

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Wednesday
December 4, 2002

Pursuant to the Provisions of the Constitution and the laws of the State of Maine, the Senators-elect of the One Hundred and Twenty-First Legislature convened in the Senate Chamber and were called to order by PAMELA L. CAHILL, Secretary of the Senate of the One Hundred and Twentieth Legislature.

Prayer by Reverend Michael Davis, Green Street United Methodist Church in Augusta.

Reverend **DAVIS**: Let us pray. All mighty God, wherever we go, You are there. We acknowledge Your presence among us in this chamber this morning as we come to the opening of this session of the Maine Senate. May Your spirit be present throughout the proceedings of this day and the work of this Senate. We ask for Your blessing on each Senator. We pray that You will give them wisdom to respond to the needs and concerns of our state, endurance for the long hours worked, compassion for all the people of this state, particularly those with little power or voice, courage to do what is just and right, creativity to solve difficult problems in ways beneficial to all and understanding of each other and the needs of the people they serve. We also ask Your blessing to be with each person who provides the help and support needed for this Senate to conduct its business and for all the persons who serve the people of Maine in our state government. Gracious God, we thank You for your presence, Your guidance, and Your blessing. Amen.

Pledge of Allegiance led by Senator-elect Ethan Strimling of Cumberland County.

Doctor of the day, John Van Summern, M.D. of Gardiner.

The Following Senate Communication: S.C. 1

**STATE OF MAINE
Office of the Secretary of State**

December 4, 2002

To Pamela L. Cahill, Secretary of the Senate in the One Hundred and Twentieth Legislature:

I, DAN A. GWADOSKY, Secretary of State, pursuant to the provisions of Title 3 MRSA, Section 1, hereby certify that the following are the names and residences of the Senators-elect to the One Hundred and Twenty-first Legislature, in accordance with the tabulation submitted to the Governor on November 25, 2002:

DISTRICT 1	JOHN L. MARTIN, Eagle Lake
DISTRICT 2	RICHARD KNEELAND, Easton
DISTRICT 3	STEPHEN S. STANLEY, Medway
DISTRICT 4	KEVIN L. SHOREY, Calais
DISTRICT 5	DENNIS S. DAMON, Trenton
DISTRICT 6	EDWARD M. YOUNGBLOOD, Brewer
DISTRICT 7	MARY R. CATHCART, Orono
DISTRICT 8	PAUL T. DAVIS, SR., Sangerville
DISTRICT 9	W. TOM SAWYER, JR., Bangor

DISTRICT 10	BETTY LOU MITCHELL, Etna
DISTRICT 11	CAROL WESTON, Montville
DISTRICT 12	CHRISTINE R. SAVAGE, Union
DISTRICT 13	PAMELA H. HATCH, Skowhegan
DISTRICT 14	KENNETH T. GAGNON, Waterville
DISTRICT 15	BEVERLY C. DAGGETT, Augusta
DISTRICT 16	**CHRISTOPHER G. L. HALL, Bristol
DISTRICT 17	CHANDLER E. WOODCOCK, Farmington
DISTRICT 18	SHARON TREAT, Farmingdale
DISTRICT 19	ARTHUR F. MAYO, III, Bath
DISTRICT 20	KENNETH BLAIS, Litchfield
DISTRICT 21	MARGARET R. ROTUNDO, Lewiston
DISTRICT 22	NERIA R. DOUGLASS, Auburn
DISTRICT 23	BETHEDA EDMONDS, Freeport
DISTRICT 24	BRUCE BRYANT, Dixfield
DISTRICT 25	RICHARD A. BENNETT, Norway
DISTRICT 26	KARL W. TURNER, Cumberland
DISTRICT 27	MICHAEL BRENNAN, Portland
DISTRICT 28	ETHAN STRIMLING, Portland
DISTRICT 29	CAROLYN M. GILMAN, Westbrook
DISTRICT 30	LYNN BROMLEY, South Portland
DISTRICT 31	PEGGY A. PENDLETON, Scarborough
DISTRICT 32	LLOYD P. LAFOUNTAIN, III, Biddeford
DISTRICT 33	DAVID L. CARPENTER, Sanford
DISTRICT 34	RICHARD A. NASS, Acton
DISTRICT 35	KENNETH F. LEMONT, Kittery

** At the conclusion of the recount, the vote was as follows: Fossel, Leslie T. 8884; Hall, Christopher G.L. 8893.

At this time 44 ballots remain in dispute and there are 4 challenged ballots. Therefore, the outcome of the election is not yet determined.

In Testimony Whereof, I have caused the Great Seal of the State to be affixed, given Under my hand at Augusta this fourth day of December in the year Two Thousand Two.

S/Dan A. Gwadosky
Secretary of State

READ and ORDERED PLACED ON FILE.

Off Record Remarks

QUORUM CALL

The Doorkeepers secured the Chamber.

The Assistant Secretary called the roll with the following result:

ROLL CALL (#1)

PRESENT: Senators-elect: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAGGETT, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TREAT, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

35 Senators-elect having answered the roll, the Secretary declared a quorum.

On motion by Senator- elect **DAVIS** of Piscataquis, the following Senate Order:
S.O. 8

WHEREAS, the Senate is in the possession of a letter from Leslie T. Fossel asking that the Senate conduct a full, fair and impartial review of the remaining disputed ballots from the recount in Maine Senate District 16; and

WHEREAS, the Secretary of State has stated that at this time 44 ballots remain in dispute and there are 4 challenged ballots; and

WHEREAS, the Secretary of State has stated that, therefore, the outcome of the election is not yet determined; and

WHEREAS, the Constitution of Maine, Article IV, Part Third, Section 3 provides that the Senate shall determine by majority vote the qualifications and election of its members; now, therefore, be it

ORDERED, that no Senator representing Maine Senate District 16 be seated pending further action and determination by majority vote of the Senate after further consideration by the Senate, determination of the disputed election and declaration of the results thereof.

READ.

THE SECRETARY: The Chair recognizes the Senator-elect from Piscataquis, Senator-elect Davis.

Senator-elect **DAVIS:** Thank you very much, Madame Chair, colleagues, ladies and gentlemen. Thank you very much for being here and for your time. I would like to draw, at this time, everyone's attention, if I could, to the notation on the Secretary of State's report, near the top of page 3 on today's calendar. I'll read it. It says, 'at this time 44 ballots remain in dispute and there are 4 challenged, therefore, the outcome of the election is not determined.' Given this fact, that our Secretary of State has not been able to determine the outcome of the election in Senate District 16, it seems to me to be improper to seat someone from that district until the results are counted.

This recount has consumed us. It has consumed so much attention. Even with all that, Madame Chair, I believe that we can settle this, and settle this quickly, so that the citizens of that district do not go unrepresented.

Passage of this order will give us a first step to quieting the charges and the counter charges that have been just flying everywhere and all of the charges about partisanship that maybe injected into this process. Seating someone in such a contested election, in my mind, raises very serious questions about that person voting for themselves. This action would give the appearance to some that some are attempting to settle a recount before considering any of the disputes. When this recount is finished, and when the ballots are finally fairly and impartially tallied, we will need to move on. We can do this without question or controversy. I believe the passage of this order will help us to restore a sense of dignity and integrity in our process. When the votes are tallied, Madame Chair, I would ask for the yeas and nays.

Senator-elect **DAVIS** of Piscataquis requested a Roll Call.

Senator-elect **TREAT** of Kennebec to **INDEFINITELY POSTPONE** moved the Senate Order.

THE SECRETARY: The Chair recognizes the Senator-elect from Kennebec, Senator-elect Treat.

Senator-elect **TREAT:** Thank you Madame Chair, ladies and gentlemen of the Senate. I ask you to support my motion of Indefinite Postponement because the procedure that we are supposed to follow is set forth in the Constitution of the State of Maine. This is a procedure that provides for the provisional seating of any Senator-elect whose name has been sent forward by the Governor to the Senate for seating.

According to the certified election returns, nearly 18,000 voters in Senate District 16 cast votes for a Senator on November 5th. These voters, and the rest of the 35,000 men, women, and children in District 16, will be completely disenfranchised by this order were we to pass it. The people of

Senate District 16 have as much right to representation in this body as the residents of any other district, yet this order will deprive them of representation for an undetermined period of time. For this very reason, the precedence in the Senate, and in the other body, over the history of the State of Maine since 1819 has been to provisionally seat the Senator-elect who had been summoned by the Governor to Augusta in order to be sworn in to represent those citizens. The Senator-elect for District 16, who has, in fact, received the summons from the Governor and has, in fact, received the certificate, is Christopher Hall and he should be duly seated. This precedence is clear and it is recent.

In 2002 and in 1994 the Senate provisionally seated the Senator-elect pending completion of the recount. There is no reason not to follow that precedence now. This precedent has its roots in English constitutional law and the Parliamentary procedure governing the organization of the legislature. According to Cushing's Manual of Parliamentary Procedure, which is from the early 1600's and is still followed today, it is the written authority governing legislatures before they have organized and adopted rules, which is the situation we find ourselves in today, it is the right of the Senator-elect from Lincoln, Senator-elect Christopher Hall, to participate in these proceedings and to be provisionally seated pending the final determination of the vote and it is absolutely clear. I would like to read from that.

Chapter 1, section 229 of Cushing's says, 'the right to assume the functions of a member in the first instance and to participate in the preliminary proceedings and organization depends wholly and exclusively upon the return or certificate of election. Those persons who have been declared elected and are duly returned be considered as members until their election has been investigated and set aside. Those who are not so returned will be excluded from exercising the functions of members, even though duly elected, until their election is investigated and their right admitted.' It goes on to say that in some states the names of the persons elected and returned are officially ascertained before the time of assembling and a list or schedule made and the members themselves notified of their election or summoned to attend. In such a circumstance, where that practice prevails, and I would say, parenthetically, that is the practice here in Maine, the person summoned, and no others have it in their power to assume the functions of the members.

I would also note that this procedure has been fully endorsed by the Supreme Judicial Court of the State of Maine in its opinion as recently as November 25, 2002, when, in answering questions propounded by the Chief Executive, they said the following, 'the Governor recognizes, and we agree, that his role in the election process does not extend beyond his responsibility to summon such persons that shall appear to be elected by a plurality to attend upon their respective houses and take their seats. Following the seating at the Governor's summons, it is ultimately those members of the House and Senate who shall determine who has been elected to the Senate and the House of Representatives of the State of Maine.' So it is the recognition by our own court that, in fact, Senator-elect Christopher Hall has the right to be provisionally seated. He has the right to cast his votes while he is seated. For that reason, I am asking that you support my motion to indefinitely postpone this order.

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

The Doorkeepers secured the Chamber.

The Assistant Secretary called the roll with the following result:

ROLL CALL (#2)

YEAS: Senators-elect: BRENNAN, BROMLEY, BRYANT, CATHCART, DAGGETT, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT

NAYS: Senators-elect: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators-elect having voted in the affirmative and 17 Senators-elect having voted in the negative, the motion by Senator-elect **TREAT** of Kennebec to **INDEFINITELY POSTPONE**, **PREVAILED**.

Off Record Remarks

On motion by Senator-elect **DAVIS** of Piscataquis, the following Senate Order:

S.O. 9

ORDERED, that, pursuant to the Maine Revised Statutes, Title 21-A, section 739, the Senate directs the Secretary of State to promptly produce all the disputed ballots from the election held in November 2002 to determine the Senator from Maine Senate District 16; and be it further

ORDERED, that the Senate shall convene as a committee of the whole to consider each of the disputed ballots individually and determine whether each ballot should be counted for Leslie T. Fossel or Christopher G. Hall or as indeterminable.

READ.

THE SECRETARY: The Chair recognizes the Senator-elect from Piscataquis, Senator-elect Davis.

Senator-elect **DAVIS:** Thank you very much, Madame Chair, ladies and gentlemen, my colleagues. I can honestly tell you that it's unfortunate, and I feel very unfortunate to be standing here today with this cloud that I believe, is over our Senate, and over our proceedings. If I had my choice, without having pick either one, or I could make a wish, I would say just have a winner so that we would not be going through this time as we are.

On Election Day in Senate District 16, 2 votes separated the candidates out of 18,000. Maine law requires that if the difference is 1% or less that a recount has to be done. There is a reasonable question when that happens that the people's intentions need to be examined to be sure who won. As I said earlier, at this moment there are 44 ballots in dispute; 44 Maine citizens who voted in Senate District 16 whose ballots have not been counted. They are disenfranchised as of right now. Charges and counter charges between our parties have risen to, what I believe is an embarrassment, due to the things that have been said by both sides. Through it all, we have agreed that the Senate, right here, the men and women that are seated in these seats today, are the ones that determine the path of this recount, what happens, and how it is handled.

We have been, not surprisingly, divided on how we proceed. Not surprisingly, the editorial boards of our media all across the state have been divided on how we should do it. Maine people, in my district in the north, and all across the state have opinions every which way. The bottom line is that it is on everybody's front burner. It's the hottest issue in town, so to speak, at this time. My colleagues, I honestly tell you that I've searched my soul and my mind as stringently as I could to find a solution to this that would meet the spirit of bipartisanship and would meet the requirements, of our constitution and of the law and most importantly would see us rise to the occasion, and give Maine citizens the confidence that we can do this in a fair, impartial, and honorable manner.

What really matters, for the most of everything, is not the needs of one candidate over the other, or one party over the other, or surprisingly, even the opinions of the editorial writers. Their needs aren't the most important things either. What matters the most is the preservation of the sacred trust we have for those 44 citizens in Senate District 16 and the votes they cast. They will know, when we are done, that we have done the right thing, the honorable thing, and we've done it in the light of day.

There is a lot at risk here, far more than control of this body. Because no matter which side prevails, control is very, very tenuous when it is one vote away. To be in control and to be in charge is fleeting. That will be gone shortly. But what is at risk, ladies and gentlemen, is the integrity of this body and the sacred trust that we hold with those 44 citizens whose ballots have not been counted. There is too much at stake, both for this body and the people of Maine, for this controversy to be resolved in a manner that fails to uphold the integrity of our electoral process by injecting partisanship into it.

This matter has reached such a fevered pitch that I had one fellow tell me this morning that when he was listening to talk radio on the way here today, this was all that you hear - senate district 16. That's all you hear, that's all you read. We owe it to the people of Maine for this body to consider this in the following manner as a Committee of the Whole. I believe that, as a Committee of the Whole the gentleman from Lincoln County from senate district 16, should preclude himself and have 17 – 17. I believe that we should have the Secretary of State come into this body with a projector, a screen, and those 44 ballots, and in the light of day, with everybody watching, put them on the screen and let each and everyone of us vote, as we have this morning. Rise and say, 'that

vote is for 'A' candidate and that vote is for 'B' candidate, or I can't tell you whom they meant to vote for on that ballot.' I believe that this will maintain the public trust and we need to do this process in full view of the public. It is, in my opinion, by this process that the voters of Maine, and the 44 voters represented by these contested ballots, will ever know that we have resolved this in a fair and impartial manner and in full view of the people of Maine with the scrutiny of the media on it while it is happening.

I don't know how this is going to come out. I've heard all sorts of things, what everybody else has heard. I've heard that if the votes are all counted that one gentleman says he would be the winner. I also read that the other gentleman says the same. As far as I know, the only one I've dealt with is right here. They are honorable people and they believe this. I have no reason not to believe that. I also know that they both have signed affidavits. They have both registered with the courts, have raised their right hands and sworn before God that these things are true. I don't know what will happen or what the results will be, but I know that we need to get there. I know we need to get there quickly. I know we need to get there fairly. I know we need to get there in the light of day with the scrutiny that only the press can provide.

We have so many things before us that Maine desperately needs us to look at and to work on. We've got a budget here that, to be very generous, is in bad shape. There is a huge deficit that we have got to find a resolution for. It needs us to do this, to look at it hard, and it needs us to do it in a bipartisan manner by being the friends and neighbors that we should be. We need tax reform in this state. I could go on quite a while about that, but I'm not going to. That debate will be for later. We need solutions to healthcare problems and goodness knows we need to stimulate the economy to stop our young people from leaving. These problems, ladies and gentlemen, demand our attention. This is what we need to be on. We don't need to be on a long, protracted election dispute, with all the bitterness and everything that goes with it.

I believe this can be resolved quickly. I believe it can be resolved today, tomorrow, or before the end of the week if what I suggest is approved. We on this side of the aisle are ready to do this. We are ready to move ahead. We are ready to take care of this issue and do it at once. I thank you for hearing my remarks. I know a little bit about facial remarks, and I thank the gentleman from Lincoln County for his. I would ask, Madame Chair, at the time when the vote is taken that we have a roll call. Thank you very much.

Senator-elect **DAVIS** of Piscataquis requested a Roll Call.

Senator-elect **TREAT** of Kennebec moved to **INDEFINITELY POSTPONE** the Senate Order.

THE SECRETARY: The Chair recognizes the Senator-elect from Kennebec, Senator-elect Treat.

Senator-elect **TREAT:** Thank you, Madame Secretary, men and women of the Senate. I appreciate the comments of the good Senator-elect from Piscataquis, Senator-elect Davis, saying that it is time to move on and do the people's business. I appreciate also that he has given some thought as to what might be a fair process for resolving the disputed ballots, of which there are 44. Fortunately, the solution is staring us right in the face. We have had the same process in law since at least 1854. A Senatorial Vote Committee consisting of 7 members of the Senate. It is a committee that has existed, whether there was Republican leadership in control of the Senate with a Republican majority or whether it was a Democratic majority. It was the same process that was in law when we were split, 17 – 17, with one Independent. We don't know what actually happened before 1854, by the way, because that was the first recorded time when they were keeping notes about what happened. So it may well be that it goes back to 1819. But at least I feel fairly secure that for a century and a half we have followed one process and one process only. That has been to send this to a committee.

For those of you who may not know, I know we have a lot of guests here today; every committee meeting in the State of Maine is a public meeting. It is a public meeting. The public can sit there. The press can sit there. It goes out over the loud speakers in this building. You can hear it on the Internet. It is a public process and it is a fair process, as has been recognized as recently as last week by the Maine Supreme Judicial Court, which confirmed this yet again.

There have been many opinions of the Supreme Judicial Court over the years because many Governors have been faced with a similar situation and have asked questions of the Supreme Court. They have said, 'is this really true, the Senate really decides it?' The court has consistently said, 'yes that is the law.' It is the law in the U.S. Congress. It is the law in the State of Maine. It has been the law for many, many years, centuries, in fact. Now there seems to be an argument that today we should change the law. We should abandon that process. We should seek some brand new process because it is particularly important. Now keep in mind that we had this process last year when the

Senator-elect from Cumberland, Senator-elect Brennan, had a race that was very similar. The disputed ballots were more than the margin of victory. It went to the Committee on Senatorial Vote. The Committee on Senatorial Vote came forward with a recommendation to the Senate itself, which then had the option to accept or reject that process and that recommendation. But the recommendation today seems to be 'let's come up with something new and different because this is a momentous occasion, the balance of power could shift.' This is precisely the time that you follow the rules that you adopted, that you have been following for a century and a half. This is precisely the time that you make sure that due process is protected. We have rules of law because we don't want to be applying different laws to people in the same circumstances at different times because we may like them better or dislike them or there are different people in power. No. We have a set of laws that are there to be followed. They are not to be abandoned when we get nervous and we say, 'oh, my goodness, things are very tense right now, maybe we should come up with something completely different.' They are there to safeguard the rights of the public and it is a process that is in the light of day. It is a process that is tried and true. It is a process that has been confirmed by our courts. When we have the opportunity with future orders, I can explain exactly how it will work. But, again, just last year we had that opportunity. Anyone could go into the room. Anyone could listen. Anyone could see what was happening. That is the appropriate process to follow and we should follow it here today. I urge that you support my motion to indefinitely postpone this order.

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

THE SECRETARY: The Chair recognizes the Senator-elect from Cumberland, Senator-elect Turner.

Senator-elect **TURNER:** Thank you, Madame Chair. Politics is an interesting business. It's not a blood sport; it's a bloodless sport. It's a war. However a war fought without guns and bullets. It's a war in which you live to fight yet another day. So whatever we do here will be revisited in two years time. As Senator-elect Davis of Piscataquis has said, we have many very important matters to be dealt with in the 121st. I think all of us, regardless of what side of the aisle you sit on, are anxious to move on to those problems. I'm troubled, however, by the reality that this is a partisan proceeding.

In case you don't understand, I desperately want to see the Republican party assume the majority in this body. Desperately. I will do anything I can do to assure that happens and I will do it straight up. The folks on the other side of the aisle, I would assume, want to operate in the same fashion. Now there are two contestants for Senate seat 16. I actually know the gentleman sitting here with us today better than the person who's asking for further consideration. I do not know him real well, but we've had multiple conversations over the duration of the 120th. I will tell you that I like him personally. I believe he's a man of honor.

Now Senator-elect Treat has spoken about maintaining our procedures that have served us well over the years. The court has reaffirmed that the Senate is in charge of these proceedings. It determines these elections. There is nothing to preclude us from operating as a Committee of a Whole. Multiple people have spoken about the light of day. The full light of day is a wonderfully cleansing mechanism because all of us see the same thing and all of us have the opportunity to express, by voting, what we see. I think it's important that all of us see these ballots, that they be positioned in a way that those who are sitting in the chamber can also see them, whether you are a member of the press or simply a member of the public.

I believe the cards should fall where they fall. People on the side of the aisle opposite me believe fervently that their candidate has won the election. We feel, obviously, that our candidate has won. Full and open proceedings, where everybody can see what is in front of us and the votes are taken, is the clearest and best way for us to finalize this thing and move in an expeditious manner. Senator-elect Hall, and that title is appropriately his at this moment, wants this seat desperately, as he should. Should he win the seat in the process that we bring forward, I want to be able to clearly look at him and say that he won it fair and square. The process suggested by Senator-elect Davis is one that I believe gives us the best opportunity to deal with this contest and then to move on and deal with the business of solving the major problems facing the State of Maine. I would ask that you not indefinitely postpone and that we move forward and count this in an open manner, in the full light of day, for all the public to see and to see the ballots on which we vote and all of us should vote on those ballots. Thank you.

THE SECRETARY: The pending question before the Senate is the motion by the Senator-elect from Kennebec, Senator-elect Treat to Indefinitely Postpone. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Assistant Secretary called the roll with the following result:

ROLL CALL (#3)

YEAS: Senators-elect: BRENNAN, BROMLEY, BRYANT, CATHCART, DAGGETT, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT

NAYS: Senators-elect: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators-elect having voted in the affirmative and 17 Senators-elect having voted in the negative, the motion by Senator-elect **TREAT** of Kennebec to **INDEFINITELY POSTPONE**, **PREVAILED**.

Off Record Remarks

On motion by Senator-elect **TREAT** of Kennebec, the following Senate Order:
S.O. 10

WHEREAS, on November 26, 2002 the Secretary of State's Office tabulated the certified results of the election and the official tabulation indicated Christopher G. L. Hall received a plurality of votes in the general election;

WHEREAS, Leslie T. Fossel formally requested a recount in writing, in accordance with Maine law, from the Secretary of State's Office;

WHEREAS, a recount was held on November 18, 19, and 25, 2002; and

WHEREAS, at the conclusion of the recount the office of the Secretary of State communicated to the Senate that the final count of the general election was: Christopher G. L. Hall 8,893 votes; Leslie T. Fossel 8,884 votes; 44 disputed ballots; and 4 challenged ballots in Jefferson; and

WHEREAS, because there are enough disputed ballots to affect the result of the election, the Constitution of Maine, Article IV, Part Second, Section 5 and Part Third, Section 3 provide that the Maine Senate, by majority vote, is the ultimate judge of the election of its members; and

WHEREAS, pursuant to the Maine Revised Statutes, Title 21-A, section 737-A, subsection 10, the Senate shall establish procedures for appeals of disputed Senate elections; now, therefore, be it

ORDERED, that Christopher G. L. Hall be administered the oaths of office and be permitted to provisionally assume a seat pending further action and determination and declaration of that determination by majority vote of the Senate, after further consideration by this Senate, determination of the election, and declaration of the results thereof; and be it further

ORDERED, that the Committee on the Senatorial Vote shall convene in an expeditious manner at the call of the chair to examine thoroughly issues relevant to the general election, to propose

resolution of such issues and to determine the properly elected candidate, and that the committee shall make such recommendations to the full Senate as it considers appropriate; and be it further

ORDERED, the Committee shall issue its final report no later than December 20, 2002.

READ.

THE SECRETARY: The Chair recognizes the Senator-elect from Kennebec, Senator-elect Treat.

Senator-elect **TREAT:** Thank you, Madame Secretary, men and women of the Senate. The order I am presenting is quite self-explanatory. It does not need much discussion here.

The main point I would simply make about it is that it follows the precedence and the law set forth in the state, going back centuries. It does set a date certain for the Senatorial Vote Committee to report back to the entire Senate, which would be December 20th. This is a date which I believe will hasten resolution of this dispute and give us all an opportunity to work on the issues which we were elected to work on that the good Senator-elect from Piscataquis, Senator-elect Davis, has mentioned, such as healthcare, the budget, and everything else that we campaigned on and that our constituents are already calling us about. It is a public process, as all Senate and House committees are. It is open to the public, in the full light of day. It is a fair process.

Just a final note, it is a process that will permit every Senator here to vote on the outcome. As in any committee report, it comes to the Senate with any minority reports that may be on it and there is opportunity for full debate and discussion and then a vote on the final result. I urge that you vote for passage of this and I would request a division.

Senator-elect **TREAT** of Kennebec requested a Division.

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

The Doorkeepers secured the Chamber.

The Assistant Secretary called the roll with the following result:

ROLL CALL (#4)

YEAS: Senators-elect: BRENNAN, BROMLEY, BRYANT, CATHCART, DAGGETT, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT

NAYS: Senators-elect: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators-elect having voted in the affirmative and 17 Senators-elect having voted in the negative, **PASSED.**

Off Record Remarks

Senate at Ease.

Senate called to order by the Secretary.

On motion by Senator-elect **TREAT** of Kennebec, the following Senate Order:

S.O. 1

ORDERED, that a message be sent to Governor Angus S. King, Jr., informing him that a quorum of Senators-elect is present in the Senate Chamber, ready to take and subscribe to the oaths of office required by the constitution to qualify them to enter upon the discharge of their official duties.

READ and PASSED.

The Secretary appointed the Senator-elect from Kennebec, Senator-elect **TREAT**, to deliver the message to the Governor. The Sergeant-at-Arms escorted the Senator-elect from Kennebec, Senator-elect **TREAT** to the Governor's Office.

Subsequently, the Senator-elect from Kennebec, Senator-elect **TREAT**, reported that she had delivered the message with which she was charged.

Senate at Ease.

Senate called to order by the Secretary.

Off Record Remarks

ORGANIZATION OF THE SENATE

The Honorable Angus S. King, Jr., Governor of the State of Maine, entered and addressed the Senate. (Amid applause, the Members rising.)

GOVERNOR KING: Well, I can bring news that the House is duly sworn in. I will be swearing in the Senators from the 121st Legislature in a few moments, as soon as we get the proper paperwork. Tom Black has it.

If the Senators will rise, I will administer the oath.

The Senators-elect took and subscribed to the oaths of office required by the Constitution.

GOVERNOR KING: I notice on the script it says, 'Governor enters chamber, administers oath, and retires.' In this case, it's almost literally true. I do want to just take a moment. I greeted many of you last night at the dinner and I don't really want to repeat myself. But I do want to offer my congratulations and thanks to those who are returning and particularly to those who are joining this body for the first time. I also want to especially thank the families of the members because I know, from my own personal experience, that this is a family commitment and it is one that requires support, love, and encouragement from home as well as the work that is done here. So I want to particularly thank the families that are here today and urge them to continue to provide that support that is so important to a body like this to be able to function.

I also just want to thank and congratulate the members. This is a solemn moment and yet it is a celebratory moment because it really is one of those magic times in a democracy when power is conveyed, when we move from the old to the new, when we confront new challenges and new opportunities. It is a special moment that should be cherished and remembered. I want to, again, thank all of you and I want to now thank the members of the 120th Legislature who are back for the wonderful work that we have been able to do together. This will be the last time I have an opportunity to appear before you, except for the swearing in of your officers a little bit later. But I do want to thank you. This has certainly been an enormous honor for me. What you have done, what you are doing, and will do for the people of Maine is so important and you've done it well and I know you will continue to do so. So thank you for all that you have done and God speed to the 121st Legislature of the State of Maine. Thank you.

The Senators-elect took and subscribed to the oaths of office required by the Constitution.

Off Record Remarks

ELECTION OF SENATE OFFICERS

THE SECRETARY: Nominations are now in order for the office of Senate President of the 121st Legislature, pursuant to the rules of the Senate. The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame Chair, colleagues, ladies and gentlemen, good morning to you all. I rise today to nominate the Senator from Oxford, Senator Bennett, for President of the Maine Senate.

Senator Bennett is part parliamentarian, part historian, part Renaissance man, and yes, part politician. But he is, above all, a family man, which I consider to be his greatest attribute. Senator Bennett's family has colored his worldview and he brings a great deal of perspective to this historic chamber. Also Senator Bennett's private sector life gives him further credibility when discussing policies and their effect on this state's businesses and their employees. Senator Bennett has, sheepishly at times, accepted a lot of praise for his varied efforts. He would admit that some of it is deserved. Some of it is not. He has also shown that he can take a punch, a strong character trait for those of us in this line of work.

We all know that in the world of politics defeat has a thousand fathers and victory has but one. However, Senator Bennett has deflected none of the criticisms, instead choosing to answer every E-mail, every phone call, and every letter with a dignified response. Accepting responsibility instead of offering up scapegoats. It was Teddy Roosevelt who said, and I quote, 'it is not the critic who counts, nor the man who points out where the strong man stumbled, or where a doer of deeds could have done them better. The credit belongs to the man in the arena whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes up short again and again, who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause.'

Through it all, he has remained grounded in the premise that family comes first. One of the highlights of my first term in the legislature was to watch one of his children careening around the well of the Senate, disguised as a page. Family is important to each of us. Those of us who have raised children to years well beyond the years of Senator Bennett's children understand that the challenges in politics are meager compared to the challenges he has ahead. For those of us who have raised daughters, and myself, I count 3, those challenges will be beyond meager.

I am proud to call him my friend. I am honored to serve with him. It is for these reasons spoken and reasons unspoken that I respectfully nominate the Senator from Oxford, Senator Bennett, for President of the Maine Senate. Thank you, Madame Chair.

THE SECRETARY: The Senator from Franklin, Senator Woodcock, has put the name of Senator Richard Bennett of Oxford in nomination for the Office of Senate President. Is there a second? The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you Madame Chair, ladies and gentlemen of the Senate. It gives me great pleasure this morning to second the nomination of the Senator from Oxford, Senator Bennett, to this prestigious position.

Senator Bennett has 10 years of legislative experience, serving time, if you will, in each of the bodies very effectively. He has been in leadership positions, most recently that of Senate President. He was nominated for that position by his peers and he has fulfilled that obligation very effectively. I have all the confidence in the world that Senator Bennett would fulfill the same position with the same effectiveness. It gives me great pleasure to second the nomination for Senator Bennett. Thank you.

THE SECRETARY: The Senator from Knox, Senator Savage, has seconded the nomination of Senator Richard Bennett of Oxford. Are there further nominations? The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame Chair. I wish to nominate the good Senator from Kennebec, Senator Daggett, to serve as President of the Senate and ask to speak to my nomination.

THE SECRETARY: The Senator has the floor.

Senator **ROTUNDO:** Thank you, Madame Chair, men and women of the Senate. It's an honor to place Senator Daggett's name in nomination to serve as President of the Senate. Senator Daggett is

preeminently qualified for this position, having served with distinction for 16 years in the legislature and having, during that time demonstrated the qualities of leadership that will serve this chamber well. Senator Daggett has the capacity to bring people together and to mediate differences. She listens well, she's fair, and she's calm in times of crisis. She also has a wonderful sense of humor. Senator Daggett will be even-handed as she presides over this chamber and will be inclusive of everyone in it. I have every confidence that she will lead with wisdom and with strength.

I also want to note the historical significance of Senator Daggett's nomination. Never before in the history of the State of Maine has a woman served as the President of the Senate. We have come a long way since women received the right to vote in Maine in 1920 and since the first two women, Dora Pinkham of Fort Kent and Katherine Allen of Hampden, served in the Maine Senate in 1927. Since that time, Democrats, Republicans, and Independents have continued to break down barriers. We have moved beyond the tasks that were assigned to the female Senators up until the mid-1970's; tasks that included collecting money for flowers and gifts, selling tickets for the annual Spring dance, and choosing a color for the license plates for legislators. Today women in the Senate chair committees and serve in a variety of leadership roles. We have come a long way and we are all, men and women alike, stronger because of it. I am proud to be here this morning to witness the breaking down of one more barrier and proud to place Senator Daggett's name in nomination.

I ask you all to join me in supporting Senator Beverly Daggett as the next President of the Maine Senate.

THE SECRETARY: The Senator from Androscoggin, Senator Rotundo, has placed the name of Senator Beverly Daggett of Kennebec for nomination for President of the Senate. The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame Chair. It is my honor to second the nomination of Beverly Daggett from Kennebec as President of the Maine Senate. I've worked with Beverly for a number of years now and certainly, on a personal level, have come to know her quite well. She has tremendous experience, having served in both bodies and most recently as our leader here in the Senate caucus.

One of the things I think is most impressive about Beverly is her calmness under fire. There are times when the heat of debate and the heat of the activity within the State House, even with some of the more logistical matters having to do with staffing issues, the color of plates and things like that, people a little hot under the collar. Beverly has always been very calm and very reassuring in making us all understand that there are more important things, possibly, and that there will be another day. I think maybe that is the most impressive thing I have taken from Beverly and I appreciate it.

She is certainly a role model, and not just for women and girls in this state. I have 3 daughters who are very pleased to see the first woman elected President. She is a role model for leaders. She is able to bring people into the process, and not just lead without looking back. Her leadership comes from all of us and that will continue in the future.

She's an extremely effective leader. As we've heard today many times so far, there is the issue of fairness. There is no person on this floor who I think is more fair, compassionate, and passionate about issues than Beverly Daggett. So if I may also steal a quote from Teddy Roosevelt, along with my colleague from Franklin, I would just like to say, 'charge.'

THE SECRETARY: The Senator from Kennebec, Senator Gagnon, has seconded the nomination of Senator Beverly Daggett of Kennebec for the office of President of the Senate. Are there other nominations? The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame Chair. I move that nominations close.

THE SECRETARY: The Senator from Kennebec, Senator Gagnon, has moved that nominations cease. Is this the pleasure of the Senate? It's a vote.

The nominees are Senator Richard A. Bennett of Norway and Senator Beverly C. Daggett of Kennebec for President of the Maine Senate for the 121st Legislature. The Sergeant-At-Arms and the Assistant Sergeant-At-Arms will distribute ballots. Please take one ballot and pass them down.

The Chair will appoint the Senator from Franklin, Senator Woodcock, the Senator from Knox, Senator Savage, the Senator from Androscoggin, Senator Rotundo, and the Senator from Kennebec, Senator Gagnon, to receive, count, and sort votes for the President of the Senate. Will they please approach the rostrum after they vote.

Subsequently, the Committee formed in the well of the Senate to receive, sort, and count votes for the President of the Senate.

Senate at Ease.

Senate called to order by the Secretary.

Senator **BEVERLY C. DAGGETT** of Kennebec, having received a majority of all the votes cast, was declared duly elected President of the Senate of the 121st Legislature.

Senator **DAGGETT** of Kennebec took and subscribed to the oaths of office required by the Constitution to qualify her to discharge her duties as President, pursuant to the Rules of the Senate.

Thereupon, President **DAGGETT** of Kennebec was escorted to the rostrum by the Sergeant-At-Arms. (Amid applause, the Members rising.)

THE PRESIDENT: We all love stories. Perhaps you can remember telling a story or hearing one told, wondering how it would unfold, enjoying it so much that you didn't want it to end. I can remember a day when I would choose the biggest book because I wanted it to last as long as it could. I remember choosing Uncle Tom's Cabin when I was in grade school. That was a big book. This is the first day of the 121st Maine Senate. The story of the 121st Maine Senate will be up to us. There will be plots and subplots, interesting characters, themes, chapters. Some of it will be a surprise to us when we read the book, even though we were here. So much happens here that it is almost impossible to keep up with it all.

This is a day full of promise, a day when we reflect on the past, but we also contemplate the future. It's a day of excitement and mixed emotions. A day of celebration mixed with anxiety. It's a day of closure and a day of beginning. This is a day of contrasts. This is a day to share and many of us have brought someone to share this day with us. It's a day when we remember those who we wish could be here.

We are a unique group. We are a special group. We were chosen by the people of this state to represent them for the next 2 years, to listen to their concerns, to solve their problems, to commemorate their achievements, to mediate their disputes, and to respond to the unsolvable. We're not here because we have the answers; we're here because we're willing to work together on solutions.

First I want to thank each Maine citizen who took the time to vote. Voting is an opportunity that is sometimes taken for granted but is a most important obligation of democracy. It needs to be nourished, not stifled, cherished and respected, not taken for granted or demeaned. I also want to thank those of you who are here today. As our family, our friends, and our supporters, you are, in deed, special people for forgiving us when we've been preoccupied, sharing our successes and supporting us in the disappointments, protecting us when possible from the harshness. Some of us are here for the first time. Some of us are just starting our own personnel stories in this legislature. Others of us have run for office many times and this will be our last term. It might even be a blessing for some of those families and supporters, remembering the missed family events, the last minute surprises, our not having an answer to the question of 'when will you be home?'

I want to specifically thank and recognize my own family here today. It may be small, but we make up in quality what we don't have in quantity. My husband's uncle and aunt, George and Evelyn Banks; their daughter, Cynthia Banks; my sister-in-law, Stephanie Daggett-Nichols; her son, Dan Nichols; my wonderful mother-in-law, Ruth Daggett, who probably never thought she was going to be getting another politician in the family as a daughter-in-law. Some of you may have known my father-in-law, the Honorable John P. Daggett, who served in elective office for many years at the local level as well as here, at the state capitol. My own mother, the Reverend Dr. Beth Pendleton Clark, who moved back to her home state of Maine 3 years ago. Her never failing love and support in all that I've done ever since I can remember has been a constant source of strength. Most importantly, my husband, Tom, who, without a doubt, is a truly amazing and wonderful man. We're both sorry that our children, John, Page, and Paul, could not be here today, but they maybe listening over our internet broadcast.

Next I want to thank each member of this 121st Senate for your willingness to run for office, your willingness to take a risk, your willingness to enter that unknown, unpredictable world of campaigning, where we don't quite know what to expect from one moment to another. That is, perhaps, the prologue to our story here, setting that stage. That was a time when most of us spent our most intense time, reaching out to our constituents, learning their concerns, how we could be of service to them, creating those relationships and contacts, adding to our lists of supporters,

identifying our detractors, perhaps trying to win a few of them over, educating them on issues that we might know more about, being educated on the issues they might know more about, and preparing ourselves to serve them. Making that connection to government and helping them understand the differences between the Executive Branch and our own, separate but equal, branch of government, the people's branch, the legislature.

I especially want to thank the members of my own caucus of 9 men and 9 women. By electing me the first woman to hold the office of President of the Senate, on this day of contrasts, I'm proud but humble as I accept this honor as well as this responsibility. I feel a true responsibility to this entire Senate as well as to the many young girls and women of all ages across this state, a responsibility to help remove barriers that may prevent us from fulfilling all of our dreams. I think part of that is helping to identify those dreams of other talented, capable women across this state. One of those is a woman from a political family, a Maine woman, Jill McGowan. Jill McGowan Incorporated was founded in 1994 on two principles. To create beautiful clothing that is comfortable and fashionable and to make clothing that will endure fashion changes and wear well. Her first line of clothing was a series of white shirts inspired by her work as a pattern maker at the Hathaway Shirt Factory in Waterville. Today her studio is located in downtown Portland and she distributes to 300 boutiques around this country. I am proud to be wearing a Jill McGowan shirt today, designed by a Maine woman, sold by a Maine business.

It's been along time, as was mentioned earlier by the Senator from Androscoggin, Senator Rotundo, that women won the right to vote. In fact, the Senator from Aroostook, Senator Martin, reminded me that Dora Pinkham of Fort Kent, who was first elected to the House in 1923, was the first from Aroostook County. It took quite a few more years until Mary Chisholm of Cape Elizabeth was elected as the first woman Democratic Senator in 1965. In 1999, 16 of our 35 Senate seats were held by women. Leadership was another matter. It wasn't until 1975 that Minette Cummings of Newport was elected Assistant Majority Floor Leader, and 10 years later, Nancy Randall Clark of Freeport was elected to the same position as a Democrat. Two years later she was the first woman to be elected to the position of Majority Floor Leader. She held that position for 3 terms, the longest held leadership position in the legislature for a woman. There are 2 women that I need to mention here today who I have had particularly close relationships with and who have been role models for me. The first woman Speaker of the House, Libby Mitchell, who couldn't be here today because she's pursuing another career and she has classes in law school that she could not miss, and my predecessor in Senate District 15, the Honorable Bev Bustin, who has been recognized earlier. Bev was the first woman Democrat to hold the position of Assistant Minority Leader in the Senate.

Over time, women's roles in the legislature have changed and fortunately we're not choosing license plate colors any more. In 1992, Senator Treat and I were appointed as House committee chairs by then Speaker Martin, now Senator Martin. It was the first time that a Majority of committee chairmanships were held by women. Women legislators have played significant roles in advancing policy achievements around childcare, pay equity, and one of the hottest topics of the day, healthcare. I assure you, it will be a priority for the session that we are just beginning. But on our day of contrasts, let's begin to think about how we'll work together. Men and women, rural and service center Senators, north and south, and yes, Republican and Democrat. It's time to think of what is before us.

Kofi Annan, Secretary General of the United Nations, tells a story about when, as a young student, his teacher held up a large sheet of paper in front of the class. The paper had a small dot down in the corner. The teacher said to the students, 'what do you see?' They all, in chorus, pointed out the small dot and said, 'the dot, we see the dot.' The teacher replied, 'make sure you don't get so focused on the small things that you miss the big picture.' Over these next 2 years, we need to make sure that we don't get focused on the small things. We need to make sure we see the big picture. It's time to stop focusing on what Maine doesn't have and on what Maine can be and how we can get there. We need to build on past successes and there are many. We need to create new successes and there are many possibilities. We need to work to stabilize our financial footing. While taxes are one of the most politically charged issues, we know that without predictable revenues, we're condemned to the increasingly more unpredictable swings in state revenues as we move away from our old manufacturing base. This is not a step that will be taken easily. As members of the Senate, we won't be able to take it by ourselves. But the base from which all of the decisions are made can be firmed up only if we choose to take this road. We were sent here to make the difficult decisions and this may well be one of the most difficult. Time will tell if we have the resolve to face it.

We need to reaffirm our support for education. Education is the key to our future. While our K – 12 system is the best in the country and we have the highest enrollments in the history of the University of Maine System and the Maine Technical College System, there is still more to do to see that Maine citizens are able to use that education to ensure economic security and the fulfilling, healthy lives that they all deserve. These are only 2 of the many issues we'll be facing over the next

2 years and I look forward to working with the Baldacci administration as the public policy challenges unfold. I'm ready and I'm sure you are ready to move on to the reasons why we have been elected.

So, as a young girl who over 50 years ago shocked her mother and friends by announcing that she wanted to be a professional woman when the phrase carried some much different connotations than it does today, as a 5th grader whose nickname was 'Micky Mantle,' as a junior high student who was the first girl to get a projectionist license so we wouldn't have to have a boy come into home economics to show our films, as a first term State Representative who had a bag boy at Shop 'n Save look at her blue license plate and observe 'oh, your husband is in the legislature,' and now as President of the Senate, I want to thank you once again for this extraordinary honor. As I began to put these remarks together over the past few days, I envisioned weighty phrases of deep meaning, impressive rhetoric, and lots of quotable phrases. But instead I hope I've achieved simplicity and honesty. I think that is what we need in this complicated world. So I pledge to you to continue the spirit of bipartisanship that we've come to expect, to let you all know that my door will always be opened. I welcome each of you, at any time, to discuss anything from committee assignments to pending legislation. I'm a strong believer in the power of a group of people working together. I believe we have the opportunity to see that our story is one worth reading. A story of depth and meaning. A story of action, humor, intrigue. A story of patience, cooperation, and accomplishments. This is a day of contrasts. This is the first day of the 121st Maine Senate. Thank you.

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

Senator **DAVIS:** Thank you very much, Madame President. First, I would like to congratulate both our new Secretary and our new Assistant Secretary. Having worked with them in the 119th and the 120th, I look forward to the same help that they gave us during that time.

Madame President, a very special congratulations to you. You truly have made this an historic day. You have the wonderful distinction and honor of being the first woman to occupy the Presidency of the Maine State Senate. Woman and girls all across Maine and all across America will look to you as a role model. I congratulate you for that. You've made history. Then again, so have I. I'm the first male Republican to address to the first woman Senate President. So with that said, we've both made history.

Like many of those here in attendance today that are of my agenda, I am the proud husband of a wonderful woman and I have a wonderful young woman for a daughter. I have two little granddaughters, by whom I'm referred to as Bumpa, and I was going to point them out to you all, but they figured out that Bumpa was kind of boring when he was speaking and probably didn't know who he was supposed to vote for anyway, so they have gone. But they are truly the delight of my life and I could not be more pleased, Madame President, to imagine that perhaps one day one of them will be standing on that podium as a Senate President, where you stand today.

Madame President, as President of the Maine State Senate, you have a huge responsibility. You have to provide leadership to both the Democrats and the Republicans. Perhaps your most important responsibility is to unify this body in a manner that we can go forward with the problems facing the State of Maine. I would pledge to you, Madame President, as a Republican leader, that I will work hard to create an atmosphere of bipartisanship that we can work within. On matter that we agree, we will work hard to make those things come true. On matters that we disagree on, Madame President, I assure you we will do everything we can do to do it civilly and honorably.

With that said, Madame President, again, congratulations. Today is certainly a ground breaking day in Maine. I would ask all my colleagues to rise and applaud our new President again.

THE PRESIDENT: The Chair would thank the Senator from Piscataquis, Senator Davis, and I am pleased to have you join me in the history books.

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

Senator **BRENNAN:** Madame President, I'd like to nominate Joy O'Brien of Portland as Secretary of the Senate and I'd like to speak to my motion.

THE PRESIDENT: The Senator from Cumberland, Senator Brennan, has nominated Joy J. O'Brien of Portland for the office of Secretary of the Senate of the 121st legislature, pursuant to the rules of the Senate. The Senator may proceed.

Senator **BRENNAN**: Thank you, Madame President, men and women of the Senate. It's my honor today to nominate Joy O'Brien as Secretary of the Senate. It's also my honor to be her Senator and to represent her here in the State Senate. Briefly, I'd like to review her qualifications.

In total, Joy has 22 years of service in the State Senate. She has 17 years in the position as Secretary of the Senate. She also has served as Chief of Staff to the Minority Leader. She also has served 4 Governors and 5 Senate Presidents. Lastly, she has served as a member of the American Society of Legislative Clerks and Secretaries. But along with her qualifications, the thing that puts Joy above and beyond everybody else, and I dare say that her resume, to engage in a little bit of hyperbole, nobody in the state has a resume or is as well qualified as Joy O'Brien for this position. But more importantly, she is committed to this institution, not in a partisan way, but because of the role that this institution plays in governing the state. I know that she will work hard to protect the rights of the Senate from the other branches of government when there are disputes, when there are conflicts, or there are questions about the role of the Senate. Joy will be there to articulate what the role of the Senate should be. Her experience and stability during an era of term limits, turbulent economic times, and with the new administration will be invaluable to us.

Finally, in this era there is skepticism, sometimes about public servants and about public service, but in her 22 years Joy has set a new and high standard for what public service is in the state of Maine. I believe that, as the Secretary of the Senate, she will continue to set that high standard. That is why I'm pleased to enter her name into nomination.

Off Record Remarks

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

Senator **LAFOUNTAIN**: Thank you, Madame President. I second the nomination of Joy J. O'Brien of Portland and the County of Cumberland for the office of Secretary of the Senate for the 121st legislature and further wish to speak.

THE PRESIDENT: The Senator may continue.

Senator **LAFOUNTAIN**: Thank you, Madame President, ladies and gentlemen of the Senate. I am honored and privileged to rise this morning to second the nomination of Joy J. O'Brien of Portland for Secretary of the Senate. I also am pleased to do so for the third consecutive term. Joy is very knowledgeable of the legislative process and has been quite helpful to all of us who have maneuvered our way through this sometimes difficult and cumbersome process. Her years of experience in partisan offices, together with her 8 and a half prior terms as Secretary of the Senate and one half term as Assistant Secretary of the Senate, will certainly benefit the members of the 121st Maine Legislature. I am most impressed with Joy's management abilities and the dedication of her entire staff. I am confident that both Joy and her staff will continue to provide us with the same level of courtesy and professionalism. It is without hesitation and with great enthusiasm that I nominate and encourage this body to support Joy J. O'Brien. Thank you.

On motion by Senator **DAVIS** of Piscataquis, nominations ceased and one ballot was cast on the part of the Senate in favor of **JOY J. O'BRIEN** of Portland for the Office of Secretary of the Senate of the 121st Legislature, pursuant to the Rules of the Senate.

This being done, **JOY J. O'BRIEN** of Portland was duly elected Secretary of the Senate of the 121st Legislature, pursuant to the Rules of the Senate.

JOY J. O'BRIEN of Portland took and subscribed to the oaths of office required by the Constitution to qualify her to discharge her duties as Secretary of the Senate, pursuant to the Rules of the Senate.

Off Record Remarks

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. It is my great honor today to place in nomination the name Judi DelFranco for Assistant Secretary of the Senate. It's not only an honor, but a privilege to do this. I'm also her state Senator. She's been a great friend of mine for many, many years. She's also been a long time member and valued staff member of this Senate. She knows the everyday life that is carried on here. She knows it well after hours when people all go home and she's in her office typing out the next day's journal.

How do I know Ms. DelFranco? We met many years ago when I was a House member and we'd see each other on occasion. But on November 5th she became even more special because she became my constituent. She's helped me over the years understand the rules and regulations surrounding this institution. She's one of the most trusted people I know. She's hard working and she will always be there for every one of the Senate members. I know that in a moment's notice that someone can become very ill or an accident can happen and we need someone who can step in immediately. Ms. DelFranco has all those abilities.

One of the most amazing things that I know about Judi is that she has the capacity to learn something very, very quickly. Over 10 years ago I bought a computer. To this day, if I'm having a problem, I can call her on a moment's notice and she can tell me what it is. I've given up trying to run my computer. It's Judi DelFranco or my daughters who come to my rescue. I think anyone who can do this type of work deserves a position here because I know many of us are not as computer literate as we should be. For all these reasons, I think she should be second in command. I know that she's carried out her duties over the years, behind the scenes many times, but always valued and always trusted. Thank you.

THE PRESIDENT: The Senator from Somerset, Senator Hatch has nominated Judith DelFranco of Fairfield for the office of Assistant Secretary of the Senate of the 121st Legislature. Is there a second? The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Madame President, I second the nomination and wish to speak to my motion.

THE PRESIDENT: The Senator from Androscoggin, Senator Douglass, has seconded the nomination of Judith DelFranco of Fairfield for the office of Assistant Secretary of the Senate of the 121st Legislature. The Senator may proceed.

Senator **DOUGLASS:** Madame President, women and men of the Senate. It's my great pleasure to second the nomination of Judi DelFranco as Assistant Secretary of the Senate. She served as our web master and she's a master of many technical operations that go on behind the scenes here. She keeps our Senate humming and I don't think I need to sing her praises further. So I will ask you simply to join with me in electing her Assistant Secretary of the Senate.

On motion by Senator **TREAT** of Kennebec, nominations ceased and one ballot was cast on the part of the Senate in favor of **JUDITH M. DELFRANCO** of Somerset County for the Office of Assistant Secretary of the Senate of the 121st Legislature, pursuant to the Rules of the Senate.

This being done, **JUDITH M. DELFRANCO** of Somerset County was duly elected Secretary of the Senate of the 121st Legislature, pursuant to the Rules of the Senate.

JUDITH M. DELFRANCO of Somerset County took and subscribed to the oaths of office required by the Constitution to qualify her to discharge her duties as Assistant Secretary of the Senate, pursuant to the Rules of the Senate.

The Governor withdrew from the Senate Chamber. (Amid applause, the Members rising.)

On motion by Senator **GAGNON** of Kennebec, the following Senate Order:
S.O. 4

ORDERED, that a committee of seven be appointed by the President to whom the returns of votes for Senators for the political years of 2003 and 2004 shall be referred for examination and report.

Off Record Remarks

At this point a message was received from the House of Representatives, borne by Representative DUPLESSIE of Westbrook informing the Senate that the House had organized by the choice of Representative PATRICK COLWELL, of Gardiner, as Speaker of the House, MILLICENT M. MACFARLAND, of Augusta, as Clerk of the House, and DAVID C. SHIAH, of Bowdoinham, as Assistant Clerk of the House of the 121st Legislature and was ready to transact such business as might come before the House.

Off Record Remarks

Out of order, the Senate considered the following:

ORDERS

Senate Order

On motion by Senator **TREAT** of Kennebec, the following Senate Order:
S.O. 2

ORDERED, that a message be sent to the House of Representatives proposing a Convention of the two branches of the Legislature in the Hall of the House, for the purpose of electing a Secretary of State for the political years 2003 and 2004, a State Treasurer for the political years 2003 and 2004, and an Attorney General for the political years 2003 and 2004 at 2:00 in the afternoon.

READ and PASSED.

The President appointed the Senator from Kennebec, Senator **TREAT**, to deliver the message to the House of Representatives. The Sergeant-at-Arms escorted the Senator from Kennebec, Senator **TREAT**, to the House of Representatives.

Subsequently, the Senator from Kennebec, Senator **TREAT**, reported that she had delivered the message with which she was charged.

Senate at Ease.

Senate called to order by the President.

At this point a message was received from the House of Representatives, borne by Representative RICHARDSON of Brunswick informing the Senate that the House concurred with the proposition for a Convention of the two branches of the Legislature to be held in the Hall of the House at 2:00 in the afternoon for the purpose of electing a Secretary of State for the political years 2003 and 2004, a State Treasurer for the political years 2003 and 2004, and an Attorney General for the political years 2003 and 2004.

Off Record Remarks

Out of order, the Senate considered the following:

ORDERS

Senate Order

On motion by Senator **WOODCOCK** of Franklin, the following Senate Order:
S.O. 12

ORDERED, that the Senate shall request the Supreme Judicial Court to review the disputed ballots from the election held in November 2002 to determine the Senator from Maine Senate District 16 and to issue an advisory opinion to the Senate as to how the disputed ballots should be counted: either for Christopher G. Hall or for Leslie T. Fossel or as indeterminable.

READ and PASSED.

On motion by Senator **TREAT** of Kennebec, the Senate **RECONSIDERED** whereby the Senate Order was **PASSED**.

The same Senator moved to **INDEFINITELY POSTPONE** the Senate Order.

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

Senator **TREAT:** Thank you, Madame President. This order would send to the Supreme Judicial Court the question as to who won the election in Senate District 16. Maine law is very clear. No one but the Senate has the authority to determine the winner and seat its member ultimately. Twice in the past 2 weeks the Maine courts have reiterated that this is the law; first in a Superior Court decision of November 25th, Fossel v. Dan A. Gwadosky and in the November 25th opinion of the justices of the Supreme Judicial Court responding to the questions propounded by the Executive. Asking the question a third time will simply try the patience of the court. It will get the same response from them. It is truly a waste of time. I believe we have things to do here. The campaign is over and we really need to get to work. I would appreciate your supporting my motion of indefinite postponement.

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

Senator **DAVIS:** Thank you very much, Madame President. I would ask that you vote against the pending motion. I see nothing in the statutes that says that the Maine State Senate cannot ask the court for an advisory opinion. I think that would be a very proper avenue. There is nothing in the law that says we can't do that. I feel we should. Thank you very much.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#6)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK

ABSENT: Senators: MAYO, YOUNGBLOOD

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **TREAT** of Kennebec to **INDEFINITELY POSTPONE, PREVAILED.**

On motion by Senator **WOODCOCK** of Franklin, the following Senate Order:
S.O. 13

ORDERED, that, pursuant to the Maine Revised Statutes, Title 21-A, section 739, the Senate shall direct the Secretary of State to produce all disputed ballots from the election held to determine the Senator from Maine Senate District 16. The disputed ballots must be produced within 24 hours of the passage of this order; and be it further

ORDERED, that the Secretary of the Senate shall make the disputed ballots available for public inspection after taking measures to ensure that the ballots can not be tampered with while in possession of the Senate.

READ.

Senator **TREAT** of Kennebec moved to **INDEFINITELY POSTPONE** the Senate Order.

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. Since 1914, Maine has adopted the so-called 'Australian' or secret ballot. The right to vote privately and also to keep that vote private once it is cast is fundamental to our election process. For this reason, Maine law is very clear. Title 21-A, MRSA Section 22, subsection 2, states that ballots are not public records and may be inspected only in accordance with this Title. Violation of this law is a Class E crime. Maine law does give the Senate Committee on Senatorial Vote the right to inspect the ballots and to review the actual documents.

As recently as this past spring, this procedure was followed. It is a very open and public process. It is very fair, but is also respectful of the voters' right to privacy and the need to secure the integrity of the ballot. I ask that you support my motion of indefinite postponement.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#7)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK

ABSENT: Senators: MAYO, YOUNGBLOOD

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **TREAT** of Kennebec to **INDEFINITELY POSTPONE, PREVAILED.**

ORDERS

Senate Orders

On motion by Senator **TREAT** of Kennebec, the following Senate Order:
S.O. 3

ORDERED, that the Senate Rules of the 121st Legislature are as follows:

121st LEGISLATURE Part 1 General Provisions

Rule 101. Title of Senator. The President, when speaking to any member of the Senate, and the members, when referring to each other in debate, shall use in their addresses the title of Senator, and by way of distinction name the county in which the Senator resides.

Rule 102. Lobbyists banned from member's desk. At no time may a registered lobbyist be at the desk of any member. A registered lobbyist may not directly initiate communication with any member in the Senate chamber while the Senate is in order, except that a registered lobbyist may send a note to a member through the Senate chamber staff requesting that the member meet with the lobbyist at the back row of chairs in the Senate.

Rule 103. Election of Senate Officers.

1. **Officers of Senate.** The Senate shall elect the officers of the Senate: the President, the Secretary and the Assistant Secretary.

Part 2 President and President Pro Tempore

Rule 201. Duties and powers of the President. The President shall:

1. **Take the chair; reading of journal.** Take the chair at the time to which the Senate has adjourned and, after the appearance of a quorum, cause the journal of the preceding day to be read;

2. **Address the Senate.** Address the Senate when speaking;

3. **Appointments.** Appoint all committees, a Sergeant-at-Arms, an Assistant Sergeant-at-Arms, a President Pro Tempore to perform the duties of the Chair during the President's absence and chamber staff, unless the Senate otherwise directs. Name a Senator to perform the duties of the President when the President Pro Tempore is absent. The President may rescind these appointments at any time;

4. **Authenticate enacted bills and resolves finally passed.** Authenticate by the President's signature bills that have passed to be enacted and resolves that have finally passed;

5. **Bills in Second Reading & Engrossed Bills.** Appoint the Committee on Bills in the Second Reading and the Committee on Engrossed Bills. Each committee consists of 4 members. Any one member of either committee constitutes a quorum of that committee. The Revisor of Statutes is the clerk of the Committee on Bills in the Second Reading

6. **Committee on Conduct & Ethics.** Appoint a Committee on Conduct and Ethics, which is comprised of 5 members.

7. **Enforce order and decorum.** Enforce the observance of order and decorum;

8. **Decide questions of order.** Decide questions of order without debate within 7 legislative days;

9. **Questions and declaration of votes.** Rise to put a question and declare all votes, but if any Senator doubts the vote, all those voting in the affirmative, when called upon by the President, shall indicate electronically how they wish to be recorded or rise and stand until they are

counted, and also those in the negative, in like manner, as directed by the President, to make the vote certain;

10. **Vote.** Vote in all cases, unless excluded by interest;

11. **Appoint legal counsel.** Appoint legal counsel;

12. **Make appointments required by law.** Make appointments as required by law;

13. **Appoint Temporary Secretary and Assistant Secretary.** -Appoint a temporary Secretary of Senate and a temporary Assistant Secretary of the Senate to fill any vacancy that may occur in those offices while the legislature is not in session and to serve until the Senate elects a Secretary or Assistant Secretary.

Rule 202. Duties of the President Pro Tempore. The President Pro Tempore shall:

1. **Preside over the Senate.** Preside at the time to which the Senate has adjourned when the President is absent;

2. **President assumes office of Governor.** When the President assumes the office of Governor, exercise the powers and duties of the office of President until the vacancy in the Senate created by the President's succession to the office of Governor is filled, the Senator so elected is seated and a President is elected.

Part 3 Secretary

Rule 301. Duties of the Secretary. The Secretary shall:

1. **Presiding officer.** Preside until a President Pro Tempore is chosen when the President and President Pro Tempore are absent.

2. **Numbering of bills and resolves.** Number any bills and resolves in the order in which they are reported by the Committee on Bills in the Second Reading, and enter them upon the calendar in that order;

3. **Messages.** Carry all messages from the Senate to the House and to the Governor unless the Senate directs some other mode of transmission. All papers must be transmitted to the Governor, the House, and the Secretary of State under the direction of the Secretary or the Assistant Secretary;

4. **Senate order or joint order.** Forward a copy of each Senate order or joint order requiring action by any department, bureau, commission, board or agency of the State that is passed by both chambers of the Legislature to the department, bureau, commission, board or agency immediately after the adjournment of the legislative day in which the order was passed by the concurring chamber of the Legislature;

5. **Questions of order.** Enter on the journal the decision on a question of order; and

6. **Appoint Staff.** The Secretary is authorized to appoint sufficient staff to attend to the duties of the office of the secretary of the Senate and the proper operation of the Senate. Appointment may be rescinded at any time

7. **Salary and benefits of Senate employees.** Certify vouchers of the officers and employees of the Senate to the Executive Director of the Legislative Council.

Salary and benefit information regarding Senate employees is public information and when requested must be provided within a reasonable time by the Secretary of the Senate.

Rule 302. Duties of the Assistant Secretary of the Senate. The Assistant Secretary works under the direction of the Secretary. The Assistant Secretary of the Senate shall perform the duties of the Secretary when the Secretary is not present at a legislative session and assist in the management of the Secretary's office.

Part 4 Members

Rule 401. Rights and duties of members. Members of the Senate have the following rights and duties.

1. **Member may not speak.** A Senator may not address the Senate until recognized by the President. When a Senator speaks, the Senator shall stand in the Senator's place and address the President.
2. **Speak more than 3 times.** If there is objection, a Senator may not speak more than once on a question to the exclusion of any other Senator without leave of the Senate. If the Senator is the mover of the matter under debate, then the Senator may speak 3 times without leave.
3. **Duty to vote.** Every Senator who is present shall vote unless excused by the Senate, or excluded by interest. The President may excuse from voting members who are absent from the chamber to conduct legislative business or for other extraordinary occasions.
4. **Roll call.** Once the Secretary of the Senate commences with a roll call, all Senators must remain seated until the vote has been announced.
5. **Question put to vote.** A Senator may not speak on a question after it is put to vote.
6. **Pairing of votes.** A member who is absent by leave of the presiding officer and who has notified the presiding officer of the member's intent to pair the member's vote may join in voting for or against a measure with another member present at the time of the vote who stands on the opposite side of the question, provided that the absent member has submitted in writing the request for pairing and has received approval in writing by the President. The vote of the absent member and the member with whom that member is paired does not become part of the total number of votes causing passage or rejection of the measure.
7. **Present bill.** Members or members-elect who present a bill, resolve or a petition shall place their signatures on the bill, resolve or petition and a brief descriptive title of its contents.
8. **Exchange seats.** Members of the Senate may exchange seats with permission of the President.
9. **Absent from Senate.** A member may not be absent from the Senate without leave, unless there is a quorum left present.
10. **Paid representative.** A member of the Senate may not act as a paid representative for any party before the Legislature or any legislative committee.

Part 5 Proceedings and Debates

Rule 501. Motion to adjourn. A motion to adjourn must always be first in order, and it must be decided without debate.

Rule 502. Motions and concurrence. The following rules apply to motions and questions of concurrence with the House.

A. When a question is under debate, a motion may not be received except a motion:

- To adjourn;
- To reconsider;
- To lay on the table;
- To commit;
- To amend; or
- To postpone indefinitely.

These motions have precedence in the order in which they are arranged.

Questions of concurrence or otherwise with the House have precedence over each other in the following order:

- 1st. To recede;
- 2nd. To concur;
- 3rd. To insist; or
- 4th. To adhere.

Rule 503. Consideration of motion. A motion must be reduced to writing, if desired by the President or any Senator, and is then considered to be in possession of the Senate, to be disposed of by the Senate, but the mover may withdraw it at any time before a decision or any amendment is made to it.

Rule 504. Germaneness. An amendment must be germane to the proposition under consideration. An amendment proposing to establish a general provision of law upon a private and special bill or beyond the second degree is not in order.

Rule 505. Printing and distribution of amendments. An amendment to a bill or resolve may not be acted upon by the Senate until the same has been printed and distributed to the members under the direction of the Secretary of the Senate, unless the amendment bears the recommendation of the Committee on Bills in the Second Reading that the printing be dispensed with. All amendments filed with the Secretary of the Senate for printing must bear the signature of the member filing the amendment.

Rule 506. Reconsideration. A proposed amendment may be amended before it is adopted, but not afterwards, unless the vote adopting it is first reconsidered.

When a motion has been made and carried in the affirmative or negative, it is in order for any member of the Senate who voted with the prevailing side, or in the negative on a tie vote, to move to reconsider on the same or succeeding day. A motion to reconsider may not be tabled unassigned. When a motion for reconsideration has been decided, the vote may not be reconsidered. A motion to reconsider is not in order more than once on the same question. Notwithstanding the provisions of this rule, any member may move for reconsideration of a committee reference on the floor. A majority vote is necessary to overturn the original committee of reference.

When a member of the Senate moves or gives notice of intention to move a reconsideration of any vote, the papers to which the motion relates remain in possession of the Secretary until the question of reconsideration has been decided, or the right to move the question is lost. All matters acted upon must be held in the Senate for at least 30 minutes after adjournment unless sent forthwith or held for reconsideration by a member.

A motion to reconsider takes precedence over all other questions except a motion to adjourn. However, if a motion to reconsider is made while another question is pending, the motion to reconsider may only be entered and may not be put until the other question is disposed of.

Rule 507. Questions of order. If an appeal of a decision of the President on a question of order is taken, the question of order may be debated like other questions.

Rule 508. Question divided. A question containing 2 or more propositions capable of division must be divided whenever desired by any member.

Rule 509. Papers read once. Every paper must be read once at the table before any Senator is obliged to vote on the paper. If a Senator objects to a reading of a paper that has already been read to the Senate, the Senate must determine the question.

Rule 510. Second reading. All bills and resolves in their second reading must be committed to the Committee on Bills in the Second Reading to be examined and corrected.

After the Committee on Bills in the Second Reading has reported to the Senate that its examination and correction of a bill or resolve has been completed and that bill or resolve has been read by the Secretary, any member of the Senate may request that the bill or resolve be read and considered by paragraphs. This request may only be made before the question is put

on passage of that bill or resolve. A bill or resolve may not have a second reading unless a time not less than one hour after the first reading is assigned for the second reading.

A resolve of any kind, or an order making any grant of money, lands, or other public property may not be passed without being read on 2 several days; the time for the second reading must be assigned by the Senate.

Rule 511. Enactment of engrossed bills. A bill or resolve may not pass to be engrossed until the bill or resolve has had 2 readings. All bills and resolves, immediately after being engrossed, must be committed to the Committee on Engrossed Bills to be examined; if found by the committee to be truly and strictly engrossed, and before any bill is passed to be enacted or any resolve is finally passed, the title of the bill or resolve must be read. The President of the Senate may order any bill or resolve to be engrossed upon its introduction to the Senate.

Rule 512. Order of business. After the reading of the journal, the following is the order of business:

1st. House Papers. House papers;

2nd. Messages and documents. Messages and documents from the Governor, heads of departments and others;

3rd. Documents requiring reference to committee. Reception of petitions, bills and resolves requiring reference to any committee;

4th. Orders. Orders;

5th. Reports of Committees. Reports of committees;

6th. Second readings. Bills and resolves reported by the Committee on Bills in the Second Reading;

7th. Bills and resolves; enactment or passage. Bills on their passage to be enacted, and resolves on their final passage; and

8th. Orders of the day. Orders of the day.

Rule 513. Calendar. Bills and resolves are taken up for their second reading and passage to be engrossed, or other disposition, in the order that they stand on the calendar. If a bill or resolve, after it is put on the calendar, is laid on the table, and no time is assigned for its further consideration, then the bill or resolve must go to the foot of the calendar. Papers from the House, concerning which there has been a disagreeing vote of the 2 chambers, must be disposed of before commencing with the calendar. This rule does not apply to or interfere with motions to reconsider, or special assignments or other privileged questions.

Rule 514. Transact business. Business may not be transacted after the hour of 9:00 p.m. without the affirmative vote of 2/3 of the members present and voting.

Rule 515. Roll call. A roll call must close no more than 30 minutes after the call was commenced. When the yeas and nays are taken, the names of the Senators must be called alphabetically.

A roll call may be requested while the result of a division is being announced.

Rule 516. Unfinished business. The business that was unfinished in the Senate at the time of the last adjournment has precedence in the orders of the day.

Rule 517. Notice to Senate. The President shall give the Senate notice before an engrossed bill or resolve may be sent to the House.

Rule 518. Dispensation of rule or order. A rule or order may not be dispensed with, except by the consent of 2/3 of the members present.

Rule 519. Amendment, adoption or repeal of rule. Notwithstanding Rule 518, after the convening of a first regular session and before the 3rd Friday in January, any amendment to the Senate Rules proposed by a Senate order may be adopted by a majority vote of the members present, except that if the amendment has already failed to be adopted during that session, it may be adopted only if, upon reconsideration, it receives the approval of 2/3 of the members present.

Rule 520. Rules of parliamentary practice. The rules of parliamentary practice comprised in "Mason's Manual of Legislative Procedure" or any other standard authority, govern the Senate in all cases in which they are applicable and in which they are not inconsistent with the standing rules of the Senate or of the joint rules of the 2 chambers.

Rule 521. Impeachment. Prior to final action by the Senate on any paper initiating any impeachment proceeding under the Constitution of Maine, Article IV, Part First, Section 8; Article IV, Part Second, Section 7; and Article IX, Section 5, and prior to final action by the Senate on any paper initiating any address proceeding under the Constitution of Maine, Article IX, Section 5, the Secretary of State shall furnish members of the Senate with copies of the 1986 report to the 112th Legislature on impeachment and address.

Rule 522. Committee of the whole. The Senate may at any time, upon motion, by a vote of a majority of the members present, resolve itself into a committee of the whole for the purpose of considering any subject named in the motion. The President shall appoint a chair. If a message is announced while the Senate is in this committee, the President shall resume the chair for the purpose of receiving the message; immediately after which the committee shall proceed, until dissolved in the usual manner.

Rule 523. Line-item veto. When a bill or resolve is returned by the Governor with any dollar amount disapproved pursuant to the Governor's line-item veto power, the Senate shall act upon the disapproved item or items within 5 calendar days, excepting Sundays, of receiving the bill or resolve from the Governor or within the remaining balance of time available after receiving the bill or resolve from the House.

READ and PASSED.

On motion by Senator **DAVIS** of Piscataquis, the following Senate Order:
S.O. 5

ORDERED, that the Secretary of the Senate be authorized to invite the clergy to officiate as Chaplains of the Senate as requested by any member of the Senate; and be it further

ORDERED, that all clergy acting as Chaplains of the Senate shall receive \$25 for each officiation. The same is to be approved by the Secretary of the Senate.

READ and PASSED.

On motion by Senator **DAVIS** of Piscataquis, the following Senate Order:
S.O. 6

ORDERED, that all Bills and Resolves carrying or requiring an appropriation or involving a loss of revenue that are in order to be passed to be enacted, or finally passed, shall, at the request of a member of the Committee on Appropriations and Financial Affairs, be placed on a special calendar to be called up for consideration only by a member of the Committee.

READ and PASSED.

On motion by Senator **WOODCOCK** of Franklin, the following Senate Order:
S.O. 7

ORDERED, that all Bills and Resolves carrying or requiring an appropriation of highway revenue or involving a loss of highway revenue that are in order to be passed to be enacted, or finally passed, shall, at the request of a member of the Committee on Transportation, be placed on a special calendar to be called up for consideration only by a member of the Committee.

READ and PASSED.

On motion by Senator **GAGNON** of Kennebec, the following Joint Order:
S.O. 15

ORDERED, the House concurring, that the President of the Senate is authorized, at his or her discretion, to permit radio or sound television film or live television, or any two or three of these communication media, on the floor of the Senate while the Senate is in session.

READ and PASSED.

Joint Order

On motion by Senator **LaFOUNTAIN** of York, the following Joint Order:
S.P. 1

ORDERED, the House concurring, that the Joint Rules of the 120th Maine Legislature shall be the Joint Rules of the 121st Maine Legislature.

READ and PASSED.

Ordered sent down forthwith for concurrence.

Out of order, the Senate considered the following:

COMMUNICATIONS

The Following Communication: S.C. 3

**BUREAU OF CORPORATIONS, ELECTIONS AND COMMISSIONS
DEPARTMENT OF THE SECRETARY OF STATE**

December 2, 2002

Honorable Pamela L. Cahill
Secretary of the Senate
3 State House Station
Augusta, ME 04333-0003

Dear Secretary Cahill:

At the conclusion of the recount for State Senate District 16 and subsequent review of disputed ballots on November 25, 2002, the final count was as follows:

Leslie T. Fossel	8,884
Christopher G. L. Hall	8,893
Disputed Ballots	44

In addition, there were four ballots that were challenged in Jefferson on Election day. Because there are enough disputed ballots to affect the result of the election, the Maine Constitution, in Article IV, Part Second, Section 5, and Part Third, Section 3, provides that the Maine Senate shall

be the ultimate judge of the election of its member. Pursuant to 21-A MRSA Section 737-A(10), the Senate shall establish procedures for appeals of disputed Senate elections.

The State Police are in custody of the materials related to this election. The disputed ballots are segregated in their own tamper-proof container and can be provided to you separately from the remainder of the ballots and other materials if that is your preference.

Please contact me at 624-7734 at your earliest convenience to make arrangements for the transmittal of the recount materials.

Sincerely,

S/Julie L. Flynn
Deputy Secretary of State
2002 Special Election Recount Supervisor

READ and with accompanying papers **REFERRED** to the Committee on **SENATORIAL VOTE**.

The Following Communication:

S.C. 2

STATE OF MAINE

Office of the Secretary of State

December 4, 2002

To the President of the Senate in the One Hundred and Twenty-first Legislature:

I, DAN A. GWADOSKY, Secretary of State, in accordance with the Constitution and laws of the State of Maine, having tabulated the returns of the votes cast for State Senators at the General Election held on the fifth day of November in the year Two Thousand and Two;

REPORT AS FOLLOWS; that the following named persons having received a plurality of the votes cast, appear to have been elected:

District 1

CONNORS-CARLSON, SHIRLEE, St. John Plantation 3,339
MARTIN, JOHN L., Eagle Lake 9,033

District 2

DUNLEAVY, JAMES P., Presque Isle 2,925
KNEELAND, RICHARD, Easton 5,165

District 3

CLUKEY, DEAN F., Houlton 5,656
STANLEY, STEPHEN S., Medway 6,071

District 4

BARNETT, RALPH E., Brookton Twp. 4,794
SHOREY, KEVIN L., Calais 6,517

District 5

DAMON, DENNIS S., Trenton 8,493
HART, RICHARD DAVIS, Surry 1,438
PINKHAM, WILLIAM D., Lamoine 7,086

District 6

FISHER, CHARLES D., Brewer 7,306
YOUNGBLOOD, EDWARD M., Brewer 7,893

District 7

CATHCART, MARY R., Orono 9,880

District 8

DAVIS, PAUL T. SR., Sangerville 10,882

District 9

MOONEY, THOMAS E., Bangor 5,273

SAWYER, W. TOM JR., Bangor 6,471

District 10

MITCHELL, BETTY LOU, Etna 12,481

District 11

BROOKS, JOSEPH E., Winterport 5,657

OUTERBRIDGE, OLIVER, Belfast 2,100

WESTON, CAROL, Montville 7,228

District 12

PAKULSKI, STEFAN MATTHEW, Rockland 6,514

SAVAGE, CHRISTINE R., Union 9,134

District 13

HATCH, PAMELA H., Skowhegan 6,255

QUINN, LYNDA N., Skowhegan 5,743

District 14

GAGNON, KENNETH T., Waterville 8,132

STURK, BARRY, Belgrade 4,323

District 15

DAGGETT, BEVERLY C., Augusta 6,908

MADORE, DAVID R., Augusta 5,864

District 16

FOSEL, LESLIE T., Alna 8,896

HALL, CHRISTOPHER G. L., Bristol **8,898

District 17

MCGRANE, GARY T., Jay 4,784

WOODCOCK, CHANDLER E., Farmington 8,612

District 18

NEWMAN, F. DOUGLAS, Hallowell 6,850

TREAT, SHARON, Farmingdale 8,846

District 19

CHIPMAN, DAVID I., Harpswell 7,043

MAYO, ARTHUR F. III, Bath 8,616

District 20

BLAIS, KENNETH, Litchfield 7,143

CHIZMAR, PAUL, Lisbon 6,499

District 21

ROTUNDO, MARGARET R., Lewiston 7,020

STONE, ROBERT D., Lewiston 3,047

District 22

DOUGLASS, NERIA R., Auburn 7,418

POTVIN, RONALD W., Auburn 5,838

District 23

EDMONDS, BETHEDA, Freeport 8,400

VIGUE, GUY J., Yarmouth 7,410

<u>District 24</u>	
BRYANT, BRUCE, Dixfield	6,834
CAMERON, ROBERT A., Rumford	6,822
<u>District 25</u>	
BENNETT, RICHARD A., Norway	11,632
<u>District 26</u>	
TURNER, KARL W., Cumberland	10,617
TURNER, KATHRYN N., Raymond	8,155
<u>District 27</u>	
BRENNAN, MICHAEL, Portland	9,667
NOBLE, FLOWER HINCKLEY, Portland	1,260
VAMVAKIAS, SALLY G., Falmouth	7,227
<u>District 28</u>	
LAMBERT, ROBIN D., Portland	3,081
STRIMLING, ETHAN, Portland	8,750
<u>District 29</u>	
GILMAN, CAROLYN M., Westbrook	7,932
O'GARA, WILLIAM B., Westbrook	7,533
<u>District 30</u>	
BOUDREAU, LINDA R., South Portland	7,422
BROMLEY, LYNN, South Portland	9,217
<u>District 31</u>	
DELL'OLIO, MICHAEL J., Scarborough	6,066
DOLGON, FREDERICK, Old Orchard Beach	1,013
PENDLETON, PEGGY A., Scarborough	9,791
<u>District 32</u>	
HAGGETT, ROBERT D., Biddeford	5,651
LAFORTUNE, DOROTHY, Biddeford	1,813
LAFOUNTAIN, LLOYD P. III, Biddeford	8,187
<u>District 33</u>	
CARPENTER, DAVID L., Sanford	8,169
DUPRE, ELIZABETH C., Sanford	4,842
<u>District 34</u>	
MCALEVEY, MICHAEL J., Waterboro	6,858
NASS, RICHARD A., Acton	8,254
<u>District 35</u>	
DEATER, LARRY M., Kittery	5,495
LEMONT, KENNETH F., Kittery	9,764

** At the conclusion of the recount, the vote was as follows: Fossel, Leslie T. 8884; Hall, Christopher G.L. 8893.

At this time 44 ballots remain in dispute and there are 4 challenged ballots. Therefore, the outcome of the election is not yet determined.

I, DAN A. GWADOSKY, Secretary of State, hereby certify that the foregoing report is a true tabulation of the votes cast for State Senators at the General Election, as reported to me on the returns from the cities, towns and plantations of the State.

S/Dan A. Gwadosky
Secretary of State

READ and **REFERRED** to the Committee on **SENATORIAL VOTE**.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

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

ORDERS

Senate Order

On motion by Senator **WOODCOCK** of Franklin, the following Senate Order:
S.O. 11

ORDERED, that, pursuant to the Maine Revised Statutes, Title 21-A, section 737, subsection 10, the Senate shall form a committee to advise the Senate of the properly elected candidate representing Maine Senate District 16 in the 121st Legislature. The committee consists of 7 members, appointed as follows:

1. Three Senators, appointed by the Senate leader of the Democratic Party;
2. Three Senators, appointed by the Senate leader of the Republican Party; and
3. One member who is not a Senator, appointed by mutual agreement of the Senate leaders of the Democratic and Republican parties; and be it further

ORDERED, that the committee shall convene in an expeditious manner to examine thoroughly issues relevant to the election, to propose resolution of those issues and to determine the properly elected candidate. The committee may take all actions necessary to determine the properly elected candidate, including requesting and viewing the disputed ballots, and shall make such recommendations to the full Senate that the committee considers appropriate.

READ.

Senator **TREAT** of Kennebec moved to **INDEFINITELY POSTPONE** the Senate Order.

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. I ask that you support my indefinite postponement motion.

I believe that this particular order is unconstitutional. It asks that a non-Senator sit on a Senatorial committee and cast a vote as to who was elected in District 16. The Committee on Senatorial Vote is a Senate committee. It dates back, as I have mentioned previously several times, to our earliest years. It has always been a 7 member committee comprised of members of the Senate. That has been true regardless of which party held the majority in this body. It should continue to be so. Again, I ask for your support on my motion.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#8)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK

ABSENT: Senators: MAYO, YOUNGBLOOD

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **TREAT** of Kennebec to **INDEFINITELY POSTPONE, PREVAILED.**

ORDERS

Joint Orders

On motion by Senator **DAVIS** of Piscataquis, the following Joint Order:
S.P. 2

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, January 7, 2003, at 10:00 in the morning.

READ.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending the motion by Senator **DAVIS** of Piscataquis to **PASS.**

On motion by Senator **TREAT** of Kennebec, the following Joint Order:
S.P. 3

ORDERED, the House concurring, that there be paid to the members of the Senate and the House of Representatives as advances on account of compensation established by statute, 11 payments on a biweekly basis commencing January 8, 2003, according to lists certified to the State Controller by the President of the Senate and Speaker of the House, respectively.

READ and PASSED.

Ordered sent down forthwith for concurrence.

On motion by Senator **TREAT** of Kennebec, the following Joint Order:
S.P. 4

ORDERED, the House concurring, that the Executive Director of the Legislative Council be authorized and directed to prepare weekly, from expense accounts to be submitted to him by the members of the Senate and House, expense rosters showing the entitlement of each member for meals allowance and lodging reimbursement and to obtain approval thereof by the President of the Senate and the Speaker of the House, respectively, and deliver the same to the State Controller for processing and payment, in the manner and form recommended by the Joint Interim Committee of the 101st Legislature created to study and report on a method of implementing the administration of the provision of law relating to the mileage and expenses for members of the Legislature; and be it further

ORDERED, that the Executive Director of the Legislative Council be authorized and directed to provide the forms necessary for such purpose and provide suitable space in his office for the filing and safekeeping of all such expense accounts and other papers and records pertaining thereto.

READ and PASSED.

Ordered sent down forthwith for concurrence.

On motion by Senator **TREAT** of Kennebec, the following Joint Order:
S.P. 5

ORDERED, the House concurring, that telephone service may be provided for each member of the Senate and House, and each Representative from the Indian Tribes at the Legislature, for a reasonable number of calls, of reasonable duration, as determined by the President of the Senate as to members of the Senate and the Speaker of the House as to members of the House of Representatives and Representatives from the Indian Tribes, to points within the limits of the State of Maine. The privilege granted to be a personal privilege not to be exercised by other than the members or representatives, that each member of the Senate and House, and each Representative from the Indian Tribes at the Legislature, may be provided with a prepaid phone card under the direction of the Secretary of the Senate and Clerk of the House, respectively; and be it further

ORDERED, that the President of the Senate or Speaker of the House, may upon a finding of abuse of the privilege of telephone service by a member of the Senate or a member of the House, respectively, temporarily suspend or terminate the privilege of said telephone service to that number.

READ and PASSED.

Ordered sent down forthwith for concurrence.

On motion by Senator **DAVIS** of Piscataquis, the following Joint Order:
S.P. 6

ORDERED, the House concurring, that all printing and binding authorized by the Legislature shall be under the direction of the Secretary of the Senate and the Clerk of the House.

READ and PASSED.

Ordered sent down forthwith for concurrence.

On motion by Senator **GAGNON** of Kennebec, the following Joint Order:
S.P. 7

ORDERED, the House concurring, that the Secretary of the Senate and the Clerk of the House respectively, purchase such services, supplies and equipment as may be needed to carry on the business of the Senate and House, respectively.

READ and PASSED.

Ordered sent down forthwith for concurrence.

On motion by Senator **WOODCOCK** of Franklin, the following Joint Order:
S.P. 8

ORDERED, the House concurring, that a sufficient number of the Legislative Record for the 121st Legislature be printed, one copy for each of the members of the Senate and the House of Representatives who so desires, the Secretary of the Senate and the Clerk of the House. The remainder to be deposited with the State Law Librarian for exchange and library use; and be it further

ORDERED, that suitable index be prepared for such Legislative Record, under the direction of the Secretary of the Senate and the Clerk of the House.

READ and PASSED.

Ordered sent down forthwith for concurrence.

RECESSED until 1:55 in the afternoon.

After Recess

Senate called to order by the President.

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

After Convention

In Senate Chamber

Senate called to order by the President

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

ORDERS

Joint Order

On motion by Senator **TREAT** of Kennebec, the following Joint Order:
S.P. 10

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Wednesday, January 8, 2003, at 4:00 in the afternoon.

READ and PASSED.

Ordered sent down forthwith for concurrence.

Pursuant to Senate Order 4 passed earlier in the day, the Chair appointed the following members to serve on the Senatorial Vote Committee:

Senator **EDMONDS** of Cumberland, Chair
Senator **GAGNON** of Kennebec
Senator **DOUGLASS** of Androscoggin
Senator **BRYANT** of Oxford
Senator **WOODCOCK** of Franklin
Senator **WESTON** of Waldo
Senator **MAYO** of Sagadahoc

Off Record Remarks

ORDERS OF THE DAY

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

JOINT ORDER - relative to Adjourning to Tuesday, January 7, 2003, at 10:00 in the morning.
S.P. 2

Tabled – December 4, 2002, by Senator **MARTIN** of Aroostook

Pending – motion by Senator **DAVIS** of Piscataquis to **PASS**

(In Senate, December 4, 2002, on motion by Senator **DAVIS** of Piscataquis, **READ**.)

On motion by Senator **TREAT** of Kennebec, **INDEFINITELY POSTPONED**.

On motion by Senator **TREAT** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Wednesday, January 8, 2003, at 4:00 in the afternoon.