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
August 21, 2003 to August 22, 2003

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

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

In Senate Chamber
Thursday
June 12, 2003

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

Prayer by Senator Lynn Bromley of Cumberland County.

SENATOR BROMLEY: Good morning and thank you. As we finished our work last night, and you all left the chamber, I recalled that I would need to put some words to paper for this morning. As I sat here by myself, an image came to me. Those of you who have been around a farm might be familiar with this. You have been driving a team of horses, and have been plowing, raking, twitching wood, or hauling sap. At the end of the day, when you are returning home from your work, the horses smell the barn and start to run. It is a rather impressive burst of energy. It is with that context of hard work, which is near ended, and a burst of energy that I humbly offer you these words today. I'd be honored if you would join me in prayer.

Oh Holy One of beginnings and endings, who has been present with us even when we have failed to notice, we give You thanks for the privileges of serving the people of this state. We have labored hard, debated endlessly, and have produced obscene amounts of paperwork. We have argued, and have sometimes even questioned each other's motives. We have pondered and prayed for the well-being of those we represent. As we come to the end of this session, we give thanks for those who quietly support us in our work; for clerks, scribes, analysts, typists, printers, pages, security, and services, perhaps unseen or unacknowledged. Thank You for those who prepare for us, and clean up after us. Thank You for those who are leaders, and those who are followers. Today, grant us a sense of satisfaction, not smugness, but a genuine feeling that we have done what we have been called to do. As we scatter to our many places, comfort those whose lives are broken, hold those whose spirits are weary, humble those who are filled with pride, and fill those who are near empty from serving. Remind us, as good and faithful servants, to say to ourselves and to each other well done, well done. Amen.

Reading of the Journal of Wednesday, June 11, 2003.

Senator **PENDLETON** of Cumberland requested and received leave of the Senate for members and staff to remove their jackets for the duration of the First Regular Session of the 121st Legislative Session.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (5/23/03) Assigned matter:

An Act To Improve the Clean Election Option for Gubernatorial Candidates

H.P. 964 L.D. 1310
(C "A" H-450)

Tabled - May 23, 2003, by Senator **GAGNON** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, May 20, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)**, in concurrence.)

(In House, May 22, 2003, **PASSED TO BE ENACTED**.)

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

The Chair laid before the Senate the following Tabled and Later (6/10/03) Assigned matter:

Resolve, To Reestablish the Commission To Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine (EMERGENCY)

S.P. 446 L.D. 1358

Tabled - June 10, 2003, by Senator **MARTIN** of Aroostook

Pending - **ADOPTION OF HOUSE AMENDMENT "A" (H-97) AS AMENDED BY SENATE AMENDMENT "A" (S-262)** thereto, in **NON-CONCURRENCE**

(In House, April 15, 2003, **FINALLY PASSED**.)

(In Senate, June 10, 2003, on motion by Senator **GAGNON** of Kennebec, **RULES SUSPENDED, RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-97)**. On further motion by same Senator, **RULES SUSPENDED, RECONSIDERED ADOPTION** of House Amendment "A" (H-97). On further motion by same Senator, Senate Amendment "A" (S-262) to House Amendment "A" (H-97) **READ** and **ADOPTED**.)

On motion by Senator **BRYANT** of Oxford, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "A" (S-262) to House Amendment "A" (H-97) and **INDEFINITELY POSTPONED** same.

On further motion by same Senator, Senate Amendment "B" (S-271) to House Amendment "A" (H-97) **READ**.

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

Senator **BRYANT**: Thank you, Madame President, men and women of the Senate. It must be getting late in the session, because we had a few complications there. All this amendment does is utilize OPLA to staff the study committee. Thank you.

On further motion by same Senator, Senate Amendment "B" (S-271) to House Amendment "A" (H-97) **ADOPTED**.

House Amendment "A" (H-97) as Amended by Senate Amendment "B" (S-271) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-97) AS AMENDED BY SENATE AMENDMENT "B" (S-271) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Senator **WOODCOCK** of Franklin was granted unanimous consent to address the Senate off the Record.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

ENACTORS

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

Mandate

An Act To Improve Conditions for Inmates with Mental Illness
H.P. 367 L.D. 475
(S "A" S-260 to C "A" H-548)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **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

Non-Concurrent Matter

Bill "An Act To Simplify Calculation of Legal Interest"
H.P. 835 L.D. 1132
(S "A" S-261)

In Senate, June 10, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-261)**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-571)**, in **NON-CONCURRENCE**.

On motion by Senator **DOUGLASS** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

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:

Mandate

An Act To Implement Recommendations of the MCJUSTIS Policy Board Concerning the Drafting of Crimes and Civil Violations Pursuant to Resolve 1997, Chapter 105, as Amended
H.P. 1149 L.D. 1567
(C "A" H-557)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **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:

ENACTORS

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

Act

An Act to Increase Funding for the Maine Dental Education Loan Program

H.P. 152 L.D. 193

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:

ENACTORS

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

Resolve

Resolve, Directing the Community Preservation Advisory Committee To Study Issues Pertaining to Barriers to Affordable Housing in the State

H.P. 364 L.D. 472
(H "A" H-273; S "A" S-265 to C "A" H-145)

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

Off Record Remarks

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

ORDERS

Joint Resolution

On motion by Senator **EDMONDS** of Cumberland (Cosponsored by Representative RICHARDSON of Brunswick and Representatives: GERZOFSKY of Brunswick, SNOWE-MELLO of Poland, VAUGHAN of Durham), the following Joint Resolution:

S.P. 591

JOINT RESOLUTION DECLARING JUNE 5TH AS MAINE STATE MUSIC THEATRE DAY

WHEREAS, the Brunswick Summer Playhouse started out as a dream of Victoria Crandall in 1959 in the Pickard Theatre on the Bowdoin College campus; and

WHEREAS, in 1967 its name was changed to Brunswick Music Theatre and in 1988, to show the commitment to the entire State, the name was changed again to the Maine State Music Theatre; and

WHEREAS, in the late 1960s Maine was filled with summer playhouses, but few were exclusively musical houses; and

WHEREAS, in the 1970s the theater became a nonprofit organization focused on developing and expanding an internship program to educate and train young artists in theater crafts. Each season, 30 to 40 interns and apprentices hone their skills in the areas of performance, technical management and theater management; and

WHEREAS, the Maine State Music Theatre is the only resident, professional musical theater operating in the United States and the largest performing arts organization in the State; and

WHEREAS, the Maine State Music Theatre is the State's oldest continuing professional music theater; and

WHEREAS, in the last 44 years nearly 2 million patrons have attended the Maine State Music Theatre's performances, representing all 50 states and numerous foreign countries; and

WHEREAS, over 350 volunteers, named "the Angels," work together each season to provide assistance to the theater and help reduce operating costs; and

WHEREAS, starting with the June 5th opening night, the Maine State Music Theatre is celebrating its 45th season; now, therefore, be it

RESOLVED: That We, your Memorialists, in a gesture of support of the theater, proclaim that June 5, 2003 is "Maine State Music Theatre Day" in the State of Maine; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine State Music Theatre.

READ.

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

Senator **EDMONDS**: Thank you, Madame President. I just wanted to call attention to the fact that the Maine State Music Theatre is having its 45th anniversary this year. They have done

a wonderful job of presenting great theater in our state for all these years. I hope you can all come to my district and enjoy them in the coming months. Thank you.

On motion by Senator **EDMONDS** of Cumberland, **ADOPTED**.

Ordered sent down forthwith for concurrence.

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

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 Improve the Fairness of the Health Care Provider Tax and To Ensure Fair Implementation of Health Care Reimbursement Reforms

S.P. 424 L.D. 1293
(C "A" S-220)

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

Non-Concurrent Matter

Bill "An Act To Strengthen the Energy Resources Council"

S.P. 233 L.D. 669
(C "A" S-200)

In Senate, May 20, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-200)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-200) AS AMENDED BY HOUSE AMENDMENT "A" (H-567)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **HALL** of Lincoln, the Senate **RECEDED** and **CONCURRED**.

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

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

REPORTS OF COMMITTEES

House

Divided Report

Eleven members of the Joint Select Committee on **HEALTH CARE REFORM** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Preserve the Fund for a Healthy Maine

H.P. 1188 L.D. 1612

Reported in Report **"A"** that the same **Ought to Pass as Amended by Committee Amendment "A" (H-568)**.

Signed:

Senators:
BRENNAN of Cumberland
MAYO of Sagadahoc
LaFOUNTAIN of York

Representatives:
O'NEIL of Saco
KANE of Saco
CANAVAN of Waterville
MAILHOT of Lewiston
DUDLEY of Portland
EARLE of Damariscotta
MILLETT of Waterford
PERRY of Calais

Two members of the same Committee on the same subject reported in Report **"B"** that the same **Ought to Pass as Amended by Committee Amendment "B" (H-569)**.

Signed:

Senator:
TURNER of Cumberland

Representative:
YOUNG of Limestone

Two members of the same Committee on the same subject reported in Report **"C"** that the same **Ought Not to Pass**.

Signed:

Representatives:
GLYNN of South Portland
SHIELDS of Auburn

Comes from the House with Report **"A"**, **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-568) READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-568)**.

Reports **READ**.

On motion by Senator **BRENNAN** of Cumberland, Report **"A"**, **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-568) ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-568) **READ** and **ADOPTED**, in concurrence.

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

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Establish a New Method of Determining the State Budget"

H.P. 796 L.D. 1078

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

Signed:

Senators:
CATHCART of Penobscot
ROTUNDO of Androscoggin

Representatives:
BRANNIGAN of Portland
MAILHOT of Lewiston
COWGER of Hallowell
DUDLEY of Portland
PINGREE of North Haven
FAIRCLOTH of Bangor

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

Signed:

Senator:
TURNER of Cumberland

Representatives:
ROSEN of Bucksport
MILLS of Cornville
O'BRIEN of Augusta
MILLETT of Waterford

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

Reports **READ**.

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

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

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. I would ask that you consider not voting for the motion put forth by the good Senator from Penobscot, Senator Cathcart. If you examine the proposition before us, it simply asks that we move back our budgeting mechanism one year. When new legislators or new governors come in, they are not faced with building a complete new Part 1 budget for our consideration. If you consider what we did at the beginning of this year, we had a new administrative team who faced a great amount of difficulty with respect to building a budget. I think they would have been better served, and we certainly would have been better served given the newness of the administration and many of the members of this chamber and the other body, if more time was available to get up to speed on financial matters, understand responsibilities and how things work, and then build a Part 2 budget in what would be the period of time when we would normally do the second half of our budget activities. I ask you to think about the difficulties we faced in this first period, and how we might have been able to ease the travails of the new administration and many of our new members. It would have provided them the opportunity to get up to speed on budget matters. Otherwise, the proposition would proceed, budget-wise, as it always has with full deliberation, but dealing with a more experienced team when you put together a Part 1 budget for the first time. I would ask that you vote against the pending motion so we can move on to the minority report.

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

Senator **CATHCART**: Thank you, Madame President and members of the Senate. I urge you to support the majority Ought Not to Pass report. This legislation may not be a bad idea, but we did not have the time to study whether other states use this same system. As far as our own system, as we saw last night, we have passed our fourth successful budget in one session. I will remind members that we were all happy, and that we had a unanimous vote in the Senate on that budget last night. I really don't think our present system is broken. If the proponents of the legislation feel strongly about it, it might be a good idea to come back another time and suggest a study commission on this concept so that time could be given to the consideration. I think our current

system is working quite well, and we don't need to pass the legislation at this time.

Same Senator 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 do appreciate the words of the Senate chair of the Appropriations Committee commending the soundness of the idea. I would simply tell you that we are where we are today because of the great skill of the two chairs of the Appropriations Committee, Representative Brannigan of Portland and Senator Cathcart of Penobscot. Thank you.

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

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Cathcart 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 (#160)

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

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

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/19/03) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Governing Municipal Citizen Initiatives and Referenda" (EMERGENCY)

H.P. 309 L.D. 389

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-354)** (9 members)

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

Tabled - May 19, 2003, by Senator **ROTUNDO** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 15, 2003, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)**.)

(In Senate, May 19, 2003, Reports **READ**.)

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

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

Senator **ROTUNDO**: Thank you, Madame President, men and women of the Senate. L.D. 389 proposes to limit the ability of citizens to retroactively modify, repeal, revoke, or invalidate certain final municipal actions through the initiative or referendum process. You have before you an opinion issued by the Attorney General which states that L.D. 389, both in its original text, and as amended by Committee Amendment "A" (H-354), would violate Article 4, Part 3, Section 21 of the Maine Constitution. This grants municipalities the power to establish a people's veto with regard to municipal affairs. The Attorney General states that nothing in Article 4, Part 3, Section 21 gives the legislature the authority to limit the substantive areas of municipal regulation that may properly be the subject of the referendum process. He ends his letter by saying that the legislature cannot directly impose limitations, such as those proposed by L.D. 389, on the municipal initiative and referendum process without violating Article 4, Part 3, Section 21 of the Maine Constitution.

Some proponents of L.D. 389 will argue that if this bill doesn't pass, someone could use the referendum process to prevent a neighbor from putting on a deck or an addition after all the building permits for the project had been secured. I would ask you to look at the facts. The referendum process has not been used in the past to keep small projects from moving forward, and there are no grounds for believing that it would be used this way in the future. According to a representative from the Maine Municipal Association, to the best of this person's knowledge, this

process has been used only a handful of times, and only by members of a community trying to stop big development projects. Further, no one could say with certainty how many referendums have actually succeeded in stopping a development project.

If you look at the referendum process established by local communities in their charters, you will come to appreciate why this process is used so infrequently, and why it would be practically impossible to use it to keep a neighbor from adding on a deck or an addition. Citizens need to get over many hurdles just to get a question on the ballot. For example, in Lewiston, 1,000 registered voters need to come to City Hall within 60 days to sign a petition to initiate a referendum. In South Portland, 5% of the qualified electors who voted in the last gubernatorial election would need to sign the petition within 20 days to initiate a referendum. It's hard to believe that a resident of Lewiston, who wants a neighbor from putting an addition onto his house, would be able to motivate 1,000 registered voters to go to City Hall within 60 days to sign a petition, let alone convince a majority of voters to support the question in a general election.

Some proponents of L.D. 389 argue that retroactive moratoriums will prevent affordable housing from being built. Again, I would ask you to look at the facts. There is not one example on record of a citizen petition stopping an affordable housing project. If you look at the articles in the Portland Press Herald over the past year, you will conclude that it is building costs and the concerns about profit, not petitions, that are depressing the development of affordable housing in southern Maine.

I would also point out that some of the most passionate advocates for affordable housing in this state are working hard to defeat L.D. 389, because it strips ordinary citizens of their power. A citizen's power to retroactively overturn a decision made by their municipal government helps hold government more accountable as its goes about doing its business. It gives local officials more incentive to keep the public process open and inclusive. Without a people's veto, citizens would have no recourse, other than to hire a lawyer, if a municipality failed to keep the process surrounding proposed development public. Most people could not afford to take legal action against their town government if the municipality, in fact, failed to allow for adequate public input. Currently Maine citizens, through the referendum process, have the power to retroactively overturn a local ordinance, as do municipal officers in the state legislature. Why should we strip away the power of the citizens to overturn a local ordinance as proposed in L.D. 389, while we still allow municipalities in this state to keep that power? Why should municipal officers in the state have this power when ordinary citizens do not?

The Constitution gives the citizens of local municipalities, not the state, the authority to determine, in their charters, whether they want retroactive moratorium. Let's let local communities, not the state legislature, decide what communities want. If it is important to you to do away with retroactive moratorium, I encourage you to go back to your local communities and encourage them to make a charter change that would prohibit those moratoriums. This would be constitutional.

As is said in the letter before you from Portland City Councilors, the minimal disruptions and delays caused by citizen initiatives are completely justified by the need for a democratic method to enforce community standards. It is an arrogant abuse of our power, as a legislature, to restrict the legal authority of the people to act on their own behalf. Please join me in voting to indefinitely postpone L.D. 389. Thank you.

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

Senator **GILMAN**: Thank you, Madame President, ladies and gentlemen of the Senate. I stand in opposition to the indefinite postponement motion, so we can move to the Ought to Pass report. Opponents say this is a citizen's right issue. It certainly is, because property owners are citizens too. I agree that citizen involvement should be encouraged, but at the appropriate time in the process. That should be in the passage of the ordinances or during the permitting process, not after the fact. Undoing a lawfully granted permit after the fact is like trying to change the rules of the game after it is over in order to make the other team a winner.

Opponents say a citizen referendum process worked to save Portland's waterfront in the fisherman's wharf case. That is a very different case from what L.D. 389 does. L.D. 389 protects the sanctity of a lawfully granted permit. In the fisherman's wharf case, the permit had never been granted. The citizens were changing the rules before a permit was granted. That is a totally appropriate exercise of citizens' rights, and should be encouraged. Changing the process after the fact is inappropriate and impacts on property owner's rights.

Once again, I stand in opposition to the indefinite postponement motion, so we can move to support the Ought to Pass majority report. Thank you, Madame President.

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

Senator **SHOREY**: Thank you, Madame President, men and women of the Senate. I'm not a lawyer. I'm just a person from Washington County who has been sent down here to represent the people. I have two opinions here, one from the Office of the Attorney General, which the good Senator from Androscoggin, Senator Rotundo, had mentioned, and another from Preti, Flaherty. One says that you can't do it. The other says to ask for a review of the Attorney General's letter dated June 3rd regarding the constitutionality. The basis for the conclusion of Mr. Rowe's letter is that all municipal functions are legislative, and thus all municipal actions are subject to review by direct initiatives and people's veto, as provided by Article 4, Part 3, Section 21 of the Maine Constitution. This analysis, however, ignores the administrative, executive, and quasi-judicial functions of municipalities. L.D. 389 seeks to prevent direct initiative and veto of executive and quasi-judicial decisions made by duly authorized municipal officials. Therefore, the Attorney General's letter of June 3rd does not address the issue. What does that mean? It doesn't mean anything to me. I'm not really sure what it means. Both sides are saying something different. If you get three more lawyers in here, they will tell you three more different things, and charge you a lot of money for it.

Where I am going is that I would ask the Senate to vote against the indefinite postponement so we can move on and pass this. We really do need to. The current law, at it stands, is not proper. When the opportunity comes up, I'll speak on that. Thank you.

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

Senator **PENDLETON**: Thank you, Madame President, men and women of the Senate. One of the things that I am going to miss a lot, and one of the things that I have found interesting while being able to serve in this body, is being able to watch issues develop. That is what I have been able to do over the last six years. This particular piece of legislation was brought to the State and Local Government Committee a couple of times. One of the times it was brought to that committee, I was lucky enough to be one of the co-chairs. Most of the testimony we heard when this issue was brought before us in the last session was actually about the working waterfront. The issue arose again two years ago, when the citizen's initiative to require neighborhood-based planning was proposed. There was a moratorium and restrictions on housing on Monjoy Hill. It took about six months for the city to straighten that out. It seems like we're trying to solve a problem that has come up twice in one city in the state with a state law. I don't quite understand why we want to make a state law that is going to affect the whole state, when we're only taking care of a problem that has turned up twice in one city in our state. Therefore, I would just ask that you consider joining me in voting in favor of indefinitely postponing this piece of legislation. I'm quite sure it's not going to do what we think it's going to do. Thank you.

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

Senator **DOUGLASS**: Thank you, Madame President, men and women of the Senate. I rise in support of the current motion to indefinitely postpone this bill. I was here to argue, fervently, that we should not pass a similar bill in one of our earlier sessions. I ask you to think about what this bill is intending to do. What is it about? It's about whether or not we're going to have a public and open process on the most controversial developments in our municipalities.

I live in a municipality where we were told one November about a new development that was coming to town. Sometime in November, the city council took a vote, and there was a permit issued from the Department of Development in the town. It wasn't until a few months later that what was really happening came to be known by the public. The public did initiate a petition. Ultimately, the councilors did not honor that petition because they found some deficiencies in how it was worded. I can tell you, if that had gone to referendum, that initiative would have overturned the council's decision, because the project was very controversial. It ended up blasting off the top of a very beautiful and rustic part of the city, so that we could have another big box store and an empty one across the street.

This is all about how we make our decisions at the municipal level. It is true that when we vote for our councilors, we are voting for people who we choose to make decisions for us. Nevertheless, there are times when those decisions are so controversial throughout the city that it is only fair and right that the citizens should have the power to bring forth a petition and review what it is the councilors have done.

This bill before us proposes to cut off that right. It proposes to cut off some of our democratic process. For that reason, it should be indefinitely postponed.

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

Senator **LAFOUNTAIN**: Thank you, Madame President, men and women of the Senate. I concur with the statements made by the good Senators from Androscoggin, Senator Douglass, and Cumberland, Senator Pendleton, and ask you to support the pending motion to indefinitely postpone this bill.

As you know, you have two legal opinions sitting on your desk. One comes from the Attorney General's Office and the other from a local law firm. One says this is constitutional; the other says it is not constitutional. In the event that we pass this bill and your community is the first community to deny citizens the right to file petitions to retroactively affect an ordinance, in essence what you are doing is allowing your community the opportunity to buy itself a lawsuit. When that lawsuit is filed, it will not be the Attorney General's Office that will be paying your legal bill. It will not be the local law firm that will be paying the legal bill. It will be your community. The last time I looked, filing a lawsuit such as this in Superior Court, followed by an appeal to the law court, is going to cost your community in the thousands of dollars. Think about it. Do you want to be spending that money on something where the jury is obviously still out? Thank you.

Same Senator requested a Roll Call.

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

Senator **STRIMLING**: Thank you, Madame President. I rise in support of the pending motion. I rise in support for two reasons. Number one, I am a developer of affordable housing. I'm a developer of affordable housing in the very city where most of this battle took place. I can assure you, the fact that there is a citizen initiated referendum has never prevented me from trying to create affordable housing. In fact, because there is a citizen initiated referendum in place has made sure that I stay in line and follow the rules very closely.

The second thing I would say is, as the good Senator from Cumberland, Senator Pendleton, mentioned, this is really all about a couple of battles that have taken place in Portland. I ask that you consider this a Portland bill and vote against it. Thank you.

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

Senator **BROMLEY**: Thank you, Madame President, men and women of the Senate. I rise in opposition to the pending motion of indefinite postponement. Let's face it. This is a tough vote for some of us. It's an ethical dilemma. Last session, quite frankly, I think I voted on both sides of the issue. Though I have come to my position rather slowly, it is without reservation that I support L.D. 389.

I will tell you about this, as briefly as possible, from my standpoint as the Senate chair of the Business, Research, and Economic Development Committee, who has jurisdiction over affordable housing issues, and as the Senate chair of the Community Preservation Advisory Committee. Why is this the state's problem? Were it not for our concern about our economy in Maine, and its connection and very obvious link to affordable housing; were it not for my concern for affordable housing and the

effect that this has on the economy; were it not for the effect that this all has on our school budgets, I would probably be resonating with my colleagues who have spoken before me.

When I first started thinking about running for office some six or eight years ago, I started attending community meetings to get the lay of the land. I was at a land trust meeting in my city of South Portland, when there was a discussion about sprawl. It was a relatively new idea to me. I have made the connection through other meetings that it is a bit like global warming. Those of us that look at the issue closely are fearful that it might be too late. Those of us who aren't paying attention wonder what all the noise is about. Those of us who work around this issue and around the issue of affordable housing feel a bit like hoarse canaries, so pardon me.

At this meeting, we were shown a 20-year-old map of our state with concentrations of population in red splotches across the map. It was fairly distinct. People were living in towns and urban centers, in some compactness, and then there were people living on farms, scattered in other places. We were then were shown overlay after overlay after overlay of how that migration has changed. As you may know, those red dots have started to move out, and open space is at risk. Why I feel like the hoarse canary is that there will be a point where it will be too late to turn this around. We might look back and say, 'Gee, if we'd done this.'

I will not represent to you that L.D. 389 is the answer to the problem of affordable housing. It is a piece of the answer to a piece of the problem that we can do something about right here. One of the things you have on your desk is a two-page handout called 'A Call to Action' by the Southern Maine Affordable Rental Housing Coalition. Unlike the view of the good Senator from Cumberland, Senator Strimling, there are issues that happen in and around Portland that we all must be concerned about. This is one of them.

When people that live and work in our communities cannot afford to live there, it is a state problem. When companies come into Southern Maine to look at locating here because they love our work ethics or love our quality of life, they don't love our housing cost. So how is this connected? There are those who will tell you this is not about affordable housing, this is about making it easy for Wal-Mart. Quite frankly, right now, in my city, we are struggling to do all the appropriate things to have affordable housing happen. It's tough. Who's doing it? Who's struggling? Maine companies, Maine capital, and our neighbors that are building affordable housing in Maine. Developers who are building Wal-Marts aren't from here. They can wait, quite frankly, as long as our process takes. Our Maine people, with their Maine capital, are not quite so lucky. When a project is to be built, if it's affordable housing, the awareness is heightened. There is fear about that. Who will those people be? What pressure will that be on our school budgets? There is attention given. If it were a high income housing project, it would likely sail right through. I also have one of those happening right in my district as we speak.

I'm going to quote quickly, I promise, from David Keeley, Acting Director of the State Planning Office, who says in Maine's body of state law and municipal ordinances, there are numerous provisions to ensure that the public is engaged in local land use decision making, both at the regulatory and policy levels, and this is as it should be. In other words, retroactively changing the rules as you go along undermines the local land use planning and regulatory process established by the people in a community. It sends the wrong message not only to the regulated community that is trying to follow the rules, but also to the regulators, those people, again many of our neighbors, who are serving on local planning boards and city councils, that serve, as you may know, countless hours, as we do, in the local process. The cost, both financial and time invested, are substantial.

We are asked to continue to sanction upending a local process by letting people say, 'Wait a minute, I know they followed all the rules, but I don't think we like that, we don't want that to go forward.' Right now, I could not afford to build an affordable home in my city, but I could afford to drive about 40 miles out and buy a couple of acres and put a house on it. So could my children, in a few years, and my neighbors. Then, guess what we're going to have to do? As those communities of Dayton, Buxton, and others continue to grow because the housing is more affordable out there, we will be charged to build a school and fund that school. Not for more students, but for students who moved there because housing was unaffordable.

I wish there was a way to do a short course on all the information and testimony that the Business, Research, and Economic Development Committee and the Community Preservation Advisory Committee has heard about housing. I wish you could understand why the Maine State Housing Authority is endorsing this. This is connected, in a very direct way, to our ability to build affordable housing in Maine, our ability to keep young people in our communities, and our abilities to have a robust economy. Please join me in defeating the pending motion so that we can go on to pass another one. Thank you.

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

Senator **MITCHELL**: Thank you, Madame President, women and men of the Senate. I rise to speak against the prevailing motion. This bill needs to be passed to encourage economic development. The current law is a disincentive to move business to Maine, to enlarge or expand current business. The current law creates uncertainty as to the outcome of a permitting process for building or expansion. A property owner of any type, business or personal, needs to be able to rely on the permitting process as set out in the local ordinance. Once a permit is granted, the property owner should be able to rely on the permit, and go forward to start building. There should be no further costs or delays beyond the already costly and time-consuming permitting process. This is a business climate issue. Are we open for business or not in Maine? The permitting process currently takes time, costs money, and allows for public input. There are hoops and hurdles that current ordinances require applicants to follow. The process usually includes hearings and meetings that require changes to the plan that they presented, before it is implemented. Costs run high for surveying, engineering, and design work. This L.D. requires at least one public hearing so that citizens can give their input, and they also have an appropriate timeframe. Once the permit is granted, there is currently an appeal process in the local ordinance which would allow a challenge if the process has not been followed. Once that period goes by, citizens should not be able to delay the implementation of the building process by throwing the ordinance, under which the permit was granted, into question through the referendum process. We are incurring extra costs, and not only for businesses. I'm not talking about just Portland. We don't need to defeat a bill for Portland. We're talking about the state and all of its residents. Let's think about what we are trying to do here. Please join me in defeating the

current motion so that we can go on and pass the majority Ought to Pass report, which went through the committee 9 - 4.

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

Senator **HALL**: Thank you, Madame President, women and men of the Senate. I'm sorry to have to take issue with my good friend, the distinguished Senator from Cumberland, Senator Bromley, who is the chair of the Business and Economic Development Committee, on the subject of affordable housing, which I know is a great concern of hers. I do have some experience with affordable housing. I have served as president of the Genesis Community Loan Fund, Maine's only community loan fund for funding affordable housing. In my six years on that board, we have financed the construction of approximately 400 units of housing, and approximately 35 developments. Not one of them faced this kind of petition challenge.

I believe, on the contrary, that the good Senator from Cumberland, Senator Strimling, is correct when he says this is a Wal-Mart bill. My perception is not from the metropolitan areas of this state, it's from representing 21 rural communities. Many of those communities have fragile, incomplete, or inconsistent zoning. Most of them have inexperienced volunteer, and sometimes infrequently meeting planning boards. Many of those municipalities receive legal advise but who, quite frankly, often quails and retreats in the face of high-priced developers and attorneys who come into those communities from out-of-state. For people in those communities, the right of petition is their last resort. I believe we should not be taking it away from them. In my part of the world, the advent of big box stores would be a disaster. The right that we are seeking to take away with this bill is the people's only defense. I urge you to support indefinite postponement. Thank you.

Off Record Remarks

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

Senator **HATCH**: Thank you, Madame President, ladies and gentlemen of the Senate. I rise today in support of indefinitely postponing this bill. In my other life as selectman of the town of Skowhegan, we have had many times when we've had disruptions in the community over something that was being put in, whether it was housing or a business. It never bothered us too much because, while being a selectman, I also served on the planning board. The planning board does a great job in our town by working with the citizens and the business people to site what ever has to be sited. It took us about three years to site a Wendy's in Skowhegan. The biggest obstacle we had to overcome was that it was in an area where there was a lot of housing. We had to work with those people. Did it make Wendy's go away? No, it didn't because we worked with them, as a planning board and as selectmen. We let them know that they were welcome in the community. I honestly believe that we would be doing the citizens of the whole state a very bad turn if we pass this bill. I ask you to support the indefinite postponement.

I don't always do this, but on the desk before me I see a letter saying the Portland City Council is against this. I don't know what community this bill actually originated in or for what purpose, and I don't think it is all about affordable housing, but I can honestly tell you that in no way, shape, or form am I going to support a bill that restricts the rights of the citizens of this state. Thank you very much.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. Let me first begin by making just one comment in reference to a comment made earlier by another member of the body. We have an advisory opinion from the Attorney General, and an opinion from a local law firm. I just need to point out that history will show that advisory opinions have the force of law unless overturned by the court. That, in fact, would be the action that the Attorney General's Office would take if it ever got to that stage. However, that is not where I'm coming from.

When the bill came out of committee, the committee chose to add a line at the end of that legislation, attempting to deal with sludge and septic. Most of you, I suspect, have ignored that line because all the debate has been based on another factor. Many of you represent rural Maine. I need to tell you the potential harm of what can happen under this legislation. This was never brought before the committee on Natural Resources. Actually that is the committee that has dealt, fortunately or unfortunately, with sludge and septic for the entire year. Unless this is amended, the potential here is to create a great problem for the agricultural community. As a matter of fact, there is already material that has been distributed by a number of groups which basically makes the potential problem clear.

In addition, this year the Agriculture Committee reported out a bill that dealt with what could be distributed. I believe it was L.D. 1543, 'An Act to Modify the Exemption for Compost.' That bill was signed into law on May 23rd. If this bill goes into effect and nothing is done, you now have a potential impact of repealing and impacting L.D. 1543. Ironically, that would have an impact on the way the bill is drafted to deal with every potential amount of wood ash that comes from the mills in Maine, and placed on agricultural land throughout this state. I have no clue as to why the committee chose to add that line. It is a disaster, regardless of what you want to do with the bill. I will say that we have made some attempts to try to remove that line, but we were not successful. That conflict remains. It is up to you, who represent the agricultural community, to be concerned. You need to know about the potential harm that can take place if that goes into law.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone the Bill and accompanying papers. 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 (#161)

YEAS: Senators: BRENNAN, BRYANT, CATHCART, DAVIS, DOUGLASS, EDMONDS, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT

NAYS: Senators: BENNETT, BLAIS, BROMLEY, CARPENTER, GAGNON, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

15 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**, **FAILED**.

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

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

Senator **BROMLEY**: I would like to urge the body to defeat the pending motion so we can go on to pass the majority Ought to Pass report.

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

Senator **ROTUNDO**: Thank you, Madame President, men and women of the Senate. I want to remind you that there is an opinion before you from the Attorney General stating that L.D. 389, as amended, is unconstitutional. I also want to remind you that retroactive moratoriums have only been used a handful of times for big projects. The hurdles that citizens need to go over in order to prevail with these retroactive moratoriums are enormously numerous. It is practically impossible for them to be successful. This is not something that neighbors or residents in communities need to fear.

If you look at the public record, you will see that there is nothing on record that demonstrates that affordable housing projects have ever been stopped because of retroactive moratoriums. I would also like to remind you that if local communities do not follow the process that is put in place for public input, without retroactive moratoriums citizens would have no recourse and would have to hire lawyers as their only form of recourse. This would be extremely costly, and probably out of the reach of most people living in our communities. I would remind you that it is up to local communities, not the state, to limit retroactive moratoriums. The proper place for this change is within the charters of your local community, not here in the legislature. Once again, I will say that I feel to take away this legal authority from the people in our local communities is an arrogant abuse of the power of the legislature. I would urge you to accept the minority Ought Not to Pass report.

Same Senator requested a Roll Call.

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

Senator **DOUGLASS**: Thank you, Madame President, men and women of the Senate. I rise in support of the pending motion, the Ought Not to Pass report. This bill is not about affordable housing. It is not about untamed growth or taming growth. It is not about whether we are open for business. It is about whether or not businesses can cut off the right of citizens to vote on controversial projects, if that right exists at the municipal level.

I want to read the bill so you are reminded of what this is about. It is about a limitation on the ability to retroactively alter final approval if a municipality has an established approval process that includes at least one advertised public hearing. That is the six-point type that goes in the back of the paper under whatever it is that is for sale, under 'For Sale General.' I would also remind you that this is the paper that half of the citizens in my community do not get. These public hearings are usually held on a weekday night at 5 o'clock or 6 o'clock. This is not the time that most people are available unless they leave work early in order to protest, if they did happen to see that small advertisement. This bill is about whether the citizens have the right, or as the language of the bill says, 'whether they may not invalidate, repeal, revoke, or modify any building permit, zoning permit, land use approval, subdivision approval, or site plan approval if the final municipal approval or issuance of the permit was taken prior to the enactment of that ordinance or bylaw.' This is about weighing a citizen's right to vote versus developer's right to have a zoning permit, building permit, or land use approval with one hearing, which was probably advertised in six-point type and placed on the inside of the paper under 'For Sale General.'

Women and men of the Senate, this is about our right to vote. This is about our democratic process, and whether it is for sale.

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

Senator **SAWYER**: Thank you, Madame President. I have two thoughts on this matter. The first is that I would agree that I don't think this bill is about affordable housing. I also don't think this is about Wal-Mart. The last time I looked at the statue of Lady Justice, she was blind. This is not a group home versus a big box store.

I try to think of legislation outside of, excuse the expression, the box. This piece reminds me of when, quite a few years ago, and I think some of us are old enough to remember, the United States played Russia in the Olympics. As I recall that game, the referee blew the whistle. America was ahead. America thought they had won the game. We all were celebrating. Then somebody said, 'Wait a minute, we're wrong. The game wasn't over. The game should last a little bit longer.' So the game went on and it seems to me America outscored the Russians yet again. The referee blew the whistle. We thought the game was over and we had won. We started to celebrate. It is my recollection, somebody said, 'Oops. No, actually the game is not yet over.' It needed yet another ending. As I recall the event, the referee blew the whistle. Guess what? America had fewer points than the Russians and the game was over. They had won the game.

It just seems to me, out of any notion of fairness and justice, that any developer, any person, any individual, any corporation, or any group home needs to know that at some time, when the referee blows the whistle, they either have their permit, or they don't have their permit. I was mad when I watched that basketball game. I think anyone who seeks a permit would be at least as mad to find that they really don't have what they need to proceed. They thought we had blown the whistle; they thought they had planning board approval; they thought they had Board of Environmental Protection approval; they thought they had Zoning Board of Appeal approval, but we haven't really blown the whistle yet. They would be subject to one more opportunity to lose. For that reason, I would ask that you vote against the motion before us. 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. I think we are at the point where we are trying to decide what this bill is about. I can tell you that it is not out of a sense of arrogance or antipathy to the local citizens' ability to govern themselves that I rise today and encourage you to vote against the pending motion. I reluctantly support this bill, but I support it nonetheless. I have been a long time advocate for the protections of our systems of public democracy and direct democracy in this state. I have to say that if this bill were truly about money or about business interests over the rights of individuals, I would vote for the Ought Not to Pass report. If this bill were a referendum on big box stores versus local control, I would vote for the Ought Not to Pass report. To me, this bill is about something more fundamental than that. It is about a fundamental issue that occurs constantly here in this chamber and throughout this country as we grapple with our unique democracy. That question is the rights of minorities versus those of majorities.

Forgive somebody who is in his last term, and who may look at issues slightly differently. When I started thinking about this bill, my mind drifted to reading the Federalist Papers by Alexander Hamilton, James Madison, and John Jay. Specifically, I recall reading in Federalist section 10 the discussion that James Madison put on the question of faction, which was the great fear at the time the Constitution of this United States was being considered. At that time, they were trying to craft a new democracy that wouldn't replace the tyranny of the King with the tyranny of the majorities. I brought out my dust covered copy of the Federalist Papers, which I forgot to bring with me today. Fortunately, through the Internet, I was able to find the reference I was looking for. I would like to share it with you today. In his discussion of faction, James Madison wrote, 'When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed.' He goes on to say, 'A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence, it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths.'

Now, will failing to pass this bill lead to the death of our democracy? Of course not, but I would contend that it is in the best tradition of this accommodation between the rights of the minority and the rights of the majority that this bill presents itself. This question is not going to be answered today with the failure or passage of this bill. I do believe that you can be for democracy. You can be for the rights of local people and the rights of people across this land and still be in favor of this bill. Indeed, you can be proudly supportive of this bill, if you are so inclined. I encourage the Senate to reject the minority Ought Not to Pass report and accept the majority Ought to Pass report.

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

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. I want to thank the good Senator from Oxford, Senator Bennett, for reminding us about the Federalist Papers. It is not, as the Senator from Penobscot, Senator Sawyer, has indicated, about affordable housing or about big box development. I actually think it is about the people that many on the other side of the aisle care very dearly about, and that is the little person. If it was an affordable housing project, the pockets would be deep enough to run the gauntlet. If it was a big box development, the pockets would be very deep, and they would be able to run whatever gauntlet was put before them. Ultimately, their project would incur that additional expense, and in all likelihood, go forward. It is the small person who seeks to add the porch or deck to their house, who could be thwarted in that effort by the neighbor on the next street. I think that is the person you should be seeking to protect.

As the good Senator from Oxford, Senator Bennett, indicated, we need to protect citizens sometimes from the tyranny and the majority. The process, and following that process, is very important. Everybody needs to understand what it is, follow the rules, and when they hear the whistle blow, understand that the game is over and they rise or fall on the basis of the final score at that time.

I would encourage you to vote against the pending motion so we can move on and accept the majority report. Thank you.

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

Senator **BRYANT**: Thank you, Madame President, men and women of the Senate. In response to the good Senator from Penobscot, Senator Sawyer, I do believe that the people of the State of Maine when the opportunity arises, when the whistle blows, ought to be the ones with the whistle. If we turn that around and have a system where you can manipulate the whistle, and take it away from the citizens of this state, I think that is wrong. I think that is what this bill does. It allows you to maneuver a way to take the power away from the people that have a investment in it, and those are the people in that town. I would encourage you to vote for the pending motion. Thank you.

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

Senator **MARTIN**: Thank you, Madame President. Needless to say, I am little bit surprised to hear the words of the Federalist Papers by Jay, Hamilton, and Madison being discussed today. As you may know, those papers were propaganda articles that appeared in a New York newspaper primarily in order to get the colonies to support ratification of the Constitution. I would point out that the poor little people, the farmers, and the low income people, so to speak, during that period all were opposed to ratification of the Constitution. I might point out, every single delegate from the then province of Maine, which was then part of Massachusetts, voted against ratification at the ratification convention in Boston. Frankly, when you look back at this document that was put together, it was only the ratification fight which lead to the adoption of the Bill of Rights. They made the commitment that, if they were adopted, we would then have a Bill of Rights added to the Constitution when it was drafted. Even with that having been done, women were not allowed to vote until 1920. Blacks were not allowed to be part of our system until the Civil War. On top of that, we didn't allow Native Americans to vote in this state until 1964. When we start talking about eliminating individuals and preventing individuals from voting, this is another example. I fully agree, however, that this is not the end of the road for anything. It is just part of the process of getting us to where we are going to go eventually. Whether or not this becomes law, it is an example, in my opinion, of when a small group wants to control.

Frankly, now we are going to control farmers. I guess no one cares. If this becomes law next year, when you come back and your farmers are prevented to spread on their land, you will know what happened. It is the last line that was added in the draft. I have no clue why it was adopted. It's in this bill and it's the last line that was adopted in the draft that came from the committee. There it sits. I also urge you to make a call when you leave tonight. If you happen to represent a municipality that has septic waste that has to go from the individual plants and has to be spread, question what will happen when this becomes law. You may end up having to eat it, because there may not be any ability to spread it on any land because of the draft of this law. So I suggest that you call a facility that gets rid of its waste. I have no idea where it is spread now, what communities. Portland, Bangor, Augusta, or any other town that has septic waste. Take a look as to what is going to happen once this becomes law. Again, I have no clue as to why that was put in. We've made an attempt to remove it, but the sponsors of this legislation don't want to and so it remains. That is all I can tell you. I hope that you have a system of non-discharge in your municipal waste system.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Accept the Minority 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 (#162)

YEAS: Senators: BRENNAN, BRYANT, CATHCART, DAVIS, DOUGLASS, EDMONDS, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT

NAYS: Senators: BENNETT, BLAIS, BROMLEY, CARPENTER, GAGNON, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

15 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-354) **READ**.

On motion by Senator **ROTUNDO** of Androscoggin, Senate Amendment "B" (S-272) to Committee Amendment "A" (H-354) **READ**.

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

Senator **ROTUNDO**: Thank you, Madame President, men and women of the Senate. Since the Ought to Pass as Amended report has been accepted, I offer this amendment to give citizens some window in which they can petition. This states that their petition process has to be done within 90 days after the final municipal approval, issuance of the permit petition, or petition. It seems to me that this covers some of the concerns that people have addressed today in terms of giving people a window in which they can petition, but also a deadline by which they have to petition. I would ask that people join me in voting for this amendment. Thank you.

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

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Adopt Senate Amendment "B" (S-272) to Committee Amendment "A" (H-354). 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 (#163)

YEAS: Senators: BRENNAN, BRYANT, CATHCART, DAVIS, DOUGLASS, EDMONDS, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT

NAYS: Senators: BENNETT, BLAIS, BROMLEY, CARPENTER, GAGNON, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

15 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **ROTUNDO** of Androscoggin to **ADOPT** Senate Amendment "B" (S-272) to Committee Amendment "A" (H-354), **FAILED**.

Committee Amendment "A" (H-354) **ADOPTED**, in concurrence.

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

Ordered sent forthwith to the Engrossing Division.

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

ORDERS

Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of:

Robert E. Cunningham, of Waterville, beloved husband of Linda Cunningham, a respected teacher and an active participant in his community. Mr. Cunningham taught government at Waterville High School for 38 years, retiring in 2002. He was the coordinator of the school's mock trial team for 11 years, advisor to the civil rights team and co-coordinator of the school's commencement. Mr. Cunningham was a member of the Waterville Planning Board, a past member of MEA Legislative Assembly, a member of the United Way Budget Committee and a member of the Maine Retired Teacher Association. He was also a member of the First Congregational Church. He enjoyed spending time with his family and was passionate about politics and current events. He will be greatly missed by his loving family and many friends;

SLS 282

Sponsored by Senator GILMAN of Cumberland.
Cosponsored by Senator: GAGNON of Kennebec,
Representatives: MARRACHÉ of Waterville, FINCH of Fairfield, CANAVAN of Waterville.

READ.

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

Senator **GILMAN**: Thank you, Madame President, men and women of the Senate. I rise today on behalf of the memoriam for Robert Cunningham. Bob Cunningham was my son's father-in-law. Bob was a man of great conversation, ideas, and compassion. He'll be greatly missed by all of his family, especially my son, who considered him a great friend. Since Maine is just one great big community, I find that Jeremy Foster is a good friend of Bob's son, John. Thank you very much.

ADOPTED.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Joint Select Committee on **HEALTH CARE REFORM** on Bill "An Act To Provide Affordable Health Insurance to Small Businesses and Individuals and To Control Health Care Costs"
H.P. 1187 L.D. 1611

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-565)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-565)**.

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

READ ONCE.

Committee Amendment "A" (H-565) **READ**.

On motion by Senator **NASS** of York, Senate Amendment "A" (S-278) to Committee Amendment "A" (H-565) **READ**.

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

Senator **NASS**: Thank you, Madame President, men and women of the Senate. Fortunately, we all have a lot of experience with this issue. We've read a lot about it. We've talked about it. We've listened to other people talk about it. We may have even made some speeches about it. Over the years, maybe most of us have submitted some legislation about it. This amendment is a conglomeration of proposals that have been before this legislature this session.

It does three or four things. The biggest thing, I suppose, is it creates a high risk pool and repeals the guarantee issue. Guarantee issues and community ratings are two things we have tried to modify before, and I believe they are key to the solution for health care.

As I have translated all the discussion, all the prior proposed legislation, and all the talk about this, it seems to me that it comes down to two issues; access to health care and the cost. Which is more important? It's hard to say. If you don't have insurance, and don't have access to it, that is probably more important. If you can't afford it, but you do have access, that might be more important. I would suggest that this amendment, the high risk pool, provides as much access as the other proposal, the Dirigo Health Plan.

What the Dirigo Plan doesn't do is it doesn't do anything about cost. Many of the people I've talked to are complaining about cost. We can hide and run all day long, but when it comes down to it, the cost of health care is something we're going to have to deal with. Dirigo does not. It is pretty obvious, from the historical perspective, why it doesn't. We can't keep providing higher benefits, more benefits to more people and expect to reduce the cost. That seems as plain as day to me. Unless we confront the obvious, we're not going to be successful. It is obvious, to me, that we need to do the painful things. Either we reduce access, reduce costs, or accept reduced quality. We have not been willing to do any of those things yet. We keep adding on more people. Every time we do, we know what the outcome is going to be. Our costs go out of sight. This provides more access for more people. As much as we might like to do things, it's time to do something that is going to work. Dirigo does not work. It will not work. History teaches us that. What I am proposing here is a high risk pool. It's been talked about before in other legislation. It repeals the guarantee issue and changes the community rating system. All of these are harsh things. It would be nice if we didn't have to do them, but we won't get at the cost issue unless we do, in my opinion. The proposal in front of us, Dirigo Health, does little for the individual paying the highest health insurance premium, self employed individuals, and those people working for companies that don't provide insurance. By contrast, we have examples from other states, some say as many as 31 states, that have a different proposal. It appears to be working well. The really interesting thing is that one of those examples is just across our border. Both Kentucky and New Hampshire enacted community ratings and high risk pool reforms that caused health premiums in the individual market to drop by up to 40% for some individuals, while not increasing costs for older or sicker individuals. It is my understanding that the most Dirigo can offer is a 20% reduction, if it is successful, per individual. Further, this amendment proposes to correct the geographic access standard as provided for in Rule 850, one of the insurance department rules. Again, we have debated that here in previous terms. We've had a bill presented this year about this issue. As it is presented, it can be harsh for some people. There is no doubt about that. Whether it is the insurance company forcing somebody to go to a lower cost facility or whether it is by choice, the lower cost is certainly not as convenient. We know that. Again, if we are serious about reducing the costs, and that is what I hear is the big issue, then we'd better face up to some of these things. Dirigo does not.

Finally, this is the oldest issue of all, and this state has done nothing about it. This bill places a $250,000 cap on non-economic damages and medical liability actions. It's been a bill that has been before this legislature. We've talked about it over and over again. If we are serious about costs, these are things we have to do. The cost of health insurance in Maine is too high. Other states have cheaper health insurance programs. Rather than subject our citizens, 1.3 million Mainers, to the Dirigo Health experiment, let's do something that has been proven in other states, proven to reduce health costs, and to reduce the rate of the uninsured. Thank you, Madame President.

Senator **MAYO** of Sagadahoc moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-278) to Committee Amendment "A" (H-565).

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

Senator **MAYO**: Thank you, Madame President and members of the Senate. At some point this afternoon, I would like to talk about Dirigo and all that is contained therein. However, my understanding is that this takes me beyond the current motion that I have just made. With that, I will stop.

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

Senator **BLAIS**: Thank you, Madame President, men and women of the Senate. There is no doubt in my mind that everyone in this room supports universal access to affordable health care for the people of Maine. The dilemma, of course, is to define the method by which we, here in the legislature, will achieve that goal. Supporters of the Chief Executive's health care plan have decided that more government involvement is the answer. Others, like myself, have reason to be concerned that government involvement is largely responsible for the crisis that prompts the debate that we are having in the first place. We have some reason to be suspicious of a plan that will draw $53 million from our treasury just to get started. The premise of the Dirigo plan is that by reducing the number of uninsured people who utilize our health care system....

THE PRESIDENT: The Chair would interrupt debate to remind the Senator that the question before us is indefinite postponement of the Senate Amendment "A" (S-278).

Senator **BLAIS**: Very well. Men and women of the Senate, I very much would like an opportunity to speak with respect the Senate Amendment that was before us just moments ago. I would urge you to vote against the motion that is currently on the floor, the motion to indefinitely postpone, so that we may speak with respect to the amendment that the good Senator from York, Senator Nass, has brought to us today.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Mayo to Indefinitely Postpone Senate Amendment "A" (S-278) to Committee Amendment "A" (H-565). 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 (#164)

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

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

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **MAYO** of Sagadahoc to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-278) to Committee Amendment "A" (H-565) **PREVAILED**.

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

THE PRESIDENT: The pending question before the Senate Adoption of Committee Amendment "A" (H-656). 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 (#165)

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

NAYS: Senators: None

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

33 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent and 1 Senator being excused, Committee Amendment "A" (H-565) **ADOPTED**, in concurrence.

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

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Improve the Maine Rx Program"

S.P. 590 L.D. 1634

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

In Senate, June 11, 2003, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-570)**, in **NON-CONCURRENCE**.

Senator **TREAT** of Kennebec moved the Senate **RECEDE** and **CONCUR**.

Senator **TURNER** of Cumberland moved to **REFER** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**

The Chair **RULED** the motion to **REFER** to the Committee on **HEALTH AND HUMAN SERVICES OUT OF ORDER**.

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

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

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. I believe that the amendment put on this bill in the House exempts it from the Appropriations Table. I

would ask that you vote against the pending motion and perhaps we can have a Public Hearing in Appropriations on the bill. Thank you very much.

On motion by Senator **BENNETT** of Oxford, the Senate **RECEDED**.

House Amendment "A" (H-570) **READ** and **ADOPTED**, in concurrence.

Senator **MARTIN** of Aroostook moved the Senate **CONCUR**.

Senator **BENNETT** of Oxford moved the Bill and accompanying papers be **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#166)

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

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

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

15 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **BENNETT** of Oxford to **COMMIT** the Bill and accompanying papers to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**, **FAILED**.

On motion by Senator **MARTIN** of Aroostook, the Senate **CONCURRED**.

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Amend Certain Provisions of the Program Evaluation and Government Accountability Laws"

H.P. 59 L.D. 51
(C "A" H-361)

In Senate, June 4, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361) AND HOUSE AMENDMENT "A" (H-558)**, in **NON-CONCURRENCE**.

On motion by Senator **PENDLETON** of Cumberland, the Senate **ADHERED**.

Sent down for concurrence.

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

ORDERS OF THE DAY

The Chair removed from the **SPECIAL STUDY TABLE** the following:

Resolve, Directing the Department of Human Services To Establish an Advisory Task Force to Examine Staff-child Ratios and Maximum Group Size in Child Care Facilities

H.P. 538 L.D. 732
(C "A" H-168)

Tabled - May 6, 2003, by Senator **GAGNON** of Kennebec

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, April 29, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-168)**, in concurrence.)

(In House, May 5, 2003, **FINALLY PASSED**.)

On motion by Senator **GAGNON** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-168)**, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-168), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-277) to Committee Amendment "A" (H-168) **READ** and **ADOPTED**.

Committee Amendment "A" (H-168) as Amended by Senate Amendment "A" (S-277) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-168) AS AMENDED BY SENATE AMENDMENT "A" (S-277) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair removed from the **SPECIAL STUDY TABLE** the following:

Emergency Resolve

Resolve, To Create the Task Force To Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal Law Enforcement Officers and Firefighters

H.P. 989 L.D. 1343
(C "A" H-190)

Tabled - May 9, 2003, by Senator **GAGNON** of Kennebec

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 1, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-190)**, in concurrence.)

(In House, May 8, 2003, **FINALLY PASSED**.)

On motion by Senator **GAGNON** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-190)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-275) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-190) AND SENATE AMENDMENT "A" (S-275), in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair removed from the **SPECIAL STUDY TABLE** the following:

An Act to Extend the Authority of the Health Care System and Health Security Board

H.P. 27 L.D. 20
(C "A" H-113; H "A" H-143)

Tabled - May 13, 2003, by Senator **GAGNON** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, May 7, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-113) AND HOUSE AMENDMENT "A" (H-143)**, in concurrence.)

(In House, May 12, 2003, **PASSED TO BE ENACTED**.)

On motion by Senator **GAGNON** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-113) AND HOUSE AMENDMENT "A" (H-143)**, in concurrence.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-113) AND HOUSE AMENDMENT "A" (H-143)**, in concurrence.

The Chair removed from the **SPECIAL STUDY TABLE** the following:

Emergency Resolve

Resolve, To Establish the Committee To Study Compliance with Maine's Freedom of Access Laws

H.P. 797 L.D. 1079
(C "A" H-326)

Tabled - May 19, 2003, by Senator **GAGNON** of Kennebec

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 13, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-326)**, in concurrence.)

(In House, May 16, 2003, **FINALLY PASSED**.)

On motion by Senator **GAGNON** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-326)**, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-326), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-280) to Committee Amendment "A" (H-326) **READ** and **ADOPTED**.

Committee Amendment "A" (H-326) as Amended by Senate Amendment "A" (S-280) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-326) AS AMENDED BY SENATE AMENDMENT "A" (S-280) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair removed from the **SPECIAL STUDY TABLE** the following:

Emergency Measure

An Act To Establish the Long-term Care Oversight Committee
H.P. 65 L.D. 57
(C "A" H-443)

Tabled - May 22, 2003, by Senator **GAGNON** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, May 20, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-443)**, in concurrence.)

(In House, May 22, 2003, **PASSED TO BE ENACTED**.)

On motion by Senator **GAGNON** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-443)**, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-443), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-276) to Committee Amendment "A" (H-443) **READ** and **ADOPTED**.

Committee Amendment "A" (H-443) as Amended by Senate Amendment "A" (S-276) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-443) AS AMENDED BY SENATE AMENDMENT "A" (S-276) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

The Chair removed from the **SPECIAL STUDY TABLE** the following:

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)

Tabled - May 30, 2003, by Senator **GAGNON** of Kennebec

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 28, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-464) AS AMENDED BY HOUSE AMENDMENT "A" (H-529)** thereto, in concurrence.)

(In House, May 29, 2003, **FINALLY PASSED**.)

On motion by Senator **GAGNON** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-464) AS AMENDED BY HOUSE AMENDMENT "A" (H-529)** thereto, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-464) as Amended by House Amendment "A" (H-529) thereto, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** House Amendment "A" (H-529) to Committee Amendment "A" (H-464) and **INDEFINITELY POSTPONED** same.

On further motion by same Senator, Senate Amendment "A" (S-281) to Committee Amendment "A" (H-464) **READ** and **ADOPTED**.

Committee Amendment "A" (H-464) as Amended by Senate Amendment "A" (S-281) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-464) AS AMENDED BY SENATE AMENDMENT "A" (S-281) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Senator **SAWYER** of Penobscot was granted unanimous consent to address the Senate off the Record.

On motion by Senator **TREAT** of Kennebec, **ADJOURNED** to Friday, June 13, 2003, at 9:00 in the morning.