

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 5, 1990 to May 20, 1991

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

In Senate Chamber
Monday
May 6, 1991

Senate called to Order by the President.

Prayer by Father Francis Kane of the Veterans Administration Center at Togus.

FATHER FRANCIS KANE: Let us pray. Lord, God, we beg Your blessing upon this Assembly. Grant the wisdom of Your spirit to these men and women gathered here to serve the citizens of the State of Maine. Bestow on them, Lord, an awareness of our people's needs, and a compassion and determination to respond to them. Give them a humble recognition of the awesome responsibility that is theirs as leaders of our people. Help them to recognize and appreciate the value and dignity of each and every human life, and their duty to respect and protect each life, especially in these difficult times of limited financial resources. Guide them, we pray, in their deliberations, that their decisions may respond to the good of Your people, especially, the most needy, and to the glory of Your holy name. Amen.

Reading of the Journal of Wednesday, May 1, 1991.

PAPERS FROM THE HOUSE

House Papers

Resolve, Concerning Reauthorization of the \$16,000,000 Bond Issue for Construction of Correctional Facilities

H.P. 1201 L.D. 1757

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 Amend the Specific Line Budgets for School Districts"

H.P. 1203 L.D. 1759

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

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

Bill "An Act to Promote Affordable Housing for Persons of Low to Moderate Income" (Emergency)

H.P. 1208 L.D. 1764

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

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

Bill "An Act to Provide Equitable Funding Mechanisms for Regional Planning Commissions"

H.P. 1200 L.D. 1756

Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

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

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

Bill "An Act to Provide Improved Services for People with Autism"

H.P. 1207 L.D. 1763

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 Increase the Penalties for Trafficking in or Furnishing Scheduled Drugs"

H.P. 1198 L.D. 1754

Bill "An Act to Limit Liability for Participants in Recycling Programs" (Emergency)
H.P. 1205 L.D. 1761

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

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

Bill "An Act Concerning Marine Research"
H.P. 1204 L.D. 1760

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

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Recall of State Elective Officials
H.P. 1202 L.D. 1758

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

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

Bill "An Act to Authorize Municipalities to Impose a Severance Tax on Gravel"
H.P. 1199 L.D. 1755

Bill "An Act to Require the State to Compensate Municipalities for the Loss of Tax Revenue as a Result of the State Taking Real Property"
H.P. 1206 L.D. 1762

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

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

Bill "An Act Amending Certain Motor Vehicle Laws"
H.P. 1209 L.D. 1765

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

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

COMMUNICATIONS

The Following Communication:

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

May 1, 1991

Honorable Joy J. O'Brien
Secretary of the Senate
115th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators and Members of the House of Representatives (H.P. 256) (L.D. 347):

Representative MAHANY of Easton
Representative MAYO of Thomaston
Representative ANDERSON of Woodland

Sincerely,

S/Edwin H. Pert
Clerk of the House

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

The Following Communication:

**COMMISSION ON GOVERNMENTAL
ETHICS AND ELECTION PRACTICES
STATE HOUSE STATION 101
OFFICE OF THE SECRETARY OF STATE
AUGUSTA, MAINE 04333**

April 30, 1991

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

Dear President Pray:

In accordance with 1 M.R.S.A. Section 1007, I submit herewith a copy of the 1990 annual report of the Commission on Governmental Ethics and Election Practices.

Sincerely,
S/Marilyn Canavan
Director

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

The Following Communication:

**MAINE EDUCATIONAL LOAN AUTHORITY
526 WESTERN AVENUE
AUGUSTA, MAINE 04330**

May 1, 1991

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

John L. Martin
Speaker of the House
State House Station 2
Augusta, Maine 04333

Dear President Pray and Speaker Martin:

Pursuant to Chapter 417A, Subsection 11427, 20A MRSA, I am forwarding to you the third annual report and financial accounting of the Maine Educational Loan Authority (MELA).

Following the Authority's second year of operation, the program made several changes which had a direct influence on improving the Supplemental Loan Program during the 1990-91 year. A sequence of these events are as follows:

- MELA loan application material revised, printed and disseminated August 1990
- Selection of new loan servicing organizations for servicing MELA loans August 1990
- Revision of several program rules were made through the Administrative Procedures Act November 1990

During the 1990-91 academic year, the Authority served more students than in previous years with a record seven million dollars in loan funds. Since the inception of the program in 1988, MELA loans have served over 3,500 students and their families with nearly \$20 million dollars of private capital.

The attached report provides MELA program information for the past year in greater detail. It is worthwhile noting that the percentage of MELA loans used at Maine private colleges increased from 41% to 45% over the previous year, and the percentage of students with MELA loans enrolled in private colleges increased by two percent to 46%. Also, the amount of MELA loan funds used for all Maine colleges increased from 59% to 65% for the 1990-91 year. The average MELA loan for all borrowers was \$5,886.

The MELA program continues to meet the growing financial need of Maine students and their families for addressing the increasing cost of higher education. With the economic climate our citizens are living through, it is anticipated that the MELA program will be called upon even more frequently in the future. We are looking forward to achieving new efficiencies in the program and exploring new ways to better serve the people of Maine.

The Authority recently completed its third financial audit by an independent certified public accounting firm, Peat Marwick, Main and Co. Their audited financial statements are enclosed for your reference.

We wish to thank you for your consistent interest and support for the Maine Educational Loan Authority. We will continue to promote and assist higher education needs for the students and families of our state.

Sincerely,
S/Richard H. Pierce
Executive Director

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

SENATE PAPERS

Bill "An Act Regarding Reimbursement for Out-of-District Special Education Placements" S.P. 671 L.D. 1785

Presented by Senator **ESTES** of York
Cosponsored by Representative **CROWLEY** of Stockton Springs and Representative **NORTON** of Winthrop

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

Sent down for concurrence.

Resolve, to Extend the Reporting Deadline of the Commission on Maine Lakes (Emergency)

S.P. 675 L.D. 1789

Presented by Senator KANY of Kennebec
Cosponsored by Representative COLES of Harpswell and Representative HOGLUND of Portland
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Eliminate Sunday Allocations on the Penobscot River"

S.P. 676 L.D. 1790

Presented by President PRAY of Penobscot
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Improve the Execution and Administration of Arrest Warrants and Implement the Recommendations of the Warrants Subcommittee of the Commission to Implement the Computerization of Criminal History Record Information"

S.P. 672 L.D. 1786

Presented by Senator BRANNIGAN of Cumberland
Cosponsored by Representative PARADIS of Augusta and Representative COTE of Auburn

Bill "An Act to Clarify Implied or Legal Malice for the Purpose of Awarding Punitive Damages"

S.P. 677 L.D. 1791

Presented by Senator CONLEY of Cumberland

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

Sent down for concurrence.

Resolve, to Extend the Schedule for Recodification of the Motor Vehicle Laws (Emergency)

S.P. 673 L.D. 1787

Presented by President PRAY of Penobscot
Cosponsored by Representative MAYO of Thomaston and Representative WHITCOMB of Waldo
Submitted by the Department of the Secretary of State.

Bill "An Act to Authorize Operation of a 6-axle Single Unit Truck and a Combination Vehicle with a 53-foot Semitrailer Resulting from the Experimental Vehicle Program"

S.P. 674 L.D. 1788

Presented by Senator MILLS of Oxford
Cosponsored by Representative CASHMAN of Old Town and Representative BAILEY of Farmington
Submitted by the Department of Transportation pursuant to Joint Rule 24.

Which were referred to the Committee on TRANSPORTATION and ORDERED PRINTED.

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

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

From the Committee on EDUCATION Bill "An Act to Allow Pupil Evaluation Teams to Waive Graduation Requirements in Appropriate Cases"

H.P. 756 L.D. 1090

From the Committee on HUMAN RESOURCES Bill "An Act to Provide Resources for the Division for the Blind and Visually Impaired"

H.P. 647 L.D. 921

From the Committee on HUMAN RESOURCES Bill "An Act to Increase the Personal Needs Allowance for Certain Elderly Persons"

H.P. 954 L.D. 1381

From the Committee on TAXATION Bill "An Act to Increase the State Share of Education to 65%"

H.P. 823 L.D. 1177

From the Committee on TAXATION Bill "An Act to Assist Municipalities by Amending the Sales Tax Form"

H.P. 885 L.D. 1276

From the Committee on TAXATION Bill "An Act to Allow Landowners Who Do Not Post Their Property to Receive a Tax Exemption"

H.P. 948 L.D. 1370

From the Committee on TAXATION Bill "An Act to Prevent Governmental Overvaluation of Property for Property Tax Purposes"

H.P. 1034 L.D. 1507

Ought to Pass

The Committee on **EDUCATION** on Bill "An Act Relating to the Employment of School Board Members" H.P. 903 L.D. 1300

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

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

The Committee on **AGRICULTURE** on Bill "An Act to Change the Geographic Representation of the Maine Potato Board" H.P. 951 L.D. 1378

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-194)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-194)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-194) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **AGRICULTURE** on Bill "An Act to Appropriate Emergency Funds for the Maine Potato Breeding Program" (Emergency) H.P. 394 L.D. 568

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-193)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-193)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-193) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Provide Greater Public Input into Public Lands Management" H.P. 589 L.D. 840

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-190)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-190)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-190) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Encourage Recycling of Waste Oil" H.P. 658 L.D. 937

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-191)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-191) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HUMAN RESOURCES** on Bill "An Act to Enhance the Protection of Children Who Have Been Removed from Their Homes" H.P. 528 L.D. 756

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-202)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-202)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-202) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Include the Testator's Birth Date in Statutory Living Wills" (Emergency)

H.P. 77 L.D. 105

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-186)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-186)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-186) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Clarify Ownership of Public Ways"

H.P. 275 L.D. 395

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-187)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-187)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-187) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act Relating to Name Changes During Divorce Proceedings"

H.P. 794 L.D. 1140

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-188)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-188)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-188) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LABOR** on Resolve, to Establish the Commission to Study the Use of Professional Strikebreakers (Emergency)

H.P. 139 L.D. 199

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-185)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-185)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (H-185) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LABOR** on Bill "An Act to Promote Volunteer Emergency Medical Services through Changes to the Unemployment Laws"

H.P. 866 L.D. 1246

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-196)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-196)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-196) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act Concerning Taxation of Time-share Condominiums" H.P. 593 L.D. 844

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-189)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-189)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-189) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Prevent Discrimination against Podiatrists"

H.P. 529 L.D. 757

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-192)**

Signed:

Senators:

CONLEY of Cumberland
BOST of Penobscot

Representatives:

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

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

Signed:

Senator:

GILL of Cumberland

Representatives:

MANNING of Portland
PENDLETON of Scarborough
DUPLESSIS of Old Town
PENDEXTER of Scarborough

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

Which Reports were **READ**.

Senator **CONLEY** of Cumberland moved to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

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

Senator **GILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like you to vote against the pending motion, and kill this Bill. This Bill was brought to the Committee on Human Resources because of one area of the state that had primarily discriminated against podiatrists in allowing them to practice in their hospital. At the present time, the Attorney General of the state is investigating in that area, and my understanding is, that the hospital in question is already revising its procedure in which it receives applications.

I think that this would put a terrible onus on hospitals who are made up on Boards of Trustees and Boards of Directors, who reside in the community, and know their communities better than anyone else, and know the services that the people who reside in the communities need. This would short-circuit this whole process that now exists, where applications are brought forward, and people have to show that they are creditable and maintain all the educated standards.

If this was allowed to go into place, this would be like no other service that the hospitals provide in the State of Maine. The other spheres of service, whether they be optometric, or any other service that is provided by a physician in the state, they have to maintain credentials, they have to make applications, and the hospital decides whether the service is needed in that particular area. This would thwart this whole process. I would ask you to vote against this motion and support the **Ought Not To Pass** Report.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. My good friend from South Portland, Senator Gill and myself, usually agree on most of the issues that come before our Committee. Actually, since she has more

seniority than I in this area, I often follow her advice. However, I just could not play footsies with her on this one. This particular Bill, as you can see, the Majority of the Committee went along with this Report. It is really not a Bill that will put a great onus on hospitals. All it says is, if you offer foot surgery in your hospital, which is what podiatrists do, I am constantly getting educated, they, like physicians and dentists, the only three services which do perform surgery, they need an operating room.

There have been problems, particularly, in the Lewiston area, and in the Paris/Norway areas. We have heard testimony from both of those areas where they were unable to get access to the operating rooms which they needed for their patients, your constituents. This Bill, and after it was amended, takes care of any concerns that local hospitals would have, or their Boards would have, and it does not require podiatrists to practice in the hospital. All it says is, if you are going to have foot surgery in your hospital, that you allow podiatrists to be considered right along with whoever else does that particular type of service, that their applications for use of those rooms are considered equally with everybody else. There was a great deal of evidence that showed podiatrists, particularly, in the two areas that I mentioned being discriminated against, having to have their patients go to Brunswick and other hospitals, almost all of which allow podiatrists, if they offer foot surgery, to practice in those operating rooms.

This Bill would address a problem that was brought to our attention. It is a fair measure. The majority of the Committee supported it. Twenty-four other states have similar legislation. The Attorney General's Office came forward and indicated that the process they use right now, which is the Anti-Trust Law, you have to go to court and sue, and it is very cumbersome and it is not working. They supported this change in the law. For all those reasons, I think it is a minor change, and I would ask that the Senate support the Majority Report.

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

Senator GILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. This is another one of those Bills where there is a problem in one or two areas of the State of Maine. So, we come to the Legislature to legislate when eighty percent of the hospitals are complying. The hospitals in question, who are not complying, are being investigated. They will eventually be worked out. So, I see no need for a piece of legislation to be on our books indicating that every hospital is going to have to institute creditation and honor each application.

As you know, I work for a hospital in the greater Portland area, and my hospital has podiatrists on staff there. The Mercy Hospital has podiatrists on staff. One of the podiatrists in the local area wants staff privileges at the Maine Medical Center. One of the members from the other Body asked him, "Why, when you are on the staff of two hospitals in the area, would you want to be on the staff at the Maine Medical Center?" And he just said, "Because I

just want to be on staff at the Maine Medical Center." That is what we will get into. The Maine Medical Center, as you know, performs hi-tech surgery in their operating suites. Podiatrists do take operating suite time away from other technology. I know, for a fact, that many people have been rescheduled for their surgical procedures, and they are not cosmetic procedures, they are true medical needs procedures. They have been delayed because the operating rooms were not available. We have a Board running a hospital. We have Board members whose constituency is their area they live in, and I think they make a better case as to who should be on staff. If this law passed, the Board would have no say, period. Anyone who applied would be given privileges, that is not fair, and I would like to request a Division.

Senator GILL of Cumberland requested a Division.

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

A Division has been requested.

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

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

12 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator CONLEY of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**, **FAILED**.

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

Senate

Ought Not to Pass

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

Reported by Senator MCCORMICK for the Committee on **AGING, RETIREMENT AND VETERANS** Bill "An Act to Increase the Flexibility of Survivor Benefit Laws"
S.P. 35 L.D. 51

Reported by Senator BOST for the Committee on **HUMAN RESOURCES** Bill "An Act to Continue the Demonstration Project Serving Victims of Alzheimer's Disease in the State"
S.P. 438 L.D. 1182

Reported by Senator **CONLEY** for the Committee on **HUMAN RESOURCES** Bill "An Act to Reward and Encourage Foster Parent Training and Skilled Family Foster Care" S.P. 592 L.D. 1564

Reported by Senator **GAUVREAU** for the Committee on **JUDICIARY** Bill "An Act to Facilitate and Consolidate Certain District Court Cases" S.P. 455 L.D. 1231

Reported by Senator **GAUVREAU** for the Committee on **JUDICIARY** Bill "An Act Regarding Notice of Claim" S.P. 552 L.D. 1456

Reported by Senator **MILLS** for the Committee on **LEGAL AFFAIRS** Bill "An Act to Allow Ballot Clerks Access to Ballots Up to 2 Hours before the Polls Open" S.P. 402 L.D. 1078

Reported by Senator **MILLS** for the Committee on **LEGAL AFFAIRS** Bill "An Act to Improve the Efficiency of Voter Registration" S.P. 408 L.D. 1084

Reported by Senator **MILLS** for the Committee on **LEGAL AFFAIRS** Bill "An Act to Provide Affordable Housing in the State" S.P. 418 L.D. 1130

Reported by Senator **MILLS** for the Committee on **LEGAL AFFAIRS** Bill "An Act to Eliminate Municipal Responsibility for Issuing Concealed Weapon Permits" S.P. 504 L.D. 1342

Reported by Senator **CLEVELAND** for the Committee on **UTILITIES** Bill "An Act to Create a Limited Right of Entry" S.P. 383 L.D. 1060

Leave to Withdraw

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

Reported by Senator **CONLEY** for the Committee on **HUMAN RESOURCES** Bill "An Act to Protect Client Advocacy Services in the ASPIRE Program" (Emergency) S.P. 484 L.D. 1286

Ought to Pass

Senator **EMERSON** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Regulate Conflict of Interest within the Maine Science and Technology Commission" (Emergency) S.P. 299 L.D. 797

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

Senator **MCCORMICK** for the Committee on **AGING, RETIREMENT AND VETERANS** on Bill "An Act Regarding Purchase of Service Credit by Teachers Who Previously Taught in Other than Public Schools" S.P. 158 L.D. 370

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-115)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-115) **READ** and **ADOPTED**.

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

Senator **BERUBE** for the Committee on **JUDICIARY** on Bill "An Act to Clarify the Confidentiality of Public Employee Disciplinary Records" S.P. 322 L.D. 878

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-114)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-114) **READ** and **ADOPTED**.

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

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

Senator **WEBSTER** of Franklin was granted unanimous consent to address the Senate off the Record.

On motion by Senator **PEARSON** of Penobscot, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Relating to the Knox County Budget Process" (Emergency)
S.P. 290 L.D. 772

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-116)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-116) **READ** and **ADOPTED**.

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

Senator **CLEVELAND** for the Committee on **UTILITIES** on Bill "An Act to Regulate Water Utility Contingency Reserve Funds"
S.P. 171 L.D. 426

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-113)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-113) **READ** and **ADOPTED**.

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

Divided Report

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

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

Signed:

Senators:

BERUBE of Androscoggin
EMERSON of Penobscot

Representatives:
NASH of Camden
LARRIVEE of Gorham
LOOK of Jonesboro
JOSEPH of Waterville
WATERMAN of Buxton
GRAY of Sedgwick
SAVAGE of Union
KERR of Old Orchard Beach
ST. ONGE of Greene

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

Signed:

Senator:

BUSTIN of Kennebec

Representative:

HEESCHEN of Wilton

Which Reports were **READ**.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE OF EITHER REPORT**.

SECOND READERS

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

House As Amended

Bill "An Act to Amend the School Approval Standards"
H.P. 558 L.D. 801
(H "A" H-201 to C "A" H-178)

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

ENACTORS

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

An Act to Expand Consumer Membership on the Board of Osteopathic Examination and Registration
H.P. 361 L.D. 515
(C "A" H-145)

An Act Concerning Reimbursement for Certain Medical Services as Special Education Services
H.P. 382 L.D. 556
(C "A" H-147)

An Act to Amend the Composition of the Board of Trustees of the Maine Technical College System
H.P. 395 L.D. 569
(S "A" S-75 to C "A" H-100)

An Act to Amend the Public Drinking Laws
H.P. 405 L.D. 588
(C "A" H-148)

An Act to Clarify Provisions Relating to the Bureau of Intergovernmental Drug Enforcement
H.P. 423 L.D. 606
(C "A" H-149)

An Act to Amend the Charter of the Portland Water District
S.P. 254 L.D. 712
(H "A" H-161 to C "A" S-41)

An Act to Clarify the Definition of Resident Trust
S.P. 316 L.D. 854
(C "A" S-73)

An Act to Clarify the Provisions for Temporary and Conditional Psychologists' Licenses
H.P. 724 L.D. 1028

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

Senate at Ease

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON FISHERIES AND WILDLIFE**

May 2, 1991

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Fisheries and Wildlife has had under consideration the nomination of Gary Cobb of North New Portland, for appointment to the Inland Fisheries and Wildlife Advisory Council.

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

YEAS: Senators 3
Representatives 9

NAYS: 0

ABSENT: 1 Rep. Clark of Millinocket

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Gary Cobb of North New Portland, for appointment to the Inland Fisheries and Wildlife Advisory Council be confirmed.

Sincerely,

S/Sen. Zachary E. Matthews S/Rep. Dorothy A. Rotondi
Senate Chair House Chair

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

On motion by Senator **CLARK** of Cumberland, Nomination Tabled 1 Legislative Day, pending **CONSIDERATION**.

SENATE PAPERS

Bill "An Act Concerning Insurance Coverage for the Diagnosis and Treatment of the Disease of Infertility"

S.P. 678 L.D. 1800

Presented by Senator **CLARK** of Cumberland
Cosponsored by Representative **MITCHELL** of Vassalboro and Representative **GARLAND** of Bangor
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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

Sent down for concurrence.

Bill "An Act to Adopt a New Article for the Uniform Commercial Code"

S.P. 680 L.D. 1802

Presented by Senator **CONLEY** of Cumberland
Cosponsored by Senator **GAUVREAU** of Androscoggin

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

On motion by Senator **CLARK** of Cumberland, the Senate **RECONSIDERED** its action whereby the Bill was **REFERRED** to the Committee on **BANKING AND INSURANCE**.

On further motion by same Senator, referred to the Committee on **JUDICIARY**.

Sent down for concurrence.

Bill "An Act to Clarify the Termination of Intensive Supervision"

S.P. 679 L.D. 1801

Presented by Senator **HOLLOWAY** of Lincoln
Cosponsored by Representative **PENDLETON** of Scarborough and Representative **RICHARDS** of Hampden
Submitted by the Department of Corrections pursuant to Joint Rule 24.

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

On motion by Senator **CLARK** of Cumberland, referred to the Joint Select Committee on **CORRECTIONS**.

Sent down for concurrence.

ORDERS

Joint Order

On motion by Senator **MCCORMICK** of Kennebec the following Joint Order:

S.P. 681

ORDERED, the House of Representatives concurring, that the Joint Standing Committee on Aging, Retirement and Veterans report out proposed legislation concerning the Maine State Retirement System including legislation regarding the age of retirement, the penalty for early retirement and the retirement health insurance benefit.

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

Sent down for concurrence.

COMMITTEE REPORTS

Senate

Ought Not to Pass

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

Reported by Senator **KANY** for the Committee on **BANKING AND INSURANCE** Bill "An Act to Amend the Insurance Law Relating to the Type of Coverage Provided by Insurance Carriers"

S.P. 228 L.D. 582

Reported by Senator **KANY** for the Committee on **BANKING AND INSURANCE** Bill "An Act to Amend the Workers' Compensation Insurance Laws to Encourage Safety in the Workplace"

S.P. 539 L.D. 1437

Reported by Senator **THERIAULT** for the Committee on **BANKING AND INSURANCE** Bill "An Act to Require Health Insurance to Honor Patient Assignment Requests"

S.P. 573 L.D. 1527

Reported by Senator **KANY** for the Committee on **BANKING AND INSURANCE** Bill "An Act to Regulate Uninsured and Underinsured Motor Vehicle Liability Insurance"

S.P. 580 L.D. 1533

Reported by Senator **RICH** for the Committee on **BUSINESS LEGISLATION** Bill "An Act to Strengthen the Laws Relating to Junkyard Cleanups"

S.P. 477 L.D. 1279

Reported by Senator **GAUVREAU** for the Committee on **JUDICIARY** Bill "An Act to Clarify the Laws on Manslaughter in the Workplace"

S.P. 416 L.D. 1128

Reported by Senator **GAUVREAU** for the Committee on **JUDICIARY** Bill "An Act to Reestablish Capital Punishment in the State"

S.P. 462 L.D. 1238

Reported by Senator **MILLS** for the Committee on **LEGAL AFFAIRS** Bill "An Act to Amend the Liquor Laws Pertaining to the Retail Sale of Wine"

S.P. 353 L.D. 955

Reported by Senator **MILLS** for the Committee on **LEGAL AFFAIRS** Bill "An Act to Allow Service of Civil Process by any Licensed Private Investigator or Bonded Security Agency"

S.P. 434 L.D. 1155

Reported by Senator **MILLS** for the Committee on **LEGAL AFFAIRS** Resolve, to Allow Martin L. Bruno to Bring Suit Against the City of Lewiston and Its Employees

S.P. 461 L.D. 1237

Reported by Senator **MILLS** for the Committee on **LEGAL AFFAIRS** Resolve, Authorizing Harvey and Rachel Desgrosseilliers to Sue the City of Auburn

S.P. 479 L.D. 1281

Reported by Senator **VOSE** for the Committee on **MARINE RESOURCES** Bill "An Act to Create a Lobster and Shellfish Advisory Commission"

S.P. 496 L.D. 1334

Reported by Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** Bill "An Act to Ensure Access to Land Located on Discontinued Roads"

S.P. 209 L.D. 536

Change of Reference

Senator **BALDACCI** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Laws Regarding the Labeling of Seafood"

S.P. 583 L.D. 1536

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

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

The Bill **REFERRED** to the Committee on **MARINE RESOURCES**.

Sent down for concurrence.

Senator **GAUVREAU** for the Committee on **JUDICIARY** on Bill "An Act Concerning Discrimination under the Maine Human Rights Act and the Workers' Compensation Act"

S.P. 525 L.D. 1403

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

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

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

Sent down for concurrence.

Ought to Pass

Senator **ESTES** for the Committee on **MARINE RESOURCES** on Bill "An Act Concerning the Suspension of Licenses by the Commissioner of Marine Resources"

S.P. 457 L.D. 1233

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

Senator **RICH** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Require Door-to-door Sellers of Frozen Foods to Disclose Actual Unit Prices"

S.P. 430 L.D. 1151

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-118)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-118) **READ** and **ADOPTED**.

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

Divided Report

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

S.P. 226 L.D. 580

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

Signed:

Senators:

BERUBE of Androscoggin
EMERSON of Penobscot

Representatives:

NASH of Camden
WATERMAN of Buxton
GRAY of Sedgwick
SAVAGE of Union
LOOK of Jonesboro

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-117)**

Signed:

Senator:
BUSTIN of Kennebec

Representatives:
LARRIVEE of Gorham
ST. ONGE of Greene
HEESCHEN of Wilton
KERR of Old Orchard Beach
JOSEPH of Waterville

Which Reports were **READ**.

On motion by Senator **CLARK** of Cumberland, Tabled
1 Legislative Day, pending **ACCEPTANCE OF EITHER
REPORT**.

Off Record Remarks

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

Senator **GAUVREAU**: Thank you Mr. President. Ladies and Gentlemen of the Senate. On the Senate Calendar, Supplement No. 1, on Page 4, Item 5-6, it is reported incorrectly that the Committee on Judiciary has granted Ought Not To Pass status to L.D. 1128, "An Act to Clarify the Laws on Manslaughter in the Workplace". The Bill is being reported Ought Not To Pass due to the recently past Joint Order. As you recall, where on any Bills which the sponsor did not request Leave to Withdraw at the time it was presented, if the Committee did not act favorably, the Report is Ought Not To Pass.

I rise this evening, in my capacity as Senate Chair of the Committee on Judiciary, to express that the Committee does not intimate any opinion by its action on Ought Not To Pass, because the ONTP is granted pursuant to Joint Rule 15. L.D. 1128, if enacted, would have extended the definition of a public employee to include that of an employee under a Quasi-Municipal Corporation. It is my understanding, that there is a question of common law as to the definition of public employee. And once again, the Committee on Judiciary intimates no opinion, and does not intend to disturb or effect the development of the common law by the issuance of this Report. Thank you Mr. President.

Off Record Remarks

On motion by Senator **CLARK** of Cumberland,
ADJOURNED until Tuesday, May 7, 1991, at 4:00 in the
afternoon.