

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

In Senate Chamber
Wednesday
May 24, 1995

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

Prayer by the Honorable Richard P. Ruhlin of Penobscot.

SENATOR RICHARD P. RUHLIN: Thank you. Honorable Senators of Maine, if you will join me in prayer please. Almighty God, we thank you for the wonderful morning of opportunity, and for the day ahead of us. We also thank you for the special trust placed in us by our citizens. We pray that as we go forward in our work today that you will guide us in your wisdom and grant us gentle hearts in dealing with each other. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

ORDERS

Joint Orders

An Expression of Legislative Sentiment recognizing:

Susan Shows, of Winthrop, who served as President of the Jobs for Maine Graduates program for 5 years. Her dedication and vision built the program that has enriched the lives of young people all over Maine. We extend our congratulations and best wishes to her;
SLS 88

Presented by Senator **McCORMICK** of Kennebec
Cosponsored by: Representative Ault of Wayne,
Representative **LIBBY** of Buxton, Representative
TOWNSEND of Portland

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Decrease the State's Share of Real Estate Transfer Taxes"

H.P. 821 L.D. 1152

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

Signed:

Senator:
HATHAWAY of York

Representatives:
DORE of Auburn
TRIPP of Topsham
TUTTLE, JR. of Sanford
KEANE of Old Town
MURPHY of Berwick
GREEN of Monmouth
SPEAR of Nobleboro
DUNN of Gray
REED of Falmouth

The Minority of the same Committee on the same subject reported that the same **Ought to Pass** as Amended by Committee Amendment "A" (H-265).

Signed:

Senators:
FERGUSON, JR. of Oxford
CAREY of Kennebec

Representative:
RICHARDSON of Portland

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

Which Reports were **READ**.

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

Divided Report

Eleven Members of the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Amend the Notification Requirements Regarding Automated Telephone Solicitation"

H.P. 100 L.D. 135

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

Signed:

Senator:

CARPENTER of York

Representatives:

- KONTOS of Windham
- ADAMS of Portland
- TAYLOR of Cumberland
- GIERINGER, JR. of Portland
- O'NEAL of Limestone
- POULIN of Oakland
- LUTHER of Mexico
- STONE of Bangor
- HEESCHEN of Wilton
- POIRIER of Saco

One Member of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-215).**

Signed:

Senator:

HARRIMAN of Cumberland

One Member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "C" (H-216).**

Signed:

Senator:

CLEVELAND of Androscoggin

Comes from the House with the Bill **RECOMMITTED** to the Committee on **UTILITIES AND ENERGY.**

Which Reports were **READ.**

The Bill **RECOMMITTED** to the Committee on **UTILITIES AND ENERGY,** in concurrence.

Senate

Ought to Pass As Amended

Senator **HALL** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Make Certain Changes to the Maine Juvenile Code"

S.P. 466 L.D. 1262

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-173).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-173) **READ** and **ADOPTED.**

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

Off Record Remarks

SECOND READERS

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

House

Bill "An Act to Amend the Charter of the Searsport Water District" (Emergency)
H.P. 629 L.D. 854

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

Bill "An Act to Remove Outdated Provisions from the Public Utilities Law"
H.P. 908 L.D. 1284

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

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1995 (Emergency)
H.P. 1098 L.D. 1542

Which was **READ A SECOND TIME.**

On motion by Senator **HALL** of Piscataquis, Senate Amendment "A" (S-174) **READ.**

On motion by Senator **LAWRENCE** of York, Tabled 1 Legislative Day, pending **ADOPTION** of Senate Amendment "A" (S-174).

House As Amended

Bill "An Act to Exclude Certain Parks from the Definition of Mobile Home Parks"

H.P. 372 L.D. 507
(C "A" H-142)

Bill "An Act to Apply the Hospital Cooperation Act of 1992 to a Broader Range of Health Care and Social Service Agencies"

H.P. 548 L.D. 744
(C "A" H-266)

Bill "An Act to Require Special Care Program Disclosure by Entities Providing Alzheimer Care"

H.P. 714 L.D. 971
(C "A" H-255)

Bill "An Act to Modify and Update Certain Laws Pertaining to the Importation and Possession of Wild Turkeys"

H.P. 855 L.D. 1186
(C "A" H-257)

Bill "An Act to Amend the Maine Criminal Code to Ensure Fairness in Classifying a Crime Based on the Value of Loss or Damage"

H.P. 879 L.D. 1234
(C "A" H-260)

Bill "An Act to Require County and State Inmates to Pay a Health Care Fee"

H.P. 891 L.D. 1244
(C "A" H-270)

Bill "An Act Limiting the Types of Municipal Investments"

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

Bill "An Act to Authorize the Town of Topsham to Increase the Amount the Town May Contribute to the Construction Costs of Sewers That Belong or May Later Belong to the Topsham Sewer District" (Emergency)

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

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

Bill "An Act to Exempt Owners of Shooting Ranges from any Civil or Criminal Action Relating to Noise Pollution"

H.P. 60 L.D. 96
(C "A" H-251)

Which was **READ A SECOND TIME**.

On motion by Senator **KIEFFER** of Aroostook, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-251).

House Amendment "B" (H-274) to Committee Amendment "A" (H-251) **READ**.

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

Senator **KIEFFER:** Thank you Mr. President. Yesterday, when we took action on L.D. 96, there was an amendment, House Amendment "B", to Committee Amendment "A", which was omitted when it came up on the papers. This is just a technical correction of that amendment from the House.

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

Senator **MCCORMICK:** Thank you Mr. President, Men and Women of the Senate. I would request a Division on this. I was contacted by my selectmen on this bill, L.D. 96, and also by Ken Young of the Maine Municipal Association just the other day, who told me that the amendment that the good Senator just put on for us, which was also put on in the House, really doesn't address their concerns. Their concerns are, in case you are not familiar with this bill, this is the shooting range bill. This is the bill that changes the relationship that neighbors now have to shooting ranges and that towns now have to shooting ranges. The current relationship is if you move in to a neighborhood where there is a shooting range, you are presumed to have known that it was there, and you need to just deal with it. That's the current Maine law. What this changes, this proposes to change, is that you will be, even if you are there before the shooting range, and the shooting range comes in, the town and you are unable to use municipal ordinances and noise ordinances to work out problems with your neighbor, the shooting range. It pre-empts, this bill, L.D. 96 as amended, still pre-empts municipal home rule and local control and it eliminates the ability of local voters to use noise ordinances to address local concerns. It makes both existing and future noise ordinances unenforceable, as to pre-existing ranges, ranges that are there now, which is a lot of them. Controls, if any, become the responsibility of local landowners, even if that landowner was there before the shooting range was there. So, again, I want us to really think before we make this change. It pre-empts local home rule, it disenfranchises neighbors from being able to use local ordinances as a way of redressing problems with shooting ranges. I want to state again, and make clear, the standard and the change in the standard. This is a letter from the Maine Municipal Association, from Ken Young, I will read it. "Presently, your right to recover for harm relating to noise pollution is limited if you arrive after the shooting range is in place, on the theory that you knew, or should have known, what was going on before you bought your land." That's the current situation. Ken Young goes on, "L.D. 96 changes the standard. It will prevent an owner who was there before the shooting range from pursuing a claim for harm by noise, unless there is a substantial later increase in the activity at the shooting range. House Amendment "A" adds some," and we have just adopted that as well, "adds some time limits, but does not alter this fundamental change in traditional legal rights enjoyed by landowners. Home Rule and

local control is the ability to govern yourselves at the municipal level. Home Rule allows you to work together, with your neighbors, including shooting ranges, to arrange your affairs as best meet your collective needs without the outcome being dictated by new State laws like L.D. 96." So, I ask for a Division on this Mr. President, and please vote no. Thank you.

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

On motion by Senator **KIEFFER** of Aroostook, 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 Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I thought this morning it might be well worth while to take a few minutes and just discuss what this bill does, in fact, do. Under current Maine law we have what we call a "coming to the nuisance". If you have, in this case a shooting range, that pre-exists, and they are making noise, and you move into that neighborhood, you have the right to sue, under present law, because they are, in fact, making noise. You generally will not be successful, because of the principle of coming to the nuisance. However, that does not prevent you from bringing a nuisance suit in some cases. What this law attempts to do, was to attempt to protect legitimate pre-existing shooting ranges from that nuisance factor. The other thing is if you have an adjacent landowner, or nearby landowner, and the shooting range who have co-existed, if you will, over a period of time, and the individual says, "well, I'm sorry, I have changed my mind now. I have had an eighty acre farm here and I'm now going to put in house lots, and your shooting range, which has been here for as long as I have been here, will disrupt my potential sale of house lots. Therefore, I am going to bring suit against you and your shooting range." That is unfair. I think, in most cases, it would be defeated in court, but we never know that. So, again, this is an attempt to protect the property rights of those people who participate in the shooting range. This does not end Home Rule as we know it. The Maine Municipal, who sent out this letter, was at the hearing and the work sessions. We attempted to work with them. They, frankly, drew a line in the sand I guess you could say, and refused to listen beyond a certain point. So, they look at the facts and say this is going to affect Home Rule, I look at it and I see where it does not affect Home Rule at all, but simply recognizes the fact that people have said they object to it and will not consider any reasonable alternative or attempt at compromise. The attempts at compromise have been made, things are very reasonable, straightforward proposals to protect the rights of those shooting ranges. Thank you.

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

Senator **LORD:** Thank you Mr. President, my Learned Colleagues. This House Amendment was an amendment that came in after the bill was reported

out. The Committee looked it over and a good majority of the Committee agreed with the amendment. I thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Men and Women of the Senate. I, like everyone else, agree with the legitimate right of everyone to participate in a shooting range, to do that type of activity. What is troubling me, and what is puzzling me, is why are shooting ranges different than any other use of property? Why isn't this similar status extended to gravel pits, bowling allies, outdoor theaters, or to anything else that can create a possible nuisance and be attacked by neighbors to prevent it from existing? Why are we creating one special situation for one special use of property?

Off Record Remarks

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

Senator **CAREY:** Thank you Mr. President, Members of the Senate. In looking over the bill I noticed that the bill originally said that they would be immune from civil or criminal penalties when they were operating during daylight hours, Monday through Saturday. For some reason, that has disappeared out of the Committee Amendment, so that in fact they could be operating 24 hours a day. The bill, as a bill, was at least acceptable, but now that has been stricken and totally changed so that the person who acquires property may not maintain a nuisance thing. I would like to know, from somebody on the Committee, why, in fact, there are no limits as to the operating hours or the number of days that they can operate.

THE PRESIDENT: The Senator from Kennebec, Senator Carey, has posed a question through the Chair to any Senator who may care to respond. The pending question before the Senate is **ADOPTION** of House Amendment "B" (H-274) to Committee Amendment "A" (H-251), in concurrence.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, CARPENTER, CASSIDY, CIANCHETTE, FAIRCLOTH, FERGUSON, HALL, HARRIMAN, HATHAWAY, KIEFFER, LONGLEY, LORD, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BERUBE, BUSTIN, CAREY, CLEVELAND, GOLDTHWAIT, LAWRENCE, MCCORMICK, PINGREE, RAND

ABSENT: Senators: ESTY, HANLEY

Senator GOLDTHWAIT of Hancock requested and received Leave of the Senate to change her vote from YEA to NAY.

Senator LONGLEY of Waldo requested and received Leave of the Senate to change her vote from NAY to YEA.

24 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 2 Senators being absent, House Amendment "B" (H-274) to Committee Amendment "A" (H-251), ADOPTED, in concurrence.

Committee Amendment "A" (H-251), as Amended by House Amendment "B" (H-274), thereto, ADOPTED, in concurrence.

Which was PASSED TO BE ENGROSSED, As Amended, in concurrence.

Bill "An Act to Increase the Minimum Wage in Maine" H.P. 108 L.D. 143 (C "B" H-67)

Which was READ A SECOND TIME.

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

Bill "An Act to Authorize the Use of Loon Plates on Baxter State Park Authority Vehicles" (Emergency) H.P. 819 L.D. 1150 (C "A" H-259)

Which was READ A SECOND TIME.

On motion by Senator CARPENTER of York, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-259), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-175) to Committee Amendment "A" (H-259) READ and ADOPTED.

Committee Amendment "A" (H-259), as Amended by Senate Amendment "A" (S-175), thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

Bill "An Act to Repeal the Snack Tax" H.P. 144 L.D. 192 (C "A" H-208)

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

Sent down for concurrence.

Senate

Bill "An Act to Increase the Number of Primary Care Practitioners in the State" S.P. 119 L.D. 294

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

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

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

Sent down for concurrence.

Senate As Amended

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

Bill "An Act to Amend the Child Labor Laws to Allow Minors to Work in Hotels or Rooming Houses" S.P. 146 L.D. 332 (C "A" S-164)

Bill "An Act to Amend the Loring Development Authority Law"

S.P. 304 L.D. 843
(C "A" S-159)

Bill "An Act to Require Mortgage Insurers to Offer a Policy Following the Cancellation of an Original Policy"

S.P. 314 L.D. 895
(C "A" S-160)

Bill "An Act Regarding Liquor Licenses for Golf Courses"

S.P. 348 L.D. 976
(C "A" S-155)

Resolve, Requiring a Study of the State's Export Financing Services

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

Resolve, to Establish the Task Force to Study Environmental Regulation

S.P. 409 L.D. 1097
(C "A" S-169)

Bill "An Act to Provide Immunity for Clinicians Contracted by the State Forensic Service"

S.P. 413 L.D. 1136
(C "A" S-166)

Bill "An Act Concerning Employee Leasing Companies"

S.P. 418 L.D. 1141
(C "A" S-162)

Bill "An Act to Conform State Unemployment Compensation Laws to Federal Requirements"

S.P. 437 L.D. 1205
(C "A" S-163)

Bill "An Act to Improve Public Access to the Maine State Museum"

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

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

Sent down for concurrence.

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the first Tabled and Later Today Assigned (May 17, 1995) matter:

Bill "An Act to Include Short-term Health Insurance Policies in the Continuity Laws"
H.P. 321 L.D. 442
(H "A" H-161 to C
"A" H-124)

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

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

(In House, May 9, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-124) AS AMENDED BY HOUSE AMENDMENT "A" (H-161)**, thereto.)

(In Senate, May 17, 1995, **READ A SECOND TIME.**)

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

Senator **McCORMICK:** Thank you Mr. President. I would request a Division and just note, again for you, that if we pass this bill it will undermine the stability of our health insurance market, by allowing some insurers to sell policies that are outside of our insurance reform laws of guaranteed issuance, guaranteed renewal, and community rating. I think it will have a very deleterious effect. This bill is opposed by Health Source, one of the new managed care entities in Maine. Blue Cross/Blue Shield is not pleased with the amendment that the House put on. I would urge you to vote against this bill.

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

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

Senator **ABROMSON:** Thank you Mr. President. As the good Senator from York, Senator Hathaway, said last night in quoting a former President of the United States, "There she goes again." This has been in front of this body a number of times. All I can say is it is time that we pass it.

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

A Division has been requested.

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

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

17 Senators having voted in the affirmative and 10 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

The Chair laid before the Senate the second Tabled and Specially Assigned (May 18, 1995) matter:

Bill "An Act to Amend the Maine State Retirement System Laws to Authorize the Buy-back of Time Served in the Peace Corps or VISTA Programs"
S.P. 260 L.D. 696
(C "A" S-82)

Tabled - May 17, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **FURTHER CONSIDERATION**

(In Senate, April 27, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-82).**)

(In House, May 11, 1995, Bill and Accompanying Papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

Senator **AMERO** of Cumberland moved that the Senate **RECEDE** and **CONCUR**.

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

Senator **MICHAUD:** Thank you Mr. President. I request a Division. I hope you will not vote to Recede and Concur, so we can Insist. This bill came out of Committee, nine to four. It's very limited. It treats the Peace Corps people the same as it does the military people, with one exception, the military people can buy back four years, this bill limits the Peace Corps personnel to a two-year limit.

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

THE PRESIDENT: The pending question before the Senate in the motion of Senator **AMERO** of Cumberland that the Senate **RECEDE** and **CONCUR**.

A Division has been requested.

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

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

12 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion of Senator **AMERO** of Cumberland to **RECEDE** and **CONCUR**, **FAILED**.

The Senate **INSISTED**.

Sent down for concurrence.

The Chair laid before the Senate the third Tabled and Specially Assigned (May 18, 1995) matter:

An Act to Change the Commissions Payable to the State from Off-track Betting

S.P. 240 L.D. 637
(C "A" S-95)

Tabled - May 17, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENACTED**.

(In House, May 16, 1995, **PASSED TO BE ENACTED**.)

On motion by Senator **MICHAUD** of Penobscot, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED, As Amended**.

On further motion by the same Senator, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-95).

On further motion by the same Senator, Senate Amendment "A" (S-156) to Committee Amendment "A" (S-95) **READ**.

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

Senator **MICHAUD:** Thank you Mr. President, Men and Women of the Senate. This Senate Amendment takes care of the fiscal note from the General Fund, so there will be no loss to the General Fund. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-156) to Committee Amendment "A" (S-95) **ADOPTED**.

Committee Amendment "A" (S-95), as Amended by Senate Amendment "A" (S-156), thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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

The Chair laid before the Senate the fourth Tabled and Specially Assigned (May 18, 1995) matter:

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

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

Tabled - May 17, 1995 by Senator KIEFFER of Aroostook.

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

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

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

The Chair laid before the Senate the fifth Tabled and Later Today Assigned (May 23, 1995) matter:

HOUSE REPORTS from the Committee on LABOR on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months"

H.P. 263 L.D. 365

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-189)** (5 members)

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

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

(In House, May 16, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-189)**.)

(In Senate, May 17, 1995, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 18, 1995, that Body **ADHERED**.)

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

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

The Chair ordered a Division.

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

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

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

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

The Chair laid before the Senate the sixth Tabled and Later Today Assigned (May 23, 1995) matter:

HOUSE REPORTS from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Allow Election Officials to Request Identification from Prospective Voters"

H.P. 251 L.D. 353

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-43)** (11 members)

Minority - **Ought Not to Pass** (1 member)

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

Pending - the motion by Senator FERGUSON of Oxford to **RECEDE AND CONCUR**. (Roll Call ordered.)

(In House, May 11, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-43)**.)

(In Senate, May 16, 1995, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 17, 1995, that Body **ADHERED**.)

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

Senator **LAWRENCE**: Thank you Mr. President, Men and Women of the Senate. I hope you will vote against the motion to Recede and Concur, so we can go on to give this bill a quiet death. For a reminder, this is the bill that would require individuals to have an I.D. card with them when they go and vote if they don't want their vote to be challenged and set aside. It's a bad idea. I think it will put a chilling effect on people's right to go in and vote and I hope we defeat this motion.

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

Senator **RAND**: Thank you Mr. President, Men and Women of the Senate. I hope you will go along with the Minority Leader's suggestion to defeat this bill. It is a totally unnecessary piece of legislation. There is nothing that prevents a warden, or poll watchers, or other people at the polls, to challenge a ballot. If someone who is working at the polls sees somebody come to vote that they believe does not belong there, and should be voting in the next town or maybe isn't even a resident of the State of Maine, they have the right, right now, to challenge that ballot. All this bill does is make it mandatory for U.S. citizens to carry I.D. cards when they go to the polls. It's a very bad idea and totally unnecessary. There is absolutely nothing in the law, in fact I believe when we were discussing this bill before we had a list of the things that wardens, and people working at the polls can do, one of them is to say, "I'm sorry, I don't believe that you should be voting here. I'm going to challenge your ballot." That can be done now, today, we don't need this law. All we would be doing would be requiring good citizens of this State to have an I.D. on them, that smacks of something that I don't care for, something that happened in Germany under the Nazis. I don't like this I.D. business at all. If it were impossible for a ballot to be challenged, maybe I could give a little here, but it isn't. There is absolutely no need for this legislation. Thank you.

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

Senator **HARRIMAN**: Thank you Mr. President. Good morning Ladies and Gentlemen of the Senate. I wonder if I might pose a question through the Chair. I was of the impression that this bill would require someone to produce identification when they came to register to vote, not when they came to the polling place to vote. Am I correct or in error?

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

Senator **FERGUSON**: This would be when you are voting, Senator Harriman. I take strong exception to what was said here. We are not reverting back to Nazi Germany or anything like that. This is a very simple compromise that tried to accommodate the people who were against same-day registration. If anything, what it does is make the laws more liberal and replaces a State identification, that could be

required by a warden, if you are voting. You could have a credit card, or anything that is acceptable to the warden, to vote. If you happen to be out jogging and you run by the polls and you decide that you want to vote and you have no identification with you, you may still vote a challenged ballot, which would be counted and only used in the event of a recount. I would hope that we could pass this legislation. Thank you very much.

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

Senator **MILLS**: Thank you Mr. President, Men and Women of the Senate. Just to lay a further elaboration on the answer, there is in existing law a fairly elaborate set of procedures that are followed to make sure that identity is appropriate during the registration process. There are seven or eight different forms of identification that are suggested in the statute that might be acceptable to the clerk who is registering the voter, a license, library card, I don't know if that's in the statute, certificate of birth, any indication that you live in the community and that you are who you are. Obviously there is no standard method of doing so. I think a social security card is listed. Once the registration process is complete, then the attendance at the poll, the question on the floor really, is what do we require of someone who comes in to vote. That's really the issue.

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

Senator **CASSIDY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't want to belabor this whole discussion, and I remember a few weeks ago we went over and over this particular bill, but my opposition to this bill is that we do have to show identification when we do register to vote. Presently, when we go in to vote, we have to state our name, and the clerk verifies that that's my name and that I am registered, I go in and I vote, when I leave the ballot booth to go deposit my ballot in the ballot box I have to state my name again, and that clerk will check me off as well. This bill doesn't do a whole lot to improve the present situation. I, too, was in favor of prohibiting registration on the day of elections. I think that causes a lot of problems. That bill went through here and got defeated. This bill isn't going to do anything to help that and I'm still going to vote the way I did originally on this bill. I think it's a bill that the State of Maine doesn't need. Thank you.

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

Senator **ABROMSON**: Thank you Mr. President, Men and Women of the Senate. I wish to associate myself with the remarks of the good Senator from Cumberland, Senator Rand, with respect to the necessity of this bill. I do, however, wish to disassociate myself from her remarks regarding smacking of Nazism. There are many, many democracies throughout this world who require identification cards. I don't think that that's the issue.

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

Senator **O'DEA**: Thank you very much Mr. President, Men and Women of the Senate. This bill is one that we have seen, in one form or another, for a number of sessions. It's one that we ought to send packing one more time. There was a time in Orono, about twenty years ago, where we had some local election officials who decided that they weren't going to allow some people to vote. Those people were college students, people who were enrolled at the University. They went through half the day, not allowing students to vote. It wasn't until the Department of Justice sent Federal Marshalls to Orono that the ballot was finally made accessible to those citizens who were registered, legally and lawfully, and who wanted to vote. They were the victims of an arbitrary act of discrimination by local election officials. I look at local election officials, and I have had a considerable amount of experience with a great many of them, and I find most all of them to be professional, courteous, and helpful. At the same time, I think it's important that we understand that our larger obligation is to our constituents, to the voters, and not to those municipal officials who may be troubled with things like same-day registration. With regard to the comments made by the representative from Washington County, regarding same-day registration, I would tell you, and again to the comments made by the Senator from Oxford, that I have no desire to accommodate those people who wish to do away with same-day registration. I have no desire at all to find some middle ground to accommodate their concerns. We have had same-day registration in this State, we are a model, we are one of a few states that has it, and I think it's a good thing. It keeps people active and involved in the process. Right now, the limit for outside registrations is a week, if someone chooses not to register at the town office, if they register on the green card, they have to do so a certain amount of time before an election. I think it's important that we provide access to the ballot on election day, and we do so without putting onerous provisions in the law that will allow arbitrary discrimination against our constituents. I would just urge you to please not pass this bill and make our access to the ballot more restricted. Thank you.

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

Senator **LAWRENCE**: Thank you Mr. President. Just to correct an error in the debate, I believe the Senator from Oxford, Senator Ferguson, said that a credit card could be used as identification. I don't know if it was his intent, or not, to say that, but under this law there are only two forms of I.D. that you can use, a driver's license or a State identification card. That's a specific type of card in State law. Thank you.

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

Senator **FERGUSON**: The good Senator from York, Senator Lawrence, is mistaken. If he would look at the bill it says, "An identification card as provided under Title 5, section 88A," which would be a state identification card or a driver's license, "and insert in its place the following: other

identification acceptable to the election official." That would be a judgement call by the election official. It could be anything that would satisfy that official. Thank you.

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

Senator **MICHAUD**: Thank you Mr. President, Men and Women of the Senate. I hope you would vote against the pending motion. We had testimony, in Committee, and a written letter from the Clerk's Association, who oppose this bill. I'll restate their reasoning, not in its entirety because it is quite lengthy, but the Clerks oppose it. This is from Linda Cohen, of South Portland, and I quote, "I feel it openly invites discrimination against the homeless, special interest groups and other officials who may wish to harrass. I would like to think that all elected officials have no prejustice or bias, but personal experience has taught me otherwise. In larger communities, more often than not, the officials do not recognize the voter. We currently have in place the ability to challenge voters." So, I believe this bill is not necessary and hopefully we will kill the bill. Thank you Mr. President.

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

Senator **MCCORMICK**: Thank you Mr. President. I would just like to point out, and please correct me if I am wrong, but as I read this, and I have studied it, that although these criteria, that are in House Amendment 43, are the criteria that the warden uses to judge whether a person should be challenged or not, whether a challenge should be accepted or not, this bill says that anyone can challenge a person and ask for their I.D. That is inviting trouble, because there are many special interests, I can think of quite a few, who have an interest in an election coming up in the fall, who could wholesalely challenge people who look different, and thereby deny them their right to vote.

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

Senator **RAND**: Thank you Mr. President, Men and Women of the Senate. I wish to apologize to the good Senator from Oxford, Senator Ferguson. I did not mean my remarks to be placed upon him, or any of the Committee members who worked this bill, in a personal fashion. My opposition to this bill is that it produces a means to harrass different types of people when they go to the polls to exercise their right to vote. This has happened in other states and has decreased the numbers of minorities in certain areas from accessing their rights to vote. My reference to Nazi Germany, I think I have to stand by it, and I do. When the problems started in Germany, they didn't start off in the big horrible fashion in which they ended up. It started out with little bits and pieces of taking away of people's rights, or of making people stand out and appear different. I would hate to think that we would pass a law in this State that would allow people, not of goodwill, to be able to have that affect on people who go to the polls to vote. Thank you.

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

Senator **FERGUSON:** Thank you Mr. President. I must correct the statement made by the good Senator from Kennebec, Senator McCormick. I have the bill before me. It says, "Only the following reasons for challenges may be accepted by the warden: The challenged person," and then there are ten reasons, which I am not going to go into and read. We added a 10A. So really the warden is the one who will be doing the challenging, and if someone is there making a nuisance of themselves, it certainly is up to the warden to correct them and not continue challenging people, if that was the intent of an individual. I do accept the apologies of the good Senator from Cumberland. She made some good points and I would hope that the Senate would vote affirmatively on my motion. Thank you very much.

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

Senator **LONGLEY:** Thank you Mr. President, Colleagues of the Senate. The amendment, as written, the part that is written on the law is an excerpt. The provision begins in the law book, "A voter of any municipality may challenge the right of another to vote at any election in that municipality." That hasn't been repealed. That's a legal note. On a historical note, this, for me, reminds me of property poll taxes in the south and illiteracy tests. I see it as just one way to get someone you don't like mad and hint that they might not be wanted at the polls. I think we want to encourage voting, not discourage voting. Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **AMERO, BEGLEY, BENOIT, CARPENTER, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, KIEFFER, LORD, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **ABROMSON, BERUBE, BUSTIN, CAREY, CASSIDY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, HATHAWAY, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN**

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

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator **FERGUSON** of Oxford to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **CAREY** of Kennebec, the Senate **ADHERED**.

On further motion by the same Senator, ordered sent forthwith.

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

The Chair laid before the Senate the seventh Tabled and Later Today Assigned (May 23, 1995) matter:

Bill "An Act to Update and Clarify the Corporate Laws" S.P. 571 L.D. 1545

Tabled - earlier in the day by Senator **AMERO** of Cumberland.

Pending - **REFERENCE**.

(Reference to the Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.)

Which was **REFERRED** to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Sent down for concurrence.

The Chair laid before the Senate the eighth Tabled and Later Today Assigned (May 23, 1995) matter:

Bill "An Act to Avoid a Shortfall in the Maine Ground Water Oil Clean-up Fund and Amend the Financial Assistance Program for Owners of Underground Oil Storage Facilities" (Emergency) S.P. 569 L.D. 1543

Tabled - earlier in the day by Senator **AMERO** of Cumberland.

Pending - **REFERENCE**.

(Reference to the Committee on **NATURAL RESOURCES** suggested and **ORDERED PRINTED**.)

On motion by Senator **RUHLIN** of Penobscot, **INDEFINITELY POSTPONED**.

Sent down for concurrence.

The Chair laid before the Senate the ninth Tabled and Later Today Assigned (May 23, 1995) matter:

HOUSE REPORT from the Committee on **TAXATION** on Bill "An Act to Fund Drug Abuse Resistance Education (DARE) by Increasing the Tobacco Tax by 1.5 Mills"
H.P. 1007 L.D. 1418

Report - **REFER** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

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

Pending - **ACCEPTANCE OF THE REPORT**, in concurrence.

(In House, May 18, 1995, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.)

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

Senator **KIEFFER** of Aroostook moved the **INDEFINITE POSTPONEMENT** of the Bill and Accompanying Papers.

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

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

Senator **RAND:** Thank you Mr. President. May I pose a question through the Chair? Could I please have a brief description of what this bill does?

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I will try to answer the question of the good Senator from Cumberland, Senator Rand. This bill came before the Taxation Committee. It was the unanimous feeling of the Committee that we did not want to raise any taxes, or raise the tobacco tax. However, we thought that perhaps the DARE program that was presented to us was a good cause. However, they seemed to have some problems as to how they were going to get

funding so what we did was just make a suggestion that perhaps we could send it to Appropriations without the new tax applied to it in hopes of just keeping it alive a little bit longer. I think the Committee was unanimous in feeling that their efforts were good but that we just weren't able to help them. Thank you.

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

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. That's exactly what I understand is wanted by this bill, and that is why I would like a Division, because I understand that the DARE program needs this money in order to do the kind of prevention work that we all try to do, and we all advocate, and we all mouth that we want to do, in order to avoid raising children without this kind of prevention, who may or may not, in fact, without the kind of work that would be done with this money, may enter the criminal justice system itself. This is one of those prevention bills. Prevention is not the most popular idea on the sidewalk these days but prevention is what works. This is prevention monies and all these people are asking for is to allow this bill to go to Appropriations so they have a chance to make their case before the Appropriations Committee. That is all they are asking for. Indefinite Postponement of this bill does not allow that conversation to take place.

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. I would disagree with the good Senator from Kennebec. The discussion could still continue, and if the good Senator has other areas of the budget that she would like to see cut, in order to have this funded, we would be more than happy, the budget has not been reported out yet, we would be more than happy to consider any of those changes.

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

Senator **BUSTIN:** I thank the good Senator from Oxford, Senator Hanley. I request that the President instruct the members that when they are speaking on the floor, they speak in general and not to particular people.

THE PRESIDENT: The Chair would remind the body to keep their comments directed at the issues and not the motives or personalities of the members of the body. The pending question before the Senate is the motion by Senator **KIEFFER** of Aroostook to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers in **NON-CONCURRENCE**.

A Division has been requested.

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

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

22 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator KIEFFER of Aroostook to INDEFINITELY POSTPONE the Bill and Accompanying Papers in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

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

SENATE REPORTS from the Committee on TRANSPORTATION on Bill "An Act to Broaden the Scope of the Farm Registration Laws to Include Farm Woodland Trucks"

S.P. 243 L.D. 640

Majority - Ought Not to Pass (11 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-170) (2 members)

Tabled - May 23, 1995, by Senator LAWRENCE of York.

Pending - ACCEPTANCE OF EITHER REPORT.

(In Senate, May 23, 1995, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED. Subsequently RECONSIDERED.)

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

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

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

H.P. 17 L.D. 11

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

Minority - Ought Not to Pass (3 members)

Tabled - May 23, 1995, by Senator HATHAWAY of York.

Pending - ACCEPTANCE OF EITHER REPORT.

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

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

On motion by Senator HATHAWAY of York, Tabled 1 Legislative Day, pending ACCEPTANCE of Either Report.

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

SENATE REPORTS from the Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Amend Real Estate Appraisal Licensing and Certification Laws"

S.P. 168 L.D. 429

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-158) (9 members)

Minority - Ought Not to Pass (4 members)

Tabled - May 23, 1995, by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE of the Majority Report. (Roll Call ordered)

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

THE PRESIDENT: The pending question before the Senate is ACCEPTANCE of the Majority OUGHT TO PASS AS AMENDED Report.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAYS: Senators: BUSTIN, CLEVELAND, FAIRCLOTH, LONGLEY

ABSENT: Senator: PINGREE

30 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 1 Senator being absent, **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-158) **READ** and **ADOPTED**.

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

Off Record Remarks

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

SENATE REPORTS from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Require That a Vacancy in a County Office Be Filled by an Appointee from the Same Political Party" S.P. 390 L.D. 1067

Majority - **Ought to Pass** (10 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - May 23, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT**

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

Senator **FERGUSON** of Oxford moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

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

Senator **STEVENS:** When I look at an L.D. I ask myself, "Will this law improve government and benefit the people?" As the law reads today, 100% of your constituents have a chance, if a situation arises, to fill an office in county government. This being a twelve to one report, you can see I'm out on the other side of the fence a little bit. If this bill passes, instead of 100% you will be eliminating 70% of the people. So only about 30% would be eligible for an appointment. I would like to make a motion that L.D. 1067, and all of its accompanying papers, be Indefinitely Postponed, and I ask for a Roll Call.

Senator **STEVENS** of Androscoggin moved the **INDEFINITE POSTPONEMENT** of the Bill and Accompanying Papers.

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

THE PRESIDENT: The Chair would like to correct the Senator from Androscoggin, Senator Stevens. The Committee Report was ten members ought to pass, and one member ought not to pass. The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you very much Mr. President, Ladies and Gentlemen of the Senate. This is a piece of legislation that I introduced myself. Currently, County Commissioners have to be replaced with people of the same political party, also, District Attorneys. What this bill would do would include the other county officers; the Sheriff, the Register of Deeds, the Register of Probate, the Judge of Probate, and the County Treasurer. As many of you know, for several years, I was a County Commissioner in Oxford County and it always griped me when we had party people who worked hard to elect an individual, and for some reason or other that office was vacated, and the Governor may have been, or was always, of the opposite political party, and turned around and filled that position with someone from his party. If you had a Democratic Governor, he always chose Democratic people to fill these positions, in almost 100% of the cases. The same with a Republican Governor. It was something that always griped me, and I thought if I had an opportunity to correct it, I would try to do that. This is an opportune time, we have a House that is controlled by the Democratic Party, the Senate is controlled by the Republican Party, although very, very slim, and we have an Independent Governor. If we are ever going to do this, this is the opportune time to do it. I don't want to belabor this but I would hope that you would vote against the good Senator's motion from Androscoggin County. Thank you.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, FAIRCLOTH, GOLDTHWAIT, HATHAWAY, LONGLEY, PARADIS, PINGREE, RUHLIN, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: AMERO, BEGLEY, BENOIT, BERUBE,
BUSTIN, CASSIDY, ESTY, FERGUSON,
HALL, HANLEY, HARRIMAN, KIEFFER,
LAWRENCE, LORD, McCORMICK,
MICHAUD, MILLS, O'DEA,
PENDEXTER, RAND, SMALL

Senator **BUSTIN** of Kennebec requested and received Leave of the Senate to change her vote from **YEA** to **NAY**.

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion of Senator **STEVENS** of Androscoggin to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **FAILED**.

On motion by Senator **FERGUSON** of Oxford, the Senate **ACCEPTED** the Majority **OUGHT TO PASS** Report.

The Bill **READ ONCE**.

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

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

SENATE REPORTS from the Committee on **LABOR** on Bill "An Act to Authorize Municipalities to Pay Employees Biweekly"

S.P. 259 L.D. 695

Majority - **Ought to Pass** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - May 23, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT**

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

Senator **BEGLEY** of Lincoln moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

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

Senator **AMERO:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I hope you will vote with the pending motion which is permissive legislation, which allows municipalities to pay their employees bi-weekly, just as school districts now can, and just as State government now does. This is one small tool to allow our municipalities to keep their expenses under control and to help with the difficulties that all of our communities are having with property taxes. I hope that you will look favorably upon this motion. Like I said, it is permissive legislation. Communities do not have to

do it if they don't want to, they can continue to pay their people weekly. But, there is a savings here that can be realized. In communities of 8,000 people, Maine Municipal has estimated that they could save \$20,000 in one fiscal year, which could be one person's salary.

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

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. When I read a "shall" in a law it doesn't sound terribly permissive to me, number one. Number two, again, we are interfering with collective bargaining. The law, as it has read, and the line that is being struck out, if anyone cared to get that particular bill, L.D. 695, is that every town, the line that is being struck out, is that every town shall so pay each employee in its business if so required by the employee. Which means that if an employee wants to get paid, as the Federal Labor Standards Act requires, get paid when they do their work, that they get paid every week. Now contracts can negotiate different payments than that, but again you are taking away another bargaining chip for collective bargaining. If you go with this bill what you are really wanting to do is to keep striking down collective bargaining. You have done it again and again and again and this is another blow to that. The law that is wanted to be put in that has been said is permissive is this, "Municipalities shall pay their employees at least once every two weeks, unless the employee agrees to be paid under a less frequent pay schedule." Now I don't know what that says to you, but it says to me that management makes the decision about how you are going to pay, and that they shall pay bi-weekly unless the employee agrees to be paid less than that. The law currently states that they, in fact, be paid weekly unless negotiated otherwise. Thank you.

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

Senator **GOLDTHWAIT:** Thank you Mr. President, Ladies and Gentlemen of the Senate. My understanding of that language is that it is permissive. It says that municipalities shall pay their employees at least once every two weeks. It doesn't say that they can't pay them more frequently, it simply says that they must pay them at least every two weeks, so that by whatever arrangement, be it request of an employees or a union negotiation, the municipality would still have the latitude to pay more frequently, but they must pay at least every two weeks. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BEGLEY** of Lincoln that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

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

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

23 Senators having voted in the affirmative and
12 Senators having voted in the negative, the motion
by Senator BEGLEY of Lincoln to ACCEPT the Majority
OUGHT TO PASS Report, PREVAILED.

The Bill READ ONCE.
The Bill TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

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

Bill "An Act to Clarify the Responsibility of an
Insurance Agent in the Disclosure of Information"
H.P. 788 L.D. 1105
(S "A" S-157 to C
"A" H-252)

Tabled - May 23, 1995, by Senator KIEFFER of
Aroostook.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED BY
COMMITTEE AMENDMENT "A" (H-252) AS AMENDED BY SENATE
AMENDMENT "A" (S-157), thereto, in NON-CONCURRENCE.

(In House, May 17, 1995, PASSED TO BE ENGROSSED
AS AMENDED BY COMMITTEE AMENDMENT "A" (H-252).)

(In Senate, May 23, 1995, READ A SECOND TIME.)

On motion by Senator AMERO of Cumberland, Tabled
until Later in Today's Session, pending PASSAGE TO BE
ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"
(H-252) AS AMENDED BY SENATE AMENDMENT "A" (S-157),
thereto, in NON-CONCURRENCE.

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

Bill "An Act to Amend the Maine Tree Growth Tax
Law"

S.P. 64 L.D. 93
(C "A" S-153)

Tabled - May 23, 1995, by Senator LORD of York.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED BY
COMMITTEE AMENDMENT "A" (S-153).

(In Senate, May 23, 1995, READ A SECOND TIME.)

On motion by Senator LORD of York, the Senate
SUSPENDED THE RULES for the purpose of
RECONSIDERATION.

On further motion by the same Senator, the Senate
RECONSIDERED its action whereby it ADOPTED Committee
Amendment "A" (S-153).

On further motion by the same Senator, Senate
Amendment "A" (S-176) to Committee Amendment "A"
(S-153) READ.

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

Senator LORD: Thank you Mr. President, my
Learned Colleagues. What this amendment does is
allow a landowner to prepare his plan, as well as
consulting a forester. It has to be presented to the
Department of Conservation, the Bureau of Forestry,
for acceptance.

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

Senator CAREY: Thank you Mr. President. This is
quite a departure from what the Commission did on the
tree growth study and what the Committee on Taxation
did. I would hope that somebody could table this so
that we could take it up this afternoon at the
Taxation Committee.

On motion by Senator KIEFFER of Aroostook, Tabled
until Later in Today's Session, pending the motion by
Senator LORD of York to ADOPT Senate Amendment "A"
(S-176) to Committee Amendment "A" (S-153).

Off Record Remarks

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

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

Which was referred to the Committee on **LEGAL AND VETERANS AFFAIRS**, in concurrence.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Provide Administrative Clarification within the Maine Insurance Code"
H.P. 1100 L.D. 1547

Bill "An Act to Clarify and Amend Provisions of the Maine Insurance Code and the Workers' Compensation Self-insurance" (Emergency)
H.P. 1101 L.D. 1548

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

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

Which were referred to the Committee on **BANKING AND INSURANCE**, in concurrence.

Bill "An Act to Create Uniformity in Laws Governing Various Professional Licensing Boards and Commissions"
H.P. 1102 L.D. 1549

Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.

Bill "An Act to Expedite the Appeal Process in the Case of a Writ of Possession"
H.P. 1099 L.D. 1546

Reference to the Committee on **LEGAL AND VETERANS AFFAIRS** suggested and **ORDERED PRINTED**.

ENACTORS

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

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

An Act Concerning Grandparents' Rights of Visitation and Custody
H.P. 364 L.D. 484
C "A" (H-210)

An Act to Ensure Children's Rights Concerning Visitation and Access
H.P. 341 L.D. 461
C "A" (H-211)

An Act to Amend the Toxics in Packaging Law
H.P. 766 L.D. 1040
C "A" (H-234)

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

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

Bill "An Act to Clarify the Responsibility of an Insurance Agent in the Disclosure of Information"
H.P. 788 L.D. 1105
(S "A" S-157 to C "A" H-252)

Tabled - earlier in the day by Senator **AMERO** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-252) AS AMENDED BY SENATE AMENDMENT "A" (S-157)**, thereto in **NON-CONCURRENCE**.

(In House, May 17, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-252)**.)

(In Senate, May 23, 1995, READ A SECOND TIME.)

On motion by Senator ABROMSON of Cumberland, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-252) as Amended by Senate Amendment "A" (S-157), thereto in **NON-CONCURRENCE**.

On further motion by the same Senator, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Senate Amendment "A" (S-157) to Committee Amendment "A" (H-252).

On further motion by the same Senator, Senate Amendment "A" (S-157) to Committee Amendment "A" (H-252) **INDEFINITELY POSTPONED**.

On further motion by the same Senator, Senate Amendment "B" (S-177) to Committee Amendment "A" (H-252) **READ** and **ADOPTED**.

Committee Amendment "A" (H-252) as Amended by Senate Amendment "B" (S-177), thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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

Off Record Remarks

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

COMMITTEE REPORTS

Senate

Committee of Conference

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature Following Redistricting in the Year 2003
S.P. 170 L.D. 431

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

Signed on the part of the Senate:

Senator RUHLIN of Penobscot
Senator AMERO of Cumberland
Senator CARPENTER of York

Signed on the part of the House:

Representative DAGGETT of Augusta
Representative SAXL of Bangor
Representative ROBICHAUD of Caribou

Which Report was **READ**.

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

Senator HANLEY: Thank you Mr. President. I request permission to pose a question through the Chair. To any member on the part of the Senate on the Committee of Conference as to how the deliberations went. Were we close on agreement? Was there just a few points that needed to be rendered? I would just like an update as far as how the Committee of Conference went.

THE PRESIDENT: The Senator from Oxford, Senator Hanley, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator RUHLIN: Thank you Mr. President. Would the good Senator from Oxford please repeat his questions?

THE PRESIDENT: The Chair thinks that the Chair can restate the question adequately enough. The Senator from Oxford, Senator Hanley, was wondering if there was any movement on this issue?

Senator RUHLIN: There was no movement at all. We did meet with members of the other body. The other body was not interested in making any compromise or discussing any opportunities for coming together.

Which Report was **ACCEPTED**.

Sent down for concurrence.

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

On motion by Senator **LAMRENCE** of York, **ADJOURNED** until Thursday, May 25, 1995, at 9:30 o'clock in the morning.