

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

In Senate Chamber
Friday
May 28, 1999

Senate called to order by President Pro Tem Chellie Pingree of Knox County.

Prayer by Senator Betty Lou Mitchell of Penobscot County.

SENATOR MITCHELL: Good morning. Women and men of the Senate, on this beautiful late spring morning as we gather here to make our decision making and policy issues let us breath deeply, relax and join our hearts in prayer.

Dear Heavenly Father, as we gather these final hours of this Session we the members of this Body thank Thee for the honor and opportunity to represent the people of Maine and Your guidance in deliberations over the past months. May we be mindful, as we start our day, of the people's trust and confidence in our decision making ability, listening skills, and teamwork to accomplish the tasks before us. Grant that we may be guided in our decisions and actions by the highest sense of our calling. May we be guided not so much by our fears, as by our faith; not so much by our prejudices, as by our passion for justice; not so much by our hurts, as by our hopes for our life together. Renew in us this day our caring spirit. Even as we suffer momentary discouragement and are disheartened by the realities of life, guide us from the wellsprings of Your wholeness that we may experience the possibilities of life this day and discover our compassionate resources. Bless us with a vision of the good, take from us our nearsightedness and bathe us in the waters of clear mindedness that we may, with all humility and clarity of heart, honor Your universal law of love. When our work is complete for the day and we leave the Chamber to rejoin our families and loved ones, may we be blessed with the feeling of accomplishment on our journey homewards and may we all enjoy a safe, joyous, happy weekend in good health with our loved ones. We ask this in Thy name, dear Lord. Amen.

Doctor of the day, Laurel Coleman, MD, Manchester.

Off Record Remarks

Senator **BERUBE** of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator **BERUBE:** Thank you Madam President and ladies and gentlemen of this Chamber. I must say a word about our Doctor of the Day. When I certainly did not feel well two weeks ago, she was at my side in a flash. She brought me to the hospital and

stayed by my side. She was totally in charge, and her professionalism and upbeat attitude reassured me because I'm usually a basket case when I go in such a room. This was further reinforced by the respect, admiration, and esteem with which the nursing staff held her. We are indeed fortunate in having the caliber of a medical professional such as our Doctor of the Day, one who is a credit to her profession. All I really wanted to say, to express my gratitude, and say it very sincerely, merci! to Dr. Laurel Coleman. Thank you Madam President.

Reading of the Journal of Thursday, May 27, 1999.

PAPERS FROM THE HOUSE

Joint Order

Expression of Legislative Sentiment recognizing:

Robert P. Cammack, of Augusta, for his nearly 30 years of service to the State of Maine as the only official State House Tour Guide. Mr. Cammack, who has been the tour guide since 1969, retired once but came back part-time to relay the history of the State House to the almost 14,000 annual visitors to the capitol building and grounds. The Maine State Museum is attempting to preserve some of the vast knowledge, memory and charm of Robert Cammack by videotaping the tour for the benefit of future guides and to use to introduce the State House to students in the schools of the State. We gratefully acknowledge the dedication Robert P. Cammack has brought to his position and extend our warm appreciation to him for being the human link between the State House and the citizens and guests of the State of Maine;
HLS 474

Comes from the House **READ** and **PASSED**.
READ.

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

Senator **DAGGETT:** Thank you Madam President, and members of the Senate. I would just like to take a moment to give a special thanks to Bob for all the wonderful time that he has spent talking with, teaching, and being so patient with, not only the school kids that are here, but frankly, with those of us who are here with our constituents. I've known Bob and I have had the opportunity to have him as a constituent for many years, from the first time I ran for the School Board in Augusta. He was in my district and he has always been a very supportive and engaging man, and very good at what he does. He has a very gentle quality, he knows a lot, and he is able to really transmit that sometimes to very young kids who are pretty active and not always easy to keep engaged. It's just been a pleasure to have him here. I spoke with him the other day and I'm looking forward to seeing the video tape because there are a lot of historical moments and things, and it worries me sometimes that term limits will reduce some of our history here. I think to have a video tape and a record of Bob and what he has done, and how special the State House is for him, is a wonderful way to preserve that. I think he is certainly a very

special person. I would also like to take just a moment to read some remarks that Bob had given me. Certainly aware of what a team effort it is here, and the staff here, as a Legislature we could not do our job without the staff that support us, and make it all possible. I would just like to read this for Bob. I wish to give my heartfelt thanks to Jim, Bob, and Nina plus the rest of the Senate Chamber Staff for all their help with the many groups of students this very busy season. Sincerely, Bob. On behalf of those of us here in the Senate we want to thank you and appreciate your working with us as a team and hope we will continue to do that. Thank you.

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

Senator **GOLDTHWAIT:** Thank you Madam President. Ladies and gentlemen of the Senate, I just wanted to rise to say that in my first bewildering days in this building, five years ago, Bob was one of the people that put a human face on this experience, and it was a face that always had a smile. He certainly has a way with kids, they respond to his gentleness. My image of Bob is always when I go to my office in the morning on the ground floor, I can see Bob sitting on the bench down by the Moose Room with his ankles crossed, leaning forward a little bit just waiting, for yet another batch of school kids. I can't imagine how many thousands he has taken through this building. He has an obvious love for the building and the kids. He has been a wonderful ambassador from our Legislative system to our school children, who grow up to remember, because many adults tell me. I remember when I was here in school and Bob is a significant part of that experience for many, many of our school children. I want to add my thanks.

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

Senator **CAREY:** Thank you Madam President. The lady from Hancock, Senator Goldthwait, has maybe stolen some of my thunder because when I was only a child I came to this building and Bob was working. The point of my standing up is simply that Gary Crocker had Bob as a little league coach, and it proved to be the one thing that Gary Crocker never forgot. So, Bob has said many times that he developed his patience by having to have worked with Gary Crocker.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you Madam President. Men and women of the Senate, I just want to echo, certainly, some of the comments that have been made about the importance of Bob in terms of being a welcoming face that greets children, particularly children, or other groups as they come into this building. After a while we come into this building and we just kind of wander in, and wander towards our desk and know where we are going, and run into people we know. But for those people that are coming here for the first time it is a fairly imposing place. This morning as I was coming in there was a group of kids coming in, I don't know if it was this group or another one, and they were all doing this (made a motion physically) and looking around just really kind of taking in the vastness of this space. I think if we are really serious about the fact that this is the "people's building," this is their

building as much as it's our building, that it's important that we have that welcoming aspect that Bob has brought to this. I remember a few years ago when we feared that we were going to lose that, that Bob wasn't going to be here any longer. A lot of us worked really hard to make sure that he was going to be here because it is not possible for this building to be welcoming unless there are people here who are welcoming. While we're here doing our work it's very difficult for us to stop and take the time to do all the things that are necessary for people to feel comfortable about being here, and really learn something. We can come in and come out, chat for a minute, and do all the little pieces, but it's Bob whose been the thread who's really carried the ball of pulling people into this building and making them feel welcome, making them feel that it's their building and that he is a part of that as well. I can't thank him enough for introducing thousands and thousands of people to their building, to their State House, to their Government. I think he has been a critical link in a critical nexus between the people of this State, and this building and the work that we do. I just really want to thank him.

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

Senator **BENOIT:** Thank you Madam President. May it please the Senate, I enjoyed the warm words of the Senators from Kennebec, Senator Carey and Senator Daggett. I'm sure that Bob appreciates those words. I cannot claim him as a constituent, coming as I do from Franklin County, but I can remember in the 60's when I worked down on the second floor of this building in the Attorney Generals Office. They came up to the third floor often. I ran into Bob in those events. And now here, working on the third floor I've seen him work with young people who come here and he, you can tell, loves his work. If you want to know the definition of a gentleman, he is the definition of a gentleman. Bob, thank you for the many times that you were friendly with me, and very professional and friendly with people who have come here. Thank you on behalf of my constituents.

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

Senator **FERGUSON:** Thank you Madam President. When I came here, five years ago, I had an occasion to go down to the document room. Bob was asked for an LD, he went and got the LD for me, saw my name tag, and said was your father here in the State House many years ago? I said yes, he was. My father was of Scottish decent and his first language was Gaelic, so he had quite a heavy Scottish brogue. He used to refer to Bob as Bob (Scottish accent). Bob related that to me and I noticed in the sentiment that it's the human link between the State House and the guest. The link between my father and the State House was Bob in many respects. I know on many occasions I have had children from the District up here and I've watched the professional manner in which he handles them. And certainly I would extend my gratitude and appreciation for the folks in my area. We wish you well Bob. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you very much Madam President. Good morning ladies and gentlemen of the Senate. I could not let

this opportunity pass to share with you some of my heartfelt, fond memories of Bob. And I'm sure it's going to embarrass him a little bit because he doesn't know I'm about to say this. Like my good friend from Hancock, Senator Goldthwait, I too came to this building a few years back not knowing much about the building. And sensing, as Senator Kilkelly from Lincoln suggested, a little bit imposed upon. So every time we would meet in our respective offices I would start asking all these curious questions about the building, the paintings, and the other pieces of history that seemed to be embedded in spirit here. One of my colleagues finally said, you know that guy that's sitting on the bench every morning when you walk in by the south entrance? Oh! you mean the guy with the white hair and the mustache? Yeah. Here's what you do Phil. The next time you come in stop and introduce yourself to him, and when he's surrounded by a bunch of school children just kind of join in on the tour. That is how I learned about this building. I've learned such things as the names of the moose, down in the Moose Room, are Clem and Esmeralda. I've learned that the deer names are Bonnie and Clyde, the bears names are Gus and Mabel, and the beavers names are Butch and Gladys. I've learned about the former smoking room and the plaque about Governor Baxter's dog, the Hall of Flags, and the West Wing; learned the details about each of the Chambers and the color schemes here, and the rich history behind the portraits that hang on the walls. Like many of you, we entertain school children. I'm fond of bringing them to the front of the Senate Chamber and asking them leading questions about what the State Seal for our State means and why we have one of the very few almost full length paintings of President Lincoln. I'm able to talk about the architecture of the building and the Minerva on the dome and on, and on, and on. Usually when the school children leave a few of the parents stay behind and thank me for not only entertaining the children, but enriching their knowledge of our State House. I take a lot of pride in that because they feel like their trip here was well worthwhile, but I know that the reason that they leave here feeling so good about their State House has nothing to do with Phil Harriman, but everything to do with Bob Cammick. I want to say thank you to him. Thank you.

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

Senator **LONGLEY:** Thank you Madam President and colleagues in the Senate. Thanks for all of your comments. I would like to say that my father had an expression, you can tell how good a person is by how good and kindly they treat the people they don't need anything from. In the State House that translates for me to the people I don't need a political favor from. How willing am I to take and slow my steps and be friendly? I'll share a secret, basically in politics you know we're dashing from one event to another and it's tireless work. We are often tired doing this tireless work. I haven't been able to catnap, never have been able to, but I have learned to "catcry." I've learned that ten minutes before I get to an event, if I have been crying in the car to just roll down the windows, wipe my eyes, and no one knows I've been there and had these moments when I get to the event. Today I was having a catcry on the way because it's such a beautiful day and I was wishing my dad could be alive. I knew I didn't have ten minutes and the air that was coming into the windows wasn't working, so I went for my sunglasses and thought I would walk into the State House with my sunglasses and find my quiet space. In finding my quiet space I went into my office and

then I noticed Bob leading a tour. Having heard what went on in the other Chamber yesterday I went up to say I heard that wonderful things happened, and congratulations, and thank you. His first words to me; he looked me in the eye with his shiny blue eyes and said I really wish your dad could have been here for that. Needless to say, I thanked him and made another mad dash for my sunglasses. I guess, as I struggle for words to convey what he has been able to do, and realizing that people who have been here and all of us here today, my dad might not be here and the good Senator from Oxford, Senator Ferguson's, dad might not be here, and a lot of other people we care about who have been in these Chambers and worked and seen you do your work, I would just like to say that in many, many ways much of what all of us do, but especially you, will live on and on and on. Thank you very much.

PASSED, in concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the rear of the Chamber, Robert Cammick of Augusta. Would he please rise and accept the greetings of the Chamber.

Off Record Remarks

ORDERS

Joint Order

On motion by Senator KONTOS of Cumberland, the following Joint Order: S.P. 850

ORDERED, the House concurring, that Bill, "An Act to Provide for the 1999 and 2000 Allocations of the State Ceiling on Private Activity Bonds," S.P. 417, L.D. 1206, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

READ and PASSED.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Amend the Harness Racing Laws" H.P. 1276 L.D. 1837

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-703).**

Comes from the House with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY**

COMMITTEE AMENDMENT "A" (H-703) AS AMENDED BY HOUSE AMENDMENT "A" (H-706) thereto.

Report **READ**.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE 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 **HEALTH AND HUMAN SERVICES** on Bill "An Act to Amend the Law Governing the Confidentiality of Health Care Information"

H.P. 1156 L.D. 1653

Reported that the same **Ought to Pass as Amended by Committee Amendment "C" (H-705)**.

Signed:

Senators:

- PARADIS of Aroostook
- BERUBE of Androscoggin
- MITCHELL of Penobscot

Representatives:

- KANE of Saco
- FULLER of Manchester
- QUINT of Portland
- DUGAY of Cherryfield
- WILLIAMS of Orono
- LOVETT of Scarborough
- BRAGDON of Bangor
- SNOWE-MELLO of Poland
- SHIELDS of Auburn

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-281)**.

Signed:

Representative:

- BROOKS of Winterport

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-705)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-705) AS AMENDED BY HOUSE AMENDMENT "A" (H-708)** thereto.

Reports **READ**.

Senator **PARADIS** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-705)** 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 TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-705)** Report, in concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (5/26/99) Assigned matter:

Bill "An Act to Amend the Freedom of Access Laws"

H.P. 1296 L.D. 1857
(H "A" H-668 to C "A" H-479)

Tabled - May 26, 1999, by Senator **KONTOS** of Cumberland.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **RECEDED** and **CONCURRED**

(In Senate, May 19, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479)**, in **NON-CONCURRENCE**.)

(In House, May 25, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479) AS AMENDED BY HOUSE AMENDMENT "A" (H-668)** thereto, in **NON-CONCURRENCE**.)

(In Senate, May 25, on motion by Senator **LONGLEY** of Waldo, **RECEDED** and **CONCURRED**.)

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

Senator **LONGLEY:** Thank you Madam President and colleagues. Very quickly, even though this would go against what I would want to happen to this Bill, I honestly think most of you do want to Recede and Concur. What this Bill does is it adds the mandate preamble requiring the 2/3 because this is possibly a mandate. What this Bill does is give citizens a private right of

action to go against their municipalities when they feel their items haven't been properly addressed. Their first avenue of recourse is to go to the Attorney General and issue their complaint and hope that the Attorney General acts. If the Attorney General doesn't act within 30 days then they have a private right of action. It's got to be a Mandate because it might impose suits on Counties. I think it's contestable, but I honestly think those of you who are pro municipality want to Recede and Concur with the House provision that has that Mandate, that 2/3 requirement on it, so I encourage you not to follow my vote.

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

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

Senator **DAGGETT:** Thank you Madam President. Members of the Senate, I haven't spoken on this before, but I just want to indicate my concern for a Bill that allows a private action regarding the right to know law at the local level. I recall some discussion that indicated that it wouldn't really be easy for citizens to do this, but there currently is a mechanism for an action and it doesn't necessarily require that there be a violation, but simply that there be an allegation of a violation. It concerns me that private citizens, who might wish to make numerous complaints at the local level, could really tie the hands of local Governments. I think that is why the current law does not allow for a private right of action, so that there is some opportunity to look and see if there is a strong basis for the allegation and for suit to go forward. I have very serious concerns about this. I am not convinced that this is necessary so I moved for Indefinite Postponement of this Bill, and all its accompanying papers.

Senator **DAGGETT** of Kennebec moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

THE PRESIDENT PRO TEM: The Chair recognizes the senator from Franklin, Senator Benoit.

Senator **BEHOIT:** Thank you Madam President. May it please the Senate, I join the good Senator from Waldo, Senator Longley, in her explanation of the measure, and good reasons why this should go onto the books, the law books of the State. The Judiciary Committee heard well founded complaints from our citizens that in this area of freedom of access to information of public bodies that it wasn't violations that should have been addressed, and that, for some reason, the Attorney General's Office was not, whether because of its work load or other reasons, proceeding to enforcement through court action. This measure merely allows the public to go to court in place of the Attorney General if the Attorney General, after a period of 30 days upon receiving a complaint, decides not to go forward. What's wrong, in that circumstance, with allowing citizens to go forward? What's wrong with that? I can't see anything wrong with that. Nothing is perfect in our society. None of us are perfect. There are, at times, errors committed that should be addressed in this area. This Bill merely allows access to the court by people who have a legitimate reason to go there. Thank you Madam President.

Off Record Remarks

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Somerset County, Senator Mills.

Senator **MILLS:** Madam President and men and women of the Senate, I very much appreciate the good Senator from Waldo giving us the background. I can't tell you how frequently in this Chamber I have wanted somebody to stand up and do just that, whether they were for or against the Bill, just to tell us what is going on. Despite her very capable explanation, I still have a few doubts. Before I vote I would like to confirm my understanding of what's going on. We apparently Receded and Concurred with the House so that if we failed to Reconsider the Bill with the Amendment it would go forward. When I was reading the Amendment I noticed that it would give standing to any person other than the Attorney General or District Attorney to bring a suit to enforce our Freedom of Access Laws. It just struck me that's very broad. It would seem to me that standing to bring one of these actions ought to be confined to those who are citizens of the municipality, of the County, or the State, as the case may be. I'm not entirely convinced that's necessary, however, it does bother me that someone from even Canada could come down and file suit for freedom of access, or someone from out-of-state. I'm not quite sure how such people might be motivated or funded. I was wondering if it might be possible to use this law to harass local Governments on certain issues to fulfill some nefarious agenda that we can't yet anticipate. Needless to say, citizens of the community can do the same thing were they similarly motivated and had the resources. I'm very nervous about this Bill. I've been sick through all the Committee hearings. My information would be to vote in favor of the Reconsideration so that we might look forward to, I'm not sure what the next motion might be. I gather that it would be to Insist, or to Adhere or to put us out of concurrence with the other Chamber. If that's the case I think my sentiment is to go forward with the Reconsideration of this juncture. If I've misconstrued as to what's going on here, I would be delighted to have someone set me straight before we vote. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo County, Senator Longley.

Senator **LONGLEY:** Thank you Madam President. I heard the Senator from Somerset indirectly pose a question and I would just say in terms of standing, I'm tempted to say, my goodness, a gun manufacturer from out-of-state might come and make a Freedom of Access, but that is only an attempt at a joke. Mostly I am here to say here and now, no, we never intended anyone but the citizens. I honestly think courts would construe standing as they always have, which means you've got to prove test to stand in court. You have got to prove that you feel injured and I don't think that standing test would be passed by somebody who wasn't a citizen. But here and now, on the record, I would like to say that the Committee, and I'll look to the Senator from Franklin to confirm the Committee didn't mean a broad definition, a new different legal definition of standing, we meant the traditional standing and we meant the citizens of the municipality. In terms

of procedural motions, the House, like the Senate, passed the Private Right of Action for the citizens. In the last time at the other Body they added the Amendment to require the two-thirds. Presumably those who don't agree with the present Right of Action, and don't agree with me, want that two-thirds because that makes it harder for this vote to ultimately become Enacted. I also need help figuring out the next places that these chess pieces move, but I honestly think that if you agree with the Private Right of Action, and you agree that it should have the two-thirds provision on it, you do not want to Reconsider. Thank you.

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

Senator **SMALL:** Thank you Madam President. Question of Parliamentary inquiry.

THE PRESIDENT PRO TEM: You may pose your question.

Senator **SMALL:** If we Reconsider, would it then be appropriate to offer the motion to Indefinitely Postpone?

THE PRESIDENT PRO TEM: The pending motion will still be the motion to Recede and Concur if we could split the question. Then the pending motion will still be to Recede and Concur. Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Madam President. May it please the Senate, I want to stay on the merits of measure. I understand the pending motion and when that is voted then we can have an explanation for the next one and perhaps go from there. But as to the merits, Madam President, members of the Senate, this isn't a very complicated Bill, it's very straight forward. I don't believe we need to micro manage the court house in this area, and so that is why I don't think, respectfully to Senator Mills, the good Senator from Franklin, that we need further language to say who can go to court in this area. As Senator Longley, the good Senator from Waldo, has suggested, I would rather leave that to the Judges to take up, not that there are going to be a lot of these cases, because I don't perceive there will be. I think that the laws that we have on the books are fairly tight and do have a lot to say about control in this area. So I don't see a lot of suits arising out of this. But those that do and go to the court House can certainly be taken up by the court, and moved along and dismissed when there's no appropriate standing. Because the Senator is right, people do have to assert in their action, who they are, and why they are there, and if they don't have a just issue they aren't suppose to be there, and the judge will say so. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Kontos to Reconsider whereby the Senate Receded and Concurred. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#177)

YEAS: Senators: CASSIDY, CATHCART, DAGGETT, HARRIMAN, KILKELLY, KONTOS, MILLS, MURRAY, O'GARA, PARADIS, PENDLETON, RAND, RUHLIN, SMALL, THE PRESIDENT PRO TEM - CHELLIE PINGREE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, KIEFFER, LIBBY, LONGLEY, MACKINNON, MICHAUD, MITCHELL, TREAT

ABSENT: Senators: LAFOUNTAIN, LAWRENCE, NUTTING

15 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **KONTOS** of Cumberland to **RECONSIDER** whereby the Senate **RECEDED** and **CONCURRED, FAILED**.

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

The Chair laid before the Senate the following Tabled and Later (5/27/99) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Provide Equal Treatment in the Taxation of Public Pensions"

S.P. 431 L.D. 1268

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-348)** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-349)** (2 members)

Tabled - May 27, 1999, by Senator **BENNETT** of Oxford.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-348)**

(In Senate, May 27, 1999, **CHAIR RULED** Bill and accompanying papers **PROPERLY BEFORE THE BODY**, pursuant to the Constitution. Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-348)** Report **ACCEPTED. READ ONCE.** Committee Amendment "A" (S-348) **READ.**)

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "A" (S-360) to Committee Amendment "A" (S-348) **READ.**

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you very much Madam President. Ladies and gentlemen of the Senate, the Amendment I present

before you eliminates the offsetting increase of revenues that this Bill will raise from increasing the tax status of Social Security benefits, which I hope you will agree with me, is in keeping with the spirit of the Legislation as it was presented and as I was pleased to Co-sponsor. There's an old adage that I heard, and perhaps you have as well, that says don't tax thee, don't tax me, tax that person behind the tree. And that's what this Legislation in its present form is going to do, it's going to say give tax relief to these people, don't take it out of the State checkbook but tax those other people. I suspect that if this Legislation does proceed and become Law that the citizens who are now paying their fair share of taxes who will now see an additional tax burden, will certainly step forward and we'll be back again dealing with Legislation to Repeal this unfair approach to taxation. I hope you'll join me in supporting the people who live on public pensions to send a clear message that tax relief for them is just as important as our other senior citizens and retirees. So I hope you'll join me in supporting the pending motion. Thank you Madam President.

Senator **RUHLIN** of Penobscot moved Senate Amendment "A" (S-360) to Committee Amendment "A" (S-348) be **INDEFINITELY POSTPONED**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you. First of all, members of the Senate, I want to appreciate a good Parliamentary move. What you have before you now and we're discussing Indefinite Postponement of is the Committee Amendment "B". You voted on "A", overwhelmingly approved "A" yesterday. Somebody wanted to get Committee Amendment "B" figured out and bring it as an Amendment to Committee Amendment "A" and that's perfectly fine. I enjoy that, I appreciate it, that's what the Parliamentary Procedure is all about, but let us recognize what it is that we're doing. That's point one. Point two, I will share with you a thought. I would love to go forward with no offset, no uniformity with Federal law, no uniformity with most States in this Nation who presently tax in conformity with the Federal Government Social Security. I would love to do that. That was the Committee's first consideration and it's first desire. But you have to look at the cost, what is possible and what isn't. Do you want to reach for the grandiose to make yourself feel good? We've had other proposals that were cynical in their nature because they were allowed to give Legislators an opportunity to vote for something that they knew would never happen. It is cynical to say I will vote for this but I won't fund it. Therefore, I could go back to my constituents and say, oh yes I voted to exempt all pensions, I'm a nice guy. But I also knew it would never ever be funded. That is what this Amendment is all about. So I will make an offer, if everybody who votes against Indefinite Postponement will go down and bring in an Amendment to the Budget that fully funds the \$10.5 million, I will come back in the next Legislative day and move to Reconsider the Indefinite Postponement. If you will fund the fair decision to the full tune of \$10.5 million, if you will pay the bill then I will withdraw any objections that I have and believe the Committee would do the same thing. To do anything else, I tell you, is cynicism. It's to fool the public, it's to be good, to feel good, to look good, but not be pragmatic or realistic. We are about to take a small step towards equity and fairness to the public employees of this State. We

have found a way to do it and accomplish it in a fair way, in a uniform way, in a way that conforms to the Federal taxation, which everybody says why don't you conform to Federal taxation. We've found a way to do that and to move this issue forward in a pragmatic way. To do that we can Indefinitely Postpone this feel good Amendment and move forward with the Bill in a meaningful way and take a step towards fairness. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Madam President and women and men of the Senate, the purpose of the Bill that lies before you, not the Amendment but the original Report out of the Committee, was really to adjust what we perceive to be an inequity. For reasons that are mired in history, we're not entirely clear on our taxation of Social Security benefits, it is out of sync with the way in which the Federal tax people do it. We have a special line on our tax return to exempt all Social Security benefits, not merely the lower income levels from taxation, so we are out of sync with the Federal code. By contrast, however, people who do not have access to the Social Security System but must rely on other public pensions as to which there is an offset, get taxed from dollar one. We do not treat public retirees with any sense of equity in this field. I'm not sure about the sequence of things but some of the provisions of Federal law that created offsets against Social Security benefits for public pensions crept in more recently, I think, than the initiation of our own tax code back in the early '70s. But in any case, however it happened, the current state of things is by most people's assessment out of whack. We treat very favorably those who are on Social Security in the sense that they currently are taxed not at all, at least for those benefits, and we treat all other public pensions that substitute for Social Security with taxation from dollar one. This Bill, if left alone and not Amended, will simply readjust that inequity in a small way and move it towards fairness. It won't achieve fairness but it will move it in the right direction by exempting the first \$6,000 of public pensions while taxing Social Security only in those instances where a person's income in retirement is deep into the five figure category. Then it only taxes part of the Social Security benefits, as does the Federal return that starts with only half of the benefit being taxed and in the upper levels it taxes 85% of the benefit. It's an adjustment between two kinds of pension benefits. It just seems to me to be a rational thing to do. Its revenue neutral and, for that reason, has a likelihood of actually passing if we join with the Senator from Penobscot in moving to Indefinitely Postpone the Amendment.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#178)

YEAS: Senators: BENOIT, BERUBE, CAREY, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KILKELLY, KONTOS, LONGLEY, MACKINNON, MILLS, MURRAY, NUTTING,

O'GARA, PARADIS, PENDLETON, RAND,
RUHLIN, TREAT, THE PRESIDENT PRO TEM -
CHELLIE PINGREE

NAYS: Senators: ABROMSON, AMERO, BENNETT,
CASSIDY, DAVIS, FERGUSON, HARRIMAN,
KIEFFER, LIBBY, MITCHELL, SMALL

ABSENT: Senators: LAFOUNTAIN, LAWRENCE,
MICHAUD

21 Senators having voted in the affirmative and 11 Senators
having voted in the negative, with 3 Senators being absent, the
motion by Senator **RUHLIN** of Penobscot to **INDEFINITELY
POSTPONE** Senate Amendment "A" (S-360) to Committee
Amendment "A" (S-348), **PREVAILED**.

Committee Amendment "A" (S-348) **ADOPTED**.

LATER TODAY ASSIGNED FOR SECOND READING.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator PENDLETON for the Committee on **STATE AND
LOCAL GOVERNMENT** on Bill "An Act to Designate December
3rd as Kate James Day"

S.P. 834 L.D. 2234

Reported that the same **Ought to Pass As Amended by
Committee Amendment "A" (S-363)**.

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

READ ONCE.

Committee Amendment "A" (S-363) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

REPORTS OF COMMITTEES

Senate

Divided Report

Seven members of the Committee on **STATE AND LOCAL
GOVERNMENT** on Bill "An Act to Implement the
Recommendations of the State Compensation Commission"
S.P. 770 L.D. 2168

Reported in Report "A" that the same **Ought to Pass as
Amended by Committee Amendment "A" (S-364)**.

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
RINES of Wiscasset
McDONOUGH of Portland
TWOMEY of Biddeford

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

Signed:

Senator:

DAVIS of Piscataquis

Representatives:

BUMPS of China
JODREY of Bethel
RICHARDSON of Greenville
GERRY of Auburn

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-365)**.

Signed:

Representative:

KASPRZAK of Newport

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-364)**.

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" (S-364)**.

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

The Sergeant-At-Arms escorted the Senator from Knox, Senator **PINGREE** to her seat on the floor.

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/27/99) Assigned matter:

Bill "An Act to Treat All Employees Equitably with Respect to Leaves of Absence for Legislative Service" H.P. 235 L.D. 339

Tabled - May 27, 1999, by Senator **RAND** of Cumberland.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **ADHERED**

(In House, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)**.)

(In Senate, May 25, 1999, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

(In House, May 26, 1999, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

(In Senate, May 26, 1999, motion by Senator **PINGREE** of Knox to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**, **FAILED**. On motion by Senator **AMERO** of Cumberland, **ADHERED**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#179)

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

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL

ABSENT: Senator: LAFOUNTAIN

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **RAND** of Cumberland to **RECONSIDER** whereby the Senate **ADHERED** to **INDEFINITE POSTPONEMENT** of the Bill and accompanying papers, **PREVAILED**.

Senator **CAREY** of Kennebec **RENEWED** the motion to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

At the request of Senator **BENNETT** of Oxford a Division was had. 16 Senators having voted in the affirmative and 15 Senators having voted in the negative, on motion by Senator **CAREY** of Kennebec, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE**.

Off Record Remarks

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

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

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

On motion by Senator **GOLDTHWAIT** of Hancock, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

Senator **LONGLEY** of Waldo was granted unanimous consent to address the Senate off the Record.

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

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

Off Record Remarks

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

SECOND READERS

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

Senate As Amended

Bill "An Act to Provide Equal Treatment in the Taxation of Public Pensions"

S.P. 431 L.D. 1268
(C "A" S-348)

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

Sent down for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/27/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Enhance the Payment Options for Certain Employers"
H.P. 214 L.D. 292

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-477)** (6 members)

Tabled - May 27, 1999, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 26, 1999, Reports **READ**. Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**.)

(In Senate, May 27, 1999, Reports **READ**.)

Senator **DOUGLASS** of Androscoggin moved to **COMMIT** the Bill and accompanying papers to the Committee on **LABOR**, in concurrence.

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

Senator **DOUGLASS:** Gentle people of the Senate, I am one of the new members and as Chair of Labor did my very best to crack the whip and move all the Bills that we had in Labor through the Committee on time as requested by the schedule given by the Presiding Officers. This particular Bill did not receive it's due in analysis and work by the Committee. I recall it was a Friday afternoon when we voted, just sort of out of exacerbation, to get it moving. The good Senator from Somerset, Senator Mills, did provide an Amendment after that time. Despite our change to the rules that we have Minority Amendments at the time of the voting, that was not the case with that one. I imply no fault on the part of anyone with regards to that, simply that the Committee was tired, had worked many Bills, and was not ready to really work on this one as we might have. I would request for that reason leave to return the Bill to Committee before the end of our current Session in concurrence with the House.

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

Senator **MILLS:** Mr. President and men and women of the Senate, there were several Bills on this same topic that were introduced before closure. In due course it would be safe to say that there was enormous public attention given to this issue during the past year and a half. Before of any of us even came to this Chamber, before we were elected I think we were all sensitive to the public news stories about the issue of weekly pay vs bi-weekly pay. By the time we assembled as a Labor Committee we had a full and very fair Public Hearing in which many prospectives were represented. We had file folders that were replete with testimony written on all facets of this rather simple subject. It becomes just a little more complicated than it might appear at first flush because in determining your policy about pay you have to determine the interval of payment and also the period of authorized delay beyond the end of each interval. So you have kind of a two step examination when you're looking at timely pay and I think it's safe to say that we did look at all of that. We have an existing law that has dealt with this issue since the turn of the century. The Bill that lies before you is, frankly, a very modest modification to a law that's been around for ninety years or more.

There was considerable attention given to this issue both in the Public Hearings and in the Work Sessions that we held. We looked at, as I recall, at least three different L.D.s which had somewhat competing versions of how to deal with this problem. The Committee Amendment which is attached to one of the L.D.s, the one that's before you, was a consensus among those of us who were inclined to report out a Bill a consensus of how the whole thing should be properly worded. We worked carefully with the Department of Labor and with the technical staff of OPLA. Every word of this report, I think it's safe to say, was very carefully scrutinized. I thought that the Labor Committee did a very fine job of examining this issue and reporting out a Bill that satisfies the public concerns about this issue. We looked at all forty-nine other States, at least in the summary way, to see how they address this problem and the Bill that lies before you represents a very middle road mode of addressing this issue. I might say that our current law is significantly out of step with the laws in the other forty-nine States and I have to confess to you that if this Bill came back to Committee, I would be at a loss to think of what we might do that might improve on the Bill. For that reason I do urge that we vote Against the pending proposal, with all due respect.

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

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, as we are all acutely aware this is a long weekend we're heading into and it is a weekend that traditionally has marked the opening of the summer season in the heavily trafficked resort area in which I live on the island of Mt. Desert. Every day that goes by with continuing uncertainty about the resolution of this particular issue is a day of great stress for the many many businesses in my area which were, for the most part, unaware of the ancient Law on the books and now are struggling to comply with what is State Law but would certainly be much relieved by finding that we had made it acceptable to pay bi-weekly, which is certainly the standard of practice in my area, and not have to revise payroll systems and not have to pay double their current cost to get their payroll done. So I would also respectfully urge that rather than Commit this Bill once again to Committee, that we take action on it. I believe the Minority Report to be quite adequate as it is. If there are concerns that anyone has, I think they could probably be fixed rather quickly by way of floor work. I am concerned that if the Bill goes back to Committee, although we never expect it to, things always take longer than we think and get more complicated than we think, and we are leaving a great many of our employers facing the opening of the season without being clear about what the prevailing law will be regarding pay for their employees. So I would urge you to Oppose the pending motion.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#180)

YEAS: Senators: CAREY, CATHCART, DAGGETT, DOUGLASS, KONTOS, MICHAUD, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, LIBBY, LONGLEY, MACKINNON, MILLS, MITCHELL, MURRAY, SMALL

ABSENT: Senators: LAFOUNTAIN, NUTTING

14 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **DOUGLASS** of Androscoggin to **COMMIT** the Bill and accompanying papers to the Committee on **LABOR**, in concurrence, **FAILED**.

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:

ORDERS

Joint Order

On motion by Senator **PINGREE** of Knox, the following Joint Order: S.P. 851

ORDERED, the House concurring, that when the House stands Adjourned it does so until Tuesday, June 1, 1999, at 9 o'clock in the morning and the Senate stand adjourned until Tuesday, June 1, 1999, at 3 o'clock in the afternoon.

READ and PASSED.

Sent down for concurrence.

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

Off Record Remarks

On motion by Senator **BENNETT** of Oxford, **ADJOURNED**, pursuant to the Joint Order, until Tuesday, June 1, 1999, at 3:00 in the afternoon.