

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

Volume 2

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May 20, 1997 to June 20, 1997

First Confirmation Session
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January 7, 1998 to March 24, 1998

Pages 981 - 1977

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

In Senate Chamber
Wednesday
May 21, 1997

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

Prayer by Pastor Ken Hinckley of the Stow Baptist Church in Stow.

PASTOR KEN HINCKLEY: Shall we pray? Father, almighty God, we bow before your presence and we acknowledge your supremacy. We ask, Lord, that as these men and women deliberate, discuss and decide issues relevant to the people of the great state of Maine, they would do so knowing that they are subject to the people of the state of Maine and that they must, too, hold themselves accountable before you. And so we ask your blessing. We ask your wisdom and we ask the guidance of the Holy Spirit among all these people in the name of Jesus Christ. Amen.

Doctor of the Day, Dr. Donald Hankinson, D.O., Portland.

Reading of the Journal of Tuesday, May 20, 1997.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Prohibit the Inhaling of Toxic Vapors for Effect"
H.P. 241 L.D. 305
(C "A" H-382)

In Senate, May 9, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-382)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-382) AS AMENDED BY HOUSE AMENDMENT "A" (H-546)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **MURRAY** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Bill "An Act to Amend Certain Provisions Dealing with the Subjects of Juvenile Petition, Adjudication and Disposition"
S.P. 175 L.D. 504
(C "A" S-249; S "A" S-265)

In Senate, May 20, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-249) AND SENATE AMENDMENT "A" (S-265)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-249)** in **NON-CONCURRENCE**.

On motion by Senator **MURRAY** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Promote Wildlife Rehabilitation Centers"
H.P. 551 L.D. 742

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-535)** (4 members)

In House, May 19, 1997, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-535)**.

In Senate, May 20, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

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

Non-concurrent Matter

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act Concerning Fuel Taxes for Carriers Operating School Buses under Contract"
H.P. 1249 L.D. 1768

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-533)** (4 members)

In House, May 19, 1997, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-533)**.

In Senate, May 20, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

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

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 301

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE**

May 19, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Banking and Insurance has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1566 An Act to Require Blue Cross and Blue Shield of Maine to Report Annually to the Legislature Regarding the Fulfillment of Its Charitable Mission
- L.D. 1568 An Act to Amend the Board of Directors of Nonprofit Hospital or Medical Service Organizations
- L.D. 1642 Resolve, to Require the Superintendent of Insurance to Develop Criteria for an Independent Fairness Review Prior to Conversion of a Non-profit Entity to a For-profit Entity

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Lloyd P. LaFountain III
Senate Chair

S/Rep. Jane W. Saxl
House Chair

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

The Following Communication: S.C. 302

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

May 19, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Inland Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 208 An Act to Limit Personal Watercraft
- L.D. 1284 An Act to Preserve Inland and Coastal Waters and Beaches

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Marge L. Kilkelly
Senate Chair

S/Rep. Norman R. Paul
House Chair

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

The Following Communication: S.C. 303

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

May 19, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1412 An Act to Reinstate Municipal Courts for Specific Traffic Infractions

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Susan W. Longley
Senate Chair

S/Rep. Richard H. Thompson
House Chair

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

The Following Communication: S.C. 304

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LABOR**

May 19, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 75 An Act to Provide that the Change in Calculation of Workers' Compensation Benefits to Include Fringe Benefits Does Not Apply Retroactively
- L.D. 136 An Act to Require Workers' Compensation Hearings within 30 Days of a Request
- L.D. 138 An Act to Amend the Maine Workers' Compensation Act of 1992 as It Relates to Worker Reinstatement Rights
- L.D. 189 An Act to Exempt Companies That Employ 5 People or Fewer from Carrying Workers' Compensation Insurance
- L.D. 625 An Act to Clarify the Laws Governing the Calculation of Interest on Decrees under the Workers' Compensation Laws
- L.D. 830 Resolve, Directing the Workers' Compensation Board to Study the Effect on Injured Workers of Delayed Medical Treatment and Payment of Valid Claims by Insurance Companies
- L.D. 1024 An Act To Provide That Disability Benefits for Partial Incapacity Be Continued for the Full Duration of Disability
- L.D. 1101 An Act to Amend the Maine Workers' Compensation Act of 1992 as It Relates to Payment of Benefits Pending Appeal
- L.D. 1456 An Act to Increase the Maximum Benefit Levels Provided for Injured Workers

L.D. 1472 An Act to Modify the Work Search Requirements for Workers' Compensation Recipients

L.D. 1474 An Act to Provide for Limited Payment of Attorney's Fees for Injured Workers Who Prevail on Meritorious Claims

L.D. 1493 An Act to Adopt an Orderly Procedure for Determining the End of Entitlement to Partial Workers' Compensation Benefits

L.D. 1494 An Act to Replace the Defined Benefit Retirement Plan for State and Other Public Employees with a Defined Contribution Plan

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mary R. Cathcart
Senate Chair

S/Rep. Pamela H. Hatch
House Chair

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

The Following Communication: S.C. 305

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 19, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 971 An Act to Protect Private Enterprise from Tax-subsidized Competition

L.D. 1856 An Act to Allow Private Labeling of Wine for On-premise Consumption

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Beverly C. Daggett
Senate Chair

S/Rep. John L. Tuttle, Jr.
House Chair

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

The Following Communication: S.C. 306

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TAXATION**

May 19, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1624 An Act to Increase Funding to the Highway Fund to Allow Major Improvements to Highways and Bridges

L.D. 1833 An Act to Reform the Administration of the Maine Residents Property Tax Relief Program

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Richard P. Ruhlin
Senate Chair

S/Rep. Verdi L. Tripp
House Chair

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

The Following Communication: S.C. 307

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

May 20, 1997

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on State and Local Government has had under

consideration the nomination of Charles R. Weeks of Old Town, for reappointment to the Workers' Compensation Board.

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

YEAS: Senators 2 Nutting of Androscoggin, Libby of York

Representatives 10 Ahearne of Madawaska, Lemke of Westbrook, Dutremble of Biddeford, Bagley of Machias, Sanborn of Alton, Gieringer of Portland, Bumps of China, Fisk of Falmouth, Kasprzak of Newport, Gerry of Auburn

NAYS: 0

ABSENT: 1 Sen. Goldthwait of Hancock

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 Charles R. Weeks of Old Town, for reappointment to the Workers' Compensation Board be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/Douglas J. Ahearne
House Chair

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

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

The Following Communication: S.C. 308

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

May 19, 1997

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on State and Local Government has had under consideration the nomination of Anthony Monfiletto of Bath, for appointment to the Workers' Compensation Board.

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

YEAS: Senators 2 Nutting of Androscoggin, Libby of York

Representatives 10 Ahearne of Madawaska, Lemke of Westbrook, Dutremble of Biddeford, Bagley of Machias, Sanborn of Alton, Gieringer of Portland, Bumps of China, Fisk of Falmouth, Kasprzak of Newport, Gerry of Auburn

NAYS: 0

ABSENT: 1 Sen. Goldthwait of Hancock

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 Anthony Monfiletto of Bath, for appointment to the Workers' Compensation Board be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/Douglas J. Ahearne
House Chair

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

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

The Following Communication: S.C. 309

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

May 19, 1997

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on State and Local Government has had under consideration the nomination of J. Thomas Accomando of Saco, for appointment to the Workers' Compensation Board.

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

YEAS: Senators 2 Nutting of Androscoggin, Libby of York

Representatives 9 Ahearne of Madawaska, Dutremble of Biddeford, Bagley of Machias, Sanborn of Alton, Gieringer of Portland, Bumps of China, Fisk of Falmouth, Kasprzak of Newport, Gerry of Auburn

NAYS: 0

ABSENT: 2 Sen. Goldthwait of Hancock, Rep. Lemke of Westbrook

Eleven 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 J. Thomas Accomando of Saco, for appointment to the Workers' Compensation Board be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/Douglas J. Ahearne
House Chair

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

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

The Following Communication: S.C. 310

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

May 19, 1997

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on State and Local Government has had under consideration the nomination of Susan M. Pinette of Brunswick, for reappointment to the Workers' Compensation Board.

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

YEAS: Senators 2 Nutting of Androscoggin, Libby of York

Representatives 8 Ahearne of Madawaska, Dutremble of Biddeford, Bagley of Machias, Sanborn of Alton, Gieringer of Portland, Bumps of China, Kasprzak of Newport, Gerry of Auburn

of Crystal, Berry of Belmont, Vedral of Buxton

NAYS: 0

ABSENT: 2 Sen. Cleveland of Androscoggin, Rep. Kontos of Windham

NAYS: 0

ABSENT: 3 Sen. Goldthwait of Hancock, Rep. Lemke of Westbrook, Rep. Fisk of Falmouth

Ten 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 Susan M. Pinette of Bath, for reappointment to the Workers' Compensation Board be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/Douglas J. Ahearne
House Chair

Which was READ and ORDERED PLACED ON FILE.

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

The Following Communication: S.C. 311

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY**

May 19, 1997

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Utilities and Energy has had under consideration the nomination of William M. Nugent of Yarmouth, for reappointment to the Public Utilities Commission.

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

YEAS: Senators 2 Carey of Kennebec, Harriman of Cumberland

Representatives 9 Jones of Bar Harbor, Usher of Westbrook, O'Neal of Limestone, Colwell of Gardiner, LaVerdiere of Wilton, Taylor of Cumberland, Joy

Eleven 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 William M. Nugent of Yarmouth, for reappointment to the Public Utilities Commission be confirmed.

Signed,

S/Richard J. Carey
Senate Chair

S/Kyle W. Jones
House Chair

Which was READ and ORDERED PLACED ON FILE.

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

The Following Communication: S.C. 312

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333-0002**

May 20, 1997

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

Dear Madam Secretary:

House Paper 88 Legislative Document 113 "An Act to Prohibit the Employment of Professional Strikebreakers," having been returned by the Governor, together with objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Eighty-seven voted in favor and fifty-eight against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/Joseph W. Mayo
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Allow Agricultural Workers to Bargain Collectively"
H.P. 1177 L.D. 1654

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-550).**

Signed:

Senators:

CATHCART of Penobscot
TREAT of Kennebec

Representatives:

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

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

Signed:

Senator:

MILLS of Somerset

Representatives:

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

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550).**

Which Reports were **READ.**

Senator **CATHCART** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550)** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550)** Report, in concurrence.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Clarify the Qualifications of State Auditor"
H.P. 1269 L.D. 1795

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-567).**

Signed:

Senators:

GOLDTHWAIT of Hancock
LIBBY of York

Representatives:

BUMPS of China
FISK, JR. of Falmouth
GERRY of Auburn
GIERINGER, JR. of Portland
KASPRZAK of Newport
DUTREMBLE of Biddeford

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

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
SANBORN of Alton

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

Which Reports were **READ.**

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

Senate

Ought to Pass As Amended

Senator **NUTTING** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Regarding the Division of Safety and Environmental Services in the Bureau of General Services"
S.P. 518 L.D. 1602

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-288).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-288) **READ** and **ADOPTED.**

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Expand the Board of Trustees of the University of Maine System"

S.P. 523 L.D. 1628

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

Signed:

Senators:

PENDLETON of Cumberland
SMALL of Sagadahoc

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-289)**.

Signed:

Senator:

CATHCART of Penobscot

Representative:

BAKER of Bangor

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 **JUDICIARY** on Bill "An Act to Implement the Recommendations of the Judicial Compensation Commission"

S.P. 322 L.D. 1062

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-286)**.

Signed:

Senators:

LONGLEY of Waldo
LAFOUNTAIN III of York

Representatives:

THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell

JABAR, SR. of Waterville
MAILHOT of Lewiston
POWERS of Rockport
PLOWMAN of Hampden
MADORE of Augusta
NASS of Acton

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

Signed:

Senator:

BENOIT of Franklin

Representative:

WATERHOUSE of Bridgton

Which Reports were **READ**.

Senator **LONGLEY** of Waldo moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-286)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-286)** Report.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide 4-year Terms for Senators and Members of the House of Representatives

S.P. 89 L.D. 269

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-287)**.

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives:

BAGLEY of Machias
GERRY of Auburn
GIERINGER, JR. of Portland
LEMKE of Westbrook
FISK, JR. of Falmouth

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

Signed:

Representatives:

AHEARNE of Madawaska
BUMPS of China
KASPRZAK of Newport
SANBORN of Alton
DUTREMBLE of Biddeford

Which Reports were **READ**.

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

The Resolution **READ ONCE**.

Committee Amendment "A" (S-287) **READ** and **ADOPTED**.

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

SECOND READERS

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

House As Amended

Bill "An Act to Decrease Infectious Disease Transmission"
H.P. 287 L.D. 351
(C "A" H-468)

Bill "An Act to Remove the Disqualification for Unemployment Insurance Benefits for Claimants Who Are Locked Out by an Employer"
H.P. 1222 L.D. 1734
(C "A" H-501)

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

Bill "An Act to Exempt Contract Dance Instructors from the Unemployment Tax"
H.P. 24 L.D. 49
(C "A" H-483)

Which was **READ A SECOND TIME**.

On motion by Senator **CATHCART** of Penobscot, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-483) in **NON-CONCURRENCE**.

On further motion by same Senator, Committee Amendment "A" (H-483) **INDEFINITELY POSTPONED**, in concurrence.

House Amendment "A" (H-525) **READ** and **ADOPTED**, in concurrence.

Which was **PASSED TO BE ENGROSSED, as Amended**, in concurrence.

Senate As Amended

Bill "An Act to Provide Health Insurance Coverage for Prostate Cancer Screening" S.P. 320 L.D. 1060
(C "A" S-274)

Bill "An Act to Revise Certain Provisions of Fish and Wildlife Laws" (Emergency) S.P. 520 L.D. 1604
(C "A" S-281)

Resolve, to Reduce Reliance on Pesticides
S.P. 569 L.D. 1726
(C "A" S-272)

Bill "An Act to Establish Guidelines for Putting Certain Social Service Contracts out to Bid" S.P. 597 L.D. 1776
(C "A" S-282)

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

Sent down for concurrence.

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

Which was **READ A SECOND TIME**.

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

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

COMMUNICATIONS

The Following Communication: S.C. 313

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

May 20, 1997

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

Dear Madam Secretary:

House Paper 41 Legislative Document 66 "An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike," having been returned by the Governor, together with objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Eighty-nine voted in favor and fifty-six against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/ Joseph W. Mayo
Clerk of the House

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Regulate Camp Lot Leases" H.P. 1046 L.D. 1463

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

Signed:

Senators:

KILKELLY of Lincoln
PARADIS of Aroostook
CASSIDY of Washington

Representatives:

BUNKER, JR. of Kossuth Township
LANE of Enfield
SAMSON of Jay
SHIAH of Bowdoinham
GOOLEY of Farmington
BAKER of Dixfield
MCKEE of Wayne
CROSS of Dover-Foxcroft
DEXTER of Kingfield

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-572)**.

Signed:

Representative:

VOLENIK of Brooklin

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

Which Reports were **READ**.

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

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

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

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

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (5/1/97) Assigned matter:

JOINT RESOLUTION - relative to commemorating the 350th anniversary of the Town of Kittery S.P. 638

Tabled - May 1, 1997, by Senator **PINGREE** of Knox.

Pending - motion by President **LAWRENCE** of York to **ADOPT**

(In Senate, May 1, 1997, on motion by President **LAWRENCE** of York **READ**.)

Which was, on motion by President **LAWRENCE** of York **ADOPTED**.

Sent down for concurrence.

Off Record Remarks

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

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Amero, who requests unanimous consent of the Senate to address the Senate on the record. The Senator may proceed.

Senator **AMERO:** Thank you Mr. President, ladies and gentlemen of the Senate. It is with a great deal of pride that we recognize, today, these young students from Scarborough High School who have achieved, I think, a near impossible task. It's the eighth year in a row that they have been the State Champions in the Decathlon Competition and it's no coincidence, I don't think, that for the eight years that they have won this award they have had the same coach. I'd like us to give special recognition today to Ellen Ross, and Ellen, if you would please stand, who has coached the students in Scarborough, Maine, since the beginning of their participation in the Decathlon Competition. I want to thank you very much for the excellent work that you have done and I'm sure the Senate would like to show their appreciation as well. I also want to recognize Dave O'Connor, who is helping to coach this year, and the 12 members of the student body of Scarborough High School who have participated in this extraordinary win. To go to Utah and place third in the country in the Small School Competition, says a whole lot. So, congratulations to the students and their coaches from all of us in the Maine Senate.

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

Senator **PENDLETON:** Thank you Mr. President, men and women of the Senate. I, too, would like to echo my congratulations to our wonderful team. Last fall, when some of my colleagues were talking about their sports teams, I kept my mouth quiet because I knew that Scarborough was going to be the Academic Champions of our state, but I kept it quiet because I wanted to share with you when they became prizewinners in the National Competition, so here they are National Competition Prizewinners and we're very proud of them. And thank you.

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

COMMUNICATIONS

The Following Communication: S.C. 315

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

May 21, 1997

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

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it indefinitely postponed Bill "An Act to Ensure Ethical Conduct in the Office of Treasurer of State" (S.P. 225) (L.D. 794)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

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

Off Record Remarks

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Reduce the Cost of State Government" S.P. 375 L.D. 1234

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

Signed:

Senators:

MICHAUD of Penobscot
CLEVELAND of Androscoggin

Representatives:

KERR of Old Orchard Beach
LEMAIRE of Lewiston
KNEELAND of Easton
TOWNSEND of Portland
BERRY of Livermore
POULIN of Oakland
STEVENS of Orono

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-290).**

Signed:

Senator:

BENNETT of Oxford

Representatives:

MARVIN of Cape Elizabeth
OTT of York
WINSOR of Norway

Which Reports were **READ.**

Senator **CLEVELAND** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Divided Report

The Majority of the Committee on **TAXATION** on Resolve, Establishing a Task Force to Propose Targeting of Revenue Sharing Dollars to Communities That Accept Community-based Services S.P. 544 L.D. 1662

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

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec

Representatives:

TRIPP of Topsham
MORGAN of South Portland
SPEAR of Nobleboro
LEMONT of Kittery
CIANCHETTE of South Portland
BUCK of Yarmouth
TUTTLE, JR. of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-291)**.

Signed:

Senator:

MILLS of Somerset

Representatives:

GAGNON of Waterville
GREEN of Monmouth
ROWE of Portland

Which Reports were **READ**.

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

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Implement the Majority Recommendation of the Harness Racing Task Force" H.P. 1313 L.D. 1864

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 **LATER TODAY ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Amend the Laws Concerning Health Insurance" H.P. 1084 L.D. 1521

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-582)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-582)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-582) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Increase the Funding for School Construction" H.P. 184 L.D. 237

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-574)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-574)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-574) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Improve the Transition of People with Disabilities from Children's to Adult Services"

H.P. 870 L.D. 1187

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-575).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-575).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-575) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Create Efficient and Effective Administration of the University of Maine System" H.P. 1114 L.D. 1557

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-580).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-580).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-580) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Provide Boards of Directors for State Mental Health Institutes" H.P. 963 L.D. 1326

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-585).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-585).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-585) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Requiring the Department of Human Services to Enable People with Disabilities to Purchase Medicaid Health Insurance H.P. 1098 L.D. 1541

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-583).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-583).**

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

The Resolve **READ ONCE.**

Committee Amendment "A" (H-583) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prevent Hunger Among Unemployed Maine Workers" (Emergency) H.P. 1311 L.D. 1859

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-584).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-584).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-584) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act Regarding the Relocation of a Child by a Parent Having Primary Physical Custody" H.P. 1178 L.D. 1669

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-589).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-589)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-589) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LABOR** on Resolve, Directing the Commissioner of Labor to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to Pay Discrimination Based on Gender
H.P. 265 L.D. 329

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-588)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-588)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (H-588) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act to Ensure Safe Abatement of Lead Hazards"
H.P. 1137 L.D. 1593

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-577)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-577)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-577) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Resolve, to Designate an East-West Highway and Install Signs on that Highway
H.P. 1027 L.D. 1444

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-581)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-581)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (H-581) **READ** and **ADOPTED**, in concurrence.

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

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

SECOND READERS

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

Senate As Amended

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide 4-year Terms for Senators and Members of the House of Representatives
S.P. 89 L.D. 269
(C "A" S-287)

Bill "An Act Regarding the Division of Safety and Environmental Services in the Bureau of General Services"
S.P. 518 L.D. 1602
(C "A" S-288)

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

Sent down for concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 314

**THE SENATE OF MAINE
OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

May 21, 1997

LEGISLATIVE RECORD - SENATE, MAY 21, 1997

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

Dear Secretary O'Brien,

Please be advised I have appointed the following Conferees to the Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Remove Restrictions on Items that May Be Auctioned by Public Broadcasting Stations" (H.P. 953) (L.D. 1316):

Senator Daggett of Kennebec
Senator Carey of Kennebec
Senator Ferguson of Oxford.

Sincerely,

S/Mark W. Lawrence
President of the Senate

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

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

Senate at Ease

Senate called to order by the President.

On motion by Senator **PINGREE** of Knox, **RECESSED** until 4:30 in the afternoon.

After Recess

Senate called to order by the President.

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

SECOND READERS

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

House

Bill "An Act to Implement the Majority Recommendation of the Harness Racing Task Force" H.P. 1313 L.D. 1864

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

House As Amended

Bill "An Act to Increase the Funding for School Construction" H.P. 184 L.D. 237 (C "A" H-574)

Resolve, Directing the Commissioner of Labor to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to Pay Discrimination Based on Gender H.P. 265 L.D. 329 (C "A" H-588)

Bill "An Act to Improve the Transition of People with Disabilities from Children's to Adult Services" H.P. 870 L.D. 1187 (C "A" H-575)

Bill "An Act to Provide Boards of Directors for State Mental Health Institutes" H.P. 963 L.D. 1326 (C "A" H-585)

Resolve, to Designate an East-West Highway and Install Signs on that Highway H.P. 1027 L.D. 1444 (C "A" H-581)

Bill "An Act to Amend the Laws Concerning Health Insurance" H.P. 1084 L.D. 1521 (C "A" H-582)

Resolve, Requiring the Department of Human Services to Enable People with Disabilities to Purchase Medicaid Health Insurance H.P. 1098 L.D. 1541 (C "A" H-583)

Bill "An Act to Create Efficient and Effective Administration of the University of Maine System" H.P. 1114 L.D. 1557 (C "A" H-580)

Bill "An Act to Ensure Safe Abatement of Lead Hazards" H.P. 1137 L.D. 1593 (C "A" H-577)

Bill "An Act to Prevent Hunger Among Unemployed Maine Workers" (Emergency) H.P. 1311 L.D. 1859 (C "A" H-584)

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

Bill "An Act Regarding the Relocation of a Child by a Parent Having Primary Physical Custody" H.P. 1178 L.D. 1669 (C "A" H-589)

Which was **READ A SECOND TIME**.

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

Off Record Remarks

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish a Funding Formula for the University of Maine System" H.P. 1018 L.D. 1410

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-590).**

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
SMALL of Sagadahoc

Representatives:

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

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

Signed:

Representative:

BARTH, JR. of Bethel

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-590).**

Which Reports were **READ.**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-590) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Require Reimbursement to Counties for Services Rendered by County Law Enforcement Officers" (Emergency) H.P. 36 L.D. 61

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

Signed:

Senators:

LONGLEY of Waldo
LAFOUNTAIN III of York
BENOIT of Franklin

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-593).**

Signed:

Representatives:

NASS of Acton
WATERHOUSE of Bridgton

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

Which Reports were **READ.**

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act Amending the Compensation for Members of the Panel of Mediators" H.P. 1001 L.D. 1393

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-587).**

Signed:

Senators:

CATHCART of Penobscot
TREAT of Kennebec

Representatives:

HATCH of Skowhegan
SAMSON of Jay
BOLDUC of Auburn
RINES, JR. of Wiscasset
STANLEY of Medway
JOY of Crystal
PENDLETON, JR. of Scarborough

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

Signed:

Representatives:

JOYCE of Biddeford
TREADWELL of Carmel

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-587).**

Which Reports were **READ.**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-587) **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 Bill "An Act to Authorize Hancock County to Hold a Referendum Election in November 1997 on a Bond Issue of \$6,000,000 to Construct a New Jail and to Provide Necessary Renovations to the Courthouse to Comply with State Mandates" (Emergency) H.P. 1312 L.D. 1860

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-586).**

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock

Representatives:

AHEARNE of Madawaska
BUMPS of China
FISK, JR. of Falmouth
BAGLEY of Machias
GERRY of Auburn

GIERINGER, JR. of Portland
SANBORN of Alton
DUTREMBLE of Biddeford

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

Signed:

Senator:

LIBBY of York

Representative:

KASPRZAK of Newport

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-586).**

Which Reports were **READ.**

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

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate

Ought to Pass As Amended

Senator **LONGLEY** for the Committee on **JUDICIARY** on Bill "An Act to Amend the Child Support Laws Concerning Seize and Sell Orders and Reunited Families" S.P. 454 L.D. 1428

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-294).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-294) **READ** and **ADOPTED.**

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

Off Record Remarks

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Relating to Notaries Public" H.P. 1094 L.D. 1537

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-498)** (10 members)

Report "B" - **Ought Not to Pass** (1 member)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-499)** (1 member)

In House, May 19, 1997, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-498) READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-498).**

In Senate, May 20, 1997, Reports **READ.** Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**

On motion by Senator **PINGREE** of Knox, the Senate **ADHERED.**

Non-concurrent Matter

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

In Senate, May 19, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-206) AS AMENDED BY HOUSE AMENDMENT "A" (H-493)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-206) AS AMENDED BY HOUSE AMENDMENTS "A" (H-493) AND "B" (H-597)** thereto, in **NON-CONCURRENCE.**

On motion by Senator **O'GARA** of Cumberland, the Senate **RECEDED and CONCURRED.**

ENACTORS

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

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$13,000,000 to Construct Water Pollution Control Facilities, to Close and Clean Up Municipal Solid Waste Landfills, to Clean Up Tire Stockpiles, to Mitigate Storm Water Pollution through a Comprehensive Watershed Protection Program and to Make Drinking Water Improvements S.P. 88 L.D. 268 (C "A" S-213)

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

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

ENACTORS

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

An Act to Amend the Child Labor Laws as They Pertain to Employment of Minors 15 Years of Age H.P. 135 L.D. 177 (C "A" H-478)

An Act to Clarify the Reimbursement of Legislators' Expenses S.P. 100 L.D. 379 (C "A" S-223)

An Act to Exclude from the Definition of "Employment" Services Provided by Lessees of Taxicabs S.P. 110 L.D. 389 (C "A" S-237)

An Act to Impose a Statute of Limitations for Violations of Municipal Subdivision Ordinances H.P. 371 L.D. 516 (C "A" H-474)

An Act Concerning the Review of Certain Sentences Imposed on Defendants H.P. 710 L.D. 974 (C "A" H-487)

An Act to Amend the Enhanced 9-1-1 Laws H.P. 712 L.D. 976 (S "B" S-224 to C "A" H-355)

An Act to Strengthen the Sanctions for Failure to Respond to an Employee's Request for Reason for Termination of Employment S.P. 309 L.D. 1018 (C "A" S-236)

An Act to Restrict Parental Rights of Convicted Sex Offenders H.P. 936 L.D. 1283 (C "A" H-465)

An Act to Amend Certain Laws Administered by the Department of Environmental Protection H.P. 950 L.D. 1313 (C "A" H-491)

An Act to Amend the Maine Workers' Compensation Act of 1992 Regarding Nonresident Employers H.P. 971 L.D. 1351 (C "A" H-481)

An Act to Give the Director of the Bureau of Labor Standards Rule-making Authority for All Wage and Hour and Other Related Laws That the Bureau of Labor Standards Is Charged with Enforcing H.P. 1167 L.D. 1644

An Act to Amend the Victims' Compensation Fund H.P. 1184 L.D. 1675 (C "A" H-486)

An Act to Require the Department of Inland Fisheries and Wildlife to File Monthly Revenue Reports H.P. 1204 L.D. 1704

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

An Act to Protect the Rights of Children Who Have Been Victims of Sexual Abuse by a Juvenile S.P. 234 L.D. 803 (H "A" H-537 to C "A" S-207)

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

Emergency

An Act to Clarify the Workers' Compensation Law Concerning Seasonal Agricultural Laborers H.P. 835 L.D. 1140 (C "A" H-480)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act Regarding the Leasing of Buildings S.P. 372 L.D. 1231 (C "A" S-242)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with no Senators having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Charter of the Hebron Water Company S.P. 547 L.D. 1665 (C "A" S-239)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with no Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Provisions of the Disability Retirement Laws Administered by the Maine State Retirement System H.P. 1271 L.D. 1797

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with no Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Laws Governing the Maine Health and Higher Educational Facilities Authority H.P. 1280 L.D. 1817 (C "A" H-473)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with no Senators having voted in the negative, and 26 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.

Mandate

An Act to Redistrict Knox County and Provide for 5 County Commissioners H.P. 1016 L.D. 1408 (C "A" H-475)

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

Emergency Mandate

An Act to Exclude Coaches from Participation in the Maine State Retirement System H.P. 724 L.D. 988 (C "A" H-479)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 27 Members of the Senate, with no Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Mandate

An Act to Require Prisoners to Pay Court Fines and Family Support
 H.P. 781 L.D. 1069
 (C "A" H-378)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Expand the Board of Trustees of the University of Maine System"
 S.P. 523 L.D. 1628

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-289)** (2 members)

Tabled - May 21, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 21, 1997, Reports **READ**.)

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **PENDLETON:** Thank you Mr. President, men and women of the Senate. This bill is one of several bills that our committee examined, and had hearings on, regarding restructuring of the University System. This bill particularly addresses the Board of Trustees. It's a 16-member Board of Trustees that oversees the whole University System. What the bill would do is add four employees, four additional members, to the 16-member Board. Those four additional members would be employees of the System. There was not much testimony on this particular bill. There was some testimony from University of Maine Student Government representatives that suggested that

they have increased representation if the employees were added. One problem, or one concern, that was addressed during the public hearing and the work session, was that while the employees could contribute to the working knowledge of the Board, it was suggested that having employee representatives might be a conflict of interest in financial matters. At the time we heard this bill, as I said, we heard several others and we did pass out L.D. 1557 which does address Governance Boards of the University System. What L.D. 1557 does, it creates a Board of Visitors for each campus and it seemed to the Committee that this was a more appropriate place for university employees because these local boards, or Boards of Visitors, on each of the seven campuses, would be dealing with local issues. This bill, specifically, would add the employee members to the current 16-member Board. There was also some concern on the Committee about who would select the employee members and how the four employee members would be selected among the seven campuses. Those were the concerns of the Committee and I hope that you will join me in voting for the Ought Not to Pass Majority report. Thank you.

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

Senator **CATHCART:** Thank you Mr. President, men and women of the Senate. I urge you to reject the motion so that we can go on to pass this legislation. As a sponsor, I just want to take a minute or so of your time to explain why I support this and why I was willing to put it in for a great many constituents in my district. The bill is very simple. It would add representatives of four employee groups in the University of Maine System to the Board of Trustees, expanding the total number of trustees from 16 to 20 trustees. And I have been requested by these different groups to bring this to the attention of the Legislature. As far as the testimony at the public hearing, there were four people, one from the faculty and three from Classified and Service and Maintenance employee groups who did testify in favor of my legislation. Concerning the student, there is already a student member on the Board, and I see no need to add another student and I did not include that. There are many universities and higher education institutions, both public and private in this country, that have employee members of their Boards of Trustees, including Husson College in Bangor, and I see no reason why we should not do this as well for our University System. The employees have told me they feel they have no voice with the Chancellor and with the Board of Trustees and this would give them a formal way to express their opinions and feel that they are a vital, important part of that system, which they are because, after all, a university cannot run without the secretaries and the janitors and the people who take care of the students and the faculty and those buildings. They love their campus, but they want to have a greater voice and there is no other piece of legislation before this body that would give them that voice, and so I urge you to reject this pending motion. Thank you Mr. President.

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

Senator **LIBBY:** Thank you Mr. President, men and women of the Senate. You know, it was years ago now, it's hard to believe, that I served as Vice President of the Faculty Senate at St. Joseph's College, and I can tell you from experience that

during that time of my service, we eliminated the position of faculty on the Board of Trustees, then called the Board of Governors at that time, I guess, for St. Joseph's College. And the reason that we did that was because the faculty member, the faculty person, who sat both on the Faculty Senate and on the Board really came under some incredible pressure each time they came back to the Faculty Senate to report to the whole faculty and to represent the whole faculty on the Board. Unfortunately, faculty, sometimes, don't agree on every single issue and, believe it or not, all of the faculty came together in a resolution at that private college that we should not have that faculty member on the Board. Now that's not always the case and, I think, particularly with the University of Maine, I think it's important to take note of this legislation because I think what it really is doing is sending a message. It's sending a message to these four units who are involved in collective bargaining. It's sending a message to the University System that maybe we're not really listening to all of the needs of these employees. Now you know, if you're going to ask me, "Well, do you think that they should serve as members, full voting members, of the Board of Trustees?" I'm going to say, "Absolutely not." You know, maybe sometime down the road if there are Campus Board situations. That's always a consideration but not with the current agency structure that we have set up now. I don't think that the Board of Trustees really is set up as a grievance mechanism and that's kind of what this would cause. This bill would cause grievances to come to the Board of Trustees where, you know, we should be discussing employee issues but not in this manner. And I'd really have to strongly urge the body to support the good Senator from Cumberland, Senator Pendleton, in her motion. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you Mr. President, men and women of the Senate. I understand what the attempts of this legislation were to try to create more of an ear on the Board of Trustees attuned to the faculty and other members of the Board, but I think we have to look at how this is going to affect the rest of the state. If this is good for the University, then certainly it is also good for the Technical Colleges that are also state-funded. It's also good for the Maine Maritime Academy and, frankly then, we should be willing to look at all our local school boards and allow if it's elected at home for teachers to serve on that and I don't think many of us here are ready or prepared to open up our boards to that type of conflict of interest.

There's also a major problem or flaw with this amendment. If you look at the legislation under 2a, it says, "Faculty and staff members" and it says, "In addition to the members appointed under subsection 2, the Governor shall appoint one member from each list of five persons submitted by each of the following." We have the collective bargaining unit representing full-time faculty. We have the collective bargaining unit representing professional and administrative employees, and clerical and office employees. The amendment says, "the collective bargaining unit representing clerical and office employees," again, and then, "the collective bargaining unit representing service and maintenance employees." The bill is in a flawed state. I understand that that could be corrected but I don't really think that we need to waste the time to correct this because I think this body will agree that this legislation does, indeed, as the good Senator from Cumberland said, create a conflict of interest and we have to

remember that much of the University, or a large part of that, is state dollars and we have to make sure that those state dollars are used wisely and that we are looking after the interests of the students that we are helping to send there. So, I hope you will support the Senator from Cumberland's motion and support the Ought Not to Pass report. Thank you.

The Chair ordered a Division. 16 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Implement the Recommendations of the Judicial Compensation Commission" S.P. 322 L.D. 1062

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-286)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - May 21, 1997, by Senator **LONGLEY** of Waldo.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-286)** Report

(In Senate, May 21, 1997, Reports **READ**.)

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

Senator **BENOIT:** Thank you Mr. President, may it please the Senate. I rise in opposition to the pending motion and I want to share my reasons with you. As this matter is being considered, judges of all of our courts, the Supreme Court, Superior Court and District Court, are presently undergoing significant pay increases. I have here the study, the report, of the Judicial Compensation Commission dated December of 1996, which is five months old now, and in it, on page 4, there's a chart that compares Maine's judges' salaries with seven other states; Arizona, Tennessee, North Carolina, Texas, Idaho, North and South Dakota. In that chart, it shows the Chief Justice's salary at \$90,168. In 1998 the Chief Justice's salary will rise approximately \$5,000. There's a pay increase. And yet, this legislative document wants to raise his salary to \$111,000, a \$21,000 increase in less than two years. Members of the Senate, our constituents, the taxpayers of the state, cannot afford this salary increase. Associate Justices on the Supreme Court, in 1996, have a salary just over \$85,000. In 1998 their salary will be \$90,791, a \$5,000 increase. As we take up this matter then, there's a substantial raise in pay. And yet, this legislative document, if enacted in this body, will raise the salary of those judges to \$96,000, a \$21,000 increase in less than two years. We can't afford it. It isn't right. It isn't fair to ask of our citizens this kind of a burden.

Drop down to the Superior Court. In 1996, \$81,000, just over \$81,000 for a Superior Court Justice. As I speak, in 1998 the salary will jump to \$85,000, almost \$86,000, a \$4700 increase and yet, this bill, if enacted, would put the salary to \$90,000, a substantial increase. Finally, the District Court judges. In 1996, \$78,000, actually \$77,961. As I speak, in 1998 their salary goes to \$82,442, a \$4500 increase. And yet, this bill will put the salary to \$90,000 to make it match the Superior Court judges. A \$13,000 increase in less than two years. I fault the Study Report for giving us 1996 salary amounts for judges when, all the while, this report could have recited the 1998 salaries that I've just mentioned. Now, I don't know why they did that, used the lower figure, and I don't care. They did it. Remember now, this study is about five months old and the figures I've been using are figures they could have used. Instead of using figures from the State of Maine, there it reads, "Source of the figures, the National Center for State Courts." Why didn't they use Maine figures in this report? Why did they use some national figures?

Members of the Senate, if this bill passes our taxpayers will have to come up with \$1.5 million to fund these additional pay raises. We don't have the money. We can't afford it. Pay raises are under way and they are certainly substantial. I'd like to suggest to you, Mr. President, members of the Senate, that our judges are doing just fine. With these salaries, on top of these salaries that I've just mentioned, the state paid 100% of their health benefit, \$3500 a year. Add that to the salaries. The state pays 100% of their dental insurance. Add that to the salaries. The state pays 80% of the Family Health benefit for a judge and spouse, \$5,768.62. Add that to their salaries. For a judge with a spouse and children, the state pays 77% of their health program, \$6500 per year. Add that to their salaries. The state pays their life insurance. There's a life insurance program. Add that to their salaries. And they've got a pretty darned good retirement package to boot.

I would like to suggest to you that, in the last 40 years, there hasn't been one single judge that I know of, maybe you do, who's gone off the court, having been appointed as a judge, having gone off the court back to private practice because of the pay. You know the pay is poor and the benefits are bad. Not one single judge. That speaks for itself. There is actually one judge who did go off the court, in Skowhegan on the District Court, having been a judge for one month, but the reason was not salary. He couldn't impose a sentence in the public interest. He found it difficult to do, impose a jail term when it was required, or a fine. He went back to private practice, not for money.

You know we just passed a Family Court bill here. Remember what the purpose of that bill was? It was to release District Court Judges from some of this domestic divorce work. Eight administrators around the state, now, will head off these divorce cases from going to judges. What do we have then, in the District Court? Judges who are going to get a pay raise at a time when they're going to be doing less work. My constituents don't understand that kind of logic, or illogic. And I would suggest to you our judges are doing just fine.

There's something that bothers me, really, about this package and it has to do with the retirement. Not only are we increasing the judge's wages substantially, but we're enhancing their retirement program and we're putting it out of whack with the other departments of state government. I'd like to share that with you. In a statement added to this amendment, the Committee Amendment, there's this language. "The prospective increase in the maximum benefit limitation is going to go from 60% to 70% and the benefit accrual rate is going to increase from 2% to 3%

per year of judicial service." Now, I understand, Mr. President, that we have three coequal branches of government. They're all at 2% now. Why is it the judges are going to be jacked up to 3%, every state employee is going to remain at 2% and you Legislators, here, that have a retirement program, you're going to stay at 2%? Now, what happened to the coequal branches of government here? Why do the judges need special treatment at 3%? Would somebody explain that to me when you get up to argue this bill? It isn't right. It isn't fair, if you have three coequal branches, to give one of them an enhancement to 3% and leave the other two where they are. The judges don't need it. I might point out to you that the retirement package alone in this bill will cost our taxpayers \$600,000. \$600,000 retirement package added to the salary benefit, the salary increase. And I know what you're going to hear in a moment, from those who are in support of this measure. You're going to hear that in the 80's, the beginning of the 90's, there was a change in the judge's retirement program. It went from a non-contributory program by the judges to one where judges contribute and so does the state. You're going to hear an argument about that. Well then, if that happened, why don't we give them a salary increase? Fine. But do they also need a retirement increase on top of that? I doubt it. Maine State Retirement System says, "This bill provides a higher prospective accrual rate for those covered under the Judicial Retirement System than the 2% in place for state employees covered under the Maine State Retirement System and the Legislators covered under the Legislative Retirement System." That's a statement, I think, that has impact. Why do we need to do that?

We had an attorney come in before the Judiciary Committee in support of this bill and ask the Committee to compare the Maine judges to federal judges. You talk about apples and oranges. It's watermelons and lemons. Imagine comparing Maine judges for benefits to federal judges. They have life tenure. Is that coming next? We hear a lot of complaint about how much the federal judges are paid, and we have some attorneys standing up and telling us we ought to use that as some kind of a guide for what we're doing. I think it's ridiculous.

Let me close by mentioning a couple of areas where I find this report of the Study Commission to be flawed. It says, in here, that Maine ranks 41st out of 50 states in compensation for Supreme Court Justices. If you use up to date figures, we're 36th, not 41st, and we're better than than 14 other states in how we pay those judges. And it says we're 35th in compensation for general Trial Judges. If you use up to date figures, we're 28th, 22 better. We're better than 22 other states in that category. I'd say we're making a good effort here. You know, one of my favorite charts in the back is the one, it's Appendix E, that compares District Court Judges with salary of physicians. I would like to suggest to you, Mr. President, that if I have to have my appendix out, it will not be by a District Court Judge. And I would rest my case on that chart, right there. And yet they dare to try to make a comparison.

Ladies and gentlemen of the Senate, I've been there for 16 years, in the District Court System. I know a bit about it and I would suggest to you, respectfully, that when you take the whole ball of wax here, our judges are doing pretty well. These charts are a little bit off base, and I'm going to close just by mentioning the makeup of this Study Commission, three members. One of the members is the President of UNUM America, the President of UNUM America. Another one is a former publisher of a newspaper in Portland, a publisher, former publisher. The third member, CEO of CIANBRO. Now, why can't we get a Study

Committee that has some average income folks on it? Now, I don't know what the President of UNUM makes, but I know a Vice President there. There was an article in the newspaper within the last year about the salary of this person and it's a quarter of a million bucks a year. I wonder what this report would look like if there had been some medium income people on it. These are fine people, Mr. President, but they're moneyed people. It's easy for them to see 20,000 bucks more for a judge. It's easy for them. But I wonder about the average citizen on this Commission, what the input would be and how it might be reflected in fairness. Respectfully, we can't afford this program. Mr. President, thank you.

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

Senator **LONGLEY:** Thank you Mr. President, colleagues in the Senate. Fairness, I guess, reasonable people can differ. I think we, as a state, reach a new low when we think we're doing well because only 14 other states are doing worse. I think that's a new low for measuring our standards of what we are able to give people who leave the private sector to come into the public sector. I think we reach a new low when quality people from the private sector volunteer their time to come on a Study Task Force to make recommendations to assess how people who have left the private sector to come to the public sector are doing, and in the process, they're virtually sticking their heads out to have it chopped off as being moneyed people. These people came forward. They looked at what you could make in the private sector as lawyers, as CEO's, and I'm sure they're aware of what the so-called non-moneyed people make. And they said, looking at all the facts and figures, "We think we can do better." When someone comes from the private sector, willing to contribute all their expertise as judges on District Courts, Superior Court, and the High Court in Maine. And rather than, you know, look around the bottom and see how low we can go, I say, let's look around at least at eye level or maybe even above. Raise our sights. Maine judges are in the top five states for productivity, the bottom ten for staff to judge ratio and whether they're, arguably, they're 41st. We just heard that they were only 36th and there's 14 states who are doing worse. They're on the bottom half in terms of salary, top five in terms of work, bottom ten in terms of staff to judge ratio. They've come from the private sector and they're taking a financial hit, and I stand in honor of the work they're doing and the caliber of lawyers that we get on the bench and I say, let's raise our sights. We can do better. Let's not look below and see who's doing worse. Let's realize that we can always improve. We need to improve and if we don't want to miss out on high caliber justices, if we don't want to continue to miss out, then, I think, we have to raise our sights, and in honor of all the judges and all the work they're doing, I stand with my sights higher and know that we can do better. Thank you.

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

Senator **BENOIT:** May it please the Senate. I appreciate Senator Longley's remarks, the Senator from Waldo, comparing us to other states. Again, looking at the chart, what they did here, this Commission, took seven other states that had a per capita personal income between \$18,000 and \$20,000, one of them is Texas. North Carolina is there and Tennessee. And it's always a favorite thing to do here, when you're making a study of

something, to look outside the state and compare us to Texas, as they do here with North Carolina. You know, the grass is always greener, it seems, in these other locations. It's always greener. Well, it's a free country. If the judges think they can do better where the grass is greener, they can go there to work just as well as a judge after qualifying for the work. But I don't think it's right to try to compare us to other states when we don't know, really, the full extent of the information that we should know. When we're comparing judge to judge, we don't know the whole picture of their program. We don't know the tax burden on their citizens. We're in the top ten here in this state. What are they in Texas? What's the tax burden in North Carolina, on their citizens? That doesn't appear in this report and those are things I would like to know when I start to look elsewhere as a basis for judge's salary. The grass is always greener but, I guess, in the state of Maine, we're going to do what we can do, what we think we should do, in keeping with our financial circumstances. Thank you Sir.

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

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

Senator **BENNETT:** Thank you Mr. President. I just wanted to be clear about my position on this issue because undoubtedly, if this matter passes along through the process, it will end up on the Appropriations Committee for the table. I am sympathetic with the plight of our judiciary, but when it comes down to the table a lot of difficult decisions have to be made about comparative benefits and disadvantages of various expenditures. And quite honestly, this particular expenditure, in my mind, is significant and does not rise with the limited amount of money that we have available on the Appropriations Table, of probably around \$3 million and some change, to the same level of need as the, for instance, issues of funding for special needs youngsters, non-class members and mental retardation and the like. I do believe that there are aspects of this bill which deserve consideration, particularly the issue of retired judges and their per diem. They're only being paid \$150 per day at the present time and when this comes to the table, if it makes it that far, I will be sympathetic to that particular provision, but we live in an era of extremely limited resources. So, while I expect to be voting in favor of the pending motion, I do so with the caution that I do not believe that we can afford everything that's in this bill at the present time. Thank you.

The Chair noted the absence of the Senator from Aroostook, Senator **KIEFFER**, and further excused the same Senator from today's Roll Call votes.

Senator **MILLS** of Somerset requested and received leave of the Senate to be excused from voting pursuant to Senate Rule 401.3.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BENNETT, BUTLAND, CAREY, CATHCART, CLEVELAND, FERGUSON, GOLDTHWAIT, HARRIMAN, JENKINS, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MITCHELL, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BENOIT, CASSIDY, DAGGETT, HALL, LIBBY, NUTTING

ABSENT: Senator: KILKELLY

EXCUSED: Senators: KIEFFER, MILLS

26 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being absent and 2 Senators being excused, the motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-286)** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-286) **READ** and **ADOPTED**.

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

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

NOMINATION - Charles R. Weeks of Old Town, for reappointment to the Workers' Compensation Board.

Tabled - May 21, 1997, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**

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

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

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

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

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Charles R. Weeks**, for reappointment to the Workers' Compensation Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

NOMINATION - Anthony Monfiletto of Bath, for appointment to the Workers' Compensation Board.

Tabled - May 21, 1997, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**

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

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

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

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

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Anthony Monfiletto**, for appointment to the Workers' Compensation Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Off Record Remarks

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

NOMINATION - J. Thomas Accomando of Saco, for appointment to the Workers' Compensation Board.

Tabled - May 21, 1997, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**

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

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

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

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

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **J. Thomas Accomando**, for appointment to the Workers' Compensation Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

NOMINATION - Susan M. Pinette of Brunswick, for reappointment to the Workers' Compensation Board.

Tabled - May 21, 1997, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**

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

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

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

LEGISLATIVE RECORD - SENATE, MAY 21, 1997

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

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Susan M. Pinette**, for reappointment to the Workers' Compensation Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

NOMINATION - William M. Nugent of Yarmouth, for reappointment to the Workers' Compensation Board.

Tabled - May 21, 1997, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**

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

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

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS,

MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **William M. Nugent**, for reappointment to the Workers' Compensation Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

On motion by Senator **AMERO** of Cumberland, **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:

COMMITTEE REPORTS

Senate

Ought to Pass

Senator **RAND** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Make Changes to the Maine Economic Growth Council" S.P. 651 L.D. 1872

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 **KILKELLY** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Authorizing the Exchange and Sale of Certain Public Lands S.P. 608 L.D. 1809

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-295)**.

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

The Resolve **READ ONCE.**

Committee Amendment "A" (S-295) **READ** and **ADOPTED.**

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

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Create the Maine Governmental Facilities Authority" S.P. 589 L.D. 1759

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-297).**

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives:

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

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

Signed:

Representatives:

GERRY of Auburn
KASPRZAK of Newport

Which Reports were **READ.**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-297) **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 Allow the Town of Chester to Annex a Certain Parcel of Land" S.P. 633 L.D. 1850

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-296).**

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives:

AHEARNE of Madawaska
BUMPS of China
FISK, JR. of Falmouth
BAGLEY of Machias
GERRY of Auburn
SANBORN of Alton

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

Signed:

Representatives:

GIERINGER, JR. of Portland
KASPRZAK of Newport
DUTREMBLE of Biddeford

Which Reports were **READ.**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-296) **READ** and **ADOPTED.**

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

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

ENACTORS

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

An Act to Expand the Family Medical Leave Laws
S.P. 196 L.D. 624
(C "A" S-235)

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Allow Agricultural Workers to Bargain Collectively" H.P. 1177 L.D. 1654

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-550)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 21, 1997, by Senator **CATHCART** of Penobscot.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550)** Report, in concurrence

(In House, May 20, 1997, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550).**)

(In Senate, May 21, 1997, Reports **READ.**)

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

Senator **CASSIDY:** Thank you Mr. President, men and women of the Senate. I would hope that you would not support this pending motion, passing this bill into law. I've received a lot of calls and letters and information from a lot of folks in my district, Senate District 4 which is, as you know, Washington County. We have some real large cranberry growers down there, Maine Wild Blueberries. We have Cherryfield Foods, Wyman Blueberries, a lot of small growers and, as you hopefully read just recently, within the last few days, last week, the LURC did approve the application for Cherryfield Foods to expand to 900 acres of cranberries. And a letter that I received from them talked about the blueberry worker in the early spring, on up through the harvest. They talked about the hope of cranberries, as they come in. One reason they're interested in those, also, is because the hardest time is after the blueberry harvest and they continue to have people to work as many weeks as possible and they're concerned about the numbers. They have a canning process, freezer plants, and all those kinds of things, in Cherryfield. They have folks that work in both harvest and maintenance, canning and all their operations. They're very concerned, also, getting into the number of days as their products and their harvest time increases. So, we're really concerned about this in my District. As you know, Maine has a real tough time competing in the agriculture industry, in that our seasons are short. We have in Aroostook and central Maine our large potato growers. We have folks with all sorts of, you know, dairy farmers throughout the state. We have, as I mentioned, the blueberries and the cranberry crops. All these people are very, very concerned about this bill in that, we have to compete with short seasons. We have to compete with other states and have to try to maintain our market. As you know, there has been a big move in the Department of Agriculture and the Maine Potato Growers to improve the quality of their crop and to bring this market back to the state. For all these reasons, we can't jeopardize our agricultural people, here in the state, and

implement a bill like this. Can you imagine what would happen if, for some reason, Organized Labor decided to go on strike the first week of blueberry harvest? I mean, we have probably a five to six week season to harvest the berries, a lot of it, the first two to three weeks, is the big push. You know, so many conditions, the rain, the sun, I mean, berries can just spoil on the vine. They can not ripen on the vine. All you'd need to do is have people say, "Hey, we're not working" and it would literally put hundreds of people out of work and close up a lot of hard working, productive businesses. For those reasons, I would ask you not to support this pending motion. Thank you Mr. President.

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

Senator **CATHCART:** Thank you Mr. President, men and women of the Senate. I urge you to vote for the Majority Ought to Pass report to allow agricultural workers to bargain collectively. This is no mandate. This is simply saying that if an employer, a large agricultural employer, has more than 75 employees who work 180 or more working days, this is not six months, this is more like nine months of the year, then they don't have to organize, but they would be allowed to organize under this. Many states have this same law. In those states a provision is put into the collective bargaining agreement saying that there will be no strikes, or no strikes during certain seasons when that's most important. It seems an issue of basic fairness to workers that work in these large agricultural farms and businesses. I considered very seriously the blueberry and cranberry growers and I am one who loves Washington County, in particular, and did not want anything detrimental to happen to them, and the Committee spent a long time working on this bill. We asked for information. We do not believe that there is one single blueberry or cranberry grower that would be affected at this time by this legislation. They are not large enough. We asked them if they had any evidence of their companies that would be subject to this to please bring us in the numbers and come to us and talk to us. We offered to compromise, to increase the number of days and number of employees, somewhat, if that would help them and we never got any further information. They just didn't want this to happen because I think they see it as something that might cause more trouble for them sometime, some year down the road when their companies become much larger than they are now. But we honestly don't believe that they would be affected at this time and we think that it's only fair to allow these workers in the really large agricultural businesses to be able to bargain. Thank you Mr. President.

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

Senator **GOLDTHWAIT:** Thank you Mr. President, ladies and gentlemen of the Senate. This is indeed an issue which could potentially have a negative affect on some of our very fragile and very important industries in the rural areas of Maine, and though we may not at this moment have companies that would trigger the numbers in this bill, it is not a matter of years, I hope, but rather a matter of a much shorter period of time when those companies fully expect that they would. The blueberry industry is now diversifying in terms of their crops, not only to cranberries but also to the possibility of raspberries. So they would have a crop that starts very early in the year, run through blueberry season, and then well into the fall which would certainly go

beyond the numbers provided in this bill. And I would strongly urge your opposition to the pending motion. The harvesting window time for the blueberry industry is seven to ten days, and even though some people have said collective bargaining doesn't necessarily mean strikes, any process that impedes a harvest is going to have a significant negative impact on that industry and we simply can not afford the potential for the disruption to those industries which in many areas of rural Maine provide the only jobs we have. I do urge your opposition to the pending motion. Thank you.

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

Senator NUTTING: Thank you Mr. President, men and women of the Senate. As you probably all know, one of the larger poultry farms in the state, that maybe some of you are familiar with, is in my Senate district. We've had some votes already that are affecting, or could affect, that farm in the future. I have not agreed with that particular large operation, and have voted against them on the three previous bills and I'm very comfortable with those votes. But this issue here, I almost feel like the train is at the station and this legislature is getting off. I think, because of another bill that's going through the legislative process now, and because of the settlement that was just on the federal level, from now on, and I'm supportive of this, but from now on there's actually going to be many, many inspections of this particular operation, both at the state and the federal level and I support that. I think that's appropriate. I think this bill currently would affect egg and broccoli farms. I feel strongly, within a year, it's going to affect apple, blueberry and cranberry farms. There isn't anything in this bill currently to exclude strikes. That is a big concern to me. Why? My family is in the poultry business. I may know a lot about some things and not much about others but I do know quite a bit about chickens. Once a chicken's body temperature gets above a certain point and if that chicken does not have access to water, in a matter of hours you can have millions of dead chickens, and that's a scary thought for me. Agriculture, in general, produces a perishable product. When it gets over 100 degrees in the summer, the chickens in a metal chicken house cool themselves by drinking and they better do so frequently. A tremendous amount of damage can be done in one hot afternoon and, to me, this bill just goes beyond what I can support. Thank you.

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

Senator TREAT: Thank you Mr. President, men and women of the Senate. I support the pending motion on this bill and I urge you to support it as well. We heard a lot of testimony before the Labor Committee on this issue and on other bills that related to several farms that this could affect. One thing that you may not realize is that there are other states in the nation that do have provisions that allow collective bargaining by agricultural workers. Even though this issue has sort of arisen around a particular farm in this state, I think it's important to know that, in fact, it is something that has been in the laws of other states for some years without terrible consequences. For several years after Law School, I'm going to admit to having lived in a different state and that was the state of New Jersey, which indeed has had a provision in its Constitution. In its Constitution, since the 1940's, guarantees to every person in that

state the right to collectively organize. In that state, it is perceived to be a basic right granted by the state inherent in all people in that state. This bill does not go that far. It basically limits this right to farms that we would say are not small family farms, that are large operations, that last over a long period of time. We are very careful in the Committee to try not to go too far. To take a step here that was a limited step, but was a step that could make a difference in some farm workers' lives. As my good Chair has said, when questions were raised, say about the blueberry industry or the cranberry industry, we said, "Come to us with the information on this. Show us. We've been told that it doesn't affect you. If you have different information, let us know." And we never got that information, not from the Department of Agriculture and not from the representatives of the blueberry or other industries. And indeed, I came to the conclusion that their concerns were speculative and, until such time as anyone could show me otherwise, I am going to be supporting this bill. I think it's the right thing to do, and just to mention what people might be doing when they sit down across the table from each other because I think that's what this bill is about. This is not a bill about going out on strike and making threats and shutting down poultry facilities. This is a bill to allow people to sit across the table from the employer and bargain about conditions of work, bargain about pay and to do so without fear of losing their job. That's really what it's about and I think it's just a matter of fundamental fairness. Thank you.

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

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

Senator CLEVELAND: Thank you Mr. President, men and women of the Senate. I rise because I wish to urge you to support this motion to provide this basic opportunity and right to individuals. I think it's important to remember that, simply because a group of individuals are given the right to organize themselves collectively into a group for their own benefit, there's nothing that requires them to do that. There's nothing that requires them to do that. If the relationship between the employees and their employer is a strong and beneficial relationship, which I think it is in many cases, the employees have no particular interest to organize in that way, see no particular benefit to organize in that way, they're not required to and, as a matter of fact, if there is some suggestion that they should, often they reject that because they find their relationship satisfactory as it is. But not to pass this law, not to pass this law, denies a group of individuals, in large agricultural operations including one particularly in my general area, when individuals are not being treated fairly and not being treated right and they don't have the benefit of acting collectively for their own interest, and therefore they subject themselves to the real possibility that, should they bring their grievances to the employer, that they'll be dismissed because there is no protection, under Maine law, for being dismissed. You can simply be let go for any reason. The employer has to give no reason. There has to be no just cause. It can be because he didn't like the way you parted your hair that day and there's no recourse. If we are to live in a fair and a just society where we try to allow the opportunity for those with the smallest voice, the weakest in our society, less access to resources, not to come together voluntarily for their own interest,

not to come together to speak in unison for working conditions that they think are unfair or unreasonable in some way, then it seems to me that we deny those folks the most basic opportunity to share in the economic benefits of this society from the labor that they put in, from the fruits of their own work, for their own blood and sweat within that operation. This bill does not suggest harm to anyone. It simply allows individuals to organize themselves in a way they feel is best for them. We allow that to happen in all sorts of different organizations and relationships. We allow it to happen within the business community, that they can organize in some way to represent their interests and it happens in the agricultural community in marketing of their products. We don't deny them that opportunity. I think those who have fears that somehow that because you're an employee that you're vengeful, that you want to harm your employer, that you want to put your employer out of business doesn't recognize that that's the wages in which you're making your living; that's how you're feeding your family. That's how you pay your mortgage. You're not asking to lose that opportunity. You're asking simply to have the opportunity to speak in a collective voice if you feel there are grievances that are not being dealt with in a fair way. It seems to me that is one of the most basic and fundamental rights in our society. I hope that you wouldn't continue to deny a discreet group of individuals, in this state, the opportunity to benefit fully in our society and our economic system.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator CATHCART of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-550) **READ** and **ADOPTED**, in concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/19/97) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Have State Wage Laws Conform with the Federal Small Business Job Protection Act of 1996"

H.P. 615 L.D. 840

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-477)** (3 members)

Tabled - May 19, 1997, by Senator **PINGREE** of Knox.

Pending - motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report (Roll Call Ordered)

(In House, May 16, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

(In Senate, May 19, 1997, Reports **READ**.)

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

Senator **BENNETT:** Thank you Mr. President. I request permission to ask a question through the Chair, please.

THE PRESIDENT: The Senator may proceed.

Senator **BENNETT:** Thank you Mr. President. My memory is faulty on this. If somebody who's familiar with this bill could refresh my memory as to what this bill does, I would be most grateful. Thank you.

THE PRESIDENT: The Senator from Oxford, Senator Bennett, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Cathcart.

Senator **CATHCART:** Thank you Mr. President. I'll be glad to try to answer the question. This bill, L.D. 840, is the bill having to do with the tipping wage which we debated somewhat, a couple of days ago, and then it was tabled. What this legislation would do, and I ask you to vote in favor of the Ought Not to Pass Majority committee report, what this would do is to revoke the wage that was given to tipped employees last fall and prevent them from getting the extra increase in their minimum wage that is due September 1st. They previously, tipped employees, make half the minimum wage of other employees. It was \$2.13 an hour last October 1. It was increased to \$2.38 an hour and if it continues, under current Maine law, they would go on September 1st to \$2.58 an hour, but if this bill passes it would roll them back to \$2.13 an hour. I hope that answers the question. Thank you.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator CATHCART of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

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

SECOND READERS

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

Senate

Bill "An Act to Make Changes to the Maine Economic Growth Council" S.P. 651 L.D. 1872

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

Sent down for concurrence.

Senate As Amended

Resolve, Authorizing the Exchange and Sale of Certain Public Lands S.P. 608 L.D. 1809 (C "A" S-295)

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

Sent down for concurrence.

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Clarify the Qualifications of State Auditor" H.P. 1269 L.D. 1795

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-567)** (8 members)

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

Tabled - May 21, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 20, 1997, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 21, 1997, Reports **READ**.)

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **NUTTING:** Thank you Mr. President. I served three terms in the other body. Some may have known that and some may not have, and this is my first time in this body and I thought I knew most of the legislative tricks of the trade, but this particular L.D., L.D. 1795, taught me a new one and that is, if you have a duplicate bill request and somebody else's bill is drafted that is deemed a duplicate request and that other L.D. fails of passage, you then can have yours drafted on the exact same subject at the same session. I was not aware of that but, lo and behold, here it is, L.D. 1795. It's exactly the same, in my opinion, as L.D. 33 which we've already dealt with this same session. This bill proposes that the nine month window of opportunity for an auditor to become a Certified Public Accountant disappears, makes that retroactive and also does the thing that, actually, the Accounting Industry is not sure of. There's some disagreement about whether the State Auditor should be a CPA or a CIA and the other report says they can be either. I can assure you, from the work sessions that we had on this particular duplicative bill, that the accounting industry is not unified on whether or not the State Auditor should be one or the other, or both. So, for those reasons, I'm voting against this particular L.D. and hope you do as well. Thank you.

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

Senator **LIBBY:** Thank you Mr. President, men and women of the Senate. You know what happens when you try to do things the right way, and that's what I believe we tried to do in Committee with a unanimous committee report, to look at all of the qualifications for all of the Constitutional Officers and the

Auditor and, you know, when you try to do something the right way and nobody wants to go along with that, what are you going to do? If you look at the bill and you look at the amended version of the bill, you know it makes a whole heck of a lot of sense that our State Auditor be a CPA. I mean, it's simple, it's straight-forward. It's true. I do want to say, that the Senator from Androscoggin, Senator Nutting, is very correct. We've had some fun with, what you might term, duplicate bills, but there is such a thing as right and wrong and we tried to do it the right way and now, I think, what we need to do is say to ourselves, "Okay, what should these qualifications be?" This bill spells them out, does it and in no uncertain terms. I hope we'll go along with the bill. I urge you not to support the pending motion. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (5/19/97) Assigned matter:

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Clarify the Process for Inclusion of a Competing Measure
S.P. 269 L.D. 877
(C "A" S-115)

Tabled - May 19, 1997, by Senator **RAND** of Cumberland.

Pending - motion by same Senator to **INDEFINITELY POSTPONE** Resolution and Accompanying Papers (Roll Call Ordered)

(In Senate, May 8, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-115).**)

(In House, May 15, 1997, **FAILED FINAL PASSAGE.**)

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **RAND** of Cumberland to **INDEFINITELY POSTPONE** the Resolution and Accompanying Papers, **FAILED**.

This being a Constitutional Amendment, in accordance with the provisions of Section 4 Article X of the Constitution, having received the affirmative vote of 17 Members of the Senate, with 16 Senators having voted in the negative, and 17 being less than two-thirds of the Members present and voting, **FAILED FINAL PASSAGE**.

The Chair laid before the Senate the following Tabled and Later (5/20/97) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Provide for Removal of a State Auditor Who Fails to Meet the Statutory Qualifications for the Office"
S.P. 440 L.D. 1414

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (S-279)** (7 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (S-280)** (3 members)

Report "C" - **Ought Not to Pass** (2 members)

Tabled - May 20, 1997, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF ANY REPORT**

(In Senate, May 20, 1997, Reports **READ**.)

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-280)**.

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

Senator **NUTTING:** Thank you Mr. President, men and women of the Senate. I hope everyone is in possession of the corrected copy that was distributed. Number 18, in our regular printed calendar, shows a two way report and the corrected report corrects that that this is a three way report on this issue. Currently, state law says that if a person is elected to the position of auditor, that person has nine months in order to become a Certified CPA. But our law also does not allow that if a person is elected to the position of auditor and does not become certified. There's no provision in law that that person would have to leave office. It's an inconsistency in law that many people were not aware of, until the bill was brought before the State and Local Government Committee. In brief, Report "A" says that the auditor, once the nine months are up, would have to leave office if they didn't get their CPA, and that Report "A" is a retroactivity report as well. Report "B" says that no one could stand for the next election and go beyond their nine months if they did not get their CPA. Report "C" is an Ought Not to Pass. I did want to take a minute and just go over that because that is a corrected copy that has been distributed.

I'm supporting Report "B". I feel it clarifies the law. I've never been a hand to vote for something that's retroactive. I think that changes the rules of the game somewhat so, for those reasons, I urge the body to accept Report "B". Thank you.

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

Senator **LIBBY:** Mr. President and men and women of the Senate. Without sounding too harsh here, I would question current law and the interpretation of current law as it was just explained to you. I mean, certainly there's room for doubt and we've seen an Attorney General's opinion on this earlier in the session. It seems clear to me that an error has already been made and I'll let you interpret that any way you want but, to me, I think what we need to do is correct that error and in order to do that, I would recommend that you vote against the pending motion so that we can go on to accept committee amendment "A" which is the Majority amendment.

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

Senator **GOLDTHWAIT:** Thank you Mr. President, ladies and gentlemen of the Senate. I'd just like to clarify one other point in the hope that you will vote against the pending motion and that is the issue of retroactivity. I don't think there's any desire to make any statement about the issue as it happened but, I believe, it was the assumption of this legislature and certainly mine, that if a person was elected to this office, did not complete that requirement in the nine months, that they would no longer be the Auditor. But it seemed, then, that the law is unclear so this is, in my mind, not as much a matter of changing that and making

something retroactive. It's simply a matter of clarifying what I believe most, if not all, of us thought to be the case all along, and I would hope that you would defeat the pending motion so that we could accept the Majority report.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CLEVELAND, JENKINS, LAFOUNTAIN, LONGLEY, MICHAUD, NUTTING, PARADIS, PINGREE, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, CATHCART, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, LIBBY, MACKINNON, MILLS, MITCHELL, MURRAY, O'GARA, PENDLETON, RAND, RUHLIN, SMALL

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

11 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-280)**, **FAILED**.

Senator **RAND** of Cumberland moved the Senate **ACCEPT** Report "C", **OUGHT NOT TO PASS**.

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

Senator **LIBBY:** Thank you Mr. President, men and women of the Senate. Briefly, I'd like to just say that I'm hoping that we will vote against the pending motion so that we can go on to accept Report "A", the Majority amendment from the committee. I think it's the right thing to do and I'm hoping very much that we'll have the opportunity to vote on that. Thank you.

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

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

Senator **ABROMSON:** Thank you very much Mr. President, ladies and gentlemen of the Senate. I just wanted to clarify one thing. The good Senator from Androscoggin, Senator Nutting, mentioned qualifications of Certified Public Accountant. I believe

the law is Certified Public Accountant, Public Accountant or Certified Internal Auditor. So it's one of those three.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

ABSENT: Senator: KILKELLY

EXCUSED: Senator: KIEFFER

15 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **RAND** of Cumberland to **ACCEPT** Report "C", **OUGHT NOT TO PASS**, **FAILED**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE** of Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-279)**.

The Chair laid before the Senate the following Tabled and Later (5/20/97) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Provide Legal Counsel for Legislative Committees" H.P. 847 L.D. 1152

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-488)** (12 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - May 20, 1997, by Senator **NUTTING** of Androscoggin.

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

(In House, May 19, 1997, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-488)**.)

(In Senate, May 20, 1997, Reports **READ**.)

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

Senator **GOLDTHWAIT:** Thank you Mr. President, ladies and gentlemen of the Senate. I am the dissenting member on this committee report and I just want to point out a couple of things. I am concerned, first of all, about exactly what we're trying to accomplish since we have significant legal resources through both the Attorney General's office and OPLA as it is. The other thing I want to make sure that you understand is that we are talking not about cases where a committee is uncertain about the laws regarding some particular matter. We are talking only in instances of legislative investigating committees. And it concerns me to think that this legislature may be getting to the point where we are going to start to hold investigations, and it certainly seems to me that if we do, the cost of those is going to be significant. Any issue important enough to rise to the level of an official legislative investigation is one that is likely to go on for some time at enormous expense to the legislature and therefore to the taxpayer, and therefore I would urge that you vote against the pending motion. Thank you.

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

Senator **LIBBY:** Thank you Mr. President, men and women of the Senate. I rise today to ask you to support the pending motion. I think that one thing that we need to look at here is just simply the fact that in some cases where there is an investigation such as the one that was explained to you earlier, I think it's important to note that the Attorney General's office may have a conflict and there may be a necessity to, and this bill will allow for through proper channels, by the way, to employ somebody outside of the Attorney General's office to help to conduct that investigation. I think that that kind of counsel is crucial in the event that we have a major issue, and I'm going to use the example of the Wrendy Haynes case because I think it's really what has brought this forward to us. In the event that we have an investigatory committee assignment such as that, it is a cost to the taxpayer. You know, I find myself, really, debating whether or not that outweighs the necessity to have that counsel and, in my estimation and when I came down on it, it really did not outweigh that. I think we need that legal authority and so I'm asking for it. So, thank you.

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

Senator **NUTTING:** Thank you Mr. President, men and women of the Senate. The reason, also that I voted for, as one of the twelve members, for the Majority Ought to Pass report was the fact that if there is a conflict with the Attorney General's office trying to represent a committee and a sector of state government at the same time, the Legislative Council is going to make the decision whether or not legal counsel is hired and what the cost would be. To me, that's appropriate and adds the necessary safeguards built into it. Thank you.

On motion by Senator **FERGUSON** of Oxford, **TABLED** until Later in Today's Session, pending the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **FERGUSON:** Thank you Mr. President. I would inquire of the Chair, are we in violation of Rule 514?

THE PRESIDENT: The Chair would answer the Senator from Oxford, Senator Ferguson, in the affirmative.

On motion by Senator **FERGUSON** of Oxford, **ADJOURNED** until Thursday, May 22, 1997, at 9:00 in the morning, pursuant to Senate Rule 514.