

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

Volume 2

First Special Session (Continued)
May 20, 1997 to June 20, 1997

First Confirmation Session
October 6, 1997

Second Regular Session
January 7, 1998 to March 24, 1998

Pages 981 - 1977

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
FIRST SPECIAL SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Tuesday
May 27, 1997

Senate Called to Order by the President, Mark W. Lawrence of York.

Prayer by Reverend David Wood of the United Baptist Church of Lewiston.

REVEREND DAVID WOOD: Please pray with me. Gracious God, may our gathering and deliberations in this time and place resonate with justice, resound with hope, and be sustained by peace. May our deliberations be characterized by vigorous engagement for the common good and not by a careless acquiescence to the status quo. Keep us, we pray, from being hemmed in by the past and its permanency. Keep us from being overwhelmed by the present and its urgency. Keep us from being wary of the future and its uncertainty. Rather, grant to us, we pray, a sense of the past that reminds us that we are called not to be inventors, but innovators. Grant to us a perception of the present that is honed by hindsight and focused by foresight. And grant to us an engagement with the future that is inspired by a hopeful and playful imagination. And most of all, good Lord, we pray that there would be among us a generosity of spirit that binds us together with graceful speech, attentive listening and respectful deliberation. This is our prayer. Amen.

Doctor of the Day, Kenneth H. Johnson, D.O., Stillwater.

Pledge of Allegiance led by Senator Stephen Hall of Piscataquis.

Reading of the Journal of Friday, May 23, 1997.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 322

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333**

May 23, 1997

Honorable Joy J. O'Brien
Secretary of the Senate
118th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to insist on its former action whereby it accepted the Majority "Ought Not to Pass" Report of the Committee on Banking and Insurance and asked for a Committee of Conference on Bill "An Act to Provide Health Insurance Coverage for Prostate Cancer Screening" (S.P. 320) (L.D. 1060)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 323

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

May 23, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on State and Local Government has had under consideration the nomination of James M. Connellan of Brunswick, for appointment to the Civil Service Appeals Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators	2 Nutting of Androscoggin, Goldthwait of Hancock
Representatives	6 Ahearne of Madawaska, Dutremble of Biddeford, Bagley of Machias, Gieringer of Portland, Bumps of China, Kasprzak of Newport
NAYS:	0
ABSENT:	5 Sen. Libby of York, Rep. Lemke of Westbrook, Rep. Sanborn of Alton, Rep. Fisk of Falmouth, Rep. Gerry of Auburn

LEGISLATIVE RECORD - SENATE, MAY 27, 1997

Eight members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of James M. Connellan of Brunswick, for appointment to the Civil Service Appeals Board be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/Douglas J. Ahearne
House Chair

Which was READ and ORDERED PLACED ON FILE.

On motion by Senator PINGREE of Knox, NOMINATION, TABLED until Later in Today's Session, pending CONSIDERATION.

The Following Communication: S.C. 324

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT

May 23, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on State and Local Government has had under consideration the nomination of Linda D. McGill of Freeport, for appointment to the Civil Service Appeals Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators	2 Nutting of Androscoggin, Goldthwait of Hancock
Representatives	6 Ahearne of Madawaska, Dutremble of Biddeford, Bagley of Machias, Gieringer of Portland, Bumps of China, Kasprzak of Newport
NAYS:	0
ABSENT:	5 Sen. Libby of York, Rep. Lemke of Westbrook, Rep. Sanborn of Alton, Rep. Fisk of Falmouth, Rep. Gerry of Auburn

Eight members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Linda D. McGill of Freeport, for appointment to the Civil Service Appeals Board be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/Douglas J. Ahearne
House Chair

Which was READ and ORDERED PLACED ON FILE.

On motion by Senator PINGREE of Knox, NOMINATION, TABLED until Later in Today's Session, pending CONSIDERATION.

The Following Communication: S.C. 325

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT

May 23, 1997

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on State and Local Government has had under consideration the nomination of Dolores F. Starbird of Sangerville, for reappointment to the Civil Service Appeals Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators	2 Nutting of Androscoggin, Goldthwait of Hancock
Representatives	6 Ahearne of Madawaska, Dutremble of Biddeford, Bagley of Machias, Gieringer of Portland, Bumps of China, Kasprzak of Newport
NAYS:	0
ABSENT:	5 Sen. Libby of York, Rep. Lemke of Westbrook, Rep. Sanborn of Alton, Rep. Fisk of Falmouth, Rep. Gerry of Auburn

Eight members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Dolores F. Starbird of Sangerville, for reappointment to the Civil Service Appeals Board be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/Douglas J. Ahearn
House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

On motion by Senator **PINGREE** of Knox, **NOMINATION, TABLED** until Later in Today's Session, pending **CONSIDERATION**.

SECOND READERS

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

House As Amended

Bill "An Act to Encourage Art Education in the State"
H.P. 29 L.D. 54
(C "A" H-349)

Bill "An Act to Clarify and Amend the Storm Water Management Laws, the Erosion and Sedimentation Control Laws, and the Site Location of Development Laws" (Emergency)
H.P. 1126 L.D. 1582
(C "A" H-643)

Bill "An Act to Prohibit Towns from Cancelling Health Insurance Provided to Retired Employees"
H.P. 1140 L.D. 1605
(C "A" H-497)

Bill "An Act to Make Maine Health Insurance Laws Consistent with Federal Laws" (Emergency)
H.P. 1278 L.D. 1808
(C "A" H-610)

Bill "An Act to Authorize Hancock County to Hold a Referendum Election in November 1997 on a Bond Issue of \$6,000,000 to Construct a New Jail and to Provide Necessary Renovations to the Courthouse to Comply with State Mandates" (Emergency)
H.P. 1312 L.D. 1860
(C "A" H-586)

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

Senate As Amended

Bill "An Act to Authorize the Appleton, Camden, Hope, Lincolnville and Rockport Community School District to Construct School Facilities" (Emergency)
S.P. 532 L.D. 1637
(C "A" S-328)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Address Federal and State Accessibility and Public Safety Issues" S.P. 612 L.D. 1813
(C "A" S-329)

Bill "An Act to Authorize the Public Utilities Commission to Establish Reasonable Registration and Reporting Requirements and to Study Market Power Issues Associated with Electric Industry Restructuring" (Emergency) S.P. 649 L.D. 1871
(C "A" S-327)

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

Sent down for concurrence.

Bill "An Act to Establish the Maine Center for Arts Education" S.P. 388 L.D. 1273
(C "A" S-310)

Which was **READ A SECOND TIME**.

On motion by Senator **CATHCART** of Penobscot, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED, As Amended**.

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding the Economic Security and Safety of Harness Horsepersons" H.P. 1239 L.D. 1756

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-563)**.

Signed:

Senators:
CAREY of Kennebec
FERGUSON, JR. of Oxford

Representatives:
CHIZMAR of Lisbon
FISHER of Brewer
GAGNE of Buckfield
TRUE of Fryeburg
LABRECQUE of Gorham
BIGL of Bucksport

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

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

TUTTLE, JR. of Sanford
GAMACHE of Lewiston
TESSIER of Fairfield
BELANGER of Wallagrass

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**. Committee Amendment "A" (H-563) **READ** and **INDEFINITELY POSTPONED**. House Amendment "A" (H-683) **READ** and **ADOPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-683)**.

Which Reports were **READ**.

On motion by Senator **DAGGETT** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-563) **READ**.

On motion by Senator **PINGREE** of Knox, Committee Amendment "A" (H-563) **INDEFINITELY POSTPONED**, in concurrence.

House Amendment "A" (H-683) **READ** and **ADOPTED**, in concurrence.

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

Off Record Remarks

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Victims' Rights Laws" H.P. 879 L.D. 1196

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-691)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-691)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-691) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Combine the Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services" H.P. 664 L.D. 917

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-685)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-685)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-685) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Establish the Uniform Unclaimed Property Act" H.P. 1116 L.D. 1559

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-682).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-682).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-682) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Protect Victims of Domestic Violence" H.P. 1317 L.D. 1867

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-687).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-687).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-687) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Implement the Recommendations of the Harness Racing Task Force" H.P. 1318 L.D. 1868

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-690).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-690).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-690) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act to Encourage the Use of Motor Vehicles That Use Alternative Sources of Fuel for the Purpose of Reducing Air Pollution" H.P. 300 L.D. 364

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-680).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-680).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-680) **READ** and **ADOPTED**, in concurrence.

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

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

SECOND READERS

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

House As Amended

Bill "An Act Regarding the Economic Security and Safety of Harness Horsepersons" H.P. 1239 L.D. 1756 (H "A" H-683)

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

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (5/22/97) Assigned matter:

SENATE REPORT - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Concerning Acceptance of Campaign Contributions during Legislative Sessions"
S.P. 662 L.D. 1882

Report - **Ought to Pass**, pursuant to Joint Order (S.P. 648)

Tabled - May 22, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF THE REPORT**

(In Senate, May 22, 1997, Report **READ**.)

Which Report was **ACCEPTED**.

The Bill **READ ONCE**.

The Bill **LATER TODAY ASSIGNED FOR SECOND READING**.

The Chair laid before the Senate the following Tabled and Later (5/22/97) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as It Relates to Compensation for Total Incapacity"
H.P. 257 L.D. 321

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-616)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 22, 1997, by Senator **CATHCART** of Penobscot.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**

(In House, May 22, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

(In Senate, May 22, 1997, Reports **READ**.)

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

Senator **CATHCART:** Thank you Mr. President, men and women of the Senate. This is a very important bill and I strongly urge you to support the Ought to Pass Majority of the Labor Committee. What this does is say that if a person loses a body part, if you have to have your thumb or your toe or your hand or whatever amputated, or it is amputated in the accident in which you're injured doing your work, then in addition to receiving the weekly benefit for the duration of your benefits, you would also receive a lump sum payment. The lump sum payment is equal to the amount of the weekly benefit times the period of presumed incapacity. These lump sum payments are not large amounts of money. We had figures put together for the Labor Committee Majority which would let us know exactly what this would cost and

whether it would add considerably to the cost of the Workers Compensation System, and absolutely it will not. For just a person who is receiving the maximum weekly benefit, which is \$441, and most of our workers are not receiving that much weekly benefits. When they have been injured and are out of work, but even for such a person, it would be in the \$20,000 to \$30,000 range, this lump sum that that person would receive. If you think of losing your thumb, and a thumb does not grow back, ladies and gentlemen, for any of us the loss of a thumb for a lifetime is a considerable loss and handicap. But if you consider a person who has only been trained to work at a given job and loses a thumb and can no longer do that work that she or he has been doing for many years, this is a terrible disaster to happen to a worker. We felt that this lump sum payment in addition to the weekly benefit, which is not for a lifetime, don't get us wrong, don't think that we give Workers Compensation benefits for the rest of your life. It's a limited benefit, but we felt that a worker who endured this kind of loss really deserved to have an extra lump sum in addition to the weekly benefits and I urge you to pass this legislation. Thank you.

On motion by Senator **CATHCART** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-616) **READ** and **ADOPTED**.

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

The Chair laid before the Senate the following Tabled and Later (5/22/97) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Further Define Disqualification for Unemployment Benefits"
H.P. 291 L.D. 355

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-617)** (3 members)

Tabled - May 22, 1997, by Senator **AMERO** of Cumberland.

Pending - motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 22, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 22, 1997, Reports **READ**.)

On motion by Senator **CATHCART** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/22/97) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the Workers' Compensation Law as It Pertains to Employer-selected Health Care Providers"

H.P. 863 L.D. 1180

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-615)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 22, 1997, by Senator **CATHCART** of Penobscot.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 22, 1997, 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-615).**)

(In Senate, May 22, 1997, Reports **READ.**)

On motion by Senator **ABROMSON** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W.LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, LIBBY, MACKINNON, MITCHELL, SMALL

ABSENT: Senators: KIEFFER, RUHLIN

Senator **KILKELLY** of Lincoln requested and received leave of the Senate to change her vote from NAY to YEA.

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615)** Report, in concurrence, **PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "A" (H-615) **READ** and **ADOPTED**, in concurrence.

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

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

The Chair laid before the Senate the following Tabled and Later (5/23/97) Assigned matter:

HOUSE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Permit the Retail Sale of Smoked Alewives" H.P. 1187 L.D. 1686

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-613)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 23, 1997, by Senator **PINGREE** of Knox.

Pending - motion by Senator **KILKELLY** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 23, 1997, 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-613).**)

(In Senate, May 23, 1997, Reports **READ.**)

On motion by Senator **KILKELLY** of Lincoln, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE.**

Committee Amendment "A" (H-613) **READ** and **ADOPTED**, in concurrence.

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Provide Court-ordered Income Withholding of Spousal Support" H.P. 1190 L.D. 1689

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-681).**

Signed:

Senators:

LONGLEY of Waldo
LAFOUNTAIN III of York
BENOIT of Franklin

Representatives:

THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell
JABAR, SR. of Waterville
MAILHOT of Lewiston
POWERS of Rockport

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

Signed:

Representatives:

MADORE of Augusta
NASS of Acton
WATERHOUSE of Bridgton
PLOWMAN of Hampden

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-681)**.

Which Reports were **READ**.

On motion by Senator **LONGLEY** of Waldo, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-681) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Require Step-pay Increases in Wages in Expired Collective Bargaining Agreements" H.P. 1060 L.D. 1498

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

Signed:

Senators:

CATHCART of Penobscot
MILLS of Somerset

Representatives:

RINES, JR. of Wiscasset
JOY of Crystal
JOYCE of Biddeford
PENDLETON, JR. of Scarborough
TREADWELL of Carmel

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-678)**.

Signed:

Senator:

TREAT of Kennebec

Representatives:

HATCH of Skowhegan
BOLDUC of Auburn
STANLEY of Medway

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

Which Reports were **READ**.

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Protect Workers and Establish Labor Standards for "Workfare" Participants" H.P. 1122 L.D. 1578

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-677)**.

Signed:

Senators:

CATHCART of Penobscot
TREAT of Kennebec
MILLS of Somerset

Representatives:

HATCH of Skowhegan
SAMSON of Jay
BOLDUC of Auburn
CLARK of Millinocket
RINES, JR. of Wiscasset
STANLEY of Medway

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

Signed:

Representatives:

JOYCE of Biddeford
TREADWELL of Carmel

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-677)**.

Which Reports were **READ**.

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-677) **READ** and **ADOPTED**, in concurrence.

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

Senate

Ought to Pass As Amended

Senator **RAND** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Improve Transportation in Maine" S.P. 584 L.D. 1747

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-330)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-330) **READ** and **ADOPTED**.

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/23/97) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the Prevailing Wage Laws" H.P. 1037 L.D. 1454

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-551)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 23, 1997, by Senator **AMERO** of Cumberland.

Pending - motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 23, 1997, 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-551)**.)

(In Senate, May 23, 1997, Reports **READ**.)

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

On motion by Senator **PINGREE** of Knox supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **CAREY, CATHCART, CLEVELAND, DAGGETT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MITCHELL, SMALL**

ABSENT: Senator: **RUHLIN**

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-551)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-551) **READ** and **ADOPTED**, in concurrence.

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

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/23/97) Assigned matter:

Bill "An Act to Ensure Funding for Snowmobile Law Enforcement Activities" S.P. 193 L.D. 611 (C "A" S-270; S "A" S-306)

Tabled - May 23, 1997, by Senator **PINGREE** of Knox.

Pending - motion by Senator **HALL** of Piscataquis to **RECEDE** and **CONCUR** (Roll Call Ordered)

(In Senate, May 21, 1997, **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270) AND SENATE AMENDMENT "A" (S-306), FAILED.**)

(In House, May 23, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270) AND SENATE AMENDMENT "A" (S-306) in NON-CONCURRENCE.**)

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

Senator **KILKELLY:** Thank you Mr. President, men and women of the Senate. After much debate on a bill that probably didn't deserve as much debate as we've had on it, I will be supporting the motion to recede and concur. I'm doing that because the bill, as it was reported out of Committee, both reports included \$42,000 which needs to be repaid, if you will, to the Department of Inland Fisheries and Wildlife for services that have been provided and, as I pointed out before, both sides admit that the services have, in fact, been provided. And while I continue to believe that setting up a myriad of dedicated accounts is incredibly poor public policy, my concern is that if we are not in agreement with the other body, that this bill will die and if that happens, the \$42,000 that has been expended will not be able to be reimbursed. So while I continue to have strong reservations about the policy, to quote a friend of mine in this body, "It's important to know when to fold 'em," and so I will be supporting the motion to recede and concur. If we do in the future find that there are a number of bills that set up dedicated accounts to do boating enforcement on Moosehead or boating enforcement on Sebago or whatever, I won't hesitate to say "I told you so." Thank you.

Senator **HALL** of Piscataquis requested and received leave of the Senate to withdraw his motion for a Roll Call.

On further motion by same Senator, the Senate **RECEDED** and **CONCURRED**.

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

NOMINATION - James M. Connellan of Brunswick, for appointment to the Civil Service Appeals Board.

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**

(In Senate, May 21, 1997, Communication from the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **STATE AND LOCAL GOVERNMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

ABSENT: Senator: **RUHLIN**

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator 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 nomination of **James M. Connellan**, for appointment to the Civil Service Appeals Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

NOMINATION - Linda D. McGill of Freeport, for appointment to the Civil Service Appeals Board.

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**

(In Senate, May 21, 1997, Communication from the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **STATE AND LOCAL GOVERNMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: RUHLIN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator 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 nomination of **Linda D. McGill**, for appointment to the Civil Service Appeals Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

NOMINATION - Dolores F. Starbird of Sangerville, for reappointment to the Civil Service Appeals Board.

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**

(In Senate, May 21, 1997, Communication from the Committee on **STATE AND LOCAL GOVERNMENT READ AND ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **STATE AND LOCAL GOVERNMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL,

HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: RUHLIN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator 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 nomination of **Dolores F. Starbird**, for reappointment to the Civil Service Appeals Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Senate at Ease

Senate called to order by the President.

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

On motion by Senator **PINGREE** of Knox, **RECESSED** until 1:30 in the afternoon.

After Recess

Senate called to order by the President.

Off Record Remarks

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Maine Bail Code" S.P. 509 L.D. 1571 (S "B" S-315)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-314)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-315)** (5 members)

In Senate, May 23, 1997, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-315)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-315)**.

S/Joseph W. Mayo
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE**.

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-314)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-314)** in **NON-CONCURRENCE**.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

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

The Committee on **JUDICIARY** on Bill "An Act to Change the Reimbursement Procedure for Law Enforcement Personnel Testifying in Court" H.P. 404 L.D. 549

Sent down for concurrence.

Non-concurrent Matter

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-639)**.

Bill "An Act to Amend the Conditions upon Which a Minor May Obtain Emancipation" H.P. 1109 L.D. 1552

In House, May 23, 1997, 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-640)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-639) AS AMENDED BY HOUSE AMENDMENT "A" (H-672)** thereto.

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

In Senate, May 23, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Comes from the House, that Body **ADHERED**.

Committee Amendment "A" (H-639) **READ**.

On motion by Senator **RAND** of Cumberland, the Senate **ADHERED**.

House Amendment "A" (H-672) to Committee Amendment "A" (H-639) **READ** and **ADOPTED**, in concurrence.

COMMUNICATIONS

Committee Amendment "A" (H-639) as Amended by House Amendment "A" (H-672) thereto, **ADOPTED**, in concurrence.

The Following Communication: S.C. 326

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

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333**

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

May 27, 1997

COMMITTEE REPORTS

House

Divided Report

Honorable Joy J. O'Brien
Secretary of the Senate
118th Legislature
Augusta, Maine 04333

The Majority of 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. 123 L.D. 147

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted the Minority "Ought Not to Pass" Report of the Committee on State and Local Government on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide 4-year Terms for Senators and Members of the House of Representatives (S.P. 89) (L.D. 269)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-657)**.

Sincerely,

Signed:

Senators:

CATHCART of Penobscot
TREAT of Kennebec

Representatives:

HATCH of Skowhegan
SAMSON of Jay
CLARK of Millinocket
RINES, JR. of Wiscasset
STANLEY of Medway

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

Signed:

Senator:

MILLS of Somerset

Representatives:

JOY of Crystal
JOYCE of Biddeford
TREADWELL of Carmel
PENDLETON, JR. of Scarborough

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-657).**

Which Reports were **READ.**

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Enhance Parental Involvement in Developing Educational Programs for Students with Disabilities" S.P. 344 L.D. 1121

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-332).**

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
SMALL of Sagadahoc

Representatives:

RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
BARTH, JR. of Bethel
MCELROY of Unity
STEDMAN of Hartland
BELANGER of Caribou

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

Signed:

Representatives:

BRENNAN of Portland
BAKER of Bangor
WATSON of Farmingdale

Which Reports were **READ.**

On motion by Senator **PENDLETON** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-332) **READ** and **ADOPTED.**

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

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

ENACTORS

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

An Act to Provide Retirement Benefit Options for Fire Marshals and Motor Vehicle Investigators

H.P. 1134 L.D. 1590
(C "A" H-618)

An Act Regarding the Relocation of a Child by a Parent Having Primary Physical Custody

H.P. 1178 L.D. 1669
(C "A" H-589)

An Act Addressing Sexual Exploitation of an Abuse Victim by a Law Enforcement Officer

H.P. 1211 L.D. 1711
(C "A" H-624)

An Act Relating to Compensatory and Punitive Damages Under the Maine Human Rights Act

H.P. 1213 L.D. 1713
(C "A" H-592)

An Act to Amend the Laws Regarding Legal Notices

H.P. 1302 L.D. 1845
(C "A" H-519)

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Concerning Authorization of Educational Technicians" H.P. 890 L.D. 1207

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-688)**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
SMALL of Sagadahoc

Representatives:

RICHARD of Madison
BRENNAN of Portland
DESMOND of Mapleton
SKOGLUND of St. George
WATSON of Farmingdale
BAKER of Bangor
MCELROY of Unity
STEDMAN of Hartland
BELANGER of Caribou

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

Signed:

Representative:

BARTH, JR. of Bethel

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-688)**.

Which Reports were **READ**.

On motion by Senator **PENDLETON** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H 688) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-Stakes Bingo Game" H.P. 1307 L.D. 1855

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-686)**.

Signed:

Representatives:

TRIPP of Topsham
TUTTLE, JR. of Sanford
GAGNON of Waterville
MORGAN of South Portland
SPEAR of Nobleboro
GREEN of Monmouth
ROWE of Portland

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

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives:

BUCK of Yarmouth
CIANCHETTE of South Portland
LEMONT of Kittery

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-686)**.

Which Reports were **READ**.

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/23/97) Assigned matter:

SENATE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act to Make Fish in Maine Rivers Safe to Eat and Reduce Color Pollution" S.P. 528 L.D. 1633

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (S-323) (6 members)

Report "B" - Ought to Pass as Amended by Committee Amendment "B" (S-324) (6 members)

Report "C" - Ought Not to Pass (1 member)

Tabled - May 23, 1997, by Senator TREAT of Kennebec.

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-323)**

(In Senate, May 23, 1997, Reports **READ**.)

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

Senator **BUTLAND:** Thank you Mr. President, ladies and gentlemen of the Senate. Good afternoon. During a previous discussion, probably on septic systems or sludge, I had promised you that there would be issues coming before the Senate of a more substantive nature from our Committee and this is certainly one that fits that bill. Of the three Senators assigned to the Natural Resources Committee, I have to say that I probably have the weakest environmental credentials and I certainly don't intend that as a slight to myself, but the good Senator from Kennebec, Senator Treat, is certainly well-known for her knowledge and experience and enthusiasm that she brings to environmental issues, and the Senator from Androscoggin, Senator Nutting, you will remember was the father of the Color, Odor and Foam Bill which passed the Legislature back in the late 80's. Fortunately, for myself and other Legislators on our Committee without those credentials, I want to thank the Chairs of the Committee and the staff of the Natural Resources Committee for doing such a splendid job of educating the Committee members and for managing the dioxin debate.

You need to know that our Committee spent a considerable amount of time on this issue. We began on April 7th with a five and a half hour informational session utilizing the experience and expertise of leading experts from throughout the nation. We started at 1 o'clock and got through at approximately 6:30. The issues that we took up that day were Science of Dioxin and Human Health Issues, the Chemistry of TCS, TCF and ECF, Detection of Dioxin, Process and Technology of TCF and ECF. The next day, on April 8th, we had a seven and a half hour public hearing that was held out at the Civic Center and attended by some 250 citizens, lobbyists and expert witnesses. The public hearing was followed by five work sessions which averaged about three and a half hours each. All in all, the Committee spent more than 30 hours listening, discussing and debating the issue of dioxin. When you combine this amount of time with the hour upon hour of homework that we all did, you can readily understand the importance of this issue. I truly suspect that there is some college or university out there that would be willing to

give the 13 members of the Natural Resources Committee three credit hours for their efforts.

In addition, each Committee member received approximately 12 inches of testimony and study results, almost equally divided between the pro's and the con's. Unfortunately, most of the information presented by one side refuted or contradicted the information presented by the other side. It was truly disconcerting for a layman like myself and, quite frankly, it provides the basis for my support of Committee Amendment "A".

Now you will hear today from members of this body that Committee Amendment "A" was an 11th hour development, not worthy of consideration, and I can assure you that this is simply not true. A low-flow or closed-loop option was discussed from the very beginning. An important but secondary advantage to the total chlorine-free process is that it allows a papermaker to eventually adopt a closed-loop process. That was an aspect of the debate that was discussed from day one. In addition, an expert on low-flow technology addressed the Committee on May 1, 1997. As a result of that session, myself and the good Senator from Kennebec, Senator Treat, spent some time on the back bench in this Chamber deciding on the best way to pursue an alternative dealing with low-flow. At a Committee meeting on May 8th, we discussed issues central to the low-flow concept. I mention that because I think it's important to know that this isn't something that just happened in the waning hours of our deliberations. Personally, I had rejected L.D. 1577, and this body rejected it on Friday of last week, the total chlorine-free option, because it failed to recognize the work already undertaken by the paper companies to reduce dioxin in our rivers. Adoption of L.D. 1577 would have sent a chilling message to every industry in this state, that message being, "Don't take the initiative when it comes to environmental matters. Wait until state government dictates."

I was equally troubled by L.D. 1633, didn't believe that it went far enough to ensure that the amount of dioxin in our rivers was truly reduced. For me, Committee Amendment "A" represents a reasonable and responsible compromise, a compromise that recognizes the efforts of some, but yet raises the bar for all. A compromise all will not be happy with, for certain, but one that will provide multiple benefits for our people.

In order to better appreciate the debate today, a basic understanding of the papermaking process is necessary and I want to stress that the word "basic" is the operative word here. It's obviously a very complex process, one of which we can't explain fully today. Essentially paper is made from cellulose fibers that are found in wood. You need to isolate the cellulose fibers by breaking down the lignin in the wood, the lignin being the glue that holds the wood together. Slightly less than half of the content of wood is cellulose and soft wood contains more lignin than hardwood. The process begins when the logs are debarked, chipped, and cooked in a vessel called a digester. The digester combines chemicals, heat and pressure to dissolve the lignin. This process is followed by another process that helps to recover chemicals and organic waste. The organic waste is burnt in a recovery boiler, obviously the recovered chemicals are re-utilized. The pulp then moves to the bleaching plant where more lignin is removed and the cellulose fibers are bleached white. Presently most Kraft mills in Maine utilize chlorine gas to whiten and brighten the cellulose. L.D. 1633 calls for the replacement of chlorine gas with chlorine dioxide. Chlorine dioxide can be found in both a gaseous and a liquid state. Because it is very reactive at concentrations over 10%, its transportation in this country is prohibited. It must be made on-

site. The debate today centers around the ability of chlorine dioxide to produce dioxin and some will tell you that this is not possible, and some will tell you that this is quite possible.

I would like to read into the record two pieces of testimony presented before our Committee, the first being "Effluent Limitation Guidelines," published by the Environmental Protection Agency. This document describes the Agency's goals for environmental improvement in this industry, announces the framework for final wastewater standards and presents the preliminary results of detailed analysis for a portion of this industry. On page 9 of the 43 page document, it states, "Even though dioxin and furan are no longer measurable at the end of the pipe at many mills, the potential for formation of these pollutants continues to exist at pulp and paper mills as long as any chlorine-containing compounds, including chlorine dioxide, are used in the bleaching process." We received further testimony from the Maine Public Health Association that says, "Because dioxins can be toxic in very small amounts, sometimes in amounts too small to measure, the Maine Public Health Association believes that even non-detectable levels of dioxin, as proposed by Governor King's bill, are not good enough. We believe the prudent course is to eliminate dioxin production. As health professionals, we believe that even at non-detectable levels, dioxin contamination can threaten health, just as a patient whose cancer is non-detectable is unfortunately not necessarily cured. The EPA's 1994 Draft Dioxin Reassessment linked dioxin to cancer, birth and developmental defects, learning disabilities, increased risk of diabetes, tumor promotion, decreased fertility, reduced sperm counts, endometriosis and suppressed immune systems. Eliminating the use of chlorine compounds in Maine paper mills will also increase safety in our communities and workplaces by eliminating airborne chloroform, emissions from bleaching pulp and hazardous chlorine spills. Totally chlorine-free paper mills also pave the way for closed-loop recycling of bleached wastewater, dramatically reducing many other pollutants currently streaming into Maine's waterways." Now as you can well imagine, that type of testimony was contradicted on many occasions. I believe that dioxin is bad and I also believe that dioxin will continue to be produced with the substitution of chlorine dioxide for chlorine.

For these two reasons, I believe that it is prudent to encourage mills to adopt processes that minimize the usage of chlorine dioxide and Committee Amendment "A" does just that. The major difference between Committee Amendment "A" and Committee Amendment "B" is the requirement in Committee Amendment "A" to attain an average bleach plant wastewater flow of 10 cubic meters per kilokilogram or less of air-dried bleach pulp. Now when I first read that, I had absolutely no idea what they were talking about and I'm sure that listening to me repeat it, that you don't have any idea, but essentially this is what they are saying. In a cubic meter there are 250 gallons of water. In 10 cubic meters there are 2500 gallons of water and a kilokilogram is a metric ton, which is 2,200 pounds. Therefore, if your paper mill is going to produce one metric ton of air-dried bleach pulp, you can only discharge 2500 gallons of wastewater. In order to achieve this standard, a mill will have to remove more lignin either by extended delignification or by oxygen delignification. Both technologies are presently in use in this country today. When you remove more lignin by this process, there is less of a need to use chlorine dioxide. It's pretty simple.

Obviously, there is a cost and a significant cost for this increased environmental protection, and we had heard estimates from \$20 million to \$22 million per mill. Now, we have to keep

that in perspective. For the multinational companies that own the seven Kraft mills in the State of Maine, \$20 million to \$22 million is not an outrageous amount of money. The papermaking business is, in fact, a big business and it has been estimated that the paper industry in America spends over \$10 billion per year on capital investment. That's \$10 billion with a "b". In Jay, Maine, International Paper recently spent more than \$100 million to reconfigure one of its paper machines. In 1996, Mead Paper purchased the Boise Cascade Mill in Rumford for \$640 million and this year, James River acquired Fort Howard Corporation for \$5.95 billion. The new company, Fort James Corporation will have annual sales of \$7 billion. And the merger of these two companies is designed to save between \$150 million and \$200 million annually. You need to keep those figures in perspective when you understand what we're asking here.

The other perspective that I feel that you need to keep in mind is what we have asked others to pay this session, or will be asking them to pay further on in the session. Last week we had a bill that talked about stormwater control. The leaders of the small business industry in the State of Maine have predicted that those rules will cost an additional \$40,000 to \$50,000 for a small business to get started here in the State of Maine. And I suspect that owning and operating your own small business in the State of Maine will be a dream for these folks, a dream that will be unmet because of the cost. We have done this and we have done this in the name of the environment.

Later on this week, Bath Iron Works is coming to the Legislature to ask for \$60 million of taxpayer money over the next 20 years in hopes of retaining jobs and opportunity in the Sagadahoc County area. I suspect that we will do this, that we will put up the \$60 million in taxpayer money for this purpose. What we are asking today in Committee Amendment "A" is that for the paper companies to spend an additional \$20 million to \$22 million to improve the health, safety and welfare of the workers, the communities that they serve and your children and my children. I propose to you that this is something that we should do.

At the initial meeting of the Natural Resources Committee back in January, the Chair, the good Senator from Kennebec, Senator Treat, went around the room and asked that everybody introduce themselves and to state the reason that they wanted to be put on the Natural Resources Committee. It's one of those touchy-feely events that I'm not usually very good with, but the answer was quite easy for me that day and remains quite easy for me today. The three reasons that I gave were Jennifer, Megan and Jeffrey. I think that this is not unreasonable for us to ask the paper industry in the State of Maine to make these investments in the health and safety of my children and your children. I felt it very seriously then and I feel it seriously today and I would urge you to join me in supporting Committee Amendment "A" and Mr. President, when the vote is taken, I request that it be taken by the yea's and nay's.

On motion by Senator **BUTLAND** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **NUTTING:** Thank you Mr. President, ladies and gentlemen of the Senate. I first want to echo what the good Senator from Cumberland said. The Committee certainly did not

rush this L.D. We spent hours and hours and hours working on it. However, you'll see from the divided report that we did not arrive at the same conclusion. I'm rising to urge you to please vote against the pending motion so we can go on to accept Committee Amendment "B". Some have referred, already, to the debate we had on the other dioxin bill. There was much discussion in that debate about, are we going to set a standard or are we going to mandate certain technologies? I look at this somewhat the same way, in our debate today between Report "A" and Report "B". Report "B", which is what I'm supporting, mandates very tough standards. The mills are free to do that however they like but they have to do it or face many, many severe consequences. Report "A" gets back to pretty much the same as Report "B" but adds the mandate on the top of that, that the mills go, by the year 2005, to a low-flow mandated-type of technology. Now yes, in the 80's I sponsored a bill, when I was in the other body, to reduce the color, odor and foam in Maine's rivers, and that bill was very, very contentious. It has passed. It's already made quite a difference in our rivers and, needless to say, it's no secret to anybody that I did not have the support of the paper industry in passing that bill. But I want to be the first to say that, in my opinion, the mindset in the paper industry has changed and I want to compliment them for their commitment to environmental quality in the 90's. I feel it's sincere.

I want to talk a little bit about Report "B" and why I think that's the report we should accept. To me, this legislative process is a balancing act. And to me, dioxin and this bill today is the same way. We have to attempt to try to balance the need to have the toughest standard in the country but at the same time, to keep and expand the jobs we already have. That's the balancing act that I, as one member of the Committee, tried to accomplish. Report "B", to me, clearly sets the toughest environmental standard in the country for dioxin. The mills must be non-detect at the bleach plant. That's the first standard that's the toughest. Second, they must be non-detect for furin. The cluster rules are much weaker than that. Thirdly, the fish above and below the mill must test exactly the same for the levels of dioxin. And fish, through bioaccumulation, will accumulate and multiply the levels of dioxin 20,000 to 25,000 times. Believe you me, ladies and gentlemen of the Senate, if there's any dioxin discharge, those fish levels of dioxin will be higher below the mills than above the mills. One thing I should say that I think everybody on the Committee would agree on is that this whole debate on dioxin and the Committee process, and now the debates on both bills in the House and Senate, have been real good for the paper industry. We've used a lot of paper here in handouts. But I want to bring your attention to one handout that I put out on the EPA position Regarding Advance Technology Including Low-flow Technologies, and I'm not going to read that all but, to me, if you just skim down through that, it becomes very obvious that this is something that is experimental. It's something that the federal government may give financial incentives, if they deem it necessary, for a mill to attempt something like this.

I think several key things about Report "A", and its low-flow technology and mandate concern me. Number one is the fact that many of the mills in the world, and there's not that many but there's some that use low-flow, if you check, those mills do not even have a secondary treatment plant. Every mill in Maine has an excellent secondary treatment plant. Some of the mills in the United States that utilize a low-flow technology, their mills' volume of discharge, at times, is bigger than the total volume of the river they're discharging into. They cannot meet the color standard unless they went low-flow. That's not the case here in

Maine. The other problem I have with Report "A" and its low-flow mandate is that there's nothing in that report that speaks to the fact that as you reduce flow, you must also reduce your pollutants' concentration. What good is it, I ask you, to reduce your flow and increase the concentration of pollutants? In my opinion, you haven't done anything other than to require the mills to spend approximately \$50 million per mill. To me, I'm voting against Report "A", the pending motion, so we can go on to accept Report "B" because I think Report "B" is ahead of our time. It's the toughest standard set in the United States but it also is a reasonable standard, so it's not going to drive investments from the companies to their mills that they have in other states, something I very much don't want to happen. To me, Amendment "B" reaffirms Maine's commitment to the environment but does so to protect our jobs. Thank you.

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

Senator **BUTLAND:** I just wanted to raise to a point of order but I see that the good Senator from Androscoggin has taken his seat, and if the presiding officer could remind us what report we're on and what we should focus our remarks on?

THE PRESIDENT: We are on Report "A" of the Committee. That is what should be debated, only Report "A", not Bath Iron Works, not any other issue but Report "A". The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you Mr. President, men and women of the Senate. This was an issue that our Committee spent an incredible amount of time on and you may find yourself bored to death before we're done. I hope not because it's taken us so long to understand the very difficult issues before us and we do feel a need to explain the minutiae to some extent, to make sure that you know that the decisions that we made are grounded in facts, are grounded in debate that went on in our Committee, that we do know what we're talking about, that we're not coming up with things that were sort of pulled out of our sleeves at the last moment. I was not a cosponsor of either of the dioxin bills appearing before our Committee, and I think that that affected my point of view on this bill before us, 1633, as well as other bills that we looked at. There are six members of the Committee that are on Report "A", which is the report I am on and ask your support for. Of those six, four were not sponsors of either bill. We did not come to the Committee with our minds made up. I was asked to sponsor 1577 and I said, "No, I really feel the need to hear all the information before I make a decision on this." I actually think it, in some ways, although I value the incredible hard work of the sponsors of both bills that were before our Committee, I almost wish that we had been able to look at this issue apart from people already signing on to bills. I think if we had, we would have ended up at the middle road which is what I believe Report "A" is. I think it would have been a strong majority, if not a unanimous Committee report.

I think that Report "A" is the middle road for many, many reasons. It's a middle road that has significant environmental benefits. It's a middle road that does not burden the paper industry with costs that don't buy substantial environmental benefits at the same time. It is affordable. It does not, I repeat, it does not mandate a technology. It is a performance standard. A performance standard says, "This is what the result should be. X amount coming out of the pipe, or x amount of dioxin in the river,

or x amount not in the river or not in the fish," that's a performance standard. And you say, "Go to it. It's up to you, paper industry, to figure out the best way to do it." That's Report "A". It's also Report "B", but Report "A" is also a performance standard but it asks that the mills perform more.

Now, we have heard that this Bill, L.D. 1633 in its original form, is the toughest bill in the nation. I don't dispute that. It's the only bill in the nation. It is the toughest bill in the nation. But that does not mean that there are not mills in the United States right now that are meeting tougher standards than are dictated in 1633. And it also doesn't mean that they aren't doing that just sort of voluntarily. They're doing that because they're being required to do that by their state DEP's or EPA in order to meet standards on a mill by mill basis. There are, in fact, some mills that are doing this voluntarily, though. Having had to do it in a couple of their mills, they have decided to go forward with this for every single mill that they have in the United States. An example of that is Champion International, which did appear before our Committee, ironically I think, at the suggestion of people who were supporting the original L.D. 1633. Now, wonders of wonders, the members of Report "A" actually learned something in Committee. I had the pleasure of appearing at 6:30 a.m. on a radio show to discuss this bill, and following me was the Chief Executive who has a different point of view. And he made the point, and this is the point that is made on numerous fact sheets that are on our desks at this moment, that the bill, as it came to the Committee and to the Legislature, had been worked on for months. It was a good bill. It was kind of the last word, I guess. Well, you know, this is the Legislature. I actually think that the Natural Resources Committee is one of the most incredibly hard-working, thoughtful, and I mean every single member of that Committee is so. They stuck around. We stayed until 9:30 at night at the public hearing and we listened. Not only did we have numerous work sessions where the experts were invited to talk to us, where we talked to each other, but we also got incredible amounts of written material which we actually read. Now, I can't say that I read every word which, I believe, some members of my Committee have done, but I came pretty close. And some of that information was in direct response to Committee questions on issues such as low-flow, minimal impact, closed-loop, oxygen delignification, all these things that we're hearing about that supposedly came out of nowhere. They did not come out of nowhere. They came out of the Committee process. That's what Committees are for and Report "A" is the best of what the Committee process is all about.

Now I have mentioned that this does not dictate a process. It does not. The good Senator from Cumberland, Senator Butland, explained how you read what the flow requirement is. Ten meters cubed of air-dried pulp, blah, blah, blah, blah, blah. That is the standard. Now it's ten. It is not zero. Zero is closed-loop. Ten is minimal flow, low-flow. It is a number which is in the EPA Draft Rules which may or may not ever get issued, which is why we need a bill, because we need to do something here in Maine right now. But it's under consideration. They've also considered five and part of their consideration is this so-called incentive. Do you want to know what the incentive is that the EPA is considering? It is giving mills ten years to comply with the ten cubic meters effluent standards. Ten years. That's very interesting. What does our amendment do? It says that mills have eight years with a two-year extension if they can't make it because of the technology not being there. We have the same incentive they do. EPA is not planning to give people money for this. They're not planning to give them any other incentives. The

only incentive is giving them more time. That is what this bill does. It gives mills time and it is time in which EPA has said, in these same Draft Rules, that they believe that any mill in the country should be able to meet this standard within ten years. So, this makes sense.

Well, we have also heard this is experimental technology. Okay. Not only do we dictate process, it is experimental. People aren't doing this. It's just in the pilot stages. This is not true. As I mentioned, Champion International is planning to put oxygen delignification into every single one of its mills in the United States that's a Kraft mill, so at least that portion of it is not. In addition, they are marketing a low-flow technology which may or may not be experimental today. At the moment it's achieving part of the time 100% closed-loop. We're only asking for this technology to achieve the ten, as I mentioned. But Champion's is not the only technology out there. Indeed there are at least four mills in the United States that are currently achieving the standard that's in this bill which, by the way, is an eight to ten year standard, I just want to remind you. Today these mills are achieving it and there are also mills in Europe, five to ten mills which are achieving the standard. There are lots of different technologies. I handed out a fact sheet, I believe it is on green, which talks about some of the different technologies that are out there. That's only some of them. We had an article, I assume it came to us from the paper industry, I'm not sure. It doesn't say who delivered it to our Committee. We just read everything that was given to us that we could get through and wasn't too repetitive. It's an article from March 1997, "Pulp and Paper" magazine, I guess. It's a trade magazine. "Effluent Minimization Technologies Move Pulp Mills Closer to Closure," and it lists several different technologies that are available for any mill that chooses to go this route, or if Report "A" is passed, which is required to do it. It lists Champion International's technology. It lists Union Camp's which, by the way, they're marketing all over and they're training people in their mill to figure out how to use it. Champion's technology, by the way, or is it Union Camp? One of them is being used by one of the Sappi mills in South Africa. Sappi, as you probably know, has a mill in Maine but they don't want to do it here in Maine, but apparently they're using it in South Africa. There's also a Canadian Paprican and Allstrom Beloit, E.K.A. Chemicals. These are all different processes. They might fit better with one mill versus another. You're going to hear these aren't apples and apples, mills are different. Yes, they are. This amendment allows mills to be different, to choose how they wish to do it and it gives them enough time to do so.

Well, you've also heard, "This is just a lot of money and doesn't accomplish anything. Why do it?" There are substantial benefits, many of which have been outlined by the Senator from Cumberland, Senator Butland, but I would just like to repeat them and go into a little more detail.

Worker health and safety. One of my concerns throughout this process has been that I did not want to sign on to any bill that would say, "Eliminate dioxin or reduce dioxin in the water, but make it worse for workers in the mill." Or, it would reduce dioxin in the water but put it up a smokestack or out into the sludge. Report "A" deals with that problem. Chlorine dioxide, although it produces much, much, much less dioxin and some would say, none. I say, much less. I follow EPA on this and also industry studies which have been done. Report "A" would pretty dramatically reduce the amount of chemicals used in the bleaching process and if free dioxin is the chemical of choice, it would reduce that. Now it has already been mentioned that chlorine dioxide is an explosive material. I have handed out a

yellow fact sheet. You can read this at your leisure. Basically, the gist of it is it is very dangerous. It must be manufactured at the plant, at the mill. It is not allowed to be transported. The less you manufacture, the less likelihood that you are going to have a problem with it. It is, as mentioned, quite explosive according to the New Jersey Department of Health, a fact sheet put out by them which is used nationwide by other Departments of Health. It is a powerful oxidizer. It explodes on contact with carbon monoxide, hydrocarbons, fluorines, mercury, organic matter, sensitive to shock, unstable in light. So this is not something we want to mess with. And even if a mill was a TCF mill and not using this, our option says, "You are reducing the amount of chemical." Now that's an important thing also if you're trying to reduce dioxin. Because the less chlorine compounds in there, even if they're not elemental chlorine, but they're chlorine dioxide, the less opportunity to create any kind of dioxin or furan. So this does address dioxin.

What else does it do? It addresses color pollution. Now I have heard it banded about that this Amendment "A" is sort of beyond the title and the scope of the original bill. I would ask you to look at the original bill which says it is a bill to deal with fish, dioxin in fish, making them safe to eat and color pollution. All right? This amendment deals far more with color pollution than any other bill that you will deal with here today. Indeed, in a report done by Maine DEP, looking at the Champion mill down in Canton, North Carolina, they came back and said that color pollution has been reduced by 90%. Champion testified to us that simply the oxygen lignification aspect that they're putting into all their mills reduces color by around 60%. That is very significant and it fits in totally with the goals of the original bill. It just does it better.

This bill also reduces every other chemical that's put out into the river. Okay? Some of which we may not have studied yet. A recent fish study, done in the Androscoggin and up in Lake Michigan, has found reproductive problems in fish. They're not really sure why because it's showing up in both chlorine and non-chlorine processes. Let me just read to you some of the things that are in the effluent that would be reduced by the flow reduction. Naturally occurring insecticides in the wood, plant sterols, unidentified compounds that cause hormonal and reproductive problems in fish, alcohols, ketones, etc., etc.

Dioxin is the problem of today and we know a lot about it. We know it's a big problem and it's very serious. We need to address it. But if we can address everything else in that wastewater, let's do it now. Let's do it within the next 10 years, certainly.

I've spent a lot of time on the cost picture and I do not believe the estimates that are, you know, \$50 million, \$100 million. What I can say is that it does depend on the mill. There are mills that are going to have to spend \$50 million to \$100 million, no matter what, because they're just so behind the curve. There are other mills that have invested money already. This amendment basically recognizes that investment and that's a very positive thing and it's one reason I feel so good about supporting this amendment. It is not telling them, "Go back and do TCF. You can stick with what you wanted to do already. You can stick with the investments you've already made but we are going to ask you to take that additional step, a very important additional step."

We worked very hard on this and, I believe, this is a very thoughtful, appropriate and an environmentally-sound approach to this issue. It did not come out of nowhere. It came out of, directly out of, the Committee process. There is strong technical and policy support for what we're proposing here. It will help

workers as well as the environment. This is a good idea. I very strongly urge that you support Committee Amendment "A".

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

Senator **RUHLIN:** Thank you Mr. President, Senators of Maine. First of all, I'd like to mention to you something that I learned as a young person. If you have a difficult goal to achieve, the best thing to do is keep your eye on that goal. Keep your determination focused on achieving that goal. That is what I had hoped this Legislature would do when it looked at the problem on dioxin. Dioxin is naturally-occurring, in many cases, ubiquitous. It's everywhere within our society. It's most dangerous and toxic because it gets into our rivers. We set out to address that. I hoped the Committee on Natural Resources would address that. Instead, when I look at Committee Report "A", I see not a middle road but a road based on extremism, a road that will, in fact, weaken our efforts potentially in ending the dioxin in our rivers. You know, a few years ago nobody really was detecting dioxin. Nobody really understood the problem of dioxin. It's only in the last 10 to 15 years that we've recognized the problem and now we're about to solve that problem. I hope we are on the course of solving that problem. But the EPA, which has been studying the problem along with the State of Maine, has looked at it, has recognized that Maine is in the lead. There are pulp and paper companies within the State of Maine that are ahead of the rest of the nation in their requirements for putting an end, a practical end, to dioxin. But I think it's important that you understand, each one of you Senators understands, that we have more dioxin created by the burning of medical waste, by the burning of open dumps, than by, 100 times more, than are created by our paper mills. So we have to look at the whole problem. Report "A", I think, asks us to take those resources, both private and public in this state, expend them on a wild goose chase as far as dioxin is concerned. It goes beyond what we looked for, beyond what we asked for. It goes beyond trying to cure the problem of dioxin and because of that, I cannot support that particular report. I would remind you that the EPA has studied the so-called "low-flow" that's contained in Report "A" for over 10 years and has concluded that it does not directly, by itself, address the dioxin problem. It has found it not prudent to mandate it to any paper mill in this entire nation. Think about that. They spent millions of dollars, 10 years, studying that particular problem and have come up with a low-flow requirements and found that it did not aid, there is no data that says the low-flow component, as it consists of in Report "A", will do anything at all for what our goal was. And our goal was to cure the dioxin problem. Let us be about solving the dioxin problem in our state. I think the best way to do that today is a vote against Report "A", against the wasting of money that's going to be spent in Maine, money that could be more readily spent in ensuring that we are, in fact, going to be successful in our battle against dioxin. Money that could be more successfully spent ensuring that we're going to keep the quality of jobs in the State of Maine that Maine so badly needs. I hope you will join me today in defeating Amendment "A" so we can go on and pass Amendment "B", an amendment that will, in fact, accomplish a potential victory over dioxin.

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

Senator **HARRIMAN**: Thank you very much, Mr. President. Good afternoon, men and women of the Senate. If I could, for just a moment, take a step back and maybe speak to you today from a different perspective about this bill. From the perspective of someone who has lived for forty-something years now, and hopefully forty-something more, in the same community. I still live in the tiny coastal village of Yarmouth, Maine where I was born. In growing up there, being located somewhere close by to a local paper mill in Westbrook and near the Presumpscot River, I vividly recall the stench that grabbed me by the throat on my way to the school bus every morning. I remember the river being so polluted that it was too thick to shovel and too thin to plow. We literally could see the pollution in chunks as it floated down the river. And in a relatively short period of time, it's amazing to me that we're now debating a bill that will measure into the parts per quadrillion. That's amazing. Today Maine rivers are cleaner and clearer. As a matter of fact, yesterday I was very proud to read in the "Maine Sunday Telegram" that some of the best sport bass fishing around, certainly in the State of Maine if not beyond, is right on the Androscoggin River. We're making measurable, identifiable progress in cleaning up our environment. And because of my love of my community and my state, particularly its environment, I was happy to accept the position to be a charter member of the Maine Environmental Priorities Project about four years ago. That project sought to establish and prioritize in a clear, concise fashion, our environmental threats. It's made up of people from the University, the Department of Environmental Protection, environmental groups, industry, many of whom are sitting in this very chamber today. I am not exaggerating, Mr. President, when I say that, early on, our discussions centered around how to interpret the body language of certain people who sat around the table. That's how emotionally-charged the atmosphere was. Yet we stuck with it through some very difficult times and eventually we were able to look each other in the eye. We developed trust, mutual respect and ultimately we established the priorities that are now found in the Maine Environmental Priorities Project report. That was a very positive turning point, to think that people who are passionate about the environment and people who are committed to their industry would no longer have to come here to the Legislature and ask us to serve as referees in a game that we didn't understand the rules of. And I want to take this opportunity to compliment the Chief Executive who has shown great leadership on the issue of ridding our waters of dioxin. He set a very clear, measurable goal. Let's rid the water of dioxin. He established a common sense way, in my view, to measure whether we're succeeding. Let's measure the fish above and below the mills and if they equal, that's a win. The industry, the paper industry, at least in my four and a half years here, it's the first time I've seen a bill in which they said, "Okay, we'll reach higher to do better, to prove that we want to work with Maine's environment, not against it. We'll do our best to meet this tough standard contained in this bill." That's positive. That's working together. That's our economy and our environment in harmony. The toughest dioxin standard discharge in the country is contained in this bill. Yet, I submit that those of us who are going to oppose the pending motion, to go on to accept Report "B", will be vilified as anti-environmentalists. The toughest standard in the country.

As a cosponsor of the legislation with the good Senator from Androscoggin, Senator Nutting, I've been following quite closely the activities of the Natural Resources Committee. I was quite surprised when I heard that my good friend from Cumberland,

Senator Butland, and my friend from Kennebec, Senator Treat, had developed a compromise to not only control dioxin, but the discharge of other toxins through a low-flow technology. I was told that it was based on a very impressive presentation made to the Natural Resources Committee by Champion Paper. Well, to satisfy my curiosity, I went to the folks at Champion Paper and said, "Tell me what you're doing. Convince me that this is the right direction for us to take." I was told that they addressed the Committee which was structured around an information session on the health effects of dioxin, the formation of dioxin and ECF and TCF bleaching technologies, not to present information to the Committee on low-flow or closed-loop technologies. They tell me they presented technical information to the Committee on the progress of the bleach filtrate recycle technology. They didn't present testimony to the Committee advocating or supporting bleach filtrate recycle as a dioxin-reduction technology or a technology sufficiently developed to mandate at all bleach Kraft mills. I said, "Well, what about the comments made about reducing worker exposure to toxic chemicals and that this amendment that's been developed won't simply shift from water discharge to air emissions or sludge?" There was no information presented to the Committee to conclude that the low-flow alternative was the best and most effective environmental option. The Committee only received technical information regarding the progress of a demonstration project on one fiber line at one bleach Kraft mill. The demonstration has not been completed and the environmental testing program to determine potential environmental impacts has not been completed. This amendment, Report "A", requires that no shifting of pollutants from wastewater to air or sludge without any data to indicate that it can be achieved. No information was presented to the Committee to support that this requirement can be met. The good Senator from Kennebec, Senator Treat, talks about the time frame, the incentive, the 10-year time frame in the bill, presumably that technology cost will decrease and more options will become available, yet no data was provided by Champion or anyone else, to my knowledge, that supports the claim that the costs have been reduced or will be reduced. Or that mandating low-flow technologies now may not be risking millions of dollars of investments for a technology still in the demonstration phase. In fact, even though the low-flow compliance date is not until the year 2005 admittedly, with its possible extension to the year 2007, mills would need to begin now to develop this technology, and as Champion told me, they began their technology in 1989, and in 1997, they're still in the implementation, demonstration and evaluation phase of the process. I don't think it makes sense for us to take a bill that is the toughest dioxin standard discharge in the country, and turning it into a bill that is before us now that would mandate a process that has not yet proven its beneficial results.

I passed out earlier, Mr. President, a schematic design of the bleach Kraft process. I'd encourage you to just take a look at it for a second because, I think, there's a very important distinction that's worth noting and that is, the dioxin levels that are being measured today are being done at the wastewater treatment plant to the river. So aside from having the toughest standard in the country, we are also going to require that the testing will be moved up to the bleach Kraft part of the process, thereby eliminating a four-fold dilution of the discharge at the testing site.

I hope that some of my comments have been worth your time and attention and that you'll join me in opposing the pending motion, not because you're an anti-environmentalist, but because you want to continue to send the message that we're serious

about cleaning up our environment, but we want to do it in a common sense way for the common good. Thank you Mr. President.

The President requested the Sergeant-at-Arms escort the Senator from Knox, Senator **PINGREE** to the rostrum where she assumed the duties as President Pro Tem.

The President retired from the Chamber.

The Senate called to Order by the President Pro Tem.

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

Senator **GOLDTHWAIT:** Thank you Madam President and ladies and gentlemen of the Senate. One thing about this debate has surprised me and that is that this bill which clearly states the word "fish" in its title did not go to the Marine Resources Committee. Nevertheless, I'm actually glad that it was assigned where it was because I think the Committee on Natural Resources has done a tremendous job with a very difficult issue. Now we are looking at Report "A" which looked like a place to turn to if you were, as I was, suspended between the TCF and ECF peaks. So I took a long and hard look at this report to see what I could learn about it in a very short period of time. The details of this have been difficult to figure out in a relatively short period of time and I believe that the Committee certainly has the advantage over the rest of us in perhaps having been looking at some of these issues longer than we have. But in my rather primitive understanding of the low-flow alternative, it seems to me that there are two flaws in that argument. One is that, as it was mentioned before, the instances in which low-flow systems are used tend to be, as far as I can determine, in places where the flow was discharged into rivers of extremely low volume. As was also mentioned, the dilution issue with a low-flow system seems to not acknowledge the fact that if we are looking at a dioxin discharge then dilution may not solve the problem. It is the overall volume of dioxin we're discharging that is the issue. Since dioxin is not water-soluble, I am not entirely sure why dilution would be terribly helpful or vice versa, why concentration would be more harmful, because we are talking about a substance that does not dissolve in water, which is one of the reasons why we're testing fish and not water, but rather sinks to the bottom of a water body and is available to fish and therefore works its way up the food chain. So it seems to me that the low-flow alternative does have some significant inherent problems. I want to mention briefly the arguments that are being made regarding testimony given by Champion before the Committee. I was interested in that testimony because it did seem to suggest that the low-flow alternative might be a viable way to go and, in fact, suggested that Champion was in some way condoning that. So I was interested to see a letter on my desk today that states that Champion was specifically requested not to advocate one technology over another in their presentation, and quoting from this letter from Champion, it says, "Unfortunately Champion was not asked its opinion of the Treat-Butland Low-Flow Amendment, yet the Low-Flow Amendment appears to be based in part on some Champion information relevant to the TCF-ECF debate. Some of our information is being used out of context in an attempt to support the Low-Flow amendment. It is important to

know there is no technology, including Champion's, that is sufficiently demonstrated to mandate reduced flow standards at all bleach Kraft mills. In conclusion, it is premature to mandate an environmental standard that requires technologies that have not been fully demonstrated." The way I look at the low-flow alternative is that unlike the debate between TCF and ECF which was pretty much of an either-or choice, with the low-flow alternative it seems to me that if it proves necessary we can have both. That the step that we could be taking here is on its way toward the recommendations in Report "A" and is not something that we are forever putting aside if we choose to go a different route. So I would submit that there is a vast difference between being ahead of our time and getting ahead of ourselves and it is my sense that Report "A" is getting ahead of ourselves, and I would urge you to join me in voting against it.

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

Senator **FERGUSON:** Thank you very much Madam President. I was informed by the good Senator from Hancock to keep my blood pressure under control and I'll try to do that. I thank her for her advice.

I did work 38 years for a pulp and paper company, Boise Cascade, and now Meade Corporation, so this is something that I do have a little bit of familiarity with. Although this is a very technical subject, and I am not a chemist and I dare say that there is probably not anyone in the room here, at least of the sitting Senators, that has a real deep technical knowledge. I could stand corrected on that, but it is a very technical subject. So I'm going to stick to a more practical argument this afternoon.

Federal cluster rules are coming along. I don't know whether they're ever going to get approved but I know, back in the late 80's and early 90's, when I worked for a paper company, they were saying that cluster rules are right around the corner. They haven't got here yet, but in any event, the paper companies and the pulp mills in the State of Maine have taken the lead. We're ahead. We're leading the country. Report "B" would put us further ahead than any of the other states and indeed the federal government. We've got to be cognizant of the fact that our paper mills are competing with other mills in the country and we don't want to put too heavy a burden upon their shoulders, capital-wise, and if we do that their product that they sell will have to be sold at a higher price in order to maintain their margins, and that does put us at somewhat of a competitive disadvantage. Although that is not the driving force here, we all want dioxin out of the atmosphere and indeed out of the environment.

It is my understanding, and I've been informed that with Report "B", if we go to 100% chlorine dioxide bleaching that with the current technology of testing equipment, we're at non-detect right at the current time. It seems to me that, as the good Senator from Hancock pointed out, that fish would be a good test because dioxin goes into the fatty tissue and remains there for a long period of time, and certainly this appears to me to be a viable way to go. I would urge the body to vote against the pending motion so we can go on and adopt Report "B". Thank you Madam President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you Madam President, men and women of the Senate. A couple of comments to respond to

some of the points raised by several Senators concerning the Committee process from someone who was in the Committee during all of our deliberations and during the work session about what Champion did or did not do and what we talked about. Champion came and was specifically asked to talk about oxygen delignification and the low-flow technology that they championed, if I might say. Naturally, we did ask them not to come in and do a sales pitch, and there's a difference there. Obviously, it might have been in their interest to do a sales pitch. We asked them some tough questions like, what about what's going up the stack? Is there an increase of dioxin going up the stack? We wanted to know that. In addition, we asked them questions to which they responded with written material, asking additional information, a letter that we got back from them on May 14th concerning oxygen delignification which I would like to read to you, just a paragraph. "The benefits, and oxygen delignification is one technology that is part of low-flow. It's one of the things that mills have done but it can be done in different order. You can do things differently depending on the mill. But as I said, Champion intends to do this in all their mills, their Kraft mills. The benefits of oxygen delignification include significant reduction in bleaching chemicals, in other words chlorine dioxide, the extent depending upon the degree of delignification achieved. In addition, benefits include lower bleach plant effluent loading and reduced overall operating costs, since a lower cost oxygen is used to displace a higher cost chlorine dioxide and/or peroxide, or ozone, or any other strong bleaching chemical that is used for bleaching. They mention, getting to the point of experimental aspects of this, they said that, in summary, "The application of oxygen under alkaline conditions for the purpose of extending the delignification process is a proven and widely-practiced technology worldwide. In addition, the use of oxygen within the bleaching process is also well-established technology. At Champion International's bleach Kraft mills at Canton, North Carolina; Courtland, Alabama; Pensacola, Florida; and Quinnesec, Michigan we have installed pressurized oxygen delignification systems following blah, blah, blah. Both systems not only resulted in significant environmental benefit, it also reduced our manufacturing costs. Furthermore, we consider these technologies as major steps toward achieving the goal, pulp mill/bleach plant closure."

The Maine DEP was so interested in this particular technology that they sent Michael Coombs, Paper Industry Team Leader, down to North Carolina in March, for a site visit. Mr. Coombs wrote a report, a very enthusiastic report, I might say, and this is the last paragraph of his report. "The potential impact of these developments for Maine and the rest of the country is obvious. Non-discharging systems were the original goal of the Clean Water Act and the BFR technology appears to be one way for the bleach Kraft industry to achieve it in a reasonably economical manner." DEP, experimental? Certainly in the next couple of years, I don't think so, even if I were to acknowledge that it is today. If there's something experimental in this amendment, it is actually the fish-testing part of the bill which is the same in both Committee Amendments. I think it's a great part of the bill but we had, if anything, more testimony on fish-testing and its potential deficiencies as basically an enforcement tool than any other thing. There is language in both amended versions of this which tighten it up but I continue to have major concerns about the fish-testing. Right now it is not used as an enforcement to very narrowly define the exact amount of dioxin that might be coming out of the mill or not coming out of the mill. It's used to determine, on a general basis, the health of the rivers.

And what we learned is that as you get into lower and lower and lower amounts of dioxin, the fish are less and less accurate as a mechanism. Things like different fish sizes, different amounts of fat in the fish, whether they could possibly go above or below mills on their own or if it's a catch and release type of thing, those are all factors that go into it. It's not an ironclad approach. It's not a bad thing to do, in fact it's in Committee Amendment "A". But it is actually experimental to use this in the way it is being used and it's been used to say that there's no dioxin when what really we're talking about is we do not detect any dioxin. Again, I really just stood up again to clarify some issues about what was presented to the Committee and what wasn't. I do believe that Committee Amendment "A" incorporates the best that we can do at this time that's affordable, that is within current technical capabilities. It is definitely stronger than the original bill that came into the Committee. It will cost more, \$8 million to \$30 million per mill. We don't know exactly because it depends on the mill, but that's over a 10 year period and they may end up having to do it eventually anyway. Better to get started now. I think it's a really good approach and I hope you'll consider it here today. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator O'GARA: Thank you Madam President. I am also urging my fellow Senators to vote against the pending motion. I do so for these five reasons. From what I've observed and from what I have read, Report "A" says that we have to limit our choices. That in order to have a healthy environment, we have to place our faith in a relatively new and untried technology. Secondly, Report "A" puts the livelihood of thousands of Maine families at risk, all for a public policy purpose that, as I understand it, was not even the subject of a public hearing and that depends on an emerging technology that currently has no widespread commercial use. Report "A" has a huge price tag for an untried technology, a technology that for all of its promise would not add to the productivity and competitiveness of Maine's mills but would actually make them less competitive. And speaking strictly on behalf of S. D. Warren in Westbrook S. D. Warren cannot afford that gamble. Report "A" also sends a message to new businesses considering Maine, but not a positive message in my judgment, a discouraging message that says, not only will we set requirements higher than the federal government, but higher than any other state. In my judgment, our state cannot afford such a message. And fifth, Report "A" not only places this Legislature in the role of technical experts, it will also set aside the role of the Bureau of Health because by mandating, not asking, but mandating that the Bureau of Health and the DEP change the way they have done fish tests and fish advisories for the past several years, it ignores the nationally leading role that Maine's Bureau of Health has played in understanding dioxin in fish, identifying any risk to the public and communicating that risk to the public.

And finally, just a word about S. D. Warren specifically. Minus some time away for military and college, I have lived in Westbrook all my life and I can remember very well the conditions of the Presumpscot River that were described by the Senator from Cumberland, Senator Harriman. As in many other communities, S. D. Warren was not asked over the many, many years about what was happening to the river when they were dumping things into the river without much regard really for the condition of the river, but more of an emphasis on jobs and

wages. And for years and years and years, long before the Clean Water Act and all of the legislation that we now are so familiar with, the river took and took and took until finally it couldn't take any more. It finally began, as it did in so many other rivers across the state, to throw that stuff back up to the surface. I recall, again referring to the condition of the river that the Senator mentioned, a friend of mine who worked for S. D. Warren, and the picture was in the paper, being out on the river and the material, the stuff was so thick that they were actually able to set fire to it right out in the middle of the river, and the picture showed the river apparently on fire? Finally, across this country we began to realize what we were doing to our rivers and we began to put more and more of an emphasis on the condition of the river and the health of the living creatures in that river and the environment around that river than we were on jobs and wages. S. D. Warren, I'm proud to say, long before clean water or environment became a household word in the State of Maine, spent millions and millions, and has continued to spend millions and millions of dollars, much of which was not forced on them by anybody but just because of the kind of corporate company they are and resident that they are in the city of Westbrook, began to make some changes in the way they treated the river. I just see this as the answer to the question I get asked so often by workers at S. D. Warren. I'm talking about workers at S. D. Warren, people who live in Westbrook and around the area, who work there and depend on the mill. Obviously I hear from the administrators and the officials at S. D. Warren but I'm also talking about employees, who say to me, "When is it going to stop? When are we going to just give the pulp and paper industry in the State of Maine a rest, a break?" They're doing the job and I submit to you that Report "A" is not necessary. I urge the defeat of Report "A" so that we can go on and accept Report "B". Thank you.

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

Senator **CASSIDY:** Thank you Madam President, men and women of the Senate. I'll try to be as brief as I can this afternoon but I've sat here listening to this debate and, obviously, we've had handouts coming to us all week and many, many handouts today. As you know, in my district, we do have on the St. Croix River the Georgia Pacific Corporation. It's been there for many, many years, since the turn of the century, which originally was St. Croix Pulp and Paper. I have hundreds of folks in my district that work in the G.P. mill and fortunately we have a chip mill there as well and there's also 2 by 6, 2 by 4, those sort of things as well. So we have a lot of people who depend on that. It affects the forest industry, the truckers, the retail people and all those folks, and Washington County depends economically as G.P. sort of being the heart of our district. On the other hand, every one of those folks also care about our environment. I think that I've mentioned many times in this chamber, that we need to look at our environment and our economy and they need to coexist. As you look at this bill before you today, Amendment "A". I was sort of chuckling to myself as I was listening to some of the testimony of the good Senator Harriman from Cumberland and the chart that he showed us and it brought back some memories of a few years ago when I was mayor of the city of Calais. On his chart he shows the water treatment as it reached the river and, as you know, like most communities we were concerned about our sewer treatment and how we would deal with that and what effect that had on our St. Croix River as well. We signed a consent

agreement with DEP and through funding through EPA and DEP and state funding, with all kinds of bonds that you probably helped support and pass, we were able to complete that sewer treatment plant. I had the opportunity to visit it when it was completed the first time, when it was updated later and so on and so forth, and it's a nice facility and we've seen tremendous improvements from that respect in the river as well. But during both of those tours of the treatment plant, some of the engineers assured me that I could drink the water as it went into the river and, I must tell you, I took their word for that. I was thinking about testing this as it goes into the river. I definitely wouldn't want to go back to the agitator and test that water in my sewer treatment plant and I don't think we'd need to test the chlorine flow from some of these faucets you have in this chart. The most important thing is what goes into the river. I've mentioned to you before, Mark Twain, and I always have to think of that when I see a bill before us like this. You know, Mark Twain said, "Common sense ain't that common," and this is a bill that does not show a lot of common sense. Our interest here is to eliminate dioxin and, thank God we do, and I, like Senator Harriman and Senator O'Gara and others here in the chamber today, I remember, too, in Calais years ago when we were in school and the effects that the process had in our river. I've boated in our river for many years and up and down our river and we have made great strides. I also think the day that the industry, for whatever reason, and I don't care what reason, are much, much more sensitive today to the needs of the people in their community and their employees and I'm glad they are. They've made some tremendous strides over the years. But what's going on in the State of Maine today when we set a bill that's going to be leading the nation and then add to that as well, we have to look at what we're doing in all areas inviting people to come to Maine and do business and employ our people. We look at the Forest Products industry and the rules and regulations we've been trying to put on that industry that also affects the paper industry. I think it was mentioned earlier and I read this week, not only do companies concern themselves about the market but they have to compete with other mills within their system to have capital invested in our State of Maine and that's a fact. And we say to them, you know, "We're going to put all these regulations on you harvesting your wood. We're going to put undue regulations on this process of dioxin. We're going to do this, we're going to do that." Every rule and regulation that we make in Maine that's not common sense, is beyond what the rest of the country is doing, that's beyond what's practical, that doesn't let employment and environment coexist. Those folks sit in the corporate office somewhere and say, you know, "Let's send our money to Georgia or wherever." And I want to say to you that Georgia Pacific, I've talked many times with the folks there prior to being here in the Maine Senate, that's a problem they've had for years. "That's why we don't make a whole lot of money in Georgia Pacific. That's why we have antiquated equipment." Every time we do this, eventually somewhere someone is going to say, "We've had enough of trying to do business in the State of Maine. They don't want us. They don't want jobs." And I just dread the day that we lose the mill in Woodland regardless of who owns it. I like Georgia Pacific. I don't mind who owns it as long as people work and they do things right.

I could go on and on about this particular bill. I could talk about the low-flow and that process. I'm not a technician or a chemist or anything else but obviously, just the testimony you've heard today you understand that the low-flow is because of the rivers that can't even generate enough flow in the river to do the

process of the mill. I mean, we do have high-flow rivers here in the State of Maine where we're finding zero detection and we need to continue to do that. Without going on more, I know there are other folks who would like to speak here this afternoon. I just want to urge you to use a little common sense and defeat this amendment so we can go on with Amendment "B" and improve the process and create jobs and hold jobs in the State of Maine. Thank you.

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

Senator BENOIT: Thank you Madam President, may it please the Senate. The paper mill in Jay is a constituent of mine and I intend today to vote their agenda. When I say that, Madam President, I mean the men and women who make up the mill. I guess I'm fortunate because the agenda of the majority of constituents in my district who aren't at the mill have the same agenda. Senator Harriman, the Senator from Cumberland, is right when he suggests that we will be vilified. That's a tough word. And no matter what we do I guess we will be vilified by the environmentalists. Senator Harriman is not afraid of vilification. It doesn't scare me either. Having worked in the three branches of state government, particularly as a judge, I received some, a good dose, of vilification. I want to tell you that vilification is not necessarily a bad thing, for after all, it got me elected to the Senate twice. And I say that because, although my constituents perhaps do not understand the ins and outs of this bleached Kraft process that's depicted here on a handout. Maine people are pretty keen and bright. They understand this issue and they understand that one report is more extreme than the other and they want me to vote the reasonable measure out of this Legislature and that's what I intend to do. I intend to vote their agenda because I believe strongly, as I've said before, in representative government. And I'm so pleased that my agenda personally is the same agenda as that of the people at the mill in Jay and the people who are the vast majority of my constituents in my district. So take heart, members of this august body, being vilified does not necessarily make us bad people. Thank you Madam President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Butland.

Senator BUTLAND: Thank you Madam President. It is truly an unusual debate where I feel compelled to rise and speak more than once, but there were a few things said this afternoon that I wanted to take a moment to set the record straight. I wouldn't want you folks to leave here today thinking, after listening to the Senator from Penobscot, Senator Ruhlin, that the EPA in any way is opposed to Committee Amendment "A" and I refer once again to the effluent limitation guidelines that they published where it talks about their long-term goals and it says, "EPA's long-term goals include improved air quality, improved water quality, elimination of fish consumption advisories downstream of mills, the elimination of ecologically significant bioaccumulation. An integral part of these goals is an industry committed to continuous environmental improvement, an industry that aggressively pursues research and pilot projects to identify technologies that work together appropriately to reduce and ultimately eliminate pollutant discharges for existing and new sources. A holistic approach to implementing these pollution prevention technologies would contribute to the long-term goal of

minimizing impacts of mills and all environmental media by moving mills toward closed-loop process operations." And in these guidelines, they talk about the long-term being 10 years from now. And that is exactly the time limit set in Committee Amendment "A".

I would also like to echo the response of the good Senator from Kennebec, Senator Treat, to the comments that were spoken by the Senator from Cumberland, Senator Harriman, in regard to Champion's response. I was at the April 1st meeting when Mr. Stelkencamp from Champion International Corporation gave the Committee a lengthy discussion on the BFR technology. Mr. Stelkencamp is from the Pensacola plant of Champion Paper which is also the home of the R&D arm of Champion, and he came forth at our request to give us a BFR update agenda and these were the agenda items for that day. BFR Process Description, Demonstration Project Progress and Results to Date, Remaining Tasks and Issues, and Future Opportunities. Now I understand that the BFR process is a patented process. We weren't looking for an advertisement from Mr. Stelkencamp, and I think that he did a very commendable job in presenting the facts and that is what this Committee was looking for. I know that I left that meeting, with the representative from Champion Paper Company, feeling that there was a technology in place, that this was not experimental and it is something that the State of Maine could adopt to address this very, very serious environmental issue. So I just want to, as I said, echo the comments of the Senator from Kennebec, Senator Treat. I think that there was a misrepresentation of what happened that day and I certainly know what happened because I was there. Thank you.

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

Senator LONGLEY: Thank you Madam President, colleagues in the Senate. I'm happy to see that some people are having a lot easier time making this decision than I am. We've heard about vilification, and in my opinion there's more vilification all around us to go for "A" than for anything else. And I see some people back there who are being quiet on this debate. I see people who've been actively promoting that I vote for it and against it. A few people in the chambers have asked that I vote for this and I wish those few had been allowed to remain in the process early on because I think we're being asked to be technocrats and a lot of us are digging and doing our best at coming up with understandings of delignification and all the other technical terms in Reports "A" and "B". My opinion comes down to two things. We've got a good bill and we have a better bill, and the better bill is better environmentally. It might not be better politically but it's better environmentally. We hear the fish advisories and we know that we're being told that there's levels of pollutants in our fish that are dangerous to most of us, whether we're women of child-rearing age or not. We know carrying around dioxins is not anything any of us want to do. The better bill environmentally comes with a cost and I ask myself, "Well, if we're into doing better in Maine, aren't the costs, don't they cancel out? Because in terms of tourism, if we have better waters for fishing, how does that help tourism? If we invest once right, doesn't that save the cost of investing twice? One for a good reason and then down the road to improve on a good reason. Might we vote once today on a better process that in the long run saves money?" I don't know the answer and I'm having a real hard time deciding. I think on the costs, the environmental costs are clear to me that what we're voting on now is better.

The political costs are clear to me, what I might vote on now is worse. The economical costs are unclear. And I guess I would just like to urge all those who worked on reports other than this report, how it would have been really welcome on my part had all parties been present in the drafting of a bill so that down the road, we wouldn't be forced into this technocratic mode. That's all I have to say. Thanks for listening.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you Madam President, Senators of Maine. First of all, I'd like to go back and repeat something I said earlier. I'm going to do so, especially for the good Senator from Cumberland so that he can have no misunderstanding, so that it's clear in the record, without any doubt. The EPA has studied the various effects and influences of so-called low-flow. There's other names for it, there's the BFR, there's various names but for here, for our purposes today it's sufficient to call it the low-flow items that are listed in Committee Report "A". After extensive and long-term studies, after millions of dollars, EPA unequivocally refused to mandate those additional requirements. And why did they refuse to mandate those additional requirements? Two reasons. Number one, it's still experimental technology and number two, there is no data whatsoever, whatsoever, that you will further reduce dioxin. So, as I hope this debate comes to an end, I would go back and just remind you what might be helpful. Let's keep our eyes on our goal. Let's keep our eyes on what we set out to accomplish. Let's do it with determination. Let's go on to achieve a victory over dioxin and vote down the waste of effort that's constituted in Report "A" and move forward to vote for Report "B" and once more lead this nation environmentally. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you Madam President. Madam President, women and men of the Senate. I rise today in support of L.D. 1633 with Committee Amendment "B" and in opposition to Committee Amendment "A" which is presented by the good Senator from Cumberland, Senator Butland, and the good Senator from Kennebec, Senator Treat. From my work on Maine's Board of Environmental Protection, I've been keenly aware of the dioxin-related fish consumption advisories in three Maine rivers. We worked for quite a long time watching the people in the DEP work with our paper companies to reduce the dioxin levels, successfully I might add, in that they're at a non-detectable level at this particular time. I was very pleased when the Governor announced the results of this work. This document you have in front of you, 1633 Amendment "B", goes on to address the issues inside the plant where we need to make the changes. I was very disappointed when I realized that in comparison of the Amendment "A" and Amendment "B", to think that we would want to consider a more costly episode by going into another type of water flow reduction that does not address the dioxin levels and ask our paper companies to invest more money than is really required when we can reach these levels with a time frame, with allowing our paper companies to use the technologies that they wish to use, a little Yankee ingenuity, and acquire and achieve the goals that we want to, to make our environment safe. We may be able to do this. If you look at the comparison of Amendment "A" and Amendment "B", the only

major difference is this cost-prohibitive measure which addresses water flow. And I don't believe that we need to look at the reduction of flow to an 80%, considering what our water levels in the rivers are today. This was not required in the Cluster Rule, the federal Cluster Rule. This is a voluntary program currently offered by the EPA in which there are incentives to the companies who wish to implement them. Let's not jump from walking to running and bypass what is currently in front of us and that is an ability to reduce dioxin to zero levels in a time frame that is ambitious, but it will also allow our companies to further go along the route to reach the other goal with incentives on the water flow level and not put our companies in that particular situation at this time. I urge you, my colleagues, to reject Committee Amendment "A" which is going to reduce dioxin by shutting our mills down, and vote for Committee Amendment "B" which will eliminate dioxin in the formation and discharge. That's the choice for Maine rivers and the choice for Maine people. And it seems like a pretty simple solution and I hope you will join me. Thank you.

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

Senator **HARRIMAN:** Thank you Madam President, ladies and gentlemen of the Senate. Earlier I presented testimony for your consideration that indicated that my interest in this subject had captured my curiosity for as long as the bill's been in the Natural Resources Committee. While I mean no disrespect to the members who serve on the Committee, I clearly gave the impression that there was some information that I had discovered that caused me to consider rejecting the pending motion. I know how hard the Natural Resources Committee has worked. I admire and respect the commitment they have paid to this issue and in no way do I mean to give the impression that I know more about this issue than they. However, Madam President, I do think it's important that the record be very clear and that is that the oxygen delignification process is a proven technology but it does not reduce bleach plant flows. The mills cannot meet the requirements of Report "A" with the oxygen delignification process. The distinction here is that oxygen delignification is a bleaching process. It does not affect flow. The technology that was presented to the Natural Resources Committee which reduces flow, a recycling process which is known as bleach filtrate recycling, is a demonstration process and it's still being proven, and that's why I think we should reject the pending motion so we can go on to support Report "B". Thank you Madam President.

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

Senator **MICHAUD:** Thank you Madam President, men and women of the Senate. I, too, hope you'll reject Report "A" and I'll just keep my remarks to one section of the bill. The way I read this amendment is it imposes a mandate now and suggests that there'll be financial incentives in the future under Section 10 on page 5. While sitting in Appropriations over the last few months, I can tell you that there's not going to be any incentives for this. It's my estimate, from talking to different people, that it'll range anywhere from \$35 million to \$100 million in order for incentives to be viable. And I think we're fooling ourselves, and fooling the people who support this, in thinking that there will be incentives, financial incentives, later on down the road because I doubt very

much, I know there will not be, in that amount. We're going to be faced with a structural gap in the next budget, so therefore I know that we will not be able to do that. For those of you who say, "Well, he's a mill worker, that's why he's opposing Mill A." Yes, I do work at a mill. However, the mill that I work at is not affected by this bill at all, so it will not make one difference, as far as the mill I work for, what happens here. But there are a lot of people that about my legislative district in a mill that this would affect, and that's Lincoln Pulp and Paper. And I can tell you that living in that area all my life that that mill has had its ups and downs and currently it did get re-licensed just recently. It's my understanding that it's one of the strictest licenses in the country, from what I'm told. And I do know that the union members that work at that mill, and the people that live in that area are very much concerned of what happens to this legislation. They're not here today like members in the back of the hall, whether they're lobbyists or just interested citizens, because they can't be here today. They're back home working. So I would hope that you would reject this bill. There's good intentions behind the bill but regardless of what good intention is, I doubt very much that there's going to be any type of financial incentives whatsoever for the industries that will be affected by this bill, because the money just isn't there, whether it's General Fund money or dedicated money. The Appropriations Committee is meeting right now dealing with a change package from the Administration where they want to take money from a dedicated account and switch it over to the General Fund account. We haven't decided what to do with that, so I know that there's no money in the dedicated accounts. And I know that there's no money in the General Fund account whether it's today, next year or the year after. The money just isn't there, so I hope that you would reject the pending motion so at least we could move on to, at least, get something on the books this session. Thank you Madam President.

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

Senator **BENOIT:** Thank you Madam President, may it please the Senate. Madam President, what my remarks may lack in technicality, they make up for in brevity. Senator Longley a moment ago, the Senator from Waldo, made a good point, I thought. She said, "It's better to buy quality once than a so-called bargain many times." Now she may not have used those words exactly but that's the gist of what she said, and generally I agree with that. But we have two reports, "A" and "B", and both are, in my view, quality. My constituents have put a "B" in my bonnet and I'm going to vote that way, dog gone it.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you Madam President, men and women of the Senate. I'm not going to try to compete with the previous speaker but I will be brief. I just want to make a few more points briefly, about why I'm opposing the pending motion. It's been alluded to before, but I maybe want to put it a little more bluntly. And that is my concern that there's been absolutely no science involved with why a mill should spend 30 to 50 or whatever million dollars on reduced flow and why that would be better for the area than them spending that amount of money on improving their air emissions. There hasn't been any science comparing the two yet. In 1996 the Canadian government gave an \$88 million grant to the Paper Industry to begin studying low-

flow. And I want to read just a couple of things from the EPA Cluster Rules. "A key tenet of this program is that mills," and they're talking about the low-flow, "a key tenet of this program is that mills would voluntarily choose. Mills would not be required to enter this program. Any mill could voluntarily enter at any tier appropriate to its individual circumstances. Finally, application of incentive-based BAT limits would be completely voluntary." And I can go on and on but I think I've said enough. I urge you to vote against the pending motion. Thank you.

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

Senator **HARRIMAN:** Thank you Madam President. May I ask leave of the Senate to speak a third time?

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Harriman, asks leave of the Senate to speak a third time. Is there objection? Seeing none, the Senator may proceed.

Senator **HARRIMAN:** Thank you Madam President. Thank you colleagues of the Senate. Madam President, may I pose a question through the Chair?

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **HARRIMAN:** Thank you Madam President. To anyone who would be able to answer, if Report "A" passes, is there anyone who can give us assurance that we will not need to cut down more trees to make the same amount of paper? Thank you.

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Harriman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you Madam President. In answer to the question, there was no evidence presented to the Committee that said anything about cutting down more trees. That issue came up with respect to the TCF process. I believe it was rebutted there but, in any event, it was not ever raised on this issue. To the extent that it might come into play, it may be if a company chose to go for extended delignification as opposed to oxygen delignification as part of their technology choices, although it is my understanding that there is a mill in Maine right now based on information presented to us by the Senator from Androscoggin, Senator Nutting, that is looking at extended delignification anyway. So that's what I know about it, but this was certainly not an issue raised at any time before our Committee concerning this amendment.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: AMERO, BENNETT, BUTLAND, CLEVELAND, DAGGETT, LAFOUNTAIN, LONGLEY, RAND, TREAT, THE PRESIDENT PRO TEM - CHELLIE PINGREE

NAYS: Senators: ABROMSON, BENOIT, CASSIDY, CATHCART, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAWRENCE, LIBBY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, RUHLIN, SMALL

ABSENT: Senator: CAREY

10 Senators having voted in the affirmative and 24 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator TREAT of Kennebec to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-323), FAILED.**

On motion by Senator NUTTING of Androscoggin, Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-324) ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "B" (S-324) **READ** and **ADOPTED.**

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

The President Pro Tem requested the Sergeant-at-Arms escort the Senator from York, Senator LAWRENCE to the rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Knox, Senator PINGREE to her seat on the floor.

Senate called to order by the President.

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

SECOND READERS

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

House As Amended

Bill "An Act to Combine the Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services" H.P. 664 L.D. 917 (C "A" H-685)

Bill "An Act to Amend the Victims' Rights Laws" H.P. 879 L.D. 1196 (C "A" H-691)

Bill "An Act to Establish the Uniform Unclaimed Property Act" H.P. 1116 L.D. 1559 (C "A" H-682)

Bill "An Act to Protect Victims of Domestic Violence" H.P. 1317 L.D. 1867 (C "A" H-687)

Bill "An Act to Implement the Recommendations of the Harness Racing Task Force" H.P. 1318 L.D. 1868 (C "A" H-690)

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

Bill "An Act to Encourage the Use of Motor Vehicles That Use Alternative Sources of Fuel for the Purpose of Reducing Air Pollution" H.P. 300 L.D. 364 (C "A" H-680)

Which was **READ A SECOND TIME.**

On motion by Senator MURRAY of Penobscot, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-680), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-337) to Committee Amendment "A" (H-680) **READ** and **ADOPTED.**

Committee Amendment "A" (H-680) as Amended by Senate Amendment "A" (S-337) thereto, **ADOPTED** in **NON-CONCURRENCE.**

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

Sent down for concurrence.

Senate

Bill "An Act Concerning Acceptance of Campaign Contributions during Legislative Sessions" S.P. 662 L.D. 1882

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

Sent down for concurrence.

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

SECOND READERS

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

House As Amended

Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as It Relates to Compensation for Total Incapacity" H.P. 257 L.D. 321 (C "A" H-616)

Which was **READ A SECOND TIME**.

On motion by Senator **AMERO** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CASSIDY, CATHCART,
CLEVELAND, DAGGETT, JENKINS, KILKELLY,
LAFOUNTAIN, LONGLEY, MACKINNON,
MICHAUD, MILLS, MURRAY, NUTTING,
O'GARA, PARADIS, PENDLETON, PINGREE,
RAND, RUHLIN, TREAT, THE PRESIDENT -
MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT,
BENOIT, BUTLAND, FERGUSON,
GOLDTHWAIT, HALL, HARRIMAN, KIEFFER,
LIBBY, MITCHELL, SMALL

ABSENT: Senator: CAREY

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the Bill was **PASSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

SECOND READERS

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

House As Amended

Bill "An Act to Amend the Prevailing Wage Laws"
H.P. 1037 L.D. 1454
(C "A" H-551)

Bill "An Act to Protect Workers and Establish Labor Standards for "Workfare" Participants"
H.P. 1122 L.D. 1578
(C "A" H-677)

Bill "An Act to Permit the Retail Sale of Smoked Alewives"
H.P. 1187 L.D. 1686
(C "A" H-613)

Bill "An Act to Provide Court-ordered Income Withholding of Spousal Support"
H.P. 1190 L.D. 1689
(C "A" H-681)

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

Bill "An Act to Amend the Workers' Compensation Law as It Pertains to Employer-selected Health Care Providers"

H.P. 863 L.D. 1180
(C "A" H-615)

Which was **READ A SECOND TIME**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED, As Amended**, in concurrence.

Senate As Amended

Bill "An Act to Improve Transportation in Maine"
S.P. 584 L.D. 1747
(C "A" S-330)

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

Sent down for concurrence.

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 Resolve

Resolve, to Establish the Commission to Study the Unemployment Compensation System
H.P. 268 L.D. 332
(C "A" H-549)

Comes from the House, **FAILED FINAL PASSAGE**.

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE** in **NON-CONCURRENCE**.

Emergency Resolve

Resolve, to Establish a Maine Mobility Fund Task Force
S.P. 429 L.D. 1377
(H "A" H-493 & H
"B" H-597 to C "A"
S-206)

Comes from the House, **FAILED FINAL PASSAGE**.

Senator **MICHAUD** of Penobscot moved to **TABLE** on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE** in **NON-CONCURRENCE**.

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

Senator **AMERO:** Thank you Mr. President. I'd like to pose a question.

THE PRESIDENT: The Senator may pose her question.

Senator **AMERO:** Thank you Mr. President. I'd like an explanation as to why an item that failed in the other body would be placed on the Special Appropriations Table.

THE PRESIDENT: The Chair would indicate that a motion to table is not debatable.

At the request of Senator **AMERO** of Cumberland a Division was had. 18 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **MICHAUD** of Penobscot to **TABLE** on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE** in **NON-CONCURRENCE, PREVAILED**.

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 Regulate the Use of Personal Watercraft"
S.P. 137 L.D. 416
(C "A" S-311)

In Senate, May 23, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-311)**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-311) AS AMENDED BY HOUSE AMENDMENT "A" (H-689)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **KILKELLY** of Lincoln, the Senate **RECEDED** and **CONCURRED**.

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

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

Senator **KIEFFER:** Thank you Mr. President. Mr. President, in reading this bill I find some things in here that are not even enforceable in the wording of this bill. In addition to that, the Joint Order, which is Item 1-2 on the same Supplement #14, has been indefinitely postponed. But to get back to the amendment that replaces the bill, S-311, down under item 11-A, Personal watercraft, "Personal Watercraft means any motorized watercraft that is 14 feet or less in hull length as manufactured, has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting,

standing or kneeling position. Personal Watercraft includes but is not limited to a jet ski, a wet bike, a surf jet, a miniature speed boat and a hovercraft." Well, that doesn't even apply. I'm not exactly sure what the intent of the Committee here was, but a hovercraft certainly is not powered by an inboard motor and it's not powered by any kind of a jet pump. In addition to that, under section 7902-A, Private Civil Action, "A person may bring a civil action in District or Superior Court against another person for the imprudent operation of a personal watercraft on inland waters of the state under this bill." I believe that that could be a very bad legislation and, Mr. President, I would move that this bill and all of its papers be indefinitely postponed.

THE PRESIDENT: The Chair would indicate that that motion is out of order. The pending question is the motion to recede and concur.

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

Senator **LIBBY:** Thank you Mr. President, men and women of the Senate. First of all, I want to agree with the good Senator from Aroostook, Senator Kieffer, that this legislation, I think it goes a step too far in regulating those of personal watercraft and we were really, I thought, on our way to looking at this problem in a comprehensive manner next year with a bill that was held over and, I guess, I really have a problem when we circumvent those processes. When we discuss this whole idea of "Okay, let's take a look at some of these bills in a holistic manner and we'll carry them over. It'll be part of the Great Ponds Task Force and we'll do it that way." That's fine. But then we circumvent that and we come through with one little piece of that and say, "Well, it's more important that we bring this forward now." And so what has happened as a result of that is, as you've seen, Senator Kieffer from Aroostook has pointed out, that in the legislation itself there is an error and if we're going to pass anything less than half-decent legislation, we ought to at least say that it ought to be written correctly and it's clear that hovercraft do not belong in this definition because they don't fit. So I'd like to see this, you know, if we can't indefinitely postpone it, which I think we should, it really should be a part of the overall comprehensive look at how we're handling our lakes and ponds. But you know, anything short of that, we ought to at least pass legislation through here that when you read it, it actually means something. And I would hope that you would not support the recede and concur motion. Thank you.

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

Senator **MILLS:** Mr. President, if one has not yet been requested, I ask for a division on the pending motion and simply wish to say that I concur with the observations of the Senator from Aroostook on the apparent technical difficulties.

Senator **MILLS** of Somerset requested a Division.

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

Senator **KILKELLY:** Thank you Mr. President, men and women of the Senate. I find that the first thing I need to do is sort of defend the honor of my Committee which I will do

unabashedly. The Committee on Inland Fisheries and Wildlife spent a tremendous amount of time dealing with the issue of personal watercraft/jet skis or other words that I won't use to describe them which is how they were described in Committee. When we talk about circumventing the process and dealing with things in a holistic manner, I would say first of all that the Department of Inland Fish and Wildlife does have jurisdiction over boating laws and that the Committee on Inland Fisheries and Wildlife did, in fact, properly have before it a number of bills dealing with personal watercraft. The Great Ponds Task Force Bill which is before the Natural Resources Committee also, of course, has a section on personal watercraft. I don't see that we somehow violated any part of the process by going ahead with the bills that were before us. What we did attempt to do however, was to take the three bills that were before us and find a way to at least come up with something that we all agreed on. We spent a tremendous amount of time in public hearing and then time in work session with a number of different ways of looking at this. I have received more mail on this issue than anything else this year, including barking dogs. I have letters from folks who are very concerned that something must happen to address the issue of personal watercraft on our lakes, in our coastal areas, on our rivers and in areas where people go in order to find some kind of peace and quiet and they're not finding that peace and quiet any longer. We looked at, in Committee at looking at age, how old should someone be who's driving this motorized vehicle, if you will, that has the capacity, can have as many as 200 horsepower. Right now the age is 12 and we went around and around about, "Is there some way that we can address that age?" and couldn't come to an agreement. We talked about 16. Well, 16 was too old. We talked about 14. Well, that made it non-conforming with other types of watercraft. Were we going to single out personal watercraft because they're different or not? So we went round and round on that issue.

What we did come up with, in the amendment before you, are the three pieces that we could all agree on, with an understanding that that particular amendment would be very much open for amendment on the floor and, in fact, in the other body has already been amended and it's an amendment I agree with. We looked first of all at the definition, and what I'll say is that the definition came from a meeting between the analyst for the Committee and the folks representing the personal watercraft manufacturers and dealers as well as the Department of Inland Fish and Wildlife who needs to do enforcement. That's the amendment that they came up with. I'd be happy to take some time and look at the issues that have been raised on that definition.

The other piece that we looked at is an education piece. And we toyed with the idea of having mandatory education and then decided that a couple of things were wrong with that. One is we had a mandatory education program. First of all, the Department of Inland Fish and Wildlife would need to sign off on that mandatory education program and it would take us so long to do it that it wouldn't be in effect for this year. The Maine Marine Trades Association as well as the Jet-Ski or Personal Watercraft Association have come up with an education piece that includes a check-off list that folks go through when they either rent or purchase a personal watercraft. It also includes a sticker that goes on the personal watercraft that talks about what safe practice, boating practice, is and it also includes a video. They will be keeping track of the number of people that go through that course. We've asked the Warden Service when they're dealing with complaints on personal watercraft to talk to people and say,

"Did you participate in that or not? Do you know what is acceptable practice and what isn't?" And then our idea was, in January, to put those two pieces together and see if there was a way that we could, in fact, show that there either was a response to that kind of a voluntary program that was being put forward or not. And that would give us an opportunity to do it without having to have a mandate which is something that none of us really wanted.

The reason on the definition, the reason for length is current law says that a jet ski is 13 feet long and they're now made at 14 feet, so we needed to extend the size that way.

When it came to what kinds of activities were to be allowed and what kinds of activities were not to be allowed is where we spent most of our time. Is wake jumping something that's acceptable? Is it acceptable if it's more than 150 feet from another boat? Is it acceptable if you're going in circles very fast and jumping wakes that you've created yourself or not? All of these things were part of the discussion. What we decided was that there were activities that, because of their prolonged nature and their repeated nature, were particularly annoying and I have the letters to prove it. Folks that talk about the jet-ski that goes back and forth in front of their cottage for hours and hours and hours on end. People that talk about being out fishing and in an area that they consider to be fairly remote and having one or two jet-skis come and circle their boat until they finally leave, having the jet-ski's jumping the wakes behind a boat and making the person who's driving the watercraft very nervous and there's nothing they can do about it. So there are particular activities that, not because of the activity itself but because of its repetition, because of its prolonged nature become very difficult to deal with. And those are the areas that we agreed on collectively as something that needed to be addressed.

We looked at the idea of it being a civil violation as opposed to a criminal violation, in part, because we wanted to get a sense of how, you know, what kind of complaints were, in fact, going to be happening because of it before we started dealing with criminal penalties for people. And obviously, because the bill isn't an emergency, over the course of this year what it would do would be to give the wardens an opportunity to say, "The activity that you're currently exhibiting is one that would be illegal under the law as of next summer, and so we would ask you to change that."

There are a number of issues with personal watercraft. I can tell you that there's already a group that's forming that's looking at a petition drive in order to ban them completely. One of the people that has been working quite closely with our Committee is a lobbyist for the group that supports the dealers and the manufacturers and their concern is that if we don't do something and make an effort towards coming to agreement between the users and the landowners and the other folks that are on the water that that's the kind of thing that will happen. It has slowed down the economic impact of this particular sector of the economy already because there are people who are concerned about purchasing these things, not knowing if they're going to be banned at some point in the future, and that's a real concern for the business owners out there who've purchased inventory.

So our effort was to get something down that would in fact give us an opportunity to look at this issue. We spent, as I said, a great deal of time on it and I would hope that you would in fact go along with the motion to recede and concur. The amendment that was put on in the other body merely includes coastal water, because we don't have authority over coastal waters, so it would include coastal waters in this as well. And I can tell you that the

reason the Committee worked on this issue is because we did in fact have bills that were before us on this issue. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President. Mr. President, I certainly, too, respect and hold in high esteem the work that the Committee did on this personal watercraft bill. I, too, have had many phone calls in the area in which I live, both presenting the problems, and also from the other side. There is no question that some of the items in this bill that is coming out of the Committee are good and I think they should become part of the law. However, I believe that when we do pass legislation dealing with these items, it should be done completely and concisely and I don't believe that this bill, in its present condition, does that. However, if the Majority Leader would be interested in tabling this bill, I would see that there is an amendment issued to see if that would be satisfactory to this body. Thank you Mr. President.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending the motion by Senator **KILKELLY** of Lincoln to **RECEDE** and **CONCUR**. (Division Requested)

Non-concurrent Matter

JOINT ORDER - relative to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Inland Fisheries and Wildlife jointly report out legislation pertaining to the use and regulation of personal watercraft and addressing noise, wildlife habitat and environmental issues associated with watercraft to the Senate. S.P. 656

In Senate, May 15, 1997, **READ** and **PASSED**.

Comes from the House, **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

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

SECOND READERS

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

House As Amended

Bill "An Act to Change the Reimbursement Procedure for Law Enforcement Personnel Testifying in Court" H.P. 404 L.D. 549 (H "A" H-672 to C "A" H-639)

Bill "An Act Concerning Authorization of Educational Technicians" H.P. 890 L.D. 1207 (C "A" H-688)

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

Senate As Amended

Bill "An Act to Enhance Parental Involvement in Developing Educational Programs for Students with Disabilities" S.P. 344 L.D. 1121 (C "A" S-332)

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **PARADIS** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Establish Acute Crisis Stabilization Beds for Children in this State" S.P. 579 L.D. 1744

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-334)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-334) **READ** and **ADOPTED**.

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

Senator **CASSIDY** for the Committee on **TRANSPORTATION** on Bill "An Act Relating to Municipal Excise Tax Reimbursement" (Emergency) S.P. 418 L.D. 1339

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-331)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-331) **READ** and **ADOPTED**.

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

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

ORDERS

Joint Orders

On motion by Senator **LIBBY** of York, the following Joint Order:
S.P. 665

ORDERED, the House concurring, that Bill, "An Act to Provide That the Operator of a Limousine Is Not Responsible for Securing in a Seat Belt a Passenger Transported for a Fee," H.P. 303, L.D. 367, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Which was **READ** and **PASSED**.

Sent down for concurrence.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Require That Handguns Sold in the State Be Equipped with Child-proof Trigger Locks" H.P. 1154 L.D. 1618

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

Signed:

Senators:

MURRAY, JR. of Penobscot
O'GARA of Cumberland
MITCHELL of Penobscot

Representatives:

POVICH of Ellsworth
O'BRIEN of Augusta
PEAVEY of Woolwich
MCALEVEY of Waterboro
JONES of Greenville
TOBIN, JR. of Dexter
BUNKER, JR. of Kossuth Township
WHEELER of Bridgewater

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

Signed:

Representatives:

FRECHETTE of Biddeford
MUSE of South Portland

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

Which Reports were **READ**.

On motion by Senator **MURRAY** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Maintain the Augusta Mental Health Institute and the Bangor Mental Health Institute"

H.P. 1021 L.D. 1413

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

Signed:

Senators:

PARADIS of Aroostook
LONGLEY of Waldo
MITCHELL of Penobscot

Representatives:

MITCHELL of Portland
BROOKS of Winterport
FULLER of Manchester
KANE of Saco
PIEH of Bremen
QUINT of Portland
JOYNER of Hollis
BRAGDON of Bangor
SNOWE-MELLO of Poland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-692)**.

Signed:

Representative:

LOVETT of Scarborough

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

Which Reports were **READ**.

On motion by Senator **PARADIS** of Aroostook, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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 Make Certain Changes to Post-conviction Review
H.P. 1090 L.D. 1533
(C "A" H-621)

An Act to Allow the Maine Harness Racing Commission to Issue Conditional Licenses
H.P. 1315 L.D. 1866
(C "A" H-608)

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 Define the Permissible Duties of Part-time and Full-time Law Enforcement Officers
H.P. 938 L.D. 1285
(C "A" H-623)

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

An Act to Implement the Recommendations of the Department of Human Services Study Group on Prosecution of Crimes against the Elderly
H.P. 1214 L.D. 1714
(C "A" H-622)

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

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

ORDERS

Joint Resolution

On motion by Senator **O'GARA** of Cumberland (Cosponsored by: Representative **DRISCOLL** of Calais, Senator **CASSIDY** of Washington, Senator **DAGGETT** of Kennebec, Senator **JENKINS** of Androscoggin, Representative **CHARTRAND** of Rockland, Representative **FISHER** of Brewer, Representative **LINDAHL** of Northport, Representative **SAVAGE** of Union, Representative **WHEELER** of Eliot.)
S.P. 666

JOINT RESOLUTION COMMEMORATING NATIONAL TRUCK DRIVER APPRECIATION WEEK

WHEREAS, professional truck drivers deliver goods to every home, community, school and business in America and travel more than 153 billion miles delivering more than 5.5 billion tons of freight each year; and

WHEREAS, professional truck drivers are recognized as being among the safest drivers on our highways; and

WHEREAS, many truck drivers have received awards for extraordinary acts of heroism and bravery for saving fellow motorists from injury and death; and

WHEREAS, America's professional truck drivers are hard working men and women who serve communities, schools and businesses of the United States with dedication and without fanfare every day; and

WHEREAS, the economic system of this country rides on the wheels of trucks and on the dependable service provided by the people who drive trucks; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature now assembled in the First Special Session, take this occasion to applaud the truck drivers of the State and to recognize National Truck Driver Appreciation Week in anticipation of the national observance during the week of August 17 to 23, 1997; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the organizations and associations involving professional truck drivers of this proud State in honor of the occasion.

Which was **READ** and **ADOPTED**.

Sent down for concurrence.

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

Senate at Ease

Senate called to order by the President.

On motion by Senator **PINGREE** of Knox, **RECESSED** until 5:30 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:

SECOND READERS

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

Senate As Amended

Bill "An Act Relating to Municipal Excise Tax Reimbursement" (Emergency)
S.P. 418 L.D. 1339
(C "A" S-331)

Bill "An Act to Make Fish in Maine Rivers Safe to Eat and Reduce Color Pollution"
S.P. 528 L.D. 1633
(C "B" S-324)

Bill "An Act to Establish Acute Crisis Stabilization Beds for Children in this State"
S.P. 579 L.D. 1744
(C "A" S-334)

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 upon were ordered sent down forthwith for concurrence.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$8,000,000 for Reconstruction, Renovations and Safety Improvements at the Governor Baxter School for the Deaf" H.P. 60 L.D. 85

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-696)**.

Signed:

Representatives:

TOWNSEND of Portland
STEVENS of Orono
BERRY of Livermore
KERR of Old Orchard Beach
MARVIN of Cape Elizabeth
KNEELAND of Easton
OTT of York
LEMAIRE of Lewiston
WINSOR of Norway
POULIN of Oakland

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

Signed:

Senators:

MICHAUD of Penobscot
CLEVELAND of Androscoggin
BENNETT of Oxford

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-696)**.

Which Reports were **READ**.

Senator **MICHAUD** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

Divided Report

Eight Members of the Committee on **LABOR** on Bill "An Act to Enhance the Collection of Unemployment Benefit Overpayments" H.P. 1080 L.D. 1517

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-693)**.

Signed:

Senators:

CATHCART of Penobscot
TREAT of Kennebec
MILLS of Somerset

Representatives:

STANLEY of Medway
BOLDUC of Auburn
SAMSON of Jay
HATCH of Skowhegan
PENDLETON, JR. of Scarborough

Three Members 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-694)**.

Signed:

Representatives:

JOYCE of Biddeford
TREADWELL of Carmel
RINES, JR. of Wiscasset

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-695)**.

Signed:

Representative:

CLARK of Millinocket

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-693)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-693)**.

Which Reports were **READ**.

Senator **PINGREE** of Knox moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-693)**, in concurrence.

Senator **BENNETT** of Oxford requested a Division.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-693)**, in concurrence. (Division Requested)

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Regarding the Self-governance of Biddeford Pool" H.P. 640 L.D. 865

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

Signed:

Senators:

GOLDTHWAIT of Hancock
LIBBY of York

Representatives:

BUMPS of China
LEMKE of Westbrook
GIERINGER, JR. of Portland
SANBORN of Alton
DUTREMBLE of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-698)**.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

AHEARNE of Madawaska
FISK, JR. of Falmouth
BAGLEY of Machias
GERRY of Auburn
KASPRZAK of Newport

Comes from the House, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

Which Reports were **READ**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Revise the Salaries of Certain County Officers" (Emergency) H.P. 1341 L.D. 1890

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 993).

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives:

AHEARNE of Madawaska
BUMPS of China
FISK, JR. of Falmouth
LEMKE of Westbrook
GIERINGER, JR. of Portland
KASPRZAK of Newport
SANBORN of Alton
DUTREMBLE of Biddeford
BAGLEY of Machias

The Minority of the same Committee on the same subject on Bill "An Act to Modify the Salaries of Certain County Officers" (Emergency) H.P. 1342 L.D. 1891

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 993).

Signed:

Representative:

GERRY of Auburn

Comes from the House with the Majority **OUGHT TO PASS** (H.P. 1341) (L.D. 1890) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Reports were **READ**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

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 Modernize Maine's Financial Institution Franchise Tax H.P. 1282 L.D. 1819 (C "A" H-601)

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

An Act to Provide Legal Counsel for Legislative Investigating Committees
H.P. 847 L.D. 1152
(C "A" H-488)

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

An Act to Clarify the Application of the Sales Tax on Hay, Horses and Horse Farms
S.P. 445 L.D. 1419
(C "A" S-261)

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

An Act to Modernize Maine's Cigarette Tax Laws
H.P. 1150 L.D. 1615
(C "A" H-599)

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

Emergency

An Act to Exempt Nonprofit Ambulance and Fire Emergency Services from the State's Sales Tax
S.P. 189 L.D. 607
(C "A" S-260)

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

Emergency

An Act to Promote Parity in the Regulation of Insurance Sales by Federally and State-chartered Financial Institutions
S.P. 439 L.D. 1385
(H "A" H-595 to C "A" S-234)

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.

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 Authorize a Physician's Assistant or a Nurse Practitioner to Sign Papers Transferring a Patient for Evaluation for Emergency Involuntary Commitment" S.P. 83 L.D. 263
(S "A" S-322 to C "A" S-227; S "A" S-229)

In Senate, May 23, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-227) AS AMENDED BY SENATE AMENDMENT "A" (S-322)** thereto, **AND SENATE AMENDMENT "A" (S-229)** in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-227) AS AMENDED BY SENATE AMENDMENT "A" (S-322)** thereto, in **NON-CONCURRENCE**.

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-Stakes Bingo Game" H.P. 1307 L.D. 1855

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-686)** (7 members)

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

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**

(In House, May 27, 1997, 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-686)**.)

(In Senate, May 27, 1997, Reports **READ**.)

At the request of Senator **HARRIMAN** of Cumberland a Division was had. 24 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

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

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Enhance the Collection of Unemployment Benefit Overpayments" H.P. 1080 L.D. 1517

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-693)** (8 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-694)** (3 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "C" (H-695)** (1 member)

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-693)**, in concurrence (Division Requested)

(In House, May 27, 1997, Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-693)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-693)**.)

(In Senate, May 27, 1997, Reports **READ**.)

Senator **BENNETT** of Oxford requested and received leave of the Senate to withdraw his request for a Division.

On motion by Senator **PINGREE** of Knox, Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-693)** **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-693) **READ** and **ADOPTED**, in concurrence.

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

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Revise the Salaries of Certain County Officers" (Emergency) H.P. 1341 L.D. 1890

Majority - **Ought to Pass** (H.P. 993) (L.D. 1890) pursuant to Joint Order (H.P. 993) (12 members)

Minority - **Ought to Pass** on Bill "An Act to Modify the Salaries of Certain County Officers" (Emergency) (H.P. 1342) (L.D. 1891) pursuant to Joint Order (H.P. 993) (1 member)

Tabled - May 27, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 27, 1997, the Majority **OUGHT TO PASS** (H.P. 1341) (L.D. 1890) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 27, 1997, Reports **READ**.)

On motion by Senator **NUTTING** of Androscoggin, the Majority **OUGHT TO PASS** (H.P. 1341) (L.D. 1890) Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

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

The Chair laid before the Senate the following Tabled and Later (5/22/97) Assigned matter:

Bill "An Act to Create the Maine Governmental Facilities Authority" S.P. 589 L.D. 1759 (C "A" S-297)

Tabled - May 22, 1997, by Senator **DAGGETT** of Kennebec.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 22, 1997, **READ A SECOND TIME**.)

On motion by Senator **NUTTING** of Androscoggin, Senate Amendment "A" (S-336) **READ** and **ADOPTED**.

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

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

The Chair laid before the Senate the following Tabled and Later (5/23/97) Assigned matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Amend the Freedom of Access Laws" H.P. 1149 L.D. 1614

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-607)** (3 members)

Tabled - May 23, 1997, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 23, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 23, 1997, Reports **READ**.)

Senator **LONGLEY** of Waldo moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

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

Senator **BENOIT:** Thank you Mr. President, may it please the Senate. I rise to speak in opposition to the pending motion and I would like to give you two major reasons why I do so. First I want to give Senator Longley, the Senator from Waldo, high marks for trying to rescue this bill. It came before Judiciary and has been troublesome from the start. And I speak in euphemisms when I say troubled from the start. It is a bill that came to us really as a Press Bill. That's not in any way to demean the press. They have just as much right to come to the Legislature and seek a change of law as anyone else, but that's the source of this particular situation. And this bill intends to amend the Freedom of Access Law, Right to Know Law, and when we start tinkering with this particular law, we better have a good reason for doing so. And we've been, some of us, talking about the old adage, "if it ain't broke, relax, go fix something else." And we were not given a whole lot of specificity of why this law needs to be changed. Now look what it does here in the two things. I'll just mention two of the things that really bother me. If this goes through, it's going to require that a motion of a Board, a public Board, whether it's municipal or whatever it might be, of three more people. You're going to have to state in the motion some specificity. You just can't make a motion any more if this becomes law to go into an executive session. This is what it will read. "And if asked, the motion must state the specific language under subsection 6 as the foundation for the executive session." The thing that bothers me about that is that you could have a motion to go into executive session made in good faith and let's take an example. Let's suppose a municipal officials wish to appoint a Code Enforcement Officer, but they need to go into executive session to take up a particular about that. Under the present law you could make a general motion to go into executive session. This new law is going to require the motion to indicate "if asked," and by the way, "if asked," when and by whom? Must the request for specificity be voiced at the time the motion is made? It doesn't say that. Would a letter from the press, on file in the municipal office, to be advised whenever a motion for executive session is made to recite specificity? Is that, "if asked?" Some writing that's on file. The bill doesn't specify "if asked" and what the method will be or when. That bothers me, but I'll give you that.

Now, look at what section 6 says can be discussed in executive session. You can take up employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation, or dismissal. Now suppose in this example of a Code Enforcement Officer the motion takes up, "if asked" and someone says, "Well, what are you going into executive session for?" And the person states in the motion, "Well, the appointment, the assignment and the duties of a Code Enforcement Officer, period." They go into executive session and, in there, they talk about those things plus compensation. The motion didn't mention compensation. So I suggest to you now, what do we have because the motion was defective and didn't recite all the particulars. Do we have a proceeding that's void ab initio, which is "from the start" or do we have it voidable? Now frankly, ladies and gentlemen of the Senate, I don't care for either term. Voidable at the start or void later if challenged. That

bothers me right there. I don't know why it's necessary to tinker with the executive session. It's working pretty well and I'm opposed to this particular change of the law.

I want to take up one more change with you. If this bill is passed, there's going to have to be minutes, or a record, kept of public proceedings and executive sessions. That's new. Going to have to make a record now of what happened in the executive session as well as the public proceeding. Now what bothers me about this is that the new language will specify what the form of the record is in a public proceeding but is silent as to the form of a record in an executive session. So where are we leaving the citizens of Maine in an executive session to keep a record we don't tell them what kind of a record to keep. That bothers me. And then it indicates that the record of the meeting must be made available for public inspection within a reasonable time after the meeting. What does a reasonable time mean? Now a lot has been taken out of this bill and for good reason, for very good reason. If we were talking about the original bill, which we aren't, you would see what I mean. By virtue of the form in which this bill came to us, very troublesome right from the start. It continues to me to be troublesome for the reasons that I've indicated to you. So, granted, that Senator Longley has made an effort to make this a better bill. A lot of things have been taken out that were not positive, were ambiguous at best, but what's left still bothers me. And I trust or hope that it would bother you such that you would not give this bill your support. Thank you.

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

Senator **LAFOUNTAIN:** Thank you Mr. President, men and women of the Senate. I rise today and I concur with the good Senator from Franklin and ask you to oppose the pending motion. Basically I oppose this Committee Amendment, which is the minority report, for two reasons. The first reason is the minutes that would be required to be taken of any public proceedings and specifically the bill says the meeting records of public proceedings must include, and it names the following, and my understanding is that this amendment, if it becomes law, would actually apply to the Legislature also and I'd like you to consider what this would do to a Committee meeting in the context of the Legislature. We have a clerk and we have an analyst. The minutes must include the following. The names of the members present. Well, our clerk does that. The names of the persons appearing before the agency or body. Well, the clerk does that. People sign in when they come to testify, the text of any motion made. The clerk does that. The votes on such a motion. The clerk does that. And a brief description of the subject matter discussed. Well, in Banking and Insurance that's all done by the analyst, so what we have here are two records kept by two different people which are never put together and placed into one document. So I'm wondering if, even here in the Legislature, we would be required to either have the clerk record everything including subject matter discussed or we would have to go out and hire someone else who would be the record keeper of all information.

The second issue is the executive session, and I know that specifically, that if I am on a Board or on a Committee, like I am here in the Legislature, and I vote to go into executive session, I would like to know what the rules are before I go in. I'd like to know that when I go into executive session, whether it be on a School Board or here in the Legislature on the Banking and Insurance Committee, that what I say in Committee will be held in

confidence and not shared with the public. I don't want to know that one hour later that when we reconvene in the public domain that 2/3 of the members of that body decided that this information is public. I think that what we're going to do is, we're going to change the entire structure of executive session and people will not be as candid as they normally are on issues that are truly important to either a community or to a governmental agency. And I encourage you to defeat the pending motion.

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

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. Using the card analogy, I feel as though I have a lot of low cards and I'm not ready to fold yet, though. I'm asking you to let me pick from the pile once, and that's in the form of an amendment and if you would give me the courtesy of just squeaking me by this vote so I could offer my amendment, I'll appreciate it.

The Chair ordered a Division. 6 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE, FAILED.**

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$8,500,000 to Fund Capital Expenses for Vocational High Schools" H.P. 413 L.D. 558

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-697).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-697).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-697) **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 the Charitable Status of Nonprofit Hospital and Medical Service Organizations, to Permit Their Creation of Health Insurance Affiliates and Their Conversion to Stock Insurers and to Ensure Regulatory Equity" H.P. 1306 L.D. 1849

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-701).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-701).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-701) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Improve the Child Development Services System and Encourage Collaboration in Early Childhood Programs with School Administrative Units" H.P. 1125 L.D. 1581

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-703).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-703).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-703) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Simplify the Process for Applying for State Services for People with Disabilities" H.P. 1200 L.D. 1700

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-702).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-702).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-702) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Establish Family Development Accounts"
H.P. 1216 L.D. 1716

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-704)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-704)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-704) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Amend Maine's Involuntary Commitment Laws" H.P. 1276 L.D. 1806

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-710)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-710)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-710) **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 State's Child Support Enforcement and Overpayment Recovery Laws" H.P. 1289 L.D. 1834

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-700)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-700)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-700) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Implement Federal Welfare Reform Mandates for State Child Support Enforcement Laws and Recovery of Overissued Food Stamps"
H.P. 1290 L.D. 1835

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-699)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-699)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-699) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$40,500,000 to Match Available Federal Funds for Improvements to Municipal and State Roads and State and Local Bridges"
H.P. 1299 L.D. 1842

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-709)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-709)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-709) **READ** and **ADOPTED**, in concurrence.

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/22/97) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Recover Economic Loss Attributable to Tobacco Use" S.P. 119 L.D. 398

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-293)** (2 members)

Tabled - May 22, 1997, by Senator **LONGLEY** of Waldo.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report

(In Senate, May 22, 1997, Reports **READ**.)

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

Senator **MILLS:** Mr. President, men and women of the Senate. This bill deserves at least a short explanation. The thrust of the bill is that it would require the five manufacturers of cigarettes and tobacco products in this country to compensate for future illnesses and losses, medical expenses, that are caused by exposure to their products after the end of this calendar year. The bill is a little bit similar to a bill that was passed in Florida and another that was passed, I believe, in Massachusetts except that this bill is entirely prospective in its impact. It says regardless of what the rules have been with regard to responsibility for creating medical expenses through tobacco exposure, henceforth beginning 1/1/98 the responsibility for reimbursing Medicaid, Blue Cross, other health insurers, the uncompensated care accounts of 42 hospitals, other entities which sustain a direct and statistically provable medical expense loss because of smoking-related illnesses, those entities will be able to send the bill to tobacco manufacturers in proportion to their market share as it exists in the state of Maine. Most of the data, the statistics, and the information that is necessary to send such a bill is regularly accumulated. The Center for Disease Control nationally has been accumulating such statistics since at least the early 1960's. There's no great mystery about what illnesses are affected by exposure to tobacco on a statistical basis and on the extent to which tobacco has that impact on things like lung cancer, heart disease and other such illnesses which are very commonly associated with tobacco exposure. The bill, as originally drafted, and the one that was presented to the Legislature two years ago included not only medical expenses but also disability losses and the Committee on Judiciary, in its wisdom, the people that reported out this bill elected to take out the disability portion, perhaps because it was more difficult to aggregate those figures and to assemble them in a responsible way and instead focused the bill entirely on uncompensated medical care. Now this is medical care expense that the rest of us as a society are currently bearing. We, either through health insurance or through uncompensated charity care administered by hospitals, the rest of us are essentially paying for the medical expenses that are incurred by people who run the unusual risk or the unusual risks that are associated with consumption of tobacco products. The neat thing about the bill is that it presents a

commercially-responsible solution to what is fundamentally an economic and commercial problem. And that is, how do we, as a society, allocate the costs associated with tobacco exposure and tobacco use? Many of us in recent weeks have seen statistics about the level to which people who smoke regularly run up medical bills that greatly exceed those who do not and the, I can't remember the exact figures, but the smokers who belong to health insurance plans typically run up two and three times as much by way of medical expense as those who do not smoke. It is one of the single most substantial aggravating factors in examining and revealing health costs. So this would put this commercial and economic burden right where it belongs. It would build it into the product itself and it would be the responsibility of those who manufacture the product to see to it that these expenses, these aggregatable and provable expenses be put together and paid by the very industry that is responsible for creating them. It is, in my view, a commercial response to a commercial problem. Thank you.

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

Senator **BENOIT:** Thank you Mr. President, may it please the Senate. The good Senator from Somerset, Senator Mills, in his opening sentence said that this bill deserves a short explanation. He's right, it does. But it also deserves a short shrift in this Legislature, given its problems, and I urge you to vote against the pending motion and, ladies and gentlemen of the Senate, believe it or not there's something bigger than tobacco. I know we've had a lot of bills this session about tobacco and you'd kind of think that it's dominated the session quite a bit, but there's something bigger still and it's the refusal to dismantle our judicial procedures, procedures that we have to assure fairness, just because we have an alleged tobacco health-cost debate going on. There are three areas, Mr. President, that bother me about this legislation. First, it does away or dismantles the concept of causation and that, to me, is the most serious flaw in the legislation. Virtually it extinguishes the concept as we know it. Historically causation has been the link, the nexus between human action and legal responsibility for that action. It has been a fundamental foundation stone in our law and our legal system. And when I saw that foundation stone mentioned, I thought about something - a passage in the Bible. I know I've been talking about the Bible of late and if my wife were here to hear me she'd probably correct me and tell you that I don't really read the Bible that much and she'd be right. But I do remember as a child a statement in the Bible, the Lord said to Peter, "On this rock I build my church." And I realize that there's a difference between a church and a court of law, but I'll tell you from my perspective it's pretty darned close. If we start dismantling the court system, in my view we're starting to tinker with something that's pretty special. The entire body of Maine law is founded upon the concept of assignment of responsibility for the consequences to those who cause the problem. And, Mr. President, this bill intends to abandon the law of evidence as we know it.

One of the most disturbing aspects of the Bill is that it proposes to substitute for admissible evidence scientific samplings and statistical surveys and our legal system as you know it, Mr. President, has spent a better part of many, many years developing a set of evidentiary rules for a fair process that allows the introduction of reliable forms of evidence. We ought not to abandon it, even for tobacco if that's the subject matter. And I think that we are really over the line, Mr. President, in this

legislative process - are getting over the line into the judicial process. By sweeping away the fundamental assumptions of our law, not just of tort liability, but almost every other kind of liability, the bill seeks to litigate here in the Legislature those issues that ought to be litigated in court. With all due respect, the Legislature ought to be writing public policy, which it does best, rather than trying to determine the outcome of a lawsuit. Mr. President, this bill deserves the same result that it got two years ago, quietly put away. Let's walk the high road and put this bill down. Thank you Mr. President.

On motion by Senator **JENKINS** of Androscoggin, **ADJOURNED** until Wednesday, May 28, 1997, at 9:00 in the morning.

The Chair ordered a Division. 7 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

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

Sent down for concurrence.

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

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

COMMUNICATIONS

The Following Communication: S.C. 327

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333**

May 27, 1997

Honorable Joy J. O'Brien
Secretary of the Senate
118th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it indefinitely Postponed Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as It Relates to Compensation for Total Incapacity" (H.P. 257) (L.D. 321)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE**.

Senate at Ease

Senate called to order by the President.