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

In Senate Chamber
Thursday
May 27, 1999

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

Prayer by Mr. Paul Cates of the Vassalboro Friends Meeting in East Vassalboro.

MR. **CATES**: I pray today in celebration of the underground railroad of which there is an exhibit in foyer. Let us pray. Dear God, we thank You for the men and women of Maine. People of different races, persuasions and backgrounds who supported the great humanitarian movement known as the underground railroad. Many of us have said our people must have been involved in helping our brothers and sisters escape from slavery and yet we have searched records in vain for such involvement. Today, dear God, we are grateful for the fact that persons involved in that great movement sought no credit or fame but simply did what needed to be done. There is much today which still needs to be done. We need Your guidance and help, dear God, in our effort to continue in the tradition of those great humanitarian pioneers. Help us to be aware of discrimination and bigotry in our society and to work to overcome these things through the establishment of better laws and customs. Help us, dear God, to recognize the seeds of prejudice in our selves and to grow into better, wiser and more loving persons. This is one of the great tasks of human society, dear God, and we need Your help in accomplishing it. We really really need Your help. And so we thank You that You are with us every moment of our lives. In the name of all the people of this great State of Maine. Amen.

Doctor of the day, Robert Weiss, MD, Searsport.

Reading of the Journal of Wednesday, May 26, 1999.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Create a Sales Tax Exemption for Child Abuse and Neglect Councils"

H.P. 976 L.D. 1374
(C "A" H-395; S "A" S-336)

In Senate, May 25, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-395) AND SENATE AMENDMENT "A" (S-336),** in **NON-CONCURRENCE**.

RECALLED from **ENGROSSING**, pursuant to Joint Order (H.P. 1599), in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-336),** in **NON-CONCURRENCE**.

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

SENATE PAPERS

Bill "An Act to Fund the Collective Bargaining Agreements and Benefits of Employees Covered by Collective Bargaining and for Certain Employees Excluded from Collective Bargaining" (EMERGENCY)

S.P. 847 L.D. 2247

Sponsored by Senator MICHAUD of Penobscot. (GOVERNOR'S BILL)
Cosponsored by Representative TOWNSEND of Portland and Senators: DOUGLASS of Androscoggin, HARRIMAN of Cumberland, MILLS of Somerset, Representatives: BERRY of Livermore, HATCH of Skowhegan, KNEELAND of Easton, TREADWELL of Carmel.

Bill "An Act to Fund the Collective Bargaining Agreements and Benefits of Employees Covered by Collective Bargaining and for Certain Employees Excepted from Collective Bargaining for the Judicial Branch" (EMERGENCY)

S.P. 848 L.D. 2248

Sponsored by Senator LONGLEY of Waldo. (GOVERNOR'S BILL)
Cosponsored by Representative THOMPSON of Naples and Senators: BENOIT of Franklin, TREAT of Kennebec, Representatives: LaVERDIERE of Wilton, MADORE of Augusta, PLOWMAN of Hampden, SCHNEIDER of Durham.

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Sent down for concurrence.

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

ORDERS

Joint Resolutions

On motion by Senator RAND of Cumberland, under unanimous consent on behalf of President LAWRENCE of York (Cosponsored by Speaker ROWE of Portland and Senator AMERO of Cumberland, Senator BENNETT of Oxford, Senator PINGREE of Knox, Senator RAND of Cumberland, Representative CAMPBELL of Holden, Representative MURPHY of Kennebunk, Representative SAXL of Portland, Representative SHIAH of Bowdoinham), the following Joint Resolution:

S.P. 838

JOINT RESOLUTION PROCLAIMING JUNE TO BE "IT'S MY FIGHT, TOO" MONTH TO FIGHT AGAINST BREAST CANCER

WHEREAS, all of us in the State recognize that a woman's fight against breast cancer is a family matter and believe that family members and friends must offer strong emotional support as the women in their lives experience breast cancer treatment; and

WHEREAS, one out of every 8 women in the United States will develop breast cancer in her lifetime and it is especially important that this issue be highlighted to make certain that an entire family affected by breast cancer is helped in every way possible; and

WHEREAS, it is equally important that all our citizens educate themselves on how to support the women in their lives that have breast cancer; and

WHEREAS, the Northeast Health Care Quality Foundation has played a critical role in underscoring this disease as a matter for the whole family with its campaign of "It's My Fight, Too"; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Nineteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the importance of involving the whole family in the struggle against breast cancer and that we designate June 1999 as "It's My Fight, Too" month in Maine; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Northeast Health Care Quality Foundation and the American Cancer Society, Maine Division, Inc.

READ and **ADOPTED**.

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

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber Robert Aurilio, CEO of Northeast Health Care Quality Foundation and the American Cancer Society, Maine Division along with Paul Peter Jessup, Director of Governmental Relations and Brian McClellan, Director of Provider Relations who are with us today. Would they all please rise and receive the greetings of the Senate.

Off Record Remarks

On motion by Senator KILKELLY of Lincoln (Cosponsored by Representative SAXL of Portland and Senator AMERO of Cumberland, Senator KONTOS of Cumberland, Senator O'GARA of Cumberland, Senator RAND of Cumberland, Representative COLWELL of Gardiner, Representative KNEELAND of Easton, Representative MURPHY of Berwick, Representative SANBORN of Alton), the following Joint Resolution:

S.P. 842

JOINT RESOLUTION RECOGNIZING THE 35TH ANNIVERSARY OF MAINE'S COMMUNITY ACTION PROGRAM AGENCIES

WHEREAS, the 11 community action agencies and their affiliates in the State, commonly referred to as "CAPs, " community action programs, carry on a tradition of community service that started in 1964 when Governor John Reed created the State Office of Economic Opportunity based upon the United States Economic Opportunity Act of 1964 inspired by President Kennedy; and

WHEREAS, the principles of community action involve the cooperative control of CAPs by low-income people, public officials and representatives of the private sector in developing comprehensive approaches toward addressing the causes and consequences of poverty with the purpose of focusing local, state and federal resources to enable disadvantaged citizens and their families to become self-sufficient; and

WHEREAS, the CAPs originated from their early activities in the State involving advocacy for and community organizing of low-income people to become, in the 1990s, a well-established network for social and economic development in Maine; and

WHEREAS, Maine CAPs now offer a wide variety of services to help low-income people become self-sufficient, including housing repair, child care, nutrition counseling, energy conservation, transportation, job training and microenterprise development; and

WHEREAS, through the use of funds from the federal Community Service Block Grant and state, local and private sources, and in partnership with the Department of Human Services, the CAPs in Maine provide a model of cooperative community multi-service delivery of which the State can be proud; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Nineteenth Legislature now assembled in the First Regular Session, take this occasion to recognize the 35th anniversary of community action in Maine and the 11 CAPs now providing services in the State; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Human Services and the President of the Maine Community Action Association.

READ.

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

Senator **KILKELLY**: Thank you Mr. President. Men and women of the Senate, this Resolution is one that's very near and dear to my heart and one I'm very pleased to be the Sponsor of. I'm fond of saying that I grew up in CAP agencies. That's because 22 years ago when I was a very young single parent with three little kids I really didn't have any sense of being able to do much of anything except maybe keep us afloat while the kids grew up and then who knows what was going to happen after that. I became involved the Head Start program which is sponsored by the CAP agency in our area, Coastal Economic Development. Head Start has an amazing way of high-jacking people and really they get your kids involved in the program and then they say oh, well now you have to be involved too. You have to come to meetings and you have to be involved in working within this program. You're part of the direction of this program. And that's really what's very unique about CAP agencies. CAP agencies don't have programs where you merely fill out the paper and then something happens. What they say is we need you to partner. We need you to partner with us in your community to tell us what your community needs. We need you to partner with us to tell us what your family needs and then we'll work together to do that. That was a critical turning point in my life and in the lives of my family. I know that it's been a critical turning point in the lives of many many families across this state. I went on to be involved in the Head Start policy council. I Chaired the policy council. I went on to work for the agency. I then went back to school and other things have happened to me which have landed me here, a place that I dearly love and an honor that I have to serve the people of my district. But I know that had it not been for the opportunity that I was given by the programs that were run by the CAP agency that I wouldn't be here, that I wouldn't be doing the things that I'm doing now. And that's a part that I feel that I owe to the CAP agencies.
I also feel that there is a real responsibility for those of us who have benefited from various services and various programs. There were people there that reached out to me, that supported me when I was in need. And it's now my turn, my responsibility because of where I am to turn around and do the same thing for others. Very often the work that gets done in our community is done very much invisibly. It's done, it happens, people are supported and good things happen. We don't have enough time to stop and celebrate that. This is an opportunity for us to celebrate the fact that for 35 years these agencies have been there partnering with people in their communities, supporting people in their communities and growing people within their communities. It's critically important for the people of the state of Maine that all people be given opportunity. That all people have a chance to reach their maximum potential. Whether they're children in pre-school or Head Start, or whether they're adults who are struggling in their lives. CAP agencies serve all of those functions and I think it's important that we take this time to recognize that that's been going on for 35 years and support them in their work. Thank you very much.

ADOPTED.

THE PRESIDENT: The Chair is pleased to recognize in the Chamber Jessica Harnar of the Coastal Economic Development in Bath. She is the Executive Director. Charles Newton, Executive Director of the Penquis Community Action Program of Bangor. Grant Lee, Executive Director of the People's Regional Opportunity Program of Portland. Nancy Fritz, Executive Director of the Coastal Community Action Program of Rockland. Pat Kosma, Deputy Director of the Kennebec Valley CAP in Waterville. Would they all please rise and receive the greetings of the Senate.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act to Make Minor Substantive Changes in the Tax Laws"

H.P. 131 L.D. 162

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-695)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-695)**.

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

READ ONCE.

Committee Amendment "A" (H-695) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act to Encourage Support of Passamaquoddy Tribal Government Through On-reservation Business Activities"

H.P. 739 L.D. 1029

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-694)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-694)**.

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

READ ONCE.

Committee Amendment "A" (H-694) **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

The Majority of the Committee on **LABOR** on Bill "An Act to Enhance the Payment Options for Certain Employers"
H.P. 214 L.D. 292

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

Signed:

Senator:
DOUGLASS of Androscoggin

Representatives:
HATCH of Skowhegan
MUSE of South Portland
GOODWIN of Pembroke
FRECHETTE of Biddeford
MATTHEWS of Winslow
SAMSON of Jay

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-477)**.

Signed:

Senators:
LaFOUNTAIN of York
MILLS of Somerset

Representatives:
DAVIS of Falmouth
MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

Comes from the House with the Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**.

Reports **READ**.

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

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Promote the Sale of Traditional Passamaquoddy Crafts"
H.P. 986 L.D. 1384

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-696)**.

Signed:

Representatives:
GAGNON of Waterville
GREEN of Monmouth
COLWELL of Gardiner
LEMOINE of Old Orchard Beach
MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland
STANLEY of Medway
DAVIDSON of Brunswick
LEMONT of Kittery

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

Signed:

Senators:
RUHLIN of Penobscot
MILLS of Somerset
DAGGETT of Kennebec

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-696)**.

Reports **READ**.

On motion by Senator **RUHLIN** of Penobscot, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate

Ought to Pass

Pursuant to Public Law

Senator NUTTING for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, on Bill "An Act to Amend the Nutrient Management Laws" (EMERGENCY)
S.P. 846 L.D. 2246

Reported that the same **Ought to Pass,** pursuant to Public Law 1997, chapter 642, section 8, subsection 3.

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

READ ONCE.

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

Sent down for concurrence.

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

HELD MATTER

Senator **RAND** of Cumberland, moved the Senate **RECONSIDERED** whereby it **ADHERED**, on the following:

Bill "An Act to Treat All Employees Equitably with Respect to Leaves of Absence for Legislative Service"

H.P. 235 L.D. 339

(In House, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)**.**)**

(In Senate, May 25, 1999, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

(In House, May 26, 1999, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

(In Senate, May 26, 1999, motion by Senator **PINGREE** of Knox to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE, FAILED**. On motion by Senator **AMERO** of Cumberland, **ADHERED**.)

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Senate **ADHERED**.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following matter Tabled pending a Ruling of the Chair:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Provide Equal Treatment in the Taxation of Public Pensions"

S.P. 431 L.D. 1268

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-348)** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-349)** (2 members)

Tabled - May 25, 1999.

Pending - **RULING OF THE CHAIR**

(In Senate, May 25, 1999, Reports **READ**. Senator **RUHLIN** of Penobscot moved to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-348)** Report. (Roll Call Ordered). Senator **AMERO** of Cumberland inquired if the Bill and accompanying papers were **PROPERLY BEFORE THE BODY**, pursuant to the Constitution.)

THE CHAIR MADE THE FOLLOWING RULING:

"The Chair has considered the question of the Senator from Cumberland, Senator Jane Amero, as to the propriety of LD 1268 under Article 4, Part 3, Section 9 of the Maine Constitution.

Article 4, Part 3, Section 9 of the Maine Constitution states:

Section 9. Bills, orders or resolutions, may originate in either House, and may be altered, amended or rejected in the other; but all bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other cases; provided, that they shall not, under color of amendment, introduce any new matter, which does not relate to raising a revenue.

Similar provisions are found in most state constitutions and follow closely Article 1, Section 7 of the United States Constitution which provides in part:

Section 7. All bills for raising a revenue shall originate in the house of representatives, but the senate may propose or concur with amendments as on other bills.

L.D. 1268 attempts to provide tax treatment to recipients of state and federal retirement pensions similar to that provided to social security recipients under federal law. Rather than all state and government pensions being taxable while all social security payments are exempts, LD 1268 would provide a comparable exemption for state and federal pensions received in lieu of social security.

Therefore, L.D. 1268 would not increase the amount of revenue coming into the state; in fact, its effect would be the opposite. The Maine Supreme Court has upheld actions where a Senate bill was the vehicle which repealed and then reenacted a tax in State of Maine v. Laski, (Me. 1960) 165 A 2d. 579. In that case, the legislature repealed and then reenacted a tax. The legislation which performed this resurrection originated in the Senate. In this case, the Maine Supreme Judicial Court found that continuing a tax was not the same as "raising a revenue" and that certain income from taxation would be equally exempt from the restrictions of Article 3, Part 4, Section 9 of the Maine Constitution.

The Chair finds the L.D. 1268 does not constitute a revenue raising measure and is therefore properly before the body."

THE CHAIR RULED THE BILL PROPERLY BEFORE THE BODY.

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

Senator **FERGUSON**: Thank you very much Mr. President. One thing that I neglected to mention, when I was on my feet the other day in regards to this Bill, is that my wife is a retired teacher and as a family filing a joint return we would be benefactors of this legislation. Actually all we're doing here is taking money from Social Security recipients and funding Governmental pensions with that money. Folks who earn in excess of $34,000 singly or $44,000 if they file a joint return and I've talked to several people and they've told me it's revenue neutral. Well it's revenue neutral to the State but it's not revenue neutral to the many thousands of people that would be impacted by this. In fact, I talked to the Revenue Service and there are 26,000 filers that would be impacted. Those folks are going to have to pay. Actually what you're doing, and I think we understand this term, you're robbing Peter to pay Paul; that's what we're doing. I don't think it's fair. There will be a great exodus of retirees from this state if this legislation is passed. I would hope that we would Defeat the pending motion and go forward and Accept Report "B" which steps up to the plate and gets an appropriation of $11.3 million to pay for this. I thank you for your indulgence and I will sit down at this time. Thank you Mr. President.

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

Senator **RUHLIN**: Thank you Mr. President. Ladies and gentlemen of the Senate, I want to tell you something. I want to be at that Kittery bridge when that big traffic jam happens. According to the good Senator all these people are going to be leaving the state of Maine. According to testimony I heard because we're going to finally treat the veterans of this Country who served in the Armed Services properly in this state. We're going to treat our State employees who are leaving by the droves because we don't treat them fairly. We're going to do all these things that create fairness which this Bill will do. They're all going to be coming back. And the others are all going to be going out. All going to meet, I think, on the Kittery bridge all at one time. There's going to be some kind of a traffic jam. But in the meantime we can at least bring some equity into the way that we treat the retirees who have worked for the public; people that have done the public's work. A person who plowed the snow on the snowy nights and is on State retirement, the people who have taught our children who are on Maine State retirement, the veterans who have helped defend and protect this Country who are on Federal retirement. We now are one of the very few states in this nation who tax them on a State policy. We have found a way to mirror the tax policies of the Federal government, which everybody keeps telling us we should do. We should be more like the Federal government. Federal government taxes Social Security benefits, $44,000 if you're married filing jointly and $32,500 if you're single. So we mirror the Federal government. Do exactly the same thing. Then do what so many other states are doing and try to bring some fairness to the issue and we say to our retired people who have worked in the public sector that we will now exempt the first $6,000. Isn't that a munificent sum? In a way I'm almost ashamed to say that that's all that we're doing. But it's a start. A start to address the fairness issue. I could continue but I think we talked about this the other night. If you promise to vote with me I'll promise to sit down and just say ditto for what we said the other night. Thank you.

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

Senator **CATHCART**: Thank you Mr. President. Women and men of the Senate, I just have to rise for about one minute on this issue because it is indeed an issue of fairness. One group that I'm particularly concerned about in our state is our retired school teachers. We have not treated them fair in our state retirement plan. While we pay full health insurance for our State employees, we pay only 30% for our retired teachers. We have teachers who taught 40 years and who retired 20 or 25 or 30 years ago who are struggling on these tiny pensions and yet we are charging them the full rate of income tax on their pensions. They just cannot afford to go on. They can't afford enough food, they can't afford their prescriptions and this is a way that we would help them just a little bit and make their retirement more comfortable and make their taxes a little fairer and a little more equitable with everyone else. Thank you Mr. President.

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

Senator **BENNETT**: Thank you Mr. President. Fellow members of the Senate, I rise only to underscore the point. There are two Reports coming out of the Committee on this Bill. We're presently debating Report "A". Both Reports are Ought to Pass Reports. Opposing this Report does not mean that you oppose the tax cuts that are contained herein. It merely means that you are opposed to the provision in Report "A" which institutes a new tax on Social Security benefits which haven't previously been taxed in this State. It's a very clear issue. If you're in favor of that you vote for this Report. If you're opposed to that you vote Against. Thank you very much.

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

Senator **HARRIMAN**: Thank you very much Mr. President. Good morning ladies and gentlemen of the Senate. Over the last several years we've learned that the largest growing segment of our population in America are our retirees. We've also learned that they bring to their retirement years a wealth of information, vitality and enthusiasm for the communities in which they live. In fact, we have developed, as an economic strategy, that Maine wants to become the retirement state. I think that's a laudable goal and one that we should pursue with all enthusiasm. Yet, like you perhaps, I run into people every day, particularly this time of year because they've just returned back from Florida, who tell me that they're delighted to be here to spend the summer because they've just returned from winter in a more hospitable climate and most especially they want to remind me that our income tax rates are so high that they invite people to leave. So I think as a challenge for our State and certainly our communities in years ahead that we have to give a reason to stay. And indeed a reason to return as my friend from Penobscot, Senator Ruhlin, alludes to. And I agree with the goals of the legislation that my friend from Kennebec, Senator Daggett, introduced. It is about time that we recognize that the people who have taught our children and protected our streets and delivered our human services and represented our Country in the military need the tax relief this Report offers. There is no disagreement. I think everyone in this Chamber would vote for that. I guess for me the question is do we want to go tell 26,000 current income tax filers here in the State of Maine that they ought to go join the rest of their colleagues who have decided to no longer file tax returns here in exchange for creating tax relief for people on public pensions. I don't know what we gained. Perhaps fewer people filing taxes here. Perhaps the net cost will be even more erosion from the State checkbook, because of less people paying taxes. So I would just ask you before we take the vote, Mr. President, to recognize that we have a real opportunity here to solve the problem in a way that will matter most for our retirees and not send yet another negative message to people who are currently filing tax returns here who happen to be retired and that is that we recognize that tax relief is deserving and needed for people who are on public pensions. And that rather than asking other retired citizens of Maine to pay more in taxes, let's recognize that the real solution is to have the money come out of the State checkbook, where indeed there actually will be rate reductions for our retirees and not at the expense of others. I hope you will join me in Defeating the pending motion so we can go on to Accept Report "B". Thank you.

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

Senator **DAVIS**: Thank you very much Mr. President. I rise this morning thinking of this Bill, and listening to a number of people, and agreeing with both sides in some ways. However, you can't have it both ways. I agree with the good Senator from Penobscot, Senator Cathcart, that we need to do something for our retirees, our State employees, our teachers, our policemen and other people. And I agree with Senator Ruhlin that we should do this. However I do fear that this is going down the wrong path. I, as a retired State Police Officer, as nearly as I can figure this would earn me $510 if this Bill is enacted next spring. Well the good Senator from Oxford said that's robbing Peter to pay Paul. For the last few days I've enjoyed telling him, and I will for the next few days, that's robbing Norm to pay Paul because he'd be the one that I'd be getting it from and I probably will enjoy that. But, as much as I would like to support this, and I really would like to support it because I know a lot of State retirees who don't have it very good. When the good Senator from Penobscot, Senator Ruhlin, speaks of our military there's no one here whose heart stirred any more with the great sacrifice that they have made. I would very much like to help them. But I cannot vote for this when we're going to be taxing people on Social Security. In this week alone, and one time this week in the hall here, I talked to a former Legislator who just got back from Florida who was thinking of becoming a resident of Florida and I told him about this Bill and he said well if that happens that's going to seal it, I'm going to become a resident of Florida. I do not want to drive people out of Maine. I want to keep them here. So I would ask that you support Amendment "B". That's $5,000, it's a little less but I won't be getting it from the good Senator from Oxford, Senator Ferguson, because it will be coming out of the State checkbook. Thank you very much Mr. President.

Off Record Remarks

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

Senator **DAGGETT**: Thank you Mr. President. Members of the Senate, I too spoke on this Bill the other night and will only mention a couple of items today. I've heard a number of people talk about the citizens of Maine that will leave in droves should this Bill pass. I just felt it was important to call attention to the difference in the numbers affected here. In earlier testimony, and I've heard two numbers 26,000 and 15,000, perhaps 15,000 tax returns and 26,000 people, who would end up having to pay some tax because, as I'm sure you all recall, this is only on the higher amounts of Social Security not the lower amounts. But the number of public pensioners is over 50,000. And I would submit to you we already have people who are leaving. They are leaving because we're not giving this kind of help to public pensioners. Continuing in working to bring Maine's Tax Code into conformity with the Federal Tax Code, which is what this would do in this regard, is not an outrageous thing to do. It's a sensible thing to do. And it allows a measure, and I would underscore that, a very small measure of equity for almost twice the number of people who then would be effected by the way this Bill is set up. It is not an outrageous thing to do. We have struggled in other times to try to keep Maine's Tax Code, for a variety of reasons, in sync with the Federal form. This allows that. Allows a benefit for over double the number of people. We have citizens who are concerned about staying here. This is the Bill and this is the Report that addresses that. This is the one that's in front of you. Thank you.

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

Senator **MILLS**: Mr. President and men and women of the Senate, I think the real choice here, and the unfortunate choice, is we will either do something that will alleviate an acknowledged inequity. It will not relieve the inequity by very much or very well or very smoothly or very gracefully but it will be a step towards relieving an acknowledged inequity. Or we will do nothing. Passing the alternative Report will not lead to legislation. Report "A" will and it will do some measure of good for the overall structure of our society. There will be some prices to be paid. I don't think for a minute that some people, some few retirees, because we impose a partial tax on Social Security the way the Feds do, some people may respond to that not as a sacrifice by deciding to move to New Hampshire or Florida. I don't know. But in any case it will, if we do pass this measure, produce a wide and broadly spread small measure of relief to some people who very clearly deserve it and are entitled it. We have some retirees attempting to live in this state and pay taxes in this state on an income of $8, $10, and $12 thousand a year. I think that average State and teacher retiree makes something in the order of $12,000 or $13,000 a year on that pension, $1,000 a month. Because of the very strange way in which Social Security takes an offset for that mediocre income they don't get the benefit of much for it. In some cases they get no benefit from Social Security even though they may have worked forty quarters in the Social Security system during their lifetimes and would otherwise be entitled. So because of the strangeness of Federal policy we have an unfortunate class of retirees in this state who are struggling to live in mobile homes and apartments who are still being taxed by us in spite of the fact that their public pensions are barely enough to live on and struggle through. So this Bill will do a little bit of justice. We will pay a small price for it perhaps in some exodus. But never the less it's a step in the right direction. For that reason I support it.

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

Senator **MACKINNON**: Thank you Mr. President. Women and men of the Senate, I rise today to ask you to support the Majority Ought to Pass Report. As a probable recipient of the rob Peter to Bruce but on the other side I've learned another term up here, it's called revenue neutral Bill that I have to pay on the other side and I'll end up paying probably a little bit more than I receive, I think that if you look at the retirees in the field that I know more about, education, that many of these people prior to 1990 that retire are living as the good Senator from Somerset, Senator Mills, said on less than $1,000 a month. I think if you can help these people at this particular time with this I think we're doing a great service to the State of Maine. I also think if we're looking at saying we're taxing over $44,000 that we're really looking at maybe helping some of these people who had to go through the times when yes education is inflation-proof and probably recession-proof because we're in the middle of a salary all the way but unfortunately their dedication, which remember if we mentioned two years ago, they do hit 100% of all youth growing up in this state. I think it's something we can do to help them at this particular time. Thank you Mr. President.

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

Senator **SMALL**: Thank you Mr. President. Men and women of the Senate, may I pose a question through the chair?

THE PRESIDENT: The Senator may pose her question.

Senator **SMALL**: Thank you Mr. President. Since I don't do my own taxes and try to avoid looking at the tax scale as much as possible, could someone please enlighten me as to what the average tax would be on a $10,000 - $12,000 income?

THE PRESIDENT: The Senator from Sagadahoc, Senator Small poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator **RUHLIN**: Thank you Mr. President. As I understand the question, the question is at the bottom line after all exclusions and so forth, line 32 I think is the new adjusted gross income is $10,000. If that is in fact the case, in the state of Maine your income tax would be in the 2% range. If that is indeed the question. If the question could also be understood to say if you are a retiree and that bottom line would have been $16,000 it would reduce it down to $10,000 or if it were otherwise going to be $10,000 it would reduce it down to $4,000 in which there would be no tax. So it would depend upon how that question was interpreted. While I'm right here, in trying to answer that question I will, Mr. President, if I may just continue along that same line for a moment. We've been kind of involved in the numbers game. There are two admirable Reports by the way. I'm not saying the other one has no merits. What I am saying is that I have not seen

$10 million, $10.5 million, in any proposed budgets of the Republican party. I have not seen $10.5 million proposed budget in the Democratic party. That's because there is not $10.5 million presently available to fund any other Report than the Majority Report. And that's why this Committee was 11-2, and believe me this isn't something that started this year, this has been going on now for many years now, trying to craft something to address the equity problem. You know it was very enticing to say we're going to go and give them $10,000 exemption and we're not going to offset anything. We'll leave everything else just the way it is. We're going to pay for this out of our budget. It's $2.1 million for every $1,000 worth of exemption that you give. So the price tag for that original Bill was $21 million. The easy thing would have been to pass that, put it on the Table and we didn't fund it, point the finger at the Appropriations Table. The Tax Committee did it's job, we were great, we did the right policy but you didn't fund it. Well, I don't think that if you really want to accomplish something that's the way to do it. What you try to do is look at the problem, be pragmatic and come up with a solution that in fact will work. $6,000 isn't enough frankly. I really feel that. But it's a first step. It's a pragmatic step because it will work. It's something that we can go ahead and put into place, have it go on the books and it's not, because of the Social Security offset that we're going to use, sure somebody's got to pay somewhere but because of that there are going to be over 50,000 citizens in the state of Maine who have worked for the public interest who devoted their public careers who will receive some small step of equity and fairness. That's what this Report does. I ask you to keep that in mind. If we thought for one moment we could get a $21 million fiscal note through or $10.5 million, I'd much rather do that. This is pragmatic, let's look at the problem, let's take the steps that we can and move forward with it. That's what this Report is about. Thank you.

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

Senator **KIEFFER**: Thank you Mr. President. Ladies and gentlemen of the Senate, I mulled this over quite a lot and this revenue neutral situation keeps coming back to me. To take $10.5 million dollars out of the pockets of Social Security recipients that have worked their lifetime and paid into Social Security and give it to someone else doesn't quite seem to me to be revenue neutral. It may be revenue neutral as far as the State of Maine is concerned but it certainly isn't to those people that we're taking this money out of their pocket. As far as the title of the Bill, To Provide Equal Treatment in Taxation, again I have an awful problem on that. If we have 25,000 on Social Security and 50,000 on State and other retirements we must be taking twice as much out of the Social Security recipients for individuals as we are giving to the other retirees. The equal treatment here, the only thing that I can see equal about it is that I think it will drive an equal number of present retirees out of the state and prevent an equal number of present retirees outside of the state from coming into the state. That's the equality I can see here. I think this gets to be borderline socialistic and what's our next step, are we going to confiscate all their assets and put them into a big pool and then decide how much we should shell out and give each one of them on the dole. I can certainly support Amendment "B". But if we're going to give them some equality in taxes lets be big enough to step up to the plate and fund it. Thank you Mr. President.

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

Senator **HARRIMAN**: Thank you very much Mr. President. Good morning once again ladies and gentlemen of the Senate. If I might, I would like to comment in response to my good friend from Penobscot, Senator Ruhlin, the point he makes that the budget doesn't appear to have those priorities that he testified to just a moment ago. He's absolutely right. I grant him that. I hope, as a member of the Appropriations Committee, maybe that we could have continued to do our work so that we'd have an opportunity to accept all of the Bills that are working their way through the system so that we could, in fact, establish priorities before the budget was presented. In that regards, Mr. President, I look forward to the day when the attitude and the philosophy of the Legislature is one that establishes just a number one priority, the opportunity to create much needed tax relief for Maine citizens. And then after those priorities have been established we would take what's left over for revenues and spend them for the needs of State Government. Unfortunately we are in an era where just the opposite is the norm. First we establish what are the goals and objectives and priorities of spending and if there's any money left over, we look for rate relief. It would be, in my view, a great opportunity for the State of Maine and it's citizens to establish the rate reduction needs of the citizens first. Lastly, Mr. President, I'd just like to mention, and I want the record to be very clear, I am a very proud Co-sponsor of this piece of legislation. It received as Co-sponsors a bi-partisan group of colleagues in both Chambers. In fact the legislation that we sponsored did not say the question that we have before us. Specifically that we would go tax someone else to give tax relief to the people mentioned under this legislation. I think the message was clear by the Sponsors of this Bill that this is rate relief. That we should prioritize and that rate relief should not come out of the checkbooks of other Maine citizens. That's what the legislation that was proposed sought to do and I hope that you will join me in Defeating the pending motion so that we can Accept the Report that was consistent with the legislation that was introduced. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Ruhlin to Accept the Majority Ought To Pass As Amended By Committee Amendment "A" (S-348) Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#174)

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

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, DAVIS, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MITCHELL, SMALL

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-348)** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-348) **READ**.

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-348).

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/26/99) Assigned matter:

Bill "An Act to Establish a Trust Fund to Provide Statewide Assistance to Low-income Electric Consumers"
H.P. 1069 L.D. 1500
(S "A" S-338 to C "A" H-618)

Tabled - May 26, 1999, by Senator **RAND** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-618) AS AMENDED BY SENATE AMENDMENT "A" (S-338)** thereto, in **NON-CONCURRENCE**.)

(In House, May 26, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-692),** in **NON-CONCURRENCE**.)

On motion by Senator **CAREY** of Kennebec, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-618)**. **AS AMENDED BY SENATE AMENDMENT "A" (S-338)** thereto, in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "A" (H-618) as Amended by Senate Amendment "A" (S-338) thereto.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Senate Amendment "A" (S-338) to Committee Amendment "A" (H-618).

On further motion by same Senator, Senate Amendment "A" (S-338) to Committee Amendment "A" (H-618) **INDEFINITELY POSTPONED**.

On further motion by same Senator, Committee Amendment "A" (H-618) **INDEFINITELY POSTPONED**.

House Amendment "A" (H-692) **READ**.

On motion by Senator **CAREY** of Kennebec, Senate Amendment "A" (S-354) to House Amendment "A" (H-692) **READ**.

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

Senator **CAREY**: Thank you Mr. President. L.D. 1500 was an effort to take the property income tax from sale of the utility, CMP in particular to FPL. The figure was estimated to be about $70 million. The Committee felt very strongly that that $70 million, which basically was ratepayer money from day one, should have gone into a trust fund and take the low income provision that is in the law currently and fund it out of this trust fund and get it out of the electric rates. It would not have been a very large gain for the consumers of electricity but it would have been the direction that restructuring is supposed to be taking. Unfortunately along the way somebody seemed to find the $70 million. There were bills in to pay for ice storm damage which came to $70 million. There was another bill which would have had us pay for stranded costs, which happened to be $70 million. Everything happened to be $70 million. It obviously was a nice round figure for the administration, however it is one time money. You're only going to pay that tax once. I don't think that FDL is going to sell in the immediate future. We were using it for a one time expense. Setting up the trust fund, whose income would pay for the low income people's electric problems and would do some with the demand side management which is the conservation side of the law. However on it's way through the process somebody must have squealed about this money being available someplace because it suddenly disappeared from us. I did get a confession from the Chief Executive who said that he took it. However he didn't put that in writing. But in any event, what we have now done is work on the Property Transfer Tax which goes from $75 million down to $675,000. It's quite a drop. But it will do something as far as replacing appliances for the low income people so they can get some more efficient refrigerators, if you would, than they're getting now. So that is why this Bill is before you and that is what that Amendment does. The House Amendment puts on the money, $675,000, and some us feel that money will really be closer to $6 million but we are banking on at least getting what the bottom figure is. I thank you and I would hope you can support the Amendment.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **RAND**: Thank you. To anyone who has the knowledge and can answer, the good Senator from Kennebec, Senator Carey, mentioned that the fiscal note is approximately six hundred and something thousand dollars but then he mentioned something about eventually it being $6 million. I know how things can happen, I won't ask for that particular explanation. I would like to know if the intent is to put the entire amount should it even reach $6 million to appliance replacement? Thank you.

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

Senator **CAREY**: Thank you Mr. President. The program will be administered by the State Housing Authority, which already deals with the low income distribution, and they will be making those decisions but they cannot spend more than $675,000 for that is all the Bill would allow them to have. Whether or not it gets mixed up with the $300 or $400 that goes back to the low income people through a lower or a partial payment on their electric rates or not we are not familiar with what the State Housing Authority will do.

On motion by Senator **GOLDTHWAIT** of Hancock, **TABLED** until Later in Today's Session, pending motion by Senator **CAREY** of Kennebec to **ADOPT** Senate Amendment "A" (S-354) to House Amendment "A" (H-692).

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act to Adopt the Model Revised Article 9 Secured Transactions"

H.P. 1601 L.D. 2245

Comes from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

REFERRED to the Committee on **JUDICIARY** and ordered printed, in concurrence.

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

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

On motion by Senator **PINGREE** of Knox, **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:

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act Relating to the Kennebec Regional Development Authority" (EMERGENCY)

S.P. 807 L.D. 2219

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-356)**.

Signed:

Senators:
KONTOS of Cumberland
MacKINNON of York

Representatives:
O'NEAL of Limestone
SIROIS of Caribou
TRIPP of Topsham
BOLDUC of Auburn
BOWLES of Sanford
CLOUGH of Scarborough
SHOREY of Calais
USHER of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-357)**.

Signed:

Representatives:
MARVIN of Cape Elizabeth
MENDROS of Lewiston

Reports **READ**.

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-356)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-356) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-356)**.

Sent down for concurrence.

ORDERS OF THE DAY

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

JOINT ORDER - relative to recognizing Robert P. Ho, Executive Director of the Maine Rural Development Council, who is the recipient of the 1999 United States Department of Agriculture Secretary's Honor Award, in the "reinventing government" category. This honor is being given for providing leadership that resulted in significant council accomplishments during 1997-98. We extend our congratulations and best wishes to him on this achievement;SLS 210

Tabled - May 27, 1999, by Senator **PINGREE** of Knox

Pending - **PASSAGE**

READ.

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

Senator **KILKELLY**: Thank you Mr. President. Men and women of the Senate, it's my pleasure today to be the Sponsor of this sentiment honoring Bob Ho who is the Executive Director of the Maine Rural Council. It's been my pleasure to serve on the Council for the last several years although obviously for the last several months I haven't been there a whole lot because we've been doing other things. But I can tell you that Bob has been a tremendous spokesperson for the needs of economic development in rural parts of the state and that has obviously been something that many of us have been concerned about as well. The Maine Rural Development Council is a very unique organization that brings together local communities, State government and the Federal government to find ways to work together to promote the needs of rural Maine. I think it's just absolutely fitting and appropriate that the US Department of Agriculture has awarded him the Secretary's Honor Award this year in recognition of that service because Bob has truly been the glue that has held the Council together through some challenging financial times and as the only full-time employee of the Council has juggled, with always a smile, some of the most amazing demands that we have put upon him. But he has been very successful in doing that. Thank you very much.

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

Senator **PINGREE**: Thank you Mr. President. Men and women of the Senate, I can't say too much more than the good Senator from Lincoln, Senator Kilkelly, but I too want to recognize Bob Ho on his wonderful efforts on behalf of rural Maine. This year in particular we have seen a lot of Bills come up about agriculture, about fishing and farming and talked much about our concerns about the other Maine, the rural Maine, and our issues about preserving our small communities, small schools, our economic base, our natural resource industries. I can't think of anyone who does more for all of those areas than Bob Ho. It's been a pleasure for me to get to know him. To be able to read their newsletters, to go to their meetings. He truly is an asset to the State of Maine and someone who is committed to things that often get forgotten; communities, small schools, people and our rural economy. I just want to voice my appreciation for all that he does and all that I know he will continue to do.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber Bob Ho, Executive Director of the Maine Rural Development Council. Would he please rise and receive the greetings of the Senate.

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

ORDERS

Joint Order

On motion by Senator KILKELLY of Lincoln, the following Joint Order: S.P. 849

ORDERED, the House concurring, that Bill, "An Act to Revise Certain Provisions of the Fish and Wildlife Laws," S.P. 738, L.D. 2088, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

READ and **PASSED**.

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

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

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

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

Off Record Remarks

Senator **LONGLEY** of Waldo was granted unanimous consent to address the Senate off the Record.

On motion by Senator **LONGLEY** of Waldo, **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:

COMMUNICATIONS

The Following Communication: S.C. 310

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

May 27, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

L.D. 1263 An Act to Ensure Fairness in Calculating the Income Factor in the School Funding Formula

L.D. 1627 An Act to Ensure Equity in School Funding

L.D. 1712 An Act to Ensure Adequate Funding for Maine Schools

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

Sincerely,

S/Sen. Georgette B. Berube
Senate Chair

S/Rep. Michael F. Brennan
House Chair

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Provide Fairness to Victims of Medical Malpractice"
S.P. 450 L.D. 1325
(C "A" S-352)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-352)** (9 members)

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

In Senate, May 26, 1999, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-352)**.

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

Senator **RAND** of Cumberland moved the Senate **ADHERE**.

Senator **NUTTING** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

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

Senator **BENOIT**: Thank you Mr. President. May it please the Senate, I would speak at this time in support of the pending motion. Last evening when this matter was debated at some length, and for that reason I will be brief, there was a matter that I did not bring to your attention that may be important. I'd like to think it is in your consideration of this motion. I told you last night that the standard of proof that is advanced in this Bill is the Massachusetts standard. The Massachusetts standard is not an improvement on the Maine standard of proof because it favors one party over the other. Ask yourself if that's a fair standard that does prefer the moving party over the other party, the health care practitioner. I told you last night and it is still a fact that this Bill, if it's enacted into law, will limit and restrict discovery. Discovery is considered to be one of the higher minded procedures that we have in the law in both civil and criminal cases. It's the situation where parties discover the other parties' case so that there's no surprise and mystery. And it causes me to repeat something Edmond Burke said years ago in England when we were setting up this country. He said where mystery begins, justice ends. And that's the purpose of discovery. To do away with mystery and surprise in a case. This Bill will limit discovery between the parties. To me that's not a positive thing to be doing. Finally why is it that this Bill prefers one party over the other in a further particular namely the result of the screening panel decision? If this Bill becomes law the health care practitioner can use against the moving party the fact that the screening panel in a unanimous decision found against the claimant but the claimant going to court later cannot use the result of a screening panel decision that in fact the health care practitioner lost before the panel. Present law allows both parties in fairness to recite what the screening panel did in the case concerning the other party if the decision was unanimous and against that party. Fairness prevails in the existing statute. It does not prevail under this Bill. Here's what I didn't mention last night. And I apologize, Mr. President and members of the Senate, for not mentioning this particular because to me it's important. We know that this is the Massachusetts standard that's attempted to be enacted into Maine law. We know it prefers one party over the other. But I did not tell you last night that in Massachusetts there is a cap in their law. We do not have a cap in Maine law. I will ask you this, why are we taking a Massachusetts standard of proof without the cap? Why are we taking less than all? And if they have a cap in Massachusetts on other than economic injuries, why don't we have a cap in this state in fairness? So for these reasons the standard of proof is unfair. All kinds of case law in Massachusetts where they've been fighting in court over what the meaning is of the standard. Discovery limited and the findings unfair. I would ask you please in reconsideration of this important piece of legislation that we leave things where they are. The system is working well. What is being attempted here was attempted when the law first came on the books and the standard is what is proposed now. What is proposed now was once Maine law. Similar. Massachusetts law but it was similar. The standard was less than a court standard. Now we have a higher standard in Maine than that. The standard was changed to the highest standard in order to get fairness in the system. I would ask you please on reconsideration that you support the pending motion to Recede and Concur. Thank you Mr. President.

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 further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by Senator **NUTTING** of Androscoggin to **RECEDE** and **CONCUR**. (Roll Call ordered)

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Promote the Sale of Traditional Passamaquoddy Crafts"
H.P. 986 L.D. 1384

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-696)** (10 members)

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

In House, May 26, 1999, 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-696)**.

In Senate, May 27, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/24/99) Assigned matter:

SENATE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Improve Access to Electronic Filing for Businesses"

S.P. 77 L.D. 180

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-337)**

Tabled - May 24, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF THE REPORT**

(In Senate, May 24, 1999, Report **READ**.)

Report **ACCEPTED**

READ ONCE.

Committee Amendment "A" (S-337) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-337)**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/24/99) Assigned matter:

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Extend Term Limits for Elected Officials and Constitutional Officers"

S.P. 377 L.D. 1078

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-262)** (12 members)

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

Tabled - May 24, 1999, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report

(In Senate, May 21, 1999, **ACCEPTANCE** of Majority **OUGHT TO PASS AS AMENDED** Report **FAILED**. Motion by Senator **RAND** of Cumberland to **RECONSIDER, FAILED**. Subsequently, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.)

Senator **PINGREE** of Knox requested and received leave of the Senate to withdraw her motion to **RECONSIDER** whereby the Senate **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report.

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/26/99) Assigned matter:

An Act to Require A Written Record of the Subject Matters Discussed in Executive Sessions

H.P. 143 L.D. 205
(C "A" H-635)

Tabled - May 26, 1999, by Senator **AMERO** of Cumberland.

Pending - motion by same Senator to **RECONSIDER** whereby Bill **FAILED ENACTMENT**, in **NON-CONCURRENCE**

(In House, May 25, 1999, **PASSED TO BE ENACTED**.)

(In Senate, May 26, 1999, **FAILED ENACTMENT**, in **NON-CONCURRENCE**. Subsequently, Senator **AMERO** of Cumberland moved to **RECONSIDER**.)

Senator **LONGLEY** of Waldo requested a Division.

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

Senator **LONGLEY**: Thank you Mr. President. I apologize. I'm needing help understanding what it is we're voting to Reconsider.

THE PRESIDENT: We are Reconsidering whereby this Bill Failed of Enactment.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Benoit, and asks the purpose for which the Senator rises.

Senator **BENOIT**: Thank you Mr. President. May I pose a question through the chair. Whether I would be in order to ask for a Roll Call and to speak to my motion.

THE PRESIDENT: The Chair would answer in the affirmative. The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT**: Thank you Mr. President. May it please the Senate, I rise in support of this piece of legislation and will be brief in my reasoning. The Judiciary Committee unanimously Reported out this piece of legislation. As you know, in the Right to Know Law concerning an executive session the law reads this way: a motion to go into executive session shall indicate the

precise nature of business of the session. There was a lot of complaint made by our citizens of Maine that when governmental bodies were going into an executive session they were not announcing what would be taken up there in kind of an outline fashion. They weren't making any statements at all going into an executive session, going in for ABC matters, taking up XYZ. Therefore this provision of law. This Bill will indicate what happens after the executive session and the folks coming out give us information of what happened inside the executive session meeting. And here's the two sentences in the Bill; the agency or body shall keep a written record of the subject matters discussed during executive session, this record is a public record. The record must describe the precise nature of matters discussed in the executive session without revealing information that is protected by the statute. Just an outline statement in writing is all this requires to be done of what happened in the executive session so that if the motion indicates you went in for ABC, you come out and took up those issues, you indicate in a written statement we took up issues ABC. Now what is so bad about that as far as disclosure of what happened inside the executive session without the need of a verbatim record. That's not what that is called for here. It is an outline of what happened, pretty much the same way you would in the motion going into the executive session indicate what was going to be taken up. This to me indicates a confidence, if you will, in the public business behind closed doors. It merely is an answer to the motion as to why you went into the session in the first place. There was considerable support for this. This Bill is nowhere near what the original Bill would have required which was a recorded session. This to me will bring confidence in our governmental bodies. I therefore rise in support of it's Engrossment. The Committee on Judiciary gave it a unanimous Report and I support it as well. Thank you Mr. President.

On motion by the Senator from Franklin, Senator Benoit, supported by a Division of 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. Men and women of the Senate, I hate to disagree with my good friend and seat mate from Franklin, Senator Benoit, but as I mentioned on this floor several times I spent quite a few years in municipal government and on occasion we had the opportunity, for various reasons, that we decided we needed to go into executive session. As the good Senator mentioned we had to tell the folks in the public arena why and what issues we were going to discuss in executive session. Those are very limited. They could be for personnel or maybe for some legal aspect or contract or a suit to the community. Those kinds of things. We had no intentions of discussing anything but the issues that we just told the folks that we were going to discuss in that session and I can't imagine why we would need a law that once we came out it would say we just did what we just told you. The other thing, as you know, folks that had an opportunity to do those things, whether it be county government, municipal government or whatever, that you cannot vote in executive session. You can go in and discuss issues, you can do this or do that. You come back out and if there were any decisions made the vote needs to be taken in public. I think this is just carrying the law too far. I think it's a lot of what we don't need and therefore I hope that we don't see this become one of our Maine statutes. Thank you Mr. President.

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

Senator **GOLDTHWAIT**: Thank you Mr. President. Ladies and gentlemen of the Senate, I too feel that this legislation is unnecessary and in fact I think it undermines the existing Right To Know Law because if you state in a motion to go into executive session that you're going to discuss ABC and you get in there and you discuss XYZ that's illegal. So you can't then come out of executive session and say OK we did ABC and XYZ. It is not legal. The idea is to give notice before you go into executive session of what you're going to discuss. If anyone in the room cares to challenge the body on the basis of the Right To Know Law and say that's not permissible under the law to discuss that, they have the opportunity to do so. To say after the fact that we also decided to take up these other matters would put you on record as being in violation of the law. So I think that, A - it's not necessary and B - it undermines the existing Right To Know Law and I would urge you to vote in Opposition to this Bill. Thank you.

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

Senator **CAREY**: Thank you Mr. President. For those of you who were not around back in the '60s, I Sponsored the original law. At the time I was in a public office in the City of Waterville. I now am in a public office in the town of Belgrade. What the gentleman from Washington, Senator Cassidy, said is exactly the way this process should work. But I find that in some of the Kennebec County towns for instance, and that's why I'm a Co-sponsor of this Bill now, in the lower Somerset area and in Kennebec County the law is violated on a regular basis I fear. And that's why the Bill originally called for a recording of the closed session, what may happen if during the executive session you basically tore someone apart and damaged their reputation and through some court action that became available. So while I Sponsored this Bill I am fearful of that particular aspect but then if we were in fact tearing somebody apart in an executive session then maybe we should suffer for it. So I would hope that you would vote to go along with the good Senator from Cumberland, Senator Amero.

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

Senator **O'GARA**: Thank you Mr. President. Ladies and gentlemen of the Senate, first of all I have a curious question as to how someone found out if that really did happen. I guess if the Senator says it happened I'm curious to know how all of the incidents got out. But having been the Chief Executive Officer of the City of Westbrook for ten years before I came to this life, I can tell you there were many occasions when I needed to have an executive session, requested it. The Aldermen of the City Council, maybe a Department head, maybe our city attorney, whatever, we stated publicly what we were going into session for and we stuck to that. Now there may very well be a town or two in Kennebec County, or a town or two anywhere in the state of Maine, that someone says violated this rule. But in my judgment I have a great deal of confidence in local officials, local

governments where it is and I love to hear people talk about local control. I think it's very important for us to just leave it where it is. It's working fine. Doesn't need to be changed and I urge you to vote Against the motion to Reconsider. Thank you.

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

Senator **BENOIT**: Thank you Mr. President. If it pleases the Senate, if I had a bouquet of flowers I'd be carrying it across the Chamber to give to the good Senator from Kennebec, Senator Carey, for his comment. The gentleman has much experience in these matters and has made a very telling statement in support of the way he is going to be voting in this matter. I give his statement great weight. I don't know why we're afraid to pass a law like this that will bring accountability and responsibility to an important process. Senator O'Gara, the good Senator from Cumberland, indicates that he has great faith in the public process and our representatives in our local government. I do too. I join him in that. But then if that's the case why did this Legislator put on the books the fact that when these folks go into an executive session the motion that they make must give specificity. Why didn't we just leave that out of the law and just allow them to go into executive session. Because they abused it. That's why. And so the law now reads that a motion to go into executive session must indicate the precise nature of the business. Now we all want to assume regularity in this process but if in fact we have faith in our public officials locally we don't need that statute. But it's on the book never the less. And all this Bill is, is an answer to that. That once a motion is made giving the precise nature of the business when it's over you come out and you make a like report of the business. If you go into an executive session for ABC and you get in there and you only have time for A, you didn't take up B and C, don't you think it would be nice to come out of the meeting and tell the people that much. Or in fact that you took up ABC. Now at the public hearing we heard of abuses in the process. There are not sufficient checks, we heard, and balances to ensure that governmental bodies do not discuss improper matters in executive session. That's still going on say some of our constituents. As Senator Carey indicated in his experience there is a need for this law. And what is so bad about giving a report of what happened by way of subject matter in that session. It merely makes a complete unit. Here's the motion, now here's the reply of what happened. Seems to go hand in hand. I strongly support this unanimous Report of the Judiciary Committee to make something better than what it has and to sponsor accountability in an executive session. Members of this august Body, a grand jury meets in closed session. They record their proceedings. Why? Accountability, that's why. All we're asking for here is no recording, no verbatim record, just that report of what happened in that session. We took up issues A, B, and C, we didn't take up D because our motion did not contain D. Thank you Mr. President.

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

Senator **CASSIDY**: Thank you Mr. President. Men and women of the Senate, just to follow up with a couple of things. I think the current law is wonderful. Believe it or not in the early '70s I was Chair of Calais City Council. In those days we used to sit in the managers room, probably smoking cigars and discussing all the issues on the agenda. Later on we'd go out and have a public meeting and vote for them. That's why we have this law and it's good that we do. But the thing that bothers me about this current proposed law that we have before us, as the good Senator from Franklin mentioned, that all we need to do when we come out of the meeting is to say the items that we talked about. There's no recording, there's no record of what was said and so on and so forth. And if you look under the current law it says no other matter may be considered in that particular executive session. So we're saying up front what we're going to discuss, we go into executive session, we make some judgments or whatever, we come back into the public and we vote on those if we so wish and we could carry them forward or whatever we want to do. This is just redundant. I think it's a law that we don't need. I think the current law is tremendous that we have it. Stop and think about, and I know sometimes we hate to use common sense in this Chamber, but you stop and think about if somebody was going to violate this law, if they were going into executive session and discuss other things, do you suppose they're going to come out and tell us. I mean, it doesn't make sense, Mr. President, and I hope that we don't change the current law. Thank you.

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

Senator **DAGGETT**: Thank you Mr. President. Members of the Senate, I just wanted to throw my two cents worth in here but most of my remarks have already been given by the previous speaker. I've served at the local level, and been involved in executive sessions. Been involved in executive sessions that were inappropriate and began to talk about things that we hadn't planned on talking about and in fact have, on a couple of occasions, had to get up and leave the room because some members refused to stop talking and as soon as I began to leave the room I can assure you that the conversations returned to where they belonged. The proposal in front of us is simply redundant. Current law requires a motion that mentions what you wish to do. If there's a problem at the local level, local officials perhaps may need some more training and education and understanding of how to deal with issues. I have heard local officials say I didn't really know what to do when other people began to talk about something. There are ways that one can handle that. There currently are a number of good supports provided, particularly for newly elected officials who may not understand the ramifications of the Right To Know Law and other kinds of responsibilities. There are supports, there are good supports provided by Maine Municipal Association and Maine School Boards Association to support elected officials and help them deal with situations that may be uncomfortable for them. Learning how to discuss issues in public and talk about and express yourself are not easy things for people who are newly elected. It is very easy to throw stones and make complaints but what may be needed is an education. This is redundant, the motion to go into executive session are very clear and require you to list exactly the nature of the issues you're going to discuss. So I don't see that this adds anything except a few more lines in the law book. Thank you.

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

Senator **LONGLEY**: Thank you Mr. President. Very quickly. Very simply. What we are trying to do, as the good Senator from Franklin pointed out, is we on Judiciary hear of the times where what's on the books needs to be strengthened a little. And yes, as I've said in caucus, 99.9% of the time I hope municipal officials are doing their job and giving notice and going into executive session only on things allowed by law. What we did is we tried to just put a little discipline for those bad apples out there and presumably they're very few but they're the ones we hear from in the Judiciary Committee. Simply we very much diluted the Bill that came to us and tried, with a very well crafted tool, to make it so that those municipalities who were a little bit sloppy perform these duties a little bit more neatly. It's very much targeted for that small population of municipalities. Perhaps that's the wrong approach, but after years of hearing these issues and these concerns we felt a need to address them. That's precisely what we did. No more, no less. Thank you.

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

Senator **AMERO**: Thank you Mr. President. Ladies and gentlemen of the Senate, I'd like to also speak in praise of the Committee's work on this particular Bill. I'd like to also echo the praise of the editorial board of the Portland Press Herald who said that this was one of the outstanding Committee actions in this Legislative Session because it helps to confirm the Democratic process within our public bodies. And yes it does seem like maybe a minor thing but it is a slight improvement over the existing Right To Know Law because what it does is require municipal officials to declare what the items are that they're going to discuss in executive session and having also served on my local school board and town council, I know that when we go into executive session there are always people out there hovering, waiting for us to come back. There is often, once you get into executive session, I think a little bit of a lack of discipline in what you're discussing. Although most people try to keep to the subjects that have been identified there are always other items that seem to come up. I think that this Bill would put a little bit more of a requirement of exercising that self discipline into your debate because somebody has to record what the subject areas are that you did discuss. So I think for the public's good and for the public's appreciation of the hard work that municipal officials do this would help them to have more confidence in our local government because people would say up front what they went in to discuss. When they came out they would say exactly which items were discussed. I don't think we're putting a major added work onto municipalities. I don't think this is showing any lack of confidence in municipal officials. In fact the Maine Municipal Association did not oppose this Bill. So I hope that we will think hard and long before we overturn a unanimous Committee Report that I think has done a really good thing to improve the Right To Know Law in the state of Maine. Thank you Mr. President.

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

Senator **GOLDTHWAIT**: Thank you Mr. President. Ladies and gentlemen of the Senate, this baffles me a bit. First of all, as I said before, if you look at the current law it states that you may not discuss anything other than what you said you would in your motion and what you will do by expanding on that when you come out of executive session is put yourself on record as having violated Maine State law. If you are sloppy when you're going into executive session, what will make you neat when you're coming out? You will not have a transformation of your character and personality in the course of the executive session. You need to decide what you're going to discuss. If an issue comes up during the executive session that nobody thought about before, you come out of executive session, you state that you're going to have another executive session and state the purpose and go back in. That is my understanding of how the Right To Know Law is designed. Perhaps who we need to educate is the rest of our citizenry so that when they observe a violation of this law they are able to challenge their elected officials and deal with the matter. But I submit that the existing law is adequate, in fact it is identical to the wording in this proposal regarding describing the precise nature of the matters discussed and that the current law is more than adequate to cover this situation. We did the right thing the first time we voted on this and I hope you will join me in Opposing Reconsideration.

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

Senator **BENOIT**: Mr. President, may I be given permission to speak a third time please.

THE PRESIDENT: The Senator from Franklin, Senator Benoit, requests permission from the Senate to speak for a third time. Is this the pleasure of the Senate? The Senator may proceed.

Senator **BENOIT**: Thank you Mr. President. Thank you members of the Senate. I'll be brief. The good Senator from Hancock, Senator Goldthwait, just indicated that the law says no other matters may be considered in the executive session than what is stated in the motion. My response respectfully is this, on the books we have a law that says I should not punch my neighbor in the nose. I should not assault anyone. Do you suppose assaults are committed never the less? Yes. Laws say I should not rob the store. I should not commit this offense or that. You would think, wouldn't you, just by having the law on the books people wouldn't do it. But they do. Thank you Mr. President.

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

Senator **CASSIDY**: Mr. President, would you be kind enough to repeat the motion again.

THE PRESIDENT: The motion is to Reconsider whereby this Bill Failed of Enactment.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Amero to Reconsider whereby Bill Failed Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#175)

YEAS: Senators: AMERO, BENNETT, BENOIT, BERUBE, CAREY, HARRIMAN, LONGLEY, TREAT

NAYS: Senators: ABROMSON, CASSIDY, CATHCART, DAGGETT, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, KIEFFER, KILKELLY, KONTOS, LIBBY, MACKINNON, MICHAUD, MILLS, MITCHELL, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senators: LAFOUNTAIN, MURRAY

8 Senators having voted in the affirmative and 25 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **AMERO** of Cumberland to **RECONSIDER** whereby Bill **FAILED ENACTMENT**, in **NON-CONCURRENCE, FAILED**.

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/26/99) Assigned matter:

Bill "An Act to Amend the Maine Tort Claims Act"
H.P. 825 L.D. 1148

Tabled - May 26, 1999, by Senator **LAFOUNTAIN** of York.

Pending - motion by Senator **LONGLEY** of Waldo to **INDEFINITELY POSTPONE** Bill and accompanying papers, in **NON-CONCURRENCE** (Division Requested)

(In House, May 26, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-691)**.)

(In Senate, May 26, 1999, Report **READ** and **ACCEPTED**, in concurrence. Committee Amendment "A" (H-691) **READ** and **FAILED ADOPTION**, in **NON-CONCURRENCE**. Subsequently, Senator **LONGLEY** of Waldo moved to **INDEFINITELY POSTPONE** Bill and accompanying papers, in **NON-CONCURRENCE**.)

Senator **LONGLEY** of Waldo requested and received leave of the Senate to withdraw her motion to **INDEFINITELY POSTPONE** Bill and accompanying papers, in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **FAILED** to **ADOPT** Committee Amendment "A" (H-691).

On further motion by same Senator, Senate Amendment "A" (S-355) to Committee Amendment "A" (H-691) **READ**.

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

Senator **LONGLEY**: Thank you Mr. President. Colleagues in the Senate, as a refresher, yesterday I mentioned there was a unanimous Committee Report concerning Y2K exemption of liability for municipalities and after that vote I had second thoughts and decided rather than call the Committee back I would make my alternative Amendment on the floor. What this Amendment does, or what the current issue before you now does, is it would Amend that Bill that exempts municipalities from liability for Y2K issues and this is the Amendment: provided the municipality made reasonable efforts to do what everybody else in all parts of our computer world are doing, which is to try to be Y2K compliant. So it simply adds a reasonable effort requirement which in my legal opinion could be easily satisfied by making calls, attending a seminar, taking any steps to show that the municipality tried but couldn't accomplish its goal. I need this Amendment because I had trouble saying we will do this for municipalities only. It also applies to the State. We will do this for the public sector only but not the private sector. That's why I had my second thoughts after the unanimous Committee Report. But no, I don't feel that that's fair. I think if we do for one, we should do for the other. At this point the reasonable effort requirement on municipalities makes me feel better about supporting this unanimous Committee Report. I hope I've made sense. Thank you.

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

Senator **BENOIT**: Thank you Mr. President. May it please the Senate, let me start off with an apology to you, Mr. President, and to the members of this Body. Yesterday afternoon when this matter came up I was somewhat taken aback and did not have on my thinking cap when things started to go astray in this situation. I stood and I didn't make a whole lot of sense and then that was reflected on the board behind you, Mr. President. I apologize for that and that's my fault. I was in a sense prepared for what happened by reason of rumor. But I'm not much on rumor in my work. So when things unfolded, I still was somewhat taken aback. I am in a quandary but I'm going to cut bait here on this motion. I feel that the original Bill, a unanimous Report of the Judiciary Committee, was a good Bill and the whole Committee felt that way. That's the way it came to us. But I fight for the right of the good Senator from Waldo, Senator Longley, to express her concern and present this Amendment. She has every right to do that. The quandary I have is that I believe the original Bill to be better than what it will end up being with the attachment of the Amendment. I say that respectfully for this reason, over lunch I went down to the law library and I fished out the case law, the decisional law, in the country on the words "reasonable effort" because that's what this Amendment will do. It will say that in this Y2K problem, municipalities will be protected from civil suits but they must have made reasonable efforts to prevent or remedy a failure or malfunction that arises out of the Y2K. And I thought two winters ago we had an ice storm in this state; Mother Nature and Jack Frost got together and we had an ice storm out of it. And I will ask you this. Did anybody sue a municipality or a utility as a result of the ice storm? No. And why? Because everybody understands that in something that happens like that you can't fault the municipality. You can't fault the utility, CMP. What are

they supposed to do when they hear there's an ice storm coming, cut down all the trees to prevent litigation? No. This is a storm, this Y2K situation, Mr. President. It's a storm. We've been preparing for this storm for weeks, months and years even. We still may not have it right. There still may be problems that give rise to litigation. And the thing that bothers me is that this Amendment and I'm going to end up supporting it because if I don't I'm getting zero. I liked the original Bill better. The Amendment is going to bring litigation because people are going to be able to say out of the Y2K situation gee I don't think the town took reasonable efforts. I'm going to sue the town for what happened. The traffic light didn't work. The water treatment plant malfunctioned. Whatever. Gee, did the town make reasonable efforts? I think I'll go to court. We're going to have case law just like there is around the country on what is the meaning of reasonable effort. What does it mean? So I'm between a rock and a hard place. If I don't support this Amendment that doesn't make this Bill as good as it was originally I may loose everything. I don't like the feeling there but there's not a whole lot I can do about it. Seven states have laws on the books like the original Bill proposed. Yes, some of the States do have a standard of reasonable effort. I don't know how many, Minnesota does and that's where this comes from. Forty-three other States are taking up legislation like this. We need something on the books like this. We'd be the only State if we don't have some legislation on the subject and that would be a pitiful result. Again, respectfully, I support the Amendment. The alternative, I can't live with zero. I can't live with zero on this subject. So I have expressed myself. I've had my day in court, Mr. President, on this and that's all we can ask for. And I thank you, Sir.

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

Senator **PENDLETON:** Thank you, Mr. President. Men and women of the Senate, may I ask a question through the chair?

THE PRESIDENT: The Senator may pose her question.

Senator **PENDLETON**: Thank you. Very humbly, I'm a little confused about the Parliamentary Procedure. If this Amendment fails does that mean the whole Committee Amendment and the Bill fails?

THE PRESIDENT: The Chair would answer in the negative. The pending question should this Amendment Fail is the Adoption of Committee Amendment "A".

Senator **PENDLETON**: Can I pose another question?

THE PRESIDENT: The Senator may pose her question.

Senator **PENDLETON**: So if this Amendment fails, does that mean we loose the Committee Amendment as well?

THE PRESIDENT: The Chair would answer in the negative. The pending question at that time before the Senate would be Adoption of Committee Amendment "A" and it would be up to the Senate as to whether or not it wanted to Adopt Committee Amendment "A".

Senator **PENDLETON**: Thank you Mr. President. May I speak to the issue.

THE PRESIDENT: The Senator may proceed.

Senator **PENDLETON**: Thank you Mr. President. Men and women of the Senate, humbly I have to tell you that I have never served on any kind of municipal board at all. The first time I ever served in any government position, much to my surprise at even being in a government position, was when I was in the other Body. I'm a homemaker, a nurse and a seamstress. This Amendment I'm very much opposed to, because if someone came to me and said Peggy, I want you to make me a dress that fits and I want you to have a reasonable effort to prevent or remedy any failure or malfunction of this garment. How would I know how it was going to fit because reasonable effort, what does that mean? Does it mean I can make the seams half way, this way, that way. Does it mean I can make it too long. Does it mean it's going to fit or not fit? To me it's totally confusing. What is reasonable effort? If I can't figure out how to make a garment with a reasonable effort than I can't understand how any municipality could make any kind of reasonable effort that just has no definition. So I just would ask you please vote Against this Amendment so that we can go on to the original Committee Bill and the Committee Amendment. Thank you.

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

Senator **BENOIT**: Thank you Mr. President. May it please the Senate, in light of the remarks just made by the good Senator from Cumberland, Senator Pendleton, she has built a fire within me. I feel as though I've just come from stoking the furnace downstairs. I am going to follow her lead on this despite what I have said previously. But then again, when I said I was between a rock and a hard place, and I appreciate the position she has expressed and she has my support in it. Thank you, sir.

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

Senator **LIBBY**: Thank you Mr. President. Has there been a request for a Division made yet?

THE PRESIDENT: The Chair would order a Division whenever there is debate on two sides of an issue.

The Chair ordered a Division. 14 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **LONGLEY** of Waldo to **ADOPT** Senate Amendment "A" (S-355) to Committee Amendment "A" (H-691), **FAILED**.

Committee Amendment "A" (H-691) **ADOPTED,** in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-691)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/26/99) Assigned matter:

Bill "An Act to Increase the Deer Hunting Day by 15 Minutes"
H.P 30 L.D. 39

Tabled - May 26, 1999, by Senator **BENNETT** of Oxford.

Pending - motion by Senator **KILKELLY** of Lincoln to **ADHERE** (Roll Call Ordered)

(In Senate, May 24, 1999, **PASSED TO BE ENGROSSED**.)

(In House, May 26, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-693),** in **NON-CONCURRENCE**.)

(In Senate, May 26, 1999, Senator **KILKELLY** of Lincoln moved the Senate **ADHERE**.)

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Kilkelly to Adhere. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#176)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CASSIDY, CATHCART, DAGGETT, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LIBBY, MACKINNON, MICHAUD, MILLS, MITCHELL, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BERUBE, CAREY, LONGLEY

ABSENT: Senators: LAFOUNTAIN, MURRAY

30 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **KILKELLY** of Lincoln to **ADHERE**, **PREVAILED**.

Sent down for concurrence.

Off Record Remarks

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

On motion by Senator **PINGREE** of Knox, **RECESSED** until 7:00 in the evening.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/26/99) Assigned matter:

Resolve, to Establish the Blue Ribbon Commission to Establish a Comprehensive Internet Policy (EMERGENCY)
S.P 763 L.D. 2155
(C "A" S-303)

Tabled - May 26, 1999, by Senator **RAND** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 19, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303)**.)

(In House, May 26, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303) AS AMENDED BY HOUSE AMENDMENT "A" (H-688)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **PINGREE** of Knox, placed on the **SPECIAL STUDY TABLE**, pending **FURTHER CONSIDERATION**.

Senate at Ease.

Senate called to order by the President.

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

RECALLED FROM GOVERNOR'S DESK

An Act to Revise Certain Provisions of the Fish and Wildlife Laws
S.P. 738 L.D. 2088
(S "A" S-322 to C "A" S-292)

(In Senate, May 25, 1999, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order S.P. 849, in concurrence.)

On motion by Senator **KILKELLY** of Lincoln, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENACTED, in concurrence**.

On further motion by same Senator the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292) AS AMENDED BY SENATE AMENDMENT "A" (S-322)** thereto.

On further motion by same Senator, Senate Amendment "A" (S-358) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292) AS AMENDED BY SENATE AMENDMENT "A" (S-322) thereto, **AND SENATE AMENDMENT "A" (S-358),** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Strengthen the Maine Taxpayer Bill of Rights"
H.P. 1565 L.D. 2216

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

Signed:

Senators:
RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives:
GAGNON of Waterville
GREEN of Monmouth
DAVIDSON of Brunswick
COLWELL of Gardiner
STANLEY of Medway
LEMOINE of Old Orchard Beach
MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-704)**.

Signed:

Representative:
LEMONT of Kittery

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

Reports **READ**.

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

Off Record Remarks

Senator **GOLDTHWAIT** of Hancock was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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 (5/10/99) Assigned matter:

HOUSE REPORT - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Implement the Tobacco Settlement"

H.P. 687 L.D. 943

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-448)**

Tabled - May 10, 1999, by Senator **PINGREE** of Knox.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-448),** in concurrence

(In House, May 7, 1999, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-448)**.)

(In Senate, May 10, 1999, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-448) **READ**.)

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "A" (S-247) to Committee Amendment "A" (H-448) **READ**.

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

Senator **HARRIMAN**: Thank you very much Mr. President. Ladies and gentlemen of the Senate, good evening. I offer Senate Amendment "A" tonight for your consideration on the basis that the tobacco settlement that is nearing completion throughout the Country is in the next year or so going to end up in the State checkbooks in many States including Maine. As you probably are aware, we are debating the best uses of those funds in the name of smoking related illnesses, both past and present. The Amendment I present to you tonight makes it clear that the use of the funds from the tobacco settlement can only be expended for health related purposes only. Thus assuring that in Legislation we are memorializing that road improvement or tax relief or other unhealth related uses would not be permitted. Thank you Mr. President.

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "A" (S-247) to Committee Amendment "A" (H-448) **ADOPTED**.

Committee Amendment "A" (H-448) as Amended by Senate Amendment "A" (S-247) thereto **ADOPTED**, in **NON-CONCURRENCE**.

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

Senator **BENNETT** of Oxford requested a Division.

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

Senator **MILLS**: Mr. President, men and women of the Senate, before we vote on this issue I'd like to draw to your attention some of the things I think are significant and may give you pause about approving the settlement agreement that is articulated in this agreement. I for one had great doubts about the social propriety of entering into a settlement agreement with the tobacco manufacturers and had considerable doubts about the background of that litigation in the first instance. I won't take much time but let me just give you a quick sketch of what my concerns are. When this money was made available to us it was given not in compensation for the losses that had accumulated to date, though that was the foundation of all the law suits that were brought in the various States that brought it. But it is money that is to be paid in perpetuity, as in essence a license for immunity under the laws of this state. And while that might be something which the Legislature, I suppose in it's wisdom, might agree to, it certainly is entirely without precedence to deal in this fashion with a corporate entity or any group of corporate entities. And it is entirely remarkable in our nation's history, I believe, that a single individual, the Attorney General of this State or any Attorney General, would have the power with his signature alone to enter into an agreement with any corporation that grants them immunity from our laws in perpetuity forever. I've always thought that granting immunities to people was a Legislative function and that we would have the option at some stage of Amending or retracting it or changing it. Under this agreement I don't know if we do or not. But there is this 150 page agreement that was circulated throughout the United States on about three days notice and the Attorney General of this State and all of the other States, except those who had previously signed similar agreements, the 46 remaining States all signed this agreement

and granted these four corporations permanent immunity from certain consequences from selling their products to our State. I had never understood that that was within the scope of the litigation brought by the Attorneys that were managing it and I certainly never comprehended in my lifetime that one individual in this State would be vested with such truly extraordinary power.

I know that this was broadly celebrated as kind of a victory over a bad industry or whatever you want to call it and that we should all relish the receipt of this largess. But if it was money that we wanted out of these corporations we could do quite simply what we had done the year before, we raised the tax. We put a 37¢ tax on cigarettes in the year before and got about the same amount of money and probably more because we don't know how much of this money, this settlement money, may have to be remitted to the US Government under rules currently in place that would require that remittance. I had serious problems about it. I also, as a trial lawyer, have serious misgivings about having social policy in perpetuity manage outside the public sector by litigants and having members of my own profession profit not only from the damages or the very small amount of damages that were in the past that they were suing for but having fees that were based on something which is in essence a tax in perpetuity. It really bothered me. I think it terrible in the public sector. I don't think it gave my own profession a reputation that I'm particularly proud of. I have serious reservations about this mode of setting public policy. I might say to you that it is one of the reasons that I had misgivings about permitting other governmental entities in this State from suing other manufacturers such as gun manufacturers. I think that when we license State or Governmental entities to hire lawyers to go out and sue corporate entities that's one thing, but when the settlement results in the reformulation of significant social policy in perpetuity it scares me significantly and I think it's an inappropriate way of using the courts which are not designed to set social policy. That's our job in this Chamber. We get paid the big bucks to do that and we should reserve those privileges to the Constitutionally appointed repositories of that power, namely the Senate and the House. For that reason I would be voting Against the pending motion. Thank you.

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

Senator **PINGREE**: Thank you Mr. President. Men and women of the Senate, I just want to be clear about this. This item is merely our language to set up the fund so that we can accept the tobacco money. It is not a different piece of legislation that has a lot of criteria for what may or may not happen. This is a very simple piece of legislation that all States are required to do but allows us to accept the money that we have already won in the law suit. I find this sort of undebatable but I wanted to make that statement and make sure that everyone was clear that this was essential for us to do and hope that you will all vote in favor of this particular motion.

At the request of Senator **BENNETT** of Oxford a Division was had. 15 Senators having voted in the affirmative and 13 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-675) AS AMENDED BY SENATE AMENDMENT "A" (S-247)** thereto, in **NON-CONCURRENCE**.

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

Off Record Remarks

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

ENACTORS

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

Emergency Measure

An Act Concerning Technical Changes to the Tax Laws
S.P. 440 L.D. 1277
(H "A" H-684 to C "A" S-329)

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

Pursuant to the Constitution
Confirmation Process

An Act to Promote Research and Development Activities in Maine
H.P. 1598 L.D. 2243

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

An Act to Require a Person Who is Suspected of Being the Underlying Cause of a Liquor Violation to Provide Identification to a Law Enforcement Officer
H.P. 274 L.D. 382
(S "A" S-333)

An Act to Require the State Planning Office to Report to the Committee on State and Local Government and the Committee on Natural Resources
H.P. 619 L.D. 859
(H "B" H-614; H "C" H-686)

An Act to Provide Access to Information Services in All Communities of the State
S.P. 665 L.D. 1887
(S "A" S-321 to C "A" S-300; H "A" H-683)

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 Make Minor Substantive Changes in the Tax Laws
H.P. 131 L.D. 162
(C "A" H-695)

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

An Act to Encourage Support of Passamaquoddy Tribal Government Through On-reservation Business Activities
H.P. 739 L.D. 1029
(C "A" H-694)

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

An Act to Create a Sales Tax Exemption for Child Abuse and Neglect Councils, Child Advocacy Organizations and Community Action Agencies
H.P. 976 L.D. 1374
(S "A" S-336)

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

An Act to Expand the Uniform 1998 Special Retirement Plan to Include Baxter State Park Authority Rangers, Fire Marshals and Certain Additional Correctional Employees
H.P. 978 L.D. 1376
(C "A" H-687)

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

An Act to Require an Assessment Evaluation of Juveniles Entering the Juvenile Justice System
H.P. 1130 L.D. 1589
(C "A" H-689)

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

An Act to Increase the Maximum Benefit Levels Provided for Injured Workers
H.P. 1314 L.D. 1897
(C "A" H-548)

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

An Act Concerning the Regulation and Treatment of Time-shares
H.P. 1333 L.D. 1916
(C "A" H-690)

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

An Act to Address the Solvency of the Unemployment Compensation Fund
H.P. 1372 L.D. 1970
(C "A" H-681)

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

An Act to Fund Training Programs for Water Pollution Control Facility Operators
S.P. 845 L.D. 2244

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

Resolve

Resolve, Establishing a Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine
S.P. 332 L.D. 986
(H "A" H-641; H "B" H-685 to C "A" S-296)

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator PARADIS for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Increase Access to Prescription Drugs for the Elderly and for Disabled Persons"
S.P. 414 L.D. 1203

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-359)**.

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

READ ONCE.

Committee Amendment "A" (S-359) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

Off Record Remarks

Senator **GOLDTHWAIT** of Hancock was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **GOLDTHWAIT** of Hancock, **ADJOURNED,** until Friday, May 28, 1999, at 10:00 in the morning.