

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

**VOLUME III**

**FIRST REGULAR SESSION**

**Senate**

December 7, 1994 to April 27, 1995

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

In Senate Chamber  
Tuesday  
April 4, 1995

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

Prayer by Pastor Jon Dillinger of the Kittery Church of Christ in Kittery.

**PASTOR JON DILLINGER:** I would like to take this time to say, Mr. President and fellow Senators, I would like to thank my local representative, Mark Lawrence, for giving me the honor and the privilege of standing before such a legislative body as this. It is a great and honorable privilege to know that in the walls of our government we still start out in gratitude and thankfulness to our Lord. At this time I would like to ask you to please pray with me.

Our Father, who art in heaven, we are so grateful for all the blessings that you have bestowed upon each of us. We are grateful for the freedoms of this country, and just living in this beautiful State of Maine. We are grateful for all the prayers that you have answered, for the many talents you have given to each of us, and for your guiding hand in each of our lives. Now Father, I come to you in the name of your Son, asking that you bless this body of State Senators.

Please, Father, grant unto them the wisdom to make decisions that are right in your sight, Decisions that will bring glory to you, and decisions that are just to the citizens of Maine. I ask that wherever these Senators go, whatever they say, whatever they do, that glory will come to you always.

Now Father, as these Senators conduct the business of this day, please hold them each in the very hollow of your hands. Please be with the Senators who have special needs; May these Senators put bills, laws, and amendments in place so that the needs of the people of this great State of Maine are met; May the decisions made here today make Maine a better place to live.

Thank you for Your Son and for the forgiveness of our sins through obedience to Your Word. In His name I pray. Amen.

Pledge of Allegiance led by **SENATOR CIANCHETTE** of Somerset.

Reading of the Journal of Thursday, March 30, 1995.

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

**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Today Assigned (March 30, 1995) matter:

**JOINT ORDER** relative to the Cony High School Girls Basketball Team, of Augusta, who are the Eastern Class A Girls Basketball Champions.  
SLS 60

Tabled - earlier in the day by Senator **BUSTIN** of Kennebec

Pending - **PASSAGE**

(In Senate, March 30, 1995, Joint Order **READ.**)

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

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We do have the team, and their coaches, here today. We will be recognizing them and presenting them with these certificates. I thank you for letting me table it Thursday so that we could honor them today. I just want to say congratulations to them. It is a wonderful thing that you have done. I have played basketball myself, for nine years, when I was young, which was quite a long time ago. It was no where near the kind of basketball that you play today. So I know the thrill that you must have had on the night that you won the Class A Championship. Congratulations.

Which was **PASSED.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned (March 30, 1995) matter:

**JOINT ORDER** relative to recognizing the members and Coaches of the Cony High School Girls Basketball Team, of Augusta, who are the State Class A Girls Basketball Champions.

SLS 61

Tabled - earlier in the day by Senator **BUSTIN** of Kennebec

Pending - **PASSAGE**

(In Senate, March 30, 1995, Joint Order **READ**.)

Which was **PASSED**.

Sent down for concurrence.

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

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Change the Method of Computing the Hospital Tax" (Emergency) S.P. 391 L.D. 1068

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

In Senate, March 28, 1995, **REFERRED** to the Committee on **TAXATION** and **ORDERED PRINTED**.

Comes from the House the Speaker **RULED NOT PROPERLY BEFORE THE BODY**.

**COMMUNICATIONS**

The Following Communication: S.C. 120

**THE MAINE SENATE  
OFFICE OF THE PRESIDENT**

March 30, 1995

The Honorable May M. Ross  
Secretary of the Senate  
State House Station #3  
Augusta, ME 04333

Dear Madam Secretary:

Pursuant to my authority under Title 38 MRSA, Section 343-D, I am appointing Richard D. Aronson of Falmouth to the Pollution Prevention Advisory Committee.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Jeffrey H. Butland  
President of the Senate

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

The Following Communication: S.C. 121

**THE MAINE SENATE  
OFFICE OF THE PRESIDENT**

April 3, 1995

The Honorable May M. Ross  
Secretary of the Senate  
State House Station #3  
Augusta, ME 04333

Dear Madam Secretary:

Pursuant to my authority under Title 38 MRSA, Section 551-A, I am reappointing Jeffrey H. Kaelin of Winterport to the Oil Spill Advisory Committee.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Jeffrey H. Butland  
President of the Senate

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

**SENATE PAPERS**

Bill "An Act to Wind Up the Affairs of the Maine Medical and Hospital Malpractice Joint Underwriting Association"

S.P. 436 L.D. 1204

Presented by Senator **KIEFFER** of Aroostook  
Cosponsored by Senators: **ABROMSON** of Cumberland,  
**CIANCHETTE** of Somerset, Representatives: **CAMPBELL**  
of Holden, **DONNELLY** of Presque Isle, **JOY** of  
Crystal, **ROBICHAUD** of Caribou

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

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

Sent down for concurrence.

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Bill "An Act to Allow Pharmacies That Serve  
Long-term Care Recipients to Receive Discounts from  
Manufacturers"

S.P. 417 L.D. 1140

Presented by Senator **ABROMSON** of Cumberland  
Cosponsored by Senators: **BUSTIN** of Kennebec,  
**LAWRENCE** of York, **PENDEXTER** of Cumberland,  
Representatives: **CLOUTIER** of South Portland,  
**DONNELLY** of Presque Isle, **FITZPATRICK** of Durham,  
**JACQUES** of Waterville, **JOSEPH** of Waterville, **KERR**  
of Old Orchard Beach, **POULIOT** of Lewiston,  
**TUTTLE, JR.** of Sanford

Bill "An Act to Amend Certain Provisions of the  
Maine Emergency Medical Services Act of 1982"

S.P. 421 L.D. 1144

Presented by Senator **PENDEXTER** of Cumberland  
Cosponsored by Senator: **MCCORMICK** of Kennebec,  
Representatives: **MITCHELL** of Vassalboro, **TUTTLE,**  
**JR.** of Sanford

Submitted by the Department of Public Safety  
pursuant to Joint Rule 24

Bill "An Act to Amend the Social Work Practice  
Licensing Laws"

S.P. 425 L.D. 1148

Presented by Senator **AMERO** of Cumberland

Resolve, Directing the Department of Professional  
and Financial Regulation to Provide Greater  
Uniformity among Occupational Regulatory Boards  
(Emergency)

S.P. 427 L.D. 1195

Presented by Senator **PINGREE** of Knox

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

Which were referred to the Committee on **BUSINESS  
AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

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Bill "An Act to Clarify the Definition of Escape"  
S.P. 430 L.D. 1198

Presented by Senator **BENOIT** of Franklin  
Cosponsored by Senator: **KIEFFER** of Aroostook,  
Representatives: **BUNKER, JR.** of Kossuth Township,  
**MARVIN** of Cape Elizabeth

Submitted by the Department of Corrections  
pursuant to Joint Rule 24.

Bill "An Act to Amend the Maine Criminal Code by  
Correcting References to Committee Structure"  
S.P. 431 L.D. 1199

Presented by Senator **BENOIT** of Franklin  
Cosponsored by Representative: **CLARK** of  
Millinocket, **JOHNSON** of South Portland, **THOMPSON**  
of Naples

Submitted by the Department of the Attorney  
General pursuant to Joint Rule 24.

Bill "An Act to Rename the Crime of Endangering  
the Welfare of an Incompetent Person"  
S.P. 435 L.D. 1203

Presented by Senator **BENOIT** of Franklin

Submitted by the Department of the Attorney  
General pursuant to Joint Rule 24.

Reference to the Committee on **CRIMINAL JUSTICE**  
suggested and **ORDERED PRINTED**.

Which were referred to the Committee on **CRIMINAL  
JUSTICE** and **ORDERED PRINTED**.

Sent down for concurrence.

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

S.P. 433 L.D. 1201

Presented by Senator **FAIRCLOTH** of Penobscot  
Cosponsored by Senators: **ABROMSON** of Cumberland,  
**ESTY, JR.** of Cumberland, Representative: **DONNELLY**  
of Presque Isle

Reference to the Committee on **EDUCATION AND  
CULTURAL AFFAIRS** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

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Bill "An Act to Provide Immunity for Clinicians Contracted by the State Forensic Service"  
S.P. 413 L.D. 1136

Presented by Senator **PENDEXTER** of Cumberland  
Cosponsored by Representative **FITZPATRICK** of Durham and, Representative **WINGLASS** of Auburn

Submitted by the Department of Mental Health and Mental Retardation pursuant to Joint Rule 24.

Bill "An Act to Ensure Efficiency in Delivery of Home Health Care Services in Congregate Settings by Eliminating Unnecessary Regulation"  
S.P. 416 L.D. 1139

Presented by Senator **HARRIMAN** of Cumberland  
Cosponsored by Senator: **LAWRENCE** of York, Representatives: **CLOUTIER** of South Portland, **JACQUES** of Waterville, **KERR** of Old Orchard Beach, **POULIOT** of Lewiston

Bill "An Act Regarding Abandoned Prescription Drugs at State Facilities"  
S.P. 419 L.D. 1142

Presented by Senator **PENDEXTER** of Cumberland  
Cosponsored by Representative **FITZPATRICK** of Durham and, Representatives: **LOVETT** of Scarborough, **MITCHELL** of Portland, **RICE** of South Bristol, **SHIAH** of Bowdoinham

Submitted by the Department of Mental Health and Mental Retardation pursuant to Joint Rule 24.

Bill "An Act to Adopt Uniform Standards for Substance Abuse Treatment"  
S.P. 420 L.D. 1143

Presented by Senator **STEVENS, JR.** of Androscoggin  
Cosponsored by Senator: **CASSIDY** of Washington, Representatives: **LABRECQUE** of Gorham, **TRUE** of Fryeburg

Submitted by the Office of Substance Abuse pursuant to Joint Rule 24.

Reference to the Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

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Bill "An Act to Remove the Statute of Limitations in Cases of Sexual Abuse of a Minor"  
S.P. 415 L.D. 1138

Presented by Senator **CASSIDY** of Washington  
Cosponsored by Senators: **BENOIT** of Franklin, **BUTLAND** of Cumberland, **CAREY** of Kennebec, **ESTY, JR.** of Cumberland, **FERGUSON, JR.** of Oxford, **KIEFFER** of Aroostook, **LORD** of York, **PENDEXTER** of Cumberland, **RAND** of Cumberland, Representatives: **AHEARNE** of Madawaska, **AULT** of Wayne, **BAILEY** of Township 27, **BERRY** of Livermore, **BUCK** of Yarmouth, **CAMPBELL** of Holden, **CLARK** of Millinocket, **CROSS** of Dover-Foxcroft, **DEXTER** of Kingfield, **HICHBORN** of LaGrange, **JACQUES** of Waterville, **KILKELLY** of Wiscasset, **KNEELAND** of Easton, **LAYTON** of Cherryfield, **LIBBY** of Buxton, **MARVIN** of Cape Elizabeth, **PENDLETON, JR.** of Scarborough, **POVICH** of Ellsworth, **REED** of Falmouth, **ROSEBUSH** of East Millinocket, **TRUE** of Fryeburg, **TYLER** of Windham, **VIGUE** of Winslow

Bill "An Act to Prohibit the Practice of Scalping"  
S.P. 423 L.D. 1146

Presented by Senator **BUTLAND** of Cumberland (By Request)  
Cosponsored by Senators: **ESTY, JR.** of Cumberland, **PENDEXTER** of Cumberland, Representative: **PLOWMAN** of Hampden

Bill "An Act to Amend the Medical Examiner Act"  
S.P. 438 L.D. 1206

Presented by Senator **BENOIT** of Franklin

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.

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

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

Sent down for concurrence.

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Bill "An Act Concerning Employee Leasing Companies"  
S.P. 418 L.D. 1141

Presented by Senator **BEGLEY** of Lincoln  
Cosponsored by Senator: **RUHLIN** of Penobscot, Representative: **LINDAHL** of Northport

Submitted by the Department of Labor pursuant to Joint Rule 24.

Bill "An Act to Conform State Unemployment Compensation Laws to Federal Requirements"  
S.P. 437 L.D. 1205

Presented by Senator **RAND** of Cumberland  
Cosponsored by Senator: **MILLS** of Somerset, Representatives: **HATCH** of Skowhegan, **PENDLETON, JR.** of Scarborough

Submitted by the Department of Labor pursuant to Joint Rule 24.

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

Presented by Senator **MILLS** of Somerset  
Cosponsored by Representative **TUTTLE, JR.** of Sanford and , Representatives: **JOY** of Crystal, **LEMAIRE** of Lewiston

Submitted by the Department of Labor pursuant to Joint Rule 24.

Reference to the Committee on **LABOR** suggested and **ORDERED PRINTED.**

Which were referred to the Committee on **LABOR** and **ORDERED PRINTED.**

Sent down for concurrence.

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Bill "An Act to Exempt from Lobster Meat Permit Requirements the Sale of Less Than \$1500 Worth of Lobster Meat"  
S.P. 414 L.D. 1137

Presented by Senator **FERGUSON, JR.** of Oxford  
Cosponsored by Representative: **NADEAU** of Saco

Bill "An Act to Enhance Export Markets for Maine Sardines and Other Canned Herring Products by Clarifying the Maine Sardine Law" (Emergency)  
S.P. 426 L.D. 1149

Presented by Senator **GOLDTHWAIT** of Hancock  
Cosponsored by Representative: **LOOK** of Jonesboro

Bill "An Act to Encourage an Alternative Fishery"  
S.P. 428 L.D. 1196

Presented by Senator **BUTLAND** of Cumberland  
Cosponsored by Senator: **PINGREE** of Knox

Submitted by the Department of Marine Resources pursuant to Joint Rule 24.

Bill "An Act Concerning the Sale of Double Gauge Lobster Measures"  
S.P. 429 L.D. 1197

Presented by Senator **BUTLAND** of Cumberland  
Cosponsored by Senator: **PINGREE** of Knox

Submitted by the Department of Marine Resources pursuant to Joint Rule 24.

Bill "An Act to Amend the Laws Pertaining to the Marine Resources Advisory Council"  
S.P. 441 L.D. 1209

Presented by Senator **GOLDTHWAIT** of Hancock  
Cosponsored by Representatives: **BENEDIKT** of Brunswick, **LOOK** of Jonesboro, **SIMONEAU** of Thomaston, **VOLENIK** of Sedgwick

Reference to the Committee on **MARINE RESOURCES** suggested and **ORDERED PRINTED.**

Which were referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED.**

Sent down for concurrence.

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Bill "An Act to Require Unanimous Approval by the Hancock County Commissioners to Change the Recommendations of the Budget Committee"  
S.P. 422 L.D. 1145

Presented by Senator **GOLDTHWAIT** of Hancock  
Cosponsored by Representative **POVICH** of Ellsworth and Senator: **RUHLIN** of Penobscot, Representatives: **BAILEY** of Township 27, **BIGL** of Bucksport, **BUNKER, JR.** of Kossuth Township, **LAYTON** of Cherryfield, **PINKHAM** of Lamoine

Bill "An Act to Encourage the Training and Hiring of Resident Workers"  
S.P. 432 L.D. 1200

Presented by Senator **LONGLEY** of Waldo  
Cosponsored by Senators: **GOLDTHWAIT** of Hancock, **MICHAUD** of Penobscot, **STEVENS, JR.** of Androscoggin, Representatives: **CHICK** of Lebanon, **DAGGETT** of Augusta

RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding the Constitutional Amendment Process

S.P. 440 L.D. 1208

Presented by Senator **LAWRENCE** of York

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

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

Sent down for concurrence.

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Bill "An Act to Guarantee That Tax Increment Financing Results in Net Gains"  
S.P. 434 L.D. 1202

Presented by Senator **LONGLEY** of Waldo  
Cosponsored by Senators: **GOLDTHWAIT** of Hancock, **LORD** of York, **MCCORMICK** of Kennebec, **PARADIS** of Aroostook, **RAND** of Cumberland, Representatives: **CHICK** of Lebanon, **DAGGETT** of Augusta, **DAVIDSON** of Brunswick, **MARTIN** of Eagle Lake

Reference to the Committee on **TAXATION** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

Bill "An Act to Increase Capitalization of the Seal Harbor Water Company"

S.P. 424 L.D. 1147

Presented by Senator **GOLDTHWAIT** of Hancock  
Cosponsored by Representative: **JONES** of Bar Harbor

Reference to the Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES AND ENERGY** and **ORDERED PRINTED**.

Sent down for concurrence.

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

Senator **KIEFFER** of Aroostook was granted unanimous consent to address the Senate off the Record.

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

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

On motion by Senator **LAWRENCE** of York, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

**COMMITTEE REPORTS**

House

**Divided Report**

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Expand the Protection of the Maine Consumer Credit Code"

H.P. 116 L.D. 151

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

Signed:

Senators:

**ABROMSON** of Cumberland  
**SMALL** of Sagadahoc

Representatives:

**VIGUE** of Winslow  
**CAMPBELL** of Holden  
**GATES** of Rockport  
**GUERRETTE** of Pittston  
**JONES, JR.** of Pittsfield  
**LUMBRA** of Bangor  
**MAYO, III** of Bath

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-58)**

Signed:

Senator:

**MCCORMICK** of Kennebec

Representative:

**CHASE** of China

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

Which Reports were **READ**.

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



**Divided Report**

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Amend the Law Regarding the Use of Competitive Bidding by a School Board to Purchase Insurance"

H.P. 201 L.D. 260

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

Signed:

Senators:

ABROMSON of Cumberland  
SMALL of Sagadahoc  
MCCORMICK of Kennebec

Representatives:

VIGUE of Winslow  
GATES of Rockport  
CAMPBELL of Holden  
GUERRETTE of Pittston  
JONES, JR. of Pittsfield  
LUMBRA of Bangor  
MAYO, III of Bath  
MITCHELL of Vassalboro  
SAXL of Portland

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

Signed:

Representative:

CHASE of China

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

Which Reports were **READ.**

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

**Divided Report**

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act to Clarify the Financial Assurance Provisions Applicable to Solid Waste Disposal Facilities"

H.P. 129 L.D. 177

Reported that the same **Ought to Pass** as **Amended** by **Committee Amendment "A"** (H-29)

Signed:

Senators:

LORD of York  
HATHAWAY of York  
RUHLIN of Penobscot

Representatives:

GOULD of Greenville  
POULIN of Oakland  
BERRY of Livermore  
MERES of Norridgewock  
GREENLAW of Standish  
DAMREN of Belgrade  
NICKERSON of Turner  
MARSHALL of Eliot

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

Signed:

Representatives:

SAXL of Bangor  
SHIAH of Bowdoinham

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-29).

Which Reports were **READ.**

On motion by Senator **LORD** of York, the Majority **UGHT TO PASS AS AMENDED** Report **ACCEPTED,** in concurrence.

The Bill **READ ONCE.**

Committee Amendment "A" (H-29) **READ** and **ADOPTED,** in concurrence.

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

**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION,** Proposing an Amendment to the Constitution of Maine to Provide a Method for Citizen-initiated Recall of Persons Holding Elective Civil Offices

H.P. 77 L.D. 113

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

Signed:

Senators:

AMERO of Cumberland  
CARPENTER of York  
LONGLEY of Waldo

Representatives:

DAGGETT of Augusta  
SAXL of Bangor  
ROSEBUSH of East Millinocket  
ROBICHAUD of Caribou  
LANE of Enfield  
SAVAGE of Union

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-39)

Signed:

Representatives:

AHEARNE of Madawaska  
LEMKE of Westbrook  
GERRY of Auburn  
YACKOBITZ of Hermon

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

Which Reports were READ.

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

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Senate

Divided Report

The Majority of the Committee on LABOR on Bill "An Act to Require the State to Pay Medicare Costs for Retired State Employees and Retired Teachers" S.P. 71 L.D. 159

Reported that the same Ought Not to Pass.

Signed:

Senators:

BEGLEY of Lincoln  
MILLS of Somerset

Representatives:

JOY of Crystal  
JOYCE of Biddeford  
PENDLETON, JR. of Scarborough  
STEDMAN of Hartland  
WINSOR of Norway

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-40)

Signed:

Senator:

RAND of Cumberland

Representatives:

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

Which Reports were READ.

Senator BEGLEY of Lincoln moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report.

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

Senator RAND: Thank you Mr. President, Men and Women of the Senate. I hope you will reject the motion to accept the Majority Ought Not to Pass Report so that we can go on to accept the Minority Ought to Pass Report. L.D. 159 attempts to equalize the retirement benefits for all state employees. As it stands now, we have two classes of retirees. Those that get fully paid health insurance, and those that do not. Approximately 9,000 retirees are not getting fully paid health insurance after they turn 65 because either they, or their spouse, qualify for social security and are, therefore, required to enroll in Medicare.

In administering the insurance program for retirees two inequities have occurred. The first relates to coverage of retired teachers and the second concerns retirees on Medicare. This bill attempts to resolve the Medicare inequity. At age 65 a retiree who has earned sufficient quarters to be eligible for Social Security is transferred to Medicare insurance. He, or she, now pays \$46.10 a month for partial physician coverage under Part B. Currently, the State pays \$110.16 a month for a companion plan, to help the retiree on Medicare fill gaps in coverage by the basic Medicare Program. Also, currently, the State pays the full cost of \$240.60 a month for health insurance for a State retiree not on Medicare. Therefore, the inequity is that the State now pays \$130.44 more a month for health insurance for a retiree not on Medicare. In addition, the retiree on Medicare pays \$46.10 to obtain partial insurance through Medicare Part B. These are remarks from the Maine Association of Retirees. They believe that the Part B Medicare payment, now \$46.10 a month, should be paid by the State of Maine to be consistent with the fair policy for providing health coverage to both State and teacher employees and retirees. Also, I would like to note, that no opposition was presented at the hearing of this bill. Thank you.

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

Senator MILLS: Mr. President, Men and Women of the Senate. The inequity that is referred to, I think, disappears when you consider that the person that must pay for Medicare Part B also receives substantial Social Security benefits that the other State workers, who have their health insurance paid, do not receive. I think that is what impressed those of us on the Committee who voted that this measure should not pass. I might also remind the Senate that the fiscal note on this bill is approximately \$7 million over the next biennium. If there is an inequity of some kind to be adjusted, I suggest that this is not the time to do it.

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

Senator **BUSTIN**: Thank you Mr. President, Ladies and Gentlemen of the Senate. In fact, on the Social Security end of it, there is, in fact, if you worked under Social Security you've got your quarters. Then you go to work for the State, where you cannot work under Social Security as a State employee. Then, when you end up at the end of your years of service, and you go into retirement, and you are before age 65, you get your State Employee Health Plan, until you are 65. If you are on Social Security, you automatically kick in to paying that \$46.10. In 1996 or 1997 it is going to go up to \$68. So, you may be getting a pittance under the Social Security for one basic reason, and that is because if you get both Social Security and retirement, you have to have an offset by the federal government to reduce the amount that you get for your total retirement. So they are getting hit twice. They are getting hit by having to pay, at age 65, the \$46.10 now and then \$68 in the future; who knows how far it will go up. And they are getting hit by the offset. So, it really ends up that they really get hurt a lot more than a State employee who has never worked under Social Security and doesn't have to pay and get all of their health benefits under it.

Further than that, I believe, although this I am not absolutely certain of, is that if both people living in the household, if they happen to be a married couple who have retired, and they both have been under Social Security and have worked for the State, then they each are going to have to pay that bill. Though I am not sure of that. If you were under a regular health insurance plan, you would be able to get a family coverage, and you would be able to offset your costs that way. I have had many, many, many retirees call me and tell me how very horrendous that is because they can't get out of Medicare. They have to pay it. Thank you.

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

Senator **BEGLEY**: Thank you Mr. President. The point of having both is determined pretty much by the individual, insofar as retired teachers are concerned, many of them are in this situation and are not necessarily asking for the benefits because they, knowing full well what the responsibilities are, opt to work in the summer and get their Social Security benefits. I am one of those. I do not find it in any way, shape, form or manner that it should be the responsibility of the taxpayers of the State to pay for that because I decided, on my own, what to do. The fiscal note alone is enough to simply say that it is an impossibility. Thank you.

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

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

Senator **BUSTIN**: Thank you Mr. President, Ladies and Gentlemen of the Senate. Just in answer to the comment that it costs an enormous amount of dollars. The proper place for that decision to happen is down in the Appropriations Committee. We have a lot of

inequities that we are trying to adjust here in this Legislature, in the appropriations process right now. This ought to be one of them that is considered along with all of the other bills down in Appropriations.

The President noted the absence of Senator **BERUBE** of Androscoggin, and excused her from today's Roll Call votes.

**THE PRESIDENT**: The pending question before the Senate is the motion by Senator **BEGLEY** of Lincoln that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

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

**NAYS**: Senators: **BUSTIN, CAREY, CLEVELAND, ESTY, FAIRCLOTH, LAWRENCE, LONGLEY, McCORMICK, O'DEA, PARADIS, PINGREE, RAND**

**ABSENT**: Senator: **RUHLIN**

**EXCUSED**: Senator: **BERUBE**

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent and 1 Senator having been excused, the motion by Senator **BEGLEY** of Lincoln to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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#### SECOND READERS

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

#### House

Bill "An Act Concerning the Competitive Bidding Process in Cooperative Projects between the State and the Maine Technical College System"

H.P. 151 L.D. 199

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

**House As Amended**

Bill "An Act Regarding the Prohibition against Restaurants with Lounges Serving Meals to Unaccompanied Minors after 9 P.M."

H.P. 38 L.D. 32  
(C "A" H-44)

Bill "An Act to Increase the County Share and Change the Name of the Government Operations Surcharge Fund"

H.P. 74 L.D. 110  
(C "A" H-48)

Bill "An Act to Allow Municipalities to Dispose of Abandoned Bicycles"

H.P. 133 L.D. 181  
(C "A" H-56)

Bill "An Act to Clarify the Law Relating to the Licensing of Accounting Firms"

H.P. 232 L.D. 312  
(C "A" H-53)

Bill "An Act to Allow Restaurants to Sell Liquor on Sunday Mornings"

H.P. 239 L.D. 341  
(C "A" H-45)

Bill "An Act to Establish the Maine Commission on Community Service"

H.P. 282 L.D. 386  
(C "A" H-57)

Bill "An Act to Exempt Individual Retirement Accounts from Attachment"

H.P. 304 L.D. 408  
(C "A" H-55)

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

**Senate**

Bill "An Act to Clarify the Status of Certain Gifts to Legislators under the Governmental Ethics Laws"

S.P. 114 L.D. 289

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

Sent down for concurrence.

**Senate As Amended**

Bill "An Act to Increase the Limit on the Extradition Account"

S.P. 53 L.D. 82  
(C "A" S-33)

Bill "An Act to Amend the Laws Pertaining to Governmentally Constructed Jetties" (Emergency)

S.P. 72 L.D. 160  
(C "A" S-36)

Bill "An Act to Broaden the Crime of Criminal Mischief and to Repeal the Crime of Animal Enterprise Terrorism"

S.P. 204 L.D. 547  
(C "A" S-39)

Bill "An Act to Give the State a Right to Appeal from the Denial of a Rule 35 Motion"

S.P. 206 L.D. 549  
(C "A" S-38)

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 Require State or Independent Fair Hearing Examiners in the Grievance Process of the Department of Mental Health and Mental Retardation  
S.P. 28 L.D. 58  
C "A" (S-20)

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

**Emergency Resolve**

Resolve, to Extend the Deadline to Report for the Commission on the Future of Maine's Paper Industry  
S.P. 65 L.D. 94  
C "A" (S-21)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 being (more than) two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**ORDERS OF THE DAY**

**Unfinished Business**

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

The Chair laid before the Senate the first Tabled and Specially Assigned (March 30, 1995) matter:

RESOLUTION, Proposing and Amendment to the Constitution of Maine to Establish a Line-item Veto  
H.P. 729 L.D. 1003

Tabled - Tuesday, March 28, 1995 by Senator **AMERO** of Cumberland.

Pending - REFERENCE

(Reference to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.)

(In House, March 28, 1995, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.)

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

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The Chair laid before the Senate the second Tabled and Specially Assigned (March 30, 1995) matter:

RESOLUTION, Proposing and Amendment to the Constitution of Maine to Provide Line-item Veto Power on Budget Legislation to the Governor.  
H.P. 731 L.D. 1005

Tabled - Tuesday, March 28, 1995 by Senator **AMERO** of Cumberland.

Pending - REFERENCE

(Reference to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.)

(In House, March 28, 1995, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.)

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

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The Chair laid before the Senate the third Tabled and Specially Assigned (March 30, 1995) matter:

RESOLUTION, Proposing and Amendment to the Constitution of Maine to Establish a Future Budget Fund.  
H.P. 760 L.D. 1034

Tabled - Tuesday, March 28, 1995 by Senator **AMERO** of Cumberland.

Pending - REFERENCE

(Reference to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.)

(In House, March 28, 1995, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.)

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

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The Chair laid before the Senate the fourth Tabled and Specially Assigned (March 30, 1995) matter:

RESOLUTION, Proposing and Amendment to the Constitution of Maine to Provide the Governor with a Line-item Veto.  
H.P. 774 L.D. 1071

Tabled - Tuesday, March 28, 1995 by Senator **AMERO** of Cumberland.

Pending - REFERENCE

(Reference to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.)

(In House, March 28, 1995, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED.**)

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

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

**JOINT RESOLUTION** relative to Memorializing the Congress of the United States to Stop Mandates that are Beyond its Constitutionally Delegated Powers  
H.P. 693  
(H"A" H-35)

Tabled - March 30, 1995 by Senator **BUSTIN** of Kennebec

Pending - **ADOPTION**

(In House March 23, 1995, **READ** and **ADOPTED AS AMENDED BY HOUSE AMENDMENT "A" (H-35).**)

(In Senate March 23, 1995, Joint Resolution **READ.**)

Senator **BUSTIN** of Kennebec moved the Resolution and Accompanying Paper be **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. I was a little chagrined to see the good Senator from Kennebec stand up and move to have this bill Indefinitely Postponed. I am sure she will share with this good chamber her rationale for moving the Indefinite Postponement of this. I certainly will be voting against that and request a division, because, in fact, my understanding of this memorialization is to make sure that the State's powers are protected. If the federal government is going to continue to issue mandates, they have to be cognizant of the tenth amendment and the State's position in our form of government. I see no reason why we shouldn't be adopting this now and I'm sure the good Senator will explain her rationale for Indefinitely Postponing this. As stated, Mr. President, I request a Division on the motion.

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

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

Senator **FAIRCLOTH:** Mr. President, I request permission to pose a question through the Chair. Thank you Mr. President. I would pose a question to those who support this Joint Resolution, regarding a

line within the Resolution which states, "Whereas many federal mandates are directly in violation of the tenth amendment to the United States Constitution", and that is a premise of this Resolution. I certainly would oppose anything that is a violation of the tenth amendment to the constitution; but I am curious, what specific mandates this clause refers to.

**THE PRESIDENT:** The Senator from Penobscot, Senator Faircloth, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Mr. President. I proposed the motion for Indefinite Postponement for one very good reason. That is that in past legislatures we passed L.D. 66. For those people who do not know, that is the State mandate bill. What we did with that state mandate bill was we put an amendment on that at the last minute that said by two-thirds of a vote of these bodies that we can override that mandation. That is routinely what we do here. Everytime you see, on your calendar, that it is a State mandate bill, and the Senate President calls for a two-thirds vote, that is what you are doing. You are overriding that mandate. We do it routinely here. I knew that would happen when I was opposing L.D. 66, and I oppose anything that would require the federal government to do that. They don't have a two-thirds in their procedures for overriding a mandate bill. I don't think it works. I don't think it makes for good government. I think that we have all kinds of ways to make sure that we can control what goes on. Now, I know that somebody is going to get up and say, "Oh, but what about the air emissions bill, Beverly? What about that mandate?" Well, you have got a good point there but what we didn't do was watchdog that as well as we, perhaps, should be watchdogging it. There are other ways to address those issues. We haven't found a way in State government and I don't think you are going to find a way in the federal government.

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. Let's keep in mind exactly what the balance of power is that we have in this State, and also the balance of power that was set out by our forefathers, in drafting the Constitution. Now, the good Senator says we didn't watchdog it well enough. I can remember being in the other chamber, as a member of that chamber, and discussions on the floor of that chamber, relating to conversations from members of the Environmental Protection Agency who basically, when asked the question if we were to drive every car in our State into the ocean, would we then be in compliance? The answer from the EPA was no, you would not. The follow-up question was if we don't have any cars operating on the roads and highways of the State of Maine, yet we would not be in compliance, then why are we doing this? The reason why we are doing this is because it was a mandate. It was passed down by the federal government without the reasonable scientific evidence to prove that the State of Maine should be hamstrung by this regulation. That, I don't think, is the

responsibility of the Legislature. I do think a lot of us did try to watchdog it, yet we were told that if we didn't agree to it that we would be in jeopardy of losing federal highway funds. That's not watchdogging in my estimation, that is being strongarmed by the federal government, and having them step beyond what is their reasonable position in not giving the states our due in managing our State and running our government. For that reason, once again, I will be in opposition to the pending motion.

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

Senator FAIRCLOTH: Thank you Mr. President. I posed the question because this is a Joint Resolution which I consider a solemn memorial which we are sending to the United States Congress. When we make a statement such as there are federal mandates directly in violation to the tenth amendment, that is a significantly serious charge, and one that I would give great credence if anyone could support it. The only case that is cited, in the Joint Resolution, is New York versus the United States, 112 Supreme Court 2408. I was able to glance at some of this case and the only language that pertains to the issue of federal regulation states the opposite of what the whereas clause, here in the Resolution, provides. The whereas clause states that the Congress may not simply commandeer the legislative and regulatory process of the States. In fact, what the case stated was that the Constitution gives Congress the authority to regulate matters directly and to pre-empt contrary State regulation. This opinion, by the way, I believe, is by Justice Sandra Day O'Connor, not a leftist, I don't believe. She was joined by Justices Scallia, Renquist, and others. All the members of the Supreme Court unanimously agreed on that point. I think that this Resolution, apparently, although there are co-sponsors in this body, so far at least, is not supported by specifics as to what federal mandates are specified. Second, the case of New York versus the United States said the opposite of what this Resolution would purport.

Finally, I don't think this Resolution addresses, in any way, air emissions, except to the extent that if one were to read New York versus the United States it would hold that not only could Congress do what it did with the Clean Air Act, but they could do more. Rather than what they have done in this case, which provides options for participation in various states, it could mandate states to do very specific things. So, we may object, and we may want to elect different people to the United States Congress, that's reasonable, but there is nothing that I have seen so far that is unconstitutional. I think it would be unfortunate for us to represent such a thing to the United States Congress in a solemn memorial. Finally, I would note, I think all of the Joint Resolutions are a waste of taxpayers money. They are for political purposes. They don't have to do with substantive public policy. The only reason that I note that here is because a lot of times they go under the hammer, but I think in every case they really are a waste of people's time.

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

Senator CLEVELAND: Mr. President. I rise to pose a question to the Chair. It is my understanding that any memorialization that is entered here has to have the approval of the Legislative Council, and at least six affirmative votes. Could you please tell me how many affirmative votes this memorialization received in the Legislative Council?

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Senate at Ease

Senate called to order by the President.

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**THE PRESIDENT:** The answer to the Senator from Androscoggin, Senator Cleveland's, question is at least six. The jacket does not indicate exactly who was in favor. A majority were in favor. The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator CLEVELAND: There are five members of the Legislative Council sitting in this chamber. Does anyone have any recollection of whether they voted against this?

**THE PRESIDENT:** The Senator from Androscoggin, Senator Cleveland, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Mr. President, Ladies and Gentlemen of the Senate. I would be happy to answer on my part. I have a policy, and I have had it for a long time, that, in fact, the Council shouldn't be accepting or not accepting bills that come before this Legislature. We ought to find a better way to do that and we really haven't come up with one, so it remains status quo. Based on that philosophy of mine, I vote for bills that come before the Council because there is no other thing for me to do but to vote for that. Then, I would find myself either in the position of supporting or not supporting any particular bill which comes before this body on the floor, or in any Committees that I might sit on. That is the appropriate procedure for defeating or passing a bill, as far as I am concerned. That is my philosophy.

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

Senator HANLEY: Thank you Mr. President. I want to thank the good Senator from Penobscot, as far as allowing me to take a look at the case that has been cited. I would just like to state that the mandate that the memorialization to Congress is on is in reference to the low-level radioactive waste policy act. In this, the opinion of the Court was that in this policy act that the "take title" provision which offered states the choice of either accepting ownership of waste generated within their borders, or regulating according to the instructions of Congress,

neither of which options could be constitutionally imposed, as free-standing requirements was, in fact, outside Congress' enumerated powers and infringed upon State sovereignty in violation of the tenth amendment.

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

**Senator BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The fact that we are having this debate probably tells us that it is a fairly important concept that we want to address here in Maine, maybe in the states, and maybe in the federal government. I would hold that if every issue that has been brought down to the states, either the federal government has to fund it or it is left up to the states to make those decisions, that we would not have a lot of things. The only one that I really want to talk about right now is civil rights. We probably wouldn't have a good civil rights bill right now if we left it up to all of the states. That is only one of the things, you could go down through all of the laws that look to the welfare, the general welfare, of the nation. Individual states might not see it in their particular province, or their particular desire to do something, but it might benefit a whole lot of other people. So what we are really talking about is giving the minorities, whether you call it civil rights or you call it low-income or you call it any other number of things, giving them some kind of power that they wouldn't have in order to get things done that is for the general welfare of this nation. The tenth amendment, as I understand it, and I understand it from those people who have been calling me to withdraw my opposition to this Resolution, that in fact, that is what they want to address, is that place where it says that the Congress can do it for the general welfare. Yes, that gives some broad powers, and those are powers that I want the federal government to keep.

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

**Senator LAWRENCE:** Thank you Mr. President. May I pose a question through the Chair? The Senator from Kennebec, Senator Bustin, raises a good point regarding this legislation. Is it the intent of this legislation to say the Federal Civil Rights Act is a mandate, the Voters' Rights Acts are mandates on the local state governments? If someone could answer that I would appreciate it.

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

**Senator HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to thank the good Senator from Penobscot, Senator Faircloth, for citing the case law to us. Unfortunately, I don't have any today to cite, but I would like to cite one thing that I do feel is far more important to the people of this country, and to the freedoms and the rights that we have, hopefully still, as citizens of this country, in an attempt, at no cost to this Legislature, to try to help us to

remember what that right is. So, if you will indulge me for a second, I most certainly would appreciate you allowing me to read the tenth amendment to the United States Constitution, which I believe for over two hundred years, is the longest running government document ever in the history of the world for a free country. I would like to state very simply what the lesson is today, and that is our tenth amendment to the United States Constitution. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved for the States respectively, or to the people." I think we all agree that our freedoms and our rights today are being taken from us. This is the lesson that we can never learn too often, nor a Constitution that we can read too often. I hope that you will join us in opposing this motion. Thank you.

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

**Senator FAIRCLOTH:** Thank you Mr. President. I do just want to reiterate that the Supreme Court case that my good friend, the Senator from Oxford, refers to, is correct that they rule a statute unconstitutional, but that is not related to what this Resolution states. The Resolution states that Congress may not take control of our legislative regulatory processes. What the Supreme Court case says, again Justice Sandra Day O'Connor and some of the more clearly conservative members of the court, and they have been joined by all of the other members of the Court, was that the Congress has the authority to regulate matters directly and to pre-empt contrary state regulations. What they ruled potentially unconstitutional was requiring states to come up with their own set of regulations, which is a separate issue, not one that is addressed in this Resolution. I think it is entirely appropriate, as the good Senator from York raises, to object to things that Congress does that are inappropriate or unconstitutional, but I think we should be clear in what we are saying first of all. I think that we can probably say a lot of these things in the press rather than using the Revisor's Office to print up these various resolutions, and I would hate to say things that are just flat in error. So, for that reason I would support the motion of the good Senator from Kennebec, Senator Bustin.

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

**Senator LAWRENCE:** Thank you Mr. President, Men and Women of the Senate. I am deeply concerned that none of the supporters of this Resolution got up to respond to my question about the Civil Rights Act and the Voters' Rights Act. Hundreds, thousands, of people in this country died, went to fight for this battle over voters' rights, over civil rights, over enfranchisement, and not one person in this body can tell me that this Resolution is not targeted at those acts as mandates on the states. I would respectfully request that this Resolution be tabled so that we can prepare an amendment that says it specifically excludes the Civil Rights Act and the Voters' Rights Act. Thank you.

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



Senator CLEVELAND: Thank you Mr. President, Men and Women of the Senate. Do you understand what you are doing? This is a joint memorialization to Congress. It is a fancy legislative word for a letter. We are debating, endlessly, from various philosophical points of view whether a letter, called a memorialization, should go to Congress. That is how we are spending the people's time. Is this what is important to the people of Maine? Does it affect their health? Does it affect their jobs? Does it affect their families? Does it affect the environment of this State? Not one iota. We are so self-absorbed with our own grandeur that we think that by somehow sending a letter we have any meaningful affect on the outcome of this issue in Congress. It's ridiculous, and it's expensive. It costs \$50,000 a year of the taxpayers dollars, not only to take up their time, but to pay to have these things printed up and sent up here so we can debate it. For no constructive purpose. The reason I posed the question that I did earlier was that we are in control of this process. Not one member of leadership in this body stood up to deny that they didn't vote to allow this to come here to use up our time. We are in control of our own destinies. If we choose to have these kinds of issues absorb our time, they will. I suggest to you that the importance is not the substance, because it is a letter, but rather what we ought to do is direct to our leadership that these kinds of issues ought not to come. It is inappropriate. We can't afford it, either in time or money. All memorializations should cease unless it has a direct benefit to this State. Yet we allow them to come because someone has a personal ideological bent, a personal philosophical point, a personal strategy to somehow embarrass one political party or the other, over a letter. I have objected to this a number of times, and I will continue to do so. It is inappropriate. We are spending an enormous amount of time and energy and money on a nonsubstantive issue. We have hundreds of bills yet to even be referred to the Committee, more than that yet to come out of the Committee, huge issues before us, yet we indulge ourselves in these fantasies. It is amazing.

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending the motion by Senator BUSTIN of Kennebec to INDEFINITELY POSTPONE the Joint Resolution.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Require Retailers Stores to Label Foods That Have Been Previously Frozen as Previously Frozen"

H.P. 813 L.D. 1130

Bill "An Act Allowing Veterinarians to License Dogs"  
H.P. 832 L.D. 1163

Reference to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY suggested and ORDERED PRINTED.

Come from the House, referred to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY and ORDERED PRINTED.

Which were referred to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY, in concurrence.

Bill "An Act Concerning the Liability of Governmental Entities for the Use by Employees of Private Motor Vehicles"  
H.P. 824 L.D. 1155

Bill "An Act to Authorize the Issuance of a Credit Card to Benefit the Land for Maine's Future Fund"  
H.P. 852 L.D. 1183

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

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

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

Bill "An Act to Provide for Certain Amendments to Laws Affecting the Finance Authority of Maine" (Emergency)  
H.P. 835 L.D. 1166

Bill "An Act to Simplify the Licensure Requirements of the Board of Counseling Professionals Licensure"  
H.P. 844 L.D. 1175

Bill "An Act to Allocate the State Ceiling Governing the Issue of Private Activity Bonds" (Emergency)  
H.P. 856 L.D. 1187

Bill "An Act to Ensure Disclosures under the Used Car Information Laws"  
H.P. 859 L.D. 1190

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

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

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

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Bill "An Act to Provide Funds to Reimburse the Counties for the Cost of Housing Certain Prisoners"  
H.P. 810 L.D. 1127

Bill "An Act to Amend the Operating-under-the-influence Laws"  
H.P. 836 L.D. 1167

Bill "An Act to Add Forfeiture of a Firearm as a Sentence Alternative for the Crime of Possession of a Firearm by a Felon"  
H.P. 842 L.D. 1173

Bill "An Act Regarding the Bind-over Procedure of Juveniles"  
H.P. 843 L.D. 1174

Bill "An Act to Enable the Department of Corrections to Share Information with Canadian Criminal Justice Agencies"  
H.P. 846 L.D. 1177

Bill "An Act to Strengthen the Truancy Laws"  
H.P. 857 L.D. 1188

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**.

Which were referred to the Committee on **CRIMINAL JUSTICE**, in concurrence.

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Bill "An Act to Authorize the Maine Principals' Association to Govern Official Refereeing and Umpiring of Secondary School Athletic Contests" (Emergency)  
H.P. 829 L.D. 1160

Reference to the Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and **ORDERED PRINTED**.

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

Which was referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in concurrence.

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Bill "An Act to Provide Funding for Services for Persons with HIV or AIDS"  
H.P. 816 L.D. 1133

Resolve, Directing the Department of Human Services to Establish an Oversight Committee to Study Child Protective Services (Emergency)  
H.P. 818 L.D. 1135

Bill "An Act to Amend the Maine Cancer Registry Law to Require the Reporting of All Cancer Cases to the Department of Human Services"  
H.P. 845 L.D. 1176

Reference to the Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

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

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

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Bill "An Act to Provide Increased Enforcement of Noise Pollution Laws"  
H.P. 815 L.D. 1132

Bill "An Act to Increase Moose Hunting Permit Application Fees"  
H.P. 841 L.D. 1172

Bill "An Act to Establish a Moose Lottery Point System"  
H.P. 850 L.D. 1181

Bill "An Act to Modify and Update Certain Laws Pertaining to the Importation and Possession of Wild Turkeys"  
H.P. 855 L.D. 1186

Resolve, to Establish the Sportsmen Policing Our Ranks Together Program  
H.P. 814 L.D. 1131

Resolve, to Require the Department of Inland Fisheries and Wildlife to Remove Deer from Marsh Island  
H.P. 826 L.D. 1157

Reference to the Committee on **INLAND FISHERIES AND WILDLIFE** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **INLAND FISHERIES AND WILDLIFE**, in concurrence.

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Bill "An Act to Preserve the Life of Viable Fetuses"  
H.P. 827 L.D. 1158

Bill "An Act to Clarify Recent Amendments to the Laws on Guardianship and Conservatorship"  
H.P. 833 L.D. 1164

Bill "An Act to Expand Access to Medical Care by Encouraging Involvement of Retired Physicians, Podiatrists and Dentists"  
H.P. 839 L.D. 1170

Bill "An Act to Amend the Laws Governing Adoption"  
H.P. 851 L.D. 1182

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

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

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

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Resolve, to Establish the Commission to Study the Use of Per Diem, Part-time and Temporary Employment  
H.P. 853 L.D. 1184

Bill "An Act to Amend the Substance Abuse Testing Laws"  
H.P. 860 L.D. 1191

Bill "An Act to Expand Elevator and Tramway Inspection Services"  
H.P. 862 L.D. 1193

Reference to the Committee on **LABOR** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **LABOR**, in concurrence.

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Bill "An Act Regarding the Granting of Hotel Liquor Licenses to Establishments Located on Offshore Islands" (Emergency)  
H.P. 830 L.D. 1161

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

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

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

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Bill "An Act to Correct a Fishing Zone Definition Error"  
H.P. 840 L.D. 1171

Reference to the Committee on **MARINE RESOURCES** suggested and **ORDERED PRINTED**.

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

Which was referred to the Committee on **MARINE RESOURCES**, in concurrence.

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Bill "An Act to Continue the State's Dioxin Monitoring Program"  
H.P. 823 L.D. 1154

Bill "An Act to Create a Tire Emergency Readiness Fund"  
H.P. 828 L.D. 1159

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

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

Which were referred to the Committee on **NATURAL RESOURCES**, in concurrence.

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Bill "An Act to Amend the Bidding Process for School Construction Purposes"  
H.P. 812 L.D. 1129

Bill "An Act to Revise the Somerset County Budget Committee"  
H.P. 822 L.D. 1153

Bill "An Act to Incorporate the Town of Biddeford Pool"  
H.P. 834 L.D. 1165

Bill "An Act to Allow for the Adjustment of Grant Issuance Procedures"  
H.P. 838 L.D. 1169

Resolve, to Name a Mountain in the Town of Oxford  
H.P. 848 L.D. 1179

Bill "An Act to Give the Washington County Legislative Delegation a Role in the County Budget Process"  
H.P. 854 L.D. 1185

Bill "An Act Concerning the Office of Geographic Information Systems"  
H.P. 861 L.D. 1192

RESOLUTION, Proposing an Amendment to the Constitution of Maine Creating a Unicameral Legislature  
H.P. 863 L.D. 1194

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

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

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

Resolve, to Establish Standards by Which to Review Property Tax Exemptions  
H.P. 817 L.D. 1134

Bill "An Act to Decrease the State's Share of Real Estate Transfer Taxes"  
H.P. 821 L.D. 1152

Bill "An Act to Clarify the Tax Status of Homeless Shelters in Maine"  
H.P. 825 L.D. 1156

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

Reference to the Committee on **TAXATION** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **TAXATION**, in concurrence.

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

Bill "An Act Regarding Designation by the Commissioner of Transportation of a Deputy or Another Staff Member to Represent the Commissioner of Transportation at Maine Turnpike Authority Meetings"  
H.P. 847 L.D. 1178

Bill "An Act Authorizing Seasonal Road Signs Advertising Maple Syrup"  
H.P. 849 L.D. 1180

Reference to the Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **TRANSPORTATION**, in concurrence.

Resolve, Concerning the Exercise of the Eminent Domain Powers of the Portland Water District  
H.P. 811 L.D. 1128

Bill "An Act to Allow Local Control over the Allocation of Public Fire Protection Costs"  
H.P. 820 L.D. 1151

Bill "An Act Regarding Cable Television"  
H.P. 831 L.D. 1162

Reference to the Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **UTILITIES AND ENERGY**, in concurrence.

**Pursuant to Resolve  
PEOPLE WITH DISABILITIES ACCESS COMMISSION**

The **PEOPLE WITH DISABILITIES ACCESS COMMISSION**, pursuant to Resolve 1993, chapter 73, section 7 asks leave to submit its findings and report that the accompanying Bill "An Act to Implement the Recommendations of the People with Disabilities Access Commission"

H.P. 837 L.D. 1168

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

Be referred to the Committee on **JUDICIARY** for Public Hearing and printed pursuant to Joint Rule 20.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, pursuant to Joint Rule 20.

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On motion by Senator **KIEFFER** of Aroostook, **ADJOURNED** until Wednesday, April 5, 1995, at 9:30 o'clock in the morning.

Which Report was **READ** and **ACCEPTED** and the Bill referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, pursuant to Joint Rule 20, in concurrence.

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Off Record Remarks

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Senator **HANLEY** of Oxford was granted unanimous consent to address the Senate on the Record.

Senator **HANLEY**: Thank you Mr. President, Men and Women of the Senate. I realize sometimes it is important to table items to get on with the matter at hand; but I had an issue that I just wanted to share with the chamber that the good Senator from York had brought up, as far as why no one had stood up and responded to his concerns. I think the good Senator from York, Senator Hathaway, responded quite admirably when, in fact, he read the tenth amendment, which stated that those items protected in the Constitution would be enforced by the State. If my memory serves me correctly, the Constitution does state that all men are created equal, and that that would be integrated into the Constitution, and thus not a question to be concerned with under the tenth amendment.

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Senator **BUSTIN** of Kennebec was granted unanimous consent to address the Senate on the Record.

Senator **BUSTIN**: I would like to pose a question to the Chair. The question is, I thought that the only time that you could speak on a particular bill was when that bill was before us. So the remarks by the good Senator from Oxford, Senator Hanley, probably ought to be stricken from the Record.

**THE PRESIDENT**: The Chair would point out that the Senator from Oxford, Senator Hanley, requested unanimous consent, and was granted unanimous consent, to speak on the Record.

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