

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Fourteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME IV**

**FIRST SPECIAL SESSION**  
August 21, 1989 to August 22, 1989  
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**FIRST CONFIRMATION SESSION**  
October 30, 1989  
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**SECOND CONFIRMATION SESSION**  
December 12, 1989  
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**SECOND REGULAR SESSION**  
January 3, 1990 to March 19, 1990

STATE OF MAINE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
SECOND REGULAR SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Tuesday  
March 13, 1990

Senate called to Order by the President.

Prayer by Reverend Bruce Hudson of the Highland Avenue Methodist Church in Gardiner.

REVEREND BRUCE HUDSON: Let's be in the spirit of prayer. Creator God, we are grateful for this day which is a new opportunity for us to deal with the issues of government. We thank You for this opportunity, always remembering the great sacrifices made by the early fathers and mothers of our nation to make this possible. Forgive us for taking for granted the freedoms we have been given by those who have died to gain them and to protect them.

We are faced with a sluggish economy, drug and alcohol abuse, family violence, homelessness, pollution of our air, water and land and many other social problems which have no easy answers. Because these problems exceed our human wisdom, we seek Your divine guidance in solving them. Great God of the universe, hear our prayer. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Ensure the Independence of the Animal Welfare Board"

S.P. 691 L.D. 1830  
(S "A" S-564 to C "A"  
S-523)

In House, March 6, 1990, PASSED TO BE ENACTED.

In Senate, March 8, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523) AS AMENDED BY SENATE AMENDMENT "A" (S-564) thereto, in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523) AS AMENDED BY SENATE AMENDMENT "A" (S-564) AND HOUSE AMENDMENT "C" (H-906) thereto, in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Off Record Remarks

House Papers

Bill "An Act to Amend the Laws Pertaining to the Commission on Biotechnology and Genetic Engineering" H.P. 1759 L.D. 2424

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

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

Bill "An Act to Make Supplemental Appropriations and Allocations and to Change Certain Provisions of the Law for the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1990 and June 30, 1991" (Emergency)

H.P. 1763 L.D. 2428

Committee on FISHERIES AND WILDLIFE suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Which was referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act to Modify the Procedure for Establishing the Hospital Development Account Credit" H.P. 1760 L.D. 2425

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

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

Bill "An Act to Clarify the Laws on Manslaughter in the Workplace" (Emergency) H.P. 1758 L.D. 2423

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

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

Pursuant to the Statutes  
Committee on AUDIT AND PROGRAM REVIEW

The Committee on AUDIT AND PROGRAM REVIEW, pursuant to the Maine Revised Statutes, Title 3 Chapter 33, ask leave to submit its findings and to report that the accompanying Bill "An Act to Promote the Well-being and Rehabilitation of Children in Need of Care, Treatment or Shelter"

H.P. 1761 L.D. 2426

Be referred to the Joint Standing Committee on AUDIT AND PROGRAM REVIEW for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on AUDIT AND PROGRAM REVIEW and ORDERED PRINTED, pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on AUDIT AND PROGRAM REVIEW and ORDERED PRINTED, pursuant to Joint Rule 18, in concurrence.

Off Record Remarks

Pursuant to the Statutes  
Committee on AUDIT AND PROGRAM REVIEW

The Committee on AUDIT AND PROGRAM REVIEW, pursuant to the Maine Revised Statutes, Title 3 Chapter 33, ask leave to submit its findings and to report that the accompanying Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act" (Emergency)

H.P. 1762 L.D. 2427

Be referred to the Joint Standing Committee on AUDIT AND PROGRAM REVIEW for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on AUDIT AND PROGRAM REVIEW and ORDERED PRINTED, pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on AUDIT AND PROGRAM REVIEW and ORDERED PRINTED, pursuant to Joint Rule 18, in concurrence.

COMMITTEE REPORTS

House  
Ought to Pass As Amended  
The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Strengthen and Fund Organic Food Certification in Maine"

H.P. 1437 L.D. 2007

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-895).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-895).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-895) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on EDUCATION on Bill "An Act Concerning Educational Enhancement"

H.P. 762 L.D. 1066

Reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-896).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-896).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "B" (H-896) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act to Amend the Law on Intermediate Sanctions in Long-term Care Facilities"

H.P. 1661 L.D. 2301

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-897).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-897).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-897) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate  
Leave to Withdraw

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

Senator BALDACCI for the Committee on TAXATION on Bill "An Act to Establish a Demonstration Project to Aid Homeless Persons"

S.P. 922 L.D. 2331

SECOND READERS

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

House

Resolve, to Designate the Quoddy Loop as a Scenic Way (Emergency)

H.P. 1738 L.D. 2402

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

House As Amended

Bill "An Act Concerning the Definition of Security Guard"

H.P. 1342 L.D. 1859

(C "A" H-886)

Bill "An Act to Replace the Large Lot Exceptions under the Site Location of Development Law with a Low-density Exemption"

H.P. 1543 L.D. 2128

(C "A" H-889)

Bill "An Act Regarding Homeowners' Rights When Mobile Home Parks are Sold"

H.P. 1563 L.D. 2169

(H "B" H-899 to C "A" H-875)

Bill "An Act to Conform Maine Antifouling Paint Law to Federal Standards" (Emergency)

H.P. 1635 L.D. 2268

(C "A" H-888)

Bill "An Act to Provide Legislative Oversight of Transactions Dealing with State Held Lands and Property"

H.P. 1666 L.D. 2307

(C "A" H-883)

Bill "An Act to Further Clarify the Relationship Between Woodcutters and Landowners" (Emergency)

H.P. 1679 L.D. 2320

(C "A" H-882)

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

Senate As Amended

Bill "An Act to Allow the Maine State Employees Health Insurance Program to Self-insure Health or Dental Insurance"

S.P. 806 L.D. 2069

(C "A" S-578)

Bill "An Act to Help Fund County Government"

S.P. 850 L.D. 2179

(C "A" S-577)

Bill "An Act to Amend the Minimum Standards for Planting Laws"

S.P. 923 L.D. 2332

(C "A" S-575)

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

Sent down for concurrence.

ENACTORS

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

An Act to Amend the Procedure for Approval of the Lincoln County Budget

H.P. 1250 L.D. 1748

(S "A" S-544)

An Act Allowing Day Care Centers to Use Cloth Diapers

H.P. 1347 L.D. 1864

(C "A" H-863)

An Act to Provide Equitable Representation on the Board of Trustees of the Maine State Retirement System

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S.P. 751 L.D. 1959  
(C "A" S-542)

An Act to Increase the Effectiveness of the Handicapped Parking Laws

H.P. 1472 L.D. 2057  
(C "A" H-862)

An Act to Require That Certain 3rd-party Prescription Drug Programs Be Subject to the Provisions of the Appropriate Preferred Provider Arrangement Act

S.P. 816 L.D. 2080  
(C "A" S-543)

An Act to Prohibit Motor Vehicle Insurers from Adjusting Personal Insurance Rates of Certain Public Employees

S.P. 843 L.D. 2162  
(H "A" H-881)

An Act Concerning the Bulk Transfer Provisions of the Uniform Commercial Code

H.P. 1606 L.D. 2219

An Act to Amend the Maine Liability Risk Retention Act

H.P. 1669 L.D. 2310

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 Provide for Base-year Revisions for Intermediate Care Facilities for the Mentally Retarded

H.P. 250 L.D. 362  
(S "A" S-554 to C "A" H-813)

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

An Act to Require Disclosure of Parents' Social Security Numbers at the Time of a Child's Birth and to Amend the Provisions of the Law Concerning Disclosure of Information

S.P. 889 L.D. 2265  
(C "A" S-540)

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

Which was PASSED TO BE ENACTED and signed by the President in NON-CONCURRENCE.

Sent down for concurrence.

Resolve

Resolve, Authorizing the Director of the Bureau of Public Improvements to Sell the Maine Criminal Justice Academy Campus in Waterville, Maine

S.P. 872 L.D. 2234  
(C "A" S-548)

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

Emergency

An Act Concerning the Travel Information Advisory Council

H.P. 1512 L.D. 2092  
(C "A" H-761)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was

presented by the Secretary to the Governor for his approval.

Emergency

An Act to Improve the Organizational Structure of the Inland Fisheries and Wildlife Advisory Council

H.P. 1660 L.D. 2300  
(H "A" H-818; H "B" H-880)

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

Emergency

An Act to Extend the Reporting Date of the Commission to Evaluate the Adequacy of the Aid to Families with Dependent Children Need and Payment Standards

S.P. 952 L.D. 2414

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

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

Bill "An Act Regarding Municipal Shellfish Regulations"

H.P. 1533 L.D. 2118

Tabled - March 12, 1990, by Senator CLARK of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (H-887), in concurrence

(In Senate, March 12, 1990, Committee Amendment "A" (H-887) READ.)

(In House, March 9, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887).)

On motion by Senator BRANNIGAN of Cumberland, Senate Amendment "A" (S-579) to Committee Amendment "A" (H-887) READ and ADOPTED.

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

Senator WEBSTER: Mr. President, since Senator Cahill is not here today because of a death in her family, I would ask that somebody table this matter since she is quite concerned about it and it seems to me she ought to be here to see its action through this Body.

THE PRESIDENT: The Chair understands the Senator's concern. However, I would remind the Senator that this Bill will be back before this Body tomorrow for its Second Reading.

Off Record Remarks

Committee Amendment "A" (H-887) as Amended by Senate Amendment "A" (S-579) thereto, ADOPTED in NON-CONCURRENCE.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

HOUSE REPORTS - from the Committee on BUSINESS LEGISLATION on Bill "An Act Concerning Contact Lenses"

H.P. 1415 L.D. 1967

Majority - Ought Not to Pass.

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-871).

Tabled - March 12, 1990, by Senator CLARK of Cumberland.

Pending - the Motion of Senator BALDACCI of Penobscot to ACCEPT the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE

(In Senate, March 12, 1990, Reports READ.)

(In House, March 9, 1990, the Minority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-871).)

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

Senator HOBBSINS: Thank you. Mr. President, Men and Women of the Senate, as you can see from the report of the Business Legislation Committee, this issue provided much debate and controversy to the members of the Committee who signed the report. Obviously, all of us are concerned with the issue of health care delivery to our constituents and we all want to ensure that our constituents receive the best treatment no matter what discipline or mode of treatment is provided.

I'd like to give you a little history about the battles that took place when I first arrived to the Legislature 17 years ago. In 1973, optometrists were very much restricted in the type of practice they could perform on their patients. They weren't allowed, at that time, to get near the eye, to insert any type of medication in the eye, write prescriptions regarding medication. They weren't allowed, at that time, to put any type of device in the eye in order to determine whether or not there was a cornea problem or whether or not there were problems with cataracts.

The reasons why the law was such, then, was because the arguments of the ophthalmologists prevailed in previous debates before the Legislature. The reason why the law was the way it was was because they used the argument of health care. They said it was a health issue. Those ophthalmologists did not discuss the other issue involved. It's something that's unpleasant to many of us and that is the issue that surrounds many issues in this Body, whether it's the rivers Bill, whether it's Bills involving workers' compensation and that is the economic issue.

Now those tactics were very successful, but, fortunately, the Legislature, in its wisdom, allowed those health care professionals to deliver services to individuals through the utilization of optometrists. Those optometrists have done a lot of good. As you know, the early detection of cataracts will save someone's eyesight. The scope of delivery of services has been expanded because of the professionalism and utilization of optometrists.

I remember I sided in with the optometrists because I, too, took the arguments that it wasn't just the health care issue, there was an economic issue involved. The irony is, in 1990, I arrived back before the Business Legislation Committee and I saw the same arguments that were used by the ophthalmologists being utilized and used by the optometrists.

This Bill, as re-drafted, would allow for the specifications, and that's the term, instead of calling contact lenses prescriptions, after the fitting process of the patient was completed, would

allow for those specifications to be released by and issued by the optometrist to allow the patient the choice of where he or she would like to have that specification filled.

Now, the arguments used, also in regards to this Bill, were those of liability. Their arguments, and I think have some merit, obviously, is that there might be a liability problem, because who is going to tell who filled those contact lens prescriptions or specifications. There's an amendment here that requires those individuals who fill those lens prescriptions or specifications to file within 24 hours and forward to the person issuing those specifications, notification that the contact lenses had been provided and any other information which the Board of Optometry would require. I believe that's a pretty reasonable approach to this situation.

Now I have to tell you a kind of cute story. I received more calls, probably, on this particular issue during the past week than I received all session and four of the calls were from fraternity brothers of mine, back in my college days. It was good to reacquaint myself. They weren't calling about the good old alma mater of the University of Maine. They were calling about this particular Bill because they were optometrists. It was kind of nice to hear from them. As I said to one of my friends whom I hadn't heard from in so many years and I thought we were dear friends, I wish I would have heard from him six years ago when I was seeking a higher office, but unfortunately, I didn't at that time.

I also heard from a person for whom I have a great deal of respect. He's the godfather of my sister and my father's best friend and he is very disturbed by this Bill. His reasons are not economic reasons. He had a sincere belief, I believe, in the health care issue. He believes that only health care professionals should handle these contact lenses. My father was a little taken aback by it, because you know they're very close friends and he had written me two letters. You know, to tell you the truth, the letters were very touching and moving about our past association and relationship. My father said to him, Well, I'm not going to say anything to Barry because I remember 17 years ago there was a Bill before the Legislature to allow banks to sell life insurance and he voted for that even though I'm an insurance agent and I helped him through college and through law school.

So I have a little emotion about this Bill, but I think it's a simple Bill. I don't know if anyone here wears contact lenses, but I do. They come in these vials and I wear the disposable type that you can get for daily wear and you throw them away after so many days. I'm on my seventh day here and if you look, they probably need to be changed, but that's my problem because, unfortunately, I couldn't change them because I stayed up last night because of the late session and, to be frank with you, I probably couldn't have got a prescription to fill them anyway, so I'm going to wear them another day and hopefully, my eyes won't be reddened anymore. But I have some old, old ones because I don't have any new ones. I have some old bottles, these disposable contact lens vials and you know, there are only three or four makers. This one is "NU-VUZ" and these lenses come with United Parcel Service and they go right to the optometrist and on them they have left eye, right eye. You mark which eye it is. You have down the diameter, you have down the strength of the lens and the other specifications and it's sealed to it, just like a regular seal. When you open it up, you also have the same specifications on the box. These

lenses are sealed in a container and for the life of me, I don't know what difference it is, if these lenses are sealed in a container, like this, and arrive to the optometrist's office. Now these are disposable lenses, these aren't the hard lenses. These lenses are thrown away every seven days, or supposedly thrown away every seven days and you open up another vial and insert another lens.

I thought that all of us, I thought that all health care professionals, should look to maximizing the use of health care facilities or utilization of services throughout the state as one of our responsibilities and I thought that was the health care responsibility and, quite frankly, I'm a little disappointed at the intensity of the lobbying regarding this Bill.

I do believe there is a health care issue involved, but I think the underlying issue is an economic one, unfortunately. I would ask you just to take your Committee Amendment and look at it. It's not a radical approach to a situation. I believe there are, in this Amendment, the ability, on refills only of prescription lenses, specifications, the ability for that person to have them filled at a pharmacy or at an optivision center that you see in these malls and I don't think there's anything wrong with that. I would appreciate it very much if you would take a look at this and support the six members of the Committee that feel that the delivery of this health care service should be provided, not just by optometrists or ophthalmologists, but by other individuals, so that we can maximize utilization of these services and minimize the costs. Thank you.

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

Senator BALDACCII: Thank you. Mr. President, Members of the Senate, I enjoyed very much listening to the eloquence of the good Senator from York, Senator Hobbins, in explaining the Minority Ought to Pass as Amended Report. Not to take up too much time of the Senate this morning, as I know we do have a busy calendar, but some of the problems with the Amendment, as it has been drafted, calls for pharmacists to be ones that dispense of the contact lenses. Pharmacists, now, can't even dispense of eyeglasses. Now, under this amendment, they're going to be able to be dispensing contact lenses.

It calls for opticians to be able to dispense replacement lenses and they're not even licensed. There's no connection there if the person gets that contact lens from an optician and to be held liable. The Federal Trade Commission and the Federal Drug Administration have held that it is the person who draws the specifications up, as the good Senator pointed out, they're not prescriptions, they're specifications, that is to be held liable, and as liberal as the Federal Trade Commission is, it hasn't budged from making unlicensed persons able to handle the specifications on contact lenses.

It isn't just a money issue. Most standard contact lens replacement, Bausch and Lomb's, from the factory, which does not allow unlicensed people to handle their contact lenses, is about \$20 and in most optometrists' or ophthalmologists' offices, those replacement lenses vary from \$24, \$25, and \$26. All of them will tell you it's not a money maker, but they are held liable for the specifications that they draw up on the individual to make sure that those specifications are correct, they have a follow-up.

Now, the problem with this particular legislation, is that it allows people to get it from unlicensed people, people that are not trained in the optometric or ophthalmology area. It has created problems. The disposable lenses that the good

Senator from York was referring to, which are good for seven days, in most cases, younger people, as the ophthalmologists in Bangor were telling me, Dr. Clark and Dr. Dunn, they end up wearing them longer than they're supposed to and they end up with serious eye problems and they've ended up at the Eastern Maine Medical Center in the eye section of the hospital because sometimes, they're a little bit stubborn in admitting. As the good Senator from York pointed out, sometimes we end up with long sessions and not able to get to them, but we wear them beyond when we're supposed to and it creates problems which are very serious.

But there is an economic story here and it is \$4 or \$5 cheaper to be able to get it from someone who deals with a volume and for those people that are concerned about that, I've written a letter, which I have distributed to all of you, to the Board of Optometry, which has a public member, to look at this issue and to be able to come back with a recommendation if it in fact does make sense. We may end up licensing opticians so that there's more variety.

Right now, our law allows for doctors of optometry or ophthalmologists, if I request, I can get my specifications, it's optional. I can get them under some doctors and some doctors don't want to because of the concern about the liability and they want to make sure that it goes to somebody who is licensed and who they know is capable of being able to fit you correctly. Right now, it's optional. I think that's the very least we should be able to do is to look at this particular issue.

You don't see Union Mutual, you don't see Blue Cross and Blue Shield burning down the doors because it's going to be a tremendous cost-saving to them in the health care part of their industry. Nobody is down here, except we heard testimony from one individual who is very concerned about it.

In that particular case, the optometrist or the ophthalmologist acted incorrectly and there are those in every association, but I submit to you that we should not make a law like this and cause many health problems to many people without knowing exactly what the problems are with it. So I would ask you to support the Majority Ought Not to Pass Report.

Off Record Remarks

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

Senator HOBBSINS: Thank you, Mr. President. I apologize to the members of this Body. I was told I could not use props and I apologize for using my contact lens props. I just want to share with you a policy statement of the American Academy of Ophthalmology. This policy statement reads as follows, "The American Academy of Ophthalmology supports the principle that patients are entitled to information concerning all aspects of their health care. This principle applies to the providing of specifications of fitted contact lenses to patients after the fitting process has been completed."

The argument that was used by the good Senator from Penobscot and the co-chair of my committee, Senator Baldacci, regarding the liability issue, I believe is a credible one, but it should be taken in context of the other liability issues of other health care professionals. In my conversations over the weekend, I asked the other question of my old fraternity brother, who's an optometrist, What do you pay for liability insurance? I thought he was going

to tell me in the thousands like my orthopedic friends and my friends who are neurologists or my friends who I know who are involved in surgery and other health care disciplines or my lawyer friends. He paid \$918 for the year for liability insurance. That is about \$18.50 a week or less than one half the amount of an examination by a health care professional.

It's a lot of money but when you compare it to other professionals and their liability insurance, it's not significant. What does that tell you? It tells you that optometrists are not sued. There's not a liability problem. There isn't the legal exposure in this particular field and I'm glad, to be frank with you. I'm glad that that's the case. It's not significant, but it is a part of this debate, the liability issue.

When a doctor, an M.D. or a D.O., prescribes medication, that doctor is not responsible if the pharmacist incorrectly fills that prescription. That doctor or D.O. is only responsible for making sure that that medication is the proper dosage and that the specifications are proper.

Just as the case with this particular issue, once the fitting has been properly done, that D.O. has responsibility, yes, to his patient, and that D.O. and that ophthalmologist has the ability in the prescription, in the writing of that specification to limit the scope of refills to a three month period or a four month period or a six month period or a two month period, whatever it takes to ensure compliance, compliance of the patient, to ensure the health issue.

I don't want to impugn my optometrist friends by saying it's only an economic issue, but I believe there is a nexus between their position regarding the economics of this matter. In the state of Maine, you might wonder, when you go to the malls, why you don't find an optometrist, who is housed, he or she, in those places where they dispense glasses, eye care products. The reason is, it is prohibited under Maine law. You have to have a separate entrance. You have to have no association, whatsoever, with a doctor in that facility. There are reasons behind that. I think you know those reasons. Part of it's economic, just as part of this issue is economic.

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

Senator MATTHEWS: Thank you. Mr. President, Men and Women of the Senate, I appreciate the comments of the good Senator from York, Senator Hobbins, and it seems to me that really we have right in front of us the answer to this question. Of course, we're here as part of the Second Regular Session to try to deal with some major problems, one being our shortfall and budgetary and emergency kinds of matters, and it seems to me that the answer to this debate today lies in the letter here from Senator Baldacci of Penobscot and that basically says that if there is an issue here, an economic one, a health care one, then let's do a thorough investigation of this issue before we take an action which may result in health care problems, may result in more problems with liability and I appreciate the good colleague from York mentioning the liability issue.

We have an opportunity today by voting for the Ought Not to Pass Report and therefore, not increasing liability rates for at least one profession. The alternative, and the one that makes sense to me, is to have the optometrists, the ophthalmologists, consumers, those chain stores that want to get in the business, as they usually want to get into everything else, sit down and deal with the issues of the percentage of cases in which patients ask for lens specifications of prescriptions, the

percentage of cases in which patients go to other licensed practitioners, the percentage of cases in which patients have contact lens specifications filled at unlicensed facilities, the percentage of cases in which the patient receives a lens other than that which was specified and may result in health and severe eye problems.

This makes sense to me, ladies and gentlemen of the Senate, and I would just end by saying that as far as I am concerned, one of the most important parts of our human anatomy, it seems to me, are the eyes, and protecting eyesight is a concern of all of us in this Chamber and so I would hope that we would give the professionals in the business, the optometrists, the ophthalmologists and those that have expertise, an opportunity to sit down with the Committee and do the right thing. Thank you.

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Off Record Remarks

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Senator BERUBE of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator BERUBE: Thank you Mr. President. First of all, I must say, I must compliment our President. It is, however, Lacharite.

THE PRESIDENT: Merci beaucoup.

Senator BERUBE: Il n'y a pas de quoi. I would like to prove to our honored guests from Canada that we too are a bilingual state and with permission of my English-speaking colleagues and you, Mr. President, "En mon nom et au nom de mes collegues je vous souhaite un chaleureux accueil parmi nous. Et un bon mais trop court sejour parmi nous. Salut et bienvenu."

(In my name and in the name of my colleagues, I extend a warm welcome and a pleasant stay with us. Greetings and welcome.)

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Off Record Remarks

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

Senator BRAWN: Merci. Mr. President, Men and Women of the Senate, if you will allow me briefly just to rise, I can't let go by the good Senator from York, Senator Hobbins. I want to thank him for giving us the little demonstration because when I came here four years ago, I was a contact lens wearer.

I loved my contact lenses. I learned to water-ski when I got contact lenses because I could see what I was doing whereas before I could not and I want to thank him. But I want to say not everyone is without problems. When I came here and had lots of reading to do and the late nights as spoken of, I got an eye infection. I let my eyes heal. I went through the whole procedure. I've had concerns and problems and I chose to go back to glasses because I do agree with Senator Matthews, your eyes are given to you once and it's not something I want to play around with or fool with. I have great respect for several of my colleagues sitting here who are wearing their contact lenses. I'm very envious. I wish I could, maybe when we get out of here I will. But I'm standing to urge you to vote Ought Not to Pass for the health reason, period. Thank you.

At the request of Senator HOBBS of York, a Division was had. 25 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion of Senator BALDACCI of



Penobscot, to ACCEPT the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on LEGAL AFFAIRS on Bill "An Act to Establish Mediation for Mobile Home Park Operators and Tenants"

H.P. 1595 L.D. 2212

Majority - Ought Not to Pass.

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-879).

Tabled - March 12, 1990, by Senator CLARK of Cumberland.

Pending - the Motion of Senator MATTHEWS of Kennebec to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report, in concurrence

(In Senate, March 12, 1990, Reports READ.)

(In House, March 9, 1990, the Minority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-879).)

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

Senator DILLENBACK: Thank you. Mr. President, Ladies and Gentlemen of the Senate, we've been inundated with all kinds of mobile home park rules, laws and everything else that has happened this year. As a matter of fact, I think we've had 13 bills on mobile home parks. We watered down a great many of these bills, so we could pass them. They were presented by the Manufactured Housing Association in conjunction with a sub-committee on mobile home policies and I think they've done a reasonably good job, but when this Bill came up, only two people on the sub-committee voted for it.

So now we have it before us. You've discussed it. You've had time to think about it. But, it's a problem Bill. The problem is that they have amended the Bill and they have amended the Bill to some extent that it will only concern mobile home parks with 250 units. The problem is that these 250 units, as happened with the condominiums here in the last several years, many of these parks have been sold and when they were sold, they were sold for a high price. Now these people are struggling to be successful with their parks.

I was on the Governor's Task Force for Affordable Housing. It seemed to me, after that study, that the only thing that really made much sense was a mobile home for some people. But, if you add a cost to these parks, you're going to take away the ability for people to live in an economic situation. I have a letter here from State Mobile Homes, Incorporated. Perhaps some of you received it and I think they've hit the nail right on the head. They urge us, of course, to vote against the Bill. They say, "Voluntary mediation works better than mandatory mediation. In response to the testimony of a few manufactured housing community residents before the Study Commission, the Manufactured Housing Association of Maine set up a procedure for voluntary mediation between park owners and residents, including a toll-free telephone line to request medication. This has been effective and should be given a chance rather than passing another law."

They further say this is a violation of the residents' rights of privacy. A provision in the Bill forces park owners to provide a list of tenants' names and addresses with any rent increase or change in rules or service. Should this be our responsibility? This is a cost also.

A committee of five or fewer residents can force mediation, even if most residents are happy with the way the community is run. Five or fewer residents can force an issue on mediation. Can any community owner make 100% of the residents happy all the time? Would mediation force us to make five residents happy and the others unhappy? Could the others demand mediation?

Evictions - by the time a community owner is forced to evict a resident, several notices have been sent. Is it fair to ask a community owner to pay for mediation when the reasons still have to be proven in a court trial? We do not have the right of eviction without cause. Exceptions to park rules cannot be made, so what is there to mediate?

L.D. 2212 does not have the majority support of the Legal Affairs Committee, even though the Bill's been amended to apply to only parks licensed for 250 or more homes. Surely there will be an attempt to expand the Bill to all communities if it passes. Our Committee voted 8-5 against this Bill and I think it was a good vote. I'll be glad to answer further questions on this later.

I would like to hear how anybody can substantiate this because it's a real problem, one of the major problems is, What do you do if a tax bill comes in with an 18% increase? Do you have to wait 30 days before you can implement it and then at that time the person comes in, five people, there's always five that are dissatisfied in any park, What about a sewer increase? Five people don't want to pay the extra cost. You're ending up with 60 days probably before you can collect your money. This might be \$1500 or it may be \$5,000 and the mobile home park owners really cannot afford to do this. Thank you very much.

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

Senator MATTHEWS: Thank you. Mr. President, Men and Women of the Senate, I will not take too much of your time this morning, but I do want to just state for your consideration, the reasons that I have signed the Minority Report and would urge you to support the Minority Report this morning. This Bill establishes a non-binding system of mediation and arbitration disputes between mobile home park owners and tenants.

Currently the Superior Court provides the only mechanism available to tenants to resolve disputes concerning rent increases, park rules, evictions and other management procedures that seem unreasonable or awful. Mediation provides a less expensive, less time-consuming option. In addition, mediation may provide results more responsive to the needs of the affected tenants.

Mobile home park tenants are often anxious that the park owner will unfairly evict them or subject them to burdensome rules. Often, these fears are quickly relieved by park owners' and tenants' discussions of their differences. That is basically what we are talking about today, the discussion.

The mediation program in this Bill is non-binding and the only obligation to the park owners are to attend a requested meeting and a mediation session of three hours. If the park owner concludes that the tenant's complaints are without merit, mediation is completed and the park owner's decision stands. In this Bill, mediations are, as I said, limited to three hours, unless all parties agree otherwise. Also, the park owner is under no obligation to disclose financial records of the mobile home park to park tenants. The Bill provides a sunset provision, effective January 1, 1992.

The amendment, which you have before you today, further was an attempt by those of us in the Legal

Affairs Committee that signed the Minority Report, to reach out and find more common ground. Now, instead of 90 days notice, we have a 30 day notice provision, 30 days. We also have an exemption. This Bill, should it be passed and signed by the Governor, this law would only affect mobile home parks of 250 or more units.

Ladies and gentlemen, some of us on the Committee did wish that we could take care of everything and the concerns that we know are out there, but in an effort, in the spirit of compromise, we attempted to reach some more support in the Committee. I would urge you to think about those that live in mobile home parks and manufactured housing parks. We're not just talking about an individual that is renting an apartment, although as someone who has rented an apartment before my wife and I bought a home, as many of you in this Chamber, I'm sure, did the same.

We're talking about individuals here that own a piece of property, in the sense that the mobile home itself, or the manufactured housing unit, is an asset, an item of equity for the tenant. The individual that owns that mobile home unit finds him or herself, basically at the discretion or the whim of the park owner because he or she has to pay rent for the space that they occupy, but they own a piece of important equity, an asset.

What happens when an owner of the park decides to raise the fees, raise the rental fee or there's a change in park rules, with respect to children or with respect to private ownership of another car or a boat? What happens when the park owner decides arbitrarily to limit something of value? You know, as an owner of a home and property and living in a house, we have some decision-making ability. We have ability of redress and we can't be moved off our land, so to speak, without an opportunity to sit down with the town or whoever and discuss the item or issue. That's what we're basically trying to do here with this legislation.

My good seatmates, the gentleman from Cumberland, Senator Dillenback, who I have a lot of respect for, as I do to my left with the good Senator from Penobscot, Senator Baldacci, two worthy people to try to debate on this floor. Our Committee did do a yeoman's task in the Legal Affairs Committee this session and we do very often come out with unanimous reports and we try to work those issues out as much as we can in the Committee. There have been bills before us dealing with manufactured housing and many of them, as I mentioned, have been worked out in the Committee, but this one, ladies and gentlemen, I think, is probably the most important.

I can remember, just as an example, only a year ago, working with another member of the Legislature, trying to resolve a dispute in one of my communities and I'll tell you it was quite an experience for me because in that particular instance and I think 95% of the mobile home owners out there are doing an excellent job and we worked with them in the Committee, but there are some people that just have a medieval understanding, it seems to me, that they own the show. In this particular instance, in my District, I couldn't get a hold of the owner of the park. He didn't want to talk to me and I will share with you what he said to me and that's the paramount reason I'm going to support this Bill. When I finally got through to this particular gentleman about the constituents who had talked to me and were concerned about safety problems in their park and their children being exposed to some hazardous kinds of things that were going on, this particular gentleman said to me, "Senator, you know who lives in mobile home parks. You know the kind of people we're

talking about here." And I said, "With all due respect, sir, I don't know who are we talking about here and what kind of people are we talking about here?"

There are some kind of people out there that have this kind of attitude and I would say to you, without this legislation today, basically they have no redress, they have nowhere to turn. They can turn to a legislator and we do what we can, but it seems to me there ought to be a more appropriate, accessible method.

My good seatmate, the good Senator from Cumberland, Senator Dillenback, mentions that five people will be needed to trigger this mediation process. That's not true. It's going to take a majority of those people in the park that have a problem, a majority of those people, to bring that to the attention of the park owner and the Board. Then, a committee of five is established and we did that so that you don't have forty or fifty people trying to basically bring together the message, so that a committee could sit down with the park owner and the Board and hopefully, the mediator and resolve that dispute.

I think this is an important Bill, ladies and gentlemen. I don't know and it's unfortunate to have to say this, but a majority of the kind of constituent problems that I have during the year come from mobile home park problems and I'll tell you that as a person concerned about all sides, I have also taken issue to the Board for owners that have had problems with tenants. Our Committee on Legal Affairs also has dealt with that issue and we have attempted to make sure the playing field is level. This further levels that playing field in my estimation. This gives an opportunity for redress.

I would hope that you would give this Bill some consideration today. Think about yourselves and owning property, owning a home, having something of equity and think of someone telling you, at 10:00 at night, that we are going to have to ask you to move because of a change in policy that would affect you. Think about having to move a piece of equity such as that. When those that own mobile homes have to move, ladies and gentlemen, their equity value depreciates considerably and many times can't go anywhere because there are no places to move their home. I think that this is a fair Bill and I hope you will give it fair consideration today. Thank you.

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

Senator BALDACCI: Thank you. Mr. President, Members of the Senate, as a member of the Legal Affairs Committee, I would first like to say that I think the good Senator from Kennebec, Senator Matthews, has done an excellent job as Senate Chairman of that Committee. There have been many we have dealt with on manufactured housing, that have not come before this Body in a Divided Report, that we've been able to work out in the Committee.

I'm also a member of the Manufactured Housing Commission that the Legislature established, as a Senate member and there have been many issues that we've dealt with on the Manufactured Housing Commission. There's a Manufactured Housing Board which regulates manufactured housing. Then, there's a Manufactured Housing Association which is made up of the park owners and operators and industry people that are out there that are trying to address consumer concerns.

It is with the consumers' support that they are able to go into communities that have prevented them from being able to cite those parks. It is with the consumers' support that they have been able to turn

back laws that are called "Cadillac zoning" in most communities. It is not to run over people's rights, individual's rights, but it has been, really, a Commission which has given the consumers more input there and now, three members on the Manufactured Housing Board, more than any other industry person or group. They are better represented on the Board which makes rules for the industry in how they're to operate.

These rules, which the good Senator from Kennebec, Senator Matthews, speaks of, may have had those problems in the past but they have been standardized. They've been established throughout the state and they cannot use these rules to evict tenants. They have to be standardized and approved between the tenant and between the park owner. It is not something that can be done on the whim of a park owner. They're very well regulated in this particular area.

The problem with this Bill and it's a very small difference between the Majority and the Minority Report, is that there's already a voluntary mediation system that's been established by the Manufactured Housing Association. There have already been cases that have gone to this Board that Mr. Howe, who represents the Manufactured Housing Association has been able to mediate and resolve. This Board has just established this 800 number. The packets, including that information, have gone out to new mobile home park owners and new mobile home owners, themselves, as they buy it, in their warranty package.

It's a program that's just getting going and I think that it would probably be a mistake to all of a sudden mandate mediation at an expense to the park owner and, ultimately, probably, because it's going to be passed on, to the person who's a tenant in the park. To mandate mediation and not mandate that it be binding, but to mandate the mediation, I'm not saying that it may not come before the Legislature in the future, but at this time I think it's inappropriate. I would appreciate it if you would support the Majority Ought Not to Pass Report.

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

Senator DILLENBACK: Thank you, Mr. President. I would request a Division on this Bill and I would just like to say one thing. I don't want to expand this debate. But, if somebody calls up at 10:00 in the evening and says they're going to have to move, it's going to take thirty days, and probably sixty days, for it to even get through the courts to move these people. I had the pleasure of visiting a large mobile home park in Brunswick and I'm telling you, if you have 250 trailers in there, you've got somebody on duty 24 hours a day. Thank you.

At the request of Senator DILLENBACK of Cumberland, a Division was had. 12 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion of Senator MATTHEWS of Kennebec to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report, in concurrence, FAILED.

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

Sent down for concurrence.

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

Bill "An Act to Amend the Maine Human Rights Act with Regard to Housing Discrimination on the Basis of Handicap"

H.P. 1542 L.D. 2127  
(C "A" H-868)

Tabled - March 12, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, March 12, 1990, READ A SECOND TIME.)

(In House, March 8, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-868).)

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

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

Bill "An Act Providing for the 1990 Amendments to the Finance Authority of Maine Act"

H.P. 1619 L.D. 2241  
(C "A" H-866)

Tabled - March 12, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, March 12, 1990, READ A SECOND TIME.)

(In House, March 8, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-866).)

Which was PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

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

Bill "An Act to Create an Appeals Procedure for the State Bidding Process" (Emergency)

S.P. 895 L.D. 2277  
(C "A" S-571)

Tabled - March 12, 1990, by Senator CLARK of Cumberland.

Pending - Motion of Senator BUSTIN of Kennebec to ADOPT Senate Amendment "A" (S-576)

(In Senate, March 12, 1990, READ A SECOND TIME.

Senate Amendment "A" READ.)

On motion by Senator BUSTIN of Kennebec, Senate Amendment "A" (S-576) ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

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

An Act to Amend the Maine Human Rights Act to Prohibit Educational Discrimination on the Basis of National Origin

H.P. 1360 L.D. 1877  
(C "A" H-825)

Tabled - March 12, 1990, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, March 5, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-825), in concurrence.)

(In House, March 9, 1990, PASSED TO BE ENACTED.)

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

Senator CLARK: Thank you, Mr. President. Yesterday, the Senator from Penobscot, Senator Pearson, asked the Senate the following question. He said, Does this apply to American Indians? The answer to his question is, No. Discrimination, with reference to American Indians, is based on race rather than national origin.

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

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

SENATE REPORTS - from the Committee on TAXATION on Bill "An Act to Repeal the Homestead Exemption" (Emergency)

S.P. 829 L.D. 2137

Majority - Ought to Pass.

Minority - Ought Not to Pass.

Tabled - March 12, 1990, by Senator CLARK of Cumberland.

Pending - Motion of Senator BALDACCI of Penobscot to ACCEPT the Minority OUGHT NOT TO PASS Report

(In Senate, March 6, 1990, Reports READ.)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending the motion of Senator BALDACCI of Penobscot to ACCEPT the Minority OUGHT NOT TO PASS Report.

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Off Record Remarks

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

ENACTORS

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

An Act to Implement the Recommendations of the Special Commission to Study the Organization of the State's Cultural Agencies

S.P. 885 L.D. 2254

(S "A" S-549; C "A" S-546)

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

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Off Record Remarks

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Senator TWITCHELL of Oxford was granted unanimous consent to address the Senate off the Record.

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Senator MATTHEWS of Kennebec was granted unanimous consent to address the Senate off the Record.

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Senator GAUVREAU of Androscoggin was granted unanimous consent to address the Senate off the Record.

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Off Record Remarks

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

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Off Record Remarks

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Senator BALDACCI of Penobscot was granted unanimous consent to address the Senate off the Record.

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On motion by Senator BALDACCI of Penobscot, ADJOURNED until Wednesday, March 14, 1990 at 12:00 in the afternoon.