

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

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April 4, 2005 to June 17, 2005

Pages 411 - 1350

The Chair laid before the Senate the following Tabled and Later (5/10/05) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, To Amend the Constitution of Maine To Change the Number of Senators to 2 from Each County

H.P. 325 L.D. 440

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-151)** (5 members)

Tabled - May 10, 2005, by Senator **SCHNEIDER** of Penobscot

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

(In House, May 9, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-151).**)

(In Senate, May 10, 2005, Reports **READ.**)

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

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

Senator **DAMON:** Thank you, Mr. President, men and women of the Senate. For some time I have personally supported this concept, the concept that is very similar to the federal legislative governance, and would support it now but for the fact that I understand it's unconstitutional here in Maine. It seems to me that this vote is not only unnecessary but unwarranted until such time as we were to have a motion before us to change the Constitution. So I will just tell you that I will be supporting the majority Ought Not to Pass motion. Thank you, Mr. President.

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

Senator **PLOWMAN:** Thank you, Mr. President. May I ask a question through the Chair?

THE PRESIDENT PRO TEM: The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Mr. President. Is this not titled 'A Resolution to Amend the Constitution of the State of Maine' and would this amendment actually accomplish the purpose of changing the Constitution, therefore making it not unconstitutional?

THE PRESIDENT PRO TEM: The Senator from Penobscot, Senator Plowman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Mr. President. In attempting to answer the question, I think the Senator from Hancock, Senator Damon, was referring to the U.S. Constitution. It is a problem with the U.S. Constitution.

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

Senator **DAVIS:** Thank you, Mr. President. This bill is not a stranger to us. It's been here, I believe, every term that I've been here, which is more than any of the others, consecutively that is. I don't think there is anything in the U.S. Constitution that prohibits this. What has prohibited this is a law court decision by the U.S. Supreme Court in 1963. I looked for my notes that other day and I couldn't find them, but I think it was Ronalds vs. Sims. I would point out that in my thought, this law court is wrong and that a good challenge would be good and I would like to see it challenged. As with Dred Scott and a number of other opinions that have been overturned, it would be a good thing. Thank you very much, Mr. President.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#116)

YEAS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, COURTNEY, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT PRO TEM - JOHN L. MARTIN

NAYS: Senators: CLUKEY, DAVIS, DOW, HASTINGS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senator: EDMONDS

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/10/05) Assigned matter: