

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Nineteenth Legislature  
State of Maine

Volume 2

First Regular Session (Continued)  
May 6, 1999 to June 18, 1999

Pages 747 - 1547

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

In Senate Chamber  
Tuesday  
May 18, 1999

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Pastor Timothy Gilliam of the Cornerstone Baptist Church in Camden.

**PASTOR GILLIAM:** Shall we pray. Our Father, we pause to acknowledge You today. Your word says that Your name is hallowed. Your word says that You are the creator of all things and we bow to that good and honorable and true word of God today. Our Father, Your word says if any lack wisdom that he is to ask of God and You will give it without holding back. Our Father, we pray for wisdom today for our Senators. We thank You for them so very much. Government is ordained by You and we praise You for the kind of government that we enjoy in our country and in our state. We pray Your blessing will be upon this Body today. Father, also Your word says that wisdom that's from You is first pure than peaceable and so we would pray for truth today, that it would conquer in all debates and that You would be honored by decisions that are made. Thank You for the privilege of calling upon the great Creator this day for we pray in His name. Amen.

Doctor of the day, Stephen Sears, MD, South Gardiner.

Reading of the Journal of Monday, May 17, 1999.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend Maine's Family and Medical Leave Law"

S.P. 511 L.D. 1512

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-217)** (8 members)

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

In Senate, May 10, 1999, Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-217) AS AMENDED BY HOUSE AMENDMENT "A" (H-576)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

**Non-Concurrent Matter**

**JOINT ORDER** - relative to the Committees on Appropriations and Financial Affairs and Health and Human Services jointly reporting out to the Senate a bill establishing a fund to receive and use money received by the State in settlement of or in relation to the lawsuit State of Maine v. Philip Morris, et al., Kennebec County Superior Court, Docket No. CV-97-134  
S.P. 826

In Senate, May 12, 1999, **READ** and **PASSED**.

Comes from the House, **READ** and **PASSED AS AMENDED BY HOUSE AMENDMENT "A" (H-597)**, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

**Non-Concurrent Matter**

Bill "An Act to Criminalize Internet Dissemination of Child Pornography"

H.P. 1116 L.D. 1575  
(C "A" H-418)

In Senate, May 7, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-418)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-418) AND HOUSE AMENDMENT "A" (H-600)**, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

**ORDERS**

**Joint Resolution**

On motion by Senator PINGREE of Knox, under unanimous consent on behalf of Senator DAGGETT of Kennebec (Cosponsored by Representative MADORE of Augusta and Senator CAREY of Kennebec, Senator KILKELLY of Lincoln, Senator TREAT of Kennebec, Senator BENOIT of Franklin, Senator MILLS of Somerset, Senator NUTTING of Androscoggin, Representative BUMPS of China, Representative FULLER of Manchester, Representative GAGNON of Waterville, Representative MITCHELL of Vassalboro, Representative O'BRIEN of Augusta, Representative COLWELL of Gardiner, Representative COWGER of Hallowell, Representative GAGNON of Waterville, Representative GREEN of Monmouth, Representative JABAR of Waterville, Representative JONES of Pittsfield, Representative MATTHEWS of Wislow, Representative MCKEE of Wayne, Representative NUTTING of Oakland, Representative RINES of Wiscasset, Representative SAMSON of Jay, Representative TESSIER of Fairfield, Representative TRACY of Rome, Representative WATSON of Farmingdale), the following Joint Resolution:

S.P. 831

**JOINT RESOLUTION TO COMMEMORATE THE 200TH ANNIVERSARY OF KENNEBEC COUNTY**

WHEREAS, Kennebec County was the 6th of the 16 counties in the State of Maine to be established, and it is now celebrating, with justifiable pride, its 200th anniversary of incorporation; and

WHEREAS, Kennebec County, the first county in Maine to assume an Indian name, was named after the mighty river that flows across its entire length, which has been instrumental in the success and growth of the entire area; and

WHEREAS, Kennebec County has 4 cities, 25 towns and one unorganized area, a population of over 115,000 people and 879 square miles of land and exemplifies all the diverse and natural beauty and heritage of our State; and

WHEREAS, Kennebec County is home to the capital of the State of Maine and, as the center of government, has a rich and noble history that interests all Maine people; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Nineteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the Bicentennial of the Incorporation of Kennebec County, and to commend its inhabitants and officials for the success that they have achieved together for 2 centuries, and to extend to each our sincere hopes and best wishes for continued achievement for the future; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to town, city and county officials of this proud county in honor of this occasion.

**READ and ADOPTED.**

Sent down for concurrence.

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Repeal Certain Laws Relating to Personal Watercraft"

H.P. 93 L.D. 106

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

Signed:

Senators:

KILKELLY of Lincoln  
RUHLIN of Penobscot  
KIEFFER of Aroostook

Representatives:

DUNLAP of Old Town  
PERKINS of Penobscot  
CHICK of Lebanon  
TRAHAN of Waldoboro  
HONEY of Boothbay  
TRUE of Fryeburg  
BRYANT of Dixfield  
TRACY of Rome  
COTE of Lewiston

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

Signed:

Representative:

CLARK of Millinocket

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

Reports **READ.**

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Require Consistency When Interviewing Children in Criminal and Civil Cases"

H.P. 778 L.D. 1101

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

Signed:

Senators:

LONGLEY of Waldo  
TREAT of Kennebec  
BENOIT of Franklin

Representatives:

THOMPSON of Naples  
BULL of Freeport  
LaVERDIERE of Wilton  
JACOBS of Turner  
MITCHELL of Vassalboro  
NORBERT of Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-531)**.

Signed:

Representatives:

PLOWMAN of Hampden  
MADORE of Augusta  
WATERHOUSE of Bridgton  
SCHNEIDER of Durham

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

Reports **READ**.

On motion by Senator **LONGLEY** of Waldo, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Bring Equity into Custodial Agreements"

H.P. 1056 L.D. 1487

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

Signed:

Senators:

LONGLEY of Waldo  
TREAT of Kennebec  
BENOIT of Franklin

Representatives:

THOMPSON of Naples  
BULL of Freeport  
LaVERDIERE of Wilton  
MITCHELL of Vassalboro  
JACOBS of Turner  
NORBERT of Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-530)**.

Signed:

Representatives:

PLOWMAN of Hampden  
MADORE of Augusta  
WATERHOUSE of Bridgton  
SCHNEIDER of Durham

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

Reports **READ**.

On motion by Senator **LONGLEY** of Waldo, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in the Maine Criminal Justice Academy in Waterville; Part of the Kennebec Arsenal in Augusta; Part of the Maine Youth Center in South Portland; and 2 Parcels in Gray Near the Pineland Center

H.P. 1203 L.D. 1713

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-413)**.

Signed:

Senators:

PENDLETON of Cumberland  
GOLDTHWAIT of Hancock  
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska  
BAGLEY of Machias  
RINES of Wiscasset  
McDONOUGH of Portland  
BUMPS of China  
KASPRZAK of Newport  
JODREY of Bethel  
RICHARDSON of Greenville

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

Signed:

Representatives:

TWOMEY of Biddeford  
GERRY of Auburn

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413) AS AMENDED BY HOUSE AMENDMENT "A" (H-516)** thereto.

Reports **READ**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

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**Senate**

**Divided Report**

Nine members of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Provide Access to Information Services in All Communities of the State"

S.P. 665 L.D. 1887

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-300)**.

Signed:

Senators:

PENDLETON of Cumberland  
GOLDTHWAIT of Hancock  
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska  
BAGLEY of Machias  
McDONOUGH of Portland  
TWOMEY of Biddeford  
BUMPS of China  
JODREY of Bethel

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

Signed:

Representatives:

RINES of Wiscasset  
KASPRZAK of Newport  
RICHARDSON of Greenville

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-301)**.

Signed:

Representative:

GERRY of Auburn

Reports **READ**.

On motion by Senator **PINGREE** of Knox, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-300) ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-300) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING**.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Create the Capital Riverfront Improvement District"

S.P. 760 L.D. 2136

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-302)**.

Signed:

Senators:

PENDLETON of Cumberland  
GOLDTHWAIT of Hancock  
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska  
BAGLEY of Machias  
RINES of Wiscasset  
McDONOUGH of Portland  
TWOMEY of Biddeford  
BUMPS of China  
JODREY of Bethel  
RICHARDSON of Greenville

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

Signed:

Representatives:

KASPRZAK of Newport  
GERRY of Auburn

Reports **READ**.

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-302) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING**.

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**SECOND READERS**

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

**House**

Bill "An Act Governing Privileged Communications between Victims of Crimes and Governmental Victim Witness Advocates" H.P. 1174 L.D. 1685

Bill "An Act to Simplify the Rule of Reasonable Belief in the Maine Criminal Code" H.P. 1411 L.D. 2018

Bill "An Act to Amend the Laws Relating to Issuance of a Warrant in the Name of the District Court" H.P. 1424 L.D. 2031

Bill "An Act to Bring Certain Criminal Code Provisions Addressing Fines Into Conformity with Recently Amended Criminal Code Provisions Addressing Restitution" H.P. 1491 L.D. 2129

Bill "An Act Regarding Long-term Care" H.P. 1582 L.D. 2231

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

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**House As Amended**

Bill "An Act to Repeal the Maine Criminal Justice Academy Certification Requirements for Sheriffs" H.P. 139 L.D. 201 (C "C" H-560)

Bill "An Act to Reconcile Minor Technical Differences between Forest Practices Laws and Rules" H.P. 299 L.D. 407 (C "A" H-551)

Bill "An Act to Prohibit the Employment of Professional Strikebreakers" H.P. 756 L.D. 1046 (C "A" H-484)

Resolve, Regarding Legislative Review of Chapter 20: Forest Regeneration and Clearcutting Standards, a Major Substantive Rule of the Department of Conservation (EMERGENCY) H.P. 883 L.D. 1240 (C "A" H-552)

Bill "An Act to Ensure a Fair Distribution of Hunting Permits" H.P. 970 L.D. 1368 (H "A" H-585 to C "A" H-567)

Bill "An Act to Allow Cutting of Trees in the Shoreland Zone Under Certain Conditions" H.P. 1036 L.D. 1458 (C "A" H-481)

Bill "An Act to Amend the Liability Limit under the Maine Tort Claims Act" H.P. 1118 L.D. 1577 (C "A" H-565)

Bill "An Act to Provide Continuing Financial Support for the Maine Community Policing Institute at the University of Maine at Augusta" H.P. 1326 L.D. 1909 (C "A" H-559)

Bill "An Act to Facilitate the Establishment of Trail Easements" H.P. 1340 L.D. 1923 (C "A" H-563)

Bill "An Act to More Accurately Describe the Criminal Conduct Committed When a Person Grows or Cultivates Marijuana" H.P. 1407 L.D. 2012 (C "A" H-561)

Resolve, to Establish the Study Commission to Create and Submit a Master Plan for the Future Use of the Existing Land and Buildings at the Maine Youth Center H.P. 1478 L.D. 2118 (H "A" H-587 to C "A" H-558)

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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Bill "An Act to Minimize the Harmful Effects of Lead" H.P. 625 L.D. 875 (C "A" H-566)

**READ A SECOND TIME.**

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

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**Senate As Amended**

Bill "An Act to Eliminate the Requirement That the Employment Rehabilitation Fund Reimburse Employers and Insurers for Benefits Paid pursuant to the Benefits Adjustments" S.P. 269 L.D. 762 (C "A" S-239)

Resolve, Establishing a Commission to Study the Feasibility of Reestablishing a Brook Trout and Landlocked Salmon Hatchery in Northern Maine S.P. 332 L.D. 986 (C "A" S-296)

Bill "An Act Relative to Freedom of Employment in the Broadcasting Industry" S.P. 616 L.D. 1781 (C "A" S-282)

Bill "An Act to Amend the Charter of the Norridgewock Water District" (EMERGENCY)

S.P. 718 L.D. 2040  
(C "A" S-297)

Bill "An Act to Amend the Maine Residents Property Tax Program" (EMERGENCY)

S.P. 776 L.D. 2175  
(C "A" S-293)

**READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

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Bill "An Act to Amend the Sales Tax Exemption for Prosthetic Devices"

S.P. 494 L.D. 1479  
(C "A" S-294)

**READ A SECOND TIME.**

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED.**

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **TAXATION** on Bill "An Act to Implement the Recommendations of the Task Force to Study Telecommunications Taxation"

H.P. 807 L.D. 1130

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-391).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-391) AND HOUSE AMENDMENT "A" (H-604).**

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

**READ ONCE.**

Committee Amendment "A" (H-391) **READ** and **ADOPTED**, in concurrence.

House Amendment "A" (H-604) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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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 **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Remove the Prohibition against Carrying a Loaded Hunting Weapon in a Motor Vehicle"  
H.P. 230 L.D. 334

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

Signed:

Senators:

KILKELLY of Lincoln  
RUHLIN of Penobscot  
KIEFFER of Aroostook

Representatives:

DUNLAP of Old Town  
CHICK of Lebanon  
TRAHAN of Waldoboro  
HONEY of Boothbay  
TRUE of Fryeburg  
CLARK of Millinocket  
TRACY of Rome  
BRYANT of Dixfield

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-571).**

Signed:

Representative:

PERKINS of Penobscot

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

Reports **READ.**

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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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 **JUDICIARY** on Bill "An Act to Encourage Joint Custody Practices"

H.P. 1133 L.D. 1592

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

Signed:

Senators:

LONGLEY of Waldo  
TREAT of Kennebec  
BENOIT of Franklin

Representatives:

THOMPSON of Naples  
LaVERDIERE of Wilton  
BULL of Freeport  
MITCHELL of Vassalboro  
NORBERT of Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-564)**.

Signed:

Representatives:

JACOBS of Turner  
PLOWMAN of Hampden  
MADORE of Augusta  
WATERHOUSE of Bridgton  
SCHNEIDER of Durham

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

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in 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 **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Create a State House Citizen Participation and Lobby Center"

H.P. 1447 L.D. 2068

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

Signed:

Senators:

GOLDTHWAIT of Hancock  
DAVIS of Piscataquis

Representatives:

BAGLEY of Machias  
McDONOUGH of Portland  
BUMPS of China  
KASPRZAK of Newport  
JODREY of Bethel  
RICHARDSON of Greenville  
RINES of Wiscasset

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-489)**.

Signed:

Senator:

PENDLETON of Cumberland

Representatives:

AHEARNE of Madawaska  
TWOMEY of Biddeford  
GERRY of Auburn

Comes from the House with the Bill and accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

Reports **READ**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

**ORDERS OF THE DAY**

**Unfinished Business**

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

The Chair laid before the Senate the following Tabled and Later (5/4/99) Assigned matter:

JOINT ORDER - relative to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services jointly reporting out to the House legislation establishing a fund to receive and use money received by the State in settlement of or in relation to the lawsuit, State of Maine v. Philip Morris, et al., Kennebec County Superior Court, Docket No. CV-97-134

H.P. 1570

Tabled - May 4, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE**, in concurrence

(In House, May 3, 1999, **READ** and **PASSED**.)

(In Senate, May 4, 1999, **READ**.)

On motion by Senator **PINGREE** of Knox, **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

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

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

\_\_\_\_\_  
On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

\_\_\_\_\_  
Senator **DOUGLASS** of Androscoggin requested and received leave of the Senate for all members and staff be allowed to remove their jackets for the remainder of the Session.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Clarify Referendum Wording"

H.P. 41 L.D. 55

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-532)** (11 members)

Minority - **Ought Not to Pass** (1 member)

In House, May 14, 1999, 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-532)**.

In Senate, May 17, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **ADHERED**.

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Prohibit Law Suits by Municipalities Against Firearm or Ammunition Manufacturers" (EMERGENCY)

H.P. 1537 L.D. 2192

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-442)** (7 members)

Minority - **Ought Not to Pass** (6 members)

In House, May 12, 1999, 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-442)**.

In Senate, May 17, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

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

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Create Statewide Smoking Cessation Services" H.P. 1264 L.D. 1818

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-593).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-593).**

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

**READ ONCE.**

Committee Amendment "A" (H-593) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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The Committee on **TAXATION** on Bill "An Act Regarding Taxation of Clean Vehicle Fuels" H.P. 940 L.D. 1337

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-592).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-592).**

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

**READ ONCE.**

Committee Amendment "A" (H-592) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

Ten members of the Committee on **MARINE RESOURCES** on Bill "An Act to Establish a Lobster Trap Tag Freeze to Limit Effort in the Lobster Fishery" H.P. 1385 L.D. 1982

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-579).**

Signed:

Senators:  
GOLDTHWAIT of Hancock  
PENDLETON of Cumberland  
MackINNON of York

Representatives:  
STANWOOD of Southwest Harbor  
USHER of Westbrook  
HONEY of Boothbay  
ETNIER of Harpswell  
PIEH of Bremen  
LEMONT of Kittery  
McNEIL of Rockland

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-580).**

Signed:

Representatives:  
VOLENIK of Brooklin  
PINKHAM of Lamoine

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

Signed:

Representative  
BAGLEY of Machias

Comes from the House with Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-580)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-580).**

Reports **READ.**

Senator **GOLDTHWAIT** of Hancock moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-579)**, in **NON-CONCURRENCE.**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"**(H-579), in **NON-CONCURRENCE**.

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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 **JUDICIARY** on Bill "An Act to Require Testing for HIV and Blood-borne Pathogens of All Prisoners in the Maine Correctional System"

H.P. 658 L.D. 914

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

Signed:

Senators:

LONGLEY of Waldo  
TREAT of Kennebec  
BENOIT of Franklin

Representatives:

THOMPSON of Naples  
BULL of Freeport  
LaVERDIERE of Wilton  
MITCHELL of Vassalboro  
NORBERT of Portland  
JACOBS of Turner

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-478)**.

Signed:

Representatives:

PLOWMAN of Hampden  
MADORE of Augusta  
SCHNEIDER of Durham  
WATERHOUSE of Bridgton

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-478)**.

Reports **READ**.

Senator **LONGLEY** of Waldo moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Senator **SMALL** of Sagadahoc requested a Division.

On motion by Senator **FERGUSON** of Oxford, **TABLED** until Later in Today's Session, pending the motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**. (Division Requested)

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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 **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Allow Three Hunters to Hunt Deer Together"

H.P. 704 L.D. 971

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

Signed:

Senator:

KILKELLY of Lincoln

Representatives:

PERKINS of Penobscot  
CHICK of Lebanon  
TRAHAN of Waldoboro  
HONEY of Boothbay  
TRUE of Fryeburg  
CLARK of Millinocket  
BRYANT of Dixfield  
TRACY of Rome  
COTE of Lewiston

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

Signed:

Senators:

RUHLIN of Penobscot  
KIEFFER of Aroostook

Representative:

DUNLAP of Old Town

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

Reports **READ**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

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 **STATE AND LOCAL GOVERNMENT** on RESOLUTION, to Amend the Constitution of Maine to Elect 2 Senators from Each County  
H.P. 452 L.D. 615

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-408).**

Signed:

Senators:

GOLDTHWAIT of Hancock  
DAVIS of Piscataquis

Representatives:

BAGLEY of Machias  
RINES of Wiscasset  
BUMPS of China  
KASPRZAK of Newport  
JODREY of Bethel  
RICHARDSON of Greenville

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

Signed:

Senator:

PENDLETON of Cumberland

Representatives:

AHEARNE of Madawaska  
McDONOUGH of Portland  
TWOMEY of Biddeford  
GERRY of Auburn

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

Reports **READ.**

Senator **GOLDTHWAIT** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE.**

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** Report, in **NON-CONCURRENCE.**

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Validate Voluntary Collective Bargaining Provisions that May Affect Educational Policies"

S.P. 333 L.D. 987

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-152)** (4 members)

In Senate, May 5, 1999, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**

Comes from the House, Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**, in **NON-CONCURRENCE.**

Senator **PINGREE** of Knox moved the Senate **RECEDE** and **CONCUR.**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECEDE** and **CONCUR.**

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

**PAPERS FROM THE HOUSE**

**House Paper**

Resolve, to Extend the Hours for the Sale of Liquor on January 1, 2000

H.P. 1580 L.D. 2229

Committee on **LEGAL AND VETERANS AFFAIRS** suggested and ordered printed.

Comes from the House, Resolve and accompanying papers **INDEFINITELY POSTPONED.**

On motion by Senator **DAGGETT** of Kennebec, Resolve and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

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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 **LEGAL AND VETERANS AFFAIRS** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Require Signatures from All Counties on Direct Initiative Petitions

H.P. 1020 L.D. 1431

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-487)**.

Signed:

Senators:

DAGGETT of Kennebec  
FERGUSON of Oxford

Representatives:

TUTTLE of Sanford  
CHIZMAR of Lisbon  
FISHER of Brewer  
GAGNE of Buckfield  
LABRECQUE of Gorham  
MAYO of Bath  
PERKINS of Penobscot  
HEIDRICH of Oxford  
McKENNEY of Cumberland

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

Signed:

Senator:

CAREY of Kennebec

Representative:

SHIAH of Bowdoinham

Comes from the House with the **RESOLUTION** and accompanying papers **INDEFINITELY POSTPONED**.

Reports **READ**.

Senator **DAGGETT** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

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** Report, in **NON-CONCURRENCE**.

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator **NUTTING** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Clarify the Equine Activity Law"

S.P. 749 L.D. 2108

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-305)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-305) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING**.

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Senator **KONTOS** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Resolve, to Establish the Blue Ribbon Commission to Establish a Comprehensive Internet Policy (EMERGENCY)

S.P. 763 L.D. 2155

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-303)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-303) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING**.

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

**REPORTS OF COMMITTEES**

**Senate**

**Divided Report**

The Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding Complementary Health Care Providers"

S.P. 533 L.D. 1595

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

Signed:

Senators:

KONTOS of Cumberland  
MacKINNON of York

Representatives:

O'NEAL of Limestone  
SIROIS of Caribou  
TRIPP of Topsham  
USHER of Westbrook  
BOLDUC of Auburn  
MARVIN of Cape Elizabeth  
BOWLES of Sanford  
CLOUGH of Scarborough  
SHOREY of Calais

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-304)**.

Signed:

Representative:

MENDROS of Lewiston

Reports **READ**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Joint Order - Relative to establishing the Task Force to Redesign the Governance System of the Governor Baxter School for the Deaf  
H.P. 1183

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-367)**.

Comes from the House, Joint Order **WITHDRAWN**.

Report **READ**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE COMMITTEE REPORT**, in **NON-CONCURRENCE**.

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Senator **GOLDTHWAIT** of Hancock was granted unanimous consent to address the Senate off the Record.

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**ORDERS OF THE DAY**

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Encourage Joint Custody Practices"  
H.P. 1133 L.D. 1592

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-564)** (5 members)

Tabled - May 18, 1999, by Senator **LONGLEY** of Waldo.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 17, 1999, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 18, 1999, Reports **READ**.)

On motion by Senator **LONGLEY** of Waldo, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/14/99) Assigned matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to Tribal Land Use Regulations"  
H.P. 1423 L.D. 2030

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass** (3 members)

Tabled - May 14, 1999, by Senator **LONGLEY** of Waldo.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 14, 1999, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 14, 1999, Reports **READ**.)

Senator **LONGLEY** of Waldo moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in concurrence.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the Senate, this is a case of trying to negotiate in good faith and

beginning to have doubts, if it's at all possible. Basically it was a Bill that had to do with tribes, treating them as municipalities and giving them full rights of a municipality to enact environmental ordinances. To make a long story short, a more elaborate Bill came close to passage last term. This term we went back and forth. The Maine Indian Tribal Commission actually came up with a unanimous Report, which means all parties agreed. The long and short is, at this point, that one of the parties that was in agreement at the Maine Indian Tribal-State Commission (MITSC) level is not in agreement at the Legislative level. I find that extremely disappointing and I'm ready to just throw up my hands, and it comes out as an Indefinite Postponement. Thank you.

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

Senator **BEHOIT:** Thank you Mr. President. May it please the Senate, I want to join with the good Senator from Waldo, Senator Longley, whose made a motion that I think is a good government motion. She gave the reasons for why it should be passed, and to me I think it's a fitting result given the circumstances attending the matter. Thank you Mr. President.

On motion by Senator **LONGLEY** of Waldo, Bill and accompanying papers **INDEFINITELY POSTPONED.**

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

**HOUSE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Create a State House Citizen Participation and Lobby Center"**

H.P. 1447 L.D. 2068

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-489)** (4 members)

Tabled - May 18, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 17, 1999, Bill and accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT.**)

(In Senate, May 18, 1999, Reports **READ.**)

On motion by Senator **GOLDTHWAIT** of Hancock, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE.**

Sent down for concurrence.

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

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The Chair laid before the Senate the following Tabled and Later (5/17/99) Assigned matter:

Bill "An Act to Clarify Roles and Responsibilities in the Child Development Services System" (EMERGENCY)

H.P 931 L.D. 1308

Tabled - May 17, 1999, by Senator **RAND** of Cumberland.

Pending - motion by Senator **BENNETT** of Oxford to **ADOPT SENATE AMENDMENT "C" (S-289) TO COMMITTEE AMENDMENT "A" (H-525)**

(In House, May 11, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-525).**)

(In Senate, May 17, 1999, on motion by Senator **LIBBY** of York, Senate Amendment "B" (S-284) to Committee Amendment "A" (H-525) **READ** and **ADOPTED.** On motion by Senator **BENNETT** of Oxford, Senate Amendment "C" (S-289) to Committee Amendment "A" (H-525) **READ.**)

Senator **BERUBE** of Androscoggin requested a Division.

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

Senator **BENNETT:** Thank you Mr. President. Just for the benefit of members of the Senate who may be rustling through their papers and trying to remember what this Amendment does, this is on the CDS Bill which is before us. The Education Committee worked long and hard and I reluctantly present this Amendment. And it really, let me just in the interest of simplicity, just simply read what the current statute is and read what my Amendment does because it speaks for itself, in my opinion. The current language in the Bill, in the Committee Amendment, as it relates to whether a parent can opt in or opt out of this new service provided at the schools, says this, and I quote, "A parent whose child is receiving services when a pilot project is approved under this section, may request that service providers continue to serve the child. The unit shall respond to the request within 14 days, and the decision of the Unit will be final." In other words, a parent does not have the right under the proposed law to choose whether or not to take advantage of this program for the child or not. My Amendment replaces that language with the following, and I quote, "The parent of an eligible child may choose not to participate in a pilot project. The decision of the parent is final." It's a simple issue. Whether you let parents choose to keep their kid in the program that they are already in, or you leave that decision up to the school unit. And in my opinion it's a rather modest change to this Bill. I hope you adopt it, but in my opinion it's clearly something which the parent ought to be deciding. Thank you.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and gentlemen of this Chamber, the Committee Amendment, which is to L.D. 1308 has a clause which allows for the parents to appeal



through the hearing process. The mechanism is in place. Now if all the parents opt out of the school program there would be no need of having sites. The program will be consolidated and all the services will be available under the same roof. Through the hearing process the school will determine if the parents should go along with taking their child out of the program. Bare in mind that this a program for 3 to 6 year-old children. I think this is in the best interest of the children. Thank you.

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

Senator **SMALL:** Thank you Mr. President. Ladies and gentlemen of the Senate, I still seem to be having a little difficulty figuring out which button to push for request to speak, and I apologize for waiting until the last moment. I just wanted to reassure my colleagues that the Education Committee did debate this very issue and the language that the good Senator from Oxford, Senator Bennett, read was actually some compromise language that we put in because of some concerns raised. I'm a little bit disturbed that after we worked on a compromise in order to get everybody to come together that there were still some people out there that felt that they needed to go beyond what we did in the compromise, because we all gave up some things to come out with a unanimous Bill on this. I just want to reassure members that anybody that has a child in this program, the families have a due process rights under the State and the Federal Special Ed laws. If they are concerned about the services provided to their children, they have the right to complaint mediation and, as I said, due process. So it's not like these parents are going to go from adequate services to inadequate services, and then not have any say about that. And I think again as the good gentle lady from Androscoggin, Senator Berube, said, if we did allow the option to opt out. Suddenly we're going to lose the cost effectiveness of having this program in the schools. I don't believe that we're going to see a huge swing of programs going into the school systems. We do have a number that are doing programs for four year-olds. But I don't think many schools are going to be taking on the added burden of doing this program. But if they are able to do it, and we are able to fill a need in certain sections of our state that are perhaps, more rural, and right now being inadequately served if there is a school that has some facility availability, that could provide services where they are not provided now. If you were allowing parents to opt out simply because they liked the provider where they were and I can understand that because children do become attached to their providers. But it might ruin the opportunity to provide a very good solid program in that community that desperately needs to have closer services to their areas. I hope you vote against this Amendment so we can try to go back to the unanimous Committee Report. Thank you.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, I'll be very brief. It is my understanding that the provision being discussed today is having Child Development Center Sites located in schools. It's my understanding that this provision of this Committee Amendment was not even offered at the public hearing. So I would like to ask a question through the Chair if I may.

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

Senator **LIBBY:** Was this provision that allows for Child Development Service Centers to be offered in schools, was it presented at the public hearing, or was it presented by the Department later on in the work session?

**THE PRESIDENT:** The Senator from York, Senator Libby, poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President. Some of this discussion took place particularly during the work sessions. We have had people from both sides of the issue come before the Committee and we saw some who came here for this Amendment as well. A lot of Representatives and special interest groups who also have not come before the work sessions in so many words, but have done it by Amendment that is presented here today. We've had thorough discussion, in fact, we had more than one work session. We had several work sessions on this issue and I hope you would go along with the unanimous decision of the Committee. Thank you.

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

Senator **LIBBY:** Thank you Mr. President. I would like to thank the Senator from Androscoggin for her remarks and her answer. I think the point I'm trying to make here is that the people of Maine really didn't even have a chance to discuss this other than in the work sessions. I think that is too bad because this is a major policy shift. I guess part of my whole complaint about the Child Development Services System is that these are the kinds of things that have been happening. Where is the planning if this major shift in policy is going to be made at a work session instead of being presented at the public hearing? It is as simple as that. So I hope that you will Support this pending motion and go on to Support Senator Bennett's Amendment. 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.

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The Chair noted the absence of the Senator from Cumberland, Senator **KONTOS**, the Senator from Aroostook, Senator **PARADIS**, and the Senator from Lincoln, Senator **KILKELLY** and further excused the same Senators from today's Roll Call votes.

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The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#107)**

**YEAS:** Senators: ABROMSON, BENNETT, CAREY, CASSIDY, DAGGETT, DAVIS, DOUGLASS, FERGUSON, HARRIMAN, KIEFFER, LIBBY, NUTTING

**NAYS:** Senators: AMERO, BENOIT, BERUBE, CATHCART, GOLDTHWAIT, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, O'GARA, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

**EXCUSED:** Senators: KILKELLY, KONTOS, PARADIS

12 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 3 Senators being excused, the motion by Senator **BENNETT** of Oxford to **ADOPT** Senate Amendment "C" (S-289) to Committee Amendment "A" (H-525), **FAILED**.

On motion by Senator **BERUBE** of Androscoggin, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "B" (S-284) to Committee Amendment "A" (H525).

The same Senator moved Senate Amendment "B" (S-284) to Committee Amendment "A" (H-525) be **INDEFINITELY POSTPONED**.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, Senate Amendment "B" is the Amendment that I offered yesterday in this Body that would prevent the Child Development Services System from withholding over one million dollars in funds that should be going to the sites. I explained yesterday in great detail why I think that is a very important thing. I'm kind of confused. It went under the hammer yesterday, so I'm surprised to see this today. But I can tell you that it's a well reasoned Amendment. I think it's fair. I think that these folks should come before the Appropriations Committee if they have to request additional funds. To set up a one million dollar fund as this does, really I've got some serious questions about it. As you can see I'm concerned a little bit about the administration of some of these changes, particularly given the fact that the people of Maine haven't had the opportunity at the public hearing to get the full proposal from the Department. I really have strong reservations about that, so I hope you will not support this motion to Indefinitely Postpone it. I thank you very much.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and gentlemen of this Chamber, first of all I would like to make a few corrections. Some of the statements that you've heard, the one million dollars is inaccurate. The current statute allows the Department to withhold 8%, they would withhold in this case, 2.9% I believe, which is not a slush fund as we heard yesterday but rather a set aside so that the Department can have monies

available when there is a sudden influx in the community or county of Special Ed children coming into the school system. Regarding accountability I would take my chances with accountability with the School Boards and the Department. Let it go at that. Since all public schools have kindergarten for five year olds, I believe they are the proper environment to have the Special Ed available to them, and it also makes good sense to coordinate all the services together. This was a unanimous Committee Report. We held as I said before, many work sessions. We heard from both sides of the issue from the providers and from those who wanted to give the best service for the amount of money that we have in that account so that the children would benefit and nobody else. I don't mind telling you that I was a little disillusioned yesterday to see that the special interest groups had succeeded in trying to Amend our Bill that we worked very hard for. But at any rate, I thank you for your previous votes, and I hope you'll stay with us on this unanimous Report. Thank you.

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

Senator **SMALL:** Thank you Mr. President. Men and women of the Senate, I rise today to support the good, gentle lady from Androscoggin, Senator Berube, and the Education Committee's Report. In particular, the issues concerning the set-aside that was proposed for the CDS sites. I guess I see it a little differently than my good friend from York, Senator Libby. He is concerned, and I think justly so, that the cost of the CDS sites has spiraled, I won't say out of control, but they have risen probably faster than just about any other expenditures in the State, maybe with the exception of the Legislature. I don't know, but it is certainly, I think, incumbent upon all of us to try to get a handle on these costs. But I see the set-aside not as increasing the cost of this program, but as a way of managing these costs; of trying to get a handle on it. Currently they divide up the money through out the 15 sites, based on whatever the criteria are. Which is mostly what the experience was for the last year. They send it out and that's how they allocate the money.

Now if site "A" is doing a real good job, very frugal, and perhaps have a smaller number of children that need to be served, or with less serious disabilities, site "A" might actually have some money left over at the end of the year. I doubt that money comes back to the Department to be used elsewhere. Human nature being what it is, I think that money probably gets spent and is never seen again. Site "B" might have had, in the case of one of my towns, it's one of the smallest towns in my district, three autistic children will be going to kindergarten next year. Unanticipated and extremely costly to deal with. In this case site "B" might need more money to take care of those children that were, perhaps unanticipated, or have much more severe needs. So in this case, site "A" has extra money, site B doesn't have enough money. What happens if they've already expended all the money? CDS has to come back to Appropriations and ask for an additional allocation of dollars. Because I don't believe anybody in this Body wants to see those children go without services. And that has been the pattern of the past. By setting aside a percentage of the money they will be able to send out what they believe to be educated guesses on what each site will need. But they will be able to look at it in the fourth quarter, and if there is a site, or if all of the sites are slightly underfunded, they will be able to then dole out the rest of that money according to need, not according to what they spent last

year, or whatever the other criteria is. And it is important to know that if that money is not needed, if all of the sites are able to stay within that original allocation, that money goes into the unallocated fund. Which, as we all know, goes back before Appropriations. They will then make a determination of whether they want to take that money out, or hold it over to next year and use it toward CDS, or whatever. I think we have more oversight over this money now, and not less. That is why I supported that, and for that reason I hope that this Body will vote to Indefinitely Postpone this Amendment so that we can then go ahead and hopefully, this formula and this proposal that the Committee has unanimously endorsed, will attempt to address some of these costs. I will admit they've been really extraordinary. But this to me is the first step in taking a real hard look at that, and devising a way to change what was the past practices. Thank you very much.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, I promised myself after the last vote that I would just retreat quietly and lick my wounds. I was driven to the floor again by a comment made earlier by a previous speaker on this matter that discussed the apparent unfortunate involvement of certain special interest in this issue. I have to say that some of the faith that has been displayed here in the Department of Education, and the educational bureaucracy at the expense of the special interest, who are I believe, the parents of special needs kids in this particular case is a little disconcerting to me. So I just had to rise, and suggest to you perhaps, that parents of special needs kids are a special interest. And in my view they're a special interest that ought to be supported and attended to, rather than, having their parental authority taken away from them. Thank you very much.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, you need to know I served on the Child Development Service Special Task Force two years ago. I read the Committee Amendment. There was nothing in the Committee Amendment that said 2.8%, it's the first time I heard it today. It says 8%. 8% of the \$13 million request that they have for fiscal year 2001, is \$1,040,000 that this Department will be able to hang on to, and dole out in whatever way they feel they ought to. We are talking about a Department with a track record of not even presenting this original, major shift in policy to the Committee at the public hearing so the people of Maine could speak on it. We are also talking about a Department that had set up in the next town over from mine, a summer program for young kids in Scarborough, Maine that was closed, and they did not let the parents know about that. So all the parents showed up with their kids with special needs and there was nobody there. We're also talking about a Department that had some problems down in Portland where the whole Board resigned for Child Development Services in Cumberland County. We're talking about a Department that has given us a budget that is 21% more than it was in fiscal year 1999. I expect accountability. I put this Bill in, it's completely under my own hand, nobody else's; I want to make no mistake about that. And I really do oppose this motion. I don't think it is right. We had our chance yesterday. I gave the best accounting

that I could as to why this additional \$1 million funding is unnecessary and not really accountable, and I hope you'll support me on it. So I hope you will oppose the Indefinite Postponement measure in front of you. Thank you.

The Chair ordered a Division. 17 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **BERUBE** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-284) to Committee Amendment "A" (H-525), **PREVAILED**.

Committee Amendment "A" (H-525) **ADOPTED**, in concurrence.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-525)**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/5/99) Assigned matter:

**SENATE REPORTS** - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Prohibit Certain Bank Penalties" (EMERGENCY)

S.P. 609 L.D. 1732

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-202)** (2 members)

Tabled - May 5, 1999, by Senator **LAFOUNTAIN** of York.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, May 5, 1999, Reports **READ**.)

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

Senator **RAND:** Thank you Mr. President. Men and women of the Senate, I would ask you to reject the pending motion which is the Majority Report out of the Committee on Banking and Insurance so that we can go on to pass this piece of legislation. I believe the need for this legislation was created in some CEO's boardroom, in some far off city, by people who have very little connection with a large number of people in this state. This Bill would prevent financial institutions from assessing a fee on savings accounts that fall below some arbitrary amount set by the banks. About a year ago it came to my attention that some banks were charging this fee. In one instance a fee of \$2 per month, \$24 a year is assessed on accounts of less than \$500. Another bank charges, I think, it's between \$7 and \$9 a month on accounts under \$300. Different banks have set different minimum amounts. I know one bank has a \$100 minimum amount. I would argue that these charges are totally discriminatory and terribly unnecessary. Customers with a greater ability to save do not rely solely on simple savings accounts as the interest that they earn is only minimal. They choose CDs and other financial instruments to insure a greater return. For them a simple savings account is kept for unexpected

emergencies when their money can be accessed without penalty. If their bank has a minimum they can simply add to that account and meet the minimum. For many others, certainly for many of my constituents on the peninsula in Portland, \$500 represents two weeks pay. It took real discipline and sacrifice for these people to put this money aside for the inevitable rainy day. The money has to be accessible. It has to be there to fill that prescription when the child has an ear infection. It has to be available to fix that alternator because without transportation your job could be at risk. Maybe that rainy day won't come this month and they will be able to put another five or ten dollars aside. For the banks, which are by the way, experiencing record breaking profits, to touch that money is to me unconscionable.

Opponents of this Bill will tell you that there is a cost to banks for these accounts. Usually sighting monthly statements and servicing. I've actually never gotten a list of what activity servicing entails, but this is what they tell us. I would argue that since the interest paid on these accounts is so low, 1 or 1½%, and the combined investment power of these accounts is so great, I truly do not believe that these savings accounts represent a cost or a loss of income to these banks. If, as one bank representative stated to me, some banks really just don't want to bother with these small accounts, why not just send a letter to the customer enclose the amount of their savings account in a check and say I'm sorry we prefer not to have savings accounts with this minimal amount. Give the money back to the people. Don't take it out month after month. Opponents of this legislation will also tell that only Maine chartered banks will be affected by this Bill and that's absolutely true. We have 31 Maine chartered banks in the State. I'm asking you to please, give your support to this Bill to guarantee an option for your constituents who happen to be a little bit less affluent. The bank that I know of that is charging a \$2 a month on a \$500 minimum happens to be a Maine chartered bank. If we are going to mirror every single thing that the federally chartered banks do, than I see no reason why we should have the difference. If a bank does choose to be a Maine chartered institution they do have some benefits. They are charged less in different fees and they have usually a better relationship with the Legislators in the legislative process. I'm asking you, please reject the Majority Report out of the Committee and do so on behalf of the people of this state who are working very hard to put some money aside in a savings account which, traditionally, has been the safe place to put your money. I'm asking you on their behalf to please give them the guarantee that if they open their account in a Maine chartered bank their money will be safe. Thank you Mr. President.

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

**Senator LAFOUNTAIN:** Thank you Mr. President. Men and women of the Senate, I rise this afternoon and encourage you to support the Majority Ought Not to Pass Report. For those of you who haven't noticed, this is the first bank Bill that has been debated in the last three years. There's a good reason for that. The Banking and Insurance Committee in this legislature has made a conscious effort to create parody between state and federal financial institutions. There's a reason for that. We would like to encourage financial institutions to remain state chartered and state regulated by our Bureau of Banking. As the good Senator from Cumberland indicated, this Bill will affect only state chartered financial institutions in the State of Maine. Roughly that's about 31 out of 133. In other words, this Bill will

not affect the National Banks, the Federal Savings Banks, The Federal Savings and Loans and the Federal Credit Unions. This Bill affects the Bar Harbor Banking and Trust but does not affect the First National Bank of Bar Harbor. It affects the Damariscotta Bank and Trust but does not affect the First National Bank of Damariscotta. It affects Fleet Bank of Maine and People's Heritage Savings Bank of Maine but does not affect Key Bank. It also affects 12 State Chartered Credit Unions but does not affect the remaining Federal Credit Unions. The Committee, the Legislature and the Bureau of Banking has undertaken a diligent effort to make sure the consumers of Maine are aware of the terms of the accounts that they open at institutions of Maine. The Bureau has required all Maine banks and credit unions to advertise products and services in a clear and accurate fashion, free of deception or potentially misleading information. It's also required full disclosure of all terms, conditions, fees, etc., associated with maintaining a deposit account and re-disclosure whenever a change is made that will increase those cost? And it also requires that the financial institution notify customers of the steps which must be taken in resolving any deposit account complaints, including directions on how to contact the Bureau should problems between the financial institution and it's customers go unresolved. There is a reason why these financial institutions charge these fees, and I might add that not all state chartered financial institutions are charging the fee, it is only a few. There is a reason and that is because there is a cost associated with maintaining these accounts. According to recent information received from the Federal Reserve Bank, they indicated the average annual account maintenance for a savings account is \$45.01. This is just not for the soul purpose of sending out statements, as the good Senator indicated, it also involves the electronic transfers, the over the counter transfers, the opening of an account, and also the closure of an account. There are alternatives for individuals out there. All you need to do is pick up the newspaper on a daily basis and see that many of our state and financial chartered institutions advertise regularly their free accounts that are out there. This Legislature in 1997 passed a Bill that created the Family Development Account, which is going to be administered through FAME and will be available to consumers of Maine who are close to the poverty level starting this year. For those reasons, I encourage you to accept the Majority Report. Thank you.

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

**Senator DOUGLASS:** Thank you Mr. President. Women and men of the Senate, I rise to speak in favor of the Minority Report, which is that this Bill Ought To Pass. Sometimes you have to stand up for principle. Savings is a principle for which we should stand up. You won't often hear me say we ought to live as once our grandparents and parents did in the good old days when savings meant that you were accumulating something in a bank. But I will on this matter because that's what it is. I remember putting \$5 in the bank and watching it accumulate and having the occasional birthday present and Christmas present be put in there along with a 50 cents an hour that I earned as a baby-sitter. It was important to me then and it's important to me now that we make sure that these privileges are available to our citizens. I do realize that this does cost banks to some extent. But I think, nevertheless, that they have a privilege to operate in our State. And that it is worth standing up for the principle to say that savings are a positive step that we ought to encourage our

citizens to take. I think in light of the privilege that we give to the state chartered banks to do business in our State, and they benefit. They're doing well. Banking is one of those businesses that has done very well in the last several years. That one of their responsibilities as corporate citizens is to make sure that we are accomplishing a principle of the state, which is to encourage savings, particularly for those people who may not be otherwise able to keep money in their hands. I do know people and I'm sure you do as well, who if they have cash in their hands, they're likely to spend it. And this, by allowing them to keep it in a savings account or encouraging them to do that without penalization, I think we're achieving a good end. So I would encourage you to vote against the pending motion, and support the Minority Report.

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

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate, I rise this afternoon with some concern about this pending motion, and the opportunity may be to go ahead and vote for the Minority Report. All I could think about was, and I've spoken many times about them, but my own children when they were growing up, and the things that we used to do. I can remember my older son had a paper route, and he would put a few bucks each week in his account. They all went out with me in the summer and we would rake blueberries, and things of that nature, and in the fall they would get brush for wreaths. They would just do things as they grew up. They worked for some of the local camping areas, and so on and so forth, as they were going through grade school, high school and college. They always did something that accumulated some money. I always get a kick out of my middle son. He got out of college and he had his vehicle paid for; more money in the bank than I did. I asked how did you do that? But they learned, and I think it is a lesson for children at a very young age, and if I heard this legislation correctly, a kid could maybe make a few bucks in the spring and in the winter shoveling snow, whatever. He may lose half of it before it gets to fall when he can go and bring in some brush or something. I think it is a good lesson for our children to learn to be frugal, and to save for things that they want. Another thought came to mind. I had a neighbor years ago, who is now married and has a young family. When she went off to college she came up to me and said, look at my car, her parents were helping her through school. And she said you know, when she was like seven years old, I said you should start a savings account and save your money. She did, and she said, I never forgot that. So she had a chance to buy a used vehicle that she could take away to school with her. So these are some of the things that I think of. I don't think that any of the banks that I've seen here in the state that I've known have gone broke real quick over these small accounts. I just kind of think how I'm going to vote against this pending motion. I hope you give some thought to what I've said as well. Thank you.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, I also rise to support my colleague from Cumberland, Senator Rand, in her attempt to oppose the pending motion. I think it is really important to note, that if you have been around in the last several years, and I know the banking community is not

going to want to hear this, but if you have been around, and if you've been doing business, you've had nothing but fee increases left, right and upside down. There is no where you can go without a fee increase. My own bank has changed the terms of my credit card arrangement at least seven times in the last three years. It bothers me greatly for those folks that aren't in the position that I'm in to be able to move around and convert. I'm only sorry that the Bill that we have in front of us doesn't cover all banks instead of just state chartered banks. Because I would be very happy to be sending a message to the folks, you know at the national level, that are running these banks. This is not particularly the kind practice that we like to see in the State of Maine. We want to be kind to the people who don't have quite as much as others. And in the case of those who are opening savings accounts like these. You know when I was a kid, the very first thing I had was one of those bank books that opened up, and I was very proud of that. I would have been shocked to see a two dollar fee come out of that. I hope that you will join me and others in opposing the pending motion.

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

Senator **ABROMSON:** Thank you Mr. President. Ladies and gentlemen of the Senate. I really had a very lengthy speech prepared but my chairman, the good Senator from York, Senator LaFountain, basically said it all. I just want to reiterate a couple of points. One is, with respect to the principal, I have interest in the principle. With respect to the principal, the principal is parity. And we're talking about state chartered banks, and federally chartered banks. Another good Senator from York wishes that we could do this to all banks. But we can't. That's the fact. The fact of the matter is we have state charter banks and we have federally chartered banks. I would say to the good Senator from Washington, that a good lesson for all children is the lesson of competition. Ask them to call the banks and see what the fees are, then they can deposit their saving wherever they're going to get the best deal. That's what adults do. We have everything from simply free checking, to checking with all kinds of fees attached. Fees to deposit, fees to withdraw. You have to check it out. So ladies and gentlemen I would urge that you vote for the Majority Ought Not To Pass Report in the interest of fair play and parity for the banks and consumers of Maine. Thank you.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, I rise to support the pending motion. The good Senator from York, Senator LaFountain, as has the good Senator from Cumberland, pointed out. The parity of fairness issue. How in the world, Mr. President, can we Enact a measure today that is going to impact adversely against some banks but not others? Senator Abromson is correct when he points out the fairness issue. That is an important issue to me and the things we do. The good Senator from Washington, Senator Cassidy, mentioned something about the youth and banking. Their money and so forth. I think it's an important lesson for our youth that there is no free ride, or there shouldn't be any free ride with their money, even at a bank. What a heck of a way to educate young people that they can take their money to the bank and get a free ride as to the way it's managed. That isn't the type of education I think we ought to be giving our young people. And finally Mr.

President, as to the privilege of doing business in Maine, the banks do have a privilege to do business, but why should they have to do that at a loss. Even at this small amount. I support the banking industry to be treated in a fair way and that they be allowed to do business without operating at a loss necessarily. Thank you Sir.

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

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate, just to follow up on the good Senator from Franklin, Senator Benoit. You know, going back a few years in the early 40's, if you remember, especially the mid 40's after World War II, some of the GI benefits that were set up, you know to help our Vets relocate, after the depression. Once the war started the economy started picking up. Savings and Loans at that time were created, and really encouraged for folks to save money. Folks in those days obviously didn't have a lot of extra money to save, but they were able to do it, and they paid a very, very, small interest on their loans. Saving and Loans in those days were not commercial banks, they now have a lot of the same opportunities as other commercial banks do. But that is what happened to let middle America have an opportunity to own homes. That's how they did it. The only way that the banks got money, so that they could make loans was to pay a small dividend to those folks; interest it would be, I guess, actually on those accounts. If people would begin to save the banks assets would grow. They could loan money, people would pay money back, pay interest, and this is how we were able to have a lot of people own their homes throughout the country, especially here in Maine. I think the intent, we are getting so far away in this country. It's easy to look at the stock market rise over 9,000, 10,000, 11,000 points, people wheeling and dealing. Don't forget the little people in this State and the little people in this country. And that's how this country grew. I think the lesson to these children is that if you save money, you can earn money on it, as that money grows, you'll earn more and more. I think that's the lesson. I don't think that kids need to be on the phone checking with banks to see whose going to give them a rooking and who isn't. Thank you Mr. President.

On motion by Senator **RAND** of Cumberland, 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 (#108)**

**YEAS:** Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CATHCART, DAGGETT, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PENDLETON, SMALL, THE PRESIDENT - MARK W. LAWRENCE

**NAYS:** Senators: CASSIDY, DOUGLASS, LIBBY, PINGREE, RAND, TREAT

**ABSENT:** Senators: MITCHELL, RUHLIN

**EXCUSED:** Senators: KILKELLY, KONTOS, PARADIS

24 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 2 Senators being absent, and 3 Senators being excused, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/17/99) Assigned matter:

**Emergency**

An Act Concerning the Review of State Solid Waste Management Policies

S.P. 391 L.D. 1170  
(C "A" S-185; H "A" H-550)

Tabled - May 17, 1999, by Senator **PINGREE** of Knox.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 14, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-185) AND HOUSE AMENDMENT "A" (H-550)**, in concurrence.)

(In House, May 17, 1999, **PASSED TO BE ENACTED.**)

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

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

**HOUSE REPORTS** - from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in the Maine Criminal Justice Academy in Waterville; Part of the Kennebec Arsenal in Augusta; Part of the Maine Youth Center in South Portland; and 2 Parcels in Gray Near the Pineland Center

H.P. 1203 L.D. 1713

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-413)** (11 members)

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

Tabled - May 18, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 17, 1999, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413) AS AMENDED BY HOUSE AMENDMENT "A" (H-516)** thereto.)

(In Senate, May 18, 1999, Reports **READ**.)

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **CAREY:** Thank you Mr. President. The campus was bought from Thomas College at a time when I was in municipal office. And it was paid for by LEAA monies and I'm wondering if somebody has maybe looked over the deeds to find out if, in fact, that has to be returned to the government or not? And if it hasn't, somebody ought to table this so we can have a look at the deeds. Thank you.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/7/99) Assigned matter:

Bill "An Act to Promote Stability in Labor Management Relations in the Public Sector"

H.P. 960 L.D. 1358  
(C "A" H-433)

Tabled - May 7, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In House, May 7, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-433)**.)

(In Senate, May 7, 1999, **READ A SECOND TIME**.)

On motion by Senator **DOUGLASS** of Androscoggin, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

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

Bill "An Act to Promote Stability in Labor Management Relations in the Public Sector"

H.P. 960 L.D. 1358  
(C "A" H-433)

Tabled - May 18, 1999, by Senator **DOUGLASS** of Androscoggin.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In House, May 7, 1999, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-433)**.)

(In Senate, May 7, 1999, **READ A SECOND TIME**.)

On motion by Senator **PINGREE** of Knox, Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Validate Voluntary Collective Bargaining Provisions that May Affect Educational Policies"

S.P. 333 L.D. 987

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-152)** (4 members)

Tabled - May 18, 1999, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **RECEDE** and **CONCUR**

(In Senate, May 5, 1999, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In House, May 18, 1999, Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**, in **NON-CONCURRENCE**.)

Senator **MILLS** of Somerset requested a Division. Subsequently, the same Senator requested and received leave of the Senate to withdraw his request for a Division.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

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

#### ENACTORS

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

**Act**

An Act to Provide for Increased Penalties and Enforcement Regarding Dangerous Dogs

H.P. 433 L.D. 575  
(C "A" H-488)

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

Nine members of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Eliminate Voter Registration on Election Day"

H.P. 376 L.D. 501

Reported in Report "A" that the same **Ought Not to Pass**.

Signed:

Senators:

DAGGETT of Kennebec  
CAREY of Kennebec  
FERGUSON of Oxford

Representatives:

CHIZMAR of Lisbon  
MAYO of Bath  
TUTTLE of Sanford  
HEIDRICH of Oxford  
GAGNE of Buckfield  
FISHER of Brewer

Two members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass**.

Signed:

Representatives:

LABRECQUE of Gorham  
McKENNEY of Cumberland

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-497)**.

Signed:

Representative:

PERKINS of Penobscot

Comes from the House with Report "A", **OUGHT NOT TO PASS READ and ACCEPTED**.

Reports **READ**.

On motion by Senator **DAGGETT** of Kennebec, Report "A", **OUGHT NOT TO PASS ACCEPTED**, in concurrence.

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

**ENACTORS**

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

**Acts**

An Act to Make Failure to Provide Proper Identification a Violation of the Liquor Laws

H.P. 274 L.D. 382  
(C "A" H-313)

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

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Senate at Ease.

Senate called to order by the President.

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**ORDERS OF THE DAY**

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

HOUSE REPORTS - from Committee on **MARINE RESOURCES** on Bill "An Act to Establish a Lobster Trap Tag Freeze to Limit Effort in the Lobster Fishery"

H.P. 1385 L.D. 1982

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-579)** (10 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-580)** (2 members)

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

Tabled - May 18, 1999, by Senator **GOLDTHWAIT** of Hancock.

Pending - motion by same Senator to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-579)**, in **NON-CONCURRENCE**.



(In House, May 18, 1999, Report "B", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-580) READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-580).)

(In Senate, May 18, 1999, Reports READ.)

On motion by Senator GOLDTHWAIT of Hancock, Report "A" OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-579) ACCEPTED, in NON-CONCURRENCE.

READ ONCE.

Committee Amendment "A" (H-579) READ and ADOPTED.

TOMORROW ASSIGNED FOR SECOND READING.

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

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

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

On motion by Senator PINGREE of Knox, 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:

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on CRIMINAL JUSTICE on Resolve, to Enhance Fire Protection Services throughout the State H.P. 1017 L.D. 1428

Reported that the same Ought to Pass As Amended by Committee Amendment "A" (H-557).

Comes from the House with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-557) AS AMENDED BY HOUSE AMENDMENT "A" (H-586) thereto.

Report READ and ACCEPTED, in concurrence.

READ ONCE.

Committee Amendment "A" (H-557) READ.

House Amendment "A" (H-586) to Committee Amendment "A" (H-557) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-557) as Amended by House Amendment "A" (H-586) thereto, ADOPTED, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on RESOLUTION, to Amend the Constitution of Maine to Elect 2 Senators from Each County H.P. 452 L.D. 615

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-408) (8 members)

Minority - Ought Not to Pass (5 members)

Tabled - May 18, 1999, by Senator GOLDTHWAIT of Hancock.

Pending - motion by same Senator to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in NON-CONCURRENCE

(In House, May 18, 1999, the Minority OUGHT NOT TO PASS Report READ and ACCEPTED.)

(In Senate, May 18, 1999, Reports READ.)

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

Senator PENDLETON: Thank you Mr. President. Men and women of the Senate, I hope that you will vote against the Ought To Pass As Amended Committee Report. The reason I voted the way I did on the Minority, is because although this piece of legislation does have some redeeming factors, such as a four year term for Senators, the problem is that in the amended legislation it would require that our districts be solely by county line. There would be two Senators elected from each county. Therefore, it's questionable whether this piece of legislation is actually constitutional. In our deliberations the Committee found that, I have summaries here, many court decisions that speak

against this piece of legislation. So I hope that you will vote with me against accepting the Majority Report.

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

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, I am willing to share my county with one other Senator. This Bill, I think is an excellent vehicle to raise a very important debate for our State regarding issues that we have talked about at some length that we sometimes call the other Maine, and the two Maine's and all those things. This is a Bill that is an honest effort to address the fact that there is a bit of an imbalance of power regarding the regions in our State. I was thinking as the good Senator from Cumberland, Senator Pendleton's microphone cut out there for a second, what a sad thing it is to not have a voice. This is a Bill that would give us a stronger voice on a more equal footing to all areas of our State. I recognize that this Bill faces an uphill battle. It actually started out of our Committee with a 12 to 1 Report, and after a series of re-thinking we are now down to an 8 to 5 Report. Nevertheless, it still is the Majority from the Committee. I would venture to guess that there would not be a soul in this building or in the State of Maine who would advocate changing the Federal system to correspond to our State system, and have the Senators elected by population because that would probably mean about 10 from New York and 10 from California, and one representing all of Maine, New Hampshire, and Vermont. And for the very same reasons and fears that, that would create in the mind of the public of Maine, namely that we would have a very inadequate voice in the federal level of government. So too, do we feel that having representation for person, is appropriate for one body of the Legislature, but can be equalized in terms of regional representation by electing two Senators from each county. It is true that a Federal Constitutional issue has been raised regarding this Bill, in that, the Federal Constitution does require one man, and I'm quoting, one vote. However, they notwithstanding themselves and therefore are able to have a system that flies in the face of that provision. Although we are allegedly proscribed from so doing. However, that is a decision that was upheld by a court case some 40 years ago, by a court that is vastly different in profile than the existing court. And there are a number of court decisions which actually question the validity of that decision. So I would submit that this matter is not entirely resolved, and by passing this Bill we may be able to get it resolved by an updated court decision on that. And certainly, the matter is unclear enough to persuade me that it is still worth supporting this Bill, which would give a much more adequate voice to all regions of our State. If there is a constitutional issue I am sure it will be raised down the line. It does, as the good Senator from Cumberland mentioned, have some other assets including a four year term for Senators, and I would urge you to support the Majority Ought To Pass decision of this Committee. Thank you.

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

Senator **DAVIS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I too rise in support of this legislation with my colleague, the good Senator from Hancock, Senator Goldthwait. When in 1776, our fore fathers built our Constitution and fashioned our national government, they clearly understood that the power of the government had to be distributed as evenly

and fairly as possible. And in doing so, they fashioned our National Congress with the House of Representatives based upon population. However, having the foresight they fashioned the Senate, the United States Senate, to be two people, two Senators per state. That has worked very well for over 200 years. And in fact, it still stands today, as you all know, that the more popular states, such as California, and New York, have unyielding influence in the House of Representatives. However, when it comes to influence in the United States Senate, the State of Maine holds equal with them. The counties are not indifferent to the states. I represent all of Piscataquis County, eight towns in Penobscot Country and three towns in Somerset Country. And yet there are eleven of you that represents parts or all of Cumberland County. I dare say that the interest of Piscataquis County is secondary in most of your minds. The same counties also had numerous Representatives in the House of Representatives. I'm not sure of the count in Cumberland County, but I can tell you in Piscataquis County we have three. And I'm sure that Cumberland County is far more than the three that we have in Piscataquis County.

There are many reasons to do this. In the national congress, there are what I refer to as the so-called cosmopolitans. From California they are referred in Nevada, Colorado, and Wyoming as the, 'fly over states'. Not to be bothered with until such time as it comes to pass legislation then they have to be listened to. I think the same should be for Aroostook, Piscataquis, Washington, and Franklin County, which now has just three Senators. I think the debate would do our State good. We constantly hear of the two Maine's, The farther north you go, the more you hear of it. Of the economic imbalance and everything that occurs. Same as the south. A equal representation in one of the body's of the legislature would make the difference.

Mention was made that, perhaps, it is unconstitutional. In 1963, Baker versus Kerr, the Court did rule the one man - one vote. However, today it is a different court, and a new challenge might prove differently. Just as in 1898, separate but equal was upheld. But 50 years later in Brown versus The Board of Education it was struck down and changed. Maine has a long history of doing what is right. The bottle bill referendum was voted down by the people. In 1971 the people of our State voted to retain the state income tax, because they felt it was the right thing to do. I believe that the people, given a proper debate, might very well embrace this notion of two senators per county. I would like to see it happen. Think of how Maine would be today, when in the 1960's, the good citizens of this State eliminated the big box at the top of the ballot. Prior to that we were a one party dominated State. And the box was eliminated and it opened up the elections. I would urge you all to support the Senators motion. Thank you very much.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, sending this question out to the people, which is what this Bill proposes to do, means that there will be considerable expense to the people of the state on a question that on its face, is clearly illegal. It's unconstitutional, and we all know it in this chamber. I've heard some expression today that while a court 40 years ago did this, and some judges today may be different. I would suggest to you that's a complete waste of time trying to read the minds of judges. I'm not passing legislation on that basis. I think it is a folly. I think you're headed in the wrong

direction and I say that respectfully. We should not be enacting laws and trying to mind read. I'm disappointed that the Committee didn't go to the Attorney General and get some kind of a ruling given that this is going to be, or could be, an expensive situation to send out to the public. Maybe that happened, and if the Committee does have an opinion of the Attorney General that this is, if enacted unconstitutional fine, but I haven't heard anything yet. I think as a condition precedent to sending this out to the expense of the people and so forth, that given the importance of this, we ought to have an opinion of the Attorney General that this is valid. And I think when you get this measure looked at by counsel, looked at by the constitutional scholars, it will be determined that this is an unconstitutional effort. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President. Men and women of the Senate, as a Senator from a small county I'd have to say this Bill is particularly appealing to me, and I'm going to spare the Senate any discussion of those large counties with excessive numbers of Senators who may perhaps not want to vote for this Bill. But I do want to take a moment to ask a Parliamentary Inquiry of the Chair.

**THE PRESIDENT:** The Senator may pose her Parliamentary Inquiry.

Senator **PINGREE:** There has been some discussion as to if this Bill were to pass, which Senator from Franklin County would stoke the fires during the first day we're here?

**THE PRESIDENT:** The Chair is not allowed to inquire into the motives of the Senator from Franklin, Senator Benoit, in making his vote, so the Chair chooses not to answer that question.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the Senate, I can't help myself, I apologize. I'm a history teacher and I heard a misfact about the election of the U.S. Senate. I appreciated the history most of which was accurate, but basically it's the 17<sup>th</sup> Amendment that allows for two U.S. Senators per state, just to correct the Record. And thanks for letting me try to make sure we get our history right. Thank you.

On motion by Senator **BENNETT** of Oxford, 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 (#109)

**YEAS:** Senators: **BENNETT, CASSIDY, DAGGETT, DAVIS, FERGUSON, GOLDTHWAIT, KIEFFER, PINGREE**

**NAYS:** Senators: **ABROMSON, AMERO, BENOIT, BERUBE, CAREY, DOUGLASS, HARRIMAN, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, MURRAY, NUTTING, O'GARA, PENDLETON, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

**ABSENT:** Senators: **CATHCART, MICHAUD, MITCHELL, RUHLIN**

**EXCUSED:** Senators: **KILKELLY, KONTOS, PARADIS**

8 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 4 Senators being absent, and 3 Senators being excused, the motion by Senator **GOLDTHWAIT** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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

**HOUSE REPORTS** - from the Committee on **JUDICIARY** on Bill "An Act to Require Testing for HIV and Blood-borne Pathogens of All Prisoners in the Maine Correctional System"  
H.P. 658 L.D. 914

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-478)** (4 members)

Tabled - May 18, 1999, by Senator **FERGUSON** of Oxford.

Pending - motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**. (Division requested)

(In House, May 18, 1999, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-478)**.)

(In Senate, May 18, 1999, Reports **READ**.)

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

On motion by Senator **LONGLEY** of Waldo, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**. (Roll Call Ordered)

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require Signatures from All Counties on Direct Initiative Petitions

H.P. 1020 L.D. 1431

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-487)** (11 members)

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

Tabled - May 18, 1999, by Senator **DAGGETT** of Kennebec.

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

(In House, May 18, 1999, RESOLUTION and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, May 18, 1999, Reports **READ**.)

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

Senator **CAREY:** Thank you Mr. President. I have before me a sheet telling us how many signatures would have to come from each and every county. Androscoggin would need 1,900, but Franklin would only need 600. Kennebec would need 2,255 but Piscataquis would only need 396. It is totally unfair in my mind and I was on the Minority Report. It is totally unfair to have people go out and get signatures and find out that they only qualified in 15 of the 16 counties and therefore would not be able to get their petition out to the voters. So I hope you defeat this motion.

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

Senator **DAGGETT:** Thank you very much Mr. President. Members of the Senate, I would just like to speak briefly to the Committees reasoning and the Committees work on this particular Bill. As most of you will recall, there has been quite a bit of discussion regarding the issue of signature collection. Concerns about the proximity to the polls and other kinds of restrictions. This has been a national issue dealing with the issue of direct initiatives and referendum questions. There are only a few states actually that have initiative process, and that's about 20. Just over 20 states. So fewer than half the states have an initiative process. I have been very reluctant personally to put restrictions on, but this seemed to me, and I believe to other members of the Committee, to be a reasonable effort to require any petition circulators to show that there was broad based support throughout the state. This is not an uncommon mechanism. In other states over half of those that have the petition process require some kind of geographic balance. In a State such as Maine, where a large part of the population is in the southern part of the state, this gives an opportunity for geographic areas that might not have the opportunity to have petitions circulated and might be interested in having their opinions be part of the collective process of getting something on to the ballot. This Bill helps to deal with the issue of two Maine's.

The reason the number is different in each county, is that it is a percentage of the number of people who actually voted in the previous election. In the same way that we tie the number of signatures required statewide to a gubernatorial election. I don't think it is inappropriate to show statewide support by collecting signatures in each county, and I hope that you will consider this information and consider what the Committee looked at during our deliberations. Thank you.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, I'm trying to figure out here what's broke that this Bill is trying to address. And Mr. President, it seems to me that if this Report that is before us is successful that this really will amount to a defeat or negative impact against the initiative petitions. And frankly, if the purpose here is to do away with the referendum process why don't we just come right out directly and do it? This to me is an indirect method of really impacting way a very important process that our citizens have available to them. And I just can't for the life of me understand why this is before us in such a strong measure here, by the Committee when it seems to me that it's going to really negatively impact a very important Constitutional process. And if that is what this is all about, let's do it directly instead of indirectly. Thank you.

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

Senator **FERGUSON:** Thank you very much Mr. President. I rise in support of the motion. The reason I do is because as we heard in the prior debate this does give us geographic representation. That is extremely important. Some 11 to 2 Committee Report, and the good Senator from Kennebec, our Chair Lady, has laid it out pretty good. What the Committees thoughts were on this particular issue. It's based upon a percentage, 6% of the vote in the last gubernatorial election, which is certainly a very low threshold. As Senator Carey from Kennebec County mentioned that in Piscataquis County it would only be 300 and some odd votes. It does, as I mentioned earlier, give broad geographic support to a referendum issue and I would hope you would vote for the pending motion. Thank you very much.

Senator **AMERO** of Cumberland moved the RESOLUTION and accompanying papers be **INDEFINITELY POSTPONED**, in concurrence.

The Chair ordered a Division. 20 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **AMERO** of Cumberland to **INDEFINITELY POSTPONE** the RESOLUTION and accompanying papers, in concurrence, **PREVAILED**.

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The Chair laid before the Senate the following Tabled and Later (5/17/99) Assigned matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill  
"An Act to Amend the Freedom of Access Laws"  
H.P. 1296 L.D. 1857

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee  
Amendment "A" (H-479)** (6 members)

Tabled - May 17, 1999, by Senator **BENNETT** of Oxford.

Pending - motion by Senator **LONGLEY** of Waldo to **ACCEPT**  
the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-  
CONCURRENCE**

(In House, May 17, 1999, Majority **OUGHT NOT TO PASS**  
Report **READ** and **ACCEPTED**.)

(In Senate, May 17, 1999, Reports **READ**.)

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the  
Senate, very simply what this Bill does as Amended is it gives the  
private right of action to citizens and towns after they have felt a  
grieve, and felt that the Attorney General despite notice of their  
complaint sat on it for 30 days. Basically this says after 30 days  
the private citizen can go to court to allege that the Freedom of  
Access Laws weren't honored. And I guess it comes down to a  
question of, do you support a Private Right Of Action or not?  
Thank you.

At the request of Senator **GOLDTHWAIT** of Hancock a Division  
was had. 23 Senators having voted in the affirmative and 4  
Senators having voted in the negative, the motion by Senator  
**LONGLEY** of Waldo to **ACCEPT** the Minority **OUGHT TO PASS  
AS AMENDED** Report, in **NON-CONCURRENCE, PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-479) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING.**

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

HOUSE REPORT - from the Committee on **EDUCATION AND  
CULTURAL AFFAIRS** on Joint Order - Relative to establishing  
the Task Force to Redesign the Governance System of the  
Governor Baxter School for the Deaf

H.P. 1183

Reported - **Ought to Pass As Amended by Committee  
Amendment "A" (H-367)**.

Tabled - May 18, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF THE REPORT**

(In House, May 18, 1999, Joint Order **WITHDRAWN**.)

(In Senate, May 18, 1999, Report **READ**.)

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

Senator **BENNETT:** Thank you Mr. President. Point of  
Parliamentary Inquiry.

**THE PRESIDENT:** The Senator may pose his Point of  
Parliamentary inquiry.

Senator **BENNETT:** The original proponent or Sponsor of this  
Order has apparently withdrawn the matter. Is it properly before  
this Body?

**THE PRESIDENT:** The Chair would answer in the affirmative.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox,  
Senator Pingree.

Senator **PINGREE:** Thank you Mr. President. Point of  
Parliamentary Inquiry.

**THE PRESIDENT:** Senator may pose her Point of Parliamentary  
Inquiry.

Senator **PINGREE:** Is it appropriate to Recede and Concur?

**THE PRESIDENT:** The proper motion would be to Move to  
Indefinitely Postpone, but the Chair does not want to influence  
the Senator in her actions.

On motion by Senator **PINGREE** of Knox, Joint Order and  
accompanying papers **INDEFINITELY POSTPONED**.

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Off Record Remarks

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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

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Senator **FERGUSON** of Oxford was granted unanimous consent  
to address the Senate off the Record.

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

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On motion by Senator **PINGREE** of Knox, **ADJOURNED**, until Wednesday, May 19, 1999, at 9:00 in the morning.