

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

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Pages 1 - 980

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

In Senate Chamber
Thursday
February 20, 1997

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

Prayer by Reverend Kathy Merrick of the Lovell United Church of Christ in Center Lovell.

REVEREND KATHY MERRICK: I have this overwhelming desire to ask you all to hold hands, but, I think I'll restrain myself. Let us pray.

Gracious God, thank You for the joy and privilege of living in Maine. You have created a land for us of incredible, beauty and ruggedness, filled with an abundance of natural resources. Help us not to waste them and guide us in using them for the best common good. You have filled this land with a special brand of people, rugged, individualists born here and those who have come from away, attracted by a quality of life the way it should be, as we say on our signs.

May we remember that these people are our greatest natural resource. As their elected officials, we owe them our energy and our gratefulness for our present jobs. May we also remember that they have placed their trust and their hopes, for a better life, in us. Help us to not let them down. Forgive us for those times that we have. Guide us that we might creatively work together for a better Maine, without getting bogged down by party politics. Show us how to turn our economy around, to increase jobs, lower taxes, and keep our young people well-educated and working in our State. They are our future and we cannot afford to lose them. Quicken our hearts and minds so that we will know what to do.

We pray all these things in thanksgiving and supplication to You, who loved, created, and called us to be. Amen.

Doctor of the Day, Brian P. O'Donnell, M.D., South Freeport.

Reading of the Journal of Tuesday, February 18, 1997.

Out of order and under suspension of the Rules, on motion by Senator **PINGREE** of Knox the following Joint Order:
S.P. 346

ORDERED, the House concurring, that when the House and Senate Adjourn they do so until Tuesday, February 25, 1997, at 10:00 in the morning.

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

Sent down for concurrence.

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

Off Record Remarks

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **O'GARA** for the Committee on **TRANSPORTATION** on Bill "An Act to Authorize the Department of Transportation to Use Design-build Contracting for Development of a New Bath-Woolwich Bridge" (Emergency) S.P. 220 L.D. 679

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-10)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-10) **READ** and **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended**.

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

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 35

**STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
38 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

February 13, 1997

The Honorable Mark Lawrence
President of the Senate
State House Station 3
Augusta, Maine 04333

Dear Mr. President:

On behalf of the Maine Commission for Community Service, I am pleased to present the Commission's third annual report. In it, you will find a summary of the work accomplished over the last year to further their vision of "vibrant, productive communities with involved, responsible citizens." You will notice the Commission successfully tackled a challenging agenda and significantly advanced the strength of citizen action through service across Maine. The State Planning Office provides administrative support to all their work.

Established under 5 MRSA c. 373, the mission of the Maine Commission for Community Service is to foster community service and volunteerism to meet human and environmental needs in Maine. The board accomplishes this mission by implementing programs that help to build the infrastructure of community service around the state. The vision and mission are clear; the tasks are complex and difficult.

In order to create communities that are vibrant and productive, the Commission must strengthen people's commitment to serve and volunteer; and it must revitalize the ethic of citizenship and civic responsibility. Through programs such as AmeriCorps, Learn and Serve, VISTA, and Senior Corps, the Commission invests in the renewal of civic involvement in every community in Maine.

The coming year promises to be even more challenging and productive. The Commission is partnering closely with the Department of Education and the Corporation for National Service on the creation of a "unified state position" that will help guide and direct community service and civic involvement in meaningful ways. The process will seek input, interaction and dialog with all public and private efforts to promote community service and volunteerism. Helping everyone understand the role and importance of community service will help the state deal more effectively with social and economic development issues.

The members of the Maine Commission for Community Service look forward to the opportunity to work with you in the coming year.

Sincerely,

S/Evan D. Richert, AICP
Director

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

SENATE PAPERS

Bill "An Act to Amend the Membership of the Maine Land Use Regulation Commission" S.P. 347 L.D. 1166

Presented by Senator HALL of Piscataquis
Cosponsored by Senators: BENOIT of Franklin, CASSIDY of Washington, FERGUSON, JR. of Oxford, KIEFFER of Arostook

Which was referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Enhance Parental Involvement in Developing Educational Programs for Students with Disabilities" S.P. 344 L.D. 1121

Presented by Senator PENDLETON of Cumberland
Cosponsored by Representative SKOGLUND of St. George and Representative: LOVETT of Scarborough

Resolve, to Reorganize the University of Maine System S.P. 349 L.D. 1168

Presented by Senator LIBBY of York
Cosponsored by Senator: CATHCART of Penobscot, Representative: JOYNER of Hollis

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

Sent down for concurrence.

Bill "An Act to Clarify the Timber Trespass Laws" S.P. 348 L.D. 1167

Presented by Senator MILLS of Somerset

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

Sent down for concurrence.

Bill "An Act to Amend Department of Defense and Veterans' Affairs Laws" S.P. 351 L.D. 1170

Presented by Senator DAGGETT of Kennebec
Cosponsored by Representative TUTTLE, JR. of Sanford and Representatives: BELANGER of Wallagrass, VIGUE of Winslow

Submitted by the Department of Defense and Veterans' Services pursuant to Joint Rule 204.

Which was referred to the Committee on **LEGAL AND VETERANS AFFAIRS** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Repeal Municipal Shellfish Ordinances" S.P. 345 L.D. 1122

Presented by Senator KILKELLY of Lincoln
Cosponsored by Representative CHARTRAND of Rockland and Representative: MCELROY of Unity

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

Sent down for concurrence.

Bill "An Act to Allow the Recording of Registry Records on Optical Disks" S.P. 343 L.D. 1120

Presented by Senator **GOLDTHWAIT** of Hancock
Cosponsored by Representative **MAYO III** of Bath and
Senators: **DAGGETT** of Kennebec, **LIBBY** of York, **NUTTING** of Androscoggin, Representative: **LEMKE** of Westbrook

Bill "An Act to Authorize the Annexation of Certain Land by Lake View Plantation" S.P. 350 L.D. 1169

Presented by Senator **HALL** of Piscataquis
Cosponsored by Representative: **STANLEY** of Medway

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Change How the Mileage Allowance is Determined for Sheriffs and Deputies" S.P. 68 L.D. 207

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

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock

Representatives:

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

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

Signed:

Senator:

LIBBY of York

Representatives:

GERRY of Auburn
KASPRZAK of Newport

Which Reports were **READ**.

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

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Permit Municipalities to Restrict the Sale of Tobacco Products" S.P. 72 L.D. 211

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

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock

Representatives:

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

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

Signed:

Senator:

LIBBY of York

Which Reports were **READ**.

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

Off Record Remarks

ENACTORS

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

Resolve

Resolve, to Name the Body of Water on Route 27 in Coburn Gore "Fabian's Dunk" S.P. 15 L.D. 13

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

(See action later today.)

HELD BILL

On motion by Senator **PINGREE** of Knox, the Senate **RECONSIDERED** whereby it **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** in **NON-CONCURRENCE** the following:

Bill "An Act to Establish Practical Difficulty Standards for a Variance from the Dimensional Standards of a Municipal Zoning Ordinance" H.P. 786 L.D. 1074

(Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.)

(In House, February 18, 1997, referred to the Committee on **NATURAL RESOURCES**.)

On further motion by same Senator, referred to the Committee on **NATURAL RESOURCES**, in concurrence.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (2/18/97) Assigned matter:

Bill "An Act to Promote Commercial Aquaculture" H.P. 688 L.D. 952

Tabled - February 18, 1997, by Senator **PINGREE** of Knox.

Pending - **REFERENCE**

(Committee on **MARINE RESOURCES** suggested and **ORDERED PRINTED**.)

(In House, February 13, 1997, referred to the Committee on **INLAND FISHERIES AND WILDLIFE**.)

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

The Chair laid before the Senate the following Tabled and Later (2/18/97) Assigned matter:

Bill "An Act to Amend the Watercraft Registration Laws" (Emergency) H.P. 564 L.D. 755

Tabled - February 18, 1997, by Senator **PINGREE** of Knox.

Pending - **REFERENCE**

(Committee on **INLAND FISHERIES AND WILDLIFE** suggested and **ORDERED PRINTED**.)

(In House, February 13, 1997, referred to the Committee on **TAXATION**.)

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

Off Record Remarks

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

Off Record Remarks

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

Off Record Remarks

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

Off Record Remarks

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

Off Record Remarks

Senator **RUHLIN** of Penobscot moved the Senate **RECONSIDER** whereby it **FINALLY PASSED** the following:

Resolve, to Name the Body of Water on Route 27 in Coburn Gore "Fabian's Dunk" S.P. 15 L.D. 13

(In House February 18, 1997, **FINALLY PASSED.**)

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

Senator **CAREY** Thank you Mr. President, men and women of the Senate. I would ask my esteemed, colleague if he would give me some reasonable explanation why this magnificent piece of legislation would have to be reconsidered.

THE PRESIDENT: The Senator from Kennebec, Senator Carey poses a question through the Chair to anybody who may be able to answer. The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you Mr. President, men and women of the Senate. I would like to reconsider for the purposes of understanding, better, the derivation of the word "Dunk". It came to my attention that we missed the opportunity to truly understand what "Dunk" means, and I felt that I did not want to have this occasion pass by without having a chance to broaden my vocabulary. And I have some questions to ask the good Senator.

THE PRESIDENT: The Senator from Penobscot, Senator Rulin poses a question through the Chair to anybody who may be able to answer. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President, men and women of the Senate. The word "Dunk" originated from the gentleman who we are trying to honor, Mr. Fabian. It appears that he was in the front end of a canoe, casting out on this little pond, when the person who was paddling behind him was going a little too fast, as they were approaching the shore, and this former, superintendent, who is now deceased and is really worthy of this honor, said, "Don't go so fast because you're going to dunk me". The story is that he also told this to the teachers within his school system, they passed it on to the children. And the children who are trying to honor him chose that word to really remember their superintendent.

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

Senator **RUHLIN:** Thank you Mr. President, men and women of the Senate. I just wanted to clarify that I did understand the terminology correctly and I would, through the Chair, ask the good Senator who sponsored this legislation; I can therefore assume from this, there is no minimum acreage size to be entitled, to be known as the "Dunk", nor is there a maximum depth involved to a "Dunk", and if some day, a hundred years from now, it appears in our dictionary, a "Dunk" could be any body of water, at any size?

THE PRESIDENT: The Senator from Penobscot, Senator Rulin poses a question through the Chair to anybody who may be able to answer. The Chair recognizes the Senator from Penobscot, Senator Rulin.

Senator **RUHLIN:** In that event, so I can be more satisfied, fully, on the terminology of what we're dealing with here, I move to **TABLE** until Later in Today's Session.

THE PRESIDENT: The Chair would advise the Senator that the Tabling motion is a non-debatable motion. The Chair is open to a Tabling motion from anybody who wishes to Table.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending the motion by Senator **RUHLIN** of Penobscot to **RECONSIDER FINAL PASSAGE.**

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

After Recess

Senate called to order by the President

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Transfer a Certain Parcel of Land from the Department of Conservation to the Department of Agriculture, Food and Rural Resources" H.P. 823 L.D. 1128

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

Which was referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED,** in concurrence.

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999" (Emergency) H.P. 832 L.D. 1137

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999" (Emergency) H.P. 833 L.D. 1138

Come from the House, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED.**

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

Bill "An Act to Amend the Continuing Care Retirement Community Laws to Repeal Certain Exemptions and Place Other Requirements on Providers and Developers of Continuing Care Retirement Communities" H.P. 827 L.D. 1132

Bill "An Act to Prohibit Discrimination Based on Genetic Testing Information" H.P. 845 L.D. 1150

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** and **ORDERED PRINTED**, in concurrence.

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 That Only Licensed Substance Abuse Counselors Treat Substance Abuse Problems" H.P. 837 L.D. 1142

Bill "An Act to Require the Use of Safety Bars on Chairlifts" H.P. 846 L.D. 1151

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** and **ORDERED PRINTED**, in concurrence.

Resolve, to Ensure Quality Care to Residents of Nursing Facilities through the Establishment of a Task Force on Minimum Staffing (Emergency) H.P. 828 L.D. 1133

Bill "An Act to Require that Day Care Facilities for Children and Infants Be Smoke Free" H.P. 848 L.D. 1153

Come from the House, referred to the Committee on **HEALTH AND HUMAN SERVICES** and **ORDERED PRINTED**.

Which were referred to the Committee on **HEALTH AND HUMAN SERVICES** and **ORDERED PRINTED**, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Resolve, Requiring the Department of Education to Replace the Building Code for Schools H.P. 819 L.D. 1124

Resolve, Regarding School Construction and Renovation Projects (Emergency) H.P. 836 L.D. 1141

Bill "An Act Pertaining to Parental Access to School Records" H.P. 839 L.D. 1144

Bill "An Act to Ensure Consistency Between State and Federal Special Education Requirements" H.P. 842 L.D. 1147

Bill "An Act to Protect Local Education Agencies from Excess Costs Attributable to Special Education Students" H.P. 844 L.D. 1149

Bill "An Act to Amend the Laws Concerning Special Education of Exceptional Students" H.P. 853 L.D. 1158

Bill "An Act to Amend the Laws Regarding Child Development Services" H.P. 859 L.D. 1164

Bill "An Act to Allow School Choice" H.P. 860 L.D. 1165

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

Which were referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Allow Hunting License Vendors a 3% Fee for Nonresident Hunting Licenses Purchased with Credit Cards" (Emergency) H.P. 824 L.D. 1129

Resolve, Regarding Legislative Review of Chapter 21 (21.03), Amendments to License Agent Reporting Requirements, a Major Substantive Rule of the Department of Inland Fisheries and Wildlife (Emergency) H.P. 829 L.D. 1134

Bill "An Act to Open Trapping Season on Saturday" H.P. 854 L.D. 1159

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** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Repeal the Requirement That Employers Garnish the Wages of Their Employees Who Owe Child Support"

H.P. 849 L.D. 1154

Bill "An Act to Grant to Joint Standing Committees of the Legislature Access to Confidential Information"

H.P. 852 L.D. 1157

Bill "An Act to Amend Child Protective Laws"

H.P. 858 L.D. 1163

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.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Change the Definition of Occupational Disease for Purposes of the Occupational Disease Law"

H.P. 822 L.D. 1127

Bill "An Act Restoring the Right to Sue to Workers Injured Due to Negligence"

H.P. 825 L.D. 1130

Bill "An Act Restoring the Right to Sue to Workers Injured Due to Gross Negligence"

H.P. 826 L.D. 1131

Bill "An Act to Clarify the Workers' Compensation Law Concerning Seasonal Agricultural Laborers"

H.P. 835 L.D. 1140

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

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

Resolve, to Authorize Robert Gray or His Legal Representative to Bring a Civil Action against the State in Order to Investigate Errors Made by State Officials That Caused Children to Erroneously Believe They Had Been the Victims of a Crime

H.P. 841 L.D. 1146

Bill "An Act to Extend Political Party Status to 4 Years"

H.P. 856 L.D. 1161

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

Which were referred to the Committee on **LEGAL AND VETERANS AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Clarify the Duties of the Maine Atlantic Salmon Authority"

H.P. 857 L.D. 1162

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

On motion by Senator **KILKELLY** of Lincoln, **TABLED** until Later in Today's Session, pending **REFERENCE**.

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

PAPERS FROM THE HOUSE

House Papers

Resolve, Regarding Legislative Review of Chapter 374, Rules Regarding the Traffic Movement Standard of the Site Location of Development Law, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Land and Water Quality (Emergency)

H.P. 830 L.D. 1135

Resolve, Regarding Legislative Review of Chapter 378, Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Land and Water Quality (Emergency)

H.P. 831 L.D. 1136

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

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

Bill "An Act to Provide Legal Counsel for Legislative Committees"

H.P. 847 L.D. 1152

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish 4-year Terms for Constitutional Officers

H.P. 855 L.D. 1160

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** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning Payment of Interest on State Income Tax Overpayments" H.P. 821 L.D. 1126

Bill "An Act to Allow Certain First-year Farmers and Persons Who Fish Commercially Tax-exempt Status" H.P. 834 L.D. 1139

Bill "An Act to Provide Sales Tax Relief for Low-income Citizens" H.P. 843 L.D. 1148

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.

Off Record Remarks

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Establish an Educational Program for Minors Regarding Tobacco Use" H.P. 851 L.D. 1156

Comes from the House, referred to the Committees on **TAXATION** and **HEALTH AND HUMAN AND SERVICES** and **ORDERED PRINTED**.

Which was referred to the Committees on **TAXATION** and **HEALTH AND HUMAN SERVICES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Allow a Left Turn on a Red Light on One-way Streets" H.P. 818 L.D. 1123

Bill "An Act to Amend the Laws Governing Driver's Licenses" H.P. 820 L.D. 1125

Resolve, to Name the New Topsham-Brunswick Bridge across the Androscoggin H.P. 838 L.D. 1143

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

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

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

ENACTORS

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

Emergency

An Act to Authorize the Department of Transportation to Use Design-build Contracting for Development of a New Bath-Woolwich Bridge S.P. 220 L.D. 679 (C "A" S-10)

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

Senator **CAREY:** Thank you Mr. President, Members of the Senate. This bill just started with us a couple of hours ago and is really rolling right along. I'd like to know if, in fact, the designed bill concept, contract for that, has already been awarded? And then I would like to know why there's so much haste in getting this done? Are they trying to save at least one construction season, maybe?

THE PRESIDENT: The Senator from Kennebec, Senator Carey poses a question through the Chair to anyone who can answer. The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator **OGARA:** Thank you Mr. President, ladies and gentlemen of the Senate. Fair question. In fact there's thirty-eight million dollars that was allowed to be transferred from the building of the Portland, South Portland Bridge. We have until September 30th in order to get a design and bids out and whatever, or we'll lose that money, and so, in order to get this under way, this is the process it has taken. In answer to your question that you posed; No, it has not been let out yet, it will be immediately following, what I hope will be finalizing affirmative action. But that's one of the major reasons, that thirty million dollars, as I'm sure you're aware Senator, and other Members, that Congress is looking for money everywhere and a pot of money like that hanging around, not being used, is very tempting, and we have to move very quickly in order to make sure that we do not lose it. And, we're working with our congressional delegation on it. Thank you.

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

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (2/4/97) Assigned matter:

Bill "An Act to Amend the Laws of Murder and Manslaughter to Include the Death of a Fetus" H.P. 541 L.D. 732

Tabled - February 4, 1997, by Senator **LONGLEY** of Waldo.

Pending - **REFERENCE**

(In House, February 4, 1997, referred to the Committee on **JUDICIARY** and **ORDERED PRINTED.**)

Senator **LONGLEY** of Waldo moved the Bill and Accompanying Papers be referred to the Committee on **JUDICIARY**, in concurrence.

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

Senator **MURRAY:** Thank you Mr. President, men and women of the Senate. I rise to ask that you oppose the pending motion. The good Senator from Waldo, my friend Senator Longley and I have a principled disagreement as to where this bill should be referred, in order to hear the merits of the bill. We may or may not have a principal difference of opinion, with regard to what ultimately should happen with this bill. This bill has not worked its way through the process for us to reach that point at this time, but, we all will have that opportunity to make that decision with regard to the merits and that may be a different issue altogether. The bill L.D. 732, which you may have heard about from people who have talked to you about it, but, let me just take a moment to focus on what the bill actually proposes to do at this point, because that's all we have in front of us. The bill proposes to create a new crime. It is exclusively within the jurisdiction of Title 17A, as proposed, which is the criminal code. There's nothing else in the bill, at this point, that suggests that any other section of our laws be amended other than Title 17A. The question of whether or not certain conduct should or should not constitute a crime, a new crime, an enhanced crime, a new sentence, is exclusively within the jurisdiction of the Criminal Justice Committee. I know in the past, that has gone to Judiciary, those types of questions, but, since the creation of the Criminal Justice Committee, that is within the jurisdiction of that Committee. The issue that has raised the principal difference of opinion between Senator Longley and I, perhaps with others is the question of whether or not abortion comes into play with regards to this particular bill. Let me suggest to you again, with the way this bill is drafted, abortion and the right of a woman to choose whether or not to have an abortion is explicitly, excluded from the coverage of this bill. In other words, a woman's right to make that choice lawfully, or unlawfully, the way the bill is drafted is explicitly excluded from whether or not this creates a crime under this new proposed legislation. Also, excluded from this bill, as drafted, is any medical techniques, medical diagnosis, medical procedures that are done; That too, is specifically, excluded from the coverage of this bill. The question this legislation attempts to get at, is whether or not the conduct of a third party, not the pregnant woman, not the physicians, not the doctors, not the health-care industry, some third party that their action, their conduct, whether that conduct constitutes a crime if that conduct results in the termination of the pregnancy. That's

the question. Is this going to be a crime? Is it not. I do not know whether or not we should create a crime for that issue, but, the question of whether it ought to be a crime or ought not to be a crime, belongs in the Criminal Justice Committee, and I would ask you to respect that process for looking at that question. Our Committee, on virtually a daily basis, deals with the question of whether or not certain conduct should or should not be either added to, deleted from, or changed within the criminal code. That's what we're talking about here. I would ask you therefore, to vote no on the pending motion, so that the referral of this bill can go to the Criminal Justice Committee, where I believe it belongs.

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

Senator **LONGLEY:** Thank you Mr. President, men and women of the Senate. Very quickly, like it or not, this bill concerns abortion, and, every other abortion bill is coming to my Committee. Our Committee on Judiciary is going to be dealing with the issues connected with the abortion. If it was simply a crime, and we knew exactly when that crime kicked in, I would be in favor of giving it to Criminal Justice. Over time we've always sent these issues to Judiciary, and in terms of legislative efficiency, at the very least, it makes sense when you're educating a Committee on such words as are in this bill, as informed consent, as medical necessity, as usual and customary standards of medical practice. Issues that we'll be getting into include the health of the mother; We all know, if we follow the debate over time, that the health of the mother and respecting the professional decisions of the doctor are very much a part of how it is we decide when an abortion is Okay and when it's not. I think you want to hand this bill to a Committee that is being educated on all these issues, understands the legislative history, what's been going on in the Supreme Court, what's been going on in the Maine Courts, in terms of legislative efficiency, if you send it to our Committee, you're going to get a higher collective intelligence on the nuances of this bill that is not cut and dry. If we just went by the title in crime, we'd send it to Criminal Justice. We're talking with abortion, we're talking about very blurry definitions, and I ask that you send it to a Committee that has always received these bills, and is educated on these bills. And I think, in the process, you will get a better outcome on respecting the doctor's expert advise, and honoring the health of the mom. Thank you.

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

Senator **MILLS:** Thank you Mr. President, men and women of the Senate. It strikes me that this bill has been very cleverly, and I will say tactically, drafted, for the very purpose of dividing jurisdiction on the issue of abortion, which is a parental issue, unfortunately, within our legislative halls. The essence of this bill, the kernel of the bill, the very few words that are so critically important within this bill are in the very first section of the bill, in which it says, "Unborn child means any individual of the human species, from fertilization until birth". That, ladies and gentlemen, has everything to do with the civil law, with constitutional law, and social policy, as much as it does any elements of the criminal law. And I agree with those who say that the changes designed to go into Title 17, or 17A, where we

customarily find repository for our criminal sanctions, but, the underlying purpose of the bill is to redefine human life. That's what this bill is all about. These are very important issues. I think the underlying, tactical purpose of this bill is to ensure that there be two separate hearings, so that there be two opportunities to demonstrate and remonstrate on these important social issues, and to give people, quite frankly, two shots at the nightly news at 5:30 or 6:00 p.m.. If for no other reason, than to conduct our business in an administratively, appropriate way, I think that these issues should be consolidated within one Committee. That Committee, by custom, and by tradition, and many, many long years of president has been the Judiciary Committee. If that Committee, and if these Halls, if we Members of this legislator make a decision about redefining the essence of human life, that would carry with it all sorts of implications, whether they be criminal, social, or civil. That is the essence of this bill, those very, few words at the beginning of this bill are the hex of it, and for that reason, I suggest to you that it should be consolidated with the other several important bills on this very same subject, and that we should not divide the jurisdiction, our own jurisdiction, over these crucial issues. Thank you.

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

Senator **MURRAY:** Thank you Mr. President, men and women of the Senate. Very briefly, I may well be prepared to defer to the higher collective intelligence of another Committee already, if that were the only issue, I'd defer immediately, but there's another issue, and the issue is the ones raised by the good Senator from Somerset deal with the definitional issue, but again, the definitional issues are issues that are contained in a Title 17A bill. The same section defines "person", as excluding the pregnant woman from the coverage of this bill. I don't think anyone is prepared to suggest that that definition is going to be something that's going to be applied elsewhere, outside of the criminal code. The issue here before us is whether or not conduct of a third party, not the pregnant woman, who is expressly, excluded from the language of this bill; The conduct of a third party that creates a situation where the termination of the pregnancy occurs. Is that or is that not going to be a crime? That's within the jurisdiction of the Criminal Justice Committee. I hope you would respect that process and I would ask that you vote no on the pending question.

The Chair ordered a Division. 25 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **LONGLEY** of Waldo, to refer the Bill and Accompanying Papers, to the Committee on **JUDICIARY**, in concurrence **PREVAILED**.

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

Resolve

Resolve, to Name the Body of Water on Route 27 in Coburn Gore "Fabian's Dunk" S.P. 15 L.D. 13

Tabled - February 20, 1997, by Senator **PINGREE** of Knox.

Pending - motion by Senator **RUHLIN** of Penobscot to **RECONSIDER FINAL PASSAGE**

(In House February 18, 1997, **FINALLY PASSED**.)

(In Senate February 20, 1997, **FINALLY PASSED**, in concurrence.)

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

Senator **RUHLIN:** Thank you Mr. President, honorable Senators of Maine. After listening a bit, I really have come to the conclusion there is no additional information that would be worthy of enlightening us further on this issue.

Senator **RUHLIN** of Penobscot requested and received leave of the Senate to withdraw his motion to **RECONSIDER FINAL PASSAGE**.

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

Bill "An Act to Clarify the Duties of the Maine Atlantic Salmon Authority" H.P. 857 L.D. 1162

Tabled - February 20, 1997, by Senator **KILKELLY** of Lincoln.

Pending - **REFERENCE**

(In House February 20, 1997, referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**.)

On motion by Senator **KILKELLY** of Lincoln, referred to the Committee on **INLAND FISHERIES AND WILDLIFE** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Change How the Mileage Allowance is Determined for Sheriffs and Deputies" S.P. 68 L.D. 207

Majority - **Ought to Pass** (9 members)

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

Tabled - February 20, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

At the request of Senator **MILLS** of Somerset a Division was had. 24 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin, to **ACCEPT** the Majority **OUGHT TO PASS** Report **PREVAILED**.

The Bill **READ ONCE**.

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

Off Record Remarks

On motion by Senator **PINGREE** of Knox, **ADJOURNED**, pursuant to the Joint Order, until Tuesday February 25, 1997, at 10:00 in the morning.