

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Index

Pages 1978 - 2482

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

In Senate Chamber
Monday
March 30, 1998

Senate called to order by President Pro Tem Marge Kilkelly of Lincoln County.

Prayer by Senator Anne M. Rand of Cumberland County.

SENATOR ANNE M. RAND: Almighty God, look with favor on those assembled here as we labor through the final hours of this session. Guide us in our deliberations. Bless the work that we have done. Forgive us any unintended errors. Cause us to dwell not upon our own individual political losses but on the good that we have together accomplished. Move us toward the place where we, despite our lofty titles, acknowledge we are but the humble servants of the good people of our great state. And in Your mercy hold us all in Your loving care. This we ask in prayer. Amen.

Pledge of Allegiance led by Senator John Benoit of Franklin County.

Reading of the Journal of Friday, March 27, 1998.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

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

In Senate, March 24, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-988)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-988) AS AMENDED BY HOUSE AMENDMENT "A" (H-1072)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

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; S "B"
S-613)

In Senate, March 26, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-963) AND SENATE AMENDMENT "B" (S-613)** in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-963) AND "B" (H-1052) AND SENATE AMENDMENT "B" (S-613)** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Majority of the Joint Standing Committee on Agriculture, Conservation and Forestry Regarding Enhancing Forest Resource Assessment" H.P. 1657 L.D. 2286 (S "A" S-596)

In House, March 25, 1998, **PASSED TO BE ENGROSSED**.

In Senate, March 26, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-596)** in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED**.

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

Non-Concurrent Matter

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

In Senate, March 24, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-587)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-587) AS AMENDED BY HOUSE AMENDMENT "A" (H-1078)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

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

H.P. 1477 L.D. 2076

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

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

In House, March 23, 1998, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906)**.

In Senate, March 24, 1998, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED**.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

From the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Delay the Implementation of Performance Budgeting for State Government" (EMERGENCY) H.P. 1438 L.D. 2002

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1089)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1089)**.

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

READ ONCE.

Committee Amendment "A" (H-1089) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

From the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Strengthen the Collection of Medicaid Liens" H.P. 1530 L.D. 2152

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1090)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1090)**.

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

READ ONCE.

Committee Amendment "A" (H-1090) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

Majority of the Committee on **JUDICIARY** on Bill "An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to Tribal Land Use Regulation" H.P. 1403 L.D. 1961

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-997)**.

Signed:

Senators:

LONGLEY of Waldo
LAFOUNTAIN of York

Representatives:

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

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

Signed:

Senator:

BENOIT of Franklin

Representatives:

PLOWMAN of Hampden
MADORE of Augusta
NASS of Acton
WATERHOUSE of Bridgton

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-997)**.

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Amount of Retainage on Public Building Contracts" H.P. 1108 L.D. 1551

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1087)**.

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock

Representatives:

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

Representatives:

AHEARNE of Madawaska
SANBORN of Alton
BAGLEY of Machias

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

Reports **READ**.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** 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 Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

Divided Report

Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1998 (EMERGENCY) H.P. 1667 L.D. 2290

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1570).

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives:

AHEARNE of Madawaska
LEMKE of Westbrook
BAGLEY of Machias
GIERINGER of Portland
SANBORN of Alton
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**, pursuant to Joint Order (H.P. 1570).

Signed:

Representative:

GERRY of Auburn

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Reports **READ**.

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

Divided Report

Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1998 (EMERGENCY) H.P. 1668 L.D. 2291

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1570).

Signed:

Senators:

NUTTING of Androscoggin
LIBBY of York

Representatives:

AHEARNE of Madawaska
LEMKE of Westbrook
GIERINGER of Portland
SANBORN of Alton

Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**, pursuant to Joint Order (H.P. 1570).

Signed:

Senator:

GOLDTHWAIT of Hancock

Representatives:

KASPRZAK of Newport
GERRY of Auburn

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Reports **READ**.

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

Divided Report

Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Revise the Salaries of Certain County Officers" (EMERGENCY) H.P. 1669 L.D. 2292

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1570).

Signed:

Senators:

NUTTING of Androscoggin
LIBBY of York

Representatives:

AHEARNE of Madawaska
LEMKE of Westbrook
BAGLEY of Machias
GIERINGER of Portland
SANBORN of Alton

Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**, pursuant to Joint Order (H. P. 1570).

Signed:

Senator:

GOLDTHWAIT of Hancock

Representatives:

GERRY of Auburn
KASPRZAK of Newport

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

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

Senate

Ought to Pass As Amended

Senator PENDLETON for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Authorize Interlocal Agreements for Construction and Operation of Public Education Fiber-optic Transmission Systems" S.P. 568 L.D. 1725

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-628)**.

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

READ ONCE.

Committee Amendment "A" (S-628) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-628)**.

Sent down for concurrence.

Senator RUHLIN for the Committee on **TAXATION** on Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY) S.P. 793 L.D. 2120

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-629)**.

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

READ ONCE.

Committee Amendment "A" (S-629) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-629)**.

Sent down for concurrence.

Divided Report

Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Authorize the Operation of Video Gaming Terminals by Certain Nonprofit Organizations"
S.P. 624 L.D. 1827

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-632)**.

Signed:

Senators:

DAGGETT of Kennebec
CAREY of Kennebec
FERGUSON of Oxford

Representatives:

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

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

Signed:

Representative:

LABRECQUE of Gorham

Reports **READ**.

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

On motion by Senator **KIEFFER** of Aroostook, **TABLED** until Later in Today's Session, pending the motion by Senator **DAGGETT** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Divided Report

Six members of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Have a Referendum on Whether or Not an Independent Public Commission Should be Established to Set Legislative Pay"
S.P. 781 L.D. 2108

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-630)**.

Signed:

Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock

Representatives:

AHEARNE of Madawaska
LEMKE of Westbrook
SANBORN of Alton
FISK of Falmouth

Five 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:

BAGLEY of Machias
GIERINGER of Portland
BUMPS of China
KASPRZAK of Newport

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-631)**.

Signed:

Representative:

GERRY of Auburn

Reports **READ**.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-630)**.

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" (S-630)**.

SECOND READERS

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

House As Amended

Bill "An Act to Require Abutting Landowners to Pay a Fair Share of the Costs of Maintaining a Private Road"

H.P. 1410 L.D. 1974
(H "C" H-1085 to
C "A" H-1031)

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

Senate As Amended

Bill "An Act to Change the State's Fiscal Year from July 1st to October 1st"
S.P. 627 L.D. 1829
(C "A" S-492)

READ A SECOND TIME.

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

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

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

THE PRESIDENT PRO TEM: 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.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**. (Roll Call Ordered)

ENACTORS

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

Emergency Measure

Resolve, Regarding Legislative Review of Section 71.05 (F) (11) - (13) of the Bureau of Elder and Adult Services Policy Manual, a Major Substantive Rule of the Department of Human Services, Bureau of Elder and Adult Services
H.P. 1649 L.D. 2279
(C "A" H-1080)

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

Acts

An Act Concerning Sea Urchin Management
H.P. 1547 L.D. 2176
(C "A" H-1026)

An Act to Implement the Recommendations of the Task Force on Registration of In-home Personal Care and Support Workers
H.P. 1602 L.D. 2228
(C "A" H-1065)

An Act to Establish the Boundary between Harpswell and Brunswick
H.P. 1652 L.D. 2282
(C "A" H-1062)

An Act to Make Certain Changes in the Educational Law
H.P. 1665 L.D. 2289

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

An Act to Amend the Laws Regarding Sex Offenders
H.P. 1473 L.D. 2072
(C "A" H-1056)

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

An Act to Implement the Recommendations of the Commission to Determine the Adequacy of Services to Persons with Mental Retardation
H.P. 1543 L.D. 2170
(C "A" H-1067)

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

An Act Regarding the Recommendations of the Task Force On Improving Access to Prescription Drugs for the Elderly
H.P. 1587 L.D. 2218
(C "A" H-1074)

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

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

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

Resolves

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
(S "A" S-606 to C "A" H-1020)

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

Resolve, Requiring a Report on the Provision of Medicaid Services
H.P. 1432 L.D. 1996
(C "A" H-1055)

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

Senate at Ease

Senate called to order by the President Pro Tem.

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

Senator **NUTTING:** Thank you Madam President. Is the Senate in possession of L.D. 2252?

THE PRESIDENT PRO TEM: The Chair would answer in the affirmative, having been held at the Senator's request.

HELD MATTER

On motion by Senator **NUTTING** of Androscoggin, under suspension of the Rules, the Senate **RECONSIDERED** whereby it **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1088)**, in concurrence:

Bill "An Act to Implement the Recommendations of the Governor's Commission on School Facilities"
H.P. 1622 L.D. 2252
(C "A" H-1088)

(In House, March 26, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1088)**.)

(In Senate, March 27, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1088)**, in concurrence.)

On further motion by same Senator, under suspension of the Rules, the Senate **RECONSIDERED** whereby Committee Amendment "A" (H-1088) was **ADOPTED**, in concurrence.

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

Senator **NUTTING:** Thank you Madam President. I present Senate Amendment "A" under the filing number of S-634 to Committee Amendment "A" H-1088, move its Adoption and wish to speak briefly to my motion.

THE PRESIDENT PRO TEM: The Senator from Androscoggin, Senator Nutting, offers Senate Amendment "A" with a filing number of S-634 to Committee Amendment "A" H-1088 and moves its Adoption.

On further motion by same Senator, Senate Amendment "A" (S-634) to Committee Amendment "A" (H-1088) **READ**.

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

Senator **NUTTING:** Thank you Madam President and men and women of the Senate. I'll be very brief. I think the Education Committee has done an excellent job in this unanimous Committee report regarding school construction. Part of the bill, towards the end of the bill is setting up a stakeholder group to look at many different issues in relationship to school construction and stretching our school construction dollars further. This Amendment just simply asks that stakeholder group to also look at streamlining the level of owners protective insurance is established so that attorney's fees are not paid, but the money instead goes into school construction. I've talked with Members of the Education Committee and the Department of Education, and they are in support of this and so I offer this for your consideration. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-634) to Committee Amendment "A" (H-1088) **ADOPTED**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you Madam President. I present Senate Amendment "B" under the filing number of S-637 to Committee Amendment "A" H-1088, move its Adoption and wish to speak briefly to my motion.

THE PRESIDENT PRO TEM: The Senator from Penobscot, Senator Michaud, offers Senate Amendment "B" with a filing number of S-637 to Committee Amendment "A" H-1088 and moves its Adoption.

On further motion by same Senator, Senate Amendment "B" (S-637) to Committee Amendment "A" (H-1088) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you Madam President and men and women of the Senate. What this Amendment does is it changes the date from July 1, 1998, to June 1, 1998, to help accommodate for the shorter construction season that we have in northern Maine. I also checked with Members of the Education Committee and the Department and they have no objections. Thank you.

On further motion by same Senator, Senate Amendment "B" (S-637) to Committee Amendment "A" (H-1088) **ADOPTED**.

Committee Amendment "A" (H-1088) as Amended by Senate Amendments "A" (S-634) and "B" (S-637) thereto, **ADOPTED** in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1088) AS AMENDED BY SENATE AMENDMENTS "A" (S-634) AND "B" (S-637) thereto, in NON-CONCURRENCE.

Sent down for concurrence.

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

Senate at Ease

Senate called to order by the President Pro Tem.

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 Relating to Electric Industry Restructuring
H.P. 1655 L.D. 2285
(S "A" S-617)

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

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 32: Rules for the Licensing of Children's Day Care Facilities and Chapter 33: Rules for Home Day Care Providers, Major Substantive Rules of the Department of Human Services, Auditing, Contracting and Licensing Service Center

H.P. 1650 L.D. 2281
(C "A" H-1084)

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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Acts

An Act to Amend the Health Insurance Benefits of State Employees and Teachers Who Retire or Terminate Service
S.P. 707 L.D. 1955
(C "A" S-623)

An Act to Ensure Long-term Funding of the Maine Agricultural Experiment Station Research Farms Connected with Land Grant Colleges
H.P. 1440 L.D. 2004
(H "A" H-1029 &
S "A" S-605 to C "A" H-929)

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

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 **LABOR** on Bill "An Act to Provide Adjustments to Accommodate Increases in the Cost of Living for Injured Workers"
H.P. 875 L.D. 1192

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1005).**

Signed:

Senators:

CATHCART of Penobscot
TREAT of Kennebec
MILLS of Somerset

Representatives:

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

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

Signed:

Representatives:

PENDLETON of Scarborough
JOYCE of Biddeford
TREADWELL of Carmel
LAYTON of Cherryfield

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1005).**

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate at Ease

Senate called to order by the President Pro Tem.

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

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

Senate called to order by the President.

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 (3/27/98) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Implement the Recommendations of the Maine Commission on Outstanding Citizens" H.P. 1620 L.D. 2250

Majority - **Ought to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-1064)** (2 members)

Tabled - March 27, 1998, by Senator **NUTTING** of Androscoggin.

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

(In House, March 26, 1998, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, March 27, 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. Last year we Enacted a bill that would allow a Commission to be formed and they would meet and pick 20 designated outstanding citizens to have their portraits hung in the State House. They've met and probably most of you have received this brown report listing the outstanding Maine people they have picked. I'm urging people to support the Majority report to go along with the Commission's recommendations. You may hear other names suggested later on in this debate. The Commission has met and in at least one of those instances considered very fine people that were not on the so-called Top 20 List of the final 20 list. Those particular people were considered and were not found to be quite as qualified or quite as outstanding as the 20 that were picked. I'm sure in the future if this is successful and the public enjoys it that we may be doing it again. Those names not chosen this time would have a chance to be chosen at some later date. If anybody has a question, I can read the list of names picked, otherwise I'll pass. 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. Good morning. I'd like to speak briefly this morning on L.D. 2250. I want to talk to you a little bit about the process that was used in suggesting the 20 people that would be put forward to this Body to have their portraits painted and to be hung here in the State House.

First of all, I think it's an outstanding idea whenever we take a step back as citizens of Maine and take a look at who we should be taking a look at in terms of honoring accomplishments of Maine citizens. In this case, the Commission to designate outstanding Maine citizens, whose portraits are to be displayed in the State House, put out a report, a brown report with a brown cover and you have all received a copy of that report. The final report was issued on February 27, 1997, and it was made up through some Joint Appointments by the Governor, the President and the Speaker. It's made up of six very, very outstanding people who have a real interest and understanding in history. That Commission set about taking a look at who these 20 or so Maine citizens should be. Unfortunately, because of the process that we put in place last year when we put together some of these task forces, the Task Force, as you are all aware, was put together very, very late. In fact, this is probably the worst example of a task force that I can think of. This Task Force was formed this January and told, by the end of the month, you have to be completed with your work. This Task Force met once. Once. Ladies and gentlemen, there just wasn't the kind of time and the kind of public debate that we need to know exactly, through public discourse, who should be these 20 outstanding citizens, whose portrait should be hung in the State House.

Let me just talk about those who were chosen, the 20 outstanding choices. There was Charles H. Best, a native of Pembroke who is the Co-discoverer of insulin. There was Rachel Carson of Springdale, Pennsylvania, a writer, scientist and ecologist who spent many summers on the Maine coast. Probably that second person, Rachel Carson begs a question. Do you have to be a Maine citizen? And the answer is no, and the discussion and debate of who these 20 people should be, the Commission decided to take a very broad look and say, well, if

they spent some time in Maine or they played a large role in the history of Maine, then they should be chosen. There was also Cornelia Thurza "Fly Rod" Crosby, a native of Phillips, who worked and fished in the Rangeley area and was the first registered guide. There was Samuel de Champlain. I don't think that we need to talk too much about his accomplishments, although there was some controversy about whether or not he should be included. Dorothea Dix of Hampden, who led an international reform movement in the care of the mentally ill. There was Fanny Hardy Eckstrom of Brewer, who was a noted authority in native people's of Maine and natural history, and quite a bit more actually. John Ford of Cape Elizabeth, raised on Munjoy Hill who was the director of more than 80 motion pictures. James Augustine Healy of Macon, Georgia, the first black Roman Catholic bishop in America. Winslow Homer of Boston, who lived and painted in Prouts Neck from 1883 until his death in 1910. Oliver Otis Howard of Leeds, a General, a career Military Officer who won the Congressional Medal of Honor. Sarah Orne Jewett, the popular South Berwick writer. Alvin O. Lombard of Springfield, the inventor of the log hauler with a caterpillar tread, which he patented in 1901. Henry Wadsworth Longfellow, little needs to be mentioned about him. Elijah Parish Lovejoy of Albion, Edna St. Vincent Millay, Commodore Edward Preble, Edwin Arlington Robinson, Louis Francis Sockalexis, Harriet Beecher Stowe and Rudy Vallee. Certainly there is no question that the 20 people that I just named are outstanding citizens.

But I must say that there was a great deal of disappointment and discussion in my area about somebody who was missing. And that person was known as the "Rose of the Saco River", Kate Douglas Wiggin. I wonder if this Body can really understand what this one person meant to my area. What Kate Douglas Wiggin, the great writer, the great author of the 18th and early 19th century, meant to our community. I'm not just talking about the fact that she was a prolific writer because she was. She was a world renown writer of plays and short stories. Last week I handed out a fairly large piece of paper that talked about some of her accomplishments such as "Rebecca of Sunnybrook Farm," which most of us have been exposed to either through the literature or through the movie version. But she was also responsible for so many more works that included things like "Timothy's Quest, The Story of Waystill Baxter, The Rose of the River, My Garden of Memory," which is her autobiography which I just recently reread. It's an outstanding piece of literature and really reveals a lot about the person that she was. She was such a philanthropist throughout the country and throughout the world. She would go to readings in New York, San Francisco and London and present some of her works. Not for her own fortune and fame but to raise money as a philanthropist for her charitable causes. She was the founder of the first free kindergarten west of the Rockies in San Francisco in her early years and her life out there. She returned to the Saco River and lived in a mansion that we affectionately know in Hollis and Buxton as Quillcote, which means two pens. Two pens because that stands for the fact that both her and her sister, Nora Archibald Smith were such prolific writers. Every single year in my town at the old Tory Hill Church, which is a very famous church on the Maine landscape, we present her play "The Old Peabody Pew." If you haven't been to it, it's a tradition that maybe cannot be equaled but certainly is up there with many of the traditions of your local area. Every single year we have a Dorcas Society Fair which she founded at her home. We are talking about a woman who died when women were unjustly classified as second rate citizens. She died in 1923, but she led movements around the world. She really was

one of the first true feminists. Her fashion show that we still have every single summer at the Cross Ways in Bar Mills draws hundreds, sometimes even 1,000 people to our area. In all of her publications she wrote about the local communities but particularly the greatness of the Saco River. She came to this Legislature knowing that she would not be listened to, to oppose the Clark Power Company Bill, which established a dam just down the road on the border of Dayton and Buxton that backed up water for miles and miles and led to the destruction of one of the most beautiful gorges in the state of Maine. This gorge was known for three things. Big Rock, which was a huge boulder planted right in the middle of the Saco River. Salmon Falls which was one of the most beautiful falls at that time on any river in Maine, and the Indian Cellar which was world renowned. People from all over the countryside came to the Indian Cellar. It was a natural whirlpool in the Saco River itself which you could look down into for many, many, many feet. It was an amazing sight. All of these were covered up despite the fact that she fought so hard and so valiantly to protect the Saco River and its true beauty and its true quality. This woman is my town, ladies and gentlemen. She is Hollis. She is Buxton. Everything that we stand for revolves her around her memory, and that is the truth. I am not exaggerating. And so we felt a little bit of a slap in the face, I guess, when we saw that she was not included on the list.

Any Bowdoin College graduate will remember Kate Douglas Wiggin as well because she was such a noted supporter of that school. She received an honorary degree from Bowdoin when it wasn't typically the thing to do to give an honorary degree to a woman from Maine. I've been to Bowdoin College, and there is in the library, a beautiful area dedicated just to her works. She truly was one of the great literary talents of this state, and I must say that not enough time was given to her consideration. I will say that some of the members voted for her to be included in this list, but the reason she was excluded is because we have had so many great literary people in Maine, and the Commission had set up categories within which each of these citizens would be judged. One category was famous explorers; one category was literary, and one category was art and so on and so on. I believe that she was unjustly left off of this list. Is this a little bit of backyard politics? You had better believe it, but I know in my heart, and a lot of historians know, that she belongs there. You are going to hear from another Legislator, a little bit later on, that will tell you that somebody else has been left off the list, another female, and I am going to support her because I believe that she is right. So I hope that you will consider not just the Majority report. I hope that you will consider not voting for the Majority report but voting for the Minority report that puts Kate Douglas Wiggin in the company with which she belongs. Thank you.

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

Senator **PARADIS:** Thank you Monsieur le Président and men and women of the Chamber. I, too, will reluctantly support this Legislation because I really feel that, certainly, in the short time that it met, it did not address the inequities that have gone on in this state. A letter from Terry Andrews in the April issue of *George* magazine mentioned, and I quote, "that so much of Native American history has been omitted or rewritten in our children's books. Myths and legends have been misconstrued and our race has been humiliated and lied to." These indeed are strong words. And certainly the same can be said of Native Americans and other ethnic groups that populate our beautiful

state, and women, in terms of their contribution being totally ignored routinely in the State of Maine. No place is this reality more apparent than in our own very State Capitol, and I am very disappointed again that the Committee did not send the Commission back to the drawing board and have them finish their work. We, in the enlightened times of the 90's, should no longer be contributing to the myths and the ignored real history of our beautiful state. I cannot imagine the Commission Members being offended or admitting the fact that there was a simple cursory look at this issue. The Commission had just a couple of meetings and a lot of members missing the second one, they can't certainly be judged for their not giving this the due review which it should have gotten.

We have just begun redressing the historical abandonment of a vast majority of Maine citizens. There have been many excuses why 52% of the population has been totally ignored. In terms of the 90 portraits on the wall, one finds a Senator Margaret Chase Smith that was belatedly added in the corner on the second floor. I was told that there were different reasons for this because when I challenged, people were saying, well why? A lot of women made contributions. Well, it's because women didn't have any money, so they could not have their portraits drawn. And if you had the portrait and you could hand it over, one portrait on the second floor got up there because there was no other wall big enough to put this particular guy's picture anywhere else in the state so we stuck it on the second floor. Also we are always credited, when you read the history books, with women being the help mates. And even if we were leaders in some things, as the help mate we were never to be given the public credit of the work that was actually done. Another part is, if you look around both chambers, you will find a lot of young people and we appreciate their energy and their drive and enthusiasm that they bring to the process. And again, it is as though they didn't exist in the realities of this state in those early years. One knows about the Marquis de Lafayette, who convinced the French monarchy to send troops to help the colonists during the American Revolution was only 19 years old. We know that we have had some young people that have done some incredible things for this state. But the major issue for me that's driving my concern, is the fact that children by the hundred walked through these halls every day, and certainly as they look around, there's nothing up there that connects them to this place for half of the population that comes through these halls. Despite spending 12 years in this establishment, I have not felt much curiosity to find out more about these people hanging here. All I know is that all the years that I was growing up, there certainly was very little government presence that interfered with trying to get children educated, making sure they had the health care. These people probably never went beyond the geography of Augusta. But I would be very excited and I know that I will be if the 20 people and the two others that we would like to suggest would make it up to the walls. I would stop with the children and say, yes Louis Sockalexis, a Native American, this is what he did for the state. Edna St. Vincent Millay, Harriet Beecher Stowe, Rachel Carson and Dorothea Dix.

I would add one more person to the list of prominent women of writers, reformers and such, one of our own Dora Bradbury Pinkham, a Republican woman from Fort Kent who was the first woman Legislator having been elected in 1923. Subsequently, she was elected to the Senate. The enormity of that feat has not gone unrecognized by some of us in northern Maine but apparently was totally ignored in spite of the fact that she's on a brochure at the back of the Chamber here. When you realize

that there was not even a road connecting Fort Kent to Augusta in those days, and when there was finally a road, Coles Express started plowing it in the winter. And so, for her to get down here was quite a feat. One of the things I found out about her was that she was absolutely appalled with the fact, in 1923, that our children were being pulled out of school when they were 9, 10 and 11 years old and sent to work at hard labor and never to go back. They were condemned to a lifetime of slave labor with usually a guarantee of an early death.

Sometimes when we debate children's issues we feel that her work was a little premature and that it took many, many years for the people here in the Legislature to pay attention. That's the extent of my comments. I appreciate your listening. I hope that in a few years from now that we can walk through these halls and see a difference. Thank you.

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

Senator **ABROMSON:** Thank you Mr. President and ladies and gentlemen of the Senate. I rise to ask you to vote against both reports. My reason for it is this. I believe that the State House should be and is the seat of Government and, as such, those portraits of the people who are hung reflect the Government. I think that we have a building not very far from here where children go through every day that can reflect the history of our state with other than governmental personages. It is my understanding that the Commission was formed because someone suggested that the State House was filled with portraits of dead white men and, with apologies to President Lincoln, that may be true and also with apologies to Margaret Chase Smith. It may true in that the State, up until now at least, has been people who are dead white men. However, I think that the Senator from Aroostook, Senator Paradis, makes a good point with respect to Senator Pinkham from Fort Kent. That does reflect women in Government. So therefore, I would just ask that you reconsider. I don't think the fact that people who have made contributions to our country and happen to live occasionally during the summer in Maine should necessarily qualify them for a portrait in our State House. So once again, I would ask that you oppose both reports. Thank you, Mr. President.

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

Senator **BENOIT:** Thank you Mr. President and may it please the Senate. I want to share with you a kind of personal experience that will reflect how we must come to defeat the defending motion. Judy and I, last spring in April, were headed down to Sunset Beach, North Carolina for some rest and relaxation. We got into North Carolina and stopped for lunch at one of the chains, Shoney's. I don't know if you've ever been there, but I recommend their food bar. I was a little tardy in getting into Shoney's. Judy had gone in ahead of me and when I went into the establishment, she was being accosted by a patron. She was being accosted over the fact that she had on this particular T-shirt and this guy had to have one. First he offered her \$10, then he offered her \$20 and I interposed and said that would be a good price. I think she paid probably \$8 or \$10 for it. It was a T-shirt that depicted Rangeley and there was a sunset scene on it. He had to have it and ended up purchasing that for \$20. He had to take it home and give it to his wife because she was a direct descendent of Squire Rangeley in Maine. Now, this

group with this one meeting didn't perhaps, blink an eye concerning Squire Rangeley, who happens to be a person very important to us in the western part of the state of Maine. He was certainly to this individual in North Carolina, and to his wife, a descendent.

So I would say that I don't know how you could put a list of people together and consider that is a complete list, with one Session to do it. To me this is not something that we ought to be supporting. Now, Senator Abromson hits the nail on the head. He says this is a Government building and it ought to have in it Government people. As you walk around you can see pictures of Judges hanging there. Perhaps someday we will have a Judicial building and that's the place to hang the Judges, in the Judicial building and get them out of this Capitol building. Put them in their own Judicial structure to be observed. This is a place for the Government folks to be on display. And these important folks, it seems to me, ought to be in the museum where we can recycle them given the number of outstanding people that we are noted for in the state of Maine. We will never run out of people to place on display. So it seems to me that there are several reasons for voting against this particular report and that's what I plan to do. Thank you Sir.

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

Senator O'GARA: Thank you Mr. President and ladies and gentlemen of the Senate. I guess, I would preface my remarks at first, Mr. President and Members, by saying that I would think that each of the 186 Members of the Maine State Legislature could get up and, each on his or her own accord, present to you a pretty solid argument on behalf of one or more individuals throughout this state. I use as an example what the Transportation Committee went through last year trying to decide on the name for the new bridge between the cities of Portland and South Portland, where they had the Committee that was charged with naming, or sending a name to us had somewhere around 186 names, out of which they finally had to pick one. There was a lot of unhappiness there as well, as a matter of fact. And some of that was expressed at the Public Hearing that we had on that particular issue. I think that will always be the case no matter what we are discussing when you get into something of this nature. But I would just urge you to keep in mind that this is just a beginning. It is a very good beginning. It's something that probably should have been done a long time ago. Since I've been in the Legislature, I've had a chance to visit many State Capitols around the country and this kind of thing is not unusual at all. It is not unusual to see public citizens sharing walls and space with public servants at the same time. It is not unusual and not unreasonable. The comment has been made that the Committee only met once. It is my understanding, and someone can correct me if I'm wrong. But the Committee met a total of three times. All of those were public in one way or another. Obviously, you can invite the public to come but you can't make them come. Not all Committee Members are able to attend each and every meeting that they are part of. That happens here on a daily basis. Why should it be unusual for that to happen at other meetings?

One of the earlier speakers read off the entire list of the 20 who had been selected and I would like to comment on the make up of the Committee. Besides the Chair, who was a Member of the other Body, you had three public members and they were spread out from South Portland, Augusta, and Madawaska. It

would seem to be an attempt to get some representation from all ends of the state. Included with those public members, you also had Julia Hunter from the Maine State Museum, and the highly respected Director of the State House and Capitol Park Commission, Earl Shuttleworth. I think that it is important to keep that in mind.

Another issue that has been mentioned is the fact that females have been ignored over the years and nobody in his or her right mind would walk the halls of this building and deny that as you look at the pictures. But the fact of the matter is that there are 7 women out of the 20 who were picked in the process that they chose to follow. Is that as many as it should have been? Perhaps we can always argue that. Should there have been fewer men and more women? I don't know. I wasn't a part of the process. But I submit to you that the 7 people who were part of the process made as fair a selection as they could. It was mentioned earlier about categories. In fact they had 10 categories. And of those 10 categories, one of them was in literature. And one of the people mentioned already, and she was all of the things in her lifetime that the Senator from York said she was, but unfortunately, in that same bracket of literature were Edna St. Vincent Millay and Henry Wadsworth Longfellow. Now it seems to me that we could argue with the Senator from York that, in fact, his candidate deserved to be on the list, but I do not think that we can at the same time argue that she is or was any better a replacement for the two that I just named. I think that you have to keep that in mind. There was a process. Perfect, perhaps it was not. Perhaps that kind of process, making those kind of choices can never be perfect, but it was a process that started.

So I think those are the kinds of things that I would urge you to keep in mind and I would urge you to support the Majority report, an 11 to 2 Committee Majority Ought to Pass report. I think there was a process. I admit and I agree that there may very well have been others that could have been on the list, but I don't think that you quarrel with the process. I think there was an attempt to involve the public. The third of those public meetings that I mentioned was a Public Hearing and, again, we always hope that there will be lots of people at our Public Hearings but we can't guarantee that there will be. As you know, the Chair of that Committee was a colleague from Westbrook, a Member of the other Body, and I would just say, and I hope, and I know that he is here present in the Hall and he will see the little bit of humor in my next comment. There are those of you who have been here awhile and know my colleague from Westbrook, and it is not often that we are on the same side of an issue. As a matter of fact at a meeting in Westbrook last night, I commented to some of my fellow Democrats that there were some people who have actually expressed some concern having seen he and I sit side by side, chatting amiably about this particular issue. In my judgment, it was a good selection for a Chairman. In my judgment, the Task Force did its job as best it could. In my judgment, it is an outstanding start and I would remind you that this is not the end of it. There will be opportunities for each Legislature from now on to add additional names as well as the other thing that they do, which I thought was an excellent idea as well. The Committee has also put in some wording to protect what we have which we are not doing a very good job of at this point and time. For all those reasons, Mr. President and Members of the Senate, I sincerely urge you to support the Majority Ought to Pass 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. As a daughter of one of the people whose picture is on the wall, I would like to use this opportunity to make a point. I speak in support of the pending motion and I would also like to say that we see these state figures and behind these state figures there's often a partner, in my case a mother, who worked and sacrificed every bit as much as everyone. I have jokingly said, but there is a point of genuine sincerity in it, when we put very important pictures of these government leaders, that maybe we want to put a picture of the person behind them who helped make it happen. In our case, as my dad was driving the car and giving speeches, my mother, who was a secretary, and knew shorthand, would shorthand it up and when we would get to wherever she would find a typewriter, type it and he would go off and give his speech. There were many years where she made huge sacrifices, with my sister back in Lewiston at the high school, shuttling back and forth between Augusta. She was the shyest person on earth and had to hostess as the First Lady. When I was doing my thesis on the Independent Governor, I went through thousands of pages of Legislative Documents, and I remember the one point from the Senator from Kennebec, Senator Cates, who mentioned that he had just come from a lunch and how helpful it had been that this First Lady had been so genuinely kind because all morning they had been fighting with the Governor. She had been the one that had allowed the work session to happen because she gentled them through the relationship and a successful lunch had happened. Time and time again, I just speak on behalf of my mother who, I think, whenever I look up at my dad's picture, I think that she is very much in that picture. Thank you for listening.

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

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. I rise to offer a ferociously tepid endorsement of this Legislation, room temperature at best, I would say. What I do want to support quite strongly is the process. I had warned the good Senator from York, Senator Libby, that if he did Kate Douglas Wiggins, I was doing Chester Greenwood. There are many of us who feel quite strongly that the list in front of us is flawed for a variety of reasons, or at least not as inclusive as we would like to see it. My position today is that if you think that that list should include only Government people because this is a State House, or if you think that the process did not have adequate access by the public then the proper thing to do is to push that red button. But I would encourage you when you make your decision to vote this bill up or down unamended simply because we have the opportunity in debate today to argue for our favorites to add to the list. But the rest of the state of Maine has not really had that opportunity because of the compressed time frame. So, I would urge you to defeat the Amendment motion and do as you will with the main bill. 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 appreciate Senator Goldthwait's remark about

Chester Greenwood and you can imagine if this bill passes what the walls of the State House are going to look like down the road. Of course, we all know Chester Greenwood is famous in Farmington for having invented the earmuff. He had some other inventions as well that we don't know about, automotive-wise inventions, as much as the earmuffs. Senator O'Gara had a sentence in his remarks that kind of makes me fearful of what is ahead of us if this bill passes. He said, "This is not the end of it." That was the sentence that he used in his remarks. The integrity of the State House seems to be at issue here. I don't know why we would stop with outstanding citizens if this passes. Let's get into situations of the animal kingdom. Andre the seal was quite a popular situation in the state of Maine for years. Everybody waited for Andre to come back to the state of Maine in the spring. When he came back, we all rested with ease and comfort and we didn't feel too happy about him leaving. I suppose down the road this is possible for my grandchildren to come into this building and find people on the wall such as wearing earmuffs, and people on display of that ilk and perhaps Andre the seal could be depicted. I just feel that we have to be careful here and keep the integrity of this building for what it is. It's a very important structure for our people. It ought to have Government individuals displayed. We can have the Judges taken down from the walls in time and placed in a Judicial building much as you find in the United State Supreme Court Building, which I had the chance to walk through some years ago and find some Judges on display there. It was done in a very tasteful way. And in the museum, we can depict others such as Chester Greenwood and Andre the seal. Thank you Sir.

Off Record Remarks

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 short comment in response to the Senator from Franklin, Senator Benoit. I am sure that the Senator meant no disrespect to the women of this Body. But I would just say that there really is a big difference between the first woman elected to the Maine Senate and Andre the seal. I hope you will support the pending motion so that we can go on to consider the Amendment.

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

Senator **O'GARA:** Thank you Mr. President and ladies and gentlemen of the Senate. Also, just one brief response. As you look around this chamber, there are six pictures on the walls and three of those are of scenes that have nothing to do with famous people in the state of Maine. Would it be so harmful to the buildings that we spend so much time in to have pictures of some of the famous Maine citizens who have contributed so richly to our heritage. 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 Committee Report.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: BUTLAND, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HARRIMAN, KILKELLY, MICHAUD, MURRAY, NUTTING, O'GARA, RAND, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CASSIDY, CATHCART, HALL, KIEFFER, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, MITCHELL, PARADIS, PENDLETON, PINGREE, RUHLIN, SMALL, TREAT

ABSENT: Senator: JENKINS

EXCUSED: Senator: CAREY

13 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **FAILED**.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Minority Ought to Pass as Amended by Committee Amendment "A" Report.

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

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

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

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

On 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 Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President and men and women of the Senate. I urge your support of this Amendment that would include the 20 already mentioned plus our two. Thanks.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CATHCART, CLEVELAND, DAGGETT, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

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

ABSENT: Senator: JENKINS

EXCUSED: Senator: CAREY

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-1064) **READ** and **ADOPTED** in **NON-CONCURRENCE**.

Senate at Ease

Senate called to order by the President.

On motion by Senator **LIBBY** of York, the Senate **RECONSIDERED** whereby Committee Amendment "A" (H-1064) was **ADOPTED** in **NON-CONCURRENCE**.

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

Senator **LIBBY:** Thank you Mr. President. I present Senate Amendment "A" under the filing number of S-635 to Committee Amendment "A" H-1064, move its Adoption and wish to speak briefly to my motion.

THE PRESIDENT: The Senator from York, Senator Libby, offers Senate Amendment "A" with a filing number of S-635 to Committee Amendment "A" H-1064 and moves its Adoption.

On further motion by same Senator, Senate Amendment "A" (S-635) to Committee Amendment "A" (H-1064) **READ**.

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

Senator **LIBBY:** Thank you Mr. President and men and women of the Senate. Senate Amendment "A" simply corrects a mistake that was made in reporting out the Minority report. The Minority and Majority reports were intended to be funded under the same mechanism, which is the Percent for the Arts Program. Senate Amendment "A" corrects that. It does fund this Program under the Percent for the Arts and it requires no fiscal note. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-635) to Committee Amendment "A" (H-1064) **ADOPTED**.

Committee Amendment "A" (H-1064) as Amended by Senate Amendment "A" (S-635) thereto, **ADOPTED** in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1064) AS AMENDED BY SENATE AMENDMENT "A" (S-635)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

Off Record Remarks

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

HOUSE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Correct and Supplement Funding for the Maine School of Science and Mathematics" (EMERGENCY)
H.P. 1450 L.D. 2041

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-927)** (11 members)

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

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

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

(In House, March 19, 1998, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-927).**)

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

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

READ ONCE.

Committee Amendment "A" (H-927) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-927)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (3/26/98) Assigned matter:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Allow the Department of Inland Fisheries and Wildlife to Create Lifetime Fishing and Hunting Licenses" H.P. 304 L.D. 368

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1013)** (11 members)

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

Tabled - March 26, 1998, by Senator **PINGREE** of Knox.

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

(In House, March 25, 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-1013) AS AMENDED BY HOUSE AMENDMENT "A" (H-1036)** thereto.)

(In Senate, March 26, 1998, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, and ladies and gentlemen of the Senate. You'll notice that there are only two people opposed to this and I happen to be one of them. I think basically that it's probably a good idea but I'm afraid that the

timing is wrong. This Department, in the last three years, has lost \$2 million in revenue because of the lack of sales in licenses. The reasons we could discuss for the next three hours so I won't really go into it. I think it's a matter of several reasons and I don't think that's the point. For whatever the reasons, we need to get on track and increase the sale of hunting and fishing licenses. I'm really concerned because there has been 20 some odd states across this great country that have tried this same thing and only two have been successful. I really don't know why we think we are going to be number three. I personally don't think that we will be.

The original bill was much different than what the Committee Majority report has come up with. They basically want to start with selling infant licenses and Senior citizen licenses over the age of 65. Well, the concept of buying a fishing, hunting or a combination for an infant shows some merit as far as taking that money, the way it's set up, it will be invested. The Department can't use it until that child becomes of legal age to buy a sporting license, which is 16. I don't think personally people are going to buy them for different reasons. I just don't think that people in this state are prone to do that, number one. A lot of them I don't feel are going to have the money to do it, maybe some grandparents will come forward to do it. But before they do it, they are going to say well, wait a minute, is this boy or girl going to want to hunt and fish later in life? If they do, it's a good buy. If they don't, my grandchild, or my child is not going to receive anything for this. There is no provision to reimburse any money, once it's been purchased, back to the purchaser. None. Perhaps they will move out of state. Let's look at that. If you bought your child or grandchild one of these licenses, and we all know that a lot of our young people, once educated, have to leave the state of Maine for employment, they would then be allowed, this is a lifetime license, it makes no difference whether you're a resident, you have to be a resident to purchase it but after that it makes no difference where you live. You can move to New Hampshire, Massachusetts, anywhere, come back and hunt or fish for free if you have this license. I tried to get that provision taken out but was unsuccessful in Committee for this reason. It becomes almost too good a buy for those people because our non-resident licenses, as you all know, are a great deal more than a resident license. I felt, in the long run, that the Department could lose money over it. They surely will lose money on the part in here on people 65 to 70. Now at 70 we give a free license. There is a provision in the bill that if they need to they can use that money immediately to make up for the loss of that license because what they want to do if, at 65, you buy this five-year license then, they would like to put that into the investment pool but they are not going to be able to because that will mean the loss of a sale of a license. So there is a provision for them to use that money, and that goes against the common sense of why have this lifetime license in the first place.

There's something else that bothers me greatly and I just couldn't get over it. That this State at one time had a lifetime license back in the early 1900's. It was 25 cents, and there are still some around, passed down from one generation to the next. About 1920, a couple of Legislatures later, they said boy we need more money and we can't honor that anymore, so they wiped it out. It didn't last very long and people still talk about it today. Some of them quite ugly about it. It happened to their grandfathers or grandmothers. I'm afraid that the way our economy is going, the amount of money now that it costs to run the Fish and Wildlife Department, it's up in the neighborhood of 23 to \$24 million a year, and I'm afraid that somewhere down the

road someone else is going to be standing here pleading with the Senators that we can no longer afford this lifetime license that they gave in 1998. I guess I would feel pretty bad if I was on the opposing side and it came to pass in the future and it easily could.

The present Commissioner has been working in Arizona where hunting is probably much more popular than fishing but they do have some fishing there. They have a lifetime license. They have four and half times the population that we have in the state of Maine. And they have had this lifetime license for quite some time and he told us that they had about \$1.2 million in the fund. Well, I can assure you that 1, 2, or \$3 million even invested in the market at today's rate is not going to mean very much to this Department 15 or 16 years down the road, where quite easily the Fish and Game budget will be probably between 90 and \$100 million in 15 years. It will probably be a lot more than that. If they can draw 5% of whatever they've got in that fund in 15 years down the road, it's nothing. It's pocket change. That would fall through the cracks over there. So for those reasons, I'm going to ask you to vote against this Majority report here today. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator KILKELLY: Thank you Mr. President and men and women of the Senate. I would urge you to vote in favor of the Majority Ought to Pass report on this bill. I agree with many of the points that were made by the previous speaker. In Committee, we tried very hard to listen to those points and to learn from the experiences of other states. This bill is very much pared down from where it began and includes only two groups of people for a lifetime license, those folks who are 0 to 6 years old and 65 and over. We selected those two categories for very good reasons. In terms of those people who are 65 and over, this would provide them with a lifetime license. One of the things that happens now, at the age of 70, as has been pointed out, a person is eligible for a free hunting and fishing license. Everyone of those free licenses costs us federal money. There are federal taxes on sporting goods that go to provide assistance for states in areas of hunting and fishing. That money comes in to the Department based on the number of licenses sold. When we give away a license, we give away access to those federal dollars. By providing this license, a lifetime license at age 65, or anytime between 65 and 70, then we are still eligible, after that person turns 70, to draw down the money on that license sale. So this does in fact provide us with an opportunity to access federal money that we currently are giving away. Right now there are about 30,000 free Senior licenses in this state and each of those 30,000 licenses represents federal money that is lost to this state unless we make this particular change.

The other issue has to do with children that are 0 to 6 years old. When we looked at the experiences of other states, we decided that it was really important for us to be very cautious in this. We are very, very concerned about the financial stability of the Department of the Inland Fisheries and Wildlife. It has been our top concern, our top priority since before my time on the Committee. We have done a lot of very good work to bring financial stability to that Department and we were not going to do anything that would jeopardize that. So we took a look at 0 to 6 as being a group of people who don't normally buy a fishing and hunting license. And because they don't normally buy a hunting and fishing license, we obviously are not going to be losing the

revenue from the sale of those hunting and fishing licenses. We are going to be able to take that money and invest it until those children turn 16, or whatever age they would be in order to purchase a license. That money, depending on how you look at it in terms of the investment, we believe will, in fact, provide an adequate return so that, in fact, the Department will not be losing money.

Now the question is who would buy a license for someone 0 to 6? Well, one of the other concerns that we have had in our Committee is that license sales are, in fact, decreasing and hunting and fishing as activities seem to be on the way down. We wanted to encourage children in particular to go hunting and fishing. We have worked on Legislation that would establish, as a priority for the Department, the "Hooked on Fishing Not on Drugs Program" that provides children with an opportunity to learn how to go fishing, to borrow equipment that they need and to mentor with other people to learn about fishing. Many of us work with different groups in the state to support mentoring activities for hunting and for trapping. We think those are very, very important for children to have those experiences. We believe that if you receive a lifetime hunting and fishing license when you are an infant or a young child, that there may be a better chance that you would take advantage of that license later on and maybe just go try. Maybe it's something that you hadn't really thought about but it's something that's available, and your grandmother gave it to you or your parents gave it to you and it's something very special. When we hear about whether or not you would know at the ripe old age of 0, or one month, or 4 years if a child is going to be interested in hunting or fishing, I can only can give you the examples that I have from my own family. My son, Robert, started fishing when he was about two and, since we don't live on the water, he would occasionally fish in a bucket off the back porch, which he found very satisfying. There was the great day when my father showed up with a mackerel in his pocket and put it on the hook, unknown to Bob, and Bob has been hooked on fishing ever since. Bob and his wife are expecting their first child in June and it's now a time when he says he's supposed to start reading to the baby. And I said, what are you going to start reading and he said Field and Stream. If that's not a child that's going to be born with some predestination, in terms of going hunting and fishing, I don't know of one that will.

There are families in which this is an important part of our culture and heritage and it is important, I think, to provide an opportunity for this Program to go forward and to see if, in fact, it's going to be successful. We did have concerns about the fact that in the past there was a lifetime license and the commitment that was made to the people of the state was in fact withdrawn by the Legislature. We've built into this bill a two-thirds vote in order to make any change in the benefit. Not that a two-thirds vote would in fact bind a future Legislature from making this decision but we know that it is more difficult to get a two-thirds vote than a simple majority vote. We felt that by the time the two-thirds vote was taken to allow changes to be made in this particular benefit, and that a second vote would need to be made, that it would certainly buy some time for those folks who had purchased these licenses to rally to the State House and make their case known. So, I would urge you to support the Majority Ought to Pass on this bill as an effort to provide some stability and opportunity for the Department of Inland Fisheries and Wildlife and, also to allow us to use this as an experiment to see if we can find ways to encourage more children to go hunting and fishing. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Pingree, to Accept the Majority Ought to pass as Amended Report, in concurrence.

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 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 Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

ABSENT: Senator: JENKINS

EXCUSED: Senator: CAREY

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator being excused, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-1013) **READ**.

House Amendment "A" (H-1036) to Committee Amendment "A" (H-1013) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-1013) as Amended by House Amendment "A" (H-1036) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1013) AS AMENDED BY HOUSE AMENDMENT "A" (H-1036)** thereto, in concurrence.

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

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

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

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

Pending - **ACCEPTANCE OF THE REPORT**, in concurrence (Division requested)

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

(In Senate, March 24, 1998, Report **READ** and **ACCEPTED**, in concurrence. Subsequently, on motion by Senator **AMERO** of Cumberland, **RECONSIDERED**.)

The Chair ordered a Division.

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

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

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

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

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

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. I appreciate the opportunity to speak and to say to the fellow Senators, just quickly before you vote on this. There seems to be a little bit of confusion last week and I tried to explain what was happening with the store in Calais, Maine. Just to clarify it, there's no new building. There's no new structure. There's no new shop. There's no new anything. It's like if you went down to the cafeteria and we lowered the prices on all of the

food there, and opened up a discount cafeteria, this is exactly what would happen. The building would not change. The structure would not change. It seems as though there was some misunderstanding that we were going to open up a new store. It's an existing store. There was another question about what happens if someday the State privatizes the liquor stores, and obviously if that should ever happen then this store would be along with the rest of the state stores. That is, in a nutshell, what we are voting on today and I hope that you support the motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator **Pingree**, to Accept the Ought to Pass as Amended by Committee Amendment "B" Report. The Chair recognizes the Senator from Penobscot, Senator **Murray**.

Senator **MURRAY:** Thank you Mr. President. I would like permission to be excused from voting due to potential conflict.

Senator **MURRAY** of Penobscot requested and received leave of the Senate to be excused from voting, pursuant to Senate Rule 401.3.

The Chair noted the presence of the Senator from Kennebec, Senator **CAREY**.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **ABROMSON, CAREY, CASSIDY, CATHCART, FERGUSON, GOLDTHWAIT, HALL, KIEFFER, KILKELLY, LAFOUNTAIN, MICHAUD, MILLS, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **AMERO, BENNETT, BENOIT, BUTLAND, DAGGETT, HARRIMAN, LIBBY, LONGLEY, MACKINNON, MITCHELL, SMALL**

ABSENT: Senators: **CLEVELAND, JENKINS**

EXCUSED: Senator: **MURRAY**

21 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "B" (H-934) **READ.**

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

Senator **PARADIS:** Thank you Mr. President. I present Senate Amendment "B" under the filing number of S-636 to Committee Amendment "A" H-934, move its Adoption and wish to speak to my motion.

THE PRESIDENT: The Senator from Aroostook, Senator Paradis, offers Senate Amendment "B" with a filing number of S-636 to Committee Amendment "A" H-934 and moves its Adoption.

On motion by Senator **PARADIS** of Aroostook, Senate Amendment "B" (S-636) to Committee Amendment "B" (H-934) **READ.**

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

Senator **PARADIS:** Thank you Mr. President and men and women of the Senate. This Amendment is changing the make up of the commission only. Thank you.

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

Senator **BENNETT:** Thank you Mr. President. I request permission to pose a question?

THE PRESIDENT: The Senator may pose his question.

Senator **BENNETT:** Thank you Mr. President. To any Member who may be able to respond, could I have a better understanding of exactly what Senate Amendment "B" does in addition to changing the makeup of the Commission as stated. Thank you.

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

Senator **PARADIS:** Thank you Mr. President and men and women of the Senate. This issue of liquor stores has been around this Body for many years. We thought it would be more appropriate to have more Legislators on the Commission since it comes back here for our review then just having people that would go away and we would be left to tackle this problem alone. So we are adding more Legislators to the Commission.

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

Senator **BENNETT:** Thank you Mr. President and fellow Members of the Senate. Perhaps I'm in error but I'm looking at Senate Amendment "B" with a filing number of S-636, and I see a specific Appropriation, a fiscal note of \$5,600 with an appropriation from the General Fund for \$5,225. I take it that means that with more Legislative Members that the fiscal note is going to increase for the Study. And I also would point out that the Study is only toward the evaluation for the possibility of

opening a discount liquor store in Fort Kent according to this amendment. I do not see any other more general purpose in studying the opening of discount liquor stores elsewhere in the State. As someone who represents Oxford County and parts of Cumberland County, that border closely to the State of New Hampshire, I would think that there are many places in this State that would warrant an evaluation since we are in the business of opening more discount state liquor stores with this bill then just merely Fort Kent. And I particularly think of, not pass-through kinds of places where tourists often travel through but, places where tourists actually go to stay and are actually tourist destinations, where we may be able to capture more revenue from liquor stores. So I'm kind of surprised to see this whole approach on just studying Fort Kent when there are other areas close to the border, in addition to Calais and Fort Kent, that would warrant study. So I would encourage you to vote against this pending motion. Thank you.

The Chair ordered a Division.

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

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

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 motion by Senator **BENNETT** of Oxford, 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 Aroostook, Senator Paradis, to Adopt Senate Amendment "B" S-636 to Committee Amendment "B" H-934.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CASSIDY, CATHCART, CLEVELAND, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, DAGGETT, FERGUSON, HALL, HARRIMAN, KIEFFER, LIBBY, LONGLEY, MACKINNON, MITCHELL, SMALL

ABSENT: Senator: JENKINS

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PARADIS** of Aroostook to **ADOPT** Senate Amendment "B" (S-636) to Committee Amendment "B" (H-934), **PREVAILED**.

Committee Amendment "B" (H-934) as Amended by Senate Amendment "B" (S-636) thereto, **ADOPTED** in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-934) AS AMENDED BY SENATE AMENDMENT "B" (S-636)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

Off Record Remarks

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

On motion by Senator **RAND** of Cumberland, **RECESSED** until 1:45 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:

REPORTS OF COMMITTEES

House

Divided Report

Majority of the Committee on **LABOR** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System H.P. 735 L.D. 999

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

Signed:

Senators:

CATHCART of Penobscot
TREAT of Kennebec

Representatives:

HATCH of Skowhegan
SAMSON of Jay
BOLDUC of Auburn
CLARK of Millinocket
RINES of Wiscasset

STANLEY of Medway

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

Signed:

Senator:

MILLS of Somerset

Representatives:

PENDLETON of Scarborough
TREADWELL of Carmel
JOYCE of Biddeford
LAYTON of Cherryfield

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolution **PASSED TO BE ENGROSSED**.

Reports **READ**.

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

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

Off Record Remarks

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

Off Record Remarks

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

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

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

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; S "B" S-613)

Tabled - March 30, 1998, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 26, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-963) AND SENATE AMENDMENT "B" (S-613) in NON-CONCURRENCE.**)

(In House, March 27, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-963) AND "B" (H-1052) AND SENATE AMENDMENT "B" (S-613) in NON-CONCURRENCE.**)

Senator **PINGREE** of Knox moved the Senate **RECEDE** and **CONCUR**.

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

Senator **PINGREE** of Knox moved to **TABLE** until Later in Today's Session, pending motion by same Senator to **RECEDE** and **CONCUR** (Division Requested). Subsequently, the same Senator requested and received leave of the Senate to withdraw her motion to **TABLE** until Later in Today's Session, pending motion by same Senator to **RECEDE** and **CONCUR**.

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

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

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 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.

Senator **HARRIMAN** of Cumberland moved the Senate **RECEDE** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-963) AND SENATE AMENDMENT "B" (S-613).**

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

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

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 Know, 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 Harriman, to Recede from Passage to be Engrossed as Amended.

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, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: None

ABSENT: Senator: JENKINS

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent, the motion by Senator **HARRIMAN** of Cumberland to **RECEDE** from **PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-963) AND SENATE AMENDMENT "B" (S-613) in NON-CONCURRENCE, PREVAILED.**

House Amendment "B" (H-1052) **READ.**

Senator **HARRIMAN** of Cumberland moved to **INDEFINITELY POSTPONE** House Amendment "B" (H-1052) in **NON-CONCURRENCE.**

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

Senator **CLEVELAND:** Thank you Mr. President and men and women of the Senate. I would hope that you would support my good colleague from Cumberland on that motion.

On motion by Senator **HARRIMAN** of Cumberland, House Amendment "B" (H-1052) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED HOUSE AMENDMENT "A" (H-963) AND SENATE AMENDMENT "B" (S-613) in NON-CONCURRENCE.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to Tribal Land Use Regulation" H.P. 1403 L.D. 1961

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-997)** (8 members)

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

Tabled - March 30, 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 27, 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-997).**)

(In Senate, March 30, 1998, Reports **READ.**)

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 to give you some reasons why I will be voting in opposition to the pending motion. The purpose of this bill is to do something that was attempted by the Tribe and the Nation back in 1992, and that is to take Indian lands out of the jurisdiction of the Lands Use Regulation Commission, LURC. It seems that a dispute has arisen between the Maine Commission, the State Tribal Commission that governs, or works with the Tribe and the Nation over whether Indian lands are under LURC's jurisdiction. Since 1980 when the Indian Land Claims Settlement Act was Enacted, 18 years now, there has been no question whatsoever about what Indian lands in Maine have been under LURC's jurisdiction. But it seems recently that certain Members of the Tribe and Nation have wanted to put up a structure or two and haven't bothered to go to the LURC for the permits. So someone shows up and indicates that they are in violation of State Law that they have agreed to abide by. And this dispute has been simmering and now boiling, and is again before this Legislature. I might point out to you that the bill has a sunset provision of five years which tells me that the majority who supports this Legislation aren't really comfortable about it. We all know that a sunset provision generally exists on a law whenever there is some thought that it might not work out the correct way. So we let it run its course and perhaps die at the end of the sunset term.

The major problem that I have with this piece of Legislation is in the effective date language. You'll find that in Section 2 of the bill. What's proposed here is that if it passes, the Tribe or the Nation have a right to veto it. They can either accept the Legislation separately in the Tribe and Nation or they can veto it. If they accept this bill for the next five years, this Legislature will have no authority to amend this particular law. We will, in effect, be giving up our right to amend the Legislation that is before us at this time for the next two Legislative Sessions. Now forget whether or not that's a Constitutional thing that we can do, in my view it isn't something that we can give up. I'm bothered by the fact that there would be a veto power, in both the Passamaquoddy Tribe and the Indian Nation as well, over any new language that would attempt to make this language better if there is some problem with it for the next five years.

I'm really disturbed about the fact that we are going to replace the Land Use Regulation Commission, which has 25 years of expertise in land management in Maine of the unorganized areas or the Indian State Tribal Commission. At the Hearing on this bill before Judiciary, nothing was given to us to show us that the Tribal State Commission had any particular expertise in land management. Now this is a pretty finite work, the management of our lands in the State. There has been an expertise that has developed with LURC, as I have indicated, for 25 years. That's going down the drain if this bill passes to be replaced by a questionable expertise on the part of the Indian State Commission. I think that's unfortunate. I don't think that we can really afford to give up that kind of land management experience. I like the idea that LURC will stay in the picture as, if you will, an independent agency. I live in LURC jurisdiction near Sandy River, near Rangeley and much of the State is in LURC jurisdiction. Now taking LURC out of the picture, replacing it with a Commission means that you are going to have an Agency, the Tribal State Commission, which is close to the Nation and Tribe as far as their working relationship trying to administer the maintenance of land independently. I don't know if that can be done successfully.

I'll tell you what I wish had happened instead of this bill. I wish that the Tribe and the Nation had made use of current law which allows any municipality in the State Compact with the Indians, they have the same rights as any municipality in the state. Current law provides a mechanism for a municipality to remove itself from LURC jurisdiction and adopt and administer its own Lands Use Regulations but that has not been attempted. It hasn't even been tried by the Tribe and the Nation. If you go back and review the Record that occurred at the time that the State settled issues with the Tribe and the Nation, you will find that this subject was fully discussed. A review of the Legislative Record demonstrates that the issues raised by this bill were considered and understood at the time of the adoption of the Claims Settlement Act. In fact, the issue of State Natural Resource Laws and the relationship between LURC and the Indian lands was discussed at that time and fully taken up. Everybody agreed then that the Land Use Regulation Commission would supervise and be in charge of assisting the Tribe and the Nation in the development of Indian land.

It's really unfortunate. I want to share something with you at the Public Hearing before Judiciary. Representatives of the Tribe and the Nation appeared and were very helpful with the Committee. Certain members indicated, and frankly so and I respect this, that at the time the Tribe and Nation entered into the agreement with the State, they used this expression. "We had a gun at our head," they said. The Tribe and the Nation felt as we

were told again, and this was not the first time that the Legislature has been told this, that they entered into this agreement with a gun at their head. I respect what they said and can understand then why we have Legislation like this. Naturally, if a party to an agreement feels they entered into the agreement on an involuntary basis, you are going to from day one try to get out of the agreement. And that's what they have been trying to do for the last 18 years.

In conclusion, let me suggest to you that if this succeeds, if this bill passes, and many of my constituents are opposed to it, I've received all kinds of mail on the subject in opposition to this proposed Legislation. If we keep chipping away at the Compact Agreement, pretty soon we're going to have a hollow shell. When that Compact was entered into, the mechanics for making changes to it were made very difficult, by that I mean legislation, the opportunity to veto or accept it, that kind of thing. The idea then is to not change the Compact unless it's absolutely necessary, then change it. But these things aren't absolutely necessary. There's nothing wrong with the Land Use Regulation Commission having jurisdiction over Indian lands. It's been going on for 18 years, except a disagreement has arisen as to whether or not a particular application should have been sought for a particular bit of construction. The development of land in Maine affects many of the people across the State. We ought to have some uniformity when we do it. The Land Use Regulation Commission is in place for that, and I respectfully ask you not to support the pending report. Thank you.

THE PRESIDENT: The pending question 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 Chair ordered a Division.

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 wish to join with the Senator from Franklin in the spirit of his position on this issue. As I understand it, this new law would allow separate land use planning and so-called comprehensive planning for plots of land as small as 500 acres. That may seem like a lot of land to some people, but it really isn't. It would amount, in my view, to a kind of spot regulation let alone spot zoning of land throughout the Unorganized Territories. This would be highly counter productive to comprehensive planning of this sort that is envisioned by LURC regulations. I would urge you to join with the Senator from Franklin in opposing this bill and I would ask for a Roll Call.

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

Senator **BENOIT:** Thank you Mr. President and may it please the Senate. Senator Mills from Somerset has made an excellent point and I wish that I had given you a bit of specificity about it. This bill, as he has indicated, will mean, if Enacted, that acreage of 500 or more would be outside of LURC jurisdiction. Less than 500 acres remains in LURC jurisdiction. A hodgepodge is then possible. The Tribal Commission will be involved in land management on the larger tracks, LURC on the smaller tracks. The difference of expertise is apparent to me, respectfully to the

Tribal Commission, and it does not bode well for uniformity of the management of lands in the State of Maine with that kind of situation. Thank you.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **CLEVELAND:** Thank you Mr. President. There has been considerable discussion in regards to the effect of the Land Use Regulation Commission. What I understand though is that this is not limited to a parcel of land, 500 acres or greater that may not be Land Use Regulation Commission but might be an organized town or city where a large parcel of land would be purchased, and that the same rules of application would apply here, that the Tribes would be able to make its own determinations based on these regulations regarding the land use within an organized municipality or town.

THE PRESIDENT: The Senator from Androscoggin, Senator Cleveland, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you Mr. President. That specific question didn't come up. My sense is that Indian territory is Indian territory wherever acquired, and it comes under Indian jurisdiction. Thank you.

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

Senator **FERGUSON:** Thank you very much Mr. President and ladies and gentlemen of the Senate. I do have the Amendment before me which replaced the bill and it says, "to the extent those lands were acquired within the unorganized and de-organized areas of the State." So it would appear to me that it would only affect lands in unorganized areas.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Benoit, who having spoken two times requests unanimous consent of the Senate to address the Senate for a third time. The Senator may proceed.

Senator **BENOIT:** Thank you Mr. President and may it please the Senate. It appears possible, under the proposal, to find land management coming under three different jurisdictions. The one that Senator Cleveland is somewhat concerned about and that Senator Longley has just addressed in her answer to him, The Land Use Regulation Commission and the Indian Tribal Commission. Three different situations that could have dyer consequences on the uniformity in which we like to see issues of land management addressed. Instead of a hodgepodge, there has to be some semblance of order, regularity which would be lacking under this bill. Thank you.

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

Senator **FERGUSON:** Thank you very much Mr. President. In regards to this bill, it does appear to me that we are putting another layer of bureaucracy. It seems to me that the Land Use Regulation Commission has done a good job administering the lands in the unorganized territories. This bill has some other things in it that are somewhat disturbing to me. One of them is that the Land Use Regulation Commission would have no jurisdiction in Tribal or State controlled lands, and any fines that would be levied, less Court costs and so forth, would, it says here, "return to the Tribe or Nation in whose territory the violation occurred after deducting any Court filing fees or surcharge."

I would like to refer back to when we had the Settlement 18 years ago. Governor Longley was extremely concerned about a nation within a nation concept, and it appears to me that we are getting pretty close to that in this piece of Legislation. I do have something that I would like to quote and this is what it says, "Concerning a nation within a nation concept, Longley had even stronger views. He adamantly opposed the creation of a separate Indian Nation. Quoting Aristotle, Governor Longley stated, 'If liberty and equality are chiefly to be found in a democracy, they would be best obtained when all persons alike share in the Government to the utmost.'" I'm quoting from a thesis submitted in partial fulfillment for the requirements for the degree Bachelor of Arts. And that was submitted by Susan W. Longley, Esq., who, I believe, is the same Senator that sits in this Body, almost my seat mate, Mr. President. So I would urge that you vote against the pending motion. Thank you.

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

Senator **LONGLEY:** Thank you Mr. President and colleagues in the Senate. Yes, I am the same Susan Longley who wrote that, and that makes my point for support of the pending motion. At that time, as I've said to many of you, the issue was, according to the then-Governor, a nation within a nation. When it came down to crafting the Land Claims Settlement Act, the Indians gave up sovereignty to get rights as a municipality. I quote right from the Statute which says, "The Tribe and the Nation shall have exercise, enjoy all of the rights, privileges, powers and immunities including but without limitation the power to Enact ordinances and collect taxes and shall be subject to all duties, obligations, liabilities and limitations of a municipality." That's what they settled. That's how we got through the nation within a nation issue, they settled for municipality status.

When you look at this Amendment, what we simply do is give them powers that every municipality has, in terms of land use, and they too have to respect mandatory Shoreland zoning, subdivision laws, minimum lot size, natural resources, site location. We're simply honoring our end of the obligation, as I see it, to give them rights as a municipality. I think, to be true to our word and to honor our word, we have an obligation to vote for the pending motion. That's how I see it. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President and men and women of the Senate. I'm very sensitive to the interest and the concerns that the Tribe and Nation have in regards to what

authority and controls they might exercise over territory which they own. But I am equally sensitive and concerned about the concept of delegating to the Tribe and Nation the ability to buy a parcel of land, because this deals not only with land currently owned but this deals with the authority they would have on any land that they would purchase at anytime in the future as long as this remains on the statutes. So, we are looking at a possibility that the Tribe and Nation might purchase a parcel of land, let's say in excess of 500 acres, 501, 502, or more acres and then the provisions of this statute would take hold. That size of land might be just a modest farm in most communities and they would have the opportunity to establish what the land use regulations would be in that area. The land use regulations involves understanding how all of the, both natural and man-made systems of support, work with one another. How does the road transportation into and out of that parcel of land sustain a particular form of development? Are the roads adequate or inadequate to meet whatever the intensity of development is that might be planned or developed within that area? How would fire protection, police protection and ambulance service be provided if it was intensely developed, and who would pay for that support and services within an area of something more than 500 acres within that? To what degree would that responsibility fall on any surrounding communities within the area to assist in those times of emergency of need? Those kinds of considerations on how it would impact surrounding communities in an area where a relatively small tract of land, 500 or more acres is not huge, has consequences around itself that are far beyond what the use may be. I think that we have already seen, for instance, in the Albany Township where the Tribe has an interest in developing a fairly intensive operation. They went through the review process and were granted it in that case. But if their interest were to develop further intensive development like that in other areas, the requirements would then be that they would be the Review Board, and they would determine whether it met, or didn't meet the land use requirements in its impact on surrounding neighbors. I'm not convinced at this point that that is in the long term the best interest of all citizens of this State. So I remain concerned and reserve my support for that until I am more fully reassured that that would not be a negative impact.

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

Senator **LONGLEY:** Thank you again Mr. President. In response to the concern, and in hopes of allaying those concerns, I refer again to the Maine Indian Lands Claim Settlement Act, on the books, where it says, when the Tribe is acquiring lands within an area and the town has concerns, and by Statute that acquisition can only happen "with the approval of the Legislative Body of said City, Town, Village or Plantation." There are ways that the Indian Lands Claim anticipated acquisition near towns and requires that town's approval. Thank you.

THE PRESIDENT: The Senator from Somerset, Senator Mills, 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.

LEGISLATIVE RECORD - SENATE, MARCH 30, 1998

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

Off Record Remarks

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, DAGGETT, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, NUTTING, O'GARA, PARADIS, PINGREE, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

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

ABSENT: Senator: JENKINS

14 Senators having voted in the affirmative and 20 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, **FAILED**.

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 Today Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Revise the Salaries of Certain County Officers" (EMERGENCY)

H.P. 1669 L.D. 2292

Majority - **Ought to Pass**, pursuant to Joint Order (H.P. 1570) (7 members)

Minority - **Ought Not to Pass**, pursuant to Joint Order (H. P. 1570) (3 members)

Tabled - March 30, 1998, by Senator **NUTTING** of Androscoggin.

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

(In House, March 27, 1998, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, March 30, 1998, Reports **READ**.)

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Authorize the Operation of Video Gaming Terminals by Certain Nonprofit Organizations" S.P. 624 L.D. 1827

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-632)** (12 members)

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

Tabled - March 30, 1998, by Senator **KIEFFER** of Aroostook.

Pending - motion by Senator **DAGGETT** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, March 30, 1998, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President and ladies and gentlemen of the Senate. I just would like to bring to my fellow Senators what this bill is all about, where it's such a wide report. Basically, it's going to bring video machines into your cities and towns across the State of Maine. This bill has been before us in past sessions and it just seems to be racing right through this time. It surely will create a lot of money apparently. What caught my eye is the fact that the first money, which respectively the first year is \$68,000, \$85,000 the second year, goes to mental health, mental retardation and substance abuse for treatment of compulsive gambling. Then we are going to really spread some money around. I almost could call it a jobs bill because the Attorney General's office is going to have an Assistant Attorney General out of this to the tune of \$83,000 and \$87,000 the next year. Public Safety does the best with over a half a million dollars so that they can have an additional State Police Lieutenant, State Police Sergeant, two Public Safety Inspector I positions, that's apparently above a Trooper position, Clerk Typist III, and Clerk Typist II. You may want to take a look at this. Basically, it's going to allow these video machines in clubs, tax exempt clubs around the State. I read it to believe that, I guess, they can have five a piece. The organization gets to keep a third

of the revenue, the State gets a third and the people who own the slot machines get a third. But I guess they can only have 300 in one outfit or we'll have to have another outfit from New Jersey come in.

As some of you know, I frequent casinos. I like them, those one arm bandits and that's exactly what they are. But if one wants to spend the money that way then so be it. I'm not opposed to casinos, as a matter of fact, I voted for one a couple of years ago, but I am opposed to having these slot machines strewn throughout the State. If we are going to have a casino, let's have one or two casinos in the state, whatever you decide to do, and let's keep the money in the State. Even though these machines will all be plugged into a centralized computer system in Augusta so hopefully, to not allow cheating and I think that they have that set up fairly well, although there may be a way around it, but I don't know. I really think that if we are going to go into these, and they are not going to use the word casino but basically that's what it is, little mini casinos all over the State. I just really don't think it's a good idea even though we are surely a gambling state. And I would vote for a casino tomorrow if you want to put it in Calais, Old Orchard Beach or Greenville, Maine, any great place. Let's put it out on Kineo. At least, when you lose your money you get something to look at that's pretty. I hope that you have all dug this out and looked it over. Maybe you have all discussed it thoroughly and that's what you want. I personally don't think it's a good idea even though most of the Committee does. I'm going to ask for a Roll Call on this issue. Thank you.

THE PRESIDENT: The Senator from Piscataquis, Senator Hall, 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 **HALL** of Piscataquis, 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 Kennebec, Senator Daggett.

Senator **DAGGETT:** Thank you Mr. President and Members of the Senate. If you look on your desk there should be a green sheet of paper that really speaks to a number of the issues regarding this bill. I would certainly agree with the Senator from Piscataquis, Senator Hall, that they certainly are video lottery machines. However, I would make a distinction. I have never voted for a casino and would not vote for one today and I do feel that there is a difference between these machines and a casino. The bill that is in front of you would place these video lottery machines in certain nonprofits around the state. In referring to the summary sheet that's in front of you, there's a little section that talks about eligibility. The first bullet under eligibility speaks to the nonprofit organizations that would be eligible to operate these machines. It's quite specifically limited to those that enjoy certain organizational structures and certain benefits under the Federal Tax Codes and those are listed right there.

Today, in many of the nonprofits, and who knows where else, there are a certain number of machines that are, in fact, referred to as gray area machines. They are machines that are played

that are supposed to not get a money pay-out. There's a good deal of feeling that there is a money pay-out, and it is a totally unregulated scheme. Reportedly, the nonprofits enjoy profits from those. One of the benefits of this bill is that it would make those machines illegal so that they can, in fact, be regulated. This has been an area that has been difficult and problematic for some years. If this bill is Enacted, it continues to allow certain nonprofits to enjoy the revenues from those machines while having them in a regulated format. I would suggest to you that that is one of the major benefits of this bill. The State would enjoy some income from that. They would be regulated and our Public Safety Department would be able to manage those and regulate them in a reasonable way.

In the first part, referring to the green sheet again, it talks about revenues. You can see that there are revenues and you can see how it will be distributed. I'm not going to read from that. The number of positions, that were mentioned by a former speaker, would be necessary to bring these machines under appropriate regulation. There's actually a fair amount of cost to setting up a system of regulation and that would be through the Bureau of the Lottery, and the regulation would be very similar to the way that we monitor our online lottery machines. Each machine would be tied in electronically and could be monitored for the activity on a regular and ongoing basis. It would be a constant regulation. This is really a preferable form of regulation and, at this point, there have been a number of states that have put these video lottery machines in place. Some of the first states didn't do a very good job with regulation and didn't keep them monitored very well. There were some difficulties, but today we have the opportunity to rely on the work that has been done in other states.

The system that is set forth in this bill, you will see in the third section which says, "Licensing and Control of Gaming Machines." There's been quite a bit of effort, as was mentioned before, this bill has been around for a while. Each time it comes up we have a chance to work on it a little more and make sure that it would satisfy a good regulatory procedure. In fact, someone from the Department of Public Safety has worked very closely with the Committee to make sure that the system that is set up would be one that would be appropriate for our State.

I would just call your attention as well to the last bulleted item on the first page and it makes reference to the fact that illegal machines are subject to seizure and forfeiture. This certainly has been a problem. I mentioned that earlier. The estimate is that there are more than 4,000 of these illegal devices now available. That's certainly is one of the benefits of this bill.

On the other side it talks about the placement. Again, "the maximum number of games," I'm reading from the first bullet on the second side, "no more than 5 per licensee." There are specific regulations as far as limiting the games, the amount of pay-out, the amount of money going into them. I would suggest to you that this is not a casino. It is a reasonable and modest bill with a very small amount of machines, which maintains the non-profitability to have a little income and to carry on with the charitable work that they do. I hope that you will support the bill in front of you. 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 guess what bothers me most about this bill, among many other things, is the section that says, "A license

to operate video gaming machines is not issued unless a municipality gives its approval. A Public Hearing may be held prior to granting local approval." That sounds really good. It sounds like local control. I'm all for that but, I guess, what I'm not for is if Town A grants the license, has their Public Hearing and, okay, you can get involved in this gaming. What's to stop Town B from doing it? Yet, Town A gets involved in the revenue sharing, gets all the money from this and then Town B says, gee, we're missing out on the revenue sharing. We are going to have to go for this. It never amazes me to see what comes in front of us. But to me, this is just an expansion of gambling and we have too much of it already. I really hope that you will oppose 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 certainly haven't had an opportunity to read all of the Amendments that are in our booklets that are in front of us and I guess, probably after reading this I'm glad I don't. This one alone creates an additional nine positions. I guess what bothers me more than that is the bill states that the allocation of the terminal income, the way the money will be distributed, that is, is that 33 1/3 % must be sent to the Treasurer of State for deposit in the Video Gaming Fund created in section 384, 33 1/3% must be paid to the distributor, and 33 1/3% must be paid to the licensee. Well, back under Section 12, it also spells out a working capital advance and under this working capital advance, if I understand this correctly, we are going to take \$771,998 of taxpayer surplus money and we are going to advance \$128,925 to the Department of Administrative and Financial Services, a \$565,896 advance to the Department of Public Safety, and an advance of \$77,177 to the Department of the Attorney General. The repayment of this fund is where this gets kind of interesting. Funds advanced for this purpose must be returned to the General Fund, unappropriated surplus, taxpayer dollars from the first \$771,998 received by the State under Title Section 17, Section 383. Therefore, the clubs that install these machines and the distributor put up absolutely no front money of any kind to get these machines established throughout the state. If my math is correct, it means that we are going to take \$514,664 of taxpayer money and give it to two entities, the owner of these machines and the clubs in which they are installed up front, no questions asked, never to be repaid. If I'm wrong in these figures, I'd certainly appreciate it if someone would point out where my error has occurred. Thank you.

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

Senator **FERGUSON:** Thank you very much Mr. President. In regards to Senator Kieffer's question, the money that he made reference to would be a loan for the startup capital and be repaid by fees that would be coming in later. We did have a sub-Committee of the Legal and Veteran's Affairs Committee that worked on this bill from early January and they put a tremendous amount of hours into it in cooperation with the State Police and other parties that were involved. A lot of these machines are currently in nonprofits now and they have paid for amusement only. This would give these fraternal and charitable organizations an opportunity to do the good work which they do to help various charitable organizations. I stand in support of this bill today. It

would be a revenue enhancer for the State realizing some \$2 million once we have started up in 1998, 2000, 2001, and 2002, I believe the figure goes to \$2.7 million. The good Senator from Kennebec has laid out the reasons that we should support this and I'm not going to be redundant. I will try to answer any questions if the Senate has any that I can answer. I would urge you to support the pending motion. Thank you very much.

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

Senator **CLEVELAND:** Thank you Mr. President and men and women of the Senate. I have concerns with this bill although it may be projected as trying to do good things. I think that it is disguised in a way that the end result will be extremely negative for the people of this State. First, it is suggested that additional enforcement requirements are in the bill that would allow the confiscation of so-called gray machines, better known as illegal machines since they are breaking the law. But that only applies in the case of nonprofits. It doesn't apply to any of the profits. So all of those machines that are in bars or restaurants, or gas stations or any other for profit organizations still would be subject to the current law. We all know that the current law is completely inadequate because it requires only a payment of a \$50 fine. You get the machine back and all of the cash that is in the machine. You don't need to be an accountant to understand that that's the cost of doing business, and it's the price that is paid to do it all of the time right now. So it would have no effect whatsoever.

Additionally, my concern is that we still have a for profit organization, as a matter of fact, many of them who are the distributors, who are going to be actively involved in this gambling trade. Because they are for profit their motivation is to see that as much money as possible is put into those machines so that their cut of the gambling receipts can be as high as absolutely possible. That concerns me because we are going to have a variety of third parties involved here who may or may not be that easy to monitor and control. It seems to me to open up the prospect perhaps for some actions or some operations which we don't want to see happening in this State. It happened in other states. It happens when it involves activities like gambling that perhaps some organizations who don't comport to the highest ethical standards may be well involved here. Notwithstanding any attempt to control them, it's far more difficult to do it after the fact.

Thirdly, this bill presents itself to us on the basis that these not for profit organizations do good works and that we allow money for those organizations to do the good works. But there is nothing in the bill that has any requirement for reporting or even any requirement that tells us how they use the proceeds for the gambling. They may or may not go for good works, we have no idea what percentage whatsoever will go for the good works. They could go for any purpose that that organization would care to put them to whether or not they are good works.

But finally, and the most compelling for me is, the non profits are currently allowed to have these machines purely for the basis of entertainment. There is not supposed to be any money exchange. There's not supposed to be any monetary reward. It's supposed to be done for the fun of it and people put money into the machines, and the organization can keep their share of the money for playing the game and for having fun at the video screen. This bill legalizes gambling. Let me use the correct term. It's not gaming, it's gambling by the average citizens in this

state throughout every city, every municipality and every town. If you believe for one second that it's going to be limited to these five machines and it's going to be restricted, you also believe in the tooth fairy. Because it won't happen for one Legislative Session. They will be back here asking for more machines to do more good things, to support more little league teams and to get more moms and pops in there so that they can spend part of their grocery money on those gambling machines so their kids will get a donation because they can't afford the baseball glove on their own any more. If you think that the State of Maine needs to have gambling for nonprofit organizations to do good work then you want to support this bill. If you think that nonprofit organizations ought to do a myriad of things to raise money, to do the good works then we don't need the bill to do that. We don't need to legalize gambling in this State to support community activities. We have a very generous state and a very generous community and they are willing to give freely, over and over again, in many different venues to support youth activities, children, Senior citizens and many others within our community that need that. We need this bill only to legalize gambling in this State. I would hope that you would not vote for the motion so that we may Accept the Ought Not to Pass.

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

Senator **DAGGETT:** Thank you Mr. President and Members of the Senate. I just want to address a couple of things in case it's confusing to people. One of the things that was implied earlier was that revenue sharing only went to the communities that, in fact, have these machines but the money that would be deposited in the Revenue Sharing Fund and would be distributed along with the other funds. There wouldn't be any competition between communities looking to have machines because the adjacent community did etc. This goes into the General Revenue Sharing Fund.

There was another remark regarding illegal machines, or the gray area machines actually. All the gray area machines would be made illegal under this, not those placed in one place or another. All of the gray area machines would be removed. There would be none that would be allowed to stay.

There were some remarks about things that have happened in other states that I am not exactly sure what that means. I've served on the Legal and Veterans Affairs Committee for several terms now and I know, as I mentioned earlier, when the machines first began to be placed, and they were not regulated in the manner that this bill allows them to be regulated, there were problems. But to my knowledge, since the online mechanism has been developed, there have not been problems because each machine is regulated and you can tell exactly what the machine takes in and what the activity is on that machine at any moment. So, I think that's ancient history and really isn't applicable here and certainly has not been an issue, I believe, in this decade but I may be wrong.

I'd just like to address, for a minute, the issue of the fact that this bill legalizes gambling. Well, I just want to tell you that Maine is in the gambling scenario hook, line and sinker. And if you think that this is the first item that would allow Maine people to gamble in the State of Maine then you're missing a lot of activity that is going on here. So, if you are opposed to the machines that's one thing, but I think for anyone who wants to assume that there is no gambling going on here and the state sanctioned gambling, then they apparently haven't served on the Legal and Veterans Affairs

Committee because we deal with the gambling issue all the time. This is a fairly low stakes item but it is not higher, as far as stakes are concerned, and what you can already gamble away legally in this state. So, I just don't want anyone to not realize that the state of Maine is very heavily into gambling. We might not have a casino but we're certainly not pure on this issue. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President. I'll be very brief. From a statement that was made a little earlier, I'm not sure that what I said was understood or was very clear. This bill provides an advance of \$771,998. The revenues received from these machines is split three ways. Now the first \$771,998 of revenue is not pay-back to the State. The entire amount of pay-back comes from the one third that is the State's share. The other one third to the club owner and the other one third to the owner of the machines is wiped off with taxpayer dollars. Now I'm not opposed to gambling. I'll play blackjack or I'll play about any card game that you can imagine, but I understand arithmetic and this is a poor deal. Thank you.

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

Senator **CATHCART:** Thank you Mr. President and men and women of the Senate. I admit that I'm not a Member of the Committee but I just have to say a few words on behalf of this bill and urge you to support the Majority Ought to Pass as amended report. I'm convinced from what I have heard from the Committee that the State Police, if we pass this law, will be able to regulate these games and be certain that they are clean, honest and that we don't have underage people playing them. I think we kid ourselves if we don't admit that there are already several thousands of these machines at least. There is no way of knowing unless we regulate them. But there are several thousands of these machines being operated illegally in our State and that really concerns me. Because there's no way, with them illegal, that we can regulate who plays those or what kinds of prizes are given. I think it's much wiser to control it and give the State Police more control, and for that reason I urge you to vote Ought to Pass. Thank you Mr. President.

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

Senator **CAREY:** Thank you Mr. President. I listened to the good Senator from Aroostook talk about \$700 and some odd thousand being in advance. I was the Executive Director of the Maine State Lottery for seven years. I was here when we voted in the lottery, in 1973. It passed by a big margin of something like 67% of the voters who accepted it. My good friend from Androscoggin, who is floating around the building someplace, the good Senator Cleveland, we are in the gambling business. The lottery takes in about \$142 million a year and gives back to the General Fund anywhere from 37 to \$50 million a year. One year it gave back \$42 million. We have horse racing in the state. So, we are not getting into the gambling business. We have been in it for some time.

I would point out to you that when I became the Executive Director of the lottery in 1979, there was still, on the books, \$400 thousand outstanding which had been loaned to the lottery to get

started. And this would probably repeat that error that was made at that time because the State Auditor continually refused to accept the moneys that were coming in from the lottery and coming into the state coffers as being the payment for that. There was no other way in the world that the lottery could raise money except by the sale of tickets and retain whatever was not won or paid out for expenses. When I got there in 1979, the \$400,000 was still outstanding. We finally were able to convince the State Auditor that the only way that the State Auditor was going to get any money from the lottery, was money that, in fact, was left over after prizes and expenses.

We talked about the nine positions. I'm not happy with having nine positions out there. We want to talk about safeguards, that's where those nine positions are going to come in. In fact, when you get one of these machines in your bar, or wherever you are going to put it, there will be two compartments, one of which you can access, but the other one would all of the computerized equipment which will tell you exactly how much money went into that machine, how much money was won, what the net is. That will be controlled by the guy who holds the key to get into that second compartment, and that is going to be one of these nine people. So there are plenty of safeguards. Nobody is going to walk off with any money without leaving some kind of a telltale trail that, in fact, they have jimmed the machine.

The machines, by this bill, are going to paying out 90%. And you say, how can you make any money for anybody if it's 90%? But if you start with \$10 and you put \$10 in the machine, you are going to get \$9 back. One dollar stays in that machine. You put the \$9 back in and you are going to get \$8.10, 90 cents of that stays in the machine, and so forth. So that if you are on a real roll, you're going to be able to lose every cent you put in originally and the money that you are winning along the way.

There are a couple of ways to kill a bill in this Legislature. One of them obviously is to load it up with people, and another way is to put a fiscal note on it that's totally unrealistic. I don't believe that that has happened in either one of these cases.

I was around when there was fellow named Roland Tanguay from Lewiston who made up something like 125 mysterious charities. People who had a charity going that weren't even aware of it. And he collected every cent out of it, and it was finally brought to a stop and that was done by the State Police, by the way, who ran into him. This won't be happening in this instance because there will be applications that will have to be filed. Those applications will have to point out exactly which particular charity is supposed to be getting something. And with the nine people that are going to be out there, which includes the people in the office, they will be able to check to make sure that the charities are in fact getting that money. I would certainly hope that you approve of this because, in reality, we are in a gambling business.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President. Just a couple of quick comments. I wanted to talk about the 90% pay-back rule to make sure that everybody understands that. When you put \$10 in there, there's no guarantee that you are going to get back the \$9 out of the \$10. And the way that works, is it pays you back a

little maybe when it feels like it. It's all set by computer chips. Nobody really knows when it's going to pay. Everybody has a system and so on and so forth, and none of them amount to anything. You can talk about luck and I guess it is luck if you happen to pull that handle or push the button when it's time for that thing to pay off, you get paid. Outside of that, you don't. I've seen hot machines and cold machines. I've seen more cold ones than I have hot ones. And you can just imagine if that machine is going to pay off a \$1,000, which it's geared to do that occasionally. I wouldn't dare say, I don't know how often that is, hopefully it would do it once every year. But in order for it to pay \$1,000, it's got to take an awful lot of dollars from someone else first. So don't be thinking that you are going to put in \$10 and get back \$9 because I've got to tell you that it doesn't work that way.

Also comments have been made that we have illegal machines in the State of Maine. Well, you have been told once before that some clubs have these machines and its for entertainment only and it's just like the old pin ball machines, you're just supposed to win more plays. You're not supposed to get paid and this is going on, I'm told. Every so often the State Police go into a club and confiscate the machines because somebody in that club, the Treasurer, or designated person is paying people for the games that they have won on the video polka machines. So, if you say that we should pass this and we should allow these to be legal because we can't enforce it, I guess I would relate that to the fact that we don't catch all the bank robbers in the state, but are you suggesting that we make bank robbery legal just because we can't enforce it 100%? You know, it really does sound that way when you say that we should have these because it's going on anyway and we can't enforce it. It really sounds kind of foolish to me. Thank you.

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

Senator **FERGUSON:** Thank you very much Mr. President. I want to correct something that was said earlier in the debate. This is in regards to machines that are out there, these so-called gray machines, illegal machines. If this bill passes, those machines are going to be seized and there is going to be a forfeiture of the machines and the content of them. It seems to me that this is an important step to regulate probably what is going on out there and there is not going to be a machine in every community. You have to belong to one of these 401 Organizations in order to have a machine. You are only going to be allowed to have five machines and only the guests of the organization are going to be allowed to play the machines. You have to be 21 years of age in order to play the machines. It seems to me that this will be the way to go. Thank you Mr. President.

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

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. Just quickly, I want to say, with some of the cribbage games that I've had with my colleagues this winter, I wished I didn't gamble but I did lose a buck or two with a couple of my colleagues and will drop it at that. I agree that there's a lot of gambling in the state. We have the scratch tickets and lottery tickets and all of those things, but I'm really discouraged to see us heading down this trail. I was reading the material passed out to us earlier and one thing that stuck in my mind is that it seems

so innocent that the maximum wage per game is \$2. It sounds so innocent, but if you have ever played one of these video games, I think it takes maybe 10 to 15 seconds for the game to be played. If you multiply that by 1 minute, 5 minutes, 10 minutes and then by an hour, if you didn't win you could probably put in that machine as much as \$2,400 in one hour. And even if you won, it could be 1,200 or 800 or \$600. This isn't an innocent \$2 going in an playing Beano. This is \$2 every 30 seconds, or every 20 seconds, and I will tell you what, you are looking at a lot of bucks. And there are a lot families in this state that can't afford to be playing video machines and I intend to vote against this motion.

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

Senator **BENOIT:** Thank you Mr. President and may it please the Senate. The good Senator from Piscataquis, Senator Hall, took a bit of my thunder. He indicated that if there are illegal machines out there, you don't pass a law legalizing them as a way of getting at the situation. You enforce the law, and he used the bank robber example. I had a much more colorful offense that I'll keep to myself for the moment in my remarks, but the argument throws in the towel, in effect. In other words, if we have something illegal going on, let's legalize it and take care it. Of course, if that happens, I suppose we could let some law enforcement folks go, over at the State Police, but I don't think that we are about to do that. I'm persuaded by Senator Cleveland's remarks, the good Senator from Androscoggin who says, I think that we have enough gambling in Maine today, plenty to go around. This kind of Legislation hurts people and those are the people who can least afford to be hurt financially. I find that to be a very, very persuasive argument and I join him in that argument. I will be voting in opposition to this Legislation.

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

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. Jeannie Joyce on Swans Island makes awful good cookies, and I was out there for an auction for the eighth grade class trip about a year or two ago, and the auctioneer raised up a cookie jar and said that it had been donated by Jeannie to this auction. There's a group of fishermen sitting up in the back of the bleachers and one of them started the bidding at \$10 and it ran right down the row 11, 12, 13, 14, 15, 16, all the way up to \$25. And suddenly in the middle of this, somebody yelled out, is it full? And the auctioneer took the top off the cookie jar and he said no, it's not. And the bidding went 25, 24, 23, 22, 21, all the way back down to \$0. If this bill in any way undermines that system of doing good in a community, I'm voting against it. 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. Just a couple of quick points. The bill as drafted does not in any way constrain the use of the profits from video gaming. It says that a licensee must be an entity, some kind of a corporation, that qualifies as a nonprofit under one of many different provisions of the Internal Revenue Code. It does not say that it has to be a charity of any kind. And it also says

that the money collected through this mechanism, there's no requirement that the money be paid, or used for a charitable purpose. There's nothing in the bill that requires that. It simply says that the entity that gets a license must be a nonprofit but it doesn't say that it has to be a charitable entity at all. And also from my reading of the definition of illegal gaming machine, the bill as drafted fails to make illegal, any machine that is used in a for profit enterprise outside of the nonprofit sector, where these machines would be licensed. So it will not get rid of the gray machines in many other applications. One suspects that some of this language was written by the Industry that seeks to profit from this bill. I urge you to vote against the pending motion.

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

Senator **CLEVELAND:** Thank you Mr. President and men and women of the Senate. I wanted to take one more moment to clarify my previous point because I think there has been some misunderstanding here. I want to make very clear, once again, that you need to do a very careful reading of the bill to determine that current machines in not for profit organizations will not be confiscated under these provisions and let me explain why in sort of layman's terms. The key word is illegal. You can use a provision for confiscation if it is illegal. You must then revert back to the definition section in the beginning to determine what an illegal machine is. In the definitions they describe, if you use machines based on this law in the not for profits, according to these provisions, then they are not illegal, but if you don't then they are illegal. Then it says that if you use a group of machines that are in the for profit industry, as long as you are using those machines in that context, then for the purposes of this law they are not illegal. So they come under the provisions of the current law for the purposes of enforcement. So it bifurcates the enforcement provision by the use of the definition of illegal. You can only use the provisions of illegal in this term as defined in this term. You can't use them if they are used in the context of the current law, and so you are then found in the same position that you are now, that if they illegally use the so-called gray machines today, you can't use this Statute because this refers only to illegal use under this Chapter not under the current Chapter. And that's where the loophole is.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Daggett, to Accept the Majority Ought to Pass as Amended Committee Report. A Roll Call has been ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, DAGGETT, FERGUSON, JENKINS, MICHAUD, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, CLEVELAND, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, PINGREE, RAND, TREAT

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **DAGGETT** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/26/98) Assigned matter:

Bill "An Act to Facilitate Delegation of the Federal Waste Discharge Permitting Program" H.P. 1291 L.D. 1836 (C "A" H-910; S "A" S-562)

Tabled - March 26, 1998, by Senator **TREAT** of Kennebec.

Pending - motion by same Senator to **ADHERE**

(In Senate, March 23, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910) AND SENATE AMENDMENT "A" (S-562)** in **NON-CONCURRENCE**.)

(In House, March 26, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910) AS AMENDED BY HOUSE AMENDMENT "A" (H-1035)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **TREAT** of Kennebec, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910) AND SENATE AMENDMENT "A" (S-562)** in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from whereby Committee Amendment "A" (H-910) was **ADOPTED**.

House Amendment "A" (H-1035) to Committee Amendment "A" (H-910) **READ**.

On motion by Senator **TREAT** of Kennebec, House Amendment "A" (H-1035) to Committee Amendment "A" (H-910) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

Senator **TREAT:** Thank you Mr. President. I now move that Committee Amendment "A" be Adopted.

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

Senator **LIBBY:** Thank you Mr. President. Could you clarify the motion please?

THE PRESIDENT: The Senator from York, Senator Libby asks that the Senator from Kennebec, Senator Treat, clarify her motion. The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** I'm not sure which motion that you are referring to. The motion on the floor, I believe, is to re-Adopt Committee Amendment "A" and I must say that I am following a script that has been provided for me so I'm hopeful that it is correct. But the idea here is ultimately to end up with both Amendments off, except for the Committee Amendment, and we can have a discussion about whether or not to go forward with the Committee Amendment to the bill.

THE PRESIDENT: The Chair would answer, the Senator knows her stuff. Is it now the pleasure of the Senate to Adopt Committee Amendment "A"? The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President. I understand this to be the fees and fines bill. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **CAREY:** Thank you Mr. President. Are the fees still the same as they were basically in the bill itself or have they been greatly reduced?

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

Senator **TREAT:** Thank you Mr. President. Yes, in response to the question from the good Senator from Kennebec, Senator Carey, the Committee Amendment does change the fees from the original bill, which did not anticipate that funding as part of the budget would be there to pay for several of the staff people over at DEP. The Committee Amendment got rid of a couple of staff people that either the Committee felt were not strictly necessary for delegation, that's one stop permitting, or should be paid by the General Fund because they are staff that have been there all along but the fee money that was coming in was short. What we have here, just to explain to make sure that everyone knows what we will be voting on, is, again, a unanimous Committee report. It insures that we have one-stop shopping for waste waster permitting through the DEP as opposed through the DEP and the Environmental Protection Agency. It is a bill that keeps to a minimum the number of positions that are needed to do this. We do need to have additional positions in order to get approval from the Federal Government to do the one-stop shopping. If we do this, we will be joining 41 other states that already have delegation and several of the other nine remaining, including Maine, are going through the same process that we are doing right now. And finally, the fee system that will be adopted as a

result of this Committee Amendment will be a much fairer fee system than the one we have right now. The one we have right now is based on estimates on how much waste water is being discharged. Some of those estimates are wildly inaccurate and many towns, in particular, are being charged more than they would be under this bill. What this bill will do is insure that companies, as well as towns, are charged for the amount of waste water being discharged as well as the toxicity of that waste water. So, it more fairly apportions the fees.

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

Senator **CAREY:** Thank you Mr. President. It seems as though 1995 is being revisited, since that was the year of the Productivity Task Force of which I only brought a third of the books that I have on that Task Force, where we were able to reduce the number of people that worked for the State. And now towards the end of the term of this Administration, it would appear that we are going to regenerate many of these jobs.

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

Senator **NUTTING:** Thank you Mr. President and ladies and gentlemen of the Senate. I want to urge you to support this unanimous Committee report. I don't agree with the previous speaker, the good Senator from Kennebec, Senator Carey. What we are proposing to do here is add some State positions, but we're simplifying things for businesses so that it's one-stop shopping for permitting. They are not going to have to get an EPA permit anymore. They are going to be able to do it just through the State of Maine. This report is supported by the Maine Business and Chamber Alliance. It's supported by the vast majority of water districts. It's supported by the vast majority of paper mills in Maine.

In closing, I want to say that there have been very few businesses that with the old type of fee setting structure, which really had no rhyme or reason to it, had been paying a fraction of what they would of, if we had a fee structure based on the amount of discharge of pollutants and the volume of your discharge, which to me, is the only fair system to have. I've gotten calls from a couple of water districts in my Senate district, and they thought they were going to pay much more. I looked them up on the list and they are going to pay less than they are paying now by a little bit. So there is a lot of misinformation around this bill as well which is very, very unfortunate. I hope you will support this one-stop shopping for waste water permitting. Thank you.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **SMALL:** Thank you Mr. President. I certainly don't object to reducing the amount of paperwork that communities and businesses are going to have to comply with, but my community has great objection to the fee increase that will be coming along. We have a spending limit in our town so any type

of increase in cost is going to be taking away from other programs in our community because of that spending cap. My question is the 41 states that have delegated this from the Federal Government to the State Government, of those 41, did every state increase fees on the users to do this or were some of these done with State dollars? Thank you.

THE PRESIDENT: The Senator from Sagadahoc, Senator Small, poses a question through the Chair to anyone whom may be able to answer. The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you Mr. President. In response to that question. I can't speak for all of the states and how they did it. Every state that chooses to do this has to get approval from the Federal Government to insure that the number of staff people that they have working on it are sufficient to do an adequate job. In the case of Maine, when the bill first came to our Committee, it had in it funding out of the fees for positions that are currently at the Department and we felt it was a cost shifting onto those same water utilities that you are referring and POTW's and refused to agree to that. It's one reason that this bill was carried over from last year. There was concern, on the part of the Committee, that we didn't want to mix apples and oranges. If we went forward with a delegation bill, it had to be purely a delegation bill dealing only with positions relating to the additional service that would be provided and not for anything else. So that is what is before you. I can't speak to whether other states also have a fee system, but it's pretty much the wave of the future in terms of how things are done. One of the things that our Committee has been working very hard on, and if you want to read our Government Evaluation Act Report, which I'm sure is as boring as every other Government Evaluation Act Report that a Committee is doing, what we focused on there is the fact that there has been a shift onto fees over the past decade or so and that we think that that shift ought to start going in the other direction. That is why we pushed very hard to have funding for waste water treatment positions as well as toxic use reduction positions be put into the budget and they are in the budget. We have tried to address that concern. I can't speak for what other states are doing.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **MICHAUD:** Thank you. I'm just looking at, and I'm not sure whether I have the most up to date information, on some of the fee increases like, for instance, Anson and Madison, according to the chart that I'm looking at, shows a \$1,000 fee, roughly, that they pay and that's going to jump up to \$8,900. The City of Biddeford is \$1,000 and that is going to jump up to \$3,000. Kennebec is \$1,110 and that's going to jump up to \$6,000. Portland is from \$1,000 is going jump roughly to \$8,000. Are municipal fees jumping that dramatically or have I got the wrong pay schedule for them?

THE PRESIDENT: The Senator from Penobscot, Senator Michaud, poses a question through the Chair to anyone who may

be able to answer. The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator TREAT: Thank you Mr. President. In response to the question, some fees are going up, and you have chosen those that are going up to report to the rest of the Senate. Some are going down. The thing that I found persuasive to me, as a Committee Member, who was initially one of very few Members of the Committee that was opposed to this bill and sought to have it carried over from last year, is that many of those same municipal treatment facilities actually would like us to pass the bill even though their fees are going up. One of them for example is Kennebec, and that is one that is in my area. I have gotten calls, for example, the Augusta Water District wants me to support this even though the fees are going up. Gardiner fees are going up and want me to support this because they think that it's a good bill and they think that they are going to get better service from it. It really depends, and I guess I would caution people to make judgments about fees going up in other people's districts and see whether or not those people have been getting calls one way or the other. The other thing is that some people have information that is incorrect. I was asked by one Senator to check the list and she said to me, I'm being told that the fees are going up in all four of these towns. I checked the list and they were going up in two, and one of them by \$3. So, it really depends, and I would just caution you to make judgments about districts outside your own without knowing how those other districts feel about it.

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

Senator RUHLIN: Thank you Mr. President and Honorable Senators of Maine. This may be the wrong time of year and the wrong place to mention this to you, but time is money. What we are talking about here is a simplification of a process. A process that has delayed business growth in the State of Maine and that has delayed the opportunity for forward advancement by some of our major manufacturers. I have one constituent manufacturer who estimates because of the duplicative process that we use, and their fees are \$15,000 higher than shown because of the cost of their manpower to handle a duplicative and wasteful process that we now are in a minority of states using it. I have a constituent in my district who waited about seven years to have the EPA portion of their permit fulfilled because ten years before that someone had cited a short-nosed sturgeon, and we had to do a check to see if there are any short-nosed sturgeons in the immediate area. That went from 1978, when they saw the sturgeon, to 1988 when they made the application, to 1995 before they fulfilled it. That's the EPA. Keep that in mind when you are talking about fee increases. Time is money. During that same time period this company could not make the investment in the Maine economy that was so necessary to keep this economy growing. That's the key. Let's have a process that's efficient, effective and allows our economy to grow, and that's the process that is before you today. Thank you very much.

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

Senator CAREY: Thank you Mr. President. As I go through this list, which has numerous pages, and the good Senator from Kennebec, Senator Treat, says well, somebody had \$3 decrease. Let me point out some of these, if I might. Somebody went from

the current fee of \$2,240, Central Maine Power in Yarmouth, for instance, to \$7,000 in the first year and \$7,000 in the second year and there was obviously no reduction. This is where the mislabeling is happening. It's the difference between the increase in the first year and whatever figure comes out in the second year. Many of them have got \$3 off. Some of them have \$2 off and some of them go up by \$2, but it's the large increase that most of them get when they go from the current fee to the new fee structure. The International Paper Company has a current fee of \$2,240. They go to \$40,000 in the first year. They go up to \$49,000 in the second year. Frasier Paper is \$2,240 and they go to \$28,900 in the first year, of these new fees, and they go to \$35,847 in the second year. We are not carried out any further than that so we don't know what they will be getting in the third, fourth and fifth year but obviously they are on a growing list of money bags that they are going to be shipping to Augusta.

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

Senator NUTTING: Thank you Mr. President. I'm glad the previous speaker, the good Senator from Kennebec, Senator Carey, mentioned the International Paper Company. They are supporting this bill. They've taken the time to figure out how much it has cost them to get the EPA permit that they are not going to have to get any more. One other large discharger in Maine is going to have their rate increased. They still support the bill. They pointed out to me that if they were located in many of the midwestern states, they would be paying twice what they will be paying even with the increase in the State of Maine. So by in large, the calls that I have received from the business community have been very supportive of this, understanding that there is one whole layer of permitting that they no longer have to go through. That's the part they like and that's why they would like this report passed. Thank you.

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

Senator CAREY: Thank you Mr. President. I would ask for a Roll Call.

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

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Treat, to Adhere.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

NAYS: Senators: BENOIT, CAREY, CASSIDY, HALL, KILKELLY, LIBBY, LONGLEY, MICHAUD

27 Senators having voted in the affirmative and 8 Senators having voted in the negative, Committee Amendment "A" (H-910) **ADOPTED in NON-CONCURRENCE.**

On motion Senator **TREAT** of Kennebec, the Senate **RECEDED** from whereby Senate Amendment "A" (S-562) was **ADOPTED.**

On further motion by same Senator, Senate Amendment "A" (S-562) **INDEFINITELY POSTPONED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910) in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/17/98) Assigned matter:

Bill "An Act to Clarify the Definition of Functionally Water-dependent Use as it pertains to the Shoreland Zone" H.P. 1368 L.D. 1918

Tabled - March 17, 1998, by Senator **TREAT** of Kennebec.

Pending - motion by Senator **AMERO** of Cumberland to **INDEFINITELY POSTPONE** Bill and accompanying papers in **NON-CONCURRENCE**

(In House, March 6, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-838).**)

(In Senate, March 17, 1998, **ACCEPTANCE** of the **UGHT TO PASS AS AMENDED** Report **FAILED** in **NON-CONCURRENCE.**)

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

Senator **NUTTING:** Thank you Mr. President. I will be very brief. I'd urge you to vote against the pending motion. As it was said in earlier debate, building the construction of boathouses along our lakes and our oceans for the purpose of purely recreational has been against the Shoreland Zoning since the 70's. The law, as it is currently written, is gray and many Code

Enforcement officers came before the Natural Resources Committee wanting this clarified. So I would urge you to oppose the pending motion.

Our tourism industry is at stake here, too, I believe. People come to look at Maine to look at our rockbound coast not our boathouse strewn coast. If you have a business, any type of business, boating business, fisheries, you are allowed of course to build a boathouse. Boathouses are allowed to be built for recreational purposes as long as they are set back from the vegetative edge of the water. That doesn't change either. The vast majority of communities have abided by current law properly since the 70's. It has just been a very few communities that have begun not to abide by the law and that's why the bill was brought before us by the Department of Environmental Protection. I urge you to vote against the pending motion and I ask for the yeas and nays.

THE PRESIDENT: The Senator from Androscoggin, Senator Nutting, 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 **NUTTING** of Androscoggin, 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 Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President and ladies and gentlemen of the Senate. We've already had this debate once and I'm not going to go into the whole thing again. I am going to ask you to support the pending motion. We've had some conflicting testimony. We have checked with Maine Municipal Association, and they are opposed to this bill. Opposed. I don't care what is said here. This is a ban on boathouses, and it takes the authority away from the municipalities. So, if you are for home rule then you will support the pending motion of Indefinite Postponement. Thank you.

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

Senator **NUTTING:** Thank you Mr. President. I will be very brief. As far as recreational boathouses, a concern since the 70's, according to many different branches of State Government that I've talked with, there never has been home rule. Recreational boathouses have never been legal to be built on the vegetative edge of our waterways, ever. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Treat, to Indefinitely Postpone the Bill and accompany papers in **NON-CONCURRENCE.**

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, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MITCHELL, SMALL

NAYS: Senators: CATHCART, CLEVELAND, DAGGETT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, 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 **AMERO** of Cumberland to **INDEFINITELY POSTPONE** Bill and accompanying papers in **NON-CONCURRENCE, FAILED**.

On motion by Senator **NUTTING** of Androscoggin, the **BILL SUBSTITUTED** for the Committee Report.

READ ONCE.

LATER TODAY ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the following Tabled and Later (3/26/98) Assigned matter:

HOUSE REPORTS - from 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

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1037)** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-1038)** (1 member)

Tabled - March 26, 1998, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **FAILED** to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)** Report

(In House, March 24, 1998, 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).**)

(In Senate, March 26, 1998, Reports **READ**. Motion by Senator **TREAT** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)** Report, in concurrence, **FAILED**.)

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

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 Knox, Senator Pingree, to Reconsider whereby Acceptance of the Majority Ought to Pass as Amended by Committee Amendment "A" Report Failed.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, FERGUSON, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MITCHELL, SMALL, THE PRESIDENT - MARK W. LAWRENCE

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **RECONSIDER** whereby the Senate **FAILED** to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)** Report, **PREVAILED**.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Majority Ought to Pass as Amended by Committee Amendment "A" Report. The Chair recognizes the Senator from Cumberland, Senator Amero.

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

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

THE PRESIDENT: The pending question before the Senate is Acceptance of the Majority Ought to Pass as Amended by Committee Amendment "A" Report. The Chair recognizes the Senator from Cumberland, Senator Amero.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CATHCART, CLEVELAND,
DAGGETT, GOLDTHWAIT, JENKINS,
LAFOUNTAIN, LONGLEY, MILLS, MURRAY,
NUTTING, O'GARA, PARADIS, PINGREE,
RAND, RUHLIN, TREAT

NAYS: Senators: ABROMSON, AMERO, BENNETT,
BENOIT, BUTLAND, CAREY, CASSIDY,
FERGUSON, HALL, HARRIMAN, KIEFFER,
KILKELLY, LIBBY, MACKINNON, MICHAUD,
MITCHELL, PENDLETON, SMALL, THE
PRESIDENT - MARK W. LAWRENCE

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)** Report, in concurrence, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1038)** Report **ACCEPTED** in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "B" (H-1038) **READ** and **ADOPTED** in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1038)** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

Bill "An Act to Implement the Recommendations of the Majority of the Joint Standing Committee on Agriculture, Conservation and Forestry Regarding Enhancing Forest Resource Assessment"
H.P. 1657 L.D. 2286
(S "A" S-596)

Tabled - March 30, 1998, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In House, March 25, 1998, **PASSED TO BE ENGROSSED**.)

(In Senate, March 26, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-596)** in **NON-CONCURRENCE**.)

(In House, March 27, 1998, that Body **INSISTED**.)

On motion by Senator **HARRIMAN** of Cumberland, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-596)** in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from whereby Senate Amendment "A" (S-596) was **ADOPTED**.

On further motion by same Senator, Senate Amendment "A" (S-596) **INDEFINITELY POSTPONED**.

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

Senator **HARRIMAN:** Thank you Mr. President. I present Senate Amendment "C" under the filing number of S-644, move its Adoption

THE PRESIDENT: The Senator from Cumberland, Senator Harriman, offers Senate Amendment "C" with a filing number of S-644 and moves its Adoption.

On further motion by same Senator, Senate Amendment "C" (S-644) **READ**.

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

Senator **HARRIMAN:** Thank you very much Mr. President. And thank you ladies and gentlemen of the Senate for this opportunity to present Senate Amendment "C". I first want to acknowledge and thank all Members of the Agriculture, Conservation and Forestry Committee for the hard work that they have done on this issue. None in particular deserve more credit than the good Senator from Lincoln, Senator Kilkelly, whom I admire and respect and have grown to appreciate the work that she has put into the Committee report, as well as my good friend from Aroostook, Senator Kieffer. This Amendment, in no way is meant to demean or minimize the good efforts that you have put forward but rather to deliver the message from Main Street that we need to recognize that the number one issue of many citizens, if not most citizens in Maine feel, is the issue of clear-cutting needs to be addressed. I think that at the end of a day, as we've all heard from people on both sides of this issue, it's important for us to have the courage to act now to change the current direction of this Legislation so that when the 118th Session of the Maine Legislature adjourns, we leave one lasting message as it relates to forest practices and that is that we have heard the message from Main Street and that we have had the courage to Enact Legislation that restricts clear-cutting of more than 75 acres. My friend from Lincoln, Senator Kilkelly when we discussed this issue the other night, very accurately pointed out on the matter of 500 acres that that was ambiguous. What did

we mean by 500 acres. My Amendment, before you now, seeks to clarify that by making it clear that for a landowner who owns more than 500 contiguous acres, an individual clear-cut may not exceed 75 acres in total area. Crisp, clear and a strong signal that we have heard the message about clear-cuts.

The second part of the amended language before you, requires the Department of Conservation to hold seven seminars per year at geographically diverse locations throughout the State, as determined by the Commissioner of Conservation, to educate landowners, harvesters and the general public regarding forest practices. Ladies and gentlemen of the Senate, the Amendment before you is an opportunity to take the good work that is in the Majority report, empower and instruct the Commissioner to spread that information, that knowledge, that data, that we're gathering, and it also says to the current forest practices no clear-cuts above 75 acres, a compromise, while we allow the good work that is in the Majority report to mature and take root.

It is my sincere hope that we can put the political rhetoric aside on both sides of this issue and do what's right, do what's fair, do what's important now for us to send a clear message about the future of Forest Practices Acts. For if we do nothing, everyone will be able to claim I told you so. The Legislature didn't have the courage to act. And for those of you who feel that the Majority report allows the opportunity to gather the necessary information and come back with measurable, identifiable results, from your perspective you are right. And for those of you, on the other side, who feel that the so-called Four Point Plan was the only way to go, from your perspective, you were right. What I seek to do tonight is to create an opportunity where the best of both points of view can come together, centered around a common goal, a common vision that everyone can look forward to with positive results. So I hope that you will pause and ask yourself for just one more moment whether this makes sense in keeping with the Majority report and the Minority report. I would ask for your support for the pending motion. Thank you Mr. President.

Senator **KILKELLY** of Lincoln moved to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-644).

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you Mr. President and men and women of the Senate. I appreciate the kind words of the previous speaker and certainly would point out that the Committee did spend many hours looking at a number of issues including the size of clear-cuts and when, in fact, clear-cuts are silviculturally necessary, and when they are appropriate. I'd like to point out a couple of things. One is that 9.6 million acres of land in this state is currently, by agreement, not having clear-cuts larger than 75 acres. But also I'd like to point out the challenge of the word contiguous. If a landowner owns 20 parcels of 499 acres each, each of those parcels can, I would assume, have a clear-cut of up to 250 acres which is current law. If a person has one parcel of 501 acres, that person would be limited to a clear-cut 75 acres.

It goes back to the issue that we've talked about over and over again. Every time we attempt to micromanage and be prescriptive, in terms of looking at Forestry, we end up with unintended consequences. Those unintended consequences have caused us many problems in the past. What a majority of the people in the Committee learned, in the process of our day-

long tutorials and the work that we did, is that we need to put in place an opportunity for best management practices to happen on every parcel of land in this state regardless of the size of the ownership. We need to provide opportunities for foresters to be foresters. We need to provide opportunities for land to be managed appropriately and, in some cases, that may be heavy harvesting and in other cases it may be lighter harvesting. But in all cases, it ought to be done based on what is the best management practice for that parcel of land under those particular circumstances. I would urge you to support my motion to Indefinitely Postpone this Amendment so that we can go forward and allow this bill to pass. Thank you.

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

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. I stand and urge you not to support the pending motion to Indefinitely Postpone this Amendment. The thing that you must realize is that the small landowners, and this Amendment, I think, addresses those folks who have 500 acres or more. As was mentioned earlier in our discussions about Forestry, that also sort of ties into the fee that we have where folks have to pay a fire tax if they own more than 500 acres.

We can talk about numbers and agreements, but the fact is that for the past two years, with all of the forestry votes that we saw, the larger landowners obviously were supporting and spent \$8 million to try to get us to put 75 acres for a cap on their land. As you all know that failed. Now they have agreed to do it but they don't want to support this bill. I just can't understand that. If I spent \$8 million, I'd be so happy to get my money back and try to support something that was before the Legislature. The fact is small landowners are good stewards of land. They don't cause a problem with major clear-cuts throughout the state.

The other thing that I mentioned earlier in our discussions is, it's anyone's guess what clear-cuts should be or how they should be. But there is no question in my mind that the citizens in the State of Maine, with all the responsibilities that they have to raise their families, single-parent homes and trying to put children through college, pay for homes, vehicles and go on vacations, that they don't have time to get involved in all of the intricacies of these bills that we do. I will say this to you. If you go out on the street and say to them, we lowered the size of clear-cut from 250 to 75 acres, they'll understand it. There's no question in my mind. I think that's the issue that's before us tonight. I have said that the Committee has done a wonderful job. But for some reason, with all the issues that they had to deal with, this one particular issue, which was really the center of all discussion for the last three years, for some reason they decided to maybe deal with this later through some sort of Rule making or something. I think we owe it to the people to take a look at this. The large industry has assured us that they will live with this. They have assured us their average clear-cut has been 33 acres. This is 2½ times what they are saying their average was. A small wood lot owner with a 100 acres, if we implement the bill as presented with the setback of 250 feet, it's impossible to cut 75 acres out of 100 acres. This is a good Amendment. And I would really hate to see us leave the 118th Session and not take a look at this clear-cutting issue. I hope that you will defeat this motion.

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

Senator **KIEFFER**: Thank you Mr. President and men and women of the Senate. I will be brief. I'm hungry like the rest of you. We have gone over this forestry situation many, many times. I believe that our forest should be managed based on scientific knowledge and not on touchy, feely, political decisions. I, too, will probably be asked, when I go home, why we reduced the clear-cut amount from 250 to 75 acres, and I guess my answer is I don't know. I don't know and I can't answer that question. I guess the logical response from anyone on the street will be then, why? What is the answer to that? How do you respond to that question? There's no more scientific basis for 75 acres then there is for 37½ or 198 ¾. Not at this point. But that's what we hope to determine by the funding of the seven additional foresters and the full implementation of the Forest Practices Act. I guess this has been discussed enough but I will urge you, ladies and gentlemen, to give what the Committee has done a chance to work, to give these new foresters that we're going to hire, professionals we hope, a chance to come back and give us some meaningful information down the road. And I would ask you to support the pending motion.

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

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

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Kilkelly, to Indefinitely Postpone Senate Amendment "C".

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **BENOIT, CAREY, CATHCART, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, KIEFFER, KILKELLY, MACKINNON, MICHAUD, MITCHELL, O'GARA, PARADIS, RUHLIN**

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BUTLAND, CASSIDY, CLEVELAND, HARRIMAN, JENKINS, LAFOUNTAIN, LIBBY, LONGLEY, MILLS, MURRAY, NUTTING, PENDLETON, PINGREE, RAND, SMALL, 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 **KILKELLY** of Lincoln to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-644), **FAILED**.

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "C" (S-644) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "C" (S-644) in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/27/98) Assigned matter:

JOINT RESOLUTION - relative to Encouraging the Development of a Sustainable Forestry Initiative
S.P. 866

Tabled - March 27, 1998, by Senator **CASSIDY** of Washington.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **FAILED** to **ADOPT**

(In Senate, March, 26, 1998, **READ** and **FAILED ADOPTION**.)

At the request of Senator **TREAT** of Kennebec a Division was had. 21 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **CASSIDY** of Washington to **RECONSIDER** whereby the Senate **FAILED** to **ADOPT** the Joint Resolution, **PREVAILED**.

THE PRESIDENT: The pending question before the Senate the motion by the Senator from Lincoln, Senator Kilkelly, to Adopt the Joint Resolution.

The Chair ordered a Division.

THE PRESIDENT: The Senator from Hancock, Senator Goldthwait, 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 **GOLDTHWAIT** of Hancock, 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 Kennebec, Senator Treat.

Senator **TREAT**: Thank you Mr. President and men and women of the Senate. I know that we are tired and probably hungry. I just want to briefly remind the Senate why perhaps you were among those that voted to kill this on a previous occasion. This Resolution basically tells the industry to go out and come up

with an independent third party verification system that is run by themselves. Personally, I find that a contradiction in terms and I'm not comfortable with that. I think that we should do an independent third party verification, but this isn't the way to do it.

The second concern about this is that basically this is something the Legislature should have taken on itself and not sent out to some industry group to do. I'm simply concerned that we are abdicating on a responsibility and dealing responsibly with the forestry issue. That's why I've asked for a vote on this matter and I hope you will stick with your previous vote which was to kill this measure.

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

Senator **NUTTING:** Thank you Mr. President and ladies and gentlemen of the Senate. I hope that you will go ahead and support this Joint Resolution. I want to briefly tell you why. I know this is a third party verification that some groups aren't happy with but I'd remind the Body that this is a third party verification on top of our Forest Services statewide inventory that they are going to be doing. I had a little green flyer handed out. I didn't realize that this Program was in existence until a few months ago. Frankly, when I have constituents that have called me up questioning forest practices that are occurring in Senate District 20, I've had a bit of a frustrating time, at times in the past, getting the Forest Service to come out and look at it. I can tell you, ladies and gentlemen of the Senate, I've used this Program here, and when I call this number they are there that day. In some instances when it was proper, they've told the person cutting the wood to change their practices. I guess that gives me faith enough, if this Program is working, that they are going to do a proper job in the rest of the Resolution. So, I urge you to support it. Thank you.

THE PRESIDENT: The pending question before the Senate the motion by the Senator from Lincoln, Senator Kilkelly, to Adopt the Joint Resolution.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, CAREY, CASSIDY, CATHCART, DAGGETT, FERGUSON, HALL, JENKINS, KIEFFER, KILKELLY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BENNETT, BENOIT, BUTLAND, CLEVELAND, GOLDTHWAIT, HARRIMAN, LAFOUNTAIN, LIBBY, PINGREE, RAND, TREAT

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **KILKELLY** of Lincoln to **ADOPT** the Joint Resolution, **PREVAILED**.

Sent down for concurrence.

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

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 **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Preserve Live Harness Racing in the State" H.P. 1185 L.D. 1676

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1094)**.

Signed:

Senators:

DAGGETT of Kennebec
CAREY of Kennebec
FERGUSON of Oxford

Representatives:

BIGL of Bucksport
GAGNE of Buckfield
TUTTLE of Sanford
TRUE of Fryeburg
BELANGER of Wallagrass
TESSIER of Fairfield
FISHER of Brewer

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

Signed:

Representatives:

LABRECQUE of Gorham
CHIZMAR of Lisbon
GAMACHE of Lewiston

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-1094)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-1094) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act to Reduce Nonpoint Source Pollution from Existing Sources" H.P. 1635 L.D. 2265

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1095).**

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 Not to Pass.**

Signed:

Senator:

BUTLAND of Cumberland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1095).**

Reports **READ.**

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS** Report, in concurrence.

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 **INLAND FISHERIES AND WILDLIFE**, pursuant to Maine Revised Statutes, Title 3, section 955, subsection 4, on Bill "An Act to Implement the Recommendations of the Joint Standing Committee on Inland Fisheries and Wildlife Pursuant to Their Review under the Government Evaluation Act" H.P. 1670 L.D. 2293

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

Signed:

Senators:

KILKELLY of Lincoln
RUHLIN of Penobscot
HALL of Piscataquis

Representatives:

PAUL of Sanford
USHER of Westbrook
CLARK of Millinocket
DUNLAP of Old Town
PERKINS of Penobscot
CHICK of Lebanon
TRUE of Fryeburg
CROSS of Dover-Foxcroft

Minority of the same Committee, pursuant to Maine Revised Statutes, Title 3, section 955, subsection 4, on the same subject reported that the same **Ought Not to Pass.**

Signed:

Representative:

GOODWIN of Pembroke

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

Reports **READ.**

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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 **LABOR** on Bill "An Act to Amend the Laws Relating to Vesting in the Maine State Retirement System" H.P. 812 L.D. 1100

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1092)**.

Signed:

Senators:

CATHCART of Penobscot
TREAT of Kennebec
MILLS of Somerset

Representatives:

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

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

Signed:

Representatives:

PENDLETON of Scarborough
JOYCE of Biddeford
TREADWELL of Carmel
LAYTON of Cherryfield

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1092)**.

Reports **READ**.

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

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

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 Provide for Confidentiality of Health Care Information" H.P. 1225 L.D. 1737
(H "A" H-1069; H "B" H-1073 to C "A" H-1066)

In Senate, March 26, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1066) AS AMENDED BY HOUSE AMENDMENTS "A" (H-1069) AND "B" (H-1073)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1066) AS AMENDED BY HOUSE AMENDMENTS "A" (H-1069); "B" (H-1073) AND "C" (H-1096)** thereto, in **NON-CONCURRENCE**.

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

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
(C "A" H-952)

In Senate, March 25, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-952)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-952) AS AMENDED BY HOUSE AMENDMENT "B" (H-1097)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act Requiring Notification of Option to Request Judicial Review" (EMERGENCY) H.P. 1618 L.D. 2245
(C "A" H-1023)

In Senate, March 27, 1998, **FAILED ENACTMENT**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1023) AS AMENDED BY HOUSE AMENDMENT "A" (H-1105)** thereto, in **NON-CONCURRENCE**.

Senator **NUTTING** of Androscoggin moved the Senate **RECEDE** from **FAILING TO ENACT**.

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.

On motion by Senator **NUTTING** of Androscoggin, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECEDE** from **FAILING TO ENACT**. (Roll Call Ordered)

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act Requiring Notification of Option to Request Judicial Review" (EMERGENCY) H.P. 1618 L.D. 2245 (C "A" H-1023)

Tabled - March 30, 1998, by Senator **NUTTING** of Androscoggin.

Pending - motion by same Senator to **RECEDE** from **FAILING TO ENACT** (Roll Call Ordered)

(In Senate, March 27, 1998, **FAILED ENACTMENT**.)

(In House, March 30, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1023) AS AMENDED BY HOUSE AMENDMENT "A" (H-1105)** thereto, in **NON-CONCURRENCE**.)

Senator **NUTTING** of Androscoggin requested and received leave of the Senate to withdraw his motion to **RECEDE**.

The same Senator further moved the Senate **ADHERE**.

Senator **LIBBY** of York moved the Senate **RECEDE** and **CONCUR**.

The Chair ordered a Division. 8 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **LIBBY** of York to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **NUTTING** of Androscoggin, the Senate **ADHERED**.

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

Bill "An Act to Provide for Confidentiality of Health Care Information" H.P. 1225 L.D. 1737 (H "A" H-1069; H "B" H-1073 to C "A" H-1066)

Tabled - March 30, 1998, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 26, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1066) AS AMENDED BY HOUSE AMENDMENTS "A" (H-1069) AND "B" (H-1073)** thereto, in concurrence.)

(In House, March 30, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1066) AS AMENDED BY HOUSE AMENDMENTS "A" (H-1069); "B" (H-1073) AND "C" (H-1096)** thereto, in **NON-CONCURRENCE**.)

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

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 Provide Adjustments to Accommodate Increases in the Cost of Living for Injured Workers" H.P. 875 L.D. 1192

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1005)** (8 members)

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

Tabled - March 30, 1998, by Senator **CATHCART** of Penobscot.

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

(In House, March 27, 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-1005)**.)

(In Senate, March 30, 1998, Reports **READ**.)

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending the motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED AS AMENDED** Report, in concurrence.

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

HOUSE REPORTS - from the Committee on **LABOR** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System H.P. 735 L.D. 999

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

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

Tabled - March 30, 1998, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 30, 1998, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolution **PASSED TO BE ENGROSSED**.)

(In Senate, March 30, 1998, Reports **READ**.)

Senator **CATHCART** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

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

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

Bill "An Act to Change the State's Fiscal Year from July 1st to October 1st" S.P. 627 L.D. 1829 (C "A" S-492)

Tabled - March 30, 1998, by Senator **PINGREE** of Knox,

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED** (Roll Call Ordered)

(In Senate, March 30, 1998, **READ A SECOND TIME**.)

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-492)**.

Sent down for concurrence.

Off Record Remarks

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

After Recess

Senate called to order by the President.

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

ENACTORS

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

Emergency Measure

An Act to Correct and Supplement Funding for the Maine School of Science and Mathematics H.P. 1450 L.D. 2041 (C "A" H-927)

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

Emergency Measure

An Act to Correct Errors and Inconsistencies in the Laws of Maine S.P. 803 L.D. 2173 (C "A" S-622)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1998 H.P. 1668 L.D. 2291

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 Mandate

Resolve, for Laying the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1998
H.P. 1667 L.D. 2290

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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.

Acts

An Act to Strengthen Laws Regarding Timber Theft and Timber Harvesting
H.P. 1013 L.D. 1405
(S "A" S-571; H "A"
H-1076 to C "A"
H-951)

An Act Regarding Maintenance of Private Ways
H.P. 1410 L.D. 1974
(H "C" H-1085 to C "A"
H-1031)

An Act Creating the InforME Public Information Act to Ensure Access to Electronic Public Records
S.P. 785 L.D. 2112
(C "A" S-624)

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 Allow the Department of Inland Fisheries and Wildlife to Create Lifetime Fishing and Hunting Licenses
H.P. 304 L.D. 368
(H "A" H-1036 to C "A"
H-1013)

Senator **HALL** of Piscataquis requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President. I'd ask for a Roll Call, please.

THE PRESIDENT: The Senator from Piscataquis, Senator Hall, 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 Passage to be Enacted.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

An Act to Adopt Long-range Changes in the Methods by Which Whitewater Rafting Trips Are Allocated among Licensees
S.P. 604 L.D. 1801
(C "A" S-530)

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

An Act to Authorize a Tuition Savings Plan to Encourage Attendance at Institutions of Higher Education
S.P. 622 L.D. 1825
(C "A" S-620)

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

An Act Concerning the Maine State Housing Authority's Share of the Transfer Tax
H.P. 1465 L.D. 2056
(C "A" H-1068)

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

An Act to Limit Mandatory Overtime S.P. 789 L.D. 2116
(S "B" S-627 to C "A"
S-518)

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

An Act to Repeal Certain Changes Made to State Employee
and Teacher Retirement Benefits H.P. 1499 L.D. 2121
(C "A" H-1054)

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

An Act Regarding the Medicaid Program
H.P. 1530 L.D. 2152
(C "A" H-1090)

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

Resolves

Resolve, Regarding Legislative Review of Chapter 820:
Requirements for Non-Core Utility Activities and Transactions
Between Affiliates, a Major Substantive Rule of the Public Utilities
Commission H.P. 1611 L.D. 2237
(S "A" S-592 to C "A"
H-956; H "A" H-960)

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

Resolve, to Implement the Recommendations of the Blue
Ribbon Commission on Hunger and Food Security
S.P. 542 L.D. 1661
(H "A" H-1078 to C "A"
S-587)

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

Resolve, Establishing the Task Force to Study the Need for
an Ombudsman for the Department of Human Services and the
Department of Mental Health, Mental Retardation and Substance
Abuse Services H.P. 1573 L.D. 2207
(C "B" H-936)

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and
Later (3/26/98) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND
LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an
Amendment to the Constitution of Maine to Amend the Timing of
Elections Following the Submission of a Petition for People's
Veto S.P. 857 L.D. 2270

Majority - **Ought to Pass as Amended by Committee
Amendment "A" (S-607)** (8 members)

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

Tabled - March 26, 1998, by Senator **HARRIMAN** of
Cumberland.

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

(In Senate, March 26, 1998, Reports **READ**.)

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

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

Senator **CLEVELAND:** Thank you Mr. President and men
and women of the Senate. Before we take action on this, I want
to take a few moments to discuss why I believe that it's important
that we act on this particular proposal. Currently under the
Constitution, items that come under the Citizen's Veto process
require, because of the timing requirements within the
Constitution, that a special election be held. Unfortunately, when
a Special Election is held two things occur, which I think are
detrimental to the process of public participation and public cost.

Let me speak to the second first. An example of public cost
is that all local municipalities must prepare for the Special
Election and the State must also prepare ballots and make
preparations. The sum of those two expenditures in the last
Special Election in February was something of the order of half a
million dollars of funds that really, I don't think, were necessary
nor planned for in local budgets to accommodate.

The second action that occurs, as a result of the timing issue
in the Constitution, is that far fewer people turn out at Special
Elections than they do at November General Elections. I've
generally held the principle, and I think most others in this
Chamber have as well, that is always preferable to have the
greatest number and diversity of individuals casting their vote, or
casting their opinion on public policy issue. That occurs when
people generally go to vote in a November election. I think it
behooves the process to have those votes in November. Further,
it would be consistent with our current requirements on the other
half of the initiative Veto Legislation that the initiative process
now winds up on November elections, because the language
there allows a little more flexibility for the Legislature to determine
the timing of those. This would be absolutely consistent with
what we do on the first half of that initiative Veto Amendment
which is in the Constitution. I think that it's an issue that needs to
be dealt with. I think that it is preferable that we deal with it now
and be honest and strait forward about it. I've thought long and
hard about whether there would be any additional downside by

potentially having to wait several months longer before having the public act on it. Frankly, I can think of none that are any different that what occur now and, as you know, a petition group that is successful in gathering sufficient signatures are able to prevent that particular law from taking effect. So it has no effect until they vote on it and it makes little difference, I think, whether they vote on it earlier in the midst of a winter Special Election, or whether it remains void until they vote in the General Election in November.

It's an issue that I think very infrequently, if you look at the history of that Amendment when it was first put on in the early 1900's, that it's very seldom used. It isn't used readily because it requires a fairly significant effort to garner the number of signatures necessary to do it. But now that I think that we are aware that it does happen and that we are aware of the consequences, both fiscally and for the opportunity for every person to participate and express their opinion, I think it's a preferable way to go. And I would urge your support for the motion.

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

Senator **FERGUSON:** Thank you Mr. President and men and women of the Senate. I got the Amendment out and I was looking at it. It looks to me that the election would have to be held in November rather than the next election that was coming forward. There may be quite a period of time, for instance, in the last citizen's veto, we acted fairly quickly. I believe it's 60 days that the Governor has to call the election. It seems to me that we're altering the Constitution of the State for something that doesn't occur too frequently. I can't recall the last time we did have a citizen's veto to vote upon and I've been pretty astute in following political affairs over the years. I might vote for this if it was the next General Election or Primary Election, but where it goes to November, I would urge the Members of the Body to reject the motion. Thank you Mr. President.

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

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. In answer to the question from the Senator from Oxford, Senator Ferguson. Yes, it does go to November, and after some debate, that was the choice of the Majority report. Again, there are really two reasons in my mind for supporting this. The philosophical one is that the effort is to get the best test of the electorate that you can and that is felt to be at the November election. Again, if petitions are submitted that are certified, the law in question does not take effect until the vote on that Veto Referendum is held. So it is not like that law is implemented during that time period. It is simply suspended until that is resolved. It takes quite a long time to get through that process. In the case of the most recent initiative, the bill was signed in May. The people's veto petition was approved to circulate in June. They had a 90 day deadline to collect signatures, and it was in October that the Secretary of State made the determination of the validity of the petitions. There was then a Court hearing in that case, and an appeal period ran out. Then the election is required to be held no sooner than 60 days and no later than six months after all of that. So we're talking about a process that takes six to eight months, under normal circumstances. So it really isn't that much of a wait, depending

on when in the year this happens, to bring it around to the next November.

I would like to address a few things about the other reason for supporting this. The people that we heard the most from were the town clerks in the Town Clerk's Association. The cost of this past February's election to municipalities, in the aggregate, was \$340,000. That cost does not reflect the cost in time and energy and, frankly, in heartburn that some of the communities in our state experienced, most notably the City of South Portland, who had all kinds of problems. First of all, they decided that to try to save money they would have the election in one voting place instead of their normal four or five places. That was challenged by the citizens. They had rented a place where a concert was going to be held. The concert had been canceled. They had to pay the musical group who had been planning on performing, and then they couldn't have the election there anyway. They had to find four other places in their voting districts in which they could vote and had to pay for those. It ended up costing them over \$8,000. Their usual election clerks, one was in a body cast, one was in the Bahamas, and one was somewhere else and not available. So they were trying to find completely inexperienced people to help run this election. This turned into quite the nightmare for at least that community and certainly the cost of \$340,000 statewide is significant. In the year from 1909, when Citizens Initiatives first became a part of our Constitution to 1979, there were 13 citizen initiated votes held. In the ten year period from 1980 to 1989, there were 13. So these are happening much more frequently now and the cost can only continue to mount. So for the matter of the cost to municipalities, but more importantly, the desire to get the best test one can of the electorate on these very important issues, I would urge your support for this motion.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Harriman, to Accept the Majority Ought to Pass as Amended Report.

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 Cumberland, Senator Harriman, to Accept the Majority Ought to Pass as Amended Report.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

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

NAYS: Senators: BENNETT, FERGUSON, LIBBY

32 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator HARRIMAN of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-607) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-607)**.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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 **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and Changes to Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999" (EMERGENCY) H.P. 1397 L.D. 1950

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1098)**.

Signed:

Senators:

MICHAUD of Penobscot
CLEVELAND of Androscoggin

Representatives:

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

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-1099)**.

Signed:

Senator:

BENNETT of Oxford

Representatives:

OTT of York
KNEELAND of Easton
MARVIN of Cape Elizabeth
WINSOR of Norway

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1098)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1098) AS AMENDED BY HOUSE AMENDMENTS "E" (H-1109) AND "G" (H-1111)** thereto.

Reports **READ**.

Senator **AMERO** of Cumberland moved the Senate extend until 10:00 p.m., pursuant to Senate Rule 514.

The Chair ordered a Division. 19 Members of the Senate having voted in the affirmative and 13 Senators having voted in the negative, and 19 being less than two-thirds of those present and voting, the motion by Senator **AMERO** of Cumberland to extend until 10:00 p.m., pursuant to Senate Rule 514, **FAILED**.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

LEGISLATIVE RECORD - SENATE, MARCH 30, 1998

On motion by Senator **PINGREE** of Knox, **ADJOURNED** until Tuesday, March 31, 1998, at 8:00 in the morning.