

# MAINE STATE LEGISLATURE

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

**Volume 2**

**First Special Session (Continued)**  
**May 20, 1997 to June 20, 1997**

**First Confirmation Session**  
**October 6, 1997**

**Second Regular Session**  
**January 7, 1998 to March 24, 1998**

**Pages 981 - 1977**

**Divided Report**

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Clarify Sanitary District and Sewer District Authority to Adopt Impact Fees" H.P. 576 L.D. 767

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

Signed:

Senators:

CAREY of Kennebec  
CLEVELAND of Androscoggin  
HARRIMAN of Cumberland

Representatives:

JONES of Bar Harbor  
KONTOS of Windham  
USHER of Westbrook  
O'NEAL of Limestone  
COLWELL of Gardiner  
LAVERDIERE of Wilton  
BERRY, SR. of Belmont  
JOY of Crystal  
TAYLOR of Cumberland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-548)**.

Signed:

Representative:

VEDRAL III of Buxton

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

Which Reports were **READ**.

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

**ENACTORS**

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

An Act to Allow Partially Consumed Bottles of Wine to be Taken from Restaurants H.P. 997 L.D. 1389 (C "A" H-308)

An Act to Require the Release of the Results of an HIV Test to a Person Who Has Experienced a Bona Fide Occupational Exposure H.P. 1000 L.D. 1392 (C "A" H-404)

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

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

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.

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

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

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

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

On motion by Senator **JENKINS** of Androscoggin, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

Senate at Ease

Senate called to order by the President.

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

**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 (5/19/97) Assigned matter:

**SENATE REPORTS** - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Reinstate the Death Penalty" S.P. 492 L.D. 1524

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-252)** (2 members)

Tabled - May 19, 1997, by Senator **MURRAY** of Penobscot.

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

(In Senate, May 19, 1997, Reports **READ**.)

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

Senator **BENOIT:** Thank you Mr. President, may it please the Senate. I realize that the motion that's before the body is a motion to accept the Majority report of the Criminal Justice Committee, in a report, 11 to 2, that the bill be reported out Ought Not to Pass. And Mr. President, I would make a motion that the bill and its accompanying papers be indefinitely postponed, and I would like to speak to the motion.

**THE PRESIDENT:** The Senator may proceed.

Senator **BENOIT:** Thank you. This bill is the product of my constituents' agenda and, as you know, I've said more than once here, that my constituents' agenda leads and my agenda follows. Last November, after the general election, I had constituents approach me asking that I file the bill to reinstate the death penalty. I had quite a talk with them over the matter. In fact, I tried to talk them out of it. It came to a point where my constituents said, "Benoit, you're no different than anybody else down there in Augusta. You haven't got the guts to file legislation when your constituents want you to do so." That's all I needed really, to hear, and I filed the bill because otherwise it would go through a referendum process which I was not going to force them to do. So I filed the bill. I went down to the Revisor's Office and worked with the Revisor's Office to come out with the piece of legislation that went to the Criminal Justice Committee. The bill, at that time, tracked the Capital Punishment bill that was filed four years ago, here. It was an over-broad piece of legislation and didn't go anywhere. My constituents wanted to narrow the matter to two types of murder, make it specific, get specificity in there, address the most heinous murders, two of them, and see what would happen with the legislation. So it was drawn to address multiple murders where someone goes into a place of business, a McDonald's or even a private place of business, and kills two or more people in a shoot-out, or whatever you want to call it. And the other was even more egregious, if that wasn't egregious enough, the sexual assault, if you will, the rape and murder of a child. These were the two specific matters that the bill addressed. I worked with the Revisor's Office and came out with a bill and it went to the committee.

My constituents and I had our day in court at the public hearing. It was a couple, or three, hours long and was very emotional and then the following week, we had the work session which I also attended. The report, as you know, is 11 to 2, Ought Not to Pass. I was thinking I might ask that the bill be recommitted to the committee because at the work session, which was attended by the Attorney General's Office, the

Attorney General wanted to work with me to make the bill better. Put it this way. Make it more acceptable to the Attorney General's Office. There were some misgivings that the Attorney General's Office had about the bill. So, the issue came up whether the bill would be put over to the short session, which is what I wanted to see done on behalf of my constituents. The Attorney General's Office was willing to work on the bill further, so was the Criminal Law Advisory Commission, called CLAC, and I was willing to work. But, I guess, it all boils down to the fact that no matter how much more work would be done on the bill, the Committee is still going to report it out 11 to 2.

Now, I stand here knowing that this bill could be made better. What do I do? Do I fight for a bill and try to get something enacted that could be made better? No, I don't. I think we all take an oath here to put out legislation that we feel is the best work product we can put together. So I'm not going to stand here and try to do a vain thing and talk in support of a bill that needs to be worked a little bit more, Mr. President. It doesn't need major surgery, major construction, but according to the Attorney General's Office, ought to have some issues addressed, such as the separation of the powers of government that was raised by that office and some other matters.

So, I guess, I should say on the record, that a poll done recently in the State of Maine on this specific piece of legislation shows 53% of Maine citizens support this bill as drawn. Not just capital punishment in general but this piece of legislation. A fellow Legislator, Representative Gooley, whose district is Farmington and Industry, also conducted a poll and found 60% support capital punishment being reinstated in the state. So you can see, my constituents are not off the wall with this particular request. If they had been off the wall, I would not be sponsoring the measure, but 38 states have capital punishment in this country. And there are many people in the State of Maine who feel that for the egregious murders taking place that there ought to be some punishment to fit the crime. And that's the whole purpose of this legislation. Not all murders are the same in degree of seriousness. That's why we have in our law that the sentence for murder can be 25 years to life. There are different types of murders that occur. But try to address the heinous type murder of Megan Kanka down in New Jersey. A seven year old youngster who was stalked by her neighbor, a twice-convicted sex offender, before he got hold of her, raped her and murdered her. That's what this bill is all about and that's where my constituents are coming from, Mr. President. So, we will have another day. There are other sessions and we'll make this bill better so that I'll be able to stand, if I'm back, and I'm not telling you this isn't a promise to run for re-election, but I'm sure that a bill like this will surface again. After all, one surfaced just four years ago. I would rather stand here and argue the merits of a bill, when my platform is well constructed, so I can talk about the merits instead of having to talk about the procedure in the law and the merits, too, and let the chips fall where they may.

So, without getting into the merits of the matter, realizing the facts of life, by way of the committee vote, I ask that the bill and its accompanying papers be indefinitely postponed. Mr. President, thank you.

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

Senator **MURRAY:** Thank you Mr. President, men and women of the Senate. I rise to support the pending motion to indefinitely postpone this matter. I also want to acknowledge and

appreciate the comments of the good Senator, my friend from Franklin County, Senator Benoit, in recognizing the flaws that do exist with this piece of legislation. There are flaws, there are many and, in fact, there may be ways to address those flaws, recognizing that even if those flaws are addressed, there are other issues that people of good will and sound mind will continue to differ on with regard to the merits of this particular piece of legislation, even once in the future if it's approved. And for that day we will save our arguments with regard to the merits but for today, I want to extend my appreciation for the recognition that the good Senator has acknowledged and urge you to support the pending motion.

On motion by Senator **BENOIT** of Franklin, the Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

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

### COMMITTEE REPORTS

#### House

#### Ought to Pass As Amended

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Provide Subrogation Equity" H.P. 1036 L.D. 1453

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-524)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-524)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-524) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Create a Universal Bank Charter" H.P. 1319 L.D. 1869

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-523)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-523)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-523) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Place a Moratorium on Construction and Development in Southern Maine and to Provide for Equal Economic Opportunity for All Regions of the State" (Emergency) H.P. 1035 L.D. 1452

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-504)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-504)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-504) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Provide Licensing for Micropigmentation Practitioners" H.P. 1270 L.D. 1796

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-507)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-507)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-507) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Increase the Period of Probation for Sex Offenders" H.P. 49 L.D. 74

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-517)**.