

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

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

In Senate Chamber
Tuesday
March 24, 1998

Senate called to order by President Pro Tem John T. Jenkins of Androscoggin County.

Prayer by Reverend Michael Laidlaw of the Orrs and Bailey Island United Methodist Churches.

REVEREND MICHAEL LAIDLAW: O God, source of all that is good, Creator of all nations and peoples, we have sensed Your presence in the synagogue and in the temple, in the mosque and in the church sanctuary, in those places and experiences that we call, Holy. Enable us now to know Your presence in this place also, refreshing us, guiding us, unsettling us, forgiving us and gracing us, as we now set about the work we have been called to do. Liberate us from the worries that would beset us, from the fears that would paralyze us, from the prejudices that would blind us, from the strident voices that would deafen us. In the calm of these moments help us to remember again how You have created each of us in Your image and called Your creation very good. Help us to once more hear and obey Your call, to love You with our hearts, yes, and with our bodies, with our souls, to be sure and with our minds. The very totality of who we are as Your created ones. Awaken in us, our Creator, Your gifts of intelligence and of compassion, of laughter and of tolerance, of boldness and of insight. In our deliberations and our decisions cause us to remember the people we serve, their needs and their well being. Endow us, O God, with both a sense of adventure and a sense of awe, and with Your Spirit, holy and wild and untamed, tease our imaginations that they will give birth to ideas that will heal, that will lift up, that will sustain, that will make whole. And when our day is finished, O God, and night has come again, may we know the satisfaction that what we are doing is pleasing to You. This we ask, O God, in the name of Him, who is the way, the truth, and the life. Amen.

Doctor of the Day, Robert Haile, M.D., Scarborough.

Reading of the Journal of Monday, March 23, 1998.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Amend the Laws Concerning Access to Capital for Maine Businesses" H.P. 1489 L.D. 2088 (C "A" H-880)

In Senate, March 17, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-880)**, in concurrence.

In House, March 19, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-880) AS AMENDED BY HOUSE AMENDMENT "A" (H-931)** thereto, in **NON-CONCURRENCE**.

In Senate, March 20, 1998, **INSISTED**.

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

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act to Support the Long-term Care Steering Committee" H.P. 1500 L.D. 2122 (H "A" H-849 to C "A" H-837)

In Senate, March 16, 1998, **PASSED TO BE ENACTED**, in concurrence.

Recalled from the Governor's Desk pursuant to Joint Order (H.P. 1645), in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837) AS AMENDED BY HOUSE AMENDMENTS "A" (H-849) AND "B" (H-966)** thereto, in **NON-CONCURRENCE**.

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

Joint Resolution

The following Joint Resolution: H.P. 1656

**JOINT RESOLUTION COMMEMORATING YOM HASHOAH,
THE DAY OF REMEMBRANCE OF THOSE WHO
SUFFERED AS VICTIMS OF THE HOLOCAUST**

WHEREAS, from 1933 to 1945, 6,000,000 Jews were murdered in the Nazi Holocaust as part of a systematic program of genocide and millions of other people suffered as victims of Nazism; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

WHEREAS, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some at the cost of their lives and others with lifelong emotional suffering, as holding an honored place in our history; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and

recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, April 23, 1998 has been designated internationally as a Day of Remembrance of the Victims of the Nazi Holocaust, known as Yom HaShoah; and

WHEREAS, the national community pursuant to an Act of Congress will be commemorating the week of April 23rd to April 30th as the Days of Remembrance of the Victims of the Nazi Holocaust; and

WHEREAS, it is appropriate for the people of the State of Maine to join in this international commemoration; now, therefore, be it

RESOLVED: That, We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the Second Regular Session, on behalf of the people we represent, pause in solemn memory of the victims of the Nazi Holocaust, and urge one and all to recommit themselves to the lessons of the Nazi Holocaust through this international week of commemoration and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., on behalf of the people of the State of Maine.

Comes from the House, **READ** and **ADOPTED**.

READ and **ADOPTED**, in concurrence.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 658

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

March 19, 1998

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 Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 2053 An Act to Preserve Maine's Historic Properties

L.D. 2064 An Act to Foster Economic Development and Tourism in Maine

L.D. 2131 An Act to Restore the State House

L.D. 2167 Resolve, to Encourage High-performance Work Organizations and Quality Jobs in Rural Maine

L.D. 2180 An Act to Increase the Number of Probation Officers and Corrections Support Staff

L.D. 2249 An Act to Promote Sustained Economic Growth and to Implement Recommendations Regarding the Department of Economic and Community Development

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

Sincerely,

S/Sen. Michael H. Michaud
Senate Chair

S/Rep. George J. Kerr
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 659

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 19, 1998

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 Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2256 An Act to Implement the Recommendations of the Task Force to Study Strategies to Support Parents as Children's First Teachers

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

Sincerely,

S/Sen. Peggy A. Pendleton
Senate Chair

S/Rep. Shirley K. Richard
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 660

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

March 19, 1998

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 Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1779 An Act Regarding Access to Medical Information

L.D. 2268 Resolve, to Establish the Task Force on Hospice Coverage and Palliative Pain Control

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

Sincerely,

S/Sen. Judy Paradis
Senate Chair

S/Rep. J. Elizabeth Mitchell
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 661

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

March 19, 1998

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 bill out "Ought Not to Pass":

L.D. 2274 An Act to Permit Employees to Resume Receiving Unemployment Benefits in Certain Cases

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

Sincerely,

S/Sen. Mary R. Cathcart
Senate Chair

S/Rep. Pamela H. Hatch
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 662

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

March 19, 1998

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 bill out "Ought Not to Pass":

L.D. 2202 An Act Regarding Veterans' Benefits

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

Sincerely,

S/Sen. Beverly C. Daggett
Senate Chair

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

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 663

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

March 20, 1998

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 Natural Resources has had under consideration the nomination of George A. Smith of Mt. Vernon, for reappointment as a Member of the Outdoor Heritage Fund 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 Treat of Kennebec, Nutting of Androscoggin
 Representatives: 10 Rowe of Portland, Shiah of Bowdoinham, Bull of Freeport, Cowger of Hallowell, McKee of Wayne, Bryant of Dixfield, Dexter of Kingfield, Nickerson of Turner, Meres of Norridgewock, Foster of Gray
 NAYS: 0
 ABSENT: 1 Sen. Butland of Cumberland

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 George A. Smith of Mt. Vernon, for reappointment as a Member of the Outdoor Heritage Fund Board be confirmed.

Signed,

S/Sharon Anglin Treat
 Senate Chair

S/G. Steven Rowe
 House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **NATURAL RESOURCES** 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, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LAWRENCE, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, SMALL, TREAT,

THE PRESIDENT PRO TEM - JOHN T. JENKINS

ABSENT: Senators: BUTLAND, NUTTING, PENDLETON

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, 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 **George A. Smith** for reappointment as a Member of the Outdoor Heritage Fund Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication: S.C. 664

**STATE OF MAINE
 ONE HUNDRED AND EIGHTEENTH LEGISLATURE
 COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 23, 1998

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 Education and Cultural Affairs has had under consideration the nomination of Kent Lyons of Calais, for appointment as the Student Member, Maine Technical College System, Board of Trustees.

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

YEAS: Senators: 3 Pendleton of Cumberland, Cathcart of Penobscot, Small of Sagadahoc
 Representatives: 8 Richard of Madison, Brennan of Portland, Desmond of Mapleton, Baker of Bangor, Barth of Bethel, McElroy of Unity, Stedman of Hartland, Belanger of Caribou
 NAYS: 0
 ABSENT: 2 Rep. Skoglund of St. George, Rep. Watson of Farmingdale

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 Kent Lyons of Calais, for appointment as the Student Member, Maine Technical College System, Board of Trustees be confirmed.

Signed,

S/Peggy A. Pendleton
Senate Chair

S/Shirley K. Richard
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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, KIEFFER, KILKELLY, LAFOUNTAIN, LAWRENCE, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT PRO TEM - JOHN T. JENKINS

ABSENT: Senators: NUTTING, PENDLETON

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, 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 **Kent Lyons** for appointment as the Student Member, Maine Technical College System, Board of Trustees was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Off Record Remarks

ORDERS

Joint Resolution

On motion of Senator by Senator KILKELLY of Lincoln (Cosponsored by Representative BUNKER of Kossuth Township, Senator PARADIS of Aroostook, Senator KIEFFER of Aroostook, Representative GOOLEY of Farmington, Representative DEXTER of Kingfield, Representative CROSS of Dover-Foxcroft, Representative MCKEE of Wayne, Representative JONES of Greenville, Representative SAMSON of Jay, Representative LANE of Enfield), the following Joint Resolution: S.P. 866

JOINT RESOLUTION ENCOURAGING THE DEVELOPMENT OF A SUSTAINABLE FORESTRY INITIATIVE

WHEREAS, the Maine Legislature seeks to establish a process that provides for public reporting of the forest management of large forest landowners in this State; and

WHEREAS, there is no adequate or credible manner by which the public can be informed concerning the long-term implications of large landowners' forest management practices; and

WHEREAS, the public has a justifiable and legitimate interest in the public resources on privately owned forest land, those resources being air, water, fish and wildlife; and

WHEREAS, the large forest landowners of this State have formed a committee to implement a sustainable forestry initiative in this State to build programs to develop and build public confidence in their forest management practices; and

WHEREAS, the large forest landowners of this State are implementing those programs to demonstrate their commitment to fulfilling the goals of that sustainable forestry initiative; now, therefore, be it

RESOLVED: That the Legislature encourages the State of Maine Implementation Committee of the Sustainable Forestry Initiative to implement a sustainable forestry initiative in Maine to develop and implement a 3rd-party process that verifies compliance with forestry-related performance standards; and be it further

RESOLVED: That the Legislature supports an effort that is based on the following principles and guidelines:

1. To practice sustainable forestry to meet the needs of the present without compromising the ability of future generations to meet their own needs by practicing a land stewardship ethic that integrates the reforestation, managing, growing, nurturing and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat and aesthetics;

2. To have large forest landowners use in their own forests, and promote among other forest landowners, sustainable forestry practices that are economically and environmentally responsible;

3. To protect forests from wildlife, pests, disease and other damaging agents in order to maintain and improve long-term forest health and productivity; and to protect special sites and to manage the forest of large forest landowners and lands of special biological, geological, historical or other significance in a manner that takes into account their unique qualities;

4. To continuously improve the practice of forest management and also to monitor, measure and report the performance of the State of Maine Implementation Committee of the Sustainable Forestry Initiative in achieving its commitment to sustainable forestry; and

5. On applicable lands, to employ an array of scientifically, environmentally and economically sound practices in the growth, harvest and use of forests; promptly reforest harvested areas; enhance wildlife habitat for game and nongame species; minimize the aesthetic impact of harvesting; protect company lands of ecological, geologic or historic significance; contribute to biodiversity conservation; improve wood utilization; use forestry chemicals prudently; foster the practice of sustainable forestry on all forest lands through cooperation with nonindustrial forest landowners and loggers and other forest industries; and publicly report progress and provide opportunities for public research; and be it further

RESOLVED: That the development and implementation of this 3rd-party verification process is expected to be conducted on a voluntary basis and to build public confidence by recognizing the need to take seriously the responsibility of large forest landowners to public resources on privately owned land; and be it further

RESOLVED: That the State of Maine Implementation Committee of the Sustainable Forestry Initiative is encouraged to establish a 5-member advisory panel, with one member representing the general public and the other 4 representing expertise in a broad spectrum of forestry management. This panel is expected to provide input and advice on the performance indicators to be applied to all companies being reviewed in the 3rd-party verification process; and be it further

RESOLVED: That the State of Maine Implementation Committee of the Sustainable Forestry Initiative is encouraged to establish a panel of 5 persons to monitor and observe all phases of the development of this 3rd-party verification process in the State of Maine through March 31, 1999; and be it further

RESOLVED: That the State of Maine Implementation Committee of the Sustainable Forestry Initiative or its appropriate panels are encouraged to report by March 31, 1999 to the joint standing committee of the Legislature having jurisdiction over forestry matters on the development of a 3rd-party verification process; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the State of Maine Implementation Committee of the Sustainable Forestry Initiative.

READ.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

From the Committee on **JUDICIARY** on Bill "An Act to Require a Search Warrant to Investigate Private Property for the Purpose of Forestry Examinations" H.P. 200 L.D. 253

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-975).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-975).**

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

READ ONCE.

Committee Amendment "A" (H-975) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, to Establish the Maine Forest Policy Round Table Study Commission
H.P. 1081 L.D. 1518

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

Signed:

Senators:

KILKELLY of Lincoln
PARADIS of Aroostook
KIEFFER of Aroostook

Representatives:

BUNKER of Kossuth Township
LANE of Enfield
SAMSON of Jay
SHIAH of Bowdoinham
GOOLEY of Farmington
JONES of Greenville
MCKEE of Wayne
CROSS of Dover Foxcroft
DEXTER of Kingfield

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1003).**

Signed:

Representative:

VOLENIK of Brooklin

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

Reports **READ.**

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

Divided Report

Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Improve Management of Maine's Forests" H.P. 1246 L.D. 1766

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

Signed:

Senators:

KILKELLY of Lincoln
PARADIS of Aroostook
KIEFFER of Aroostook

Representatives:

BUNKER of Kossuth Township
LANE of Enfield
GOOLEY of Farmington
JONES of Greenville
CROSS of Dover-Foxcroft
DEXTER of Kingfield

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-980)**.

Signed:

Representatives:

VOLENIK of Brooklin
SHIAH of Bowdoinham
MCKEE of Wayne

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

Reports **READ**.

Senator **KILKELLY** of Lincoln moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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 NOT TO PASS** Report, in concurrence.

Divided Report

Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Implement the Recommendations Relating to the Review of the Department of Professional and Financial Regulation's Office of the Commissioner, Office of Consumer Credit Regulation and Office of Licensing and Registration under the State Government Evaluation Act" H.P. 1565 L.D. 2198

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-952)**.

Signed:

Senators:

RAND of Cumberland
MACKINNON of York

Representatives:

VIGUE of Winslow
BODWELL of Brunswick
MURPHY of Kennebunk
FARNSWORTH of Portland
CAMERON of Rumford
SIROIS of Caribou
SHANNON of Lewiston
MACDOUGALL of North Berwick
WRIGHT of Berwick

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-953)**.

Signed:

Representative:

MACK of Standish

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-952)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-952) AS AMENDED BY HOUSE AMENDMENT "A" (H-982)** thereto.

Reports **READ**.

On motion by Senator **RAND** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-952)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-952) **READ**.

House Amendment "A" (H-982) to Committee Amendment "A" (H-952) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-952) as Amended by House Amendment "A" (H-982) thereto, **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Provide Educators More Authority to Remove Violent Students from Educational Settings" H.P. 1520 L.D. 2142

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1001)**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
SMALL of Sagadahoc

Representatives:

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

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

Signed:

Representatives:

BARTH of Bethel
STEDMAN of Hartland

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-1001)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-1001) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

The President Pro Tem requested the Sergeant-at-Arms escort the Senator from York, Senator **LAWRENCE** to the rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Androscoggin, Senator **JENKINS** to his seat on the floor.

Senate called to order by the President.

Divided Report

Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Require the State to Be Responsible for the Costs of School Employee Record Checks and Fingerprinting" H.P. 1536 L.D. 2163

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-976)**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
SMALL of Sagadahoc

Representatives:

RICHARD of Madison
DESMOND of Mapleton
STEDMAN of Hartland
BELANGER of Caribou
MCELROY of Unity
BRENNAN of Portland

WATSON of Farmingdale
BAKER of Bangor

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

Signed:

Representatives:

BARTH of Bethel
SKOGLUND of St. George

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-976)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-976) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **JUDICIARY** on Bill "An Act to Amend the Uniform Health Care Decisions Law" H.P. 51 L.D. 76

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-942)**.

Signed:

Senators:

LONGLEY of Waldo
LAFOUNTAIN of York
BENOIT of Franklin

Representatives:

THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell
JABAR of Waterville
MAILHOT of Lewiston
POWERS of Rockport
NASS of Acton

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

Signed:

Representatives:

PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-942)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-942) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **JUDICIARY** on Bill "An Act to Clarify the Confidentiality of Public Employee Information"
H.P. 1362 L.D. 1913

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-998)**.

Signed:

Senators:

LONGLEY of Waldo
LAFOUNTAIN of York

Representatives:

THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell
JABAR of Waterville
MAILHOT of Lewiston
POWERS of Rockport
NASS of Acton
PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton

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

Signed:

Senator:

BENOIT of Franklin

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-998)**.

Reports **READ**.

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

Divided Report

Majority of the Committee on **MARINE RESOURCES** on Bill "An Act Concerning the Taking of Marine Resources by Members of the Passamaquoddy Tribe" (EMERGENCY)

H.P. 1523 L.D. 2145

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-983)**.

Signed:

Senator:

MACKINNON of York

Representatives:

VOLENIK of Brooklin
PINKHAM of Lamoine
PIEH of Bremen
PERKINS of Penobscot
GOODWIN of Pembroke
PINKHAM of Brunswick
LAYTON of Cherryfield

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

Signed:

Senators:

GOLDTHWAIT of Hancock
PENDLETON of Cumberland

Representatives:

ETNIER of Harpswell
BAGLEY of Machias

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-983)**.

Reports **READ**.

Senator **GOLDTHWAIT** of Hancock moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

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

Divided Report

Majority of the Committee on **MARINE RESOURCES** on Bill "An Act to Limit New Lobster and Crab Fishing Licenses"
H.P. 1597 L.D. 2226

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1004)**.

Signed:

Senators:

GOLDTHWAIT of Hancock
PENDLETON of Cumberland
MACKINNON of York

Representatives:

ETNIER of Harpswell
VOLENIK of Brooklin
PIEH of Bremen
BAGLEY of Machias
GOODWIN of Pembroke
PINKHAM of Brunswick
HONEY of Boothbay

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

Signed:

Representatives:

PINKHAM of Lamoine
PERKINS of Penobscot
LAYTON of Cherryfield

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-1004) AND HOUSE AMENDMENT "A" (H-1025)**.

Reports **READ**.

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

Divided Report

Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Require All Regulated Public Utilities to Report to the Public Utilities Commission the Sale, Lease or Other Transfer of Assets Paid for by Ratepayers" H.P. 1477 L.D. 2076

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-906)**.

Signed:

Senators:

CLEVELAND of Androscoggin

Representatives:

JONES of Bar Harbor
KONTOS of Windham
USHER of Westbrook
O'NEAL of Limestone
LAVERDIERE of Wilton
COLWELL of Gardiner

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

Signed:

Senators:

CAREY of Kennebec
HARRIMAN of Cumberland

Representatives:

VEDRAL of Buxton
BERRY of Belmont
JOY of Crystal
TAYLOR of Cumberland

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-906)**.

Reports **READ**.

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

Divided Report

Majority of the Committee on **UTILITIES AND ENERGY** on Resolve, Regarding Legislative Review of Chapter 820: Requirements for Non-Core Utility Activities and Transactions Between Affiliates, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) H.P. 1611 L.D. 2237

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-956)**.

Signed:

Senators:

CAREY of Kennebec
HARRIMAN of Cumberland

Representatives:

COLWELL of Gardiner
VEDRAL of Buxton
BERRY of Belmont
JOY of Crystal
TAYLOR of Cumberland

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-957)**.

Signed:

Representatives:

JONES of Bar Harbor
KONTOS of Windham
USHER of Westbrook
LAVERDIERE of Wilton
O'NEAL of Limestone

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-956)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-956) AND HOUSE AMENDMENT "A" (H-960)**.

Reports **READ**.

Senator **CAREY** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-956)** 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-956)** Report, in concurrence.

Committee of Conference

The Committee on of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act to Implement the Recommendations of the Interagency Committee on Outdoor Trash Burning" H.P. 1408 L.D. 1972

had the same under consideration and asked leave to report:

That the House **Recede; Indefinitely Postpone** House Amendment "B" (H-816) to Committee Amendment "A" (H-797); **Read and Adopt** Conference Committee Amendment "A" (H-995) to Committee Amendment "A" (H-797); **Adopt** Committee Amendment "A" (H-797) as Amended by Conference Committee Amendment "A" (H-995) thereto, and **Pass the Bill to be Engrossed as Amended by Committee Amendment "A" (H-797) as Amended by Committee of Conference Amendment "A" (H-995)** thereto, in **Non-Concurrence**.

That the Senate **Recede** and **Concur** with the House.

On the Part of the Senate:

Senator **TREAT** of Kennebec
Senator **NUTTING** of Androscoggin
Senator **BUTLAND** of Cumberland

On the part of the House:

Representative **JONES** of Greenville
Representative **DUNLAP** of Old Town
Representative **WHEELER** of Bridgewater

Comes from the House with the Committee of Conference Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-797) AS AMENDED BY CONFERENCE COMMITTEE AMENDMENT "A" (H-995)** thereto, in **NON-CONCURRENCE**.

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

On motion by Senator **RAND** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Senate

Ought to Pass As Amended

Senator **PARADIS** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Amend the Aid to Families with Dependent Children Program" S.P. 407 L.D. 1302

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

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-588) **READ** and **ADOPTED**.

LATER TODAY ASSIGNED FOR SECOND READING.

Senator **PARADIS** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Implement the Recommendations of the Blue Ribbon Commission on Hunger and Food Security" S.P. 542 L.D. 1661

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

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-587) **READ** and **ADOPTED**.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to License Interpreters for the Deaf and Hard-of-hearing" S.P. 481 L.D. 1483

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

Signed:

Senators:

- JENKINS of Androscoggin
- RAND of Cumberland
- MACKINNON of York

Representatives:

- VIGUE of Winslow
- BODWELL of Brunswick
- MURPHY of Kennebunk
- FARNSWORTH of Portland
- CAMERON of Rumford
- SIROIS of Caribou
- SHANNON of Lewiston
- MACDOUGALL of North Berwick
- WRIGHT of Berwick

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

Signed:

Representative:

- MACK of Standish

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (S-589) **READ** and **ADOPTED**.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Establish Ethical Standards for the Office of Governor" S.P. 786 L.D. 2113

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

Signed:

Senators:

- CAREY of Kennebec
- FERGUSON of Oxford

Representatives:

- LABRECQUE of Gorham
- CHIZMAR of Lisbon
- BIGL of Bucksport
- GAGNE of Buckfield
- TUTTLE of Sanford
- GAMACHE of Lewiston
- TRUE of Fryeburg
- BELANGER of Wallagrass
- TESSIER of Fairfield
- FISHER of Brewer

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-586).**

Signed:

Senator:

- DAGGETT of Kennebec

Reports **READ**.

Senator **DAGGETT** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-586)** Report.

SECOND READERS

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

House As Amended

Bill "An Act to Ensure the Transferability of the Generating Assets of Electric Utilities" H.P. 1380 L.D. 1935 (C "A" H-984)

Bill "An Act to Establish the Endowment Incentive Program" H.P. 1470 L.D. 2061 (C "A" H-1000)

Bill "An Act Providing for Additional Elections for Ties for School Board Membership" H.P. 1492 L.D. 2091 (C "A" H-988)

Resolve, Regarding Legislative Review of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Living Facilities, a Major Substantive Rule of the Department of Human Services (EMERGENCY)
H.P. 1615 L.D. 2241
(C "A" H-1002)

Bill "An Act to Permit Direct Contracting with State Governmental Entities for the Provision of Services to Eligible Participants in Government Health Programs" (EMERGENCY)
H.P. 1621 L.D. 2251
(C "A" H-992)

Bill "An Act to Make Public the Records of the Department of Corrections Relating to Inmate Furloughs and Requests under the Uniform Act for Out-of-State Parolee Supervision"
H.P. 1629 L.D. 2257
(C "A" H-991)

Bill "An Act to Modify the Law Pertaining to Personal Sports Mobile Franchises"
H.P. 1643 L.D. 2275
(C "A" H-999)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Senate As Amended

Bill "An Act to Permit the Creation of Cooperative Municipal Fire Districts"
S.P. 598 L.D. 1777
(C "A" S-553)

Bill "An Act to Permit Off-label Use of Prescription Drugs for Cancer, HIV or AIDS"
S.P. 761 L.D. 2068
(C "A" S-580)

Bill "An Act to Clarify the Responsibilities of the Advisory Commission on Radioactive Waste during the Decommissioning of Maine Yankee" (EMERGENCY)
S.P. 792 L.D. 2119
(S "A" S-540 to C "A" S-514)

Bill "An Act Relating to Dam Abandonment" (EMERGENCY)
S.P. 843 L.D. 2247
(C "A" S-579)

Bill "An Act Authorizing the State to Appeal Decisions Granting Preconviction Bail"
S.P. 844 L.D. 2248
(C "A" S-544)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

Bill "An Act to Protect the Privacy of Genetic Information"
S.P. 384 L.D. 1243
(C "A" S-584)

READ A SECOND TIME.

On motion by Senator LAFOUNTAIN of York, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (2/26/98) Assigned matter:

JOINT RESOLUTION - Memorializing John Daggett.
SLS 429

Tabled - February 26, 1998, by Senator **RAND** of Cumberland.

Pending - motion by Senator **DAGGETT** to **ADOPT**

(In Senate, February 26, 1998, **READ**.)

The Secretary **READ** the Joint Resolution.

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

Senator **DAGGETT:** Thank you Mr. President and Members of the Senate. I'd like to just take a moment to speak about and make some observations on the life of John Daggett, who I not only have had the opportunity to share service in this State House with, but also had the opportunity to know personally as a father-in-law. John was a man who loved people and it was truly reflected in his service here, his service as a Selectman in his community, and the time that he spent as a small business owner in a small store, in the town of Manchester. Those are certainly things that one does not do without enjoying and being good at dealing with people. He was a man of conviction and a man of his word. The people that knew him knew that he was outspoken, but that he was more interested in getting the job done and doing the work then in calling attention to himself. We have an expression here, in Maine, "Maine, The Way Life Should Be." When I thought about my father-in-law and I thought about his strong religious faith, his devotion to his family and his service to his community and his country, I thought to myself, "John Daggett, that's the way a life should be." Thank you.

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

Senator **TREAT:** Thank you Mr. President and men and women of the Senate. I would also like to say a few words about John Daggett, who I am honored to have represented, however briefly, in the Senate since I've been here. I actually knew John before I came to the Legislature as a Senator. After he served in the House of Representatives, he actually served as the Document Clerk. I don't know the official title. But I got to know

him as I was sort of a new lobbyist at that time. Very few people go from being lobbyist, by the way, to being Legislators and there's a reason for that, which I can go into. But I was a lobbyist and very new to the State House and a lot younger than I am now. I remember John Daggett as being such a very kind person with a tremendous, twinkle in his eyes, that kind of sense of humor that just makes you feel good about yourself, and that kind of takes you under someone's wing and leads you in to the arcane ways of the Legislature. I found him to be a very friendly face that I could get to know when I first got here. After I got elected to the Senate, after, of course, all these years in the House and sort of learning my way around, I had to go out and find out about all these different communities that I now represent. What I found out about Manchester was that John Daggett really was "Mr. Manchester." Some of you may have seen some newspaper articles saying that but it was true. As you have heard, he was the first Selectman for like 20+ years. When I went over to Manchester to meet with the Selectmen it was John Daggett who was really the person, I knew, was running the show. Everyone knew him. He lived over in the town office. Every time I went over there, practically, he was there. It was a real pleasure to just get to know him and to have that opportunity to work with him in public service. Again, I just want to emphasize, this was a person of tremendous honor and integrity, a great sense of humor and tremendous community spirit. I'd just like to join in with the good Senator from Kennebec, Senator Daggett, and the rest of us, in remembering a life well lived.

On motion by Senator **DAGGETT** of Kennebec, the Joint Resolution **ADOPTED**.

Off Record Remarks

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.

The Chair laid before the Senate the following Tabled and Later (3/20/98) Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Establish the Office of Mental Health and Human Services Ombudsman"
H.P. 1573 L.D. 2207

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-935)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-936)** (5 members)

Tabled - March 20, 1998, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 19, 1998, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935).**)

(In Senate, March 20, 1998, Reports **READ**.)

Senator **PARADIS** of Aroostook moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-936)** Report in **NON-CONCURRENCE**.

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

Senator **MITCHELL:** Thank you Mr. President and ladies and gentlemen of the Senate. I rise this morning to ask you to please not support the Minority report and I'd like to explain the reasons why. What we were attempting to do was to organize a Task Force to identify what the needs are for an Ombudsman and to identify what the Task Force should be accomplishing with this particular authority. Now to put on two advocates, and that is what the Minority report is doing, we are incurring a charge for two advocates, who's positions have not been identified. There has been no description of what their assignment would be and their time would be wasted because the Task Force has not yet met to define what their tasks would be. So we would be putting money into two positions that are needless at this particular time. We need to move forward with the Task Force to identify what the needs of an Ombudsman would be and to bring together the two Departments of the Mental Health and the Health and Human Services to oversee the work that's to be done. We need to take our time and move forward with that in a cost effective manner that would best serve the needs of the two Departments. So I would encourage you to join me in voting against the Minority report. We do not need to spend money on additional advocates when there's no description of what they would accomplish at this particular time. Thank you for your time.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President and men and women of the Senate. We have, presently, one Ombudsman for children in the whole State of Maine, from Allagash to Kittery. It's absolutely inappropriate in this day and age when we have so many of our children in trouble, falling through the cracks. The longer it is before they are able to access services, the sicker they become. Many, many times we've seen them end up in our very expensive adult system. We know exactly what the needs are. We've studied it extensively and we're going to have more data. This would be adding a couple positions to the strapped Ombudsman that is presently serving us, and they know what their responsibilities are. I think it would help us get our whole system working a little bit more efficiently. Thank you very much.

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

Senator **MITCHELL**: Thank you Mr. President. I would like to say that we do need to look and study other programs and options and receive a report so we could define what these advocates, again, would be doing. I'd like to direct a question through the Chair, if I may.

THE PRESIDENT: The Senator may pose her question.

Senator **MITCHELL**: Thank you. If the two advocates are put in place, could someone, please, define what their duties are going to be and what their goals are that they will accomplish before this Task Force is accomplished?

THE PRESIDENT: The Senator from Penobscot, Senator Mitchell, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS**: Thank you Mr. President. Yes, I'd be more than happy to respond to that question. We already know what an Ombudsperson does. It's for people who are having difficulty accessing the system. Sitting upstairs on the 4th floor all year, we heard day after day incredible war stories about people falling through the cracks. I have no doubt that these individuals will be able to hit the deck running and get the job done in responding to the needs of the people of this state.

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

Senator **MITCHELL**: Thank you Mr. President. I think there was a misunderstanding. It wasn't the Ombudsman's description, we know that is needed, it was the advocates.

THE PRESIDENT: The Senator from Penobscot, Senator Mitchell, poses a clarification to her question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Cumberland, Senator Amero.

Senator **AMERO**: Thank you Mr. President. I request a Roll Call.

THE PRESIDENT: The Senator from Cumberland, Senator Amero, requested a Roll Call. In order for the Chair to order a Roll Call, it must have the expressed desire of one-fifth of the members present. All those in favor of a Roll Call please rise in your place and remain standing until counted. Obviously more than one-fifth of the members present are in favor of a Roll Call. A Roll Call is in order.

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 PRESIDENT: The pending question before the Senate is the motion of the Senator from Aroostook, Senator Paradis, to Accept the Minority Ought to Pass as Amended by Committee Amendment "B" Report.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

ABSENT: Senators: NUTTING, PENDLETON

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **PARADIS** of Aroostook to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-936)** Report in **NON-CONCURRENCE, PREVAILED.**

READ ONCE.

Committee Amendment "B" (H-936) **READ** and **ADOPTED** in **NON-CONCURRENCE.**

LATER TODAY ASSIGNED FOR SECOND READING.

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

The Chair laid before the Senate the following Tabled and Later (3/20/98) Assigned matter:

HOUSE REPORT - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Open a Discount State Liquor Store in Calais" H.P. 277 L.D. 341

Report - Ought to Pass as Amended by Committee Amendment "B" (H-934)

Tabled - March 20, 1998, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF THE REPORT**

(In House, March 19, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-934).**)

(In Senate, March 20, 1998, Report **READ.**)

The **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-934)** Report **ACCEPTED**, in concurrence.

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

Senator **AMERO:** Thank you Mr. President. Having voted on the prevailing side, I would ask that we Reconsider our action whereby the Committee Report was Accepted.

On motion by Senator **AMERO** of Cumberland, the Senate **RECONSIDERED** whereby the **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-934)** Report was **ACCEPTED**, in concurrence.

Senator **AMERO** of Cumberland requested a Division.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**. (Division Requested)

The Chair laid before the Senate the following Tabled and Later (3/23/98) Assigned matter:

Resolve, Charging the Children's Cabinet Agencies to Support Efforts of Parents as First Teachers of Their Children
H.P. 1632 L.D. 2260

Tabled - March 23, 1998, by Senator **LIBBY** of York.

Pending - motion by Senator **PENDLETON** of Cumberland to **ADOPT** Senate Amendment "A" (S-568)

(In House, March 19, 1998, **PASSED TO BE ENGROSSED.**)

(In Senate, March 23, 1998, on motion by Senator **PENDLETON** of Cumberland, Senate Amendment "A" (S-568) **READ.**)

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

Senator **LIBBY:** Thank you Mr. President and men and women of the Senate. Just to reiterate. The difficulty I had with this Amendment is that it does not really state that the actions of the Children's Cabinet will come back in front of the Committee. I think that we were hoping to have a little bit more time to write up an Amendment to try to make sure that happened. I think any action taken by the Children's Cabinet should be reviewed by the

Committee. I feel comfortable that a lot of the Members of the Education Committee probably would share that belief. That was the purpose of Tabling this and I'd entertain a motion by the Majority party to Table this for one more day while we continue to write up an Amendment.

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

Senator **PENDLETON:** Thank you Mr. President and men and women of the Senate. Hopefully I can help the good Senator from York, Senator Libby. The Children's Cabinet, that you asked about yesterday, has the task to look at the funding for the different programs that are involved in the last Task Force. What the Amendment does is allow the Legislative Task Force to oversee and ask the Children's Cabinet to come together with these figures. In the original bill it says, "In addition the Task Force shall submit a follow-up report to the Joint Standing Committee on Education and Cultural Affairs and the Governor including any necessary implementing Legislation no later than December 15th, 1998." So the bill, with the Amendment, does say that the Legislative Task Force is in charge and will come back to the Committee. They are asking the Children's Cabinet to come up with the information that is necessary to do this.

The other question was, are private and public entities involved in this Task Force or this whole study? Indeed that is true, they are. I went back to the Task Force report and it includes some of the agencies or programs that are included in the bill, that are in that Task Force and they do include private and public entities. Healthy Families, Head Start, all those entities are being looked at. The reason for the Task Force and the reason for the Amendment is because we have many different entities trying to do a lot of different things. We're asking the Children's Cabinet to try to coordinate and come up with some kind of financial plan so that we know we're getting the best bang for our buck. I hope that explains. Thank you.

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

Senator **LIBBY:** Thank you Mr. President. It does explain the process pretty well. My only concern was, in reading under section 2, part 1, it says, "The Children's Cabinet shall develop a core curriculum that will be available to all Maine parents and care-givers by 1999." As you read this Amendment, it gives me the feeling that it's a done deal. I was just trying to make sure that it came back in front of the Committee. What if people disagreed with the core curriculum or components of it?

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

Senator **PENDLETON:** Thank you Mr. President. If you look at the report, you would probably notice that the core curriculum is mentioned. It says it will be available. But again, the bill says that any recommendations have to come back to the Education Committee before that happens.

THE PRESIDENT: The pending question before the Senate is Adoption of Senate Amendment "A".

On motion by Senator **PENDLETON** of Cumberland, Senate Amendment "A" (S-568) **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED, in NON-CONCURRENCE.

Sent down for concurrence.

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 As Amended

Bill "An Act to Require a Search Warrant to Investigate Private Property for the Purpose of Forestry Examinations"
H.P. 200 L.D. 253
(C "A" H-975)

Bill "An Act to Provide Educators More Authority to Remove Violent Students from Educational Settings"
H.P. 1520 L.D. 2142
(C "A" H-1001)

Bill "An Act to Require the State to Be Responsible for the Costs of School Employee Record Checks and Fingerprinting"
H.P. 1536 L.D. 2163
(C "A" H-976)

Bill "An Act to Implement the Recommendations Relating to the Review of the Department of Professional and Financial Regulation's Office of the Commissioner, Office of Consumer Credit Regulation and Office of Licensing and Registration under the State Government Evaluation Act"
H.P. 1565 L.D. 2198
(H "A" H-982 to C "A" H-952)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Bill "An Act to Amend the Uniform Health Care Decisions Law"
H.P. 51 L.D. 76
(C "A" H-942)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED, in NON-CONCURRENCE.

Sent down for concurrence.

Bill "An Act to Establish the Office of Mental Health and Human Services Ombudsman"
H.P. 1573 L.D. 2207
(C "B" H-936)

READ A SECOND TIME.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended in Non-Concurrence.

Senator **HARRIMAN** of Cumberland requested a Division.

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

Senator **PINGREE:** Thank you Mr. President. I request the yeas and nays.

THE PRESIDENT: The Senator from Knox, Senator Pingree, requested a Roll Call. In order for the Chair to order a Roll Call, it must have the expressed desire of one-fifth of the members present. All those in favor of a Roll Call please rise in your place and remain standing until counted. Obviously more than one-fifth of the members present are in favor of a Roll Call. A Roll Call is in order.

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

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended in Non-Concurrence.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: 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, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL

ABSENT: Senators: CAREY, KILKELLY

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the Bill was **PASSED TO BE ENGROSSED AS AMENDED, in NON-CONCURRENCE.**

Sent down for concurrence.

Senate As Amended

Bill "An Act to Amend the Aid to Families with Dependent Children Program"
S.P. 407 L.D. 1302
(C "A" S-588)

Bill "An Act to License Interpreters for the Deaf and Hard-of-hearing"
S.P. 481 L.D. 1483
(C "A" S-589)

Bill "An Act to Implement the Recommendations of the Blue Ribbon Commission on Hunger and Food Security"
S.P. 542 L.D. 1661
(C "A" S-587)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

ORDERS OF THE DAY

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

Bill "An Act to Support the Long-term Care Steering Committee"
H.P. 1500 L.D. 2122
(H "A" H-849 to C "A" H-837)

Tabled - March 24, 1998, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 16, 1998, **PASSED TO BE ENACTED**, in concurrence.)

(Recalled from the Governor's Desk pursuant to Joint Order (H.P. 1645), in concurrence.)

(In House, March 15, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837) AS AMENDED BY HOUSE AMENDMENTS "A" (H-849) AND "B" (H-966) thereto, in NON-CONCURRENCE.**)

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED and CONCURRED.**

The President requested the Sergeant-at-Arms escort the Senator from Knox, Senator **PINGREE** to the rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the floor of the Senate.

The Senate called to order by the President Pro Tem.

Senate at Ease

Senate called to order by the President Pro Tem.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/20/98) Assigned matter:

Bill "An Act to Amend the Authority of the Adjutant General to Sell Armories, to Increase the Authorized Size of the Veterans' Memorial Cemetery and to Authorize the Department of Administrative and Financial Services to Purchase Land in Houlton for a New Public Safety Facility" S.P. 823 L.D. 2212
(C "A" S-556)

Tabled - March 20, 1998, by Senator **RAND** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, March 20, 1998, **READ A SECOND TIME.**)

On motion by Senator **DAGGETT** of Kennebec, under suspension of the Rules, the Senate **RECONSIDERED** whereby Committee Amendment "A" (S-556) was **ADOPTED.**

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Daggett.

Senator **DAGGETT:** Thank you Madam President. I present Senate Amendment "A" under the filing number of S-581 to Committee Amendment "A" S-556, move its Adoption and wish to speak to my motion.

THE PRESIDENT PRO TEM: The Senator from Kennebec, Senator Daggett, offers Senate Amendment "A" with a filing number of S-581 to Committee Amendment "A" S-556 and moves its Adoption.

On further motion by same Senator, Senate Amendment "A" (S-581) to Committee Amendment "A" (S-556) **READ.**

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Daggett.

Senator **DAGGETT:** Thank you Madam President. This Amendment is merely a technical Amendment which makes some grammatical changes to the bill. I'm only speaking to it so to help differentiate it from the Amendment that I wish to offer next. Thank you.

Committee Amendment "A" (S-556) as Amended by Senate Amendment "A" (S-581) **ADOPTED.**

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Daggett.

Senator **DAGGETT:** Thank you Madam President. I now present Senate Amendment "B" under the filing number of S-582 and move its Adoption.

THE PRESIDENT PRO TEM: The Senator from Kennebec, Senator Daggett, offers Senate Amendment "B" with a filing number of S-582 and moves its Adoption.

On motion by Senator **DAGGETT** of Kennebec, Senate Amendment "B" (S-582) **READ.**

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Daggett.

Senator **DAGGETT**: Thank you Madam President and Members of the Senate. I'm offering this Amendment. I'll just describe briefly the bill to you and indicate to you that in the last session of the Legislature there was a bill that allowed the sale of military property. It allowed the Military Bureau to retain the proceeds in order to help run and pay for the Armories. This session the Department came in with a bill which, in fact, asked to sell a couple of Armories and to increase the authorized size of the Veteran's Cemetery, and then purchase some land for a new Public Safety facility. All of those certainly seemed appropriate to do. The Armories that were being proposed for sale were no longer useful. There was one element of that bill that was of concern to me and some other Members of the Committee. As we moved to get this bill out of Committee, I had not had an opportunity to look up the Legislation from a previous session that authorized these kinds of transactions to take place. I have since done that and am hoping to amend a piece of this bill out.

There's a section in the bill that called for the sale of two acres of an existing Armory. It was of concern to me because I think that when we have property adjacent to, and part of, an integral part of an existing Armory, and an Armory that we intend to move forward and keep, in fact, this particular Armory, we're making some substantial renovations to it at this time, seemed inappropriate to be lopping off a couple of acres here and there around the property for the purpose of making a little money. I will tell you this Armory site is in Augusta and the proposal would be to sell, for all intents and purposes, a large part of the parking lot. That's a fairly limited site. There's a lot of construction going on right now. It's was a real concern to me that this was being proposed. So in looking up the previous bill, the summary of it and the bill, itself, says, "L.D. 1720 proposed to permit the Military Bureau to condemn and sell Military property." Actually it proposed to be able to do that without further Legislative approval but, in fact, the Legislature deemed it appropriate that any proposed sales would actually come before us so that we could review it. But I would submit to you that the issue of two acres hardly falls into the category of condemned property.

It really falls outside the scope of what the Legislature actually intended when L.D. 1720 was passed in the previous session. The handful of references to the bill and parts of the bill, the statement in fact says, "disposal of excess and condemned State owned Military property." So I think it was fairly clear at that time and fortunately, in fact, the good Senator from Oxford, Senator Ferguson, called my attention to that since he was on the Committee. I hope you will support this Amendment and remove this piece from the bill. Thank you.

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

Senator **FERGUSON**: Thank you very much Madam President and ladies and gentlemen of the Senate. I do want to concur with what my Chair person, Senator Daggett, the good Senator from Kennebec, just said. There are two acres on Western Avenue that is adjacent to a gas station out there. In our judgment it was fool hearty to sell those two acres at this time. They're not growing anymore land, we all know that, and we wanted to be farsighted and keep that land in the possession of the Military Bureau, in the event they need it in the future. So I would hope that you would support the bill as amended. Thank you.

On motion by Senator **DAGGETT** of Kennebec, Senate Amendment "B" (S-582) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-556) AS AMENDED BY SENATE AMENDMENT "A" (S-581) thereto, AND SENATE AMENDMENT "B" (S-582).

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/20/98) Assigned matter:

HOUSE REPORTS - from the Committee on UTILITIES AND ENERGY on Bill "An Act to Dissolve the Ogunquit Sewer District and Establish a Sewerage Department" (EMERGENCY)
H.P. 1592 L.D. 2221

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-947)** (11 members)

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

Tabled - March 20, 1998, by Senator **PINGREE** of Knox.

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

(In House, March 19, 1998, 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-947).**)

(In Senate, March 20, 1998, Reports **READ**.)

At the request of Senator **HARRIMAN** of Cumberland a Division was had. 15 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-947) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN**: Thank you and good afternoon Madam President. I present Senate Amendment "B" under the filing number of S-593 to Committee Amendment "A" H-947, move its Adoption and wish to speak to my motion.

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Harriman, offers Senate Amendment "B" with a filing number of S-593 to Committee Amendment "A" H-947 and moves its Adoption.

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "B" (S-593) to Committee Amendment "A" (H-947) **READ.**

THE PRESIDENT PRO TEM: The Senator may proceed.

Senator **HARRIMAN:** Thank you Madam President and ladies and gentlemen of the Senate. L.D. 2221 is an issue that has been in front of the Utilities and Energy Committee for as long as I've had the pleasure of serving here, which is now four years. From time to time, as I'm sure you can appreciate, most all waste water treatment facilities, water districts, and other subdivisions of Government have come before the Legislature for a private and special law enabling them to carry on their duties encumbered upon them, which in this case is to run the Ogunquit Sewer District. Each of these are created under their own laws. They have authority to issue bonds, to determine the election for the Trustees, and I could go on and on, and on. But essentially it describes the Charter of all the Districts that are in operation around the state. It seems as though this particular District has had a long standing dispute, shall I say. This session the municipality of Ogunquit came before the Legislature and, under emergency action, asked the Legislature to dissolve the Sewer District, to abolish it and to let the municipality take it over. Well, as the public hearing unfolded and the work session process began it became abundantly clear, I presume, to the sponsors of this Legislation that the Utilities and Energy Committee was not in the frame of mind to abolish the District. So instead, an Amendment was proposed, which is Committee Amendment "A", which strikes out all of the language of the original bill and simply inserts, in its place, the ability for the inhabitants of the town who use the District to amend their Charter. Quite frankly, the Charter, which has been in place since 1963, does indeed need to be amended. One of the original proposals in the work session was to put together a Charter Review Commission and come back to the next session and make the appropriate recommendations for changes. That wasn't suitable to the advocates of the original bill so the Amendment before you enables them to petition the District, to call special elections, to recall Trustees, and so on and so forth. Which, in and of itself I guess, is acceptable, at least it is from my perspective and, of course, I do expect them to be back in the next session of the Legislature to finish up the job of making Amendments to their Charter, to bring it up to date, so to speak.

There is one which is specifically addressed in the Amendment I have before you. It simply asks that the conclusion of the sentence be deleted that says, "but the Trustee shall consider the results of the vote to be the will of the voters of the District." The reason I'm asking for your support to extinguish this language is that, earlier in the paragraph, it says, "On a written petition of at least 50 qualified voters of the Ogunquit Sewer District, the Trustee shall call a special meeting, etc., etc. At any special meeting the qualified voters of the District are entitled to vote. The results of the vote are non-binding on the Trustees." And that's where I believe the sentence should end. Because if you defeat the pending motion to eliminate the language, you put the Trustees in the position when, on one hand a special meeting has been called, a question has been put to them whether it is to reduce rates or break existing contracts, or what have you. At a special meeting, the will of the District says, we want you to break this contract. The Trustees, assuming responsibility for their duties, decide not to break a contract then they've gone against the will of the people, opening them up for

continued litigation. It's almost a Catch 22 for the Trustees. Take on the duties of your responsibility and do them in a prudent manner and respect your public responsibilities. But on the other hand, if you go against the will of the voters, you've created nonfeasance.

So, Madam President, I know this has been stimulating conversation for everyone. But I do hope you'll take a moment to consider the Amendment before you, to eliminate the language in the last of that paragraph. Thank you Madam President.

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

Senator **LAWRENCE:** Thank you Madam President and men and women of the Senate. I rise to oppose the Amendment being proposed, here. It's kind of a different feeling as I rise today to oppose the Amendment because I'm glad we're finally going to be voting on this issue. But it's an issue that has a long history, as the good Senator from Cumberland has described. I don't know if any of you have ever seen the movie "Ground Hog Day," but in the movie, Bill Murray plays this character who's stuck on Ground Hog Day. He gets up and he gets to a certain point in the day. He goes to bed and he wakes up the next day, and it's Ground Hog Day again. He gets up and goes to the end of the day, and goes to sleep, wakes up and it's Ground Hog Day the next day, again. This is what is happening to the people of Ogunquit, and has been happening to them over the last three years. It's Ground Hog Day in the Maine Legislature every day for them. They have to keep coming back and keep coming back. The town of Ogunquit has had a problem with its Sewer District. The people want to take control of that Sewer District. They have been trying for three years and I've never seen a Board of Trustees of a Sewer District with more lives than this Board of Trustees. They have been able to fight off challenge by challenge, by the voters, to get control over that Sewer District. This is the latest attempt.

I will say, every single person who represents Ogunquit in this Legislature, Republican and Democrat, supports this bill and opposes this Amendment. We were down in the Utilities and Energy Committee trying to work out a unanimous Committee report. We got an agreement with the Trustees, got an agreement with the people from the town of Ogunquit, and it was reported out. Now we hear the Trustees no longer support this. They want to strike out this Amendment. It's a silly little sentence to want to strike out. All the sentence says, and it was agreed to in the Committee, is that, a vote by the Town shall not be binding on the Board of Trustees, but they shall consider it to reflect the will of the people of the Sewer District. Meaning, they can't simply say, oh, that's not what the people really meant. We think the people meant something different. This is to say that people have a right to express their opinion. The Trustees can ignore it, but they can't go around and say it's not the will of the people of the Sewer District. That's all it says. Simple. To me, it's surprising that the Trustees want to strike this out, and alarming that they want to strike it out. And it says to me that they're not ready yet to give up this fight and turn over the Sewer District to the people of the town of Ogunquit, which is what it is meant to be. I urge you to make this their last Ground Hog Day in the Legislature and let's defeat this Amendment. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is Adoption of Senate Amendment "B" (S-593) to Committee Amendment "A" (H-947).

The Chair ordered a Division. 14 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **HARRIMAN** of Cumberland to **ADOPT** Senate Amendment "B" (S-593) to Committee Amendment "A" (H-947), **FAILED**.

Committee Amendment "A" (H-947) **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Off Record Remarks

On motion by Senator **RAND** 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:

SECOND READERS

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

House As Amended

Bill "An Act to Dissolve the Ogunquit Sewer District and Establish a Sewerage Department" (EMERGENCY)
H.P. 1592 L.D. 2221
(C "A" H-947)

READ A SECOND TIME.

Senator **HARRIMAN** of Cumberland requested a Division.

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

THE PRESIDENT: Thank you Mr. President. I request a Roll Call.

THE PRESIDENT: The Senator from Kennebec, Senator Carey, requested a Roll Call. In order for the Chair to order a Roll Call, it must have the expressed desire of one-fifth of the members present. All those in favor of a Roll Call please rise in your place and remain standing until counted. Obviously more than one-fifth of the members present are in favor of a Roll Call. A Roll Call is in order.

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

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended, in concurrence.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

ABSENT: Senators: **CLEVELAND, JENKINS, KILKELLY, MICHAUD**

16 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 4 Senators being absent, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

ORDERS OF THE DAY

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

Bill "An Act to Protect the Privacy of Genetic Information"
S.P. 384 L.D. 1243
(C "A" S-584)

Tabled - March 24, 1998, by Senator **LAFOUNTAIN** of York.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, March 24, 1998, **READ A SECOND TIME.**)

On motion by Senator **LAFOUNTAIN** of York, the Senate **RECONSIDERED** whereby Committee Amendment "A" (S-584) was **ADOPTED**.

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

Senator **LAFOUNTAIN:** Thank you Mr. President. I present Senate Amendment "A" under the filing number of S-594 to Committee Amendment "A" S-584, move its Adoption, and further wish to speak to my motion.

THE PRESIDENT: The Senator from York, Senator LaFountain, offers Senate Amendment "A" with a filing number of S-594 to Committee Amendment "A" S-584 and moves its Adoption.

On further motion by same Senator, Senate Amendment "A" (S-594) to Committee Amendment "A" (S-584) **READ**.

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

Senator **LAFOUNTAIN:** Thank you Mr. President and men and women of the Senate. This Amendment is technical in nature. The Banking and Insurance Committee was working on the Genetics Bill while the Health and Human Services Committee was dealing with a bill on Privacy of Records. What we attempted to do was merge some of our definitions so that they would be consistent and this is to correct an error in one of our definitions.

Committee Amendment "A" (S-584) as Amended by Senate Amendment "A" (S-594) thereto, **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/20/98) Assigned matter:

Bill "An Act to Implement a Reorganization of the Maine Sardine Council by the Maine Sardine Industry" (EMERGENCY) S.P. 726 L.D. 1968

Tabled - March 20, 1998, by Senator **PINGREE** of Knox.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-557)**

(In Senate, March 20, 1998, Committee Amendment "A" (S-557) **READ**.)

Committee Amendment "A" (S-557) **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME**.

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

Senator **GOLDTHWAIT:** Thank you Mr. President. I present Senate Amendment "A" under the filing number of S-595, move its Adoption, and wish to speak to my motion.

THE PRESIDENT: The Senator from Hancock, Senator Goldthwait, offers Senate Amendment "A" with a filing number of S-595 and moves its Adoption.

On motion by Senator **GOLDTHWAIT** of Hancock, Senate Amendment "A" (S-595) **READ**.

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

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. The bill, itself, is a bill that simply catches up with activity of the Sardine Council, in terms of their

recent downsizing. This Floor Amendment is one that we actually worked on as a Committee but, rather than delay releasing the bill from our Committee, we decided to present this as a Floor Amendment to which, to my knowledge, the entire Committee agrees. It resolves a rather complicated issue in the Retirement System, which is not something that the Marine Resources Committee usually deals with, regarding one of the employees of the Sardine Council who, because of inadvertent circumstances, owes on the Retirement System side and the Sardine Council side retired and was then found, despite having paid into the system, not to be covered for the purposes of his retirement. This Amendment is one to which the Retirement System and the Sardine Council both agree, and the Marine Resources Committee supports. I would urge you to join me in supporting this Amendment. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-595) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-557) AND SENATE AMENDMENT "A" (S-595).

Sent down for concurrence.

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

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

HOUSE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "An Act to Limit New Lobster and Crab Fishing Licenses" H.P. 1597 L.D. 2226

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1004)** (10 members)

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

Tabled - March 24, 1998, by Senator **GOLDTHWAIT** of Hancock.

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

(In House, March 23, 1998, 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-1004) AND HOUSE AMENDMENT "A" (H-1025)**.)

(In Senate, March 24, 1998, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-1004) **READ** and **ADOPTED**, in concurrence.

House Amendment "A" (H-1025) **READ**.

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

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. I strongly support the bill that we have just passed but do wish to speak in opposition to the House Amendment before you now. This is a bill that was submitted at the request of the Lobster Advisory Council. Three years ago there was a bill enacted which provided for trap limits for the Lobster Fishery for the first time in the history of that fishery. I don't mind saying that it was a rather controversial issue. However, with the inception of those trap limits in the establishment of a Zone Council System on the coast of Maine, some interesting things have been happening with fisheries management in Lobster Fishery. Largely that the fishermen have been taking control and responsibility for that management effort to a large degree. They told us then and they continue to tell us now that if we were going to ask fishermen to be taking traps out of the water, they would appreciate it if we would stop issuing licenses to new people. So in other words, if one fisherman is being asked to reduce his effort, it doesn't make sense if we are then issuing new licenses to ten people to fish alongside that person. We did ask the Lobster Advisory Council to consider a proposal for limited entry to that fishery, not to close it, but simply to regulate the entry. They got in touch with our Committee in a letter dated January 21, 1998. They suggested, and I'm quoting from that letter, "That the most appropriate action to take this Legislative Session would be to freeze the current lobster licenses and extend the time period, for the purposes of making a proposal to the 1st session of the 119th Legislature. The Lobster Advisory Council unanimously voted to respectfully request the time frame for the freeze to be effective until December 31, 1999, and applicable to all license holders." And that is what the bill did.

The Amendment however does something extremely different. What the Amendment does is it provides three very large loopholes in this moratorium process. So, despite hearing from about 150 fishermen at the hearing a few weeks ago, virtually all of whom testified strongly in support of this moratorium, what you have before you now is an Amendment that not only does not support that request for a moratorium but, in fact, provides for a significant amount of new entry. Because you were serving in the Military during the year that you must have had a license, which was 1997, in order to get your next years license, or for, quote, "any valid personal reason," with absolutely no more definition than that. It also does something quite curious and that is it turns over the process of issuing licenses to the Lobster Advisory Council. This is a Board that serves a very important function in the Marine Resource world but it is not an elected Board. It is not subject to confirmation by anyone for service on that Board. If we were to pass this Amendment, to which I object, we would be giving them the authority to issue State lobster licenses. It makes absolutely no sense at all to me.

I want to quote just a few bits of testimony from the hearing, which indicates the degree of support for closing this Fishery on a temporary basis until we can sort out a way to limit entry on a more permanent basis. The first is a letter from the Zone D

Management Council. It says that, "The moratorium will give the Lobster Advisory Council some much needed breathing room in their attempts to devise a comprehensive limited entry proposal for the Maine Lobster Industry. More importantly, it will show those fishermen most affected by recently approved trap limits that the State appreciates their sacrifices while reducing effort, and is willing to contribute to the long range viability of the resource by supporting further limited entry measures. Zone D Management Council supports the moratorium. Enactment of this moratorium will exemplify the good intentions of this Committee and the State Legislature to design a comprehensive limited entry plan for the Maine Lobster Industry while insuring the protection of efforts presently being undertaken by the fishermen." Zone F, "We believe that our local Fishery is in deep trouble. We believe that we have too many fishermen fishing too many traps, catching too few lobsters. We signed onto the Lobster Zone Council process because it promised us self-governance. We need the ability to manage ourselves now. The first official act of the elected F Council was to send a questionnaire to all Zone F lobstermen, polling support for a five year moratorium. We had an unprecedented 90% return out of which over 90% replied, yes."

I am quite confident that the large majority of fishermen on the coast of Maine support the moratorium and would be quite distressed to find out that this Amendment reverses the impact and also makes this rather strange shift of licensing authority from the DMR to the Lobster Advisory Council. For those people who are concerned that sometimes fishermen are not aware of new regulations, I can tell you that between 9:15 last night, when this Amendment passed, and noon today, I have certainly become aware that there are many, many fishermen who are watching closely what we are doing in Augusta. And they are very upset to hear that, rather than limiting entry, we're expanding the basis for entry. So I would urge you, with me, to vote against this Amendment and move that it be Indefinitely Postponed. Thank you.

THE PRESIDENT: The pending question before the Senate is Indefinite Postponement of House Amendment "A" (H-1025).

On motion by Senator **GOLDTHWAIT** of Hancock, House Amendment "A" (H-1025) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

TOMORROW ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the following Tabled and Later (3/23/98) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Create the Crime of Insurance Fraud and Require Reporting of Convictions to Licensing Authorities" H.P. 1553 L.D. 2182

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-923)** (9 members)

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

Tabled - March 23, 1998, by Senator **LAFOUNTAIN** of York.

Pending - motion by Senator **MURRAY** of Penobscot to **ADHERE**

(In House, March 18, 1998, 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-923).**)

(In Senate, March 19, 1998, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.)

(In House, March 20, 1998, that Body **ADHERED**.)

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

Senator **LAFOUNTAIN:** Thank you Mr. President and men and women of the Senate. I rise this afternoon and encourage you to vote against the pending motion. As I indicated to you a few days ago when we debated this bill, this bill came to you as a result of a Commission that was formed, as a result of Legislation that we passed last year. What was created at that time was a Commission to study Insurance Fraud. The Commission was made up of twelve individuals who came from this Body, the other Body, the Insurance Industry, Healthcare Providers, Hospitals, the Private Bar Association, the State Fire Marshall's Office, and the Department of Human Services. What this bill does is it creates a new crime of Insurance Deception within the Criminal Code. It also creates a new crime of Deceptive Insurance Practices within the Criminal Code.

As I indicated to you, Insurance Fraud is a serious crime and is a crime that is quite costly to the consumers of America. In fact, it's estimated that the Insurance Industry spent well over \$650 million in 1996, to combat Insurance Fraud. It's the belief of the Commission that what we are giving to Law Enforcement and Prosecutors is an additional tool to fight Insurance Fraud. And we do not believe that what we are creating is something that will be cumbersome or burdensome to them in the enforcement of laws.

Passage of this L.D. will align Maine with 42 other states that currently have statutes on their books dealing with Insurance Fraud. We had testimony at both the Commission level and at the Public Hearing, in the Criminal Justice Committee, that states that have enacted Legislation in the area of Insurance Fraud have seen, within three years, an increase in the number of prosecutions and a decrease in the amount of fraud, in each state. And again, I ask you to vote against the pending motion. Thank you.

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

Senator **CAREY:** Thank you Mr. President. Parliamentary inquiry, if I may?

THE PRESIDENT: The Senator may pose his parliamentary inquiry.

Senator **CAREY:** Thank you Mr. President. Would you state, for us, the level at which we have motions that can be made in Non-Concurrence?

THE PRESIDENT: The Chair would answer that the highest level is the motion to Recede. The second motion is the motion to Recede and Concur. The third motion is the motion to Insist. The lowest precedence is the motion to Adhere. The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY:** Thank you Mr. President and men and women of the Senate. Very briefly, we had a thorough debate on this matter a couple of days ago. Since that time nothing has been proposed to change the bill that's in front of you. I understand there has been perhaps an increased degree of interest in some sectors but nothing has changed with regard to the issues that were discussed the other day. Let me reiterate for you what those issues are, briefly.

This proposed bill to create a new crime, creates a new crime which would criminalize conduct that is already completely illegal, under the Criminal Code. That has not changed. We have been told that the District Attorneys, those that are charged with, in fact, enforcing and bringing these actions, do not want and, in fact, oppose this proposed Legislation in front of you. It's not a tool they have asked for. It's not a tool they need. And what we have on our books is designed to and, in fact, does provide all the tools that are necessary to go after Insurance Fraud, Insurance Theft, or any other type of theft or fraud that currently exists. I would urge you to avoid going down this path of creating particular niche laws in the Criminal Code that affect a particular industry, when that is not necessary. What we were presented with was fairly clear testimony and input from the District Attorneys that they have their tools. I would urge you to abide by the vote that this Body took earlier, a couple of days ago, on this matter so that the Insurance Industry can continue to work with the District Attorneys. If, in fact, there were problems that were not demonstrated to us this year, that proceed in future years, we can address it at that time. I would urge you to support the pending motion to Adhere so that we can abide by the vote taken in this Body, earlier. Thank you.

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

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. I just need to point out that the language in this bill, I've reviewed it in a little more detail since yesterday, and find that the language is practically identical to the general language that is already in our Statutes and it applies to all businesses, not just the insurance business specifically. It seems even more clear to me this afternoon that the need to repeat all of the same language that we already have in Statute over again, but substitute in the adjective insurance before the word fraud, or before deceptive practices, just seems so redundant, so unbelievably unnecessary. Will we next be having groups come in and say, wow, the insurance industry managed to get a bill through called Deceptive Insurance Practices that follows right after a general law that says, Deceptive Business Practices? We have a general rule, a general Statute against Deceptive Business Practices that includes all businesses. Will we now have to have a separate bill for Deceptive Banking Practices, another one for Deceptive Investment Practices? Will we need another one for Deceptive Real Estate Practices? Will we need another one for Deceptive Medical Practices? How about one for Deceptive Lawyering? There's one for you. You could go on and on, and on. We could fill the books. We could make many more volumes of these red books and put West

Publishing Company's stock off the charts, simply by passing one bill after another that reads exactly like another bill, but we changed the adjectives. That's all that we are accomplishing. I urge you to vote for the pending motion to Adhere. Thank you.

The Chair ordered a Division.

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

Senator **MURRAY:** Thank you Mr. President. I request a Roll Call.

THE PRESIDENT: The Senator from Penobscot, Senator Murray, requested a Roll Call. In order for the Chair to order a Roll Call, it must have the expressed desire of one-fifth of the members present. All those in favor of a Roll Call please rise in your place and remain standing until counted. Obviously more than one-fifth of the members present are in favor of a Roll Call. A Roll Call is in order.

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

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Penobscot, Senator Murray, that the Senate Adhere.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: BUTLAND, GOLDTHWAIT, LONGLEY, MILLS, MITCHELL, MURRAY, PINGREE, RAND, RUHLIN

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CAREY, CASSIDY, CATHCART, DAGGETT, FERGUSON, HALL, HARRIMAN, JENKINS, KIEFFER, LAFOUNTAIN, LIBBY, MACKINNON, NUTTING, O'GARA, PARADIS, PENDLETON, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senators: CLEVELAND, KILKELLY, MICHAUD

9 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **MURRAY** of Penobscot to **ADHERE, FAILED.**

On motion by Senator **LAFOUNTAIN** of York, the Senate **RECEDED** and **CONCURRED.**

The President requested the Sergeant-at-Arms escort the Senator from Knox, Senator **PINGREE** to the rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the floor of the Senate.

The Senate called to order by the President Pro Tem.

Senate at Ease

Senate called to order by the President Pro Tem.

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

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Establish Ethical Standards for the Office of Governor" S.P. 786 L.D. 2113

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-586)** (1 member)

Tabled - March 24, 1998, by Senator **DAGGETT** of Kennebec.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-586)** Report

(In Senate, March 24, 1998, Reports **READ.**)

At the request of Senator **AMERO** of Cumberland a Division was had. 15 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **DAGGETT** of Kennebec to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-586)** Report, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-586) **READ** and **ADOPTED.**

LATER TODAY ASSIGNED FOR SECOND READING.

The President Pro Tem requested the Sergeant-at-Arms escort the Senator from York, Senator **LAWRENCE** to the rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Knox, Senator **PINGREE** to her seat on the floor.

Senate called to order by the President.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (3/23/98) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Encourage Regionalization of Municipal Services" H.P. 297 L.D. 361

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-782)** (8 members)

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

Tabled - March 23, 1998, by Senator **NUTTING** of Androscoggin.

Pending - motion by same Senator to **RECEDE** and **CONCUR**

(In House, February 18, 1998, 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-782).**)

(In Senate, March 19, 1998, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE.**)

(In House, March 20, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782) AS AMENDED BY HOUSE AMENDMENT "A" (H-989)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **NUTTING** of Androscoggin, the Senate **RECEDED** and **CONCURRED.**

On motion by Senator **LIBBY** of York, the Senate **RECONSIDERED** whereby it **RECEDED** and **CONCURRED.**

The same Senator requested a Division.

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

Senator **NUTTING:** Thank you Mr. President and men and women of the Senate. We've debated this bill a couple of times before. The Sponsors of this bill, which was to have a Grant Program run by the State Planning office, have compromised further and put on House Amendment "A" (H-989). My motion was to Recede and Concur to that. It makes this just a one year pilot project, not an ongoing, they're trying to do this. Once again, this is the only game in town this year, as far as funds to try to stimulate municipalities to work together, to save the cost of running State Government, be it either a library or an Animal Control Officer, things they're not already doing. So it's just a one year pilot project program. I hope you'll support the motion to Recede and Concur. Thank you.

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

Senator **LIBBY:** Thank you Mr. President and men and women of the Senate. We've had several prior discussions on this particular bill. As I said earlier, it was yet another \$100,000 bill that we were going to send down to the Appropriations Table, and in return really get nothing. Because towns can currently do this already. It's my hope that you will oppose the pending

motion so that we may insist and give this bill its just burial. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Androscoggin, Senator Nutting, that the Senate Recede and Concur.

The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President. I request the yeas and nays.

THE PRESIDENT: The Senator from Knox, Senator Pingree, requested a Roll Call. In order for the Chair to order a Roll Call, it must have the expressed desire of one-fifth of the members present. All those in favor of a Roll Call please rise in your place and remain standing until counted. Obviously more than one-fifth of the members present are in favor of a Roll Call. A Roll Call is in order.

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

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Androscoggin, Senator Nutting, that the Senate Recede and Concur. The Chair recognizes the Senator from Androscoggin, Senator Jenkins.

Senator **JENKINS:** Thank you Mr. President. I rise to address the distinguished Senators in this Chamber. I can only speak from my reference point as the former Mayor of the great City of Lewiston, and looking at the incredible progress that we've made in the Androscoggin Valley area, where we have officially changed our ordinances so that the two cities, Lewiston and Auburn, work together and in harmony, so that we can have shared costs. We've combined our emergency services and we've done a number of things from emergency services to public works, you name it, and we've passed on a tremendous amount of savings back to our tax payers, the ones who pay the bills. So, I think it behooves us, as elected officials, to look at ways that we can encourage other communities to do the same. We are larger municipalities, of course. This bill does nothing for our community but I see the benefits that we have already undertaken as Cities working jointly together, hand in hand. In the past the Androscoggin River seemed like the Androscoggin Ocean with the two Cities miles and miles apart, it seemed. But we've gotten over those hurdles and, today, we share a great deal of prosperity and progress in the Androscoggin Valley area because of that joint initiative where we've changed our ordinances, where any capital expenditure above a certain amount goes before a Review Committee to look at, can we do this jointly rather than separately. These are things that I would also encourage other communities, regardless of their size, to do. This is one way that we can turn around Maine's economy on a local level. Thank you.

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

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. It's interesting to listen to the debate, although this has gone on for three days, I guess. I just couldn't

help but stand up and say something about this proposal we have before us. I live in a border town. The City of Calais borders St. Stephen, New Brunswick. We actually celebrate, each year, our International Festival and it's really based on the relationship we have between the two communities. One of the things that we do is buy our water and share our water from St. Stephen, New Brunswick. We have mutual agreements with our Fire Department where we cross the border, an International Border. We also have similar agreements with Fire Protection and Woodland and Robinston, Charlotte and Red Beach. We've been doing this for 100 years and there's never been a State law that had to be in place for us to do this. I think this is just another layer of bureaucracy that we're going to create. We're going to create \$100,000 spending. I think municipalities have an option, a right to do this without creating another law. I would ask you to vote against the pending motion. Thank you.

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

Senator LIBBY: Thank you Mr. President and men and women of the Senate. Purely on the idea that it's a new program, new spending, this year, and I know that we really haven't made a whole lot of decisions on that yet. I'm kind of hoping, in the long run in the budget, that we don't. I don't disagree that there are some good things that can be done between towns, don't get me wrong, there are. But I do think that this \$100,000 program needs to be looked at. We need to see if there are other ways to create incentives to have these towns work together. I know that there are. In fact, I think it's been proven that there are, just those relationships between Lewiston and Auburn, many of them developed on their own through great leadership. Because of that and because of the budget implications, I would move to Indefinitely Postpone this bill and all its accompanying papers.

THE PRESIDENT: The Chair would answer that a motion to Indefinitely Postpone, at this time, is not in order because we are in Non-Concurrence. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator HARRIMAN: Thank you very much Mr. President. Good evening ladies and gentlemen of the Senate. I would just like to rise and join my good friend from Androscoggin, Senator Jenkins, and my good friend from Washington, Senator Cassidy, in sharing with you some of the good news that has gone on in my communities, locally. In fact, for many years now we've had a Local Mutual Aid Agreement that I happened to be part of in its construction when I was a Lieutenant in the Yarmouth Volunteer Fire Department. That agreement covers emergency, fire and rescue operations in five towns surrounding my community. We also, in the town of Yarmouth several years ago, upgraded our dispatch facilities for communications. We welcomed and encouraged the communities of North Yarmouth and Cumberland to join in with us. We now jointly share the cost of the staffing and dispatching of E-911 calls, as well as regular police and fire and rescue calls. In the last year the communities of Freeport and Yarmouth have sat down together and talked about the issues of what our youth are doing with their spare time, and how important it would be for our community to find a way to help them find ways to collaborate and communicate with one another. And the same, as a result of that discussion, was extended to the elderly amongst us, and the free time that they now have available. I'm happy to say, out of that community

basis discussion, is the beginnings of a brand new YMCA that is now under construction.

Lastly, Mr. President, I would mention that in the area of education, many of these same communities, the Superintendents and School Board Members have sat down and have created what is now know as the Casco Bay Education Alliance, where they begin to talk about some of the educational cooperatives and economies that we can accomplish locally. These are all good, positive things that are happening. And I'm delighted to hear they're happening in Androscoggin County and Washington, and I'm sure they are in your communities as well. What's most fascinating to me is that these ideas have taken shape. They've come to life. Positive, measurable things have happened and we didn't need an act of the Maine Legislature to do that. Thank you Mr. President.

Senator LIBBY of York moved the Senate **RECEDE** from whereby the Minority **OUGHT NOT TO PASS** Report was **ACCEPTED**.

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

Senator NUTTING: Thank you Mr. President and men and women of the Senate. I hope you'll oppose the motion to Recede. I've heard the fine comments of the very few of our 500 and something communities that are beginning to work together. My point to this Body would be, why can't we stimulate, through a competitive Grant Program, even more of that type of activity happening in the future. So I hope you oppose the motion to Recede. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from York, Senator Libby, that the Senate Recede.

The Chair ordered a Division. 17 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **LIBBY** of York to **RECEDE, PREVAILED**.

On further motion by same Senator, the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Sent down for concurrence.

JOINT ORDER - relative to recognizing the members of the University of Maine Women's Basketball Team.

HLS 1291

JOINT ORDER - relative to recognizing Cindy Blodgett, of Clinton and a member of the University of Maine Women's Basketball Team.

HLS 1292

JOINT ORDER - relative to recognizing Sandi Carver, of Beals, a senior at the University of Maine. HLS 1296

Come from the House **READ** and **PASSED**.

READ.

THE PRESIDENT: The Chair would invite Head Coach, Joanne Palombo McCaulley to the rostrum to say a few words. The Sergeant-at-Arms will escort the head coach to the rostrum.

COACH MCCAULLEY: I just want to take this opportunity to thank you so very much for this recognition. We are extremely proud to represent the University of Maine. And I am most fortunate to coach a great group of women that we have brought along with us today, who I think are outstanding role models. They have had great success on the court but I think it's very important to remember they have also had tremendous success off the court, academically. I'm very proud of them. I probably do have one of the best jobs. I know you all have a great job, too, and a lot of work to do, of course. But I'm very proud to be associated with the University of Maine and with this team. We do have a gift that the Captains would like to give. So again, we thank you very much. We know you're terribly busy with lots of things finishing up, and we just really appreciate your support. Thank you very much.

TEAM CAPTAIN: We were just telling the House of Representatives that it's truly been an honor and a privilege for us to represent the University of Maine and to play for them, and to represent our State. We thank you all very much for having us down here. It is an honor to be here in your presence and we appreciate that very much. We brought a token of our appreciation, our favorite T-shirt. Thank you so much for having us.

THE PRESIDENT: We are also honored to be in your presence and I'm going to ask the Sergeant-at-Arms to escort all the Members of the Team, as I introduce them, to the front of the Chamber where we may properly express our appreciation for what you've done.

Head Coach, Joanne Palombo McCaulley, Cindy Blodgett, Co-Captain, Sandi Carver, Co-Captain, Kelly Beauman, Andrea Clark, Katie Clark, Kizzy Lopez, Chantel McCreme, Amy Vajejan, and Jamie Cassidy. (Amid applause, the Members rising.)

Off Record Remarks

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

Senator **HARRIMAN:** Thank you Mr. President. I rise to request unanimous consent to address the Senate on the record.

THE PRESIDENT: The Senator may proceed.

Senator **HARRIMAN:** Thank you Mr. President. On this special occasion where we have paused in the moment of our deliberations to recognize the University of Maine Women's Basketball Team, I would like to add just a few comments of my own. First, a little known fact is that, Coach Palombo McCaulley hails from Brunswick and I have the honor and the pleasure of representing Senate District 23, which includes Brunswick. So on behalf of all of us in the community of Brunswick, I wanted to express how proud we are not only of what your team has accomplished but what you have done, personally, for Women's Basketball in Maine. I also want to say, Mr. President, especially to Cindy Blodgett and Sandi Carver that while you are perhaps

moving onward in your career, you have left a legacy that no one will ever forget. The moments of joy and exhilaration that you have given the citizens of the state of Maine as you've excelled at a sport that you clearly, so dearly love has not only amazed and delighted those of us adults who have marveled at your outstanding athletic achievements, but more importantly the entire Women's Basketball program has inspired thousands of children across the state. Most especially a Madelyn Harriman, age 10, who lives in Yarmouth, who has taken up the game of basketball with passion and enthusiasm because of the fine example the women of the University of Maine Basketball program has shared with all of the state of Maine. So, as a basketball fan, as the proud Senator from Senate District 23 of Brunswick, and as a father, I want to thank you for all that you've done, not only for women's sports but what you've done to inspire thousands of young women who are following behind you, and for that we are all grateful. Thank you Mr. President.

Off Record Remarks

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

Senator **NUTTING:** Thank you Mr. President. As a long time fan, I just wanted to express my gratitude to the pleasure that the whole Team has given the state of Maine. I've gone up to Orono for quite a few games. I just wanted to confess to the Team that this year, after the Western Kentucky game, I couldn't speak for three days. Thank you.

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

Senator **JENKINS:** Thank you Mr. President. Thank you distinguished colleagues. This is truly a great honor to recognize such an outstanding talent that we have, here, in the state of Maine. But I must say, not to be outdone, it's my understanding that the Senate also has an outstanding basketball team of which our own Senator Libby has been both player and Coach. Our outstanding season has been 2 and 1 thus far. I must say that the Coach did inquire as to a possible pick-up game. I'm not one to lay down a challenge but I wanted to acknowledge the outstanding talents that we do have in our Maine citizens. Thank you.

THE PRESIDENT: Anyone who questions the voracity of the good Senator's statements need only look at the left hand of the Senator from Kennebec, Senator Daggett. Would she please hold it up.

The Chair recognizes the Senator from Waldo, Senator Longley, who requests unanimous consent to address the Senate on the record. The Senator may proceed.

Senator **LONGLEY:** Thank you Mr. President, colleagues in the Senate and special guests. I should say, in response to what Senator Jenkins had to say, that with each game, by the third game there were far fewer air balls but we'll never be as hot as

this Team. I think we respectfully decline. Point one, point two, I'd just like to say that we've seen you run on the court and regardless of what party you are out there, we consider you shoo ins for office, if you ever decide to run and land yourselves a seat right here. We encourage participation and would love to have you as our colleagues here, too.

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

Senator **DAGGETT:** Thank you very much Mr. President and Members of the Senate. I would like to add my congratulations to the Team for the very exciting season. It's somewhat ironic that yesterday, in the mail, I got home and had a little clipping from a mother that I thought was somewhat apropos and I'm going to try and read it. Just a little bit of it to begin with. This is from a magazine that appeared in 1887, and it was an article entitled, "Girls," and I'm just going to read a couple paragraphs. It says here, "Girls are to dwell in quiet homes amongst a few friends, to exercise a noiseless influence, to be submissive and retiring. A girl is to be guarded from over-fatigue, subject to restrictions, seldom trusted away from home, simply because if she is not thus guarded, she will probably develop some disease. Any strain upon a girl's intellect is to be dreaded. And any attempt to bring women into competition with men can scarcely escape failure." Well, I will admit to you that when I was in competition with men in the Legislative Basketball Team that I did not escape failure. But it's possible that perhaps I might have an opportunity to gain some rebounding techniques from this team so that when we play next year I won't be so wounded. There have been remarks about the example, for particularly, girls growing up in Maine, to see the successes of these athletes. But I would suggest to you that the successes are far greater than just athletics. To see women as role models is extremely important, and the sportsmanship, and the wonderful attitude of this Team is just something that our state has to be proud of and I thank you all for that.

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

Senator **CATHCART:** Thank you Mr. President. I just want to add my proud congratulations to the Team for the University of Maine. What an exemplary bunch of young women and an exemplary Coach, as well for us all to admire and respect, and praise. It's just so exciting and I feel the same way every time I've watched them play, either in person or on TV. I come away and I have bitten my fingernails. I cannot watch this team play without getting so nervous and so excited for them that I just unconsciously commit that act. I'm even starting to do it today. It's just wonderful to be in their presence and it's a proud University, a great University. Thank you so much, Team, for coming to visit the Senate.

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

Senator **BENOIT:** Thank you Mr. President and may it please the Senate. I sat here, as the festivities have been in progress, thinking about my wife, Judy, and the basketball player that she

was in High School, in Limington Academy down in York County. In the days when women could only play half court, she was a Forward and we know what half court means, that you stayed in your half and the guards stayed in their half. I always thought that was kind of a form of discrimination, frankly. The boys had full court and the girls could play half court. I think I'm right, in my thinking of that being some form of discrimination because, look at the success today of Women's Basketball, full court. We have evidence today, here in the Chamber, of that success. And so I'm so pleased to see that advancements have been made since Judy played. I guess I could sit down and rest my case, which I will do. Full court is there. You've done it. You've proven it. Thank you.

The Joint Order, **PASSED**, in concurrence.

Off Record Remarks

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

Off Record Remarks

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

Off Record Remarks

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

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

HOUSE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "An Act Concerning the Taking of Marine Resources by Members of the Passamaquoddy Tribe" (EMERGENCY) H.P. 1523 L.D. 2145

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-983)** (8 members)

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

Tabled - March 24, 1998, by Senator **GOLDTHWAIT** of Hancock.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**

(In House, March 23, 1998, 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-983).**)

(In Senate, March 24, 1998, Reports **READ**.)

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

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. I feel that I have about spent my fish energy for the evening but I'll try it again, here. This bill represents a tremendous effort on the part of the Passamaquoddy Tribe and the Marine Resources Committee to reach some agreement regarding the taking of marine resources by that Tribe and the regulation of that taking. I think, in many regards, we were able to go a very long way toward a compromise that was comfortable for many people. I do want to say that I fully believe that the effort was entirely a good faith effort on the part of the Passamaquoddy Tribe. They made every effort to be accommodating to the concerns addressed by the Committee and still maintained their traditional relationship with the sea.

So it is not a happy task that I need to speak against this bill. But it is part of the responsibility and the commitment that I feel, and that I have made, to my culture. It is a culture that is a culture by adoption so maybe it's to some extent not entirely a legitimate one. However, it is one that I have chosen to assume and that I feel very strongly. For that reason I will address my three concerns with this bill, but spend the most time on one particular one having to do with the commercial sale of resources taken by the Tribe.

I have concerns about what this might do to the legal status. I confess that, as a non-attorney, with these complex issues, I don't pretend to fully understand the Indian Settlement Act or the implications of some of the bills that have been before this Legislature in regard to that Act. However, it is on advice given to the Committee that I believe there are significant legal questions raised by this bill regarding whether or not it is an opening of the Settlement Act and just what that means. That is one concern.

The second issue regards the enforceability of this, in terms of the different types of licensing, the different uses to which a seafood product can be put, and how one might distinguish between those two if one happened to be a Marine Patrol Warden at sea.

It is the third concern that causes me to oppose this bill and to support the Minority Ought Not to Pass report. That has to do with the commercial sale of lobster and urchins, and the issuing of 24 commercial licenses in each of these Fisheries. These are both restricted access Fisheries now, so that regardless of the role that fishing played in the life of a Maine family, if you did not have a Lobster License in 1997, you cannot get one. Period. We certainly have a list consisting right now of about 100 people who are trying to get a license and are being told, in this Fishery, now, you must go through the Apprentice Program. That is your only means of access to the Fishery. If you do not have a '97 license, you don't get one even if you're an ally from Beal's Island who fished for 16 years and happened to be living in New Hampshire for the qualifying year. You don't get a license. And now we are going to offer 24 new licenses, in this Fishery, to

people who have either not currently been fishing, or if they have, have certainly been fishing in violation of existing Marine Resource laws.

The second Fishery, which is the Sea Urchin Fishery, has likewise had a moratorium on it for five years. We are going to be looking at Legislation, probably before the next sun sets, regarding that Fishery, in which there would be a slight lifting of that moratorium, to say that for every five licenses that go out of that Fishery, one new license may be issued. But that is still a pretty limited access. And again, they would be a commercial fisherman, and would be a commercial fisherman, particularly in the Down East area, who are being told that they cannot get into that Fishery. And yet, they will see 24 new boats going out to fish, commercially, for that species. With all due deference to the Passamaquoddy culture, I do not believe that it included the sale of Sea Urchins to the Japanese. My sense is that the commercial fishermen on the coast of Maine have come a tremendously long way toward working with the regulations that have been coming at them in every direction. Many of the Fisheries that used to be available to fishermen on this coast are now closed. There are all kinds of license restrictions. There are all kinds of use it or lose it restrictions. It will be a difficult thing for those fishing families to stand by knowing that they have no access to these Fisheries and see us issuing 48 commercial licenses to people who will be in competition for the commercial sale of those resources.

It is because of the commitment that I made three years ago, to the commercial fishermen of Maine coast-wide, that I am not able to support a bill that contains in it a provision for handing off 48 commercial licenses in restricted Fisheries. I would hope that you will support the Minority Ought Not to Pass report. Thank you.

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

Senator **MACKINNON:** Thank you Mr. President and women and men of the Senate. I rise today to ask you to please defeat this motion and go on to Accept the Majority report. I realize this is a tough issue for all of us here. It's an issue of which our Committee had to have a sub-Committee to try to craft a piece of Legislation. What we have tried to do on this report is to put in Statute, so it does not go back to violate the Settlement Act, to take into consideration a group of people who have not had licenses in the state of Maine. Therefore they would not be able to qualify for licenses in the state of Maine. It allows these people to go with their life and their culture and allows them to be a proud Nation. I think what we are doing at this particular time is legislating spot legislation of things which really we do not understand, as far as denial. We realize that these people have been able to take things from the sea. Right now there's a tremendous conflict going on where we have people being sited for violations of lobster and sea urchin licenses in the state of Maine because they would like to issue their own. The compromise that came out of this bill, I think you'll look at, is that the Tribe, the Nation itself, will have the right to issue licenses subject to all the Conservation Rules of the State of Maine and the Marine Resources. Now that allows a deal to be made. This same proposal was given a year ago by Commissioner Alden. We are now accepting that but we also put a clause in, which as a lay person, I do not know if it's legal or not. But I certainly would like to make sure that this goes through and has a chance. If it's going to be vetoed then we'll get it back and we'll find out.

This is what we call a blow up clause. If either side tries to go back and ratify this Agreement, it will become null and void, thereby not going back into the Settlement Act. So I would hope that you would please give this consideration, defeat this and go on and support the Majority report. Thank you.

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

Senator **BENOIT:** Thank you Mr. President. May I pose a question through the Chair, please?

THE PRESIDENT: The Senator may pose his question.

Senator **BENOIT:** Thank you Mr. President. There's a sentence in section 3 that states if the Court of competent jurisdiction determines that this bill amounts to an Amendment of the Compact, that it's void. It's possible then for a Member of the Tribe to expend large sums of money for fishing equipment or gear, or whatever, to come within the preview of the bill. I'd like to know if there's any thought been given, or any money provided for damages to a person, who in good faith in the Tribe, acts under the bill and subsequently is determined to be void, whether there's any money to pay that person?

THE PRESIDENT: The Senator from Franklin, Senator Benoit, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you Mr. President and men and women of the Senate. A few weeks ago we dealt with another Marine Resources issue that focused on community, culture, and heritage. We looked at the situation that was presented to us as how a community can survive in this day and age, how a community becomes a community, and how a community can continue. We looked at the heritage of Monhegan and the issues of lobstering around Monhegan and the fact that for 100 years, the people around Monhegan had worked to create a sustainable fishery. They had, as part of their culture, developed different ways of doing things and integrated that into their way of being, and had strengthened their community by that process.

What I believe we're looking at today are those same issues of community, culture, and heritage. Those issues are, in fact, many more than 100 years old. We're looking at a culture and heritage that's thousands of years old. It's a culture and heritage that's built on the sea, from the sea, and around the sea, and strengthens the community and strengthens the people. I feel very strongly that anything that strengthens community and strengthens people, in fact, strengthens Maine, and that's a positive thing for us to be doing. We're talking about a compromise that's been reached in which both sides have given up something and both sides have made some agreements in order to provide opportunities for people to reach back into their heritage and express themselves by using the resources of the sea.

There have been some concerns raised about the fact that these, in some cases, are limited entry Fisheries, and we need to be concerned about the resource. That's a very legitimate concern. I think one of the really positive aspects of this bill is that the fact that we have gone through this process means that the Legislature can, in fact, address this issue in the future. If we see that the resource has been depleted to the point that we

need to move in and make changes, this is coming from this arena and then can be amended or addressed in this arena. I think that's really important and that's a very significant safety provision in terms of the resource. But I think as we again move forward into looking at the issues of rural Maine and the issues of how we maintain our state and its diversity. I think it's important for us to be respectful of our native people and to provide them with this very reasonable opportunity for sustenance and also for opportunities for limited Commercial Fishery. I think that's it's important that we defeat the pending motion and go on to Accept the Majority Ought to Pass report. Thank you.

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

Senator **BENOIT:** Thank you Mr. President. May I pose a question through the Chair, for anyone who might be able to answer?

THE PRESIDENT: The Senator may pose his question.

Senator **BENOIT:** Thank you. Given the language in section 3, aptly referred to as a blow up section, that if a Court of competent jurisdiction should find that this is an Amendment of the Compact, that it would be void. Is it not possible then, at this time that we're in the process of enacting a void law?

THE PRESIDENT: The Senator from Franklin, Senator Benoit, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you Mr. President and men and women of the Senate. In response to the question, it is not terribly uncommon to have provisions in laws that say that if any section of this is found to be void that the rest of the law is maintained, and to think ahead, when there are questions about Constitutionality. I guess I would view this in a similar vein, that this is looking ahead to potential challenges or concerns that may relate to, sort of, another form of Constitution, which is the Maine Indian Land Claim Settlement Act. So I think that provision is somewhat consistent with severability clauses that we have in other provisions of our laws.

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

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. I rise this evening to shed a little light on this particular bill. As you know, I am fortunate enough to have two of the Reservations, where the Tribe of Passamaquoddy live, within my district. I have visited them many times and know many of the folks there. I also know of the heritage that was mentioned by the good Senator from Lincoln, Senator Kilkelly, and the culture of our native people. It's ironic when we think about the hundreds and hundreds of years that they occupied that land, and we say here, for some reason, that because somebody didn't hold a license two years ago that they couldn't qualify to fish, which has been part of their heritage over the years. I think it's been said that obviously folks have been fishing there on the salt water for years and years, and years. What we tried to do here, and I think it was mentioned by the good Senator from York, Senator MacKinnon, the Department wanted to try to

resolve this situation that we've been running into. If you've been reading the papers, there's been a conflict about how to do this. This, to me, sounded like a compromise that we're going to limit to 24 licenses to each of the Fisheries. It would be controlled by the Tribe. They would have the right to deny or to grant the licenses. The concern that we heard earlier this evening was the discussion of if the Fishery declined, if you'd notice, they're subject to Maine laws. If we decide that we need to go to a 300 trap limit then I assume, because they're under the same Maine law, that they would go to 300 traps as well. I still hate to mention this again but I'm going to. You remember just a couple of years ago when we put this 1,200 trap limit on because of decline in the Fishery, anyone that I talked to realizes that we've probably got many, many more traps in the water now because we put the 1,200 trap limit on. We had people with 300 or 400 decide to jump on an increase their volume. I don't think all the decisions we make here, sometimes, prove to be right. I know that we have enough knowledge and experience that we can go back and amend things, and we do. We try to make things as right as possible in all our Fisheries and Industries, and do the best we can for the people of Maine. I think that we owe it to the Tribe to do the best we can for them. The folks that want to have part of the bill to sustain their families and the other part of the bill is to create some income down in our County, which happens to have, in the entire County, over 12% unemployment rate. We have sections in our County that have 14% unemployment rate. I think this is an opportunity to let these folks do something they have done for years and years, and years. I'm really proud to be able to stand up and ask you to defeat this motion so we can go on and accept the bill as presented. Thank you.

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

Senator **BENOIT:** Thank you Mr. President and may it please the Senate. Senator Treat from Kennebec has made a statement that we're all familiar with as to Legislation and how it can be determined later on to be invalid or canceled, or whatever. But that begs the question. Here, there's a sentence in the bill that indicates it's possible that if a Court of competent jurisdiction got this matter and determined that it was an end run play around the Compact, that it was really an Amendment of the Compact, that very decision would render this law void. That's novel type Legislation, to me. I think it's unfortunate that we have this end run of the Compact situation taking place and this kind of tongue and cheek section 3 in there saying that this might be, some time down the road, declared void because it should have been something taken through the Compact. I'm disappointed when I read a handout in support of this L.D. that says, the reason they didn't go to the Compact was because that's a cumbersome process. In other words, it takes time to go to the Compact and bring a matter into it, and have it properly passed through the Compact, as was intended when the Compact was made between the Indian Tribe and Nation and the State. Pretty self-serving, it seems, to say well, the reason this is general law is because the Compact is a cumbersome process. It's a cumbersome process for a very good reason. You do not change the laws relating to the Tribe and the Nation lightly, such as is intended here, by this end run play in the general law. I'm disappointed that there's no written formal Opinion of the Attorney General that I've had an opportunity to read, that indicates that this is a valid way to go about this business. He is our lawyer and I don't know why, in such an important matter as

this, where he was our Attorney throughout the entire process, which resulted in the Compact, why, here, we would cut and run from getting an opinion from his office that would be helpful. I certainly would vote for this type of Legislation if I felt that it was valid. But it doesn't strike me as something, if you're going to make an end run of the Compact to get this into the general, and you don't want to go through the procedure established in the Compact because it's cumbersome. It seems to me that's a very unfortunate way to do business. To me, it's a bad precedent and for that reason, I can't support the bill. Thank you.

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

Senator **CATHCART:** Thank you Mr. President and men and women of the Senate. I rise briefly just to say a few words on behalf of the Passamaquoddy people and ask you to vote against the motion so that we can go on to pass the Majority report on this bill. First, the issue of conservation and allowing these licenses for the Passamaquoddy Tribe. These are people who have been fishing there for thousands of years. We are not creating some new special rights for the Tribe but simply allowing a smaller number of them to continue what they have always been doing.

Secondly, let me just remind us all that the Passamaquoddy people have proven themselves for thousands of years to be far better stewards of the earth and the sea than the rest of us have been. I believe we can trust them to remain so. Thank you Mr. President.

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

Senator **JENKINS:** Thank you Mr. President. I'd like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **JENKINS:** Thank you. Out of curiosity, does anyone have a sense of, in granting these 48 licenses, 24 for sea urchins and 24 for lobstering, for the Passamaquoddy people proportionately to the population of those who fish, how does that match up with the non-Indian population that fish in the same area of those who hold licenses to the non-Indian population that hold licenses to fish? Do you know what the percentage between the two are?

THE PRESIDENT: The Senator from Androscoggin, Senator Jenkins, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President and men and women of the Senate. I will try to address the question of the good Senator, simply to say, as a percentage I cannot tell you however I'm beginning to sense that there is some understanding that there is some breakdown in allotment of licenses. Passamaquoddy Tribal Members are perfectly able to get State Fishing Licenses on the same basis as anyone else in Maine. So the relevance of the percentage of people who fish down there at a population versus this number of licensed, the Passamaquoddy's currently can obtain an unlimited number of licenses within the existing constraints on the Fishery. There is

no existing cap on licenses nor will there be if this bill passes. It starts out a basic 24 and then says that additional fishermen may enter that Fishery by going through the Apprenticeship Program or whatever the existing rules for entry into that Fishery are.

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

Senator **PINGREE:** Thank you Mr. President and men and women of the Senate. Just to give my own answer to the last question. I will admit that most of the facts I know about this issue I have learned in the last day or two. But it's my understanding that previously the Passamaquoddy Tribe granted themselves 117 harvesting licenses, and what changes in this bill is that they will reduce that number to only 48, 24 lobster licenses and 24 urchin licenses. So, given my previous understanding of this, they have already had significant impact on the Fisheries. They have already been participants in the local Fisheries and they will be, in fact, reducing the numbers and no longer granting themselves licenses. I just want to comment further about a notion that came to me as we were talking about it and other Members of the caucus had mentioned, is that, I think, there are some similarities in the decisions that we made regarding the Island of Monhegan earlier in this session. I think that we are examining what a group of individuals has been doing with their own area resources for a very long time and, in fact, codifying that into law. But we're asking this Tribe to make some sacrifices, to make some changes, to no longer fish with practices that they've used previously, to now comply with State laws. And we're saying, if everyone agrees to this, we will make it law and we will respect something that's been going on in that culture for a very long time, just as we did, in a way, on the Island of Monhegan. For that reason I will be opposing this motion and supporting the bill.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Hancock, Senator Goldthwait, to Accept the Minority Ought Not to Pass Committee Report. The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. I would just like to address a few of the points raised in other pieces of testimony. One being that this is a reduction in effort on the part of the Passamaquoddy Tribal Members for the commercial Fisheries. I would submit that the only information we have on that effort is anecdotal and therefore varies quite widely from a high estimate of 117 people fishing to a low estimate based on people that I've spoken to Down East, who say there are not more than 6 boats that have been fishing in those two Fisheries combined. So, because those fishermen, whoever have been fishing, have been fishing without State licenses. We don't know what the effort has been but indications that I have suggests that it is quite a bit lower than the 48 licenses that you see on this bill.

The other thing, I have been trying to avoid talking about sea urchin reproduction but you have forced me to it. So instead of, ladies and gentlemen, maybe I should say, boys and girls, it's getting very close to the good Senator from Oxford's bedtime, so this will make a nice bedtime story. Let me tell you a little bit about Mom and Dad Sea Urchins and how they make Baby Sea Urchins, and why this Fishery is a critical point in its history on the coast of Maine. Urchins have a rather interesting ability to be able to reproduce when they are a yard apart, which may

sometimes be to the envy in the human population. But it is through a matter of releasing the necessary ingredients into the water, and if they are not within about a meter of each other that effort is not successful. I believe that any diver who has been working that Fishery in the last 10 years on the coast of Maine will tell you that the level of depletion of this animal is astonishing. It is not simply a matter of whether there are any animals around, it is a matter of whether they have been thinned to the point that they are no longer within that critical meter of each other and therefore unable to reproduce. A variety of factors, which I will not bore you with tonight, go into how thinly or thickly settled urchin populations are. But as I say, if you speak to almost anyone who is participating in that commercial dive Fishery they will tell you that the bottom looks pretty terrible. We've got lots of video tape, and I'd be glad to share that with you during a break in the action in the next 10 days, regarding the condition of this resource on the bottom. So it is not that I think that the Passamaquoddy are not good stewards of any resource and, in fact, would probably be inclined to agree with the statement made earlier that we may have quite a bit to learn from them. It is a matter of increased effort at all. The reason that we have restricted access, particularly to the Urchin Fishery, I will admit there is some argument about the state of the lobster resource, but particularly to the Urchin Fishery, there is little if any disagreement about the state of that resource. And to allow a sudden influx of what will be significant effort on a threatened resource, that is now our second highest value in the state of Maine, our second greatest cash crop from the ocean, is a step that should not be taken lightly. It should not be taken based on a sense of who might have been historically wronged or not, or anything else. It should be taken based on whether this resource can sustain that level of commercial effort. I believe that it cannot. The Department of Marine Resources believes that it cannot. And that is why we have restricted access to that commercial Fishery. I would also like to point out that on the third page of this Committee Amendment, in the 13th line, it exempts the sea urchin Fishery from season limitations, so that the rest of the fishermen on the coast observe a season, which varies depending on where on the coast you live. The Passamaquoddy fishermen will not be required to observe the limitations of that season. Thank you.

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

Senator **CASSIDY:** Thank you Mr. President. I would like permission to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **CASSIDY:** Thank you Mr. President. I was wondering if anyone could tell me exactly how many urchin licenses we have in the state of Maine including divers?

THE PRESIDENT: The Senator from Washington, Senator Cassidy, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President. I am hoping that someone else on the Committee might be able to back me up. I'm wanting to say something in the neighborhood of 1,000, but I'm feeling very uncertain about that figure.

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

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. I think if that's so, and I assumed that it was when I asked the question but I didn't dare to take a guess, if your math is correct I think we're looking at less than .02% of an increase in the Fisheries. As we also heard earlier this evening that we are going to allow 1 for every 5 licenses that expire, or people who give up the Fishery, will let one in. I don't think that 24 licenses is going to have such an impact on this Fishery that we're going to see a significant difference over the next 50 years.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Hancock, Senator Goldthwait, to Accept the Minority Ought Not to Pass Committee Report.

The Chair ordered a Division.

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

Senator **RAND:** Thank you Mr. President, I request a Roll Call.

THE PRESIDENT: The Senator from Cumberland, Senator Rand, requested a Roll Call. In order for the Chair to order a Roll Call, it must have the expressed desire of one-fifth of the members present. All those in favor of a Roll Call please rise in your place and remain standing until counted. Obviously more than one-fifth of the members present are in favor of a Roll Call. A Roll Call is in order.

On motion by Senator **RAND** 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: ABROMSON, AMERO, BENOIT, GOLDTHWAIT, HARRIMAN, MICHAUD, MILLS, MITCHELL, PENDLETON, SMALL

NAYS: Senators: BENNETT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, HALL, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MURRAY, NUTTING, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

10 Senators having voted in the affirmative and 25 Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-983)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-983) **READ.**

On motion by Senator **RUHLIN** of Penobscot, **TABLED** until Later in Today's Session, pending **ADOPTION OF COMMITTEE AMENDMENT "A" (H-983)**, in concurrence.

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

SENATE REPORTS - from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Prohibit Discrimination against Osteopathic Physicians and Provide Patient Choice" S.P. 772 L.D. 2099

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass** (1 member)

Tabled - March 23, 1998, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 23, 1998, Reports **READ.**)

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

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

HOUSE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Require All Regulated Public Utilities to Report to the Public Utilities Commission the Sale, Lease or Other Transfer of Assets Paid for by Ratepayers" H.P. 1477 L.D. 2076

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-906)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - March 24, 1998, by Senator **CAREY** of Kennebec.

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

(In House, March 23, 1998, 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-906).**)

(In Senate, March 24, 1998, Reports **READ.**)

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

Senator **CLEVELAND:** Thank you Mr. President and men and women of the Senate. I'd like to begin by thanking my colleague, Senator Carey of Kennebec, for the graciousness to move the Majority report even though he was not on that report. I'd like to take just a few moments to give you some information about the bill. It's really a Ratepayers Protection Bill and all it requires is that Utilities provide written report of any transfer of assets that were paid for by ratepayers. This is a very important measure since we passed the Electric Utility Deregulation Bill last year, as you remember, a major piece of Legislation. In that bill we granted the Utilities, rightfully so, the opportunity to recover stranded costs that they may have occurred as a result of divesting of certain assets. Those stranded costs, to some degree, will be paid for by ratepayers over some period of time. It seems then, also, only fair that assets that were paid for by ratepayer funds, that were transferred or sold, ought to be considered for their value to see if some portion of that is attributable back to the ratepayers to help reduce the stranded costs that the ratepayers will owe. This bill simply allows the opportunity, or requires, that those transfers be reported to the Public Utilities Commission. The Public Utilities Commission will then make a determination on whether there is any value there that is attributable to the ratepayers, and in their proceedings, allowing all parties to present their arguments and their case, if there is any value. And if there is, what value that is so that the ratepayers of this state can be fully and fairly compensated for assets in which they paid for to the Utility that it either owned or managed. The bill does nothing more or less than that. It seems to me fair and equitable that if we allow for the collections of stranded costs and payment by ratepayers, that we also allow the ratepayers to have the benefit of the value of assets they may have paid for that were transferred. I would ask for your support in the Majority report. Thank you.

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

Senator **CAREY:** Thank you Mr. President and men and women of the Senate. Having done my duty for my seat mate, I would hope that you vote down this motion so that we can kill this bill. It only compounds the problem that is going to be coming up a little later in the evening, maybe. We're very fortunate that Central Maine Power was able to sell its property for \$846 million, well above book value, so much so, in fact, that over \$500 million of that will be going towards stranded costs. It doesn't go back to the ratepayers. It's going to handle stranded costs. There are other assets that are going to be sold and those, if they're sold for higher than book value will be going towards stranded costs. The companies are of the idea, at least Central Maine Power, that they had roughly \$1.2 billion of stranded costs. Some of that obviously is in the Maine Yankee Plant, which was not sold. Some of that is in the NUG contracts, which were not sold. Some of that is in the reservoirs that they have which would feed the water down to the dams that do produce electricity, and those were not purchased. So there are efforts now to re-advertise those and hopefully sell those off. Any lands that they have which were bought by ratepayers or were done with eminent domain, that have not been purchased and that might possibly be sold around the lakes, for instance, I think Flagstaff is a good example. Those will have to be committed to stranded costs.

There may be a bill, which I had sponsored, L.D. 1732, which would have provided for securitization of those stranded costs, spread those costs over 10 or 20 years and thus reduce the cost to the ratepayers. So I would hope that you do not Accept this report and Accept the Minority report. Thank you.

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

Senator **HARRIMAN:** Thank you so much Mr. President. Good evening ladies and gentlemen of the Senate. I hope you will join my good friend from Kennebec, Senator Carey, in opposing the pending motion. As he has so eloquently stated some of the reasons behind it, I would like to add just a few more comments if I might. First, I think it's important to recognize that this bill before us would require all Utilities, not just CMP who happens to be the first one venturing on the journey of deregulation, which I may remind you the Legislature required them to sell their generating assets. It's sort of like requiring us to sell the engine of our car and then turn around and leasing back, but that's another story for another day. What I think is important to understand here is that since 1992 CMP, and I presume the other Utilities, have operated under an alternative rate design where they have assumed the risk of producing rates to their customers that are at or below the rate of inflation. And they have assumed all of the business risks associated with that rate design. Prior to that Utility companies would come in and disclose in great detail their business practices, their cost structure, and so on and so forth, in an effort to convince the three Member judge and jury, called the PUC, what an appropriate rate would be. So since 1992 the Utilities have been assuming all of the risks. I'm sure they would be happy to tell you that their allowed rate of return on their assets has been close to 1%, or maybe less. As Senator Carey from Kennebec pointed out, part of the deregulation Legislation requires that they be given an opportunity, they being the Utilities, to recover reasonable stranded costs. Meaning investments that they were required to make under the Utility regulation that are now going to be stranded because of deregulation. It seems like this bill is, to me, an opportunity to go back and retrospectively have a rate case whether or not certain assets belong to ratepayers or to shareholders. I would submit to you, ladies and gentlemen, that this information already exists, that the Utilities are required to file with the Federal Energy Regulatory Commission, a list of all of their asset acquisitions and transfers. More importantly, and I think most poignantly, that in the issue of stranded costs cases that will be heard down at the PUC, the PUC already has the power and the authority to require this information if it deems so prudent. So it seems to me, for reasons that I don't clearly understand, that there's some reason to be suspicious. I don't find that. I think the Utilities have operated under their alternative rate design. They've assumed the risk. But now forcing them to move into a new era of deregulated electricity market, and now we're saying to them, wait a minute, before we go further we want you to go and produce, and I want to read briefly what they're asked to do. "The Commission shall adopt a schedule in the provisions governing the content and filing of written notices for a description of property, identification of transferor and transferee, the price, the market value, the date of transfer for leases, sales, exchanges, transfers, etc., etc., etc." The information already exists. If the PUC deems it necessary, they have the authority to ask for it. In fact, throughout the hearing and the work session on this piece of Legislation, the spokesperson for the Public

Utilities Commission repeatedly said, "We don't need this bill. We can get this information if we feel we need it. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Kennebec, Senator Carey, to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" Report.

The Chair ordered a Division.

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

Senator **RAND:** Thank you Mr. President. I request a Roll Call.

THE PRESIDENT: The Senator from Cumberland, Senator Rand, requested a Roll Call. In order for the Chair to order a Roll Call, it must have the expressed desire of one-fifth of the members present. All those in favor of a Roll Call please rise in your place and remain standing until counted. Obviously more than one-fifth of the members present are in favor of a Roll Call. A Roll Call is in order.

On motion by Senator **RAND** 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 pending question before the Senate is the motion of the Senator from Kennebec, Senator Carey, to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" Report.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CATHCART, CLEVELAND, GOLDTHWAIT, JENKINS, KILKELLY, LONGLEY, MILLS, MURRAY, NUTTING, PINGREE, RAND, TREAT

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, DAGGETT, FERGUSON, HALL, HARRIMAN, KIEFFER, LAFOUNTAIN, LIBBY, MACKINNON, MICHAUD, MITCHELL, O'GARA, PARADIS, PENDLETON, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

12 Senators having voted in the affirmative and 23 Senators having voted in the negative, the motion by Senator **CAREY** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Bill "An Act to Establish Ethical Standards for the Office of Governor" S.P. 786 L.D. 2113 (C "A" S-586)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/20/98) Assigned matter:

HOUSE REPORTS - from the Committee on **UTILITIES AND ENERGY**, pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4. on Bill "An Act to Implement the Recommendations of the of the Joint Standing Committee on Utilities and Energy Arising from its Government Evaluation Act Review of the Office of the Public Advocate" (**EMERGENCY**) H.P. 1647 LD. 2277

Majority - **Ought to Pass** (H.P. 1647) (L.D. 2277) (10 members)

Minority - **Ought to Pass** (H.P. 1648) (L.D. 2278) (1 member)

Tabled - March 20, 1998, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** (H.P. 1647) (L.D. 2277) Report, in concurrence.

(In House, March 19, 1998, the Majority **OUGHT TO PASS** (H.P. 1647) (L.D. 2277) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-963)**.)

(In Senate, March 20, 1998, Reports **READ**.)

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

Senator **HARRIMAN:** Thank you Mr. President. Good evening ladies and gentlemen of the Senate. The bill before us is one of the first of many that will require Joint Standing Committees to take a look at the operations of various Departments of State Government under the Committee purview. In this case we were asked to review the activities of the Public Advocate. In the course of that review, the Public Advocate was

explaining that because of the deregulation of electricity that his work load was going to grow significantly, so much so that he needed a special tax on ratepayers approaching well over a half a million dollars. To which I inquired, gee, in view of the significance of electric deregulation and the journey we were about to take, which included well over 35 separate PUC proceedings, why is it that the Office of the Public Advocate had not introduced a fiscal note into the Electric Deregulation Bill in the last Session? To which the response was, well, that's an interesting question. I guess the answer is that in the euphoria and the pace that Electric Deregulation was taking it didn't really occur to us. So we asked, well, what is it that you expect for rate cases? And he went through 13 of them, the Central Maine Power Rate case on Stranded Costs for 40,000, Bangor-Hydro Electric, Maine Public Service, Consumer owned Utilities, the CMP Divestiture Plan, and on and on, and on, I could go. Later became a matter of discussion that the Office of the Public Advocate had not received a pay raise in quite some time and was advocating for, I believe it was, a 2% pay raise for employees and a 5% pay raise for himself. While it's certainly well known in the Utilities and Energy Committee, I've had my spirited discussions with the Public Advocate on issues and have been a little frustrated at times with the way he has aligned himself with certain special interests. We've had discussions about that. But nonetheless, I mention it only because I have a great deal of respect for Mr. Ward. He has made me think and many times has reaffirmed that I'm on the right track with my thinking and at other times he's convinced me that I needed to change direction. Therefore, I support the Public Advocate and indeed believe he deserves a raise. What I object to though, most respectfully, is that in the list of cases that he claims to involve himself in, one of them is for \$50,000 to enter into a full blown rate case regarding the Bell Atlantic access charge and local service calling. He's asked for \$50,000 in his budget to fight a rate case that has been settled. A unanimous Public Utilities agreement on access rates and basic telephone service. Now it seems to me, he's come back and asked for a special tax on rates to get involved in the deregulation rate process. I was disappointed that that wasn't asked for in the last session when we had deregulation. But I respect and understand his reasoning. He asked for, and I supported, a raise for the work that he does and he deserves that. But I don't understand is why he needs \$50,000 to go fight a rate case that has already been settled. Ladies and gentlemen of the Senate, where I come from \$50,000 is real money. And \$50,000 here and \$50,000 there, and \$50,000 somewhere else, and pretty soon we're going to be talking about real money. What's frustrating and in many respects disappointing to me is that before this session of the Legislature adjourns, we are likely to see over \$5 million of new taxes being imbedded into utility rates that never see the light of day as they would if they were going through the Appropriations Committee with some of the pieces of Legislation that are near and dear to you. Before the vote is taken I would just ask you to consider the Minority report that recognizes the hard work and the good work of the Public Advocate, but also says \$50,000 is a lot of money to go fight a rate case that has already been settled. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Knox, Senator Pingree, to Accept the Majority Ought to Pass by House Paper 1647, L.D. 2277 Report, in concurrence.

Senator **LIBBY** of York requested a Division.

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

Senator **HARRIMAN:** Thank you Mr. President. I request a Roll Call.

THE PRESIDENT: The Senator from Cumberland, Senator Harriman, requested a Roll Call. In order for the Chair to order a Roll Call, it must have the expressed desire of one-fifth of the members present. All those in favor of a Roll Call please rise in your place and remain standing until counted. Obviously more than one-fifth of the members present are in favor of a Roll Call. A Roll Call is in order.

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 pending question before the Senate is the motion of the Senator from Knox, Senator Pingree, to Accept the Majority Ought to Pass by House Paper 1647, L.D. 2277 Report, in concurrence.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT TO PASS** (H.P. 1647) (L.D. 2277) Report, in concurrence, **PREVAILED**.

READ ONCE.

House Amendment "A" (H-963) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

LEGISLATIVE RECORD - SENATE, MARCH 24, 1998

On motion by Senator **PINGREE** of Knox, **ADJOURNED** until Wednesday, March 25, 1998, at 9:00 in the morning, in memory of and lasting tribute to John Daggett.