

# MAINE STATE LEGISLATURE

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**Senate Legislative Record**  
**One Hundred and Eighteenth Legislature**  
**State of Maine**

**Volume 1**

**First Regular & Special Session**  
**December 6, 1996 to May 19, 1997**

**Pages 1 - 980**

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
FIRST SPECIAL SESSION  
JOURNAL OF THE SENATE**

In Senate Chamber  
Tuesday  
April 29, 1997

Senate Called to Order by the President, Mark W. Lawrence of York.

Prayer by Reverend John Matern of the Gustaf Adolph Lutheran Church in New Sweden.

**REVEREND JOHN MATERN:** We pray. Lord, God, Heavenly Father we thank You always for all of Your gifts to us. We thank You for the gift of the State of Maine, for all of the lovely things that we enjoy together. We thank You for the people, the hard working people, their individual contributions. On this Aroostook Day we thank You for the contributions that Aroostook County makes to this State.

We ask Your guidance always and Your spiritual help as we deliberate and work through these many issues that come before this Body. Above all, give us insight and compassion and understanding of one another's personal feelings and views. And above all, some patience as we sit for long hours.

We ask You now to be with us, and to bless us in these deliberations. For Jesus. Amen.

Doctor of the Day, Erik Steele, D.O., Bangor.

Reading of the Journal of Monday, April 28, 1997.

Off Record Remarks

**COMMUNICATIONS**

The Following Communication: S.C. 211

**THE SENATE OF MAINE  
OFFICE OF THE PRESIDENT  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

April 18, 1997

Joy J. O'Brien  
Secretary of the Senate  
3 State House Station  
Augusta, Maine 04333

Dear Madam Secretary:

Pursuant to my authority under 3 MRSA, §201, I have appointed Senator Chellie Pingree of Knox to the Commission on Interstate Cooperation.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Mark W. Lawrence  
President of the Senate

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

The Following Communication: S.C. 212

**THE SENATE OF MAINE  
OFFICE OF THE PRESIDENT  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

April 24, 1997

Joy J. O'Brien  
Secretary of the Senate  
3 State House Station  
Augusta, Maine 04333

Dear Madam Secretary:

Pursuant to my authority under 20-A MRSA, §603, I have appointed Senator Peggy Pendleton of Cumberland to the Education Commission of the States.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Mark W. Lawrence  
President of the Senate

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

The Following Communication: S.C. 213

**THE SENATE OF MAINE  
OFFICE OF THE PRESIDENT  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

April 24, 1997

Joy J. O'Brien  
Secretary of the Senate  
3 State House Station  
Augusta, Maine 04333

Dear Madam Secretary:

Pursuant to my authority under 10 MRSA, §1678, I have appointed Senator John J. Jenkins of Androscoggin to the Petroleum Advisory Committee.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Mark W. Lawrence  
President of the Senate

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

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**ORDERS**

**Joint Orders**

On motion by Senator PARADIS of Aroostook, the following  
Joint Order: S.P. 631

**ORDERED**, the House concurring, that the Joint Standing Committee on Health and Human Services report out to the Senate a bill, "An Act Regarding Child Care Regulation."

Which was **READ** and **PASSED**.

Sent down for concurrence.

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**COMMITTEE REPORTS**

**Senate**

**Ought to Pass**

Senator LONGLEY for the Committee on **JUDICIARY** on Bill "An Act to Ensure Enforcement of Protection from Abuse Laws"  
S.P. 387 L.D. 1272

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

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

The Bill **READ ONCE**.

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

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**Ought to Pass As Amended**

Senator MICHAUD for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Provide for an Additional Staff Member for the Business Enterprise Program"  
S.P. 187 L.D. 605

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-145)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-145) **READ** and **ADOPTED**.

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

---

Senator PENDLETON for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Provide for State and Federal Criminal Record Checks on Educational Personnel in the State"  
S.P. 174 L.D. 503

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-127)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-127) **READ** and **ADOPTED**.

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

---

Senator LONGLEY for the Committee on **JUDICIARY** on Bill "An Act Relating to Value of Property Held by Portland Yacht Club"  
S.P. 210 L.D. 669

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-149)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-149) **READ** and **ADOPTED**.

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

---

Senator LONGLEY for the Committee on **JUDICIARY** on Bill "An Act Concerning Trust Investments by Trustees in Affiliated Securities and Bonds"  
S.P. 278 L.D. 886

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-151)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-151) **READ** and **ADOPTED**.

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

---

Senator LONGLEY for the Committee on **JUDICIARY** on Resolve, Establishing a Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities  
S.P. 293 L.D. 944

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-152).**

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

The Resolve **READ ONCE**.

Committee Amendment "A" (S-152) **READ** and **ADOPTED**.

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

---

Senator LONGLEY for the Committee on **JUDICIARY** on Bill "An Act to Amend the Maine Probate Code to Eliminate Interest on Claims of Creditors of Insolvent Estates" S.P. 401 L.D. 1296

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-150).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-150) **READ** and **ADOPTED**.

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

---

Senator LIBBY for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Protect the Confidentiality of Financial Records" S.P. 295 L.D. 946

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-148).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-148) **READ** and **ADOPTED**.

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

---

Senator LIBBY for the Committees on **STATE AND LOCAL GOVERNMENT** and **UTILITIES AND ENERGY** on Bill "An Act to Provide Municipal Notification of Utility Services" S.P. 183 L.D. 601

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-146).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-146) **READ** and **ADOPTED**.

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

---

Senator DAGGETT for the Committee on **TAXATION** on Bill "An Act to Create the Position of Director of Econometric Research within the Bureau of Taxation" S.P. 74 L.D. 213

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-141).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-141) **READ** and **ADOPTED**.

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

---

Senator DAGGETT for the Committee on **TAXATION** on Bill "An Act to Create an Historic Preservation Tax Credit" S.P. 126 L.D. 405

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-139).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-139) **READ** and **ADOPTED**.

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

---

Senator DAGGETT for the Committee on **TAXATION** on Bill "An Act to Ensure the Accurate Collection of Excise Tax on New Motor Vehicles" S.P. 303 L.D. 1011

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-140).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-140) **READ** and **ADOPTED**.

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

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Off Record Remarks

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

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Off Record Remarks  
\_\_\_\_\_

**Divided Report**

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Increase Access to Education, Training and Employment for Displaced Homemakers" S.P. 328 L.D. 1106

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-142).**

Signed:

Senators:

MICHAUD of Penobscot  
CLEVELAND of Androscoggin  
BENNETT of Oxford

Representatives:

STEVENS of Orono  
TOWNSEND of Portland  
BERRY of Livermore  
KERR of Old Orchard Beach  
MARVIN of Cape Elizabeth  
OTT of York  
KNEELAND of Easton  
POULIN of Oakland  
LEMAIRE of Lewiston

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

Signed:

Representative:

WINSOR of Norway

Which Reports were **READ.**

On motion by Senator MICHAUD of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-142)** Report **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-142) **READ and ADOPTED.**

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

\_\_\_\_\_  
**Divided Report**  
\_\_\_\_\_

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require the Purchaser of Tobacco Products to Produce Suitable Identification" S.P. 133 L.D. 412

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-132).**

Signed:

Senators:

PARADIS of Aroostook  
LONGLEY of Waldo

Representatives:

MITCHELL of Portland  
FULLER of Manchester  
KANE of Saco  
PIEH of Bremen  
QUINT of Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-133).**

Signed:

Senator:

MITCHELL of Penobscot

Representatives:

BROOKS of Winterport  
LOVETT of Scarborough  
JOYNER of Hollis  
BRAGDON of Bangor  
SNOWE-MELLO of Poland

Which Reports were **READ.**

Senator PINGREE of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132)** Report.

\_\_\_\_\_  
**Divided Report**  
\_\_\_\_\_

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require Economic Impact Criteria on State Procurement Procedures" S.P. 361 L.D. 1220

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-147).**

Signed:

Senators:

NUTTING of Androscoggin  
GOLDTHWAIT of Hancock

Representatives:

AHEARNE of Madawaska  
 BUMPS of China  
 FISK, JR. of Falmouth  
 BAGLEY of Machias  
 GERRY of Auburn  
 GIERINGER, JR. of Portland  
 SANBORN of Alton  
 LEMKE of Westbrook  
 DUTREMBLE of Biddeford

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

Signed:

Senator:

LIBBY of York

Representative:

KASPRZAK of Newport

Which Reports were **READ.**

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-147)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-147)** Report.

**SECOND READERS**

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

**House**

Bill "An Act to Prohibit the Employment of Professional Strikebreakers" H.P. 88 L.D. 113

Resolve, to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to Microenterprise Needs H.P. 266 L.D. 330

Bill "An Act to Clarify the Definition of Qualified School for Telecommunications Network Purposes" H.P. 307 L.D. 371

Bill "An Act to Amend the Washington County Budget Advisory Committee" H.P. 515 L.D. 706

Bill "An Act to Require Law Enforcement Officers to Inform a Person Who Fails to Submit to a Blood Test about the Informed Consent Law" H.P. 777 L.D. 1065

Resolve, to Name the New Bangor-Brewer Replacement Bridge H.P. 1142 L.D. 1607

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

**House As Amended**

Bill "An Act to Regulate Body Piercing" H.P. 358 L.D. 481 (C "A" H-215)

Bill "An Act Requiring Qualified Investigation of Certain Truck-related and Bus-related Fatalities" H.P. 469 L.D. 640 (C "A" H-149)

Bill "An Act to Amend the Revised Maine Securities Act" H.P. 717 L.D. 981 (C "A" H-212)

Bill "An Act to Criminalize Mistreatment of and Cruelty to Animals" and to Enhance Reporting Requirements H.P. 788 L.D. 1076 (C "A" H-214)

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

**Senate**

Bill "An Act to Make Technical Corrections in the Maine Administrative Procedure Act" S.P. 337 L.D. 1115

Bill "An Act Pertaining to Free Meals for Legislators during a Prayer Breakfast" S.P. 402 L.D. 1297

Bill "An Act to Assist the Maine Potato Industry" S.P. 516 L.D. 1600

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

Sent down for concurrence.

**Senate As Amended**

Bill "An Act to Allow a Greater Share of the Transfer Tax to Remain in the Counties Where it is Collected" S.P. 91 L.D. 271 (C "A" S-126)

Bill "An Act to Bring Certain State Retirement Laws into Compliance with Federal Laws" S.P. 132 L.D. 411 (C "A" S-134)

Bill "An Act to Require That Headlights Be on during Inclement Weather" S.P. 144 L.D. 423 (C "A" S-137)

Bill "An Act to Clarify the Provisions that Implement Performance Budgeting in State Government" S.P. 151 L.D. 430 (C "A" S-124)

Bill "An Act to Amend the Law Concerning Municipal Review and Regulation of Subdivisions" S.P. 258 L.D. 866 (C "A" S-129)

Bill "An Act to Further Facilitate the Purchase of Service Credit in the Maine State Retirement System" S.P. 270 L.D. 878 (C "A" S-136)

Bill "An Act to Establish Basic Standards and Procedures for Personal Services Contracting by the State" S.P. 294 L.D. 945 (C "A" S-98)

Bill "An Act to Allow Foam Food and Beverage Containers in School Cafeterias" S.P. 310 L.D. 1019 (C "A" S-123)

Bill "An Act to Provide Relief from Barking Dogs" S.P. 373 L.D. 1232 (C "A" S-138)

Bill "An Act to Clarify the Jurisdiction of the Public Utilities Commission over Telecommunication Utilities' Special Rate Contracts" S.P. 399 L.D. 1294 (C "A" S-130)

Bill "An Act to Clarify Reimbursement by Responsible Parties to the Maine Coastal and Inland Surface Oil Clean-up Fund" S.P. 463 L.D. 1435 (C "A" S-128)

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

Sent down for concurrence.

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

Off Record Remarks

Senate at Ease

Senate called to order by the President.

**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 (4/15/97) Assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Manner in Which the Legislature Calls Itself into Special Session. H.P. 336 L.D. 458 (C "A" H-144)

Tabled - April 15, 1997, by Senator **RAND** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED in NON-CONCURRENCE**

(In House, April 2, 1997, Resolution and Accompanying Papers **INDEFINITELY POSTPONED.**)

(In Senate, April 15, 1997, motion by Senator **AMERO** of Cumberland to **INDEFINITELY POSTPONE** Resolution and Accompanying Papers, in concurrence, **FAILED.**)

On motion by Senator **NUTTING** of Androscoggin, Senate Amendment "A" (S-125) **READ.**

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

Senator **NUTTING:** Thank you Mr. President. This bill came before our committee. It was a unanimous report. I want to thank the good Senator from Cumberland, Senator Amero, and the Senator from York, Senator Libby, in pointing out that the amendment that was drafted did not reflect the wishes of the committee. This is why I'm presenting this amendment today and just a little bit of background on this L.D. Currently, Maine is the only state in the United States where to call itself into Special Session we require a majority of the members of each political party and each Body to do so. What the committee voted unanimously on was to change it so that it was two-thirds of the members of each Body, and that's what's reflected in this amendment. So, I do want to thank them for pointing out that the amendment that was presented was not what the committee voted on. What the committee did vote on, to change it to two-thirds of the members of each Body which is, frankly, the vast majority of the way most of the other states do it. That's reflected in this amendment and I'd hope we would vote to adopt this amendment. Thank you.

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

Senator **BUTLAND:** Thank you Mr. President. I'd like to pose a question through the Chair, or a series of questions through the Chair.

**THE PRESIDENT:** The Senator may pose his questions.

Senator **BUTLAND:** Thank you Mr. President. To a member of the committee or anyone who might have the knowledge and choose to answer, I have a couple questions. First of all, when was the original provision adopted in the state Constitution that allowed the legislature to call itself back into session? I'd like to know how many times it's been used since it was adopted and how many times it's been abused, and what is the compelling reason to change this? To send this out to the voters, to change the Constitution? Thank you.



**THE PRESIDENT:** The Senator from Cumberland, Senator Butland poses a series of questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Butland.

Senator **BUTLAND:** Thank you Mr. President, ladies and gentlemen of the Senate. I guess there is no compelling reason to change the law or to change the Constitution as it presently exists. I will tell you that up until 1969 there was only one way for the legislature to be called into Special Session, and that was by the Governor. And it was a very important power because up until that time, we had one session and that was the first session. We had no annual session of the legislature. We had to be called in at the Governor's call. On January 1st, 1969, there was a resolution put in by the Representative from Bath, the Honorable Rodney Ross, and my good friend the Senator from Kennebec, Senator Carey, is over there shaking his head in concurrence. I don't know if the Senator was here at that time or just remembers Mr. Ross. It was advertised as the thinking man's alternative to the annual session and it was quite a debate in the legislature at that time. The Republicans resisted having an annual session and the Democrats fought for an annual session. The original bill, the original resolution simply said that, "the presiding officers would call the legislature into session." And, you know, it's funny that the deference that was paid to the Governor at that time, by the legislative branch because it was very hotly disputed. I went down and looked in the old horse blankets and there's about 40 pages of debate on this particular issue. The Republicans wanted to have the opportunity to call themselves into Special Session and the Democrats, who were in the minority at that time, were very cool to the idea. As a matter of fact, the first time that it was voted on in the House and the Senate it passed the two-thirds majority, and it was only after they put the amendment on that said that the presiding officers could call the legislature back into Special Session, with the concurrence of the members, after polling members from both parties. The vote in the House on that was 116 to 4, and the vote in the Senate was 22 to 9, and once again, as a matter of deference to the Chief Executive of the State of Maine, after it had gone through the legislature, they sent it to his desk. Now, we don't do that now. The Governor was Governor Curtis and he saw this as a usurpation of his power, and he vetoed it and that veto held until January of the next year because the legislature wasn't back in session. He essentially did a pocket veto and it wouldn't be considered until the legislature came back for three consecutive days, and when they did that the bill came back, or the resolution came back, to the legislative Body and they immediately sent it to the Supreme Court for a solemn occasion, saying that, "This guy vetoed it. Does he have the right to do that?" And the Supreme Court said, "Of course not. When you voted on it by both Bodies by two-thirds, it then should have gone directly to the Secretary of State." I state that little bit of history just to show how things have changed around this place. It then went out to the voters and it passed by a margin of 158,000 to 110,000, essentially a 59 to 41 spread. In that no one has stated the compelling reason to change, I would hope that you would join me, today, in voting against this resolution. The mere fact that other states have it, I'm not sure that there's a reason for us to change. I know it has been used very sparingly and I'm not sure, but I don't think that it's ever been refused, that either party has decided to block a Special Session. We have to, I think, focus on the word special. We are in a Special Session now. I realize that when we debate windshield wipers and things like

that until 9:00 o'clock at night, it's kind of difficult to keep in mind that we are in a Special Session, but we are indeed in a Special Session. And a Special Session is an extraordinary occasion, an occasion that rises to the level of an emergency, an occasion that is above partisan consideration and an occasion that begs the legislature to do the people's business. It is a self evident event. It's not something that we are going to debate over, it's not going to be a partisan issue and I think that the majority is immaterial. Therefore, I would hope that you would join me and I would ask for a division, Mr. President, in voting against the pending motion, so that we can continue to keep the system in place that we have now, because I think, until proven otherwise, it has served us well. Thank you very much.

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Off Record Remarks

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

Senator **LIBBY:** Thank you Mr. President, women and men of the Senate. I want to apologize to the good Senator from Cumberland, Senator Butland, for not rising earlier in answer to one of his questions. I did not hear it correctly and wasn't sure exactly what he was looking for, and now I think, I feel I understand his question a little bit better. I guess he was looking for a compelling reason why we should go ahead and make this change. So, I'd like to explain to you why I voted in favor of this proposal. The first and most important reason is that this disenfranchisement of members of this Body and members of the other Body, anyone who is sitting in their seat today, I believe, under current law, who is not a member of a party but an independent, would not be allowed to vote in the case where the legislature was requested to be called into Special Session. Now, that seems extremely unfortunate to me. Secondly, there is a proliferation of new political parties in the State of Maine, two that I can think of besides the two major parties and if any of those members were here, if there was one individual number from a party, let's say the Reform party, who is a member of the Senate, a majority of that one individual member could make the decision for all of us, as to whether we would be called into Special Session or not. Now, that is just plain old law. I mean, sometimes you just have to reform law that is behind the times and this is the time to do that, before we get into some mess where, you know, we're caught and somebody's disenfranchised, and I think that is exactly the case. Now, we have a Special Session now and, to my knowledge, there's one member of the Senate who probably was not, or could not be contacted, at least that's my opinion of the current law. So, when you're calling a Special Session by each political party, I think, you're ignoring the fact that there are more than two political parties. Let's take a look at this thing and, I think the good Senator from Cumberland, Senator Butland, has raised some very valid and important points, but it seems to me that we've addressed those in committee. If you feel that we haven't, you know, I'd be happy to have the bill brought back to our committee or look at it next term, but I think it's a problem, I think, we need to do something about. The committee has done it's best to try and do something about that, so I would recommend that you go ahead and support the pending motion. Thank you.

At the request of Senator **BUTLAND** of Cumberland a Division was had. 20 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ADOPT** Senate Amendment "A" (S-125), **PREVAILED**.

Which was **PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/28/97) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike" H.P. 41 L.D. 66

Majority - **Ought to Pass** (9 members)

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

Tabled - April 28, 1997, by Senator **PINGREE** of Knox.

Pending - motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence

(In House, April 16, 1997, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, April 17, 1997, Reports **READ**.)

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

Senator **CATHCART:** Thank you Mr. President, men and women of the Senate. I urge your support for this legislation. It has strong support from the members of the Joint Standing Committee on Labor. What it does by banning, prohibiting permanent replacement workers, when the regular workers go out on strike, is to give working people a level playing field. It gives them more bargaining power. It does not shift it in their favor, instead it levels the field so that everybody has an equal chance and it encourages negotiation. It discourages violence and I believe it is the best thing for the people of this state. We have had experience with hiring of permanent replacement workers twice in the past decade, or so, in the State of Maine, both at Boise Cascade and the tragic strike at Jay at I.P., and I think all of us have been touched by the devastation that we have seen, especially in the town of Jay and the families there that were torn apart by this experience. I do not want to see this happen again in our state and I urge you to vote for this motion. Thank you, Mr. President.

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

Senator **LONGLEY:** Thank you Mr. President. May I pose a question?

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

Senator **LONGLEY:** Actually two, first, yesterday we had a vote on replacement workers and also there was a note on my desk from the Attorney General about a certain labor bill that looked, to him, to be unconstitutional. Could somebody help me clarify?

**THE PRESIDENT:** The Senator from Waldo, Senator Longley poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Cathcart.

Senator **CATHCART:** Thank you Mr. President. I'd be glad to attempt to answer the Senator from Waldo, Senator Longley's, question. The bill that we passed yesterday referred to professional strike breakers. This only prohibited the companies that come into the state for the specific purpose of replacing striking workers, and that prohibited those kinds of professional strike breaker companies from operating in the State of Maine. As far as the Attorney General's opinion, he gave that opinion during the last legislature, I understand. There is a question about this. The hearings on the bills, in the Labor Committee had testimony from both sides that there are court cases and that under federal law, our law would be pre-empted because they to not prohibit the hiring of permanent replacement workers, or hiring strike breakers. There's also some question about whether this would really apply in our case and we had testimony about the state's strong public interest in the regulation of contracts and promotion of public safety and health. And, a strong argument was made during the testimony in our hearing that this law would not be pre-empted, so, I think, that's a matter of legal opinion. I don't see that that's any reason to stop us from passing this legislation and I urge your favorable vote. Thank you.

On motion by Senator **AMERO** of Cumberland, 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 Aroostook, Senator **KIEFFER** and further excused the same Senator from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

#### ROLL CALL

**YEAS:** Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

**NAYS:** Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, LIBBY, MACKINNON, MITCHELL, SMALL,

ABSENT: Senator: JENKINS

EXCUSED: Senator: KIEFFER

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 CATHCART of Penobscot to ACCEPT the Majority OUGHT TO PASS Report, in concurrence, PREVAILED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the following Tabled and Later (4/28/97) Assigned matter:

SENATE REPORTS - from the Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Amend the Laws Pertaining to Wine Tasting" S.P. 108 L.D. 387

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (S-121) (7 members)

Report "B" - Ought to Pass as Amended by Committee Amendment "B" (S-122) (5 members)

Report "C" - Ought Not to Pass (1 member)

Tabled - April 17, 1997, by Senator DAGGETT of Kennebec.

Pending - motion by same Senator to ACCEPT Report "B", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-122)

(In Senate, April 17, 1997, Reports READ.)

The Chair ordered a Division.

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

Senator AMERO: Thank you Mr. President. Could I pose a question through the Chair?

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

Senator AMERO: Would somebody on this committee, please, enlighten this Body, could they summarize what we're voting on?

**THE PRESIDENT:** The Chair would answer, we're in the middle of a vote. You can propose a parliamentary inquiry. Should anyone request a roll call, perhaps, then we might be able to have a debate. The Chair recognizes the Senator from York, Senator LIBBY.

On motion by Senator LIBBY 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 Chair recognizes the Senator from Cumberland, Senator AMERO.

Senator AMERO: Thank you Mr. President. I'd like to pose a question to anyone in the Senate who would care to answer.

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

Senator AMERO: I'd like to have a brief summary of Report "B" from the Legal and Veterans Affairs Committee.

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

Senator DAGGETT: Thank you Mr. President. The bill, as originally drafted, would allow some changes in the statutes that allow wine tasting. To open the wine tasting up to businesses that had fewer labels than originally proposed, which was a large number, and just to make it more accessible to businesses and to the public. For those of you who may be looking at the bill, there was an amendment offered that tried to address the needs of a Maine farm winery, in having testing done in off premise manner. In fact, I believe, that those of us on Report "B" felt that the amendment went too far, as far as allowing the Maine farm wineries to have testing off premises. Report "B" is the compromise between the Bureau, the Department and the farm wineries. It allows the same type of testing wine tasting. It brings it under those same rules and it allows the tasting to take place at licensed premises, and that's what, basically, Report "B" does. If there are further questions, if it were a specific question, I would do my best to answer it.

The Committee Reports were READ.

The President requested the Sergeant-at-Arms to escort the Senator from Cumberland, Senator RAND to the Rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the Floor of the Senate.

The Senate called to Order by the President Pro Tem.

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

Senator LAWRENCE: Thank you Madam President, men and women of the Senate. I appreciate the explanation of the report by the Senator of Kennebec, Senator Daggett. Why I hope you will oppose accepting Report "B" and go on to accept Report "A" is that what Report "B" fails to do. It does allow a business that creates wine in the State of Maine to offer tasting off site, which is a good thing, but it does not allow them to operate at any places that are not a licensee. For example, if a chamber of commerce wants to promote a wine tasting business and they hold it at some place that's not a licensee, not a restaurant, not a place like that, holds it like, their offices, at a school where they normally have their meeting, or anything like that, they cannot offer that wine tasting on those premises. Both

reports require the wine tasting to be approved by the bureau, so no tasting can take place unless the bureau approves it in advance. The difference between the two reports is whether or not it has to take place at a licensee or not at a licensee. So, that's why I'd urge you to reject Report "B", so we can go on and accept Report "A".

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

Senator **DAGGETT:** Thank you Madam President, men and women of the Senate. I would just like to speak further to the amendment. In fact, I'm somewhat embarrassed to say that the original bill was very well received and has gotten very little attention because it was unanimously considered an appropriate thing for us to do. My concern with Report "A" is precisely what has been mentioned to you. This would allow Maine farm wineries, of which I believe there are five in the state, to have taste testing at any place in the state. At any place. This would be similar to a hot-dog stand. They could carry their bottles here, there, everywhere, wherever they chose and could have their tasting there. It's been suggested that it is at bureau approval. That's exactly what committee amendment "A" does. However, I don't have a clue as to how the bureau could say no. I don't know what their standards are. I don't know how they would be able to say no. So, we have the capacity for five Maine wineries to have wine tasting at any location in the state. I'm not sure how the bureau would be able to monitor that. That's a concern to me. This is an incredible expansion of what we currently allow. If Maine farm wineries are allowed to do this, how would we then say no to Maine micro breweries? How would we then say no to farm wineries from New Hampshire, Vermont, Massachusetts and Canada? I'm not sure exactly where this would stop. That is why the tastings are confined to your premises and to a licensed establishment. There are serious issues of liability when it comes to alcohol. The department has worked very carefully with a number of establishments to try to make accommodations, under caterers licenses. There's also a wine tasting event that can be held where a number of wineries come together in one place and have their tastings. There are other options than opening it up to potentially any number of wineries or micro breweries holding tastings at any location throughout the state. I urge you to accept Report "B".

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

**YEAS:** Senators: BENNETT, CAREY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MURRAY, NUTTING, O'GARA, PENDLETON, SMALL, TREAT, THE PRESIDENT PRO TEM - ANNE M. RAND

**NAYS:** Senators: ABROMSON, AMERO, BENOIT, BUTLAND, CASSIDY, LAWRENCE, LIBBY, MICHAUD, MILLS, MITCHELL, PARADIS, PINGREE, RUHLIN,

**ABSENT:** Senator: JENKINS

**EXCUSED:** Senator: KIEFFER

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **DAGGETT** of Kennebec to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-122), PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "B" (S-122) **READ** and **ADOPTED.**

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

The President Pro Tem requested the Sergeant-at-Arms to escort the Senator from York, Senator **LAWRENCE** to the Rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Cumberland, Senator **RAND** to her seat on the floor.

Senate called to order by the President.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

Off Record Remarks

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

Off Record Remarks

On motion by Senator **RAND** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later (4/28/97) Assigned matter:

An Act to Give an Antlerless Deer Permit to a Person Who Kills 5 or More Coyotes  
S.P. 63 L.D. 182  
(C "A" S-65)

Tabled - April 28, 1997, by Senator **PINGREE** of Knox.

Pending - **ENACTMENT** in **NON-CONCURRENCE** (Roll Call Ordered)

(In Senate, April 2, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-65).**)

(In House, April 15, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**)

(In Senate, April 28, 1997, motion to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, in concurrence, **FAILED.**)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT** in **NON-CONCURRENCE**. (Roll Call Ordered)

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

**COMMUNICATIONS**

The Following Communication: S.C. 214

**THE SENATE OF MAINE  
OFFICE OF THE PRESIDENT  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

April 29, 1997

The Honorable Joy J. O'Brien  
3 State House Station  
Augusta, Maine 04333

Dear Madam Secretary,

Pursuant to Senate Rule 201.1, Part C, I am appointing Senator Vinton Cassidy of Washington to the Joint Standing Committee on Agriculture, Conservation and Forestry. He will be replacing Senator Leo Kieffer of Aroostook who is temporarily unable to serve.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Mark W. Lawrence  
President of the Senate

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

Off Record Remarks

**ORDERS OF THE DAY**

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

**SENATE REPORTS** - The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require the Purchaser of Tobacco Products to Produce Suitable Identification"  
S.P. 133 L.D. 412

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-132)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-133)** (6 members)

Tabled - April 29, 1997, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132)** Report

(In Senate, April 29, 1997, Reports **READ.**)

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132)** Report **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-132) **READ** and **ADOPTED.**

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

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

**SENATE REPORTS** - The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require Economic Impact Criteria on State Procurement Procedures"  
S.P. 361 L.D. 1220

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-147)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - April, 29, 1997, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-147)** Report

(In Senate, April, 29, 1997, Reports **READ.**)

At the request of Senator **AMERO** of Cumberland a Division was had. 27 Senators having voted in the affirmative and 1 Senator having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-147)** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-147) **READ** and **ADOPTED**.

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

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Off Record Remarks

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On motion by Senator **PINGREE** of Knox, **ADJOURNED** until Wednesday, April 30, 1997, at 10:00 in the morning.