs. We have met and come up with things that we thought were fair, and I want to tell you about an essential employee. An essential employee is someone in BMHI, or AMHI, or working in a prison, and if that employee works on the tenth and the twenty-fourth, for each day worked, the employee will receive one day of compensatory time off, plus one days pay when the employee leaves state service. A non-essential employee, normally scheduled to work on the tenth and twenty-fourth, for each day that the employee will not work, they will be paid one days pay when the

employee leaves state service. The impact of their three years of retirement benefit calculations is such; the involuntary days off without pay, whether due to the previously scheduled three temporary layoff days, of these two days of office closures, will be treated as days worked, and paid when calculating retirement service in the high three years compensation. We spent one morning just working through this, to make sure that these employees would get that days pay down the road, and that their retirement would not be in jeopardy at a lessor rate.

We are criticized by many for not making cuts. Ladies and gentlemen of the Senate, every cut that we came up with was the wrong one. Everyone on the Committee had a Department they thought could be cut, and everyone of you do, sort of like the landfill, "Don't put it in my backyard". But, I have asked you where to cut, and you know that there are days that I feel like a prisoner down in Room 228, because you never get out. I can't get out to talk to you. And it is such a treat when you come down and when you honestly say that you want to help, and tell us what to do. That is something that you had mentioned that you would do, and I know that you are busy in your Committees with a million Bills. Perhaps this Session, we should have just had every Committee work on what we should do in Education, in Judiciary, and so forth, instead of going through these Bills that we have had for the last eleven years that I have been here, hearing over and over again, and killing over and over again! We didn't do that.

Now, I listen to the good Senator from Kennebec, Senator McCormick, who is on Aging, Retirement and Veterans, and ask about the retirement. They offered to take that part of the Budget and do something with it. From what I gather, they are going to come up with a proposal that I am hearing second, and third, and fourth hand, that the benefit levels will stay the same, and they are going to defer payments into the future on that. I don't know what they are going to do, but we hear that. I am getting criticized for something on Teacher Retirement, that I say to the teachers, "We are going to pay you back". I would love to be able to say that, with your help, if you want to cut that 68 million dollars that we have deferred, we can pay it back. If we work together and cut state government, we can come up with that 68 million dollars, and we can pay it back. There is nothing in this Bill that says that we can't pay it back. We deferred it! I challenge you, find me 68 million dollars, and we will pay it back. Its nothing that is new. The reason being, the General Purpose Aid we pushed ahead the July payment, because they normally do not get their money until the end of July, we thought we would push it up so that they won't have to wait that long. The retirement check goes out the 5th of July anyway. We didn't do anything because that is when it goes out.

I know you are mad. We have been mad since the 25th of December. If we were the only state experiencing these difficulties, I would lash out at the Governor the way that you have. But we are not, and I am not going to lash out at anyone. I shall not criticize any member here on how they feel or what they want to do, because that is not going to get us anywhere at this late date. Men and women of the Senate, we must unite. And if we don't unite

now, you must remember, that when this Biennium Budget comes around, we are all going to need help, because we are all in this together. Thank you very much.

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

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. What would the cost be just to fund the essential services of the state for one day, and for the second day? It is my understanding that we are in such a crisis than we are worse off than any other state in the entire United States as far as the percentage of our Budget that is effected. This is no simple little crisis. This is probably not even a recession in Maine, we are in a depression, and we cannot see the bottom of it. Clearly, we have to make major decisions on what government should be funded. I ask you to seriously consider if a real choice is being given to essential employees, are they to make the choice of staying home, or to go and guard the dangerous prisoners that we hold in this state? Are our essential employees being asked to make the choice of staying at home or protecting some of our citizens who need protection and BMHI, and AMHI, and Pineland? Are we really playing fair when we ask them to make those choices, and only offer them one day off at some unnamed time, or a days pay when they retire in twenty or thirty years? Is that right? Is that appropriate policy for the emergency status that we are in now? And I ask you, what is the cost for one day for essential services, and for two days, please.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I can't answer the Senator from Kennebec, Senator Kany's question, but I do have some additional remarks that I would like to make. One is in response to some of the comments that have been made, and what we are saying is, that those employees who we are asking to work on those two Fridays for no pay, and are being given the carrot of a compensatory day off, and a paid day when they leave state service, and as the good Senator from Kennebec, Senator Kany, has stated, that could be twenty or thirty years from now when they retire, that doesn't seem to be reasonable.

There is another important aspect to that. When you give compensatory days off in the essential services area, you are going to have to replace that worker. Not in every instance, but in a lot of instances you are going to have to replace that worker with time and a half. You are not saving state government anything with this proposal. You are costing state government with this proposal. Had we done the kind of management that this state deserved way back in the fall of 1990, had we bitten the bullet and called a Special Session and raised the taxes, yeah, that ugly word "taxes" to pay for what we knew was going to be the deficit, you would

not have to be costing state government money in the long run. I am not suggesting that we could have raised it all. I am not suggesting that we could have predicted it all. But, I am suggesting that there has been gross mismanagement with how we have managed this state government.

I read the report, the press release, that Maine has got one of the poorest ratings on how we have handled this crisis of all the states in the nation. That doesn't make me feel good at all! To ask that some employees be asked to come to work and not get paid is unconscionable. If you are going to be fair, and if you are going to present a fair budget to me, than tell me that all state employees are going to get off and not get paid, or that those employees who are asked to work get paid. Tell me one of those two things, but you can't with the present Budget that you have, and you can't ask all state employees not to work, because as has been stated many times on this floor tonight, there are some people that absolutely have to work, because we are committed to those people who we have in the institutions, if nothing else, and there are plenty of elses.

It was suggested to me that maybe we could help the crisis, maybe we wouldn't have to employ the people for those two Fridays if seventeen hundred people were willing to rent a prisoner for a day. How about that? You people ready to take one prisoner home with you tonight and take care of him, and watch him until you return him to the prison the next morning so that that employee can have the day off? Are you ready to do that? Do you think there are seventeen hundred people in this state that are ready to do that? I am not even talking about the people with mental illness or the people with mental retardation. You people ready to do that? I think not, and if you are not ready to do that, than you can't vote for this Budget. I am tired of having the Administration give us a bomb one day, and expect us to detonate it the next day. At least give me time to know what my target is, because you know what, I don't know, and I will be blessed if I will consider state employees a target for bombing. That is exactly what this Budget is.

THE PRESIDENT: The pending question before the Senate is **ENACTMENT**.

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

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, BOST, BRANNIGAN, BROWN, CAHILL, CARPENTER, CLARK, CLEVELAND, DUTREMBLE, FOSTER, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BUSTIN, CONLEY, ESTES, ESTY, GAUVREAU, KANY, MCCORMICK

ABSENT: Senators BALDACCI, COLLINS, EMERSON, GILL

This being an Emergency Measure and having received the affirmative vote of 24 members of the Senate with 7 Senators 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.

Off Record Remarks

On motion by Senator **DUTREMBLE** of York, **ADJOURNED** until Wednesday, May 8, 1991, at 5:00 in the afternoon.