

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME III**

**FIRST REGULAR SESSION**

**Senate**

December 2, 1992 to May 18, 1993

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

In Senate Chamber  
Thursday  
April 29, 1993

Senate called to Order by the President, Dennis L. Dutremble of York.

Prayer by Reverend Stephen Zarecki of the Wilton/North Jay United Methodist Church in Wilton.

**REVEREND STEPHEN ZARECKI:** Almighty and everlasting God who has brought us safely through the night and into another day, we would pause in these moments at the beginning of our deliberations to remind ourselves that we have in you a love which has no limitations, a peace which cannot be totally understood, a hope which cannot be disappointed, a light which cannot be darkened, a strength which cannot be taken away, a wisdom which cannot be baffled, and great spiritual reservoirs which cannot be exhausted. We come before you thanking you for the many blessings and gifts that this day holds for each of us, that we have the opportunity to work, to grow and to learn, that we have the blessings of our senses that will help us to enjoy the sunshine, the breezes, all of the beauty of your creation, the day's varied gifts and one another. Pour out a rich measure of your blessings on all those assembled here and upon all of their actions. Let your holy spirit direct all the undertakings of this chamber today and every day as they seek to serve in the best ways they can the people of this State and ultimately the larger world. To you, Oh God, we give now this prayer. Amen.

Reading of the Journal of Tuesday, April 27, 1993.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act Concerning School Siting"  
H.P. 999 L.D. 1345

Comes from the House referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **EDUCATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Clarify the Time Frame in Which the Board of Environmental Protection Is to Establish a Numeric Water Quality Criterion for Dioxin"  
H.P. 1002 L.D. 1348

Bill "An Act to Amend the Motor Vehicle Emission Inspection Program"  
H.P. 1005 L.D. 1351

Come from the House referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Regarding Suspension of Maine Guide Licenses"  
H.P. 1001 L.D. 1347

Comes from the House referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**.

Which was referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**, in concurrence.

Resolve, Directing Release of Investigative Records Related to Ballot Tampering (Emergency)  
H.P. 1003 L.D. 1349

Bill "An Act Concerning the Calculation of Periods of Imprisonment"  
H.P. 1007 L.D. 1353

Come from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which were referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Impose Term Limitations on Legislators, Constitutional Officers and the State Auditor"  
I.B. 1 L.D. 751

Bill "An Act to Provide for the Recall of the Governor, State Senators and State Representatives"  
H.P. 1004 L.D. 1350

Come from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Encourage the Use of User Fees Regarding Municipal Solid Waste Disposal" (Emergency)  
H.P. 1000 L.D. 1346

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Abolish the Castine Water District"  
H.P. 1006 L.D. 1352

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

**Pursuant to Public Law  
COMMISSION TO STUDY THE FUTURE OF MAINE'S COURTS**

The **COMMISSION TO STUDY THE FUTURE OF MAINE'S COURTS**, pursuant to public law 1989, chapter 891, part B., ask leave to submit its findings and to report that the accompanying Bill "An Act to Implement the Recommendations of the Commission to Study the Future of Maine's Courts"  
H.P. 1008 L.D. 1354

Be referred to the Committee on **JUDICIARY** for Public Hearing and printed pursuant to Joint Rule 20.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, pursuant to Joint Rule 20.

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

The Bill referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, pursuant to Joint Rule 20, in concurrence.

**COMMUNICATIONS**

The Following Communication: S.P. 437

**116TH MAINE LEGISLATURE**

April 28, 1993

Senator Joseph C. Brannigan  
Rep. William B. O'Gara  
Chairpersons  
Joint Standing Committee on Transportation  
116th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Deborah H.S. Cianchette of Saco for appointment to the Maine Turnpike Authority.

Pursuant to Title 23, MRSA Section 1965, this nomination will require review by the Joint Standing Committee on Transportation and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble  
President of the Senate

S/John L. Martin  
Speaker of the House

Which was **READ** and referred to the Committee on **TRANSPORTATION**.

Sent down for concurrence.

The Following Communication: S.P. 438

**116TH MAINE LEGISLATURE**

April 28, 1993

Senator Judy A. Paradis  
Representative Sharon A. Treat  
Chairpersons  
Joint Standing Committee on Human Resources  
116th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Marlene McMullen-Pelsor of South Portland for appointment as the Director of the Office of Substance Abuse.

Pursuant to Title 5, MRSA Section 20006, this nomination will require review by the Joint Standing Committee on Human Resources and confirmation by the Senate.

Sincerely,  
S/Dennis L. Dutremble  
President of the Senate  
  
S/John L. Martin  
Speaker of the House

Which was **READ** and referred to the Committee on **HUMAN RESOURCES**.

Sent down for concurrence.

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**SENATE PAPERS**

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)  
S.P. 434 L.D. 1344

Presented by Senator **CONLEY** of Cumberland  
Cosponsored by Representative: COTE of Auburn  
Submitted pursuant to the Maine Revised Statutes, Title 1, section 94.

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Sent down for concurrence.

---

Bill "An Act to Establish a New Method of Workers' Compensation"  
S.P. 436 L.D. 1368

Presented by Senator **VOSE** of Washington  
Cosponsored by Representative: TOWNSEND of Eastport

Which was referred to the Committee on **LABOR** and **ORDERED PRINTED**.

Sent down for concurrence.

---

Resolve, to Clear Title to Land Owned by James Mercier in Unity, Maine  
S.P. 433 L.D. 1343

Presented by Senator **GOULD** of Waldo  
Cosponsored by Representative: CLEMENT of Clinton  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Resolve, to Grant an Easement from the Maine Technical College System to Darling's, Incorporated to Construct and Use an Access Road on the Campus of Eastern Maine Technical College

S.P. 435 L.D. 1367

Presented by Senator **BALDACC** of Penobscot (GOVERNOR'S BILL)

Which were referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

---

Bill "An Act Related to the State Valuation of the Town of Mexico" (Emergency)

S.P. 432 L.D. 1342

Presented by Senator **LUTHER** of Oxford  
Cosponsored by Representative: CAMERON of Rumford  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Sent down for concurrence.

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**COMMITTEE REPORTS**

**House**

**Ought to Pass**

The Committee on **EDUCATION** on Resolve, to Continue the Commission to Study the Feasibility of a Capital Cultural Center (Emergency)

H.P. 747 L.D. 1014

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

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

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

The Resolve **READ ONCE**.

The Resolve **TOMORROW ASSIGNED FOR SECOND READING**.

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The Committee on **LEGAL AFFAIRS** on Bill "An Act Concerning Property Tax Payment by Owners of Mobile Homes"

H.P. 557 L.D. 754

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

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

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

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

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**Ought to Pass As Amended**

The Committee on **BANKING & INSURANCE** on Bill "An Act Authorizing Maine Banks to Export Certain Credit Terms"

H.P. 230 L.D. 298

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-175).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-175).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-175) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

---

The Committee on **BANKING & INSURANCE** on Bill "An Act Clarifying the Laws Limiting Insurance Charged to Credit Cards"

H.P. 267 L.D. 345

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-174).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-174).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-174) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **BANKING & INSURANCE** on Bill "An Act Clarifying Identification of Financial Institution Off-premise Facilities"

H.P. 580 L.D. 784

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-173).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-173).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-173) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

---

The Committee on **BANKING & INSURANCE** on Bill "An Act to Amend Laws Related to Dependent's Group Life Insurance Coverage"

H.P. 628 L.D. 848

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-172).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-172).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-172) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

---

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to License Flight Nurses within the Emergency Medical Services System" (Emergency)

H.P. 210 L.D. 272

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-179).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-179).

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-179) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

---

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend Certain Provisions of the Maine Emergency Medical Services Act of 1982"  
H.P. 674 L.D. 912

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-180).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-180).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-180) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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The Joint Select Committee on **CORRECTIONS** on Bill "An Act to Revise the Correctional Facility Board of Visitors Laws"  
H.P. 212 L.D. 274

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-186).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-186).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-186) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

---

The Committee on **HOUSING & ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Laws Governing the Task Force on Defense Realignment and the Economy" (Emergency)  
H.P. 194 L.D. 257

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-177).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-177).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-177) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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The Committee on **HUMAN RESOURCES** on Bill "An Act to Assist Policy Makers in Establishing Health Care Policy"  
H.P. 287 L.D. 374

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-189).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-189).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-189) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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The Committee on **HUMAN RESOURCES** on Resolve, to Maximize the Availability of Federal Financing of Services for Families and Children (Emergency)  
H.P. 450 L.D. 576

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-188).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-188).**

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

The Resolve **READ ONCE.**

Committee Amendment "A" (H-188) **READ** and **ADOPTED**, in concurrence.

The Resolve as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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The Committee on **LEGAL AFFAIRS** on Bill "An Act to Increase the Penalties for Littering"  
H.P. 608 L.D. 823

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-181).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-181).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-181) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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The Committee on **TAXATION** on Bill "An Act to Clarify the Laws Relating to Property Tax Abatements"  
H.P. 283 L.D. 370

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-182).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-182).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-182) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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The Committee on **TRANSPORTATION** on Bill "An Act to Amend the Motor Vehicle Laws"  
H.P. 482 L.D. 619

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-183).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-183).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-183) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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The Committee on **TRANSPORTATION** on Resolve, to Direct Elected and Appointed Officials of the State to Work to Maintain Canadian Atlantic Railway Service through the State (Emergency)  
H.P. 661 L.D. 899

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-184).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-184).**

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

The Resolve **READ ONCE.**

Committee Amendment "A" (H-184) **READ** and **ADOPTED**, in concurrence.

The Resolve as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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The Committee on **TRANSPORTATION** on Bill "An Act to Authorize the Operation of Articulated Buses on Maine Highways"  
H.P. 679 L.D. 921

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-185).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-185).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-185) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**



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

**COMMUNICATIONS**

The Following Communication:

**COMMITTEE ON UTILITIES  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

April 28, 1993

The Honorable Dennis L. Dutremble  
President of the Senate of Maine  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 116th Maine Legislature, the Joint Standing Committee on Utilities has had under consideration the nomination of Thomas L. Welch of Harrisburg, PA, for appointment as the Chair of the Public Utilities Commission.

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

- YEAS: Sen. 3 Vose of Washington, Cleveland of Androscoggin, Carpenter of York
- Rep. 8 Clark of Millinocket, Holt of Bath, Kotos of Windham, Cashman of Old Town, Donnelly of Presque Isle, Morrison of Bangor, Aikman of Poland, Taylor of Cumberland
- NAYS: 1 Rep. Adams of Portland
- ABSENT: 1 Rep. Coffman of Old Town

Eleven members of the Committee having voted in the affirmative and one in the negative, it was the vote of the Committee that the nomination of Thomas L. Welch of Harrisburg, PA, for appointment as the Chair of the Public Utilities Commission be confirmed.

Signed:

S/Harry Vose  
Senate Chair

S/Herbert E. Clark  
House Chair

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

**THE PRESIDENT:** The Joint Standing Committee on Utilities has recommended the nomination of Thomas L. Welch of Harrisburg, PA be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Utilities be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 116th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEAS: Senators None

NAYS: Senators AMERO, BALDACCI, BEGLEY, BERUBE, BRANNIGAN, BUSTIN, BUTLAND, CAHILL, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, CONLEY, ESTY, FOSTER, GOULD, HANDY, HANLEY, HARRIMAN, KIEFFER, LAWRENCE, LUDWIG, LUTHER, MARDEN, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, SUMMERS, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

ABSENT: Senators HALL, WEBSTER

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and none being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Thomas L. Welch, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Off Record Remarks

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass**

Senator **MCCORMICK** for the Committee on **BANKING & INSURANCE** on Bill "An Act to Amend the Medicare Supplement Insurance Regulatory Program" (Emergency) S.P. 337 L.D. 1011

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

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING.**

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Off Record Remarks

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**Ought to Pass As Amended**

Senator **MCCORMICK** for the Committee on **BANKING & INSURANCE** on Bill "An Act to Change or Clarify Language in the Maine Insurance Code Relative to Procurement of Surplus Lines Insurance and Pertaining to Licensing Procedures in Order to Provide for a More Efficient Regulatory System"

S.P. 273 L.D. 837

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-93).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-93) **READ** and **ADOPTED.**

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

---

Senator **LAWRENCE** for the Committee on **EDUCATION** on Bill "An Act Requiring School Suspension or Expulsion in Cases Involving Dangerous or Concealed Weapons"

S.P. 287 L.D. 857

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-86).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-86) **READ** and **ADOPTED.**

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

---

Senator **PINGREE** for the Committee on **HOUSING & ECONOMIC DEVELOPMENT** on Bill "An Act to Protect the Future of the United States Naval Shipyard at Kittery" (Emergency)

S.P. 114 L.D. 315

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-90).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-90) **READ** and **ADOPTED.**

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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Senator **CONLEY** for the Committee on **JUDICIARY** on Bill "An Act to Amend the Statutory Provisions Governing the Time and Method of Paying Restitution"  
S.P. 176 L.D. 590

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-89).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-89) **READ** and **ADOPTED.**

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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

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**Divided Report**

The Majority of the Committee on **FISHERIES & WILDLIFE** on Bill "An Act Regarding the Baiting of Animals"

S.P. 260 L.D. 798

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-87).**

Signed:

Senators:

LUTHER of Oxford  
HALL of Piscataquis

Representatives:

FARREN of Cherryfield  
GREENLAW of Standish  
JACQUES of Waterville  
NICKERSON of Turner  
ROTONDI of Athens  
SWAZEY of Bucksport  
TRACY of Rome

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

Signed:

Representatives:

CLARK of Millinocket  
HEINO of Boothbay

Which Reports were **READ**.

The Majority **OUGHT TO PASS AS AMENDED** Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-87) **READ** and **ADOPTED**.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Provide Flexibility in Establishing Payroll Schedules for Municipal Employees" S.P. 148 L.D. 480

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

Signed:

Senators:

HANDY of Androscoggin  
LUTHER of Oxford

Representatives:

COFFMAN of Old Town  
CLEMENT of Clinton  
CHASE of China  
ST. ONGE of Greene  
SULLIVAN of Bangor  
RUHLIN of Brewer

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-91)**.

Signed:

Senator:

BEGLEY of Lincoln

Representatives:

CARR of Sanford  
LINDAHL of Northport  
AIKMAN of Poland  
LIBBY J D of Buxton

Which Reports were **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later Today's Session, pending **ACCEPTANCE** of Either Report.

**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Amend the Occupational Disease Law" S.P. 216 L.D. 687

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-92)**.

Signed:

Senators:

HANDY of Androscoggin  
LUTHER of Oxford

Representatives:

RUHLIN of Brewer  
CLEMENT of Clinton  
CHASE of China  
COFFMAN of Old Town  
SULLIVAN of Bangor  
ST. ONGE of Greene

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

Signed:

Senator:

BEGLEY of Lincoln

Representatives:

CARR of Sanford  
AIKMAN of Poland  
LINDAHL of Northport  
LIBBY J D of Buxton

Which Reports were **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

**Divided Report**

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act Related to Mobile Home Parks" S.P. 112 L.D. 313

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

Signed:

Senators:

CAREY of Kennebec  
HALL of Piscataquis

Representatives:

DAGGETT of Augusta  
GAMACHE of Lewiston  
STEVENS of Sabattus  
BENNETT of Norway  
ROBICHAUD of Caribou  
TRUE of Fryeburg  
NASH of Camden

The Minority of the same Committee on the same subject reported that the same **Ought to Pass**.

Signed:

Senator:

HANDY of Androscoggin

Representatives:  
 MICHAEL of Auburn  
 BOWERS of Washington

**House**

Bill "An Act to Authorize Modifications to Tolls on the Maine Turnpike"  
 H.P. 582 L.D. 786

Which Reports were **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

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

**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act Concerning the Mandatory Use of Car Safety Seat Belts"

S.P. 155 L.D. 486

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-88)**.

Signed:

Senators:  
 BRANNIGAN of Cumberland  
 PARADIS of Aroostook  
 GOULD of Waldo

Representatives:  
 PLOURDE of Biddeford  
 BAILEY of Farmington  
 DRISCOLL of Calais  
 MELENDY of Rockland  
 BAILEY Township 27

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

Signed:

Representatives:  
 STROUT of Corinth  
 HUSSEY of Milo  
 RICKER of Lewiston  
 MARTIN of Van Buren

Which Reports were **READ**.

Senator **BRANNIGAN** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

**SECOND READERS**

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

**House As Amended**

Bill "An Act to Extend to Land Surveyors the Limitation of Actions That Applies to Design Professionals"

H.P. 44 L.D. 60  
 (C "A" H-154)

Bill "An Act to Increase the Effectiveness of Child Support Enforcement"

H.P. 108 L.D. 150  
 (C "A" H-144)

Bill "An Act to Change the Scallop Harvesting Season"

H.P. 117 L.D. 158  
 (C "A" H-146)

Bill "An Act Concerning Court Approval of Minor Settlements"

H.P. 205 L.D. 267  
 (C "A" H-155)

Bill "An Act to Define Farmers' Market"

H.P. 265 L.D. 343  
 (C "A" H-168)

Bill "An Act Related to Common Nuisances"

H.P. 273 L.D. 351  
 (C "A" H-163)

Bill "An Act to Amend the Charter of the North Berwick Water District" (Emergency)

H.P. 275 L.D. 353  
 (C "A" H-148)

Bill "An Act to Allow Service of Protective Orders on Sunday"

H.P. 367 L.D. 470  
 (C "A" H-156)

Bill "An Act to Require Judges to Consider the Desirability of Financial Forfeitures"

H.P. 379 L.D. 492  
 (C "A" H-157)

Bill "An Act to Continue the Maine Dairy Farm Stabilization Act"

H.P. 381 L.D. 494  
 (C "A" H-169)

Bill "An Act Relating to the Theft of Utility Services"

H.P. 427 L.D. 546  
(C "A" H-158)

Bill "An Act to Clarify the Laws Related to Debt Collectors and Repossession Companies"

H.P. 470 L.D. 607  
(C "A" H-167)

Bill "An Act to Facilitate the Conduct of Business of the Maine Technical College System" (Emergency)

H.P. 508 L.D. 666  
(C "A" H-164)

Bill "An Act to Establish the Town Line between Vassalboro and China"

H.P. 634 L.D. 865  
(C "A" H-165)

Resolve, Approving the 1993 Draft and Arrangement of the Constitution of Maine Made by the Chief Justice of the Supreme Judicial Court and Providing for its Publication and Distribution (Emergency)

H.P. 726 L.D. 985  
(C "A" H-166)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

**Senate As Amended**

Bill "An Act to Improve Access to Maine's Veterans' Homes" (Emergency)

S.P. 41 L.D. 53  
(C "A" S-84)

Bill "An Act to Continue Certain Provisions of the Seed Certification Laws That Encourage the Development of New Varieties"

S.P. 175 L.D. 589  
(C "A" S-85)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

**ENACTORS**

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

**Emergency**

An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act

S.P. 320 L.D. 973  
(S "A" S-71 to H "B" H-135; H "A" H-77)

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

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

**PAPERS FROM THE HOUSE**

**Pursuant to Constitution  
LEGISLATIVE APPORTIONMENT COMMISSION**

The **LEGISLATIVE APPORTIONMENT COMMISSION**, pursuant to the Constitution of Maine, Article IV, Part Third, Section 1-A, ask leave to submit its findings and to report the accompanying Bill "An Act to Apportion the State's Senate, House of Representatives and Congressional Districts"

H.P. 883 L.D. 1197

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-191) AS AMENDED BY HOUSE AMENDMENT "C" (H-216)** thereto and **HOUSE AMENDMENT "B" (H-192)**.

Which Report was **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Report.

**ENACTORS**

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

An Act to Encourage the Recycling of Tires from Municipal Landfills

H.P. 209 L.D. 271  
(C "A" H-123)

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

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Amend the Hunting Laws"  
H.P. 228 L.D. 296  
(C "A" H-99))

In Senate, April 8, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-99)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-99) AS AMENDED BY HOUSE AMENDMENT "A" (H-208)** thereto, in **NON-CONCURRENCE**.

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

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

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on **AGRICULTURE** on Bill "An Act to Clarify the Process of Resolving Nuisance Complaints Involving Agriculture"

H.P. 386 L.D. 499

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-187)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-187) AS AMENDED BY HOUSE AMENDMENT "A" (H-205)** thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-187) **READ**.

House Amendment "A" (H-205) to Committee Amendment "A" (H-187) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-187) as Amended by House Amendment "A" (H-205) thereto **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

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

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on **HUMAN RESOURCES** on Bill "An Act to Clarify the Role of the Child Abuse and Neglect Councils"

H.P. 664 L.D. 902

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-190)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-190) AND HOUSE AMENDMENT "A" (H-206)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-190) **READ** and **ADOPTED**, in concurrence.

House Amendment "A" (H-206) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

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

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Senator **CARPENTER** of York was granted unanimous consent to address the Senate off the Record.

Senator **PARADIS** of Aroostook was granted unanimous consent to address the Senate off the Record.

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Off Record Remarks

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

After Recess

Senate called to order by the President.

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Off Record Remarks

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**ORDERS OF THE DAY**

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

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Provide Flexibility in Establishing Payroll Schedules for Municipal Employees"  
S.P. 148 L.D. 480

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-91)**

Tabled - April 29, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, April 29, 1993, Reports **READ**.)

Senator **HANDY** of Androscoggin moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. [Due to technical difficulties, all of Senator Begley's remarks were not recorded.]...I definitely want to point out that the Bill itself wants the flexibility and that is the issue I think comes before us at all times and that we should be giving those management and labor people the right to make decisions. Thank you.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Just yesterday in the Bangor Daily News there was an article announcing that the City of Old Town, reluctantly I guess, agreed to change the valuation of the most major taxpayer in the City of Old Town, James River Corporation, by over a million dollars. I went home yesterday to Old Town and the City if faced on the municipal side with trying to cut \$600,000 plus from its budget and the school department is being asked to do the same thing all at once. I offered my services as somebody who might know something about cutting budgets and I suggested to the City Manager, who is sitting in the back of the chamber right now, from the City of Old Town several ideas. One of them was I asked him do you pay weekly. Yes, they pay weekly. I asked him if they could go bi-weekly, they could save some money. He said they wanted to but they couldn't by this legislation pending. I came back down late last night and began to search for that legislation and lo and behold it's on the calendar today. Consequently I just want you to know that we are going to be scrambling as best as we know how in Old Town to try not to have taxes go up, and it's been predicted they might go up by as much as 28%, if we couldn't find some ways to make some savings. This is a small way but it is one that I would like to be able to have the City of Old Town's administrators have as one of their tools. Thank you.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The flexibility that the two previous members speak of is currently available to them in the existing statute. The existing statute allows for employees to be a partner in the decision of how they are paid. The City administrator that the good Senator from Penobscot, Senator Pearson, refers to apparently is not intimately knowledgeable on the law. The law currently says that they can, with the consent of their employees, come up with any configuration in terms of their payroll schedule. The flexibility is already there. The Bill is not necessary and furthermore the issue of morale for employees, if they're not involved in a process such as that and not getting their paychecks on a weekly basis, could be potentially devastating. So I would urge you to support the motion of Ought Not to Pass. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The flexibility question, again, comes as to whether the law says or not. One of the amendments to the Bill also states that an employee who finds it not to his liking has a right to go to the municipality and insist on his pay under one of the amendments. The major point, however, is that most of the municipalities that I know are very concerned about the possibility of giving them this opportunity because it will save property taxes. Thank you.

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

Senator **LUTHER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The reason that I am on this Ought Not to Pass is because when my husband worked in the paper mill and he got a week's vacation, that week was paid simultaneously with the

week he worked and it always ended up that we paid more taxes because he had earned more money. It seems like a poor thing to do to people who are hourly paid, who expect to be paid every week. They'll not only get paid now every two weeks, but they will also lose some money. Now maybe they'll get it back in tax refunds and maybe they won't. Most people raising families need their money and they need it weekly. Thank you.

Senator **BEGLEY** of Lincoln requested a Division.

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

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

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I appreciate the need for saving money and I think there is an element to this Bill that escapes us all. Understanding that employee morale has a great deal to do with how efficient these towns and State government and everything else works, I've had personal experience with this sort of thing. It has been my experience that the employee morale was much more important and efficient than saving the few bucks you can save in paying people every other week. The point is that you can do that, and you can make it a win win situation with a town, if you make it a voluntary thing where the employees get with management and agree that they will accept payment every two weeks. If they will do that then you don't have a morale problem but if, in fact, you impose it on the employees and take the right away from them to choose which they are going to have I think you are going to pay dearly in employee morale. For that reason I would ask you to support the motion of Ought Not to Pass. Thank you.

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

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. At the request of the Maine Municipal Association I introduced the measure. It was put in simply as a cost saving measure because many municipalities could save money, I am told, by saving on the cost of printing the checks and the labor involved if they paid biweekly. Currently they can pay biweekly with the permission of the employee, this way they could do it biweekly and if they wanted to negotiate a three week or four week then they could do so with the employee involved. Federal employees are paid once a month, State employees, as you know, are paid every other week, the elderly receive their Social Security checks once a month and I can appreciate the morale problem. However, if many people can live with money coming in every other week or every four weeks I think we're saying that our municipal employees are no less capable of living every two weeks with money coming in then others who live that way. If it is a cost savings measure to the municipality, we're all looking for ways to save money without going to the well once again which is known as the taxpayers pocket, if this is a way to do it then maybe we should try it. Thank you.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To paraphrase

the Dartmouth College piece, Old Town is just a little town but there are those of us who love it and it is estimated that if we are able to go to biweekly pay we would be able to save as much as \$20,000 a year. We're talking right now about the possibility of turning out street lights in order to save money in a quick fashion to bring our budget into order with the sudden dropoff of funds that the town has. Thank you.

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

Senator **FOSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Before I became a member of the Legislature I served as Mayor of the City of Ellsworth for three years. I think I come from a good, strong municipal background. I think this is something that is needed. It does not say, in any way, that they shall be paid weekly, there is an escape clause for anyone who does not want to. Therefore, you are giving municipalities the very same privilege of other people. I think it is very wrong to deny that to municipal governments who, at this time, are facing budget crisis. I want you to know, from one who has been there, you are tying their hands. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **HANDY** of Androscoggin, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

**YEAS:** Senators **BALDACCI, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

**NAYS:** Senators **AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, PEARSON, SUMMERS, WEBSTER**

**ABSENT:** Senator **HALL**

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **HANDY** of Androscoggin, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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



HOUSE REPORT - from the LEGISLATIVE APPORTIONMENT COMMISSION pursuant to the Constitution on Bill "An Act to Apportion the State's Senate, House of Representatives and Congressional Districts"

H.P. 883 L.D. 1197

Tabled - April 29, 1993, by Senator ESTY of Cumberland.

Pending - ACCEPTANCE of Report

(In Senate, April 29, 1993, Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-191) AS AMENDED BY HOUSE AMENDMENT "C" (H-126) thereto and HOUSE AMENDMENT "B" (H-192).)

(In House, April 28, 1993, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-191) AS AMENDED BY HOUSE AMENDMENT "C" (H-216) thereto and HOUSE AMENDMENT "B" (H-192).)

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

Senator HANLEY: Thank you Mr. President, Ladies and Gentlemen of the Senate. Parliamentary inquiry please.

THE PRESIDENT: The Senator may pose his inquiry.

Senator HANLEY: Thank you Mr. President, Ladies and Gentlemen of the Senate. The Parliamentary inquiry is whether or not the Legislative Document before us, L.D. 1197, is the Commission Plan of the Reapportionment Commission of the 116th Legislature or is it the Legislature's plan? I ask this because of Article IV, Part First of Maine's Constitution, Section 3 which says "the Legislature shall enact the submitted plan of the Commission or a plan of its own by a vote of two thirds of the members of each house".

THE PRESIDENT: The Chair has heard the parliamentary inquiry and the Chair will rule that the Senate is acting on the Commission plan as presented to this Legislature by the members of the Commission. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator HANLEY: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose another parliamentary inquiry.

THE PRESIDENT: The Senator may pose his inquiry.

Senator HANLEY: Thank you Mr. President, Ladies and Gentlemen of the Senate. Is the Bill as amended properly before us? I raise this question based on Article IV of Maine's Constitution, part Second, Section 2, which states "in the preparation of legislation implementing the plan, the Commission, following a unanimous decision by Commission members, may adjust for errors and inconsistencies in accordance with the standards set forth in this Constitution so long as substantive changes are not made. The Legislature shall enact the submitted plan of the Commission or a plan of its own."

THE PRESIDENT: The Chair would rule that the plan submitted by the Commission is properly before the Legislature and that the Legislature is, indeed, amending the Commission plan. It is the ruling of this Chair that the courts will have to decide whether or not that is the case..

THE PRESIDENT: The pending question before the Senate is ACCEPTANCE of Report.

Senator WEBSTER of Franklin requested a Division.

On motion by Senator HANLEY of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is ACCEPTANCE of the Report.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEAS: Senators BALDACCI, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

NAYS: Senators AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER

ABSENT: Senator HALL

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

House Amendment "A" (H-191) READ.

House Amendment "C" (H-216) to House Amendment "A" (H-191) READ.

Senator HANLEY of Oxford moved the INDEFINITE POSTPONEMENT of House Amendment "C" (H-216) to House Amendment "A" (H-191).

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator HANLEY of Oxford to INDEFINITELY POSTPONE House Amendment "C" (H-216) to House Amendment "A" (H-191) in NON-CONCURRENCE.

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators AMERO, BEGLEY, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER

**NAYS:** Senators BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

**ABSENT:** Senator HALL

14 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **HANLEY** of Oxford, to **INDEFINITELY POSTPONE** House Amendment "C" (H-216) to House Amendment "A" (H-191) in **NON-CONCURRENCE, FAILED**.

House Amendment "C" (H-216) to House Amendment "A" (H-191) **ADOPTED**, in concurrence.

On motion by Senator **HANLEY** of Oxford, Senate Amendment "A" (S-95) to House Amendment "A" (H-191) **READ**.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Is this amendment effectively enacting what the Republican caucus, during the redistricting commission, proposed as their Senate 35X plan?

**THE PRESIDENT:** The Senator from York, Senator Lawrence has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would answer in the affirmative.

Senator **LAWRENCE** of York moved the **INDEFINITE POSTPONEMENT** of Senate Amendment "A" (S-95) to House Amendment "A" (H-191).

On motion by Senator **CAHILL** of Sagadahoc, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The amendment before you is, in fact, what the Republicans consider

our Minority Report from the Apportionment Commission. In the deliberations for the past nearly five months, since we were first put together as a Commission on December 5, we, in following the criteria set out in the Constitution, to maintain as low a deviation as possible between districts, to keep those districts compact and contiguous, and to preserve the integrity of political subdivisions, that was the criteria that we followed. That criteria is outlined in the Constitution. Where the difference was, and specifically in the Senate plan between the Democratic caucus and the Republican caucus was that when we read the Constitution that states we must protect political subdivisions, we read political subdivisions to include municipalities and county boundaries. That is the big difference between the Bill before you and this amendment which would strike everything out. Both Bills, I must admit, have fairly low deviations. Both Bills, and I'm only talking about the Senate plan, only cut one municipality they didn't have to, and that's the municipality of Scarborough. Both districts, in the criteria of compact, is subjective, it's basically in the eye of the beholder although the courts have said, if you follow compactness and political subdivisions that by its very nature it would make a district more compact. The bottom line is the two plans that have been presented, the Democrats plan for the Senate maintains eighteen Senate districts within one county, it has eleven districts which are within two counties, and it has six districts which are within three counties. The Republican plan, on the other hand, has twenty-one Senate districts which are entirely within one county, it has eleven Senate districts which are within two counties, and only three Senate districts which are within three counties.

We believe, the Republican members of the Reapportionment Commission, that in following the Constitution we were required to maintain as nearly as practical the protection of the political subdivision lines along with keeping the low deviation. The amendment before you does that, it surpasses that which was adopted by the Democratic party and for that reason and for us to uphold the oath upon the Constitution I would request that you vote against the motion to Indefinitely Postpone so that we can adopt this Senate Amendment. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Before we get heavily involved in this debate I do want to express my appreciation to the Republican members of the Apportionment Commission. I found the process we went through to be a difficult one, to be a tough one, requiring many long hours, many heated debates, but we did, throughout it maintain a friendly balance with one another and I recall the night before the Commission adopted its plan when negotiations broke down and we all, six or so of us, sat around staring at each other as if what do we do next. We all had a nice conversation about politics in Maine and about the history of Maine and I truly enjoyed that experience and I want to thank my Republican colleagues for that. During that debate of redistricting a memory out of my past came to my mind from my grandmother who used to come up to us with incredible quotes. One time she made the quote, she said when she thought I was losing sight of an objective she said, "Mark, I don't think you can see the forest because of the leaves". She used to take normal statements that you and I would take and

change them. She used to say "Whatever goes around goes up and down", what that meant I will never know. I once got caught eating with my fingers at the table and she told my mother "You know Evelyn, fingers were made before people" and it took me a while to figure that one out and I still don't know what she meant. My grandmother, who we actually called Nana, was a very special person in my life and she passed away when I was in college and it wasn't until I went back to help my mother move her things out that I discovered something about my own family history. In moving things out of my grandmother's room we found a box of postcards that she had collected over her life. There was one postcard in there that was addressed to a Rose Marie Grenier in Brewer and it was addressed from someone called Isaiah. They came from a town called Coaticook, Quebec and it was addressed to his niece and told how he was travelling from Coaticook, Quebec over to Brewer to visit his niece Rose Marie Grenier. It was all written in french and it was kind of an interesting thing for me to try to translate it, having only had three years of french. I asked my mother what this was doing in my grandmother's things and she said Rose Marie Grenier was your grandmother's mother. I said how come you never told me that, how come you never told us that we had franco-american blood in our family. She said my grandfather came from northern Maine too and in his world, his world, it was not a good thing to be a franco-american. He refused and would not allow my grandmother to tell anyone through her lifetime that she was married to him, that she was franco-american. This history of Maine is not a pretty one. During the redistricting I was reading a history of politics in New England, where they talked about the politics in New England, they talked about the importance of the franco-american vote in Maine. It was written in 1959 and they talked about the redistricting then. In the redistricting then, if we think we have bad deviations now, in the redistricting then between the smallest House district and the largest House district was two and a half times difference. Meaning the smallest House district was almost a third the size of the largest House district. In the Senate the difference was 4.7. 4.7 was the difference in the size of the districts. The large districts were primarily concentrated in the cities where the franco-american voters were in order to decrease their influence in the Legislature.

The franco-american voters in the State of Maine have had an importance, have been recognized by both Republican and Democratic writers. When I was in college I had the privilege of being taught by a professor named Christian P. Potholm, who is a person who advised Senator William Cohen on his first campaign. I recently read in an alumni magazine where he wrote an article and was talking about that campaign, I'll just read you a line from it. Professor Potholm says "For me it is also established that the franco-american vote is a most important ingredient in a successful strategy for either a candidate or a ballot measure in Maine." The reason why I raise this, and the reason why I bring it up at this point is because the plan put forward in the amendment, this amendment we have before us offered by the Senator from Oxford to undo what was done, not by the Democrats, but was a compromise proposal by the neutral Chair of the Commission. This amendment would, in effect, move Franco-Americans in this State into political ghettos, into certain Senate districts in order to concentrate their strength and thereby weaken their strength in the State Legislature. This Senate plan is the one referred to as Senate plan X

and the Senator from Oxford has said it is. It moves the towns and the cities of Waterville and Winslow together, it moves the two cities of Biddeford and Saco together, it puts the St. John Valley all in one district. These are heavily franco-american areas in this State. The attempt of this plan is to move them all into one district, in certain districts, in order to decrease their votes, in order to decrease their influence in this body. That is the reason why I could not support this plan, that is the reason why I could not go with this plan even though the neutral plan presented by the judge, the Chair of the Commission, was not what we, as Democrats in our caucus, liked. We accepted it because it maintained a fair political balance in this State.

If you look back at the first redistricting the law courts did in 1972, they followed a redistricting that balanced fairly the political, ethnic, and cultural differences in this State. They split up those very communities I was talking to you about. They split up Waterville and Winslow, they split up Biddeford and Saco, they split up the St. John Valley, and there was a reason for that and the reason for that was to find a fair political balance in the State. This amendment that's being offered does not do that. This amendment that's being offered sensibly follows the criteria established by the Commission but tries to achieve a political objective that is not acceptable to me. The plan of the redistricting Commission follows the same criteria and achieves a fair political balance. That is why, in memory of my grandmother and in memory of my grandfather and the history of this State, I cannot support what is being offered here today in this Senate Amendment. I urge you to vote against this and Indefinitely Postpone it. Thank you.

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

Senator **AMERO:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I want to concur with the Senator from York in his comments on the ability of all Commission members to respect each other, or most I would say anyway. I would also like to comment from the perspective of a new member of the Senate having the opportunity to serve on the Reapportionment Commission. I'd like to give you a few of my views, given the background that I come from. I was a Government major in college. The first organization that I joined after college was the League of Women Voters. I'd like to think that I come to this Chamber with a background in what constitutes good government. I'd like to be able to say today that the reapportionment process has some pieces of good government involved in it. I'm afraid that I do not find that there is any similarity to what I think good government should be and what happens in a Reapportionment Commission. I guess I have to share with you my reasons why. Today is the first opportunity that the Minority members of the Commission have had to share their Minority Report with the rest of the Commission, I feel fortunate that we are being allowed today to make that presentation. It is the first time that the Minority Report is being viewed by other members of the Commission. Let me tell you how the Commission plan came to be voted upon. The Commission was called to a meeting at five minutes before midnight on April 1, remember we had a deadline of meeting our responsibilities by voting on a plan by midnight of April 1, the Commission was called to order at five minutes to twelve. A plan was presented at that time, a plan which the Minority members of the Commission had never seen, a plan which we were asked

to vote on, a plan which evidently the neutral Chair had seen but certainly had not shared with the rest of the members of the Commission. So we felt that our hands were tied, it's no wonder we ended up with an eight to seven vote that night, a vote that took place long after midnight, but I guess we could say it was a technicality that the vote didn't take place until after the time that the constitution required. I think that the process that was used was not an open one, personally, I did not feel that I knew what was happening that night, none of the other Minority members of the Commission knew what was happening. We were asked to vote on a plan that we had not seen, we later discovered that that plan had many holes in it, it was not a complete plan, lots of work yet needed to be done, however despite that, the Majority members of the Commission and the neutral Chair decided at twelve fifteen that night to vote for that plan, which was an incomplete plan.

I'd also like to share with you why I think we got to that stage at twelve fifteen on April 2. I think it all started, at least for the Minority Senate members of the Commission, when we proposed a 33 member Senate plan. We were not able to convince our fellow members in the Commission that the 33 plan should be seriously negotiated. The Constitution allows, during reapportionment, for a plan of either 31, 33, or 35 members to be considered. We felt that we were meeting a Constitutional requirement by proposing a 33 plan for consideration. I feel that the Judge, the neutral Chair, erred in not requiring the Democratic members of the Commission to seriously negotiate a 33 member Senate plan and I feel that by not requiring the Commission to deal with our proposal for a 33 plan he tilted the playing field and I think that that led to the breakdown in negotiations and I think it led to stalemate and it led to what I consider the infamous after midnight plan. Thank you.

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

**Senator WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I want to rise today for a couple of points but first I would like to respond to the comments from the Senator from York, Senator Lawrence. I represent a very large area of the State, parts of three counties. I represent a lot of french catholic people, as a matter of fact I am very proud of the fact that I do exceptionally well, I always win a clear majority with those people who don't even happen to belong to my party. The implication that somebody is going to vote either for me or against me because I'm a Republican or Democrat is not appropriate today. Today people vote for the person they think is going to represent them. In places like Jackman and Madison where there are a lot of french catholics Republicans do win if they represent their views. I've done that and I'm proud of that. I want to respond to his comments because I, being a political junkie, I love this process as you all know and I decided on my own that having been involved in the reapportionment process ten years ago that I would be here the last few days and just listen to what happened. I want to share a little historical perspective. Ten years ago when reapportionment was done the same people who are now saying don't put Biddeford and Saco, people who think alike, together, don't do that. Don't put people from Waterville and Winslow, people who think alike, that's what we're talking about ladies and gentlemen, we're talking about putting people in districts that would have someone who thought and could represent their views.

Don't do that we're hearing today. I remember, I'll never forget it, ten years ago when we had always had county lines, that was a factor and perhaps if you live in the populated parts of the State it doesn't matter, but I can tell you it matters to people who live in rural Maine. It matters that they can go to their County seat, their counties are important to them. I remember, I'll never forget this, the argument that we had to put the communities of Jay and Rumford and Mexico together, the reason was these people are all french catholics, they all think alike, they all live in mill towns, they all represent the same view, they all want a voice that would represent them. I remember that because Jay is in Franklin county, the question that I had at the time was shouldn't we keep the counties together. But it was argued no we shouldn't do that because these people think alike. I find it almost ironic and amusing that now we're saying we shouldn't do that. What we should do is think about the people of the State. Now I represent 35,000 people, or whatever the numbers are, and most of the people that I represent do not live in my area. As a matter of fact my first race for the Maine Senate, one of the things that almost defeated me and my Democratic opponent was very clever in the way that he approached it, when I was elected to the Maine Senate it was the first time in the history of the State the people from Somerset county did not have a Senator, did not have someone who lived in their county. Let me assure you that means a lot to people. If you live in Caratunk, Maine, Farmington is not where you look to have someone represent you. If you live in Caratunk, Maine, in Jackman, Maine the newspapers don't even cover Franklin county. Everything centers on the county seat. Perhaps if you live in York county where there is a lot of people, or Cumberland county it's different but let me tell you something, when I go campaigning, and I love to do it, I've done it for as long as I've been here, I knocked on 3400 doors last election and I knocked on doors in Caratunk and West Forks and Bingham and the people said to me, you know Charlie we think you're doing a good job but we wish you lived in our area so that we could know what you are doing down there. So that when we read the newspaper and we get the Somerset edition we would know what the Franklin county Senator was doing. If this Republican plan, presented by the good Senator from Oxford, were to be enacted frankly there would be no Senator from Somerset county because I represent those people now and I live in the other county. I would have a whole new district to run in if I choose to run. Let's talk about what's right for the people of the State. In rural parts of Maine, if you live in Rangely, you don't drive to Skowhegan, you don't drive to Waterville. You go to the county seat and I really believe and I think the Constitution is very clear that those things have to be considered.

When I met with some of the people working on the plan I said put all of Franklin county, Jay, sure Ladies and Gentlemen of the Senate if I run for reelection and Jay is in my district, considering the animosity and the strife and all those things, I won't do very well there. But that doesn't matter, the people in Jay have more in common with the people from our county, our part of the State. It's a factor. People of this State, if you went out and asked them they would say bring back two Senators for every county. That's what they believe and the Constitution is clear. When I listen to arguments from the Senator from York county, Senator Lawrence, they just don't hold water. It's not right. People in this State should have a legislator represent them in this astute body, in this place in Augusta, in the

Senate who understands what their views are, who knows what's going on in their communities. When you take a map like the Commission recommended which literally destroys, if you look at this map that the Senator from Oxford is presenting, it looks like a map of the counties and that's what we should do. I remember when I was here the other night and we had this debate and one of the members of the Commission who doesn't happen to share my party said we don't care about county lines, that doesn't matter, we want to be sure incumbents are protected. I don't care about incumbents, I don't care. As far as I'm concerned if this map is adopted and everyone of us doesn't come back, you know I'm concerned about what's right, what the Constitution wants, and more important, what the people want. The people, and I cannot speak for the populated parts of the State, but I can tell you that if you live in Washington county, if you live in Lincoln county, these are important to rural parts of the State. I think that we ought to be looking at that more than we are. The idea that this is somehow some plan to put all the liberals in one group or all french catholics, is embarrassing, it's embarrassing because it only depends on whether you want to do that or not. Ten years ago certain groups, the Democratic party, wanted to put all the french catholics from Rumford and Mexico and Dixfield and Jay in one district because they said they all think alike and we have to do that. The real reason was because that was a way to be sure that you were going to get a seat. I think we ought to be beginning to look, and I feel very strongly about this, you know it's funny I was over in Bingham a month ago and somebody said to me do something about this, make it so we can have somebody that will represent our views that lives in our area. This is important to people in rural Maine. I think you ought to adopt this plan and let's not listen to this magical, mystical idea that somehow we're trying to take people who are ethnically or religiously, and lump them together. That's a bunch of hogwash because I think that any candidate in this Senate, Republican or Democrat, can be elected anywhere in this State if they are willing to go out and represent the views of those people and that's what's important. I'm proud, extremely proud of the french catholics, the democrats as far as that goes, who vote for me because I represent their views and they don't care whether I am a Republican or a Democrat and that isn't a factor with the people in this State. I'm convinced that if you look at Saco and Biddeford you'll find that those people will vote for a Republican just as well. I don't buy that argument, I think it sounds good if you want it to sound good but it isn't true. I remember ten years ago your thoughts were different then. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I, too, rise in response to the remarks of the Senator from York. Sitting through and listening to those remarks and the remarks of the Senator from Franklin, I can tell you there are several adjectives and whatnot that I thought of that I could use in response to that, but I'll back away from that because I think the Senator from York has taken it straight to the gutter on this, straight to the gutter. I've been chastised in this body before and accused of raw partisan politics, that is nothing but raw, partisan politics and I honestly expected better from that. I'm offended by that remark and that remark is absolutely baseless and it's valueless. Well there is probably some value to it and I would say that the value to

that would probably be if it was spread liberally over some sort of agricultural endeavor, I think that that might be the best spot for those remarks. I hope the members of this body are going to refrain from that type of garbage. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would request that you vote against the motion on the floor to Indefinitely Postpone. I would like to echo the comment made for contiguous other government agencies such as counties. The area that I come from currently encompasses three counties. The proposed amendment would reduce that to two and one of the extreme values is that it would include all of one county, Lincoln, all those towns. It would behoove me in one way to accept the district that I now represent for if we accept the amendment as proposed I will not represent four towns that I am very well known in and have had contact through education. However, those towns now will go back into a county district where, I believe, they have most interest, and that would be Knox county. Insofar as the amendment is concerned and the constitutionality of staying with other governmental boundaries, this amendment does exactly that. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise simply to respond to some of the comments that have been made. In no way should my previous comments be an attack on any particular person in this body. I'm not accusing anyone of anything but I feel if I had sat down and let this plan go by as is we would be doing a great political injustice in this State. The good Senator from Franklin raised a point that was raised during the deliberations by the redistricting Commission on why Rumford, Jay and Mexico were so eagerly sought to be put together. The answer proves the point on why I cannot vote for this proposed amendment to the redistricting plan. Rumford, Jay and Mexico were put together because they made up over 50% of a Senate district. Down in the Biddeford, Saco area, up in the St. John Valley area, you have french catholic voters who represent over the entire amount of one Senatorial district, so the idea is to combine as many of those voters as you can into one district in those areas so you weaken the strength of them as a block voter. I heard the words "putting people together who think alike", when we did our redistricting there were several issues that came up about putting people together who think alike. We, as Democrats on the Commission, went out of our way to protect, to accommodate the Republican incumbents that the Republicans on the Commission wanted accommodated. Specifically the Senator from Cumberland, Senator Butland and the Senator from Cumberland, Senator Harriman who live five miles from each other in communities that think alike. Also the Senator from Cumberland, Senator Amero and the Senator from Cumberland, Senator Summers who live near to each other, and by all rights should go into the same district together, but we went out of our way to protect the Republican incumbents that the Republicans on the Commission protected. I cannot agree to this type of redistricting as proposed. There was talk by a previous speaker that it's a Minority Report coming out here. I want to remind you that on the Commission Republicans and Democrats were represented equally and had equal opportunity to

bring all of their points to the Commission. There were two public hearings on these plans and they talked about not having a time to present their plan that is now presented as Senate Amendment "A". The reason why I asked which plan it was is because it's one that we have seen before, one we had seen a month before this plan was adopted. One that was shown at the public hearing. It had plenty of airing in public and was rejected by the Commission. There was never any attempt to exclude one side from the other, it's impossible to do that when you have an equally balanced commission and a neutral Chair.

The reference has been made to county lines, and there has been all kinds of statistics thrown out. I remember, and I don't have the statistic at my fingertips, but I remember during the discussion one time we discovered this plan crossed county lines four times more than the Commission's plan. Four times more. Out of crossing county lines it was something like thirty or forty times, that's the little difference we're talking about. In fact, I believe the Commission plan has a lower deviation than this plan, or if not, than roughly the same deviation. They are both virtually equal plans. Both plans follow along the criteria set out by the Commission, every person looks at redistricting from their own perspective and I sympathize with the Senator from Franklin for looking at redistricting from his own perspective, and those northern and western counties. Sure they want to follow county lines. Every area looks at it from their own perspective. But we can't redistrict from one person's perspective, we have to do what is best for the entire population of this State. In rejecting this amendment I hope we can move on to adopting a plan that was not presented by the Democrats, it was presented by a neutral Chair that did not do the Democrats any great advantage, did not do the Republicans any great advantage, but did the people of this State a great advantage by adopting a fair political balance in this State. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Some of the comments that the good Senator from York has just made I would like to respond to as far as this Commission plan, as it were, and I would just like to reiterate some of the points that the Senator from Cumberland, Senator Amero, made that, in fact, the Republican members of this Commission had not seen the actual plan for the reapportionment of the Senate that was proposed and motioned by a member of the Democratic caucus. We had not seen this plan, now there seems to be a question as far as exactly how much neutrality there was, or how much exact equal position both caucuses held. In further response to the good Senator from York, as far as the franco-american population, it's my understanding that the franco-american population in the State of Maine equates to nearly 14% of the entire population. The plan as proposed in the Minority Report would create basically five distinctly franco-american seats. Those in the St. John Valley, maintaining the entire valley, those in Biddeford and Saco, Waterville and Winslow, Lewiston and also in the district of Lewiston, Lisbon and Livermore. Five seats out of thirty-five, that's one seventh, or 14%. We have within the plan before you, created equal representation for the population.

The final point I would like to make, and please bear with me because it is going to take awhile, is

the difference between the Republican's perspective of approaching the reapportionment and the Democrat's. The good Senator from York, Senator Lawrence, pointed out that they followed the Commission's criteria. Criteria that the Democrats had typed out and had proposed to the Republicans of which we made revisions. I'd like to direct the Senate's attention to the fact that we, on the other side of the aisle as the Republican caucus, we took a look at the Commission's criteria but that was only secondary. Our first criteria was that outlined in Maine's Constitution and outlined by Supreme Court cases on both the national level and here at the State level. I ask you to please bear with me. Article IV, Part Third, Section 1-A of the Constitution of Maine requires that the Legislature establish "a Commission to develop in accordance with the requirements of this Constitution, a plan for apportioning the House of Representatives, the Senate, or both". Title 21-A of the Maine Revised Statutes, Section 1201, adds the duty of Congressional reapportionment. The equal protection clause of the fourteenth amendment of the U.S. Constitution has been interpreted by the U.S. Supreme Court to require such reapportionments be based on a one person one vote rule. That was outlined in Baker v. Carr in 1962 and in Reynolds v. Simms in 1964. The U.S. Supreme Court's initial entry into the political thicket of State redistricting began in Baker v. Carr. Here the court held that the claims of malapportionment were justifiable by the federal courts by observing the "right to relief under the equal protection clause is not diminished by the fact that the discrimination relates to political rights". Basically the court overruled an entire body of prior precedent which had held that "it is hostile to a democratic system to involve the judiciary in the politics of the people", Colgrove v. Green. The court, in Baker v. Carr, recognized that allowing legislatures to remedy unfairness in legislative apportionment was futile since the condition of inequality complained of benefiting the very officials who were asked to change it. In 1964 the case of Reynolds v. Simms, the court set down the standard definition of its interpretation of the equal protection clause's application to redistricting by State Legislatures in stating that a State must "make an honest and good faith effort to construct districts as nearly of equal population as practicable". The question of voter equality had become the initial test of fairness of a redistricting plan. Although the court in Reynolds v. Simms stated that "mathematical exactness or precision is hardly a workable constitutional requirement it is generally held that reapportionment plans with an aggregate deviation of less than 10% are prima facie in compliance with the fourteenth amendment". The one person one vote rule has therefore been defined as allowing for some flexibility within reasonable deviation, however, clearly the smaller the deviation the closer any given plan is for the one person one vote ideal and, in fact, the plan before you does have a marginally lower deviation than the Commission plan.

This same standard is codified in the Maine Constitution in Article IV, Part First, Section 2 which requires "Each Representative District shall be formed of contiguous and compact territory and shall cross political subdivision lines the least number of times necessary to establish as nearly as practicable equally populated districts." That's the Constitution men and women of the Senate. That's exactly what the Constitution says. We have two plans before you, the deviations are almost exact but yet there is a large discrepancy between the crossing

of political subdivisions, namely county boundaries. As I stated before, the plan before you has twenty-one Senate seats which are entirely within one county. The Democrat's plan only has eighteen. On the other end the Democrat's plan has three more Senate districts which have three counties, in all six Senate districts, which are divided amongst three counties. The Republican plan only has three. The Maine Supreme Court in the 1983 Legislative Apportionment for House, Senate and Congressional Districts in the 1983 case held that to accept they are not inconsistent with the United State's Constitution the above court's Maine standards control the validity of enacted apportionment plan. The Maine Constitution flushes out the one person one vote rule by adding two specific constitutional criteria, respect for political subdivisions and contiguous and compact districts. These standards were actually endorsed in Reynolds v. Simms, "A State may legitimately desire to maintain the integrity of various political subdivisions insofar as possible and provide for compact districts of contiguous territory". The preservation of political subdivisions has been found by the United States Supreme Court to be an appropriate basis of State policy within the one man one vote rule. The Maine Constitution's requirement that district lines cross as few political subdivision boundaries as practicable is not inconsistent with the United States Constitution's requirement and it should be a controlling consideration in enacting an apportionment plan. A controlling consideration. Although the lower court, in the 1983 apportionment case, indicated the constitutional amendment of the 1970's deleting the requirement to follow county boundaries, no longer required strict adherence to those lines in redistricting it did not rule that the Commission should ignore those boundaries, but rather found the deviations in the 1983 plan reasonable. Clearly county boundaries are political subdivision lines within the meaning of the Maine Constitution and therefore the Apportionment Commission, in drafting an apportionment plan, must follow that requirement. Therefore to the extent that one legislative redistricting plan respects political boundaries more than another and also meets the one person one vote rule, it should, no it must be adopted. The third and final standard in drafting a reapportionment plan beyond the one person one vote rule and respecting political subdivision lines is the contiguous and compact standard. This requirement has long been recognized by the courts and judging so-called gerrymandered districts. Specifically Davis v. Van deMeer, a 1986 case which contains a long discussion of gerrymandering and Justice Powell's concurring opinion at 161 through 185, where he notes that in determining contiguousness and compactness for purposes of a gerrymandering claim one of the independent criteria to review is the configuration of the districts as they observe political subdivision lines. In fact the Reynolds v. Simms decision in itself contains the finding that "indiscriminate districting without any regard for political subdivision or natural historical boundary lines may be little more than an open invitation to partisan gerrymandering". The Maine court in its 1983 reapportionment decision also reaffirmed the State's constitutional requirement that districts be comprised of compact and contiguous territory. Again, given any disparity between Democrat and Republican apportionment plan respect for existing political subdivision lines, county lines in particular, is a major factor in arriving at a conclusion of contiguity and compactness. Beyond these three principle requirements the Commission has adopted the rule that it will "consider" the

preservation of the core of existing districts to the extent practicable. This was a substantial amendment from the original proposed redistricting criteria which would have actually required the Commission to "seek" to preserve the core of existing districts without the limitation of the words "to the extent practicable". Clearly the core of existing House and Senate districts are Maine's towns and sixteen counties. In fact, the counties were the total basis for our Senate plans up until the beginning of single member districts in the 1970's.

Arguments that the courts have accepted redistricting plans premised on preserving existing districts and therefore that this Commission should use protection of incumbents as the basis of its rationale neglects a specific constitutional criteria of equal population, maintenance of political subdivision lines and compactness and contiguity. Further, the argument that somehow communities of interest are preserved by maintaining existing districts ignores the question of whether the existing districts themselves properly represent those communities of interest. Counties, as communities of interest, have not become less important over time but rather have become more important due to the gradual assumption of home rule, with the legislature giving up its budgetary authority over them. Further, counties as both the location of courts, Registry's of Deeds and other community services still remain the principal political subdivision of the State above the municipal level. It is likely that there is a stronger community of interest in any given county than in any arbitrary district that can be devised. The Republican members of the Apportionment Commission contend that the U.S. and Maine Constitutions mandate a priority system of standards to be used in adopting this reapportionment plan. The first such priority must be the one person one vote requirement under the equal protection clause. Therefore, to the extent that one proposed reapportionment plan contains a total deviation less than another, it is by far the strongest plan. The second priority is the State constitutional requirement to respect existing subdivision lines. Again, the plan which is more respectful of political subdivision lines clearly is more in compliance with this requirement. Finally the third constitutional requirement is that the districts be contiguous and compact. This can be best met based on legal interpretation that maintenance of political subdivisions by itself creates compact and contiguous districts. These very clear constitutional requirements should be the basis of any reapportionment plan.

For that reason, not for the reasons that change every ten years, that we should keep existing districts, that we should look at communities of interest, but the criteria that has been outlined in Maine's Constitution, in the United States Constitution and interpreted by both our U.S. Supreme Court and our Maine Supreme Court should be ruling and should be the countervailing criteria that this Senate, in upholding its oath of office, use when casting the vote for the plan before you. Thank you.

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Off Record Remarks

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

**Senator PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. When the motion was made and the Roll Call was taken on acceptance of the Committee Report I responded by saying "oui". I did that intentionally because I was aware of the issue of the franco-american districts as posed in the 35X plan. I knew that it would be a topic of discussion. Then the discussion began to proceed and I heard the Senator from Franklin, Senator Webster and the Senator from Cumberland, Senator Summers say, if I remember correctly, it was hogwash, it was garbage, it was not true. Then the Senator Oxford, who was on the Commission got up and said yes we created five franco districts and listed them. One after the other. So you see, it wasn't hogwash and it wasn't garbage at all. It was thought about, it was premeditated that you would chuck all those people who are likely to be in the towns that have the largest amounts of Franco-Americans in the same district. I'd like to also say, Mr. President, that the remarks of the Senator from Oxford, Senator Hanley, are not descriptive of the same Maine that I know. We have counties in Maine, we have extremely weak counties in Maine and everybody who takes political science courses will tell you that of all the places in North America, New England has the weakest county government system and Maine is probably premier amongst them. Our relationships in this State that exist the strongest are between the State and the municipality and between the municipalities themselves. I've been here eighteen years and I know that. I've lived here fifty-one years and I know that, and so does everybody else. Thank you.

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

**Senator CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I've been able to accumulate enough information and ammunition that I might be able to proceed for a little while and then get back to you a little later. The gentlelady from Cumberland, Senator Amero, mentioned that they had not received the plan. I have a notation here that on March 30, Judge Smith's plan was presented, the Senate plan, was presented to both sides. He drafted it, taking into consideration, suggestions and submissions of the public and the Commission members. The plan that's before you today is the Chairman's plan, the impartial member. We supported him without having him go through a grueling experience which he must have had to go through which must have been at least some embarrassment to him and we're lucky he didn't give up. He was interviewed for the job like somebody who was trying to put in for a job someplace, by the Republican members of the Commission. I'm surprised that he stayed with us. When you hear the gentleman from Oxford, Senator Hanley, speak of the boundary lines and the subdivision lines he would have you think that subdivision lines are only county lines. They, in fact if you will look at subdivision ordinances with the State or with the municipalities you will find that the municipalities are also, in fact, subdivisions of the State. The cases that he's quoting you come from the Montana's, the West Virginia's, the Virginia's, the southern States, the western states, where county government is strong. County government up this way really doesn't amount to anything. I will try now to go to some prepared

remarks when I speak about county government. I will try to bring the criteria to you. You have been given a copy of the criteria and when it talked about political subdivisions it said "Due to the State's population, demographics, and geography and the importance and unique role of the municipalities and counties in the political process, including the administration of elections," we're talking at the local level obviously, counties don't hold elections, "the Commission shall use reasonable effort to protect the integrity of municipal and, where possible, county boundaries." It also talks about voting rights, home district rules, compactness, equal protection and when we go to existing districts on the back side of your report, "F. The Commission will consider preservation of the core of existing districts to the extent practicable. The preservation of districts allows for the continuation of representation and the maintenance of constituencies within defined geographic areas." That doesn't mean that I'm going to stand up here and represent them for the rest of my life. It may very well be that the very same people who sent me here may decide that I'm not the person to be here next time. That is made at that decision, but those are the people who will know who is sitting and representing them today and who will be coming up for re-election. That was a part of the process as well.

I have a little thesis here. County lines vs. Municipal lines. The argument brought forth by the Republican members of the Commission that county lines are more important than municipal lines is simply not borne out by the facts. Anyone involved in government at any level is well aware that county government has, for decades, been reduced to taking care of deeds, probate, jails and superior court. I'd be interested in knowing why, in fact, Senator Webster from Franklin, keeps referring to going to the County seat. They may have a good restaurant. There used to be a county attorney, that is now a district attorney. There are still county roads but they are maintained and plowed by municipal government in most cases and in some cases by the state to a lesser degree. The county used to be responsible for bridges, but those are now the responsibility of the State and in some cases they belong to the municipalities. Jails are operated out of the Sheriff's Office to house prisoners who have broken state, state laws, not county laws, there are no county laws, there are municipal ordinances, something the county doesn't have the authority to produce. That's about the extent that county authority goes. As a matter of fact it is interesting to note that right now the counties are having a problem with the State because the State won't pay the bills for the prisoners that are housed in those counties. Municipal government, on the other hand, has home rule authority, operates schools, either independently or through SAD's, they are the ones who get the State's general purpose aid, general assistance, tree growth, open space and farm land, shoreland zoning, subdivision ordinances, land use laws, taxation and property valuation as well as assessing those. A quality that the county cannot do. When the county taxes it taxes the municipality on its State valuation. Veteran's exemptions are handled at the local level, revenue sharing from the State is to the municipalities, State aid for roads, waste management, recycling, Civil Emergency Preparedness, voter registration, power of eminent domain. In addition municipal government deals with the regional planning commissions, State and Federal, all without contact with county government. When you consider State, county and municipal governments roles, it's clear that as far as the State of Maine



is concerned the county government plays a minor role in this mix. Thank you.

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

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It is really, really hard to keep ourselves from speaking in generalities when we keep forgetting we represent a State that is an incredible geographic land mass and a very diverse population. Compactness is not a quality that we will ever be able to attribute to the County. St. John Valleyites would object strenuously to the county seat, located a hundred miles away, accessed by only bad roads, being considered the hub of their lives activities. We have suffered incredibly as a people trying to access the services that the county provides, like the courts. Driving a hundred miles one way for a passport, losing time from work. It would definitely be rubbing salt in the wounds of Madawaska, for example, that pays the highest county taxes and feels they have the least services for that amount of money. My work load here this year has predicated by being here for days on end in my Committee room on the fourth floor of this building. What really has kept me from feeling sorry for myself spending Sundays, Saturdays, early mornings and late evenings here trying to keep up with my workload was that the Democratic reapportionment committee was across the hall from me and it was a constant beehive of activity. You could really tell they were working, crunching, trying to get things to fit right and everything else. Like I said, it made me feel not so put upon by having to work so hard seeing them try to make this thing really work. I screamed silently when I saw my district, for example. I couldn't believe it, but I held my tongue because I really felt that they had put the work in and that they had done the best possible. I think that is why I will not support this. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'll be brief. I feel as though I have to respond to my colleague from Penobscot county, Senator Pearson. I realize that the remarks have been designed to elicit response since the Biddeford-Saco area on this map was one of contention. I refuse to sit here quietly while I'm being accused of having knowledge of lumping Franco-Americans into one district because, and I'm paraphrasing, they think alike. I have never, ever been a party to any such action and the numerous times that I have visited the Republican reapportionment room, those types of remarks were never, ever made. I find that extremely distasteful. I realize that this is a political process, there is no question about that, and shots are taken and I can take the heat just like the rest of you but when you stoop to that level it really reeks of desperation if nothing else. I would suggest the Majority is doing itself a disservice offering those types of remarks, especially on the Record. I won't dignify such remarks again but I think it is very, very important that it's put on the Record that those types of accusations have never been discussed and that has never been a consideration and when the Senator from Penobscot talked about the Senator from Oxford laying out five examples, obviously maybe he was hearing what he wanted to hear at that point and not seeing the forest for the leaves like the Senator from York had

mentioned earlier today. I really hope that we can rise above this because I stand by my statement earlier that it has gone right to the gutter. It's like McCarthyism or something, we're going to paint one party behind the cloak of debate in the Senate and it's pretty distasteful and I'm ashamed to have heard those remarks. Thank you.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I believe that I am clear in my recollection of what I heard. My recollection of what I heard was that there were, by the Senator from Franklin, Senator Webster, and the Senator from Cumberland, Senator Summers, is that there was no franco district created. I don't question whether or not they felt that way or not but then it went on to the next Senator from Oxford, who said they had created five and he listed them. He listed them. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As one member of the Senate who has responsibility to discharge his duties and that is to make a decision on an apportionment plan for the State of Maine, I take those responsibilities seriously. Further, I think it's an injustice to the people of Maine when we, as elected public officials, fail to be able to come up with reasonable compromises to discharge our responsibility and therefore send them to the extreme court of this State to do the business of the people of the State. We were elected to do that, it is our responsibility to undertake this as it is every other and I think that we ought to try diligently to discharge that responsibility and not let the political system in this state be run by the Judicial Department whose responsibility is not to do that, but only will do it if we, in the political system, can't seem to come to an understanding. I have not been not who has been particularly partisan and have voted primarily on the merits of issues and have voted at times with the Minority party here on many occasions and would be prepared to do so again. However, it seems to me the problem that we have is that there is a variety of criteria that is listed. That is trying to honor the one person one vote criteria, trying to make the districts as equal as possible in population, looking at the local subdivisions and the compactness. Those each need to be weighed but obviously there are those who put various weight on some aspects of that than others. I believe that the compromise plan offered by the neutral member, the judge on the Committee, was a compromise. It's not one that I would have personally chosen, it was not the Democratic plan, but I choose to discharge my responsibility to find a plan that could be a compromise, that was reasonable and met most of the criteria as closely as possible. The judges proposal that was accepted by the majority of the Commission is the one that most closely comes to that and the one which I support because of that proposition.

I happen to have had one other opportunity the other members in this body did not have. I had the privilege and honor of serving with Mr. Jack Smith when I was on the Council for the city of Auburn. I was a city councillor and Mr. Smith, Jack, was the Mayor at the time. I found him to be one of the most even handed, fair individuals I have ever met, whose

integrity is beyond reproach. There were a number of occasions when we were on that council, when very difficult decisions came before us, some of them having to deal with some members on the council who had violated the law. He never shirked from his responsibility to do what was right, what was fair under the law. Frankly, I had no idea what political persuasion Mr. Smith is, and I still don't and I have no desire to know because we were elected in non-partisan elections in the city of Auburn, there was no designation of party. I have no idea what political persuasion he is and he never acted in any way that demonstrated what political persuasion he was. I am a Democrat. He never attended any Democratic functions at all in our local community, never participated in any Democratic activities that I can recall within the community and acted in a way that was as fair and as balanced as I have ever seen. It seems to me that since we, here, obviously differ on what weight to put on various aspects of the criteria, that we need to find the means in which we can find a compromise. I have been prepared to do that and I was asked would I compromise to this and I said yes I would because it meets the criteria and that is what we ought to do. That is why I am supporting it, that is the only reason why I am supporting this and if it is necessary for this body to have the courts decide what the meanings of the words in the Constitution are then I think that is unfortunate. I would hope that we could find a way to do the people's business once again, without having to have the courts do our work. Thank you.

On motion by Senator **CAHILL** of Sagadahoc, Tabled until Later in Today's Session, pending the motion by Senator **LAWRENCE** of York to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-95) to House Amendment "A" (H-191).

On motion by Senator **PEARSON** of Penobscot, **RECESSED** until 4:00.

After Recess

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Promote State Savings through the Efficient Utilization of Funds" H.P. 1018 L.D. 1364

Bill "An Act to Undedicate Certain Revenues of the Department of Environmental Protection" (Emergency) H.P. 1020 L.D. 1366

Come from the House referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Laws Concerning Medicare Supplement Insurance" H.P. 1013 L.D. 1359

Comes from the House referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.

Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Require Employee Leasing Companies to Post Security Bonds or Deposit Securities" H.P. 1012 L.D. 1358

Comes from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Exempt Certain Dams from Permit Fees" H.P. 1016 L.D. 1362

Bill "An Act Regarding Solid Waste under the Site-location-of-development Laws" H.P. 1017 L.D. 1363

Come from the House referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Define Responsibilities of the Commission on Biotechnology and Genetic Engineering"  
H.P. 1015 L.D. 1361

Comes from the House referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Make State Drug Testing Standards for Marijuana Consistent with Federal Standards"  
H.P. 1011 L.D. 1357

Comes from the House referred to the Committee on **LABOR** and **ORDERED PRINTED**.

Which was referred to the Committee on **LABOR** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Revise the Election and Campaign Finance Laws Regarding Write-in Candidates"  
H.P. 1009 L.D. 1355

Comes from the House referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Clarify the Powers and Duties of Municipal Officials of the New Town of Long Island" (Emergency)  
H.P. 1014 L.D. 1360

Comes from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a 2/3 Affirmative Vote of the Entire Elected Membership of the Legislature to Increase State Income or Sales Tax  
H.P. 1019 L.D. 1365

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Charter of the Plymouth Water District"  
H.P. 1010 L.D. 1356

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

**ORDERS OF THE DAY**

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

Bill "An Act to Apportion the State's Senate, House of Representatives and Congressional Districts"  
H.P. 883 L.D. 1197

Tabled - April 29, 1993, by Senator **CAHILL** of Sagadahoc.

Pending - Motion by Senator **LAWRENCE** of York to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-95) to House Amendment "A" (H-191)

(In Senate, April 29, 1993, House Amendment "A" (H-191) **READ**. House Amendment "C" (H-216) to House Amendment "A" (H-191) **READ** and **ADOPTED**, in concurrence. Senate Amendment "A" (S-95) to House Amendment "A" (H-191) **READ**.)

(In House, April 28, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-191) AS AMENDED BY HOUSE AMENDMENT "C" (H-216)** thereto and **HOUSE AMENDMENT "B" (H-192)**.)

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

Senator **BEGLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. A final brief comment I hope from me, but I could not sit here and allow some statements being made earlier in today's session in regards to county government. Having served as county treasurer for four years certainly taught me, at least in the county I was associated with, the desire and the necessity for county government. In Lincoln county the communities involved in that county itself are all part of the county government. They elect the County Commissioners, the Registrar of Deeds and Probate and, of course the Treasurer. Not only that but now they are part of county budget deliberations and they take these duties very seriously. Again pointing out to me the necessity for keeping districts, at least my district, within a county idea because those items become very serious. The counties that I know of at least in my area are similar. If there are other counties not like that I'm sorry but I feel sorry for them. Thank you.

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

Senator **AMERO**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I just have four brief areas I would like to comment on briefly. The first one has to do with the whole issue that we spent a lot of time talking about this morning and that is the issue of minority situations within the State of Maine. I just want to make it very clear that never within any of the meetings or gatherings of either the full Commission or the Minority members of the Commission was there ever any mention made of any minority groups or trying to draw lines that would adversely affect any group. The only talk of minority groups had to do with the Indian tribes. The Republican plan in the House does address the issue of putting Indian tribes in the same districts. So I just wanted to point that out and make it very clear to everybody that there is no intent on anyone's part in the Republican plan, or in any plan that has been looked at, to deal adversely with any particular group in the State. In fact the only intent in dealing with minority groups was to put all of the Indian tribes together in House districts. The second comment I would like to make has to do with the Republican plan for the Senate. It was mentioned earlier that the Republican plan had been rejected by the Commission. The Republican plan for the Senate was never voted on by the Commission as a whole. Also the Commission plan that was voted on at twelve fifteen on April 2 was a three part plan. The plan that the minority members had never seen was the House plan. That was a new proposal that evening that we had never laid eyes on before. Finally I'd just like to re-emphasize once again there was a basic difference in philosophy that has brought us to the gridlock, I guess you would call it, that we are in right now. The Democrat's first priority was to maintain existing districts. Maintaining existing districts was not at all a consideration in the Republican plan. Thank you.

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

Senator **CAREY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I note that in the Senate there are some members missing and I understand that they are still at the wake for Representative Larrivee's husband. I would like to clear up one thing and that was the unfortunate attack on Senator Pearson of Penobscot by the

gentleman from Cumberland, Senator Summers. I think the gentleman misplaced his anger because his anger should have been with my colleagues, Senator Webster from Franklin and Senator Hanley from Oxford. When the remarks were made about Franco-Americans and putting them all together so that "those people", I am franco-american catholic, and I take exception to the remark "those people". I was born and brought up in the United States, born and brought up in Waterville, I am an American citizen of franco-american parentage. It was Senator Webster who pointed out that "those people" were put together because they had a common interest. I tried to figure out what the common interest is in Saco and Biddeford when I was growing up and I could see St. Louis High School and Thornton Academy and the towns vying for industrial development. I saw absolutely nothing in common with those communities. As far as Waterville and Winslow I have lived in Waterville for a good part of my life, I found that there was no animosity within the two communities and we got along reasonably well because the paper mill was in Winslow and Waterville had the shopping area. That basically was the only thing that kept us from being at arms with each other. At one time, former Congressman Emery, who is the employee of the Republican members of the Commission said that they wanted to lump Waterville and Winslow together, they wanted to lump Saco and Biddeford together and that they wanted to put Orono and Old Town together and unlink Brewer and Orono. I asked the question at the time why would you want to unlink Brewer and Orono since they have been together for a long time and he said well the very common reason is that there is a river in between them. So I immediately rushed to my geography books and I found that in fact there is a little stream called the Saco River that runs between Biddeford and Saco, and there is this gigantic river that runs between Winslow and Waterville called the Kennebec River. So those things are things that really upset me. I read this morning Peter Jackson's story on the plan and he says that "Justice Jack Smith cast the tie breaking vote in favor of the Democratic plan to put it before the Democrat nominated Legislature". That is totally inaccurate and if Mr. Jackson had been covering the story from Day One, he seemed to have replaced Francis Quinn from the AP in the last day or so for some reason known only to them, he would have known that that is the Commissioner's plan and that Commissioner's plan was given to both sides on the 30th of March. I checked, after listening to the Senator from Cumberland, Senator Amero, that they never saw that plan, I am told by the staff member from the judges office that in fact twenty sets of that plan were delivered to the office that Representative Emery presided over. We got twenty copies, they got twenty copies. Whether those were distributed or not is a problem that may have happened within their caucus. I am amazed at the point that Senator Amero made which said that we were called together at five minutes to midnight when I distinctly remember looking at the clock and I will try to give you the rundown on how things happened. We were called to a meeting at 11:30 on that evening. We had trouble, Senator Lawrence had some material in the Natural Energy room and had to hustle over there and get it before they closed the gate on him, then we never would have seen him again. We found that the Republicans had problems in getting some of their members together and went out to a retiring room to get their membership. When we finally came in, Commissioner Janet Mills made the motion and I looked at the clock and it was 11:47, still before midnight, that she made her motion to accept the unified House plan, the Republican Congressional plan and the

Chair's Senate plan. I did not say anything about a Democratic plan of any kind. It was a unified plan. In fact both sides in the House were working toward a goal on the House. Our debate had basically been cut off some time earlier when the Republicans were somewhat unhappy that we were not going to go along with the 33 plan, although we gave them one. We had problems putting our 33 plan together because in fact it raised all kinds of problems for us, we were stretched all over the place to get that population. I recall my own district being formed by the Republicans as running from Belgrade, having lost Oakland, Sydney and Waterville. I ran all the way to Peru in Oxford county from Belgrade. That's really trying to stretch it to pick up enough Republicans to make sure that there was a gerrymandered district, obviously. The motion was made at 11:47, what transpired next is that Commissioner Ken Cole, on the Republican side, tried to introduce what Senator Hanley is introducing now, not the part of it that deals with the House, but he tried to amend the Commission plan to reflect the Republican 35X. It was voted down, but it took up a considerable amount of time. They then refused to go along with the motion as made by Commissioner Mills and we reached that point where they are now trying to introduce their plan. I'm grateful that we had this time off because I have a question. I would like to ask the gentleman from Oxford, Senator Hanley, how many people are paired in your plan, 35X which has been admitted to be the plan in your amendment? Both in the House and in the Senate if you may.

**THE PRESIDENT:** The Senator from Kennebec, Senator Carey has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To answer the good gentleman from Kennebec's question. I'm not sure what the pairings are in the House, I can speak only for the Senate and in fact I am one of those individuals who would be paired. I would be paired with the Senator from Cumberland. I believe there are two other pairings as well in our map. The bottom line from our point of view is not the pairings, it's following the constitutional criteria. By following that constitutional criteria to maintain compact and contiguous Senate districts to have districts of low deviation from one to another and to maintain the integrity of political subdivision lines, there would by necessity be some pairings just because of the geographical location of those Senators. I would like to take this opportunity to correct a couple of the statements that my good friend from Kennebec, Senator Carey, made. As far as the unified House plan that the good Senator speaks of, as far as on the midnight and the twelve fifteen on April 2, the unified House plan that is spoken of was only two thirds unified and in fact the top third, Aroostook county, Penobscot and part of Washington county, the motion from Janet Mills was to accept the Democrat's proposal. There was no unification whatsoever on Aroostook, northern Penobscot, and Washington county. Please, members of the Senate, do not be pulled into that specious argument that it was a unified map when in fact that was the Democrats proposal for the northern part of our state. As far as the Senate plan goes, it's true the judge did propose what has come to be known as the neutral map for the Senate districts. It was 35 districts and we did have notice of that prior, but the interesting twist was that there was a change from York, Oxford and Cumberland, that we had not seen that had not been proposed at the judges neutral

map, that was brand new to us, as far as we did not have the benefit that the Democratic caucus did in having that specific plan in front of us. As far as to separate Senator Titcomb and myself. We did not have that, that was not one of the plans that was presented to us. As far as this meeting, as the process kept on going on on that night we were continuing negotiation and all of a sudden I was informed, and I probably was not informed until quarter of twelve that we should get all of our people together because the judge wanted to have a meeting. We didn't know what this meeting was, if it was a final meeting on the Commission plan or anything. We, as a caucus, did not have any prior notice. I had received notice and Ken Cole had received notice because we were still negotiating with the Senate, the remainder of our caucus was negotiating the House. We had to track them down. We did not have prior notice and yes, when we went into the legislative council chamber the entire democratic caucus was there and had been briefed before hand that we would be taking a vote but we had to scurry around that evening to track down the remainder of our people.

I just want to make one comment as far as the issue of the representation of Franco-Americans in the reapportionment plan. From day one we, as a caucus, focused our criteria on creating districts with low deviation from one to another, protecting municipal subdivisions, protecting county boundaries. By doing that, by following that and by putting this puzzle together there was some franco-american communities from a historical perspective that were combined. They were not combined for Franco-Americans. If you take a look across the state, only those areas which were conducive to producing a low deviation and maintaining municipal and county subdivision lines, that's just the way the State breaks down. There was a comment that had been made by the Senator from York, Senator Lawrence that we were diluting the franco-american vote and their ability to be represented here in Augusta. In my response to that when I outlined five communities which have historically been recognized as franco-american communities, my point was to make the point that in fact the representation of Franco-Americans would not be diluted by this map. It was not a planned event to make that lump and if that had been the biggest controlling factor then we could have done that throughout the entire state. Using the criteria as outlined in the Constitution, that's the way the State breaks down. In closing, and the Senator from Androscoggin, Senator Cleveland made a good point, he said he has to discharge his responsibility as a Senator in voting for this plan. As do I. When I vote on this plan I will be following the Constitution that says that each district shall be formed of contiguous and compact territory and shall cross political subdivision lines the least number of times necessary to establish as nearly as practicable equally populated districts. Thank you.

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

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise today to make something perfectly clear to the Senate. This is the second time in at least the last week and a half that I have been assailed, attacked and my credibility questioned on the Senate floor. For those of you who have been in the Legislature with me or watched me, you will learn, if you don't already know, that I don't accept that and I want to make it

perfectly clear to my seatmate and anyone else who listens that it will not be accepted again. It is perfectly clear that my motives are clear and representing the district that I represent and the people of the State, and I will not ever have my motives questioned on the Senate floor by anyone unless they expect to be assailed back in equal ways. I represent a part of the State that has a very proud heritage, a part of the State where people work hard. They drive truck, they work in factories and if you listen to this Senator on the floor, you're going to hear that, you've heard it for ten years. Some of them are French Catholic, and a majority of them have always elected me to this Legislature. I made no reference or would ever make reference to "those people". Those people are people that drive trucks and work hard and, maybe you guys should remember, pay the taxes in this State. I don't care whether they are French. I don't care if they are Catholic. I don't care whether they are Jewish, drive a truck or are on welfare. I represent them and I do that to the best of my ability. I can't believe this debate has gotten to this point. If this is the best argument you have to pass the infamous majority eight to seven issue then I think it is a sad day. My four year old could look at two plans and decide which one made common sense. I am sure that if this issue isn't enacted here, if we don't deal with this issue in a proper way, and the Courts look at a colored map, common sense tells you that the County lines are important. One criteria that was used by Republicans in the Senate in this whole process is we started with the County. If you had a County of 29,000 people all those people deserved to be in one County and one Senate district. I wasn't involved with all these decisions but I'll tell you one thing, never did I hear questions as to whether they ought to divide up Franklin, Somerset or any of those Counties. We started in Somerset County. If a County didn't contain 35,600, or whatever the number is, we added to it to make it. Common sense would tell you that looking at that map. Now I am very proud of the 26 Democratic French Catholics that worked on my campaign the last election in Madison, Maine, where I won by a huge margin. I am proud of their people because they don't care whether whether they are Republican or Democrat, just like people in this State don't care. They vote for the guy that represents them and I do. Those people who work in factories, those people who work in the woods, know who represents them and frankly I do. I take it personally when people imply that I am somehow talking about those people in a way that is not very positive. This Senator has made no reference in a negative way to anyone who doesn't happen to share my religion, anyone who frankly doesn't share my philosophy. People of this State deserve better than this. I want to make it clear this is the last time I am going to accept this kind of trash about me as a Senator and as to why I vote or why I do anything. Charlie Webster has been known, during his entire Legislative career, to be a fighter and if you don't think that's the case, just stand up here and question my integrity, anybody in the Senate, and you watch what happens.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise just to clarify two points. First of all it was mentioned by a previous speaker that the York, Oxford, Cumberland configuration that is in the Committee report, was never seen by the 7 Republicans on the Commission and

that is simply not true. When the Judge presented his neutral plan, he presented two plans. He presented the entire plan pitting the Senator from Oxford, Senator Hanley, against the Senator from Cumberland, Senator Titcomb and then he had a cutout of Oxford, Cumberland and York County which he tagged onto to the side of that proposal and that is what is in the Commission recommendation. It is that proposal, that side that was tagged on, and essentially he was saying to the 7 Democrats and 7 Republicans, here is one plan, it pits two people together, a member of the Commission Senator Hanley, and Senator Titcomb together. Your choice is to accept that or to accept the cutout. These are two proposed alternatives. That is what he presented with us and in the interest of getting the plan passed, when we made the motion, we moved the report that separated the Senator from Oxford, Senator Hanley, from the Senator from Cumberland, Senator Titcomb. I just want to make perfectly clear that my initial comments in this body were not directed at anyone nor the Republican party. My point was never to suggest that the Republican party had intentionally created Franco-American districts in this State. My only statement is that the Senator from Oxford, Senator Hanley, is presenting a plan and he is asking me to vote for it. I am telling him I cannot vote for it because I believe it works to the disadvantage of Franco-Americans in this State. This is not the first time this subject has come up as someone previously spoke, I believe, Senator Amero from Cumberland, previously said that this was never discussed by the Republicans or the Commission. I brought this up three weeks before the final meeting and said it over and over again as we were going through this County line vs. municipal lines discussion. I said I cannot accept a Republican plan that consolidates Franco-Americans in this State into certain districts. If you can do that and separate out those districts, and not do that, and present me one that follows the County lines the way the Republicans wanted to follow the County lines, then that is fine. I will accept it. But the difference in the County lines between the two plans is so minimal it is insignificant and is not really worthy of our debate here. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If my seatmate is offended, and after I read the printed record I am incorrect, I will publicly apologize to him on the floor of this Senate. I think I heard what I think I heard and it was further compounded when the gentleman from Oxford pointed out exactly where those five districts were. They were Franco-American and he, in fact, basically just pointed out without saying it, that he had set out a minority quota of five seats.

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

Senator **AMERO:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Just a couple of points. First of all to the point that Senator Carey had made about the Republican map being inconsistent because of some cities we used the argument of keeping cities together because they had a common river and in another area that between Brewer and Orono, we separated those two cities into different Senate districts. The reason we did was because in that one particular instance, between Brewer and Orono, there was no bridge and the other cities that

we put together there was access between the communities by way of a bridge or some other means. To react to the comments by Senator Lawrence, on the midnight plan, it may be there were documents drawn up someplace but none of the Republican members saw any kind of proposal, unified proposal or not, before a vote was taken. In fact, we didn't know what we were voting on because the only plans that were there were maps that Janet Mills had in front of her and she was pointing to different things that nobody else could see besides her and a couple of people sitting next to her. We did not know what was in that plan so I want the record to clearly reflect that the Republican members were not aware of what was being voted on that night. Lastly, my recollection is that the only discussion we had having to do with what was unacceptable to the Democrats was that the two cities of Biddeford and Saco should not be united. That is my recollection and I just would like to rephrase one last time but I do think it is important to emphasize that while the Democratic plan is built around existing districts, the Republican plan is built around the Constitutional guidelines and does not take into consideration at all incumbent politicians. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The reason that they separated Brewer from Orono was to have an open seat, a brand new district which then forced Orono into the Enfield district and then we would have two Democrats running against each other. They also did the same thing down on what they call District 3 which created a new district which ran from York to Arundel so that Biddeford and Saco would be forced together. They have other plans where they created as many as 6 new open seats and contrary to what Judge Smith had wanted, a retention of the cores, which he had been quoted on in the newspapers, what they ended up doing by this is they stripped a core from people. Senator McCormick, for instance, ended up with 4,700 left in the core of her district. It is quite clear as to who they were aiming for in that particular area. Let me read you something out of the 1983 State Supreme Court. "Preservation of city and town boundaries was of greater importance than preservation of county boundaries. It was not only rational but also one that particularly legislative in character and, therefore, worthy of judicial defense".

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Just in response I would hate to let this body think that the comments the good Senator from Kennebec just read to you deserves your attention. The 1983 Court case is very different in one respect. That 1983 Court case was a challenge of a legislatively adopted plan. It is true. The Court gave deference to the plan the Legislature adopted but if the Court was to adopt a plan on its own, it would not pay heed to the existing districts but in fact it would pay heed to the constitutional criteria which has been outlined by Supreme Court cases nationally, here in the State and also our State Constitution. There has been a lot of requests for me to read through my legal arguments as far as exactly what was required. I will refrain from that but just so that the Senate is totally aware of what criteria you as elected representatives who have sworn, taken an oath, to

uphold the Constitution of our State, you are bound by the words in our Constitution and I will read them just one more time. "Each district, Representative and Senate, shall be formed of contiguous and compact territory and shall cross political subdivision lines the least". The plan before you has 21 Senate districts which are all in one County. Eleven which are in two Counties and three which are in three Counties. The other plan, if you vote against this plan, you'll be voting for a plan which has only 18 in one County and has 6 between three counties. You'll not be choosing that plan which keeps compact and contiguous, keeps a low deviation and crosses the political subdivision lines the least amount of times. I urge you to follow the Senator from Androscoggin, Senator Cleveland, who said he is put here to discharge his responsibility. I hope you will follow that.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Since so many others have had something to say and I have had to listen to much of the debate on the box, thereby not being able to identify faces with voices, I would like to add my two cents here. After listening to the good Senator from Oxford, Senator Hanley, whom I have the pleasure of serving with on the Judiciary Committee, I know that he does take his oath seriously as we all do and in looking at what reapportionment is all about, it is not lost on me that we appropriated, I believe, some \$150,000 to this Commission to discharge its duties and, like the oaths we took when we came here, we swore, as did the participants on that Commission, to discharge their duties. Unfortunately, we now are on the verge, as is obvious to anyone who has been listening to anything that has gone on here, to sending this whole issue to the courts. As one who sits on the Committee charged with overseeing the courts, along with the good Senator from Oxford, I'm extremely disturbed that we don't have one penny to send to them to carry out what will now be its obligation to fashion a plan, to pick up where we have failed. I guess if there is anything that troubles me more, and it seems to be happening more and more across this country, and it's too bad it's happening here in Maine, the courts are now charged with running schools, charged with running hospitals, charged with running prisons, and charged with running institutions where disabled citizens are forced to live. We've been able to keep that from happening here in Maine. Unfortunately the trend is starting down that road where our own State is going to be looking at that and this is the first time, that I can think of at least, where the courts are absolutely going to have to get involved with this, and it's because this very branch of government, the second branch of government, hasn't been able to discharge its duties and work together to come up with a plan.

The neutral, and I know that some remarks were made about the neutrality of the neutral and some sort of references to whether or not in fact this person was neutral, did his best to take both plans and come up with something that would work. Unfortunately, for whatever reasons, and that is up to those who have argued for some of the other plans which are floating around here, we instead are going to have to send this plan to court. What troubles me the most about that, and you hear the rumors in the hallways, is we'll do better in court. I'll tell you, if there is any advice I give to any clients



that are involved in any case that I have it is you will never do better in court. You never do better in court. There is no way the court can come to understand what it is that you people who participated so fully in that came to understand while you worked on this issue. They just can't do it. They don't have the personnel, they don't have the expertise, you are forcing them into a no win situation. It's wrong, I'm disturbed about references of going to court because of feeling that they will do better in court. We really should have tried to do the job here. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If I may pose a question I apologize for speaking again but I'm having difficulty finding the Constitutional provision that the Senator from Oxford is quoting. Could he give me the Article, Part and Section that he is quoting from?

**THE PRESIDENT:** The Senator from York, Senator **LAWRENCE** has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In response to the good Senator from York's question. The item that I have been reading from is a combination of two portions of the Constitution. Article IV, Part First, Section 2, in the new booklet it is on page 14, it's about halfway through that paragraph which says "Each representative district shall be formed of contiguous and compact territory". I've been drawing from that, also from Article IV, Part Second, Section 2, which states in the first paragraph that "the State to be divided into districts for the choice of a Senator from each district, using the same method as provided in Article IV, Part First, Section 2 for apportionment of Representative Districts". Article IV, Part Second, Section 2 references directly back to Article IV, Part First, Section 2. So when I said each Representative and Senate District, I was paraphrasing those two, I was combining those two Articles, or those two sections of the Articles. Thank you.

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

Senator **AMERO:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to respond to Senator Conley's comments because I also feel that because this Commission has failed to come together we wasted \$150,000 as well. I've also come to the conclusion, and this is from a novice I know, but I have come to the conclusion that items like this redistricting would be better served by sending this sort of problem to the courts initially where the courts can follow the Constitution and we wouldn't have to put up with the squabbling that takes place when incumbent legislators try to redraw districts that affect them. I think the people of Maine would be much better served if an item like this either went to the courts first or to some outside agency. In future times maybe we can consider a Constitutional change to make that happen. Finally, I would propose that if this item ends up going to court that we find the money to make it possible for the courts to handle this, at least enough money for them to be able to hire a consultant. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **LAWRENCE** of York to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-95) to House Amendment "A" (H-191).

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

**YEAS:** Senators **BALDACCI**, **BRANNIGAN**, **BUSTIN**, **CAREY**, **CIANCHETTE**, **CLEVELAND**, **CONLEY**, **ESTY**, **HANDY**, **LAWRENCE**, **LUTHER**, **MCCORMICK**, **O'DEA**, **PARADIS**, **PEARSON**, **PINGREE**, **TITCOMB**, **VOSE**, **THE PRESIDENT** - **DENNIS L. DUTREMBLE**

**NAYS:** Senators **AMERO**, **BEGLEY**, **BERUBE**, **BUTLAND**, **CAHILL**, **CARPENTER**, **FOSTER**, **GOULD**, **HANLEY**, **HARRIMAN**, **KIEFFER**, **LUDWIG**, **MARDEN**, **SUMMERS**, **WEBSTER**

**ABSENT:** Senator **HALL**

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **LAWRENCE** of York, to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-95) to House Amendment "A" (H-191), **PREVAILED**.

House Amendment "A" (H-191) as Amended by House Amendment "C" (H-216) thereto, **ADOPTED**, in concurrence.

House Amendment "B" (H-192) **READ** and **ADOPTED**, in concurrence.

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

On motion by Senator **CONLEY** of Cumberland, Senate Amendment "A" (S-94) **READ**.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have this amendment and a second amendment which is really an amendment to this amendment for consideration by the body due to a mistake in the original amendment. Essentially what this amendment would do to the Congressional districts in the plan would be to put all of Kennebec county into the First Congressional District and take a series of small towns which are contiguous in nature out of Knox county and place those in the Second District. Upon reviewing the plan and consulting with some other individuals it seems to me as the plan presently is, there are three towns on one side of Kennebec county and three towns on another side of Kennebec county which are not contiguous by way of being six contiguous towns, but only the three are contiguous with each other, thereby separated on each side of the county. What



this would do is take a whole county, place it firmly in the First District and then take six towns and unorganized territories, which are all contiguous to one another, and place them into the Second District. It is my understanding, after talking with the Democratic lead Senator on the Commission that the deviation which this amendment has would be only slightly different with the one presently in the plan, thereby making it quite acceptable to the court. To me it seems to make a lot more sense to have all of Kennebec county in the First District, rather than having six towns on either side of that county split off into the Second District. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a question to any member of the Senate who might be able to answer. Exactly what would the deviation be from that proposed in the original Bill and that proposed by the amendment and are there any Supreme Court cases which are on point as far as deviation and dealing with Congressional Districts?

**THE PRESIDENT:** The Senator from Oxford, Senator Hanley has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In answer to the question, this plan has a deviation of 16 people. The plan that was adopted by the Commission, the Republican Congressional plan, had a deviation of 3 people. In fact there are countless number of cases through the country where the Supreme Court has had to rule from State to State which take the smallest number, but they don't take into account the compactness or the configuration, the only thing that counts as far as Congressional Districts are concerned is, in fact, the deviation. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to thank the good Senator from Kennebec for his answer. Based on his answer I would think it foolhardy for the Senate to adopt this amendment if, in fact, the court would then just overturn it and go along with a proposal that would have a lower deviation. For that reason I would move for Indefinite Postponement of this amendment. Thank you.

Senator **HANLEY** of Oxford moved the **INDEFINITE POSTPONEMENT** of Senate Amendment "A" (S-94).

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As was stated this Congressional plan was the Republican plan for redistricting the Congressional Districts and in fact the amendment proposed was at one time considered by the Democrats for proposal. As a member of the Commission I will be voting with the motion to Indefinitely Postpone simply because I think we made a good faith attempt to work out a delicate compromise by accepting the Republican Congressional plan, accepting what was agreed upon in the House up to what had been agreed upon, and accepting the neutral plan for the Senate. I do not feel that we

should change that. While we are discussing the Congressional redistricting I'll simply read from the memo submitted by Kenneth Cole to Judge Smith regarding Congressional redistricting because incumbency has been mentioned several times during this and that implied that Democrats are protecting incumbents and Republicans are not. He simply said, "To the extent that preserving communities of interest and unnecessarily avoiding invidious outdistricting of incumbents are legitimate goals, the Republican plan is far better since it makes Waldo county whole again and does not outdistrict Representative Snowe." Thank you.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It is my understanding that procedurally I must also, and would offer at this time Senate Amendment "A" (S-96) to Senate Amendment "A" (S-94). As I explained previously is merely a clarification and not a major change of the original amendment presently before the body, and to have it included in this vote. Thank you.

On motion by Senator **CONLEY** of Cumberland, Senate Amendment "A" (S-96) to Senate Amendment "A" (S-94) **READ.**

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

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a parliamentary procedure question please.

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

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Because I never remember doing an amendment to an amendment, the Senator from Oxford, Senator Hanley has moved Indefinite Postponement of the first Senate Amendment "A" (S-94), so if we vote to postpone the first Senate Amendment "A" (S-94) would we also be voting to postpone the second Senate Amendment "A" (S-96)?

**THE PRESIDENT:** The Chair would report that the Senate just passed House Amendment "C" (H-216) which was to House Amendment "A" (H-191) so it is well within our right to amend an amendment, whether it is a Senate Amendment or a House Amendment. The Senate has two options. The first option would be to adopt Senate Amendment "A" (S-96) to Senate Amendment "A" (S-94) and then Indefinitely Postpone Senate Amendment "A" (S-94) as amended by Senate Amendment "A" (S-96) thereto, or the Senate could Indefinitely Postpone Senate Amendment "A" (S-96) to Senate Amendment "A" (S-94) and deal with Senate Amendment "A" (S-94) by itself afterwards.

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Off Record Remarks

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

Senator **WEBSTER**: Thank you Mr. President, Ladies and Gentlemen of the Senate. It's my understanding that the motion was made by the Senator from Oxford, Senator Hanley, to Indefinitely Postpone Senate Amendment "A" (S-94). If that is the case how can we be dealing with any other matter until we have that vote?

**THE PRESIDENT**: The motion to amend takes precedence.

Senator **CAHILL** of Sagadahoc moved the **INDEFINITE POSPONEMENT** of Senate Amendment "A" (S-96) to Senate Amendment "A" (S-94).

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

**THE PRESIDENT**: The pending question before the Senate is the motion by Senator **CAHILL** of Sagadahoc, to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-96) to Senate Amendment "A" (S-94).

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

21 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **CAHILL** of Sagadahoc, to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-96) to Senate Amendment "A" (S-94), **PREVAILED**.

**THE PRESIDENT**: The pending question before the Senate is the motion by Senator **HANLEY** of Oxford, to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-94).

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

22 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **HANLEY** of Oxford, to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-94), **PREVAILED**.

**THE PRESIDENT**: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

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

Senator **PEARSON**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to read a statement into the Record. With regard to the House reapportionment of the Maine Legislature I'd like to make the point that as a Senator from Old Town and one who represents the Indian reservation in Old Town, I would like to make the point that I believe that the Indian Island Penobscot Nation should be a part of whatever House District there is in Old Town. It has traditionally always been associated with Old Town, the only way of going on or off the reservation is from Old Town. It's children use the Old Town school system for their secondary

education, they are emotionally, politically and socially attached to Old Town. There are 428 Penobscots living on Indian Island and 125 living in Old Town Proper. We believe that the Penobscots, which seems to be the case over the years, with some of them living in Old Town and some of them living on the Reservation one ought to understand that they are a unique people who are a family within a family. To divide them from Old Town would be to divide that very unique people and I understand that the United States Supreme Court has allowed a variation because of uniqueness and very unique situations and I would make the point that I believe, as does the Governor of my Tribe and the Council of the Tribe and the City of Old Town, that Indian Island should be attached in any House District to the city of Old Town. Thank you.

Senator **WEBSTER** of Franklin requested a Division.

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

Senator **LAWRENCE**: Thank you Mr. President, Ladies and Gentlemen of the Senate. Since we now are on the Redistricting Commission report and not an amendment to it I just want to clarify a few points on the Commission report. This contains three plans, the Republican Congressional redistricting, the House plan to the point to which it was agreed upon that evening when we passed the plan, and this is the neutral plan for the Senate, which Judge Smith, the Chairman of the Commission, drafted from taking the Republican Senate plan and making changes to it to make it more palatable to the Democrats on the Commission. That's the plan we're voting on now. It does follow the guidelines, it does meet the criteria that the good Senator from Oxford has mentioned in his testimony, it meets them very well, perhaps better than any redistricting plan has in recent years. It follows to the extent practicable, as the Constitution says, political subdivisions including county subdivisions, and I just might remind you that the one case that has gone to the law court in this State that talked about county subdivisions, the court recognized the diminished significance of county boundaries based on historical facts, that the county lines adherence was removed from the Constitution in 1975, that cities and towns, unlike counties, enjoy home rule and elections in this State are conducted on a municipal basis. This plan had more public hearing perhaps than any other plan had in the past. We put it on the ITV system, we held two public hearings here in the State House, we had numerous public input from all different sources, written and verbal, before adopting the plan. It does create a political balance in this State, a political balance that was recognized since 1972 by the law court when the law court did redistricting then, it was carried on through the redistricting plan in the 1980's and is carried on in this plan. I've heard it said that political considerations, or keeping cores of districts is not a factor. That's simply not true. In the law courts, in the cases that have ruled on political considerations and court districts, the court has said over and over again that that's not a criteria that will make a plan void. The Supreme Court said "it would be idle, we think, to contend that any political consideration taken into account in fashioning a reapportionment plan is sufficient to invalidate it." Furthermore a Federal court, when looking at a plan in another State, said "Any new plan should alter the old insofar as necessary to obtain an acceptable result. Incumbents know their constituents in the old

districts and many of those constituents will know their Congressman as my Congressman. Many of the constituents would have been served by the Congressman in ways calculated to obtain and enhance loyal support. Such voters should not be deprived of the opportunity to vote for a candidate that has served them well in the past, and to enjoy his continued representation of them. Supporters and opponents alike have a basis for judging him. Great alterations of old districts should not be undertaken if lesser change will achieve the desired results." To make it clear for the Record, we tried to do that in this districting plan by taking into consideration the concerns put forth by the Republicans on the redistricting Commission to protect their incumbents in this plan. To that extent we did try to meet their demands, but there were just certain demands we could not meet and when Judge Smith proposed a plan, it wasn't our plan and I don't like it, it's not the plan I would have selected had I selected a Senate plan, but it is the one that does the fairest political balance in this State and I hope you will vote to engross it. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Two points, first the good Senator from York, Senator Lawrence, kept on referring to this plan, and I think what he meant was this plan before us when he said this plan has had more public hearings than any other apportionment plan in the past. I'd just like to correct, for the Record, that in fact when we had the hearing for the ITV there was no plan in front of the public that attended that hearing either in Augusta or through the ITV system. It was basically just an informational to request their input. The second public hearing that was held, the Judge's so called neutral plan was not proposed. The Republicans proposed their Senate plan and their House plan and our Congressional plan, the Democrats proposed their Congressional plan, their House plan and their Senate plan. At the hearing, this plan that you are voting on now, the so called Commission plan, did not have a hearing specifically. It is true two hearings were held but this plan was not proposed to the people of the State of Maine and did not undergo public hearing as has been pointed out time and time again. This plan was not voted on until the morning of April 2 at 12:15. The second point is I would just like to echo some of the concerns that the good Senator from Penobscot, Senator Pearson, raised as far as the Penobscot Indian Nation. I would just like to point out that the plan before you does not accord the protection to the Passamaquoddy Indian Nation and Indian Township and at Pleasant Point Reservation, they were not included in the same House plan in the one before you. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To clarify the statements regarding the public hearings, this plan was developed on the basis of results from those public hearings and includes, to the extent possible, the public comments on this plan. It's impossible to have a plan ready for those hearings if you're only going to adopt the plan towards the end of the public hearing process. The purpose of the public hearing is to gain input in drafting of the plans and that input was given to the Commission and that is reflected in the Judge's neutral plan. For the

Record, I've heard said over and over again that the vote was taken at 12:15. I've reviewed that record, there is no mention in the record of any notice of any time during that meeting. I have talked to numerous people, some say it was taken before twelve some say it was taken after, frankly I don't remember what time it was taken. I do know we were called in well before 12:00 and unless somebody can show me some evidence that it was taken after 12:00 the only reasonable conclusion is that it was taken before 12:00. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'll be extremely short Mr. President. I said earlier that we had gone in at 11:30, we were called in at 11:30 the motion was made at 11:47, there was absolutely no objection, no one paid any attention, apparently, to the clock, because whenever the vote was taken there were no objections by the Minority members of this body, who happened to be equal members with us on the Commission, so that that would have been the time to express an objection or in fact walk out without voting. None of that happened, so we were all unconscious as far as the time was concerned.

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

Senator **AMERO:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't think we were unconscious but if we were there were reporters at the meeting and they did report on the time of the vote. Fortunately the press was there and we do know when the vote was taken. Thank you.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have to dot every i and cross every t here because I don't exactly understand why Senator Hanley, from Oxford, made mention of the Passamaquoddy Indians. I would like to make this point. The difference between my pitch for Penobscot Indians being included in a House District with Old Town is that the pattern of the Penobscot Indians is such that about 2/3 live on the Reservation and about 1/3 live in Old Town, that is not the case in what we call Indian Township, downeast, or Peter Dana Point. They have more of a tendency to live within the Reservation and that's not true in Old Town and the Penobscot Reservation. Thank you.

On motion by Senator **LAWRENCE** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators BALDACCI, BRANNIGAN, BUSTIN, CAREY, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

**NAYS:** Senators AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER

**ABSENT:** Senators CIANCHETTE, HALL

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, the Bill was **PASSED TO BE ENGROSSED, as Amended, in concurrence.**

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

Senator **CAHILL** of Sagadahoc was granted unanimous consent to address the Senate on the Record.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm not meaning to belabor this but I think it's important for the Record. When this Bill comes back to us, assuming it does come back to us, will it require two-thirds of those present and voting or two-thirds of the entire elected membership?

Senate at Ease

Senate called to order by the President.

**THE PRESIDENT:** The vote will require two-thirds of the entire elected membership.

Under suspension of the Rules, ordered sent down forthwith.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

On motion by Senator **ESTY** of Cumberland, **RECESSED** until 7:00 p.m.

After Recess

Senate called to order by the President.

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

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the Occupational Disease Law" S.P. 216 L.D. 687

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-92)**

Minority - **Ought Not to Pass**

Tabled - April 29, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, April 29, 1993, Reports **READ.**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

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

SENATE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act Related to Mobile Home Parks" S.P. 112 L.D. 313

Majority - **Ought Not to Pass**

Minority - **Ought to Pass**

Tabled - April 29, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, April 29, 1993, 1993, Reports **READ.**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

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

SENATE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act Concerning the Mandatory Use of Car Safety Seat Belts"  
S.P. 155 L.D. 486

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-88)**

Minority - **Ought Not to Pass**

Tabled - April 29, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

(In Senate, April 29, 1993, Reports **READ**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

**ENACTORS**

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

An Act to Apportion the State's Senate, House of Representatives and Congressional Districts  
H.P. 883 L.D. 1197  
(H "C" H-216 to H "A" H-191; H "B" H-192)

Comes from the House **FAILING OF ENACTMENT**.

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

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

A vote of Yes will be in favor of **ENACTMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEAS: Senators **BALDACCI, BRANNIGAN, BUSTIN, CAREY, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

NAYS: Senators **AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER**

ABSENT: Senators **CIANCHETTE, HALL**

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, this Bill **FAILED OF ENACTMENT**.

Off Record Remarks

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

Senator **CAREY** of Kennebec was granted unanimous consent to address the Senate off the Record.

On motion by Senator **MCCORMICK** of Kennebec, **ADJOURNED** until Monday, May 3, 1993, at 4:00 in the afternoon.