

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-First Legislature  
State of Maine

Volume II

First Regular Session (Continued)  
May 21, 2003 to June 14, 2003

First Special Session  
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First Confirmation Session  
October 30, 2003

Second Regular Session  
January 7, 2004 to January 30, 2004

Second Special Session  
February 3, 2004 to March 18, 2004

Pages 715 - 1415

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

In Senate Chamber  
Friday  
May 30, 2003

Senate called to order by President Beverly C. Daggett of  
Kennebec County.

Prayer by Senator Betheda G. Edmonds of Cumberland County.

**SENATOR EDMONDS:** Let us pray. Holy one of blessing, Your presence fills creation. What a magnificent world we live in. Thank You for the double rainbow outside the State House last night. Thank You for that determined white throated sparrow singing in the maple tree outside my house this morning. Thank You for this lovely bright sun today and the coming sweet rain. Thank You for all the people who work here together in this State House on behalf of us all. Thank You for these legislators who labor here to represent the interests of our people. Thank You that, despite our differences, we stand together for the people of Maine. Thank You for the opportunity to reach across all that divides us to do our best for all. Amen.

Doctor of the day, Katherine Pope, M.D. of Cumberland Foreside.

Reading of the Journal of Thursday, May 29, 2003.

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Control County Jail Health Care Expenses"  
H.P. 585 L.D. 808  
(S "B" S-242 to C "A" H-365)

In House, May 22, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-365)**, in **NON-CONCURRENCE**.

In Senate, May 28, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-365) AS AMENDED BY SENATE AMENDMENT "B" (S-242)** thereto, in **NON-CONCURRENCE**.

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

On motion by Senator **STRIMLING** of Cumberland, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Sent down for concurrence.

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

**ORDERS**

**Joint Order**

An Expression of Legislative Sentiment recognizing:

Julia Clukey, of Augusta, a senior at Cony High School and the youngest member of the United States Senior National Luge Team. She has been lugging for 5 years, since she was 12 years old. She is ranked 1st nationally and 4th internationally in the Junior Luge Division and 17th internationally in the Senior Luge Division. After graduating from Cony High School in June she will start training and competing for a place on the U.S. Olympic Team, which will race in Turin, Italy in the 2006 Winter Games. She will attend UC San Diego to study engineering. We extend our congratulations to Julia and wish her continued success in lugging and in her studies;

SLS 236

Sponsored by President DAGGETT of Kennebec.  
Cosponsored by Representatives: Speaker COLWELL of Gardiner, LERMAN of Augusta, O'BRIEN of Augusta, BROWNE of Vassalboro.

**READ and PASSED.**

Ordered sent down forthwith for concurrence.

**THE PRESIDENT:** The Chair is pleased to recognize in the rear of the chamber Julia Clukey; her mother, Cheryl; her Principal and Assistant Principal, Mrs. Massey and Carolyn Neighoff. Would they please stand and accept the greetings of the Maine Senate. Would the Sergeant-At-Arms please escort Julia and her mother to the front of the chamber where she can receive the sentiment.

All matters thus acted upon were ordered sent down forthwith for concurrence.

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **JUDICIARY** on An Act To Enact the Maine Tribal Gaming Act

I.B. 1 L.D. 1370

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

Signed:

Senators:

PENDLETON of Cumberland  
CATHCART of Penobscot  
WOODCOCK of Franklin

Representatives:

NORBERT of Portland  
BULL of Freeport  
SIMPSON of Auburn  
RICHARDSON of Brunswick  
BENNETT of Caribou  
MILLS of Farmington  
CARR of Lincoln

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought Not To Pass** Report.)

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-535)**.

Signed:

Representatives:

SHERMAN of Hodgdon  
DUPREY of Hampden  
BRYANT-DESCHENES of Turner

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

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **PENDLETON:** Thank you, Madame President, men and women of the Senate. We are presenting to you a majority report of Ought Not to Pass on this particular issue because the committee felt that it would be the wisest thing to do. I'll just remind you, if you vote Ought Not to Pass along with the majority of the committee, you will be voting to send this issue out to referendum. It is that plain, simple, and clean. Thank you.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. In 1980, after years of negotiation between the State of Maine, the federal government, and Maine's Indian tribes, an historic agreement was reached, the Maine Indian Land Claim Settlement Act. That agreement extinguished the tribes' claim to more than 2/3 of the State of Maine, in return for more than \$80 million and the rights to purchase thousands of acres of Maine land. Most people don't realize that what is being called the casino referendum before us today is really an amendment to the Maine Indian Land Claim Settlement Act.

Voters, in November, will be asked to rewrite the terms of that agreement. That agreement will give the tribes a special and exclusive right to operate a gambling casino here in Maine. The Maine Indian Land Claim Settlement Act was carefully and cautiously negotiated by all parties to ensure that the rights and responsibilities of each side were clarified and understood. In this case, there have been no negotiations. We are being asked to make significant changes to the Maine Indian Land Claim Settlement Act on a take it or leave it basis.

I doubt there is anyone in this chamber, or many people in the voting public, who really understand the full implications of what we will be voting on. For example, did you know that the tribes are exempt from paying state and federal income taxes? This means the businesses that are connected to this casino, the restaurants, the movies theatres, hotels, and retail shops, will also be exempt from paying taxes. This means a huge competitive disadvantage to established family-owned businesses in the area that will either have to lay off workers or close because of this casino. Did you know that it is illegal for bars and restaurants to provide free alcoholic beverages to customers? Yet there is a provision in this casino referendum that will allow the casino to give free drinks to their customers. This is another competitive advantage over other bars and restaurants. It also raises serious public safety concerns. Did you know that the casino referendum would allow the tribes to operate any game of chance without limitations? That is what the proposal says; the tribes would be authorized to conduct 'any and all forms of gaming and wagering'. What does this mean? Does this mean you can go to the casino and wager on high school football games? What kind of a message would that send to our young people? What about the use of animals? Cock fighting, or dog fighting. There is nothing in this bill that would specifically prohibit this despicable form of wagering from taking place. Did you know that any future changes to the operation and oversight of this casino would require the consent of Maine's Indian tribes? That means that if the casino is built and two years down the road things are not going well; the state or the community where it is located decides it doesn't like the fact that it's open 24 hours a day for 365 days a year; if we feel there isn't adequate oversight around where the money is going; if the casino isn't paying enough to mitigate the effects of the casino on traffic, crime, addiction, and so on, we could pass legislation in this body to change it and the Governor could sign it. However, unless the two Indian tribes agree to it, nothing will happen. This puts an awful lot of control over a major public policy issue affecting the entire State of Maine into the hands of a very small group of people. My question is, what else is in this referendum that we do not know about? What other exclusive rights and privileges will we be granting to Maine Indian tribes and their Los Vegas backers that aren't available to everyone else? What happens if voters approve the casino and then decide they don't like it? Is there any recourse at all to rid ourselves of it? Apparently not. Maybe there are good reasons why we should allow the tribes to operate a casino, but none of these questions have been fully analyzed and debated. I doubt very much that the millions and millions of dollars that will be spent on television ads by their Washington D.C. consultants to promote this referendum will answer these questions either. There are too many unanswered questions about this proposal. I urge the legislature to vote against it. Emphatically vote against it, and urge our constituents to vote against it in November. Thank you, Madame President.

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

Senator **STRIMLING:** Thank you, Madame President. I rise in opposition to the casino. However, I will support of this in order to send it out to the voters in hope that that the voters of this state will reject a casino. I want to talk about it in terms of crime, and what it will do to crime in this state. In the next weeks and months, voters will be bombarded with television ads telling them that a casino is the greatest economic development project to hit Maine in 30 years. They will be told that a big gambling casino will bring thousands of jobs to Maine. Sure it will bring more jobs. It will bring more jobs for local police departments and prosecutors who will have to deal with the increase in crimes that a casino will cause. There will be more jobs in the treatment services. Communities will have to deal with the huge increase in gambling addiction, alcoholism, drug abuse, and the spousal abuse that casinos always cause. There will be more jobs in family counseling services to deal with the divorces, broken homes, and child neglect that the casino will bring. There will be more jobs for accountants and CPAs because wherever a casino is located, embezzlement increases as more and more people rob their employers to cover their gambling debt. Maine is a state with a national reputation for having a low crime rate. It's one of the things that make our state attractive to tourists, residents, and businesses. All of this will be threatened by a casino. Consider the facts. Crime increased more than 20% in the communities around Foxwoods shortly after the casino opened. In community, after community, after community, when a casino comes to town, the number of assaults, muggings, drunk driving cases, thefts, loan sharking, prostitution, drug dealing, pick pocketing, and embezzlements all increase. Maine's Public Safety Commissioner has testified that Maine courts do not have the capacity to handle the increases in crime this casino will cause. Consider this, in the parking lot of the Foxwoods Casino there are signs warning people not to leave their children unattended in their cars. Why do they need these signs? Because several children have died in cars in the parking lot, baked alive or asphyxiated, while their parents gamble away the milk money in slot machines. Now I ask you, why would anyone want to welcome an industry into our state that puts the life of even one child at risk? Why would anyone vote to allow an industry into Maine knowing full well that crime and corruption will increase? They are going to tell you a casino equals jobs, but don't forget the rest of the story. Casinos equal crime.

I would leave with one final question, because I really hope the public stops and asks themselves this simple question. Why is a Las Vegas developer spending several million dollars on a campaign to create jobs in Maine? What is in it for him? Thank you, Madame President.

Senator **WOODCOCK** of Franklin requested a Roll Call.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I wasn't planning to speak on this item, but I was reflecting on some words that came from the executive who runs L.L. Bean. He talked about his company's special identity to Maine and the value of Maine's brand. Make no mistake about it, we do have a very valuable brand. When you

ask consumers to consider products and where they are made, the fact that a product comes from Maine has higher value in the marketplace. Brand identity and brand protection is of paramount importance to people. Ask Coca Cola, if not the most widely recognized brand in the world, certainly one of them. Ask IBM about their brand, which is another one that is highly recognized across the entire world. Protecting ones brand is incredibly important. I ask you to consider, at the gateway to Maine, the value of our brand as a place where it is 'the way life should be'. Is a towering gambling casino part of what we want to project as our brand as a great state. I think the answer to that is a resounding no. I hope you will vote for the pending motion. Thank you.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Pendleton to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#141)

**YEAS:** Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TREAT, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

**NAYS:** Senators: None

**ABSENT:** Senator: MARTIN

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

#### ENACTORS

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

#### Emergency Measure

An Act To Amend the Motor Vehicle Laws

S.P. 545 L.D. 1590  
(C "A" S-237)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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.

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### Acts

An Act To Retain Teachers Holding Targeted Need Area  
Certificates, Conditional Certificates or Transitional Endorsements  
H.P. 714 L.D. 957  
(H "A" H-523 to C "A" H-458)

An Act To Amend the Laws Governing the Maine Developmental  
Disabilities Council  
S.P. 371 L.D. 1099  
(C "A" S-183)

An Act To Clarify the Definition of Independent Expenditures  
Under the Election Laws  
S.P. 402 L.D. 1196  
(C "A" S-205)

An Act To Amend the Educators for Maine Program  
H.P. 985 L.D. 1340

An Act To Provide Equitable Treatment to State Employees  
H.P. 1198 L.D. 1619  
(C "A" H-531)

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

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### Resolves

Resolve, Directing the Department of Labor, Bureau of  
Unemployment Compensation To Provide Access to a Toll-free  
Telephone Number  
S.P. 39 L.D. 116  
(H "A" H-518 to C "A" S-168)

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

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Resolve, To Study Obesity and Methods To Decrease the Cost of  
Health Care and Increase the Public Health  
H.P. 363 L.D. 471  
(H "A" H-529 to C "A" H-464)

On motion by Senator **GAGNON** of Kennebec, placed on the  
**SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in  
concurrence.

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### ORDERS OF THE DAY

#### Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later  
(3/18/03) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An  
Act Relating to Unemployment Compensation"  
S.P. 40 L.D. 117

Majority - **Ought to Pass as Amended by Committee  
Amendment "A" (S-2)** (8 members)

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

Tabled - March 18, 2003, by Senator **EDMONDS** of Cumberland

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

(In Senate, March 18, 2003, Reports **READ**.)

On motion by Senator **EDMONDS** of Cumberland, Bill and  
accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

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Senate at Ease.

Senate called to order by the President.

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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:

#### Acts

An Act To Preserve the Role of Assisted Living  
S.P. 403 L.D. 1197  
(C "A" S-236)

An Act To Amend the Animal Welfare Laws  
S.P. 520 L.D. 1545  
(H "A" H-533 to C "A" S-195)

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

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An Act Regarding Wrongful Discharge

H.P. 820 L.D. 1117  
(H "A" H-527 to C "A" H-265)

On motion by Senator **BLAIS** of Kennebec, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

On motion by Senator **CATHCART** of Penobscot, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

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An Act To Amend the Laws Governing the Deduction of Pensions, Retirement Benefits and other Income from State Income Tax

H.P. 446 L.D. 583  
(C "A" H-534)

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

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#### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/29/03) Assigned matter:

#### Emergency Measure

An Act To Revise Certain Provisions of Maine's Fish and Wildlife Laws

H.P. 1087 L.D. 1482  
(H "A" H-524 to C "A" H-422)

Tabled - May 29, 2003, by Senator **WOODCOCK** of Franklin

Pending - **ENACTMENT**, in concurrence

(In House, May 29, 2003, **PASSED TO BE ENACTED**.)

(In Senate, May 29, 2003, **PASSED TO BE ENACTED**, in concurrence. On motion by Senator **WOODCOCK** of Franklin **RECONSIDERED**.)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with 3 Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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An Act To Restrict Fingerprinting of Educational Personnel to New Applicants for Certification, Authorization or Approval

H.P. 667 L.D. 890  
(C "A" H-520)

Senator **LAFOUNTAIN** of York requested a Roll Call.

Senator **BENNETT** of Oxford moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

Same Senator requested a Roll Call.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**. (Roll Call Requested)

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An Act Concerning Retirement Benefits for State Employees

H.P. 730 L.D. 1009  
(H "A" H-517 to C "A" H-441)

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

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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:

#### Acts

An Act To Require the Workers' Compensation Board To Adopt Rules To Require Electronic Filing

H.P. 268 L.D. 339  
(S "A" S-243 to C "A" H-191)

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

#### COMMUNICATIONS

The Following Communication: H.C. 228

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
CLERK'S OFFICE  
2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333

May 30, 2003

Honorable Joy J. O'Brien  
Secretary of the Senate  
121st Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Establish a Moratorium on Genetically Engineered Plants"

(H.P. 893)(L.D. 1219)

Representative McKEE of Wayne  
Representative CARR of Lincoln  
Representative EDER of Portland

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Redefine 'Muzzle-loading Firearm' and Expand the Muzzleloader Hunting Season"

H.P. 867 L.D. 1170

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-537).**

Comes from the House with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-537).**

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

**READ ONCE.**

Committee Amendment "A" (H-537) **READ and ADOPTED**, in concurrence.

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

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All matters thus acted upon were ordered sent down forthwith for concurrence.

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

**PAPERS FROM THE HOUSE**

**House Paper**

Resolve, To Authorize the State To Purchase a Landfill in the City of Old Town

H.P. 1205 L.D. 1626

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

On motion by Senator **TREAT** of Kennebec, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed, in concurrence.

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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:

**Act**

An Act To Amend the Dates for Implementation of the Maine Rx Program and the Prescription Drug Price Reduction Act

H.P. 894 L.D. 1220  
(C "A" H-447)

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

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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On motion by Senator **TREAT** of Kennebec, **ADJOURNED** to Monday, June 2, 2003, at 10:00 in the morning.