

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Eighteenth Legislature  
State of Maine

Volume 3

Second Regular Session (Continued)  
March 25, 1998 to March 31, 1998

Second Special Session  
April 1, 1998 to April 8, 1998

Second Confirmation Session  
August 18, 1998

Senate Legislative Sentiments

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

In Senate Chamber  
Wednesday  
March 25, 1998

Senate called to order by President Mark W. Lawrence of York County.

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Off Record Remarks

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Prayer by Sister Peggy Walsh, RSM, Principal at St. Mary's Parish School in Bangor.

**SISTER PEGGY WALSH:** President Lawrence, Senator Murray, and all distinguished Members of the Senate, I'd like to begin by thanking you for this opportunity of praying with you this day. And as a means of prayer, what I'd like to share with you are some words from a favorite song of mine that I often use for my own prayer. The words to Holy Ground.

This is Holy ground, for God is present and where God is, is Holy. As so are our hands for God works through them and so they too are Holy. As it is with our lips, for God speaks through each and so they too are Holy. And so this day I ask that we remember the awesomeness of the task to which we'll be given. The privilege of the call to that task and our God who enables us to complete the task. Amen.

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Doctor of the Day, Donald Hankinson, D.O., Cape Elizabeth.

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Reading of the Journal of Tuesday, March 24, 1998.

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The President appointed the Senator from Penobscot, Senator **CATHCART**, to serve as President Pro Tem for the session on Thursday, March 26, 1998.

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Off Record Remarks

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

After Recess

Senate called to order by the President.

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Off Record Remarks

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**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act to Amend the Laws Regarding Reimbursement to the Counties for Community Corrections" H.P. 40 L.D. 65 (C "A" H-919)

In Senate, March 19, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-919)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-919) AS AMENDED BY HOUSE AMENDMENT "A" (H-1022)** thereto, in **NON-CONCURRENCE**.

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

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**Non-Concurrent Matter**

Bill "An Act to Ensure Long-term Funding of the Maine Agricultural Experiment Station Research Farms Connected with Land Grant Colleges" (EMERGENCY) H.P. 1440 L.D. 2004 (C "A" H-929)

In Senate, March 20, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-929)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-929) AS AMENDED BY HOUSE AMENDMENT "A" (H-1029)** thereto, in **NON-CONCURRENCE**.

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

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**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Improve Voter Participation" H.P. 1455 L.D. 2046

Majority - **Ought to Pass** (8 members)

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

In House, March 2, 1998, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-821)**.

In Senate, March 23, 1998, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

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

On motion by Senator **PINGREE** of Knox, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE**.

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**Non-Concurrent Matter**

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)

In Senate, March 24, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-952) AS AMENDED BY HOUSE AMENDMENT "A" (H-982)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-952)** in **NON-CONCURRENCE**.

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

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**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act Authorizing the State to Appeal Decisions Granting Preconviction Bail" S.P. 844 L.D. 2248  
(C "A" S-544)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-544)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-545)** (6 members)

In Senate, March, 24, 1998, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-544)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-544)**.

Comes from the House, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-545)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-545)** in **NON-CONCURRENCE**.

On motion by Senator **MURRAY** of Penobscot, the Senate **ADHERED**.

On motion by Senator **MITCHELL** of Penobscot, the Senate **RECONSIDERED** whereby it **ADHERED**.

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

Senator **MITCHELL:** Thank you Mr. President. Good morning ladies and gentlemen of the Senate. I rise this morning to ask you to, please, oppose the motion to Recede and I would like to state my reasoning for that. I would like to explain to you the reason why we need to provide for the right to appeal from the Maine Revised Statutes, the Preconviction Bill proceedings. The appeal applies for an over-determination of bail. The State can ask a Court, that did not make the original bail decision, to hear the entire issue over again. The State cannot appeal the fact that preconviction bail was granted to a defendant, however the State may appeal the amount of bail sought, or a condition of bail that was set, is what actually should take place. If the bail proceeding was conducted in the District Court, they should be allowed to appeal to the Justice of Superior Court. If the bail proceeding was conducted in Superior Court, the appeal is to a single Justice of the Supreme Judicial Court. The reason we need to expand on that is because there could be personality conflicts. You cannot allow just reconsideration, which confines and limits the ability to take this to another entity in the Court. This is also allowed now, on the defendants side, and the prosecution should have an equal opportunity. So I would ask you to join me in voting against the Recede motion that's on the floor. And I would ask for a Roll Call vote. Thank you.

**THE PRESIDENT:** The Senator from Penobscot, Senator Mitchell, requests the yeas and nays. The Chair would clarify that the motion on the floor is the motion to Adhere.

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 further motion by same Senator, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **BENNETT:** Thank you Mr. President. I move that the Senate Recede and Concur, and ask for the yeas and nays.

Senator **BENNETT** of Oxford moved the Senate **RECEDE** and **CONCUR**.

**THE PRESIDENT:** The Senator from Oxford, Senator Bennett, 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 further motion by same Senator, 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 Oxford, Senator Bennett, that the Senate Recede and Concur.

The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY**: Thank you Mr. President and men and women of the Senate. You may recall that this is an issue that we debated a few days ago dealing with the question of the procedures after a bail decision has been issued by the Judge. The report was the Majority report of the Committee and the report that this Body Adopted and Approved the other day would establish a mechanism to clarify that the Judge that has made this decision, if the State so chooses, would have the opportunity to request that that Judge reconsider that decision, and potentially have a hearing on that so that the State could make additional arguments. In the, what has been described to us, fairly rare situation where a state believes the Judge should take another look at these types of bail decisions. That is the Majority report of the Committee, and that is the position that this Body Adopted a few days ago. What we're talking about with regard to the bail issue is a Constitutional issue, with regard to the defendant. Although, as I indicated previously, the State wants to have the same rights that the defendant has with regard to the ability to appeal it to another Court at a higher level, the rights involved and the situation involved is somewhat different from the perspective of the State and the defendant in these cases.

I think that the Majority report is one that stakes a middle ground in this kind of analysis, which would clarify and allow for the State to take that unusual step of asking a Judge to reconsider if an appropriate situation warranted. I think by granting an appeal right to another level Court, to a higher Court, in addition raises logistical problems that we discussed the other day with regard to where that hearing might take place in the different Court, who's responsibility it would be to make sure the defendant were present at such a hearing, and the affect that that might have if the defendant, in fact, doesn't appear. I think what we ought to do is Adhere to our position, that we took the other day, to see if this reconsideration process clarifies whatever potential problem there may be out there without creating another whole level of hurdle in the judicial proceedings. So I would ask you to oppose the pending motion, to Recede and Concur, now so that we can move on to Adhere to our earlier position that this Body took. Thank you.

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Off Record Remarks

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

Senator **BENOIT**: Thank you Mr. President and may it please the Senate. I rise in support of the pending motion. If you take a look at Report A and Report B on this bill, you will notice that Report B contains the language in Report A, but goes on to provide for something further that Report A does not cover. As you know, presently in our Statutes there's a provision to allow the State to appeal bail that is set after a conviction. We do not have the same provision in the Statutes, as I read them, for the State to appeal a bail situation before the conviction. It is that latter provision that appears in Report B that does not appear in Report A. It would seem to me to make sense to fill the gap then by approval of Report B, which again is A all over again but with the added provision, or section, to allow the State to appeal a bail question when bail is set before a conviction. 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. There's a very good reason why giving the State a right of appeal is both superfluous and unnecessary in a preconviction setting. And that is that the State itself has the power to move the case toward trial, and if the goal of the State is to deprive the defendant of his liberty, it is the State that in large measure controls the pace and presentation of the criminal case, which is the underlying reason for putting the person in jeopardy of going to jail in the first place. So if the State, for some reason, is discontent with a preliminary ruling, a temporary ruling that may be in effect for only a few weeks, or a few months at most, a temporary ruling in regard to the status of bail, it has the option of moving the case and getting the case tried to conclusion so that the ultimate issue of whether the defendant should be in jail or free will be decided. On the other hand, if a defendant is adversely impacted and his liberty is taken away, he's put in jail, and it happens as the result of an improper ruling of some kind, then quite clearly that right should be protected by at least having a layer of appeal and a quick hearing to determine whether the person should remain incarcerated. But it isn't a reciprocal situation and there's no need for complete reciprocity in this case. I would urge you to vote against the pending motion to Recede. Thank you.

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

Senator **MITCHELL**: Thank you Mr. President. I apologize to the Members of the Senate for my misinformation, and I would ask you to Recede and Concur, based on the previous statements that I made. This is a very difficult situation because our Committee, for the two years that we have met during Session, this is the first time that we've had a close vote in Committee. We worked together and our thinking is still in the positive vein, and we do vote for the same issue except that we feel that we need to extend and provide a little more opportunity here. So the vote, 7 to 6, did show that there was a need to support it, but to expand on the existing bill. So I would ask you to, please, join me on the Recede and Concur motion. 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. I'll be very brief but just to respond to the good Senator from Somerset, Senator Mills, remark that the State should be denied the right of appeal of a bail matter when the bail is set before conviction, because the State's in control and can move the case along. Respectfully, the State can move the case along depending upon how busy the Docket is. If you travel around the state of Maine these days and take a look at a Docket of the District Court or Superior Court, you're going to find that the State is limited pretty much the same way that people are going to Court these days. The Court is a busy place and although the State might want to move it along, the State has to contend with a busy Docket. So I don't see, respectfully, that that's much of an argument against Report B. What's wrong, in fairness, with giving the State a right of appeal on a bail question

before conviction? After all, it has the right of appeal on bail set after conviction. It's a matter of fairness, to me, and I don't see anything wrong with giving somebody a right of review even if it's the State, on a bail question. Thank you.

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

Senator **MURRAY:** Thank you Mr. President and men and women of the Senate. I just rise to thank the Senator from Franklin, Senator Benoit. He raises a good point about busy Dockets. The problem with the proposal that the Minority of the Committee suggested is that, in fact, this would increase the Docket issues, potentially, by creating a whole new layer of appeal with a different Judge and a different Court and in fact, creates more of a burden on the Judicial system if, in fact, you layer on these additional bureaucratic levels. I would urge you to support and Adhere to our position we took earlier by allowing and clarifying the reconsideration as the approach to address this problem, if there is a problem. This is the approach that Judge Sheldon, who appeared before our Committee, suggested would be one that would be helpful and wise. He is the Judge that we are told is in charge of making the training for Bail Commissioners and responsible for the implementation of bail rules. I trust his judgment. I think it's a wise choice to make. And I think the way we need to do that is to oppose the pending motion so that we can Adhere to our earlier position. So I'd urge you to vote no. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

**YEAS:** Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, FERGUSON, HALL, HARRIMAN, KIEFFER, LIBBY, MITCHELL, NUTTING, SMALL

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

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **BENNETT** of Oxford to **RECEDE** and **CONCUR**, **FAILED**.

Senator **MITCHELL** of Penobscot moved the Senate **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

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

Senator **MURRAY:** Thank you Mr. President and men and women of the Senate. I would ask for a Roll Call and ask that you vote against the pending motion. With all due respect, as the comments from the Senator from Penobscot, Senator Mitchell, earlier eluded to, our Committee worked fairly hard and long on this issue and discussed, at some length, the potential options that were available to us. I would suggest to you that those options were exhausted fairly thoroughly, and that there's not a great deal of movement between positions that were presented to you by the two reports that came out of the Committee. I would respectfully suggest that the issue is not whether, somehow, we can split this issue any further but whether or not the best approach is to move toward a reconsideration approach, which is what the Majority report presents to us, or an appeal. I think, for the reasons that have been discussed in the earlier debate, the approach that this Body has taken in moving toward a reconsideration is the approach that we ought to Adhere to. For those reasons, I would ask you to oppose the pending motion to Insist so that we can move on to Adhere to our earlier position. Thank you.

**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 Mitchell, that the Senate Insist and ask for a Committee of Conference.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

**YEAS:** Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, FERGUSON, HALL, HARRIMAN, KIEFFER, LIBBY, MITCHELL, NUTTING, RUHLIN, SMALL

**NAYS:** Senators: CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **MITCHELL** of Penobscot to **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**, **FAILED**.

The same Senator requested and received leave of the Senate to withdraw her motion for a Roll Call.

On motion by Senator **MURRAY** of Penobscot, the Senate **ADHERED**.

Sent down for concurrence.

**Joint Order**

The following Joint Order: H.P. 1659

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Taxation shall report out, to the House, a bill to study the taxation of telecommunications property.

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

**READ**.

On motion by Senator **RUHLIN** of Penobscot, **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Sent down for concurrence.

**Joint Resolution**

The following Joint Resolution: H.P. 1660

**JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO PRESERVE THE CURRENT FAIR HOUSING ACT**

WE, your Memorialists, the Members of the One Hundred and Eighteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the Congress of the United States as follows:

WHEREAS, 10 years ago the Fair Housing Amendments Act of 1988 amended Title VIII of the Civil Rights Act of 1968, to extend the principle of equal housing opportunity to people with disabilities and to families with children; and

WHEREAS, on February 12, 1998, the Fair Housing Amendments Act of 1998 was introduced for the purpose of repealing the federal protections for people with mental retardation and other disabilities; and

WHEREAS, the accomplishments that have been made during the last 30 years to protect people with disabilities and families with children should be celebrated and improved upon, not weakened; now, therefore, be it

**RESOLVED:** That the important civil rights protections extended by the Fair Housing Amendments Act of 1988 must be preserved; and be it further

**RESOLVED:** That suitable copies of this memorial, duly authenticated by the Secretary of State, be transmitted to Charles Canady, Chair of the House Judiciary Subcommittee on the Constitution, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Maine Congressional Delegation.

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

**READ** and **ADOPTED**, in concurrence.

**COMMUNICATIONS**

The Following Communication: S.C. 667

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

March 24, 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 Marine Resources has had under consideration the nomination of Lori Armbrust Howell of Eliot, for appointment as a Member of the Marine Resources Advisory Council.

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

- YEAS: Senators: 2 Goldthwait of Hancock, MacKinnon of York
- Representatives: 7 Etnier of Harpswell, Volenik of Brooklin, Pieh of Bremen, Pinkham of Lamoine, Perkins of Penobscot, Honey of Boothbay, Pinkham of Brunswick
- NAYS: 0
- ABSENT: 4 Sen. Pendleton of Cumberland, Rep. Bagley of Machias, Rep. Goodwin of Pembroke, Rep. Layton of Cherryfield

Nine 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 Lori Armbrust Howell of Eliot, for appointment as a Member of the Marine Resources Advisory Council be confirmed.

Signed,

S/Jill M. Goldthwait  
Senate Chair

S/David Etnier  
House Chair

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

LEGISLATIVE RECORD - SENATE, MARCH 25, 1998

The President laid before the Senate the following: "Shall the recommendation of the Committee on **MARINE 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, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: MURRAY

No Senators having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator 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 **Lori Armbrust Howell** for appointment as a Member of the Marine Resources Advisory Council was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication: S.C. 668

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON AGRICULTURE, CONSERVATION AND  
FORESTRY**

March 24, 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 Agriculture, Conservation and Forestry has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 289 Resolve, to Establish the Committee to Study  
Maine Forest Practices

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

Sincerely,

S/Sen. Marge L. Kilkelly  
Senate Chair

S/Rep. George H. Bunker, Jr.  
House Chair

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

The Following Communication: S.C. 669

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

March 24, 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 bill out "Ought Not to Pass":

L.D. 2063 An Act to Create the Partnership to Rebuild  
Maine's Schools

We have also notified the sponsor and cosponsors 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. 670

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

March 24, 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 Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2035 An Act Regarding the State Valuation of the Town of Ashland

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

Sincerely,

S/Sen. Richard P. Ruhlin  
Senate Chair

S/Rep. Verdi L. Tripp  
House Chair

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

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The Following Communication: S.C. 671

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

March 24, 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. 1436 An Act to Amend School Construction Laws

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. 672

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

March 24, 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. 2231 An Act to Implement the Minority Report Recommendations of the Commission to Study the Unemployment Compensation System

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.**

**REPORTS OF COMMITTEES**

**House**

**Pursuant to Statutes**

From the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4, asked leave to report that the accompanying Bill "An Act to Implement Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to the Review of the Department of Agriculture, Food and Rural Resources under the State Government Evaluation Act" H.P. 1654 L.D. 2284

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

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

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

**READ ONCE.**

**LATER TODAY ASSIGNED FOR SECOND READING**

**Pursuant to Public Law**

From the Committee on **UTILITIES AND ENERGY**, pursuant to Public Law 1997, chapter 316, section 12, asked leave to report that the accompanying Bill "An Act Relating to Electric Industry Restructuring" (EMERGENCY) H.P. 1655 L.D. 2285

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

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

Report **READ**.

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

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**Pursuant to Public Law**

From the Committee on **UTILITIES AND ENERGY**, pursuant to Public Law 1997, chapter 276, section 6, asked leave to report that the accompanying Bill "An Act Regarding Telecommunications Regulation" H.P. 1661 L.D. 2288

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

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

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

**READ ONCE**.

**LATER TODAY ASSIGNED FOR SECOND READING**

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**Ought to Pass As Amended**

From the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Promote and Encourage the Cultivation of Cranberries in the State" H.P. 1634 L.D. 2264

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1006)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1006)**.

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

**READ ONCE**.

Committee Amendment "A" (H-1006) **READ** and **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING**.

From the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Implement Recommendations of the Fire Marshal Study Group" H.P. 1639 L.D. 2272

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1030)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1030)**.

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

**READ ONCE**.

Committee Amendment "A" (H-1030) **READ** and **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING**.

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From the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Establish and Maintain an Immunization Information System" H.P. 1511 L.D. 2133

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1021)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)**.

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

**READ ONCE**.

Committee Amendment "A" (H-1021) **READ** and **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING**.

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From the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Implement the Recommendations of the Maine Commission on Children's Health Care" (EMERGENCY) H.P. 1595 L.D. 2225

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1008)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1008)**.

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

**READ ONCE**.

Committee Amendment "A" (H-1008) **READ** and **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING.**

From the Committee on **LABOR** on Bill "An Act to Allow Maine Technical College System Employees Represented by the Maine Education Association Faculty and Administrative Units to Participate in a Defined Contribution Retirement Plan"  
H.P. 1395 L.D. 1949

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1027).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1027).**

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

**READ ONCE.**

Committee Amendment "A" (H-1027) **READ** and **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING.**

From the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the Transfer of the Old Hancock County Jail on State Street, Ellsworth from Hancock County to the Ellsworth Historical Society H.P. 1630 L.D. 2258

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1020).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020).**

Report **READ.**

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

From the Committee on **TAXATION** on Bill "An Act to Create a Nonlegislative System to Adjust Municipal Valuations in the Circumstance of Sudden and Severe Valuation Disruption"  
H.P. 1561 L.D. 2192

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1019).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1019).**

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

**READ ONCE.**

Committee Amendment "A" (H-1019) **READ** and **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING.**

Off Record Remarks

**Divided Report**

Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, to Establish the Maine Council on Sustainable Silviculture  
H.P. 1003 L.D. 1395

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-1007).**

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 **LABOR** on Bill "An Act to Amend the Laws Concerning Participating Local Districts in the Maine State Retirement System"  
H.P. 1524 L.D. 2146

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1009).**

Signed:

Senators:

CATHCART of Penobscot  
TREAT of Kennebec

Representatives:

HATCH of Skowhegan  
SAMSON of Jay  
BOLDUC of Auburn  
CLARK of Millinocket  
STANLEY of Medway  
TREADWELL of Carmel

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-1010).**

Signed:

Senator:

MILLS of Somerset

Representatives:

RINES of Wiscasset  
PENDLETON of Scarborough  
JOYCE of Biddeford  
LAYTON of Cherryfield

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1009)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1009).**

Reports **READ.**

Senator **CATHCART** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1009)** 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-1009)** Report, in concurrence.

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**Divided Report**

Majority of the Committee on **MARINE RESOURCES** on Bill "An Act to Establish a Requirement That Holders of Lobster Fishing Licenses Must Own or Control the Vessel from Which They Conduct Authorized Activities" H.P. 1028 L.D. 1445

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1028).**

Signed:

Senators:

GOLDTHWAIT of Hancock  
MACKINNON of York

Representatives:

ETNIER of Harpswell  
VOLENIK of Brooklin  
PIEH of Bremen  
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

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-1028).**

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-1028) **READ** and **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING.**

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**Divided Report**

Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act to Opt out of the Federal Requirement to Use Reformulated Fuel" H.P. 489 L.D. 660

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1037).**

Signed:

Senators:

TREAT of Kennebec  
NUTTING of Androscoggin

Representatives:

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

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-1038)**.

Signed:

Senator:

BUTLAND of Cumberland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)**.

Reports **READ**.

Senator **TREAT** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)** 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-1037)** Report, in concurrence.

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**Divided Report**

Six members of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Provide Computers for Use in the Legislature" H.P. 416 L.D. 566

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1033)**.

Signed:

Senators:

NUTTING of Androscoggin  
GOLDTHWAIT of Hancock

Representatives:

DUTREMBLE of Biddeford  
SANBORN of Alton  
BUMPS of China  
GERRY of Auburn

Six members of the same Committee on the same subject reported in Report "B" that the same **Ought Not to Pass**.

Signed:

Senator:

LIBBY of York

Representatives:

AHEARNE of Madawaska  
BAGLEY of Machias  
LEMKE of Westbrook  
GIERINGER of Portland  
KASPRZAK of Newport

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1033)**, in concurrence.

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**Divided Report**

Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Governing Secession" H.P. 1420 L.D. 1984

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1024)**.

Signed:

Senators:

NUTTING of Androscoggin  
GOLDTHWAIT of Hancock

Representatives:

AHEARNE of Madawaska  
DUTREMBLE of Biddeford  
BAGLEY of Machias  
SANBORN of Alton  
GIERINGER of Portland  
BUMPS of China  
FISK of Falmouth  
KASPRZAK of Newport  
GERRY of Auburn

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

Signed:

Senator:

LIBBY of York

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-1024)**.

Reports **READ**.

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

On motion by Senator **KIEFFER** of Aroostook, **TABLED** until Later in Today's Session, pending the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1024)** Report, in concurrence.

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**Divided Report**

Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Ensure Access to Confidential Records" H.P. 1514 L.D. 2136

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1032)**.

Signed:

Senators:

**NUTTING** of Androscoggin  
**GOLDTHWAIT** of Hancock

Representatives:

**AHEARNE** of Madawaska  
**LEMKE** of Westbrook  
**DUTREMBLE** of Biddeford  
**BAGLEY** of Machias  
**SANBORN** of Alton  
**GIERINGER** of Portland  
**BUMPS** of China  
**FISK** of Falmouth  
**GERRY** of Auburn

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

Signed:

Senator:

**LIBBY** of York

Representative:

**KASPRZAK** of Newport

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1032)**.

Reports **READ**.

Senator **NUTTING** of Androscoggin 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 BY COMMITTEE AMENDMENT "A" (H-1032)** Report, in concurrence.

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**Divided Report**

Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Encourage Intergovernmental Cooperation" H.P. 1617 L.D. 2244

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1016)**.

Signed:

Senators:

**NUTTING** of Androscoggin  
**GOLDTHWAIT** of Hancock  
**LIBBY** of York

Representatives:

**AHEARNE** of Madawaska  
**LEMKE** of Westbrook  
**BAGLEY** of Machias  
**SANBORN** of Alton  
**GIERINGER** of Portland  
**BUMPS** of China  
**FISK** of Falmouth  
**GERRY** of Auburn

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

Signed:

Representative:

**KASPRZAK** of Newport

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1016)**.

Reports **READ**.

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

**READ ONCE**.

Committee Amendment "A" (H-1016) **READ** and **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING.**

**Divided Report**

Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Requiring Notification of Option to Request Judicial Review" (EMERGENCY)

H.P. 1618 L.D. 2245

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1023).**

Signed:

Representatives:

- AHEARNE of Madawaska
- LEMKE of Westbrook
- BAGLEY of Machias
- GIERINGER of Portland
- BUMPS of China
- FISK of Falmouth
- KASPRZAK of Newport
- GERRY of Auburn

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

Signed:

Senators:

- NUTTING of Androscoggin
- GOLDTHWAIT of Hancock
- LIBBY of York

Representatives:

- DUTREMBLE of Biddeford
- SANBORN of Alton

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-1023).**

Reports **READ.**

Senator **NUTTING** of Androscoggin 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.**

**Senate**

**Ought to Pass As Amended**

Senator **DAGGETT** for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Enter into the Emergency Management Assistance Compact"

S.P. 836 L.D. 2242

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-591).**

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

**READ ONCE.**

Committee Amendment "A" (S-591) **READ** and **ADOPTED.**

**LATER TODAY ASSIGNED FOR SECOND READING.**

**Divided Report**

Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Improve the Integrity of Notaries Public"

S.P. 771 L.D. 2098

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

Signed:

Senators:

- NUTTING of Androscoggin
- GOLDTHWAIT of Hancock
- LIBBY of York

Representatives:

- AHEARNE of Madawaska
- DUTREMBLE of Biddeford
- BAGLEY of Machias
- SANBORN of Alton
- GIERINGER of Portland
- BUMPS of China
- FISK of Falmouth
- KASPRZAK of Newport

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

Signed:

Representative:

- GERRY of Auburn

Reports **READ.**

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

**READ ONCE.**

Committee Amendment "A" (S-590) **READ** and **ADOPTED.**

**LATER TODAY ASSIGNED FOR SECOND READING.**

Off Record Remarks

**SECOND READERS**

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

**House As Amended**

Bill "An Act to Implement the Recommendations of the Majority 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 L.D. 2277 (H "A" H-963)

**READ A SECOND TIME.**

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-963)**, in concurrence.

Bill "An Act to Limit New Lobster and Crab Fishing Licenses" H.P. 1597 L.D. 2226 (C "A" H-1004)

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

Sent down for concurrence.

**ENACTORS**

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

**Emergency Measure**

An Act to Amend the Laws of the Maine State Retirement System S.P. 706 L.D. 1954 (C "A" S-550)

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

**Emergency Measure**

An Act Regarding Personal Care Assistance Services H.P. 1469 L.D. 2060 (C "A" H-977)

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

**Emergency Measure**

An Act Relating to the Protection of Maine Consumers in the Telecommunications Market H.P. 1494 L.D. 2093 (C "A" H-959)

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

**Emergency Measure**

An Act to Repeal the Sunsets on Certain Child Support Enforcement Remedies H.P. 1510 L.D. 2132 (H "A" H-916 to C "A" H-865)

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

**Emergency Measure**

An Act to Create the Kennebec Regional Development Authority H.P. 1612 L.D. 2238

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

**Emergency Resolve**

Resolve, Directing the Preparation of a Bill to Make Technical Changes to the State's Criminal Statutes H.P. 1384 L.D. 1938 (C "A" H-943)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.



**Emergency Resolve**

Resolve, to Provide Accountability in the Probation System  
H.P. 1556 L.D. 2185  
(C "A" H-971)

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

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**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 302: Consumer Education Program; Electric Restructuring, a Major Substantive Rule of the Public Utilities Commission  
H.P. 1575 L.D. 2209  
(C "A" H-948)

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

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**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 181: Child Development Services System: Regional Provider Advisory Boards, a Major Substantive Rule of the Department of Education  
H.P. 1601 L.D. 2227  
(C "A" H-978)

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

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**Resolve Pursuant to the Constitution  
Public Land**

Resolve, Authorizing Certain Land Transactions by the Bureau of Parks and Lands  
H.P. 1626 L.D. 2254  
(C "A" H-969)

This being a Resolve concerning State Park Land, in accordance with the provisions of Section 23 of Article IX of the Constitution, having received the affirmative vote of 24 Members of the Senate, with no Senators having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Acts**

An Act to Increase the Bonding Limits of the Maine Turnpike Authority  
H.P. 535 L.D. 726  
(C "A" H-922)

An Act to Amend the Laws Concerning Juvenile Petition, Adjudication and Disposition  
H.P. 662 L.D. 915  
(C "A" H-970)

An Act to Improve Allopathic and Osteopathic Physician Oversight  
H.P. 1124 L.D. 1580  
(C "A" H-958)

An Act to Promote Professional Competence and Improve Patient Care  
S.P. 571 L.D. 1728  
(C "A" S-543)

An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to the Names of Geographic Features in Passamaquoddy Territory  
H.P. 1401 L.D. 1953  
(C "A" H-944)

An Act to Expand Access to Employment Security Data to Authorized Agents of Child Support Enforcement Agencies  
H.P. 1433 L.D. 1997

An Act to Conform Maine's Safe Drinking Water Laws with the 1996 Amendments of the Federal Safe Drinking Water Act  
H.P. 1441 L.D. 2005  
(S "A" S-559 to C "A" H-904)

An Act to Improve the Integrity of the Citizen Initiative Process  
H.P. 1483 L.D. 2082  
(C "A" H-938)

An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 1999  
H.P. 1522 L.D. 2144  
(H "A" H-896 to C "A" H-871)

An Act to Amend the Laws Relating to Archives and the Retention and Admissibility of Electronic Records  
H.P. 1525 L.D. 2147  
(C "A" H-945)

An Act to Implement the Recommendations of the Commission to Study the Certificate of Need Laws  
H.P. 1633 L.D. 2261  
(C "A" H-968)

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

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An Act to Amend the Laws Relating to Development and Centralized Listing of Municipal Ordinances That Apply to Forest Practices  
S.P. 583 L.D. 1746  
(C "A" S-527)

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

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An Act to Modernize Maine's Fuel Tax Laws  
S.P. 585 L.D. 1748  
(C "A" S-537)

On motion by Senator **O'GARA** of Cumberland, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**.

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An Act to Amend Certain Motor Vehicle Laws  
H.P. 1385 L.D. 1939  
(C "A" H-930)

On motion by Senator **O'GARA** of Cumberland, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**.

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An Act to Implement the Recommendations of the Governor's Advisory Committee on Gambling  
H.P. 1456 L.D. 2047  
(C "A" H-965)

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

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An Act to Ensure Equitable School Funding  
H.P. 1457 L.D. 2048  
(C "A" H-979)

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

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An Act to Establish an Advisory Commission on Women Veterans  
H.P. 1532 L.D. 2159  
(C "A" H-964)

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

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An Act to Expand the Maine Seed Capital Tax Credit Program  
S.P. 814 L.D. 2196  
(C "A" S-528)

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

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An Act to Reduce Income and Property Taxes  
H.P. 1589 L.D. 2219  
(C "A" H-876)

On motion by Senator **PINGREE** of Knox, **TABLED** Unassigned, pending **ENACTMENT**.

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**Resolves**

Resolve, to Establish a Plan to Enhance the Enforcement of Civil and Criminal Violations  
S.P. 480 L.D. 1482  
(C "A" S-549)

Resolve, to Create the Commission to Study Establishing a Rail Authority to Develop Rail Service from Calais to Eastport and Brewer  
H.P. 1138 L.D. 1594  
(H "A" H-946 to C "A" H-925)

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

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Off Record Remarks

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**ORDERS OF THE DAY**

**Unfinished Business**

The following matters in the consideration of which the Senate was engaged at the time of Adjournment 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 (3/20/98) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Resolve, Relating to Commercial Vehicle Fee Reciprocity with New Brunswick  
H.P. 1501 L.D. 2123

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-920)** (9 members)

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

Tabled - March 20, 1998, by Senator **O'GARA** of Cumberland.

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 Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-920)**.)

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

Senator **O'GARA** of Cumberland requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The same Senator further moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator O'Gara..

Senator **O'GARA:** Thank you Mr. President and Members of the Senate. Just very briefly, this bill originally was submitted by the Transportation Committee because, as many of you may or may not know having looked at the piece of Legislation, there is a fee charged to commercial vehicles that cross from America into New Brunswick, quite a substantial fee as a matter of fact, depending upon the weight that the truck is carrying, whereas there is no fee charged to truckers coming from New Brunswick into the United States. This has been going on for some time. The Majority of the Committee was convinced that, in fact, this was not a fair thing and so the Committee voted to instruct, at first it was the Commissioner of Transportation, it was amended to be the Secretary of State to charge truckers coming into the United States whatever they were charging our truckers as they left the United States. With communications going back and forth the Prime Minister of New Brunswick has assured us that, as of right away, he will, himself, authorize that fee to be reduced to \$1, and has assured us that when the Parliament meets in the next Session, he will have that Legislation eliminated totally, all together. As a result of that we feel it was a good faith action on their part. We're very pleased that they responded to our position. I would urge you to Accept the Minority Ought Not to Pass report. Thank you.

On further motion by same Senator, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/24/98) Assigned matter:

Bill "An Act Concerning the Taking of Marine Resources by Members of the Passamaquoddy Tribe" (EMERGENCY)  
H.P. 1523 L.D. 2145

Tabled - March 24, 1998, by Senator **RUHLIN** of Penobscot.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-983)**, in concurrence

(In House, March 23, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-983).**)

(In Senate, March 24, 1998, Committee Amendment "A" (H-983) **READ.**)

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

Senator **RUHLIN:** Thank you Mr. President. I present Senate Amendment "A" under the filing number of S-599 to Committee Amendment "A" H-983 and move its Adoption.

**THE PRESIDENT:** The Senator from Penobscot, Senator Ruhlin, offers Senate Amendment "A" with a filing number of S-599 to Committee Amendment "A" H-983 and moves its Adoption.

On motion by Senator **RUHLIN** of Penobscot, Senate Amendment "A" (S-599) to Committee Amendment "A" (H-983) **READ** and **ADOPTED**.

Committee Amendment "A" (H-983) as Amended by Senate Amendment "A" (S-599) thereto, **ADOPTED** in **NON-CONCURRENCE**.

**LATER TODAY ASSIGNED FOR SECOND READING.**

\_\_\_\_\_  
Off Record Remarks

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Senate at Ease

Senate called to order by the President.

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Off Record Remarks

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

\_\_\_\_\_  
Off Record Remarks

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

Senator **CATHCART** of Penobscot was granted unanimous consent to address the Senate off the Record.

\_\_\_\_\_  
Off Record Remarks

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

Majority of the Committee on **NATURAL RESOURCES** on Resolve, Regarding Legislative Review of Chapter 231: Rules Relating to Drinking Water, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

H.P. 1606 L.D. 2233

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-993).**

Signed:

Senators:

TREAT of Kennebec  
BUTLAND of Cumberland

Representatives:

ROWE of Portland  
SHIAH of Bowdoinham  
BULL of Freeport  
COWGER of Hallowell  
BRYANT of Dixfield  
DEXTER of Kingfield  
NICKERSON of Turner  
FOSTER of Gray

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-994)**.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

MCKEE of Wayne  
MERES of Norridgewock

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-993)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-993)**.

Reports **READ**.

Senator **TREAT** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-993)** 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-993)** Report, in concurrence.

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

**PAPERS FROM THE HOUSE**

**Joint Resolution**

The following Joint Resolution: H.P. 1664

**JOINT RESOLUTION CELEBRATING THE 100TH ANNIVERSARY OF THE CITY OF SOUTH PORTLAND**

WHEREAS, the City of South Portland, ideally located on the southern shore of Casco Bay and favored with a beautiful coastline, excellent harbor facilities and beautiful countryside, is one of the fastest growing cities in Maine; and

WHEREAS, the City of South Portland, originally a part of the early Town of Falmouth and then the Town of Cape Elizabeth, was first settled as early as the 1600's and its citizens endured many battles and much loss of life during the French and Indian Wars; and

WHEREAS, the City of South Portland originally consisted of farms and small pockets of residential areas and has kept the uniqueness and individuality of its distinct neighborhoods, Ferry Village, Knightville, Willard Beach, Pleasantdale, Cash Corner, Ligonias, Meeting House Hill, Thornton Heights, Redbank, Sylvan Heights, Mountain View, Stanwood Park and Peary Village; and

WHEREAS, the City of South Portland, directly across the harbor from Portland, was greatly changed by World War II, as thousands of workers came to build Liberty Ships in the South Portland shipyards, and is still home to the State's largest Coast Guard base; and

WHEREAS, the City of South Portland best exemplifies the positive commercial growth and development in Maine in recent years with the tremendous growth of the Maine Mall, the largest shopping complex in northern New England, in addition to numerous industrial parks, hotels and office buildings; and

WHEREAS, in 1895 South Portland was set off from the Town of Cape Elizabeth and on March 22, 1898 was granted its city charter; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the Second Regular Session, take this occasion to recognize the Centennial of the City of South Portland, to commend its inhabitants and city officials for the success they have achieved during this last century and to extend our sincere hopes and best wishes for continued achievement for the future; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the city officials of this proud community in honor of this occasion.

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

**READ** and **ADOPTED**, in concurrence.

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

**ENACTORS**

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

**Emergency Measure**

An Act to Improve the Efficiency of the Maine Public Drinking Water Control Program  
S.P. 776 L.D. 2103  
(C "A" S-547)

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

**Acts**

An Act to Protect Students of Barbering, Cosmetology and Other Proprietary Schools  
S.P. 727 L.D. 1969  
(C "A" S-565)

An Act to Amend the Laws Regarding the Consensus Revenue Forecasting Process  
S.P. 783 L.D. 2110  
(C "A" S-554)

An Act Concerning Enforcement of Parking Spaces for Persons with Physical Disabilities  
S.P. 813 L.D. 2195  
(H "A" H-961 to  
C "A" S-538)

An Act to Require Expeditious Action in Child Protection Cases  
S.P. 838 L.D. 2246  
(C "A" S-560)

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

An Act to Implement the Recommendations of the Judicial Compensation Commission  
S.P. 322 L.D. 1062  
(C "B" S-542)

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

An Act to Authorize Additional Adjustments to the State Share of School Funding  
H.P. 1250 L.D. 1769  
(C "A" H-955)

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

An Act to Improve Public Sector Labor Relations  
H.P. 1503 L.D. 2125  
(S "A" S-569 to C "A" H-937)

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

An Act to Implement the Recommendations of the Interagency Task Force on Homelessness and Housing Opportunities  
H.P. 1651 L.D. 2283

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

#### Resolves

Resolve, Directing the Judicial Department to Develop Recommendations to Implement Court Unification  
H.P. 992 L.D. 1372  
(H "A" H-962 to  
C "A" H-861)

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

Resolve, Compensating Dan Corey and Nu Seed Corporation of Monticello for Claims Against the State  
H.P. 1461 L.D. 2052  
(C "A" H-933)

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

On motion by Senator **PINGREE** of Knox, **RECESSED** until 3:00 in the afternoon.

After Recess

Senate called to order by the President.

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

#### PAPERS FROM THE HOUSE

##### Non-Concurrent Matter

Bill "An Act to Encourage Regionalization of Municipal Services"  
H.P. 297 L.D. 361

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**.

In Senate, March 24, 1998, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

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

##### Non-Concurrent 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  
(C "A" S-586)

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

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

In Senate, March 24, 1998, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-586)**.

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

Senator **RAND** of Cumberland moved the Senate **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

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

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by same Senator to **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**. (Division Requested)

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

Majority of the Committee on **TAXATION** on Resolve, to Reimburse Cable Companies for Expenditures Made while Participating in the Business Equipment Tax Reimbursement Tax Program H.P. 1475 L.D. 2074

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

Signed:

Senators:

RUHLIN of Penobscot  
DAGGETT of Kennebec

Representatives:

TRIPP of Topsham  
MORGAN of South Portland  
SPEAR of Nobleboro  
LEMONT of Kittery  
TUTTLE of Sanford

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1043)**.

Signed:

Senator:

MILLS of Somerset

Representatives:

GAGNON of Waterville  
CIANCHETTE of South Portland  
BUCK of Yarmouth  
GREEN of Monmouth

**ROWE of Portland**

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1043)**.

Reports **READ**.

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

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act to Reduce Motor Vehicle Fatalities and Injuries among Young Drivers" S.P. 782 L.D. 2109 (C "A" S-563)

In Senate, March 20, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-563)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-563) AS AMENDED BY HOUSE AMENDMENT "B" (H-1017)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator **KILKELLY** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Establish Limitations on Swine-feeding Operations" S.P. 653 L.D. 1874

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-604)**.

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

**READ ONCE**.

Committee Amendment "A" (S-604) **READ** and **ADOPTED**.

**LATER TODAY ASSIGNED FOR SECOND READING**.

Senator O'GARA for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Improve the Delivery and Effectiveness of State Correctional Services" S.P. 834 L.D. 2232

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-603)**.

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

**READ ONCE**.

Committee Amendment "A" (S-603) **READ** and **ADOPTED**.

**LATER TODAY ASSIGNED FOR SECOND READING.**

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

**SECOND READERS**

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

**House**

Bill "An Act Regarding Telecommunications Regulation" H.P. 1661 L.D. 2288

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

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Bill "An Act to Implement Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to the Review of the Department of Agriculture, Food and Rural Resources under the State Government Evaluation Act" H.P. 1654 L.D. 2284

**READ A SECOND TIME.**

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

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**House As Amended**

Bill "An Act to Establish a Requirement That Holders of Lobster Fishing Licenses Must Own or Control the Vessel from Which They Conduct Authorized Activities"

H.P. 1028 L.D. 1445  
(C "A" H-1028)

Bill "An Act to Allow Maine Technical College System Employees Represented by the Maine Education Association Faculty and Administrative Units to Participate in a Defined Contribution Retirement Plan"

H.P. 1395 L.D. 1949  
(C "A" H-1027)

Bill "An Act to Establish and Maintain an Immunization Information System" H.P. 1511 L.D. 2133  
(C "A" H-1021)

Bill "An Act to Create a Nonlegislative System to Adjust Municipal Valuations in the Circumstance of Sudden and Severe Valuation Disruption" H.P. 1561 L.D. 2192  
(C "A" H-1019)

Bill "An Act to Implement the Recommendations of the Maine Commission on Children's Health Care" (EMERGENCY) H.P. 1595 L.D. 2225  
(C "A" H-1008)

Bill "An Act to Encourage Intergovernmental Cooperation" H.P. 1617 L.D. 2244  
(C "A" H-1016)

Bill "An Act to Promote and Encourage the Cultivation of Cranberries in the State" H.P. 1634 L.D. 2264  
(C "A" H-1006)

Bill "An Act to Implement Recommendations of the Fire Marshal Study Group" H.P. 1639 L.D. 2272  
(C "A" H-1030)

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

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**Senate As Amended**

Bill "An Act to Improve the Integrity of Notaries Public" S.P. 771 L.D. 2098  
(C "A" S-590)

Bill "An Act to Enter into the Emergency Management Assistance Compact" S.P. 836 L.D. 2242  
(C "A" S-591)

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

Sent down for concurrence.

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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 Concerning the Taking of Marine Resources by Members of the Passamaquoddy Tribe" (EMERGENCY)

H.P. 1523 L.D. 2145  
(S "A" S-599 to C "A" H-983)

**READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-983) AS AMENDED BY SENATE AMENDMENT "A" (S-599) thereto, in NON-CONCURRENCE.**

Sent down for concurrence.

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Senate at Ease

Senate called to order by the President.

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

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Off Record Remarks

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

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Off Record Remarks

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On motion by Senator **RAND** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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Under suspension of the Rules, all matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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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 Limitations on Swine-feeding Operations" S.P. 653 L.D. 1874 (C "A" S-604)

Bill "An Act to Improve the Delivery and Effectiveness of State Correctional Services" S.P. 834 L.D. 2232 (C "A" S-603)

**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 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 24, 1998, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

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

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

Senator **RAND:** Thank you Mr. President. I move the Minority Ought to Pass Report and wish to speak to my motion.

Senator **RAND** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report.

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

Senator **RAND:** Thank you Mr. President and men and women of the Senate. This particular piece of Legislation has kind of a varied history and one that's going to take just a few minutes for me to try and explain. As noted, I moved the Minority Ought to Pass report and the reason for that is that once our Committee voted on this particular Bill "An Act to Prohibit Discrimination against Osteopathic Physicians and Provide Patient Choice," new information was brought before us. Many Committee Members decided that this piece of Legislation was still necessary.

For almost two years now Osteopathic Doctors have been trying to negotiate some sort of resolution with two hospitals in Lewiston. These hospitals refused to allow certification for certain Osteopathic Doctors. Finally, Legislation was submitted that would mandate that the discrimination be prohibited. It was at this point when the Boards of each of these hospitals in Lewiston met and voted to do what every other hospital in the state of Maine had already done, which was to allow credentialing of Osteopathic Physicians who have graduated from medical school and Post-doctoral programs approved by either the American Osteopathic Association or the Accreditation Council for Graduate Medical Education, or been awarded eligibility, a Board Certification by either the American Osteopathic Association or the American Board of Medical Specialties.

We, of course, had a Public Hearing on this piece of Legislation and, I must tell you that, there was overwhelming Public support for the bill. One of the people present at the hearing stated that both of the Boards of the hospitals in



Lewiston, the hospitals that refused credentialing, were holding meetings within a short period of time. At these meetings they would vote on whether to change their policy and allow credentialing of these Osteopathic Doctors. The Committee agreed that we would wait until these votes were taken and then see how we would proceed. The votes were taken and, in both institutions, the discriminating clauses were dropped and both hospital's Boards did vote to allow the credentialing to go forward.

We had not yet held a work Session on this particular bill. On the day that the work Session was scheduled people began to gather, many members of the public began to gather. It was then that we found out that the work Session time had been changed and had been actually scheduled for 9:00 a.m., that day, as opposed to the 1:00 p.m. meeting that we had expected. Discussion among Committee Members brought forth this information. The information was that all parties connected with L.D. 2099 were all satisfied that this particular Legislation was no longer necessary. With this information we proceeded to vote Ought Not to Pass. We certainly don't need to clutter all our books with more pieces of Legislation if everybody's happy and we'd been told that they didn't need it. Consequently, various parties met and it came to the attention of the Committee Members that that was not the case, that there was still a great deal of anxiety existing out there among, not only the Osteopathic Doctors but among the patients who require and demand a choice and access to hospitals.

It was with this new knowledge that I decided to not only change my vote but to hold several meetings with the parties involved. I am convinced that the bill should go forward. I am also convinced that because there was no work Session on the bill there are provisions within this bill that should be eliminated, because we did not, as a Committee, have time to fully evaluate them. What I am convinced of is that for, not only the comfort level of the Osteopathic Doctors but also for the sense of security for our constituents who do choose to have Osteopathic Doctors as their medical practitioners. I think probably they need security in knowing that a vote cannot be taken by a hospital Board next week, or next month, or within six months, to disallow privileges to their Physician. I think that this Statute is necessary. It is something that, right now to my knowledge, all hospitals in Maine do allow but because there's no Legislation on the books, there is no guarantee therefore no measure of security for the doctors or their patients. I would urge you to Accept the Minority Ought to Pass report so that we can move on and amend this bill to take care of the provisions in it that we did not have an opportunity to discuss in the work Session. 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. I realize that the good Senator from Cumberland, Senator Rand, and I are really agreeing on the majority of our thoughts that we want to have care by all Physicians in all hospitals. I think that's the most important thing that we're looking at here and I think that what we have done in our Legislation and our efforts have gone in that direction. She is correct, there are things in there we did not look at. We did not have a meeting, which we probably should have had, which may have brought some of these things to light. But I really think that if you look at some of the information which is passed out, there was an

agreement made, and I certainly signed on as a Sponsor of this bill, that people would look to see how the votes came in the hospitals, to make sure that we did have this equal access to the hospitals by all physicians. I think that has been accomplished. What I'm more worried about at this particular time is that we have a breach of confidence by both groups who we're trying to bring together, to continue to work and for the betterment of our people in the state of Maine. I think that if I can relate it back to maybe a school incident, or even maybe as a child incident, that we have two groups who are fighting and squabbling. What they've done is come to the father or the principal, or whoever at this particular time to say, let's solve it. I have said, as a parent, go figure it out, come back and tell me what you people want to do without me going up there and telling you how it's going to be. If you certainly can't do that than I will certainly step in and do that. I think that's our role as public policy makers, to make sure that people in the state can work together to provide the opportunities that are there. Because what I'm really afraid of at this particular time is that we are not closing the gap between people, we are now taking the gap and making that river so wide that nobody wants to take the step for fear of drowning. While I think we agree on how we want to end this thing, we're now at a disagreement on how we're going to get to that solution, that end. And because of that, I would ask you to, please, defeat this motion. Go on to the agreement which was made between the two Associations to limit this. And if there are problems that can't be worked out, please, it will come back and I will be a supporter with that. Thank you very much.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Rand, to Accept the Minority Ought to Pass Committee Report.

The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President and men and women of the Senate. I would like to speak to just two points. One is, it is my understanding that the provisions of the Amendment are exactly what all the parties say they want, which is to allow equal and fair access based on credentials that already exist, no wavering, no special conditions, no special privileges for anyone, just, if you meet all the qualifications that you're allowed to do it. So it changes nothing on that playing field.

I wanted also to make a second point, which is one that's important for me. Much of the argument, as I understand it, that is being made now is, please trust us, we're going to do the right thing. We're going to make the changes at our local institutions that will meet those obligations. But what's important is that you're able to trust that that's what's going to happen.

Last year in the Appropriations Committee, we dealt with the Tax and Match issue relating to hospitals. There was some serious financial concerns. The Maine Hospital Association and the State of Maine were in negotiations on how they could come to an agreement on that. The Maine Hospital Association represented in writing to the Appropriations Committee that every single critical care hospital in this state agreed to the compromise and what would be put into the law, every single one, in writing. We now find out this year there is one who apparently has not appeared to live up to that Agreement and is considering a legal challenge on the Constitutionality of the issue that would put all bets off and put the State in financial jeopardy if they succeeded. That institution is Central Maine Medical Center in Lewiston. The

same institution that is now representing to us that we should be certain that they're going to live up to their word, certain that we should trust them, certain that their going to, in good faith, resolve this and, certain, in good faith, their going to live up to it. I don't know about you, ladies and gentlemen, I like to live up to my word. When I look someone in the eye and I say I'm going to do something, I live up to it. They looked me in the eye and they did not live up to it. I give them one chance. I don't give them a second chance. I would urge you to support the Minority report.

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

Senator **JENKINS:** Thank you Mr. President and distinguished colleagues, here in the Chamber. I rise to not only speak as a Senator from the great city of Lewiston but as its former Mayor. It was just a year ago, actually this past fall that I had a chance to meet with the Androscoggin Chapter, I guess, of the Medical Association, I believe it would be. These are all the physicians that practice and are part of this Association in the Androscoggin County area. We met at Bates College and I kind of gave a State of the City Address, and the State of What's Happening in the Legislature, if you will. Things were going well and they said, "Well, what concern do you have Senator, Mayor?" I said, "One concern that I do have, as far as this Association goes, is the apparent discrimination of not having Osteopaths serve in a full capacity in your hospital." An individual, I think, who was critical to the exclusion of the Osteopaths at Central Maine Medical Center and ultimately St. Mary's Hospital, stood up and said, "We don't have them here because we know what we're doing, number one. And number two, we will not bend to political machinations that the other hospitals, all the other hospitals in the state of Maine have bent to. So we do not play politics. We have a clear cut policy. We hold everyone to a higher standard than all the other hospitals here in the state." And I found that statement quite troubling and perplexing, to say the least. It was not the time to get into a wrestling match because I was there under different auspices. So I told the gentlemen that perhaps we should talk another time about this sort of matter.

What concerns me since this issue has come to light, and the public discussions and lack thereof, is the fact that we're also talking about people's livelihood to practice medicine here, in the state of Maine. When there is this possibility that I will not have a chance to have hospital privileges then that impacts my ability as a physician to be registered with a, as you all know, health maintenance organization that would not have me register if I don't have hospital privileges.

If the hospital, as was pointed out by a colleague here, the previous speaker said, if two kids are fighting then you've got to let them solve it and then the parent can step in only if necessary. Well my mind says one of the kids is a bully and has been bullying around another kid and a threat of the adult coming in, the bully will step back. But once the adult steps away, well, the bully, if that's in their nature, will go back to bullying again. That's what it seems to be that's been happening, that there's been a bullying effort that's been going on and this is not new. It's only come to this Chamber. But I've been aware of this for years and it's now come to light in public format, here.

I am in support of the Minority Ought Not to Pass. I must also say at this time, I do want to thank one or our colleagues, Roseanne Seway, a Representative who is the one who kept this bill alive and allowed us this chance to speak about this matter

tonight in public forum. So I say again, that it's a matter of fairness. It's a matter of allowing patients to have access to physicians they wish to have. It's about security for the patients so they don't have the fear that, well, you have privileges today with a threat of a Legislative act about to be done, if you will, by the Legislature. And that's the only reason why we're here today, and that's why the hospitals change, because it was the fear of the big stick coming down from the State Legislature. Otherwise, if it was the right thing to do, we wouldn't be having this discussion. The physicians would have sat down and would have worked it out long before now. But it was at the threat of Legislative Policy being Enacted that they said, whoa, wait a minute. We don't want the State to come in and tell us what to do. Because they were unwilling to do the right thing all along. It's only now that they get religion and say, oh well, let's do the right thing. I say it's a temporary fix.

My concern as an individual who lives in Lewiston, unfortunately these are two hospitals in Lewiston, and it doesn't make me feel good to know that our two hospitals have had a policy of discrimination, and I know that the administrations in those hospitals do not discriminate. They're fair minded individuals. But it seems to be a professional discrimination that's going on of other individuals that do have the say as to who will practice on staff and who will not. I think part of it came about because there was a women's physician who was teaching at Central Maine Medical Center, training the allopathic M.D. doctors in certain procedures, but yet, she was unable to have privileges on staff. There's something wrong there. But yet, she was able to go to another hospital, in another part of Maine, and practice because those other hospitals, all the other hospitals like this one that she went to, have an open door policy saying, you have the qualifications, you have the merit, you have the practice under your belt that you have earned, and you have earned the privilege of practicing at this hospital. Unlike, unfortunately the two hospitals in Lewiston. So I say to the colleagues here today, it's also about fairness as well that we owe it to those physicians who are practicing. And Maine's only Medical School happens to be an Osteopathic Medical School, here in the great community of Biddeford area. I've gotten over 100 calls from concerned physicians out there, both Allopathic and Osteopathic, both concerned about this bill and if, in fact, it does not go forward what it would mean for the standards of medical practice here in the state of Maine. Again, we're having this discussion now not because it was the right thing to do. Because if it were this would have been done a long time ago. We're here because there was a threat of a Legislative action and now the hospitals say, hey, we want to get on board. We want to do the right thing, or give the appearance of doing the right thing. It doesn't make me feel good, as a former Mayor of the great city of Lewiston, to know that it was only my two hospitals that were involved in this practice, and it troubles me that that was the case. But I say, it's not the hospital overall, it is certain individuals that have had that authority and they've used that as a bully pulpit, if you will, to exclude Osteopaths from their staff and from practicing their full art of medicine to make more choices available to the citizens, such as myself. So I ask the colleagues here today to join me and Accept the Minority Ought to Pass report. Thank you.

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

Senator **MACKINNON:** Thank you Mr. President and men and women of the Senate. I think that the good Senator from

Androscoggin probably hit it on the head for me by saying that it is not the hospitals that we're worried about. It's the doctors. We had 37 out of 39 hospitals agreeing. We now have all 39 hospitals agreeing. What we cannot legislate through this is what we're trying to get at and that is respect of each other's profession. I think we, here in the Legislature, respect that. But we're now trying to mandate our respect for each other out of here with that bill. I think that, to me, is an unfortunate incident which is going on. And because of that I would ask you, please, defeat that. 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 have some concerns about whether the bill does what the parties intend it to do. The bill says that there shall be no discrimination on the basis of education or training. It seems to me that when you're making a judgment about the eligibility of someone to serve on a staff, you are looking at their education and their training. That's the very essence of what you do look at. And they do make distinctions, one person to another, whether they be M.D's or D.O's, or whatever they are, that is the very essence of what goes into making a judgment about whether someone should be on the staff or not, or whether you would want that person for a doctor or not. My concern has nothing to do with whether it's D.O's on the one hand or M.D's on the other, the Statute as written would prohibit anybody from looking at the credentials of anybody applying to be on the staff.

I think, to get around this, one would have to draft a much more complicated law. And when you got done drafting it I doubt very seriously that you would have cured the real problem, which, as the Senator from York has pointed out is perhaps the attitude of individuals more so than the attitude of the hospital or the staff, itself. My suggestion is that what we're trying to do here is very much what we've seen happen in other contexts, the DeCoster example for instance, when we try to write a general law that might apply to cure one single problem that we see cropping up in one location in the state, and when we do so, we wind up writing a piece of law that doesn't work very well. We stick it away in those red books and then we forget about it. And some future generation will wonder, what was the story behind that law? I think that because we meet again, here, not all of us but many of us hope to be back here again in January, perhaps we should be monitoring this situation in Lewiston. And if this situation warrants it, before closure next December, someone representing the city of Lewiston can introduce a bill along these lines, or perhaps an improved version and renew the threat if it seems warranted at that time.

Alternatively, one could encourage the Boards. The Board of Medicine is a very powerful group. These are not people without economic and professional clout, in their own right. I'm talking about both sides. I just think there are lots of remedies short of creating a whole law to deal with a single spot situation. I might also say that this whole scene reminds me of the possibility that there's a violation, here, of antitrust laws. It's quite well known, as my seat mate reminded me, that the Chiropractors found themselves discriminated against about 10, 12, or 15 years ago. They went to Court and successfully sued the American Medical Association for a systematic pattern of discrimination and prevailed. I'm no sure of this, but I suggest that those Osteopaths who live in and around Androscoggin County might

find that the Court doors are open to them to remedy this situation if the hospital hasn't already voluntarily corrected the problem.

I just think there are other ways of solving this problem short of bringing to bear the very heavy handed remedies that we have at our disposal, cumbersome remedies, the remedies that are sometimes rather clumsily put together. I suggest that we follow the inclinations of the Majority in this case and vote against the pending motion. 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. There actually is precedent for voting against the pending motion. Not many years ago we all realized that Chiropractors and M.D's never could see eye to eye. You might feel that Chiropractors were so much shaft among the M.D. grains. The Chiropractors did not go to the Legislature to get Legislation in order to earn the respect of the M.D. community. Instead, they worked together to resolve the problem. My son, Dave, is a Chiropractor out here in Manchester, just on the other side of Daggett's store and I'm pleased to inform you that he's an example of the cooperation that exists today between the M.D's and the Chiropractors. Dave tells me that frequently he will refer patients to the M.D. community. I'm proud to be able to share with you the fact that a very, very prominent surgeon in the Augusta area has had plural occasions to send patients to David for what his practice covers. There's your precedent. This can be worked out as Senator MacKinnon has indicated. We don't need this Legislation to force people to respect one another. They've indicated to us that they can do it. I believe them. Thank you Mr. President.

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

Senator **RAND:** Thank you Mr. President. There are a few things I'd like to address here. One is that the bill, even as written without taking into consideration the proposed Amendment that will be coming, does absolutely nothing to mandate the type or training or anything else. It does nothing in that area. In fact, the proof should be that all of the hospitals in the state, now, have voted to accept the criteria that is listed in this bill. This isn't something that the bill created. We are parroting what is already the education and training that the hospitals require of Osteopathic Doctors. So that really is a non-issue.

To address some of the remarks by the good Senator Benoit, I have served on the Banking and Insurance Committee in this Legislature. And although he speaks highly of the cooperation between the M.D's and the Chiropractors, he probably would be somewhat amazed at the amount of Legislation that comes before that Committee constantly with those two particular groups at odds with one another.

While it is true, we cannot mandate respect. We can't mandate that we love one another. What we can do is mandate fairness and accessibility to health care for the people in this state. We can mandate an end to discrimination and that is what this bill proposes to do. And it's not a bill, by the way, that is something very strange and that has not occurred in any other state in the Union. I'm asking you to, please, pass this Legislation and join over 24 other states that have passed very

similar Legislation. We aren't here trying to get Legislation, as I said before, on the books just to clutter them up. There is a need. There is a need that exists out there for patients and Osteopathic Doctors for this type of security, for this type of Legislation. Again, we cannot mandate respect. We cannot mandate love. But we can mandate fairness and accessibility. I would ask you to, please, support the pending motion, which is to Accept the Minority Ought to Pass report.

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

Senator **JENKINS:** Thank you Mr. President. I'll try to be very brief. I did indicate, and I'd like to share with the Senators that, again, when I met with the Physicians in question, they told me to my face, in a public meeting that we had at Bates College, there was no interest in working things out. There was no interest in having any sort of resolve, if you will. There's was a lot of comfort and reassurance in themselves that we know what we're doing and we will not bend to any political will or pressure out there like the other hospitals around the state have done. There was no word or talk of fair play, or working things out. This is what was told to me in a public forum amongst these very same Physicians that we're discussing right now. It was only until a legislative proposal was put in was there any movement and talk about, let's hurry up and start working, let's be fair. So, it leaves me to question the sincerity or the length of this peace on working out things once this issue is resolved, if you will. That's why I'm asking the Senate to Accept the Minority Ought to Pass report. Also, I must suggest that we went through a great deal of discussion about being fair and that Maine will not discriminate. This is one more phase or avenue of that sort of topic, if you will, which deals with professional and economic discrimination where a person of equal skill and, no one's saying that we should not look at their skill and qualifications, those are a must and those are things that they'll be judged on, not on the lettering after their name whether it's M.D. or D.O. It's those two letters that seem to be brought into question. And so I'm saying, skills and qualifications, they all have to jump the same hurdles, absolutely. I wouldn't want to have a Physician working on me that has less skill or less qualification, none of us would. But the point is, it's the lettering after the name that seems to get into this professional discrimination where one will say that you're not as good as we are. That's been going on for a long time. This is not a new issue. It's only that it's become a public issue when Legislation was put in that there's talk now of fair play. Let us be fair. Let us level the playing field. Let us open the doors and let D.O's in. I'm telling you to your face folks, as I was told to my face just this past fall by the same Physicians in question. They were very comfortable in not working things out. They were resolved in not working things out. It's only now that I'm very surprised to hear, oh, we have a chance to work these things out and be fair. Well again, I can only question the motives behind it as to when did the lights go on, when did they get religion, if you will. So I say we ought to pass this Legislation to send a clear message that they cannot go back to their old ways, which there's a tendency and a propensity to do. But also to send a clear message to those new Physicians coming to the great state of Maine to practice the art of medicine, who are graduating from our only medical school, here in the state of Maine, who wish to stay here and raise their families and contribute to Maine's economy. But they're getting a clear message, as it calls I wish I could share them all with you, that it's questionable as to whether

you are welcome here. You can be educated here but you can't practice here if this bill does not pass tonight. And that's the concern that I'm hearing from these folks. I'm not making this stuff up. These are things that these Physicians are telling me and these are the concerns that they have. So this would give them a sense of reassurance when they make that investment, a capital investment I might add. They know that they can plan for a long term of staying in practice here in the state of Maine. But without this there's no protection of their investment of time and capital, if you will, to open up shop and insurance, and everything else, and build up a patient base to stay here in the state of Maine. So I ask you again, great Senators here in this Chamber, to support the Minority Ought to Pass report. Thank you.

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

Senator **FERGUSON:** Thank you Mr. President. I'd like to pose a question through the Chair, if I may?

**THE PRESIDENT:** The Senator may pose his question.

Senator **FERGUSON:** Thank you. Could anyone inform me whether it's the medical staff or the Hospital Administrators who are making these decisions whether to admit these people or not?

**THE PRESIDENT:** The Senator from Oxford, Senator Ferguson, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you Mr. President. It is my understanding that the Administrations are not adverse to credentialing of Osteopathic Physicians but the membership of the Boards of the Physicians, that's where the problem lies, or did lie before the vote, and could possibly rear its head again.

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

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. Just by way of further answer, my understanding is that it's the Administration and the Board of Physicians that govern the issue of who can be admitted to practice there. But fundamentally it's an issue of what's in the bylaws. And my understanding is the bylaws have been changed so that a person with the appropriate qualifications, who applies, must be considered without discrimination under the current bylaws of those institutions. That's what's been represented to me.

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

Senator **RAND:** Thank you Mr. President. In response to the good Senator from Somerset, Senator Mills, that's absolutely correct. The bylaws have been changed and they could be changed next month, or the month afterwards, or the month after that, which leads us to this Legislation and why I would request that you support the pending motion.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Rand, to Accept the Minority Ought to Pass Committee Report.

The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President. I request the yeas and the 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 by the Senator from Cumberland, Senator Rand, that the Senate Accept the Minority Ought to Pass Report.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

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

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

**ABSENT:** Senator: RUHLIN

23 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **RAND** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS** Report, **PREVAILED**.

Under suspension of the Rules, **READ TWICE**.

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

Senator **RAND:** Thank you Mr. President. I present Senate Amendment "A" under the filing number of S-597 and move its Adoption.

**THE PRESIDENT:** The Senator from Cumberland, Senator Rand, offers Senate Amendment "A" with a filing number of S-597 and moves its Adoption.

On motion by Senator **RAND** of Cumberland, Senate Amendment "A" (S-597) **READ** and **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-597).**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/24/98) Assigned matter:

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

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-998)** (12 members)

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

Tabled - March 24, 1998, by Senator **LONGLEY** of Waldo.

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-998).**)

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

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

Senator **BENOIT:** Thank you Mr. President and may it please the Senate. I rise to respectfully ask you to oppose the pending motion. This bill seeks to overturn a Maine Supreme Court case strongly supporting a law of this Legislature Enacted in 1991 entitled, "The Freedom of Access Law." I want to tell you what the facts are that lead up to this bill. These facts are very important particulars. Wrendy Haynes, as we all know, was killed at the Augusta Mental Health Institute in April of 1996 by another patient. Following her death the Department of Human Services, Mental Retardation and Substance Abuse Services investigated the situation. As a result of the investigation several employees were disciplined. They appealed their discipline, as they had a right to do, to arbitration. The Arbitrator reversed the discipline. The employees, at that point, were confronted by provisions of the Freedom of Access law that had this sentence, "If disciplinary action is taken the final written decision relating to that action is no longer confidential after the decision is completed." And thus they were confronted by the fact that the Arbitrators decision was public knowledge. They didn't like that. They wanted to cover up the situation because their discipline had been reversed. They were winners but they still wanted the discipline covered up. So they sued the Department. They sued the State. The Superior

Court found the case had no dispute of fact and the case ended up in the Maine Supreme Court. The Maine Supreme Court had occasion to look at the law that this bill wants to change and had some very important words to say about this law. A couple of sentences here are going to go out of existence if this bill passes. Look what the Maine Supreme Court had to say about our Freedom of Access Law as it relates to these employees. "Final arbitration decisions relating to disciplinary action necessarily include those decisions rejecting discipline as well as those upholding it." And this sentence, "The public interest in an instance of improper discipline is no less apparent than its interest in an instance of properly imposed discipline." In the latter case the final decision reflects the action of the employee. In the former case, in addition to vindicating the employee, it may also reflect on the action of the Supervisor. Now that's pretty strong language from the Maine Supreme Court upholding a law of this Body that this bill seeks to change.

What really bothers me about this proposed Legislation is the fact that it discriminates against other State employees. What this bill proposes to do is to have a decision of the Arbitrator block out the name of the employee who is successful in having discipline reversed. The name of the employee will be redacted. The name of the Supervisor who imposes the discipline lives on in the report. That is not crossed out, neither would be the name of an employee who was a witness to the discipline. Those people, as State employees, their names remain in the report. You know, Supervisors who impose discipline are also State employees.

I have a letter here from Julie Armstrong, Chief Council for the Bureau of Employee Relations. She points out that this bill, if enacted, will discriminate against employees who are considered confidential employees as opposed to classified employees. Confidential employees, similar to employees in the Attorney General's office, when they have discipline, their discipline is handled by the State Civil Service Appeals Board. That Board acts like Arbitrators for classified employees. Under Maine law, their decisions are public record, thus if this bill becomes law classified State employee's names will be struck from reports by the Arbitrator but names of State employees who are confidential employees remain public record. This law discriminates. This proposed bill discriminates against those employees.

I was interested in knowing at the public hearing just who it was that appeared for and against the bill. I want to share that with you. The Maine Press Association opposes this bill, so does the Administration oppose it. The Administration heads up the Executive Branch of Government where this particular case concerning Wrendy Haynes's death occurred. That Department opposes this Legislation. The Maine State Employees Association was the only supporter of the proposed measure. In testimony before the Judiciary Committee against the bill, we heard from Chief Council of the Bureau of Employee Relations. This will sober you a bit, I believe. "If this bill passes it would create," she says, "a logistical nightmare for the State Bureau of Employee Relations. The Bureau disseminates all of its arbitration decisions to the personnel officers of the various departments. These arbitration decisions keep the personnel officers informed of precedent and provide guidance on how to deal with labor relations issues. Decisions where discipline is overturned are just as important in providing guidance as are those where discipline is upheld, since we can and should learn from our mistakes." A logistical nightmare will be created by passage of this law. And it's a shame to think that this Statute that has the Maine Supreme Court giving its full blessing and

strong support is going to be adversely affected by this bill. For the life of me, I can't understand why a State employee who wins a disciplinary matter in arbitration has anything to complain about. Everybody loves a winner. An employee who wins a disciplinary matter in arbitration is a winner not a loser.

This bill has three sections. This really bothers me, this particular situation. Section 1 deals with State employees and the Freedom of Access law. Section 2 proposes to amend the law for municipalities. And section 3 proposes to amend the law concerning counties. Municipal employees and County employees are going to find the law changed even though, at the public hearing, not one single person appeared to ask that the law pertaining to grievance matters in a municipality be changed. Neither did anyone appear on behalf of a county to ask that the county statute, we've given them on this subject be changed. Not one single person. And yet, two of the three sections in this bill proposes to change the law pertaining to towns, cities, and counties. It's overreaching. It's overbroad.

Why is this bill here? Because of one case in the Maine Supreme Court. One case, the death of Wrendy Haynes at AMHI. Are we going to change the entire law for the state, the counties and municipalities for one case? I don't think we should.

As I conclude my remarks I'm reminded by something that seems to apply to this bill that was said by Edmond Burke, a fellow in England, many years ago who spoke these words when we were setting up this country. Edmond Burke said, "Where mystery begins, justice ends." So see, this bill wants to promote some mystery, a cover up. A cover up of employees who are winners. They won their case. Mr. President, Wrendy Haynes was killed in April of 1996, right across the Kennebec River, in a facility over here at the Augusta Mental Health Institute. Tonight in this Chamber, on this side of the river, this bill proposes to kill an important part of the Freedom of Access Law. I respectfully urge my associates, here in this Chamber, this august Body, not to support this pending report. Thank you.

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

**Senator LONGLEY:** Thank you Mr. President and colleagues in the Senate. I will be very brief and simply say that I support this bill as Amended because if any one of us could be the victims of disciplinary actions and go through the disciplinary procedures. Once there's a final written decision relating to the action, everything is no longer confidential. Then, in this amended version, we add, unless you, the worker, have prevailed and you are not guilty of what you were charged, in which case you have the option to keep your name confidential. It's as simple as that. For me, I could visualize a time if I were being hauled into Court saying that I'd done certain things wrong in my job, and the proceedings were over and I'd been vindicated, I wouldn't want my name out there. I'd want to have the option of keeping my name out of the papers in case people misinterpret what that meant. All I'd want to know is that my case is over, I've been vindicated and my name isn't going to be bandied about. This bill simply allows the vindicated employee to keep his or her name confidential. Simple as that. Current law doesn't have that provision. In the battle between the press and the employees that ended up in Court after the Wrendy Haynes incident, things are no longer confidential after a decision unless, according to this bill, if this bill is passed, I am vindicated and I

have the option to keep my name confidential. Simple as that. Thank you.

**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, too, ask you to support the pending motion, the Majority Ought to Pass. I would just like to clarify something that the good Senator from Franklin suggested in his remarks, and that was that the Supreme Judicial Court gave its full blessing in this case. Actually this was a fourth reopinion of the Supreme Judicial Court with descents coming from Justice Robert Glassman and Justice Clifford, and they indicated that they believe that the majority of the Court, that their interpretation was at odds with the Statutes plain purpose of protecting employees against unfounded charges of misconduct. 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 LaFountain, the good Senator from York, has just indicated that in the Law Court decision there was a descent. We all know that the descent in any case is not the law of the case. It's the majority of the Judges, that's the decision that counts. For him to recite, or quote, from the descent is for him to recite and quote, really, a meaningless statement out of the case. Because the judgment of the Court is that of the majority of the Judges.

I don't know why it's such a bad thing to keep the public in the dark concerning their Government, down here in Augusta. Whenever there's a disciplinary matter in a Department the persons disciplined know about it. The coworkers know about it. The Supervisor knows about it and the State Employees Association knows about it. But the public won't know about it, and the public pays the bill. These employees, down here, including ourselves, we work for the public. They pay the bill. Why keep them in the dark? One sentence says it all in the Maine Supreme Court case. "The public's interest in an instance of improper discipline is no less apparent than its interest in an instance of properly imposed discipline." That says it all, Mr. President. Thank you.

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

Senator **RAND:** Thank you Mr. President. May 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 by the Senator from Waldo, Senator Longley, 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: CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

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

**ABSENT:** Senator: RUHLIN

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED.**

**READ ONCE.**

Committee Amendment "A" (H-988) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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

HOUSE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the Transfer of the Old Hancock County Jail on State Street, Ellsworth from Hancock County to the Ellsworth Historical Society  
H.P. 1630 L.D. 2258

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-1020).**

Tabled - March 25, 1998, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF THE REPORT**, in concurrence

(In House, March 24, 1998, Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020).**)

(In Senate, March 25, 1998, Report **READ.**)

The **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-1020) **READ.**

**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-606 to Committee Amendment "A" H-1020, move its Adoption and wish to speak at length to my motion.

**THE PRESIDENT:** The Senator from Hancock, Senator Goldthwait, offers Senate Amendment "A" with a filing number of S-606 to Committee Amendment "A" H-1020 and moves its Adoption.

On motion by Senator **GOLDTHWAIT** of Hancock, Senate Amendment "A" (S-606) to Committee Amendment "A" (H-1020) **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. We've been working hard on some difficult bills and so this is your chance to take a break, and sit back and relax and enjoy the flight, as they say on the airlines. This is really quite a small issue. The bill to which I am attaching this Amendment is one which conveys the old Hancock County Jail from the possession of Hancock County to the Ellsworth Historical Society, a conveyance which the County is glad to do and the Historical Society is happy to receive. In addition to the building, the bill would also convey a walkway, which leads from the front entrance of the building to a city sidewalk. Unfortunately, in the course of drafting that bill, we accidentally gave away 850 square feet of an Ellsworth city sidewalk, which we certainly did not intend to do. We apologized to the City of Ellsworth. This Amendment would correct that error. It is the actual 850 square feet of walkway we want to give and not the sidewalk causing anyone visiting the museum to have to jump from the city sidewalk to the museum. So I would appreciate your support for this Amendment which would correct that drafting error, and so would the City of Ellsworth. Thank you.

**THE PRESIDENT:** Are there any questions for the good Senator from Hancock, Senator Goldthwait? Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Hancock, Senator Goldthwait, to Adopt Senate Amendment "A".

The Chair ordered a Division. 28 Senators having voted in the affirmative and no Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to **ADOPT** Senate Amendment "A" (S-606) to Committee Amendment "A" (H-1020), **PREVAILED.**

Committee Amendment "A" (H-1020) as Amended by Senate Amendment "A" (S-606) thereto, **ADOPTED** in **NON-CONCURRENCE.**

**TOMORROW ASSIGNED FOR SECOND READING.**

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

**HOUSE REPORTS** - from the Committee on **LABOR** on Bill "An Act to Amend the Laws Concerning Participating Local Districts in the Maine State Retirement System"  
H.P. 1524 L.D. 2146

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1009)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-1010)** (5 members)

Tabled - March 25, 1998, by Senator **CATHCART** of Penobscot.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1009)** Report, in concurrence

(In House, March 24, 1998, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1009)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1009).**)

(In Senate, March 25, 1998, Reports **READ.**)

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

Senator **MILLS:** Thank you Mr. President. I ask for a Division and wish to speak briefly to the pending issue.

Senator **MILLS** of Somerset requested a Division.

**THE PRESIDENT:** The Senator has the floor.

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. The difference between the two reports is this, in a nutshell. Certain Members of the Public Employee sector in certain municipalities have come to the Labor Committee asking for terms upon which they might be exempt from pension systems that are managed by the Maine State Retirement System. As part of their presentation, I asked, "What system will you be going into?" They explained that they would like to have the option of getting into a system called a Defined Contribution System, which will enable them to have money put away either from the employer or from themselves, or in a combination, probably, that will set up a lump sum within a retirement account, similar to an IRA or a 41K in the private sector, that will build up and have investment value as time goes on. That would be the retirement system that they would use in substitution for the Maine State Retirement System. I asked if



Social Security would form any part of the base of that system, as is true of most other people who exit from the Maine State Retirement System. And the reply was in the negative. What that leaves us with is a group of people who have asked for the opportunity to exit from the Maine State Retirement System, which is a defined benefit system that pays you a certain guaranteed benefit upon retirement at a given age, and also to be exempt from Social Security, which is a real parallel to the Maine State Retirement System. Social Security pays you a certain amount of money guaranteed, more or less, by the Federal Government, payable upon achieving a certain age based on your years of service within the system.

This group has asked that they be exempt from both and that they rely entirely on, what I call, a piggy bank system of retirement, what other Members of the Committee referred to as the Winnebago System. When you get to be 60 or 62 years old, you withdraw your money from the account, and you may or may not, as you may choose, go out and buy the biggest Winnebago you can afford. Then you may or may not have income coming in to support you and your family as you grow into your waning years. I have no problem whatsoever with people participating, and participating heavily in a Defined Contribution System. I managed such a system for my own law firm. I think they're superb. They are great additives to a base pension system. But to cast people loose, entirely, and to say that no part of the planning for their retirement should involve any defined benefit component, I think, is a major mistake. It's a policy decision that is ours to make because of Federal law which exempts public employees from having to participate in the Social Security System unless we, as policy makers here, choose to make people participate in it. This represents, in my view, a fundamental change in our predominant State policy.

I've asked about other systems within the State. One prominent example is the University of Maine System, which has its own freestanding set of pension rules and they are completely outside of the Maine State Retirement System except for, I understand, four, probably fairly senior members of the faculty who are still within the Maine State Retirement System as a carryover from some years before. But all of the other thousands of employees within that system are, first of all, in Social Security, or they have available to them not only the defined benefits that are available upon retirement from Social Security, but they also have the disability system that is in place as part of our Social Security law, in case either they or any of their children, or spouse should become disabled. So they have that package and then superimposed on that they have this very nice Defined Contribution System that is run by TIAA-CREF. The employer, the University and the employee each make contributions to this fund in a Defined Contribution Plan that adds on and creates, in some cases, a fairly substantial investment account for people that rides on top of a fundamental Social Security defined benefit base. I like that system. I think it works well. It is similar in concept and in structure to what we do for our own State employees under the Maine State Retirement System. You have your defined benefit system waiting for you. Superimposed on that you have the opportunity to participate in Defined Contribution or IRA type plans.

I think it's a mistake in policy to Accept the Majority report and let a group of public employees exit from both the Maine State Retirement System and the Social Security System and be cast adrift into managing their own retirement systems entirely, on the basis of cash accumulations within the tax sheltered account. No doubt there are many people who could do the job responsibly.

No doubt there are those who will not do it responsibly. And I think we have an obligation to make sure that our public employees have a mixed system as is true of nearly everyone else in our public systems. This is somewhat complicated but I think that the conservative route to travel would be to reject the pending Majority report so that we could go on and Accept the Minority report, which calls for going into Social Security but also permits these public employees to enjoy the benefits of a Defined Contribution System on top of a fundamental, structured defined benefit system at the base. Thank you.

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

Senator **CATHCART:** Thank you Mr. President and Members of the Senate. I ask you to support the Majority Ought to Pass motion. L.D. 2146, the Majority report is a very important bill. It gives employees of municipalities a much larger choice in what pension system they wish to participate in. The bill was brought to us by the PLD Advisory Committee, which is a Labor Management group of the Maine State Retirement System. PLD, for those of you who haven't served on the Labor Committee or maybe in municipal government, is Participating Local Districts, and there are very many of those in the state that participate in our State Retirement System. It's a great retirement system. The only problem is that if you're the kind of person who doesn't stay in a job for 40 years, you move your jobs fairly often, you can't always take your benefits out of the State Retirement System and carry them with you. That's called portability. This bill gives people the option of choosing a Defined Contribution Retirement Plan that is more portable that they can carry from one job to the next job. It was a unanimous recommendation of this PLD Advisory Committee, which, as I said, is made up of Labor and Management.

Just to tell you quickly who is on the Advisory Committee, it consisted of the Maine State Employees Association, AFSCME Council 93, Maine Education Association, and Fraternal Association of Fire Fighters. The Management representatives consisted of Maine School of Management, Maine Municipal Association, and the city of Portland. This is supported by the Maine Municipal Association and by the City of Portland. It provides an option for the Union employees that is often now available to the non-Union employees. Both labor and management think it's a great idea.

My objection to the Minority report is mainly that it assumes that employees aren't capable of making decisions that are informed about their own retirement plans, that somehow they need big Government to look after them and make sure we put it in the law that they're going to be protected. I would state to you that I think most municipal employees and teachers are quite capable of choosing the plan that would work best for them. I really urge you to support the Majority Ought to Pass as Amended. Thank you Mr. President.

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

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. Just two quick points. Number one, there were mixed reviews of this Plan by the Union representatives who were, in some respects, reluctant to see people exit from the Maine State Retirement System too freely because it dilutes the value of that system to the remaining members.

Secondly, without dealing with teachers, we're dealing with a certain group of public employees who are all teachers in Maine, no matter who you are, all of the 27,000 teachers in this State are part of Maine State Retirement System. They have a defined benefit system. They are intelligent people. I'm sure they're capable of making good choices. But for whatever reason they do not have the ability to opt out of a defined benefit structure. They must remain within the Maine State Retirement System under our current law. I suggest to you that if we change that law, we would be changing it in favor of giving them the Social Security option rather than opting out entirely into a cash accumulation system.

I have had many clients in the past 25 years who have had access, for one reason or another, to money. I have seen people with 3<sup>rd</sup> grade educations manage money and do so with admirable restraint and great concern for their own future. I've seen others who have not. I've seen highly intelligent people, people with strong educations completely blow an accumulated lump sum of money against all predictions that you might make concerning their character and their sense of responsibility. I think we have an obligation to see to it that we have a responsible benefit system at the base of any pension system that we approve, ratify, or authorize in this Chamber. 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. Just a couple of comments on this bill and some responses to some of the statements made just now by the Senator from Somerset, Senator Mills. When the Senator from Somerset said that there was actually mixed reviews of this bill from the Union members, I went back to my file and looked at my notes from the hearing, which I did sit through from beginning to end. There was no testimony whatsoever opposed to this bill. In fact, the opposition mostly came from Members of the Committee, itself, who have already spoken tonight. There was some commentary neither for nor against, and that commentary focused on a couple of things which are reflected in the Majority report. One of the suggestions that was made was that we ought to have some language dealing with the Disability Plan. So the Majority report does require that a Disability Plan be part of this option.

The second point I'd like to make concerns the so-called Winnebago option. I wish I had the facility with words that the good Senator has to come up with these catchy phrases. But I would just point out that the same Winnebago option, or at least a portion of it, exists with the current system. When people retire from the City Government, they can take their entire contribution to the Maine State Retirement System with them and spend it on a Winnebago right now.

Thirdly, I just want to point out that if you think that by voting for the Minority report you will somehow preserve an option for the people who came to us, both labor and management, asking us to support this bill, you will not be carrying out their wishes. The Minority report effectively insures that nothing will happen because it requires that the City participate in the Social Security System and that's not likely to happen. I just point out that also in this concern about employees simply taking the money and running with it basically, and not doing the responsible thing. We did have testimony on this point and in terms of the existing plan, which is, I guess, the non-Union employees that currently participate in this plan, 90% of them do not take out any of their

money. They leave it in long term bonds and that's where it stays.

I think this is a responsible bill. It's very much supported. There was no opposition to it and I urge your support.

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

Senator **RAND:** Thank you Mr. President. I would 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 by the Senator from Penobscot, Senator Cathcart, to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" Report. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

#### ROLL CALL

**YEAS:** Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, DAGGETT, FERGUSON, GOLDTHWAIT, HARRIMAN, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

**NAYS:** Senators: HALL, KIEFFER, LIBBY, MILLS, MITCHELL

**ABSENT:** Senators: CLEVELAND, RUHLIN

28 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1009)** Report, in concurrence, **PREVAILED.**

**READ ONCE.**

Committee Amendment "A" (H-1009) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Provide Computers for Use in the Legislature" H.P. 416 L.D. 566

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-1033)** (6 members)

Report "B" - **Ought Not to Pass** (6 members)

Tabled - March 25, 1998, by Senator **NUTTING** of Androscoggin.

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1033)**, in concurrence

(In House, March 24, 1998, Report "A", **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1033)**.)

(In Senate, March 25, 1998, Reports **READ**.)

**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'll try to be brief. I want to save myself for the other Divided Reports from the State and Local Government Committee that are coming up after this one.

The original bill that was filed had a lot of specifics in it about when computers would be added to the Legislative Chambers. This Committee Report "A" simply says that we're trying to gauge a sense, from the other Body and this Body, of the interest of Legislators in having the Legislative Council proceed in this area. This bill simply calls for the Legislative Council to proceed along this area. One of the specific advantages, I feel if we do proceed with putting computers on our desks, one of the examples that came out in the public hearing was the fact that you may be debating a particular bill and you'd be able to bring up on your screen the existing Legislative Statute that was already in existence that this might be amending, rather than going over to the Statute books that are in the corner. It was also pointed out that our paper bill, alone, last Session was over \$600,000. So I would urge to vote for Report "A" from the State and Local Government Committee. We wrote a letter to the Legislative Council asking them for their, kind of, wishes in this matter. They wrote the State and Local Government Committee back that a general sense of the Body, if it could be assessed through a generally worded Committee Amendment that's before us right now, would be welcome. So that's why I signed on to the report I did. 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. Briefly, I want to make sure that I point out to the Members of the Senate that in the public hearing and in the work Session, I think it's important to note, and I was surprised to hear this from our Chairman, the good Senator from Androscoggin, it was pointed out that you do not save any costs in printing a paper. Because when you use computers you end up using a whole lot more paper, is what was told to us in both of those instances. The cost, the fiscal note on this bill is \$1.385 million. The question is, are we really ready to take this step? The cost figures for the personal computers were very, very high. I'd want this Body to discuss that at length. I think we need a little bit more time to review this. I don't think it should be full speed ahead when you're talking about spending this kind of money. So in regard to the paper cost and in regard to the cost of this program, I think it would be prudent of us to think twice about this issue. So I urge you to vote against the pending motion. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President and ladies and gentlemen of the Senate. I believe I heard, or perhaps I was in error, but I thought I heard this was merely a question to show the interest of the two Bodies in installing this computer system. However, the fiscal note says, "The bill requires the Legislative Council to implement a plan to make certain computer services available to Members of the Legislature. The Legislature will require a one time general fund appropriation of \$1.385 million to provide computers for all Legislators." That doesn't sound to me, Mr. President, like it's much of a choice. Thank you.

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

Senator **JENKINS:** Thank you Mr. President. May I pose a question through the Chair to anyone who may be able to answer?

**THE PRESIDENT:** The Senator may pose his question.

Senator **JENKINS:** Thank you Mr. President. I was wondering if, in fact, in the discussions that the Committee had, were there any discussions at all about donations, in-kind if you will, from those who actually produce and make computers whether it be laptop and or personal computers? I didn't know what other possibilities there were that would impact, in a positive way, the figure that was just pointed out. It would make it a lot less, if you will. I don't know if that was a possibility. Was that ever discussed?

**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 Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you Mr. President and men and women of the Senate. No, to answer the good Senator from Androscoggin's question. In-kind contributions or donations did not come up in the public hearing or the work session phase of this L.D. Yes, this Amendment, if I could go on, does have a fiscal note on it. If we are going to proceed in this area, it's going

to cost money. I can't hide that fact. I know the Director of Information Services that the State has hired has been working hard with the Committee for over a year now, comparing costs and trying to develop a specific plan to put before the Legislative Council, to proceed in this area. If you're interested in computerizing the Maine Legislature then you'd express that today by supporting the motion that's before us. Thank you.

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Off Record Remarks

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

Senator **KIEFFER:** Thank you Mr. President and ladies and gentlemen of the Senate. I disagree that a vote either for or against this bill is either for or against computerizing this Chamber or the other Body. I'm certainly in favor of providing the equipment necessary, probably, to hook computers up but I certainly believe that we should be responsible to provide, or buy our own laptop computer for those that want it, the same as we buy our own vehicle, which is just equally as important a piece of equipment to get to and from the Legislature, as a computer would be to work here in the Session. I certainly have no quarrel at all with providing the hardware, providing the software that's necessary. But to buy everybody a computer is just beyond comprehension, in my opinion. Thank you Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting, to Accept Report "A" of the Committee.

The Chair ordered a Division.

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

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

**THE PRESIDENT:** The Senator from Penobscot, Senator Ruhlin, 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 by the Senator from Androscoggin, Senator Nutting, to Accept Report "A" of the Committee.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

**YEAS:** Senators: ABROMSON, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

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

**ABSENT:** Senator: RUHLIN

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1033)**, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-1033) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING:**

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Governing Secession" H.P. 1420 L.D. 1984

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1024)** (11 members)

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

Tabled - March 25, 1998, by Senator **KIEFFER** of Aroostook.

Pending - motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1024)** Report, in concurrence

(In House, March 24, 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-1024).**)

(In Senate, March 25, 1998, Reports **READ.**)

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

Senator **LIBBY:** Thank you Mr. President. I request a Division.

**THE PRESIDENT:** The Senator from York, Senator Libby, requests a Division.

The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. Since I served on a sub-Committee of the State and Local Government to examine this issue, I hope that you will find me an acceptable alternative to a presentation by the Chairman of this Committee. We had before us a bill having to do with secession and it was an interest of several Committee Members that the guidelines for secession and annexation be considered in a year when we did not have a secession request before us. But we found that the scope of the issue was one that was greater than the time available and so rather than this being any sort of sweeping revision of the Secession Guidelines, it is a very modest revision which does just a few things. The first thing it does is raise the bar slightly for the seceding entity by stating that the information required to be provided must be provided. The existing Statute says, "if available." We are deleting those two words so that the request for the information from the seceding entity is an absolute request rather than an if available request. The only other thing that this bill would do is to further encourage the seceding entity to make every effort to meet with the municipality from which they hope to secede, in an effort to resolve any possible differences. It does not force such a meeting. It does not require the municipal officials to do that, but it does state that the seceding entity must make the request of the municipal officials for such a meeting and that if a meeting is held, or if other alternative dispute resolution methods are employed that the results of those must be included in the information forwarded to the Legislature for consideration of a secession request. That is really entirely what this bill is attempting to accomplish and I hope you'll join me in supporting the Majority Ought to Pass as Amended report.

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

The Chair ordered a Division. 17 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1024)** Report, in concurrence, **PREVAILED.**

**READ ONCE.**

Committee Amendment "A" (H-1024) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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

**HOUSE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Ensure Access to Confidential Records"**  
H.P. 1514 L.D. 2136

**Majority - Ought to Pass as Amended by Committee Amendment "A" (H-1032) (11 members)**

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

Tabled - March 25, 1998, by Senator **NUTTING** of Androscoggin.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1032)** Report, in concurrence

(In House, March 24, 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-1032).**)

(In Senate, March 25, 1998, Reports **READ.**)

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

Senator **NUTTING:** Thank you Mr. President and ladies and gentlemen of the Senate. This particular L.D. "An Act to Ensure Access to Confidential Records" concerns the role of Maine State Auditor. Currently, our Auditor has to sign a Scope of Limitations letter because there's several things that if our current Auditor were called upon to audit, our Auditor would not be able to look at various things like reimbursement rates for Medicare, things like that. This was a bill that we had a public hearing on and, I believe, five work sessions. The Committee spent a great deal of time on this issue. Because a lot of Departments have very sensitive information. This bill still has far more restrictions on our Auditor than can be found in any other state that we researched. The summary of this bill, I guess, what we tried to craft in this 11 to 2 Majority report, was a bill that would allow the Auditor to look at whatever the Auditor was called upon to audit. It would have the various Departments identify when the Auditor investigated those Departments, what was sensitive, or confidential information. That information, the Auditor could not remove from those Departments but could make that information part of the audit working papers. The Committee struggled with what to do with the Auditors working papers. And at the suggestion of the good Senator from Hancock, Senator Goldthwait, what we ended up doing, the Majority signers, was to do what many other states already do, and that's to make the Auditor's working papers confidential. So there is no chance that that sensitive information could ever become public. We've built in here the fact that the auditing working papers could be looked at by a Federal Auditor because our State Auditor has to be reviewed by a Federal Auditor. So, in a nutshell, what this Amendment in the Majority report attempts to do, and I think successfully does, is to allow our Auditor and all Auditors in the future to be able to look at any Department and any quasi-State Agency they're called on to audit, but at the same time goes at great lengths, frankly greater lengths than we could find in any other state, to protect confidential information, to make sure that

confidential information stays in the Departments, to make sure the Auditor's working papers are confidential.

In conclusion, I look at the Auditor as the policeman. How many police agencies do we say, you can look at room A and B but you can't look at room C. That's the situation our current Auditor was in. So I strongly urge you to support a Majority report that we spent a great deal of time on with the Administration. The Administration had concerns early. Those concerns have all been addressed and I'd hope you'd support the Majority report. 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. I, just briefly, want to talk to you about the reasons why I oppose this measure. I do want to compliment the Senator from Androscoggin, Senator Nutting. He did spend just an inordinate amount of time working with all of the parties involved to try and iron out some of the deficiencies of this bill. Unfortunately, it's one of those bills where when you're talking about confidentiality and you're talking about access to records, there's only so many things you can iron out. The Maine Civil Liberties Union came and spoke to us and they opposed the bill for several reasons. When it came right down to it, I had to agree with them. And it's not often I agree with them so I wanted to make sure I noted that. Let me just say, for example, here's one part of the Legislation you're about to pass. It really makes me feel uncomfortable. It says, "Before beginning an audit or investigation that may require access to records containing confidential or privileged information, the Auditor shall consult with representatives of the Department, Commission, or Agency to discuss methods of identifying and protecting privileged or confidential information on those records." So, we're actually putting into law, here, that these two groups are going to discuss this. That's what that says. If you think that's strong language, or if you think that's going to protect anybody, I have to tell you this, we shouldn't be saying stuff like this in State law. I really think it lessens what we do here, in the state of Maine, to actually pass into law the fact that we're going to have discussions and we might be able to come to some kind of mutual agreement on whether or not we have access to medical records of people who are in the custody of the State, for example. Think about the far reaching implications. So that Maine Civil Liberties Union, on this case, I think they're right and I had to side with them. So there are my reasons. I really appreciate you spending the time to listen to me today. I urge you to oppose the Majority Ought to Pass.

**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. Am I correct in my understanding of the purpose of the bill as covered by this Majority report, that it intends to set aside some aspect of confidentiality?

**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 Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President. In response to the question, it is by no means an effort to set aside any confidentiality. It is an effort to ensure that the State Auditor have access to sufficient records so that a complete audit may be done. There has been some difficulty in having sufficient access under our current Statutes for that to happen. So this is an effort to allow full access to the necessary records to do a complete audit while at the same time carefully protecting the confidentiality of those records in a number of ways. I hope that we have achieved our intent because it is my belief that most of these issues should be priorities for our State. One, to make sure that our records are carefully audited and the other to protect the confidentiality of our citizens and businesses. I believe this bill accomplishes both of those.

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

Senator **LONGLEY:** Thank you Mr. President. I'd like to add to the answer too. It doesn't make more information confidential. It makes confidential information accessible to the Auditor so he or she can do the job more thoroughly. That's the extent of it.

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

Senator **LIBBY:** Thank you Mr. President. Also, in answer to that question that was raised by the good Senator from Franklin, the Legislative Analyst in the summary of the bill said, and I quote, "The bill appears to allow the Department of Audit to release confidential information under circumstances not allowed currently by law." I believe that the amended version still does that. So that is our lawyer's interpretation of that. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting, 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 York, Senator Libby.

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

**THE PRESIDENT:** The Senator from York, Senator Libby, 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 **LIBBY** of York, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting, 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: **ABROMSON, BENNETT, BENOIT, BUTLAND, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, HARRIMAN, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

**NAYS:** Senators: **AMERO, CASSIDY, FERGUSON, HALL, KIEFFER, LIBBY, MACKINNON**

**ABSENT:** Senators: **CAREY, RUHLIN**

26 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1032)** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-1032) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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

**HOUSE REPORTS** - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Requiring Notification of Option to Request Judicial Review" (EMERGENCY)  
H.P. 1618 L.D. 2245

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1023)** (8members)

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

Tabled - March 25, 1998, by Senator **NUTTING** of Androscoggin.

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

(In House, March 24, 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-1023).**)

(In Senate, March 25, 1998, Reports **READ.**)

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

Senator **LIBBY:** Thank you Mr. President. Could I request a Tabling motion from the Majority Leader?

**THE PRESIDENT:** The Chair would answer in the affirmative.

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

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

**SENATE REPORTS** - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on **RESOLUTION**, Proposing as Amendment to the Constitution of Maine to Require the Legislature to Provide a Statewide System of Uniform and High-quality Education  
S.P. 517 L.D. 1601

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-576)** (4 members)

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

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

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

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

Senator **LONGLEY:** Thank you Mr. President and colleagues of the Senate. I urge you to not support the pending motion, Ought Not to Pass, for the following reasons. This bill is about a Constitutional Amendment in the area of education. The Maine Constitution, every provision has been Amended at least once except one provision, arguably the most important provision in our Constitution, the education provision. I would also argue that this education provision is the ultimate, the grandmother and grandfather of State Mandates. Because it says pure and simply, "The Legislature shall require the towns to make suitable provision at their own expense." Not one word about the requirement of the State or the Legislature to work with the towns. It's a mandate, pure and simple. The pending motion is

an Ought Not to Pass. Rather than support that I would ask that you support the Study in the Minority report. I say that just because education is ultimately, arguably the most important function of Government and what we have in our Constitution is a provision that says that we get the power. We make them pay. Period. That hasn't been what we've done. We've always tried to be a team and work with the towns. Sometimes better, sometimes worse but we've always tried. Needless to say, when we're elected, our first act in office is to swear allegiance to a Constitution that has a provision that says we have the power and we're going to make the towns do all the paying. That's what we swear allegiance to. I find that unacceptable. I think our Constitution is our Code of Ethics and I think we either have ethics going into this 21<sup>st</sup> century, or we're in big trouble. Our ethic around education, which is no matter where born, we're going to do our best to honor the fact that every kid, northern Maine, southern Maine, gets an equal educational opportunity as best we can do that within existing resources. With my heart and soul and everything that's in me, I ask you to vote against the pending motion because we can do better and we can get an ethic into our Constitution that reflects our practice of always trying to work with the towns and not having to continue to swear allegiance to a provision that says we have the power to make the towns do all the paying. I find that repulsive. We can do better. We can look at the issue for awhile and figure out words that are safe. Maine Courts have proven to be friendly to the Legislature in terms of our interpretation and our practice on what is equitable and adequate. I'm not wedded to those words. I'm wedded to action that has us moving forward. I cannot accept deciding to do nothing. I can accept erring on the side of caution and trying to find the words for the Constitution that better reflects our ethic. With everything in me I ask you to vote against the pending motion so we can proceed to discuss the Study. Thank you.

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

Senator **PENDLETON:** Thank you Mr. President and men and women of the Senate. This bill that proposes a Constitutional Amendment for the State of Maine that would require the Legislature to provide a statewide system of uniform and high quality education is a mandate that says that the state and local funding of education be uniform and of high quality. The definition of uniform and high quality is a fly in the ointment. Because of its broad interpretation of these words it lends itself to many different ideas on what is uniform and what is high quality. We found that out in our Committee as we talked about the School Funding Formula for the last two years. If we give it a chance, I think Learning Results and their assessment program and tools should help us, as a state, to define student equity, which will lend us to a uniform and high quality education.

This bill doesn't just flirt with the possibility of legal challenge. According to the Attorney General's representative that spoke before the Education Committee, legal challenges to School Funding would be guaranteed. The Funding Formula then would become the property of the Courts. Whether the Courts are friendly or not. It would take it out of the Legislative perspective that it's presently in.

Courts in Arizona, New Jersey, and Ohio were particularly influential in Legislative debates over School Funding in the 1998 budget cycle. The New Jersey Supreme Court was probably the most zealous of any of the Courts. It ordered the State to spend

unprecedented amounts of money to add funding to those Districts determined as Special Needs Districts. The New Jersey Legislature had to reopen its budget late in the process to add another \$250 million for 29 Special Needs Districts.

If the State is forced to be fully responsible for funding education, would it then follow that we may have to return to a State property tax, a tax that has already once been repealed by a citizen's referendum. Some local control and responsibility for educational funding should be maintained, as defined by our forefathers long ago. We all know that whatever adjustments that we make to our School Funding Formula, our constituents will see the results in their property tax bill. So I hope that you'll join with me in defeating this bill so that those constituents that are paying the tax bills will have their elected officials be accountable for raising resources for education rather than the Courts dictating increases in funding. Thank you.

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

Senator **CATHCART:** Thank you Mr. President and Members of the Senate. I ask you to reject the Majority report so that we can go on and pass the Minority report, and I am on that report and would like to tell you very briefly what that report does and why we think it's important. The Minority report replaces the entire bill. It is not the bill that it was, so do not even look at the original bill. Look at the Amendment if you will, please, with the filing number of S-576. This Amendment replaces the bill and establishes a 12 member Study Commission to look at the Constitutional clause about education and recommend whether that ought to be changed or not. The Amendment creates a new title for the bill, "Resolve, Establishing a Special Commission to Study the Need to Amend the Constitution of Maine to Provide for a Statewide System of Equitable and Adequate Education." The Study Commission was recommended first to us, when I heard it, by the Commissioner of Education, Duke Albanese, and we asked for his advice because we were concerned about litigation. We wanted, if we were going to pass this, to do it the right way. He said, "Well, why don't you put it out to a bunch of legal scholars and let them study it and come up with language that would be workable and would not cause the fears to come true that some people have about it." And so we did. We set this up in the Minority report, a Commission consisting of 12 members. Six of the members are Legislators, the other 6 are learned in the law. They must be either active or retired lawyers, or law school faculty members knowledgeable in Constitutional Law. We believe that this group can come back with an excellent recommendation. This is worth pursuing. We have a situation in this State where I think most of us recognize that our once equitable School Funding Formula has been wrecked by the changes made in the School Funding by this Legislature and the previous Legislatures because of the financial hardships of the early 90's. It is time that we looked at having the State take back its fair share of the School Funding. As the good Senator from Waldo, Senator Longley, said, this Constitutional education clause is a mandate on the towns. If we continue at the rate we're going, we're just mandating more and more property taxes to be raised by the towns. I urge you to reject this so that we can pass the Study Amendment and find out how we can make this more fair to everyone and all the children. Thank you Mr. President.



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

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

**THE PRESIDENT:** The Senator may pose her question.

Senator **SMALL:** Thank you Mr. President. Is it best that I just not begin my debate rather than conflict with the Ferguson Rule. Will you interrupt me at 9:00? I don't want to get really steaming and then be cut off in the middle. Are we going to Adjourn at 9:00 and should I wait for tomorrow?

**THE PRESIDENT:** It's the Chair's opinion that the Senator from Oxford, Senator Ferguson, is always excited to hear the Senator from Sagadahoc speak. The Chair would suggest the Senator proceed.

Senator **SMALL:** Thank you. Another question. If we go until five after nine before we invoke the Rule, does that then make the Rules Suspended by implication?

**THE PRESIDENT:** The Chair would answer in the affirmative.

Senator **SMALL:** Well, I guess I'll sit down.

**THE PRESIDENT:** The Chair would answer that he admires the good Senator from Oxford, Senator Ferguson's ability to stimulate or encourage debate.

The Chair recognizes the Senator from Cumberland, Senator Pendleton.

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

**THE PRESIDENT:** The Senator from Cumberland, Senator Pendleton, 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 **PENDLETON** 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 by the Senator from Cumberland, Senator Pendleton, to Accept the Majority Ought Not to Pass Committee Report.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

#### ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CLEVELAND, DAGGETT, FERGUSON,

GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, LAFOUNTAIN, LIBBY, MACKINNON, MILLS, MITCHELL, O'GARA, PENDLETON, RAND, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: CATHCART, KILKELLY, LONGLEY, MICHAUD, MURRAY, NUTTING, PARADIS, PINGREE, TREAT

ABSENT: Senator: RUHLIN

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

Senator **FERGUSON:** Thank you Mr. President. I move that we Adjourn until tomorrow morning at 9:00 a.m. Is that what you so desire, Sir? I'm disappointed. I wish we could go a little longer so I could invoke the Rule.

**THE PRESIDENT:** Prior to entertaining the Senator's request, the Chair would just simply ask, we have 5 Pages who have been good enough to stay late tonight. They went home and did their homework and came back this evening and helped us during this Session. I would simply ask them to stand. Melanie Rand, Sara Accomando, Sarah Clark, Brian Lynch, and Nate Chapnick. Please accept the greetings of the Senate.

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

Off Record Remarks

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **FERGUSON** of Oxford, **ADJOURNED** until Thursday, March 26, 1998, at 9:00 in the morning.