

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

In Senate Chamber  
Tuesday  
May 8, 2001

Senate called to order by President Michael H. Michaud of Penobscot County.

Prayer by Father Jacob of the Christ Episcopal Church in Gardiner.

**FATHER JACOB:** Thank you for inviting me. Senator Sharon Treat, thanks for this particular invitation as well. Just another word; quick story. Last Sunday was Youth Sunday. Last time I was here, we talked about Lent a bit. It was a great day. The kids were in charge of the service. We had the usual traditional blue clad choir singers, the usual thanking of the Sunday School teachers, but then the Junior and Senior High kids came forward in planning and said, 'we'd like to do something different. Something that expresses what we're about. We'd like to sing something by Eric Clapton.' I'm thinking Eric Clapton, is this theologian? No, I think not. But they continued, 'we'd like to sing, Tears in Heaven. Then we'd like to invite a group called The Noise Boys from Gardiner High School.' They are 4 graduating seniors on the percussion drill team. They bring in these garbage cans, big plastic shop cans, big metal cans; and a red wagon comes in with all sorts of other little cans. They have a hanging exhaust manifold, 8 metal plates and like 12 sets of drumsticks because they go to town. This all came together.

A graduating senior going off to Mt. Holyoke said in her presentation, 'what church means to me is community. It's a safe place for me to come. Some of you might not know me because I share church time with work time and sleeping time,' she says 'but I'm here, and whenever I'm here I'm welcome. And I've played in the hand bell choir for 4 years and I've learned to love it. We've hired a Youth Director at our place and I find in this person I can speak with and talk over my situations and that's been very helpful and I find a place that's always there, filled with friends. And I can't tell you how much that means to me as I go off to college.'

Perhaps the most poignant moment for me; we have a young gal from high school, about 15 or 16 who has a child. One of the boys in the Youth Group has invited her to attend church. He's not the dad but he's invited her. She's been coming for almost a year now. She hasn't been baptized, but she kneels at the rail. This Sunday past, she knelt and she just held that child close and I reached forward with my hands and gave her a blessing instead of communion that she'd have safety and a place to come and protection and guidance. It was a wonderful Sunday and I wanted to share some of those thoughts. If you ever have a Senate event where you need a five-minute stinger at the end, get the Noise Boys. The whole church was on their feet, the little blue haired ladies were, and they don't do that much either as blue hairs or as Episcopalians and it was great.

Let us pray together. Oh mighty God, You have blessed us with life as children and even in our adult years in yet so many

ways, as children, we yet remain. Give us calm strength and patient wisdom as we live and share within the creation that surrounds us on every side. Help us to see that the unseen rewards of the spirit and of serving one another are more rewarding than the visible rewards of flesh and blood. Remind us that following You and serving one another is better than chasing after selfish goals. Help each of us gathered here today to take failure not as a measure of our worth, but as a chance for a new start, assisted by the graceful company of others. Give us calm strength, to hold faith in You and to keep alive our joy in Your creation. Grant us an educated and thoughtful vision for the common good of our state, for the nation and the world. Help us all, in our work together, to tell stories that illustrate our point of view rather than from arguing from polarized positions that separate and divide. Give each of us the heart to trust each other, to rely on one another, and to share in Your common good that fills our hearts with charity. In the name of the Father, and of the Son, and of the Holy Spirit, I pray these things. Amen.

Doctor of the day, James Mullen, M.D. of Freeport.

Reading of the Journal of Monday, May 7, 2001.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**House Papers**

Resolve, Authorizing a Land Transaction by the Bureau of Parks and Lands

H.P. 1337 L.D. 1791

Comes from the House, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

**REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed, in concurrence.

**COMMUNICATIONS**

The Following Communication: S.C. 261

**120<sup>TH</sup> LEGISLATURE  
JOINT STANDING COMMITTEE ON  
APPROPRIATIONS AND FINANCIAL AFFAIRS**

May 1, 2001

Honorable Michael H. Michaud, President of the Senate  
Honorable Michael V. Saxl, Speaker of the House  
120th Maine Legislature  
State House  
Augusta, Maine 04333

L.D. 908 Resolve, to Establish Clear Guidelines for  
Protecting the Safety of Victims of Domestic  
Violence

L.D. 1750 An Act to Authorize the Surrender of Concealed  
Firearms Permits of Persons Who are the  
Subjects of Permanent Protection Orders

Dear President Michaud and Speaker Saxl:  
Pursuant to Joint Rule 310, we are writing to notify you that the  
Joint Standing Committee on Appropriations and Financial Affairs  
has voted unanimously to report the following bills out "Ought Not  
to Pass":

We have also notified the sponsors and cosponsors of each bill  
listed of the Committee's action.

L.D. 331 An Act to Promote Cultural Tourism for St. Croix  
Island

L.D. 506 An Act to Expand Funding for the Maine  
Research Internships for Teachers and Students  
Program

L.D. 779 An Act to Enhance the State's Agricultural  
Marketing

L.D. 784 An Act to Stimulate Job Growth Through  
Investing in University Research and  
Development

Sincerely,

S/Sen. Michael J. McAlevey S/Rep. Edward J. Povich  
Senate Chair House Chair

**READ** and with accompanying papers **ORDERED PLACED ON  
FILE.**

We have also notified the sponsors and cosponsors of each bill  
listed of the Committee's action.

Sincerely,

S/Sen. Jill M. Goldthwait S/Rep. Randall L. Berry  
Senate Chair House Chair

**READ** and with accompanying papers **ORDERED PLACED ON  
FILE.**

The Following Communication: S.C. 263

**120<sup>TH</sup> LEGISLATURE  
JOINT STANDING COMMITTEE ON LABOR**

May 1, 2001

Honorable Michael H. Michaud, President of the Senate  
Honorable Michael V. Saxl, Speaker of the House  
120th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the  
Joint Standing Committee on Labor has voted unanimously to  
report the following bills out "Ought Not to Pass":

L.D. 1169 An Act to Amend the Requirements of the  
Workers' Compensation Law

L.D. 1253 An Act to Require an Annual Benefit Adjustment

L.D. 1541 An Act to Fund the Workers' Compensation  
Advocate Program

L.D. 1642 An Act to Provide for the Continuous Coverage of  
Disability Benefits

L.D. 1763 An Act to Transfer Funds from the Department of  
Labor for a Full-time Hearing Officer for the  
Workers' Compensation Board

The Following Communication: S.C. 262

**120<sup>TH</sup> LEGISLATURE  
JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE**

May 1, 2001

Honorable Michael H. Michaud, President of the Senate  
Honorable Michael V. Saxl, Speaker of the House  
120th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the  
Joint Standing Committee on Criminal Justice has voted  
unanimously to report the following bills out "Ought Not to Pass":

L.D. 806 An Act to Amend the Concealed Firearms Laws

We have also notified the sponsors and cosponsors of each bill  
listed of the Committee's action.

Sincerely,

S/Sen. Betheda G. Edmonds S/Rep. George H. Bunker Jr.  
Senate Chair House Chair

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 264

**120<sup>TH</sup> LEGISLATURE  
JOINT STANDING COMMITTEE ON  
LEGAL AND VETERANS' AFFAIRS**

May 1, 2001

Honorable Michael H. Michaud, President of the Senate  
Honorable Michael V. Saxl, Speaker of the House  
120th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 19 An Act to Revoke the Voting Privileges of Persons Convicted of Murder or a Class A Crime
- L.D. 696 An Act to Allow for Fair Competition among Maine's Tracks
- L.D. 1034 An Act to Establish Uniform Election Filing Deadlines for Legislative and Gubernatorial Candidates
- L.D. 1160 An Act for Public Disclosure of Referendum Question Submissions
- L.D. 1185 An Act to Amend the Liquor Laws to Expand Employment Opportunities for Adults 18 to 21 Years of Age
- L.D. 1323 An Act to Shorten the Period in which the Bureau of Liquor Enforcement Acts on Appeals
- L.D. 1460 An Act to Establish a Deadline for New Voter Registrations
- L.D. 1529 An Act to Improve Elections
- L.D. 1608 An Act to End Discrimination Against Veterans

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Neria R. Douglass  
Senate Chair

S/Rep. John L. Tuttle, Jr.  
House Chair

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 265

**120<sup>TH</sup> LEGISLATURE  
JOINT STANDING COMMITTEE ON  
BUSINESS AND ECONOMIC DEVELOPMENT**

May 1, 2001

Honorable Michael H. Michaud, President of the Senate  
Honorable Michael V. Saxl, Speaker of the House  
120th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

- H.P. 868 Joint Study Order relative to the Joint Select Committee to Study the Necessity for Legislation Requiring Public Access to Rest Rooms by Service Stations Owned by Large, Out-of-state Companies
- L.D. 772 An Act to Require Explicit Statutory Authority for Expenditure of Certain Public Money for Lobbying Purposes and Private Enterprise and for Private For-profit Gain

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Kevin L. Shorey  
Senate Chair

S/Rep. John G. Richardson  
House Chair

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

**SENATE PAPERS**

Resolve, Authorizing Certain Land Transactions by the Bureau of Parks and Lands

S.P. 612 L.D. 1792

Sponsored by Senator MARTIN of Aroostook. (GOVERNOR'S BILL)

Cosponsored by Representative DESMOND of Mapleton and Representative: PARADIS of Frenchville.

**REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

Sent down for concurrence.

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**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **LABOR** on Bill "An Act to Revise the Health Insurance Benefits Available to Retired Legislators"

H.P. 1092 L.D. 1461

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

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

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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**Ought to Pass As Amended**

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Concerning National Board Certification of Teachers"

H.P. 346 L.D. 436

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-320)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-320)**.

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

**READ ONCE.**

Committee Amendment "A" (H-320) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-320)**, in concurrence.

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The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act Concerning Motor Vehicle Dealer Sale Practices"

H.P. 845 L.D. 1117

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-324)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-324)**.

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

**READ ONCE.**

Committee Amendment "A" (H-324) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-324)**, in concurrence.

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The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act Relating to Licensing Board Fee Caps"

H.P. 1267 L.D. 1718

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-326)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-326)**.

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

**READ ONCE.**

Committee Amendment "A" (H-326) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-326)**, in concurrence.

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The Committee on **LABOR** on Bill "An Act to Provide Public Employees Equal Access to Personnel Files"

H.P. 910 L.D. 1224

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-319)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-319)**.

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

**READ ONCE.**

Committee Amendment "A" (H-319) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-319)**, in concurrence.

Senator **KNEELAND** of Aroostook moved the Senate **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in concurrence.

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**Divided Report**

9 members of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Clarify the Training Requirements for Forest Rangers"

H.P. 273 L.D. 351

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

Signed:

Senator:

KNEELAND of Aroostook

Representatives:

McKEE of Wayne  
HAWES of Standish  
LANDRY of Patten  
LUNDEEN of Mars Hill  
PINEAU of Jay  
GOOLEY of Farmington  
FOSTER of Gray  
JODREY of Bethel

3 members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-308)**.

Signed:

Senator:

KILKELLY of Lincoln

Representatives:

VOLENIK of Brooklin  
CARR of Lincoln

1 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" (H-309)**.

Signed:

Senator:

NUTTING of Androscoggin

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

Reports **READ**.

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**Divided Report**

The Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Allow Boards of Professions to Grant Hardship Waivers"

H.P. 1227 L.D. 1674

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-325)**.

Signed:

Senators:

SHOREY of Washington  
YOUNGBLOOD of Penobscot  
BROMLEY of Cumberland

Representatives:

THOMAS of Orono  
HATCH of Skowhegan  
RICHARDSON of Brunswick  
BRYANT of Dixfield  
CLOUGH of Scarborough  
DORR of Camden  
MURPHY of Kennebunk  
MICHAUD of Fort Kent

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

Signed:

Representatives:

MORRISON of Baileyville  
DUPREY of Hampden

Comes from the House with 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-325)**.

Reports **READ**.

On motion by Senator **SHOREY** of Washington, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-325) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-325)**, in concurrence.

**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Provide Notice of Termination Status"

H.P. 187 L.D. 198

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-172)**.

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

MATTHEWS of Winslow  
BUNKER of Kossuth Township  
HUTTON of Bowdoinham  
NORTON of Bangor  
SMITH of Van Buren  
TARAZEWICH of Waterboro

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

Signed:

Senators:

TURNER of Cumberland  
SAWYER of Penobscot

Representatives:

TREADWELL of Carmel  
CRESSEY of Baldwin  
DAVIS of Falmouth  
MacDOUGALL of North Berwick

Comes from the House with 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-172)**.

Reports **READ**.

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

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

**Divided Report**

7 members of the **LABOR** on Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Medical Payment Coverage"

H.P. 602 L.D. 757

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-173)**.

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

MATTHEWS of Winslow  
BUNKER of Kossuth Township  
HUTTON of Bowdoinham  
NORTON of Bangor  
SMITH of Van Buren  
TARAZEWICH of Waterboro

4 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-174)**.

Signed:

Senators:

TURNER of Cumberland  
SAWYER of Penobscot

Representatives:

MacDOUGALL of North Berwick  
TREADWELL of Carmel

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

Signed:

Representatives:

CRESSEY of Baldwin  
DAVIS of Falmouth

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)**.

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)**, in concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Amend the Membership of the Workers' Compensation Board" H.P. 810 L.D. 1065

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

Signed:

Senator:  
EDMONDS of Cumberland

Representatives:  
BUNKER of Kossuth Township  
MATTHEWS of Winslow  
HUTTON of Bowdoinham  
NORTON of Bangor  
SMITH of Van Buren  
TARAZEWICH of Waterboro

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

Signed:

Senators:  
TURNER of Cumberland  
SAWYER of Penobscot

Representatives:  
TREADWELL of Carmel  
CRESSEY of Baldwin  
DAVIS of Falmouth  
MacDOUGALL of North Berwick

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

Reports **READ**.

Senator **EDMONDS** of Cumberland 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 the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Promote Healthy Workplaces" H.P. 496 L.D. 636

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-297)**.

Signed:

Senators:  
PENDLETON of Cumberland  
ROTUNDO of Androscoggin

Representatives:  
BAGLEY of Machias  
McDONOUGH of Portland  
HATCH of Skowhegan  
LESSARD of Topsham  
McLAUGHLIN of Cape Elizabeth  
MURPHY of Berwick

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

Signed:

Senator:  
YOUNGBLOOD of Penobscot

Representatives:  
KASPRZAK of Newport  
CHASE of Levant  
HASKELL of Milford  
CRESSEY of Baldwin

Comes from the House with 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-297)**.

Reports **READ**.

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

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

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Authorize a Legislative Technical Advisory Office to Benefit from the Experience of Retired Scientific and Technical Experts" H.P. 559 L.D. 714

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-290)**.

Signed:

Senators:

PENDLETON of Cumberland  
YOUNGBLOOD of Penobscot  
ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias  
McDONOUGH of Portland  
HATCH of Skowhegan  
LESSARD of Topsham  
McLAUGHLIN of Cape Elizabeth  
MURPHY of Berwick

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

Signed:

Representatives:

KASPRZAK of Newport  
CRESSEY of Baldwin  
CHASE of Levant  
HASKELL of Milford

Comes from the House with 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-290)**.

Reports **READ**.

On motion by Senator **LAFOUNTAIN** of York, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-290) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-290)**, in concurrence.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Expand Participation Between Adjoining Towns for Approval of Subdivisions"

H.P. 1067 L.D. 1430

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

Signed:

Senators:

PENDLETON of Cumberland  
ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias  
McDONOUGH of Portland  
HATCH of Skowhegan  
LESSARD of Topsham  
McLAUGHLIN of Cape Elizabeth  
MURPHY of Berwick  
CHASE of Levant  
HASKELL of Milford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-237)**.

Signed:

Senator:

YOUNGBLOOD of Penobscot

Representatives:

KASPRZAK of Newport  
CRESSEY of Baldwin

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

Reports **READ**.

Senator **ROTUNDO** of Androscoggin 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 the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a Vote of 2/3 of Each House of the Legislature to Enact or Include a Tax or License Fee

H.P. 280 L.D. 358

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

Signed:

Senator:

GAGNON of Kennebec

Representatives:

GREEN of Monmouth  
STANLEY of Medway  
GAGNE of Buckfield  
PERRY of Bangor  
McGOWAN of Pittsfield  
McLAUGHLIN of Cape Elizabeth

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-57).**

Signed:

Senators:

LEMONT of York  
KNEELAND of Aroostook

Representatives:

MURPHY of Berwick  
BUCK of Yarmouth  
BUMPS of China  
BOWLES of Sanford

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

Reports **READ**.

Senator **GAGNON** of Kennebec 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 the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Permit Consumer-owned Water Utilities to Exercise Local Control Regarding Matters within the Jurisdiction of the Public Utilities Commission"

H.P. 996 L.D. 1333

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-307).**

Signed:

Representatives:

SAVAGE of Buxton  
CRABTREE of Hope  
PERKINS of Penobscot  
GOODWIN of Pembroke  
McGLOCKLIN of Embden  
DUNCAN of Presque Isle  
BLISS of South Portland

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

Signed:

Senators:

FERGUSON of Oxford  
TREAT of Kennebec  
CARPENTER of York

Representatives:

RINES of Wiscasset  
HALL of Bristol  
BERRY of Belmont

Comes from the House with 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-307).**

Reports **READ**.

Senator **FERGUSON** of Oxford moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

The Chair ordered a Division. 24 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **FERGUSON** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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**Senate**

**Ought to Pass**

Senator **RAND** for the Committee on **JUDICIARY** on Bill "An Act Concerning the State Court Library System"

S.P. 420 L.D. 1376

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

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

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**Ought to Pass As Amended**

Senator **SHOREY** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Personal Sports Mobile Franchise Law"

S.P. 542 L.D. 1688

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

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

**READ ONCE**.

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-140)**.

Sent down for concurrence.

---

Senator GAGNON for the Committee on **TAXATION** on Bill "An Act to Amend the Laws on Current Use Taxation to Exclude Property that is Subdivided After Classification"  
S.P. 296 L.D. 1007

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

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

**READ ONCE**.

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-141)**.

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Require Alien Big Game Hunters to be Accompanied by a Guide"  
S.P. 201 L.D. 673

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

Signed:

Senators:  
CARPENTER of York  
KILKELLY of Lincoln  
WOODCOCK of Franklin

Representatives:  
TRAHAN of Waldoboro  
HONEY of Boothbay  
USHER of Westbrook  
PERKINS of Penobscot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-142)**.

Signed:

Representatives:  
DUNLAP of Old Town

CLARK of Millinocket  
CHICK of Lebanon  
TRACY of Rome  
McGLOCKLIN of Embden  
BRYANT of Dixfield

Reports **READ**.

Senator **CARPENTER** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending motion by Senator **CARPENTER** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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**Divided Report**

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Allow Children Less than 16 Years of Age to Hunt, Fish and Trap without a License"  
S.P. 466 L.D. 1519

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

Signed:

Senators:  
CARPENTER of York  
KILKELLY of Lincoln

Representatives:  
DUNLAP of Old Town  
TRAHAN of Waldoboro  
CHICK of Lebanon  
CLARK of Millinocket  
USHER of Westbrook  
TRACY of Rome  
McGLOCKLIN of Embden  
BRYANT of Dixfield  
HONEY of Boothbay

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-143)**.

Signed:

Senator:  
WOODCOCK of Franklin

Representative:  
PERKINS of Penobscot

Reports **READ**.

Senator **CARPENTER** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Joint Study Order to Establish the Joint Study Committee to Study the Need for Additional Civil Legal Resources

S.P. 423

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

Signed:

Senators:  
RAND of Cumberland  
McALEVEY of York  
FERGUSON of Oxford

Representatives:  
LaVERDIERE of Wilton  
BULL of Freeport  
JACOBS of Turner  
MITCHELL of Vassalboro  
MUSE of South Portland  
SIMPSON of Auburn  
MADORE of Augusta  
SHERMAN of Hodgdon  
MENDROS of Lewiston

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

Signed:

Representative:  
WATERHOUSE of Bridgton

Reports **READ**.

On motion by Senator **RAND** of Cumberland, the Majority **OUGHT TO PASS** Report **ACCEPTED**.

**READ**.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **PASSAGE**.

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**ENACTORS**

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

**Emergency Resolve**

Resolve, to Enhance Economic Development in Eastern Maine  
S.P. 286 L.D. 997  
(C "A" S-87)

Comes from the House, Resolve and accompanying papers **COMMITTED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**.

On motion by Senator **SHOREY** of Washington, Resolve and accompanying papers **COMMITTED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.

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**Act**

An Act to Ban Permanent Replacement Workers in a Labor Dispute

H.P. 74 L.D. 83

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

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Off Record Remarks

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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 **JUDICIARY** on Resolve, Recognizing the Phi Eta Kappa Building Association as a Nonprofit Corporation  
H.P. 286 L.D. 364

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-342)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-342)**.

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

**READ ONCE.**

Committee Amendment "A" (H-342) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-342)**, in concurrence.

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The Committee on **JUDICIARY** on Bill "An Act to Allow the Chief Medical Examiner to Assume the Responsibility for the Disposition of Certain Dead Bodies"  
H.P. 1248 L.D. 1696

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-340)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-340)**.

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

**READ ONCE.**

Committee Amendment "A" (H-340) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-340)**, in concurrence.

---

The Committee on **JUDICIARY** on Bill "An Act to Improve Child Support Services"  
H.P. 1265 L.D. 1716

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-343)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-343)**.

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

**READ ONCE.**

Committee Amendment "A" (H-343) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-343)**, in concurrence.

---

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 **BANKING AND INSURANCE** on Bill "An Act to Adopt the National Association of Insurance Commissioners' Model Insurance Producer Licensing Act"  
H.P. 1272 L.D. 1730

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-327)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-327)**.

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

**READ ONCE.**

Committee Amendment "A" (H-327) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-327)**, in concurrence.

\_\_\_\_\_  
The Committee on **JUDICIARY** on Bill "An Act to Amend the Maine Commission on Domestic Abuse"  
H.P. 1287 L.D. 1751

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-341)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-341)**.

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

**READ ONCE.**

Committee Amendment "A" (H-341) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-341)**, 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 **LABOR** on Bill "An Act to Classify Employer-provided Medical Treatment as a Payment under the Maine Workers' Compensation Act of 1992"  
H.P. 644 L.D. 844

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-244)**.

Signed:

Senator:  
EDMONDS of Cumberland

Representatives:  
MATTHEWS of Winslow  
BUNKER of Kossuth Township  
HUTTON of Bowdoinham  
NORTON of Bangor  
SMITH of Van Buren  
TARAZEWICH of Waterboro

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

Signed:

Senators:  
TURNER of Cumberland  
SAWYER of Penobscot

Representatives:  
TREADWELL of Carmel  
CRESSEY of Baldwin  
DAVIS of Falmouth  
MacDOUGALL of North Berwick

Comes from the House with 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-244)**.

Reports **READ**.

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

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

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator DAVIS for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Maine Emergency Medical Services Act of 1982"

S.P. 509 L.D. 1596

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

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

**READ ONCE.**

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-145)**.

Sent down for concurrence.

\_\_\_\_\_  
Senator O'GARA for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Prevent Interstate and International Smuggling of Illegal Drugs Into the State by Creating the Crime of Illegal Importation of Scheduled Drugs"

S.P. 565 L.D. 1725

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

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

**READ ONCE**.

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-146)**.

Sent down for concurrence.

\_\_\_\_\_  
Senator SAVAGE for the Committee on **TRANSPORTATION** on Bill "An Act to Reimburse Communities that have Constructed Sand and Salt Sheds and are Rated Priority 1 or 2"

S.P. 148 L.D. 492

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

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

**READ ONCE**.

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-148)**.

Sent down for concurrence.

\_\_\_\_\_  
Senator SAVAGE for the Committee on **TRANSPORTATION** on Bill "An Act Regarding Uninsured Drivers"

S.P. 425 L.D. 1380

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-144)**.

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

**READ ONCE**.

Committee Amendment "A" (S-144) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-144)**.

Sent down for concurrence.

\_\_\_\_\_  
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 Clarify Laws Pertaining to Nuisance Wildlife

S.P. 168 L.D. 587  
(C "A" S-84)

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

\_\_\_\_\_  
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 **CRIMINAL JUSTICE** on Bill "An Act to Make Refusing a Blood-alcohol Test a Crime"  
S.P. 392 L.D. 1288

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

Signed:

Representatives:

- POVICH of Ellsworth
- O'BRIEN of Lewiston
- BLANCHETTE of Bangor
- QUINT of Portland
- PEAVEY of Woolwich
- GERZOFISKY of Brunswick
- MITCHELL of Vassalboro

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-147)**.

Signed:

Senators:

McALEVEY of York  
O'GARA of Cumberland  
DAVIS of Piscataquis

Senate at Ease.

Senate called to order by the President.

Representatives:

TOBIN of Dexter  
SNOWE-MELLO of Poland  
WHEELER of Bridgewater

Reports **READ**.

Senator **McALEVEY** of York moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Mr. President, men and women of the Senate. I was just sitting here reading the title. I wonder if the Senator would comment on whether or not the Attorney General's office has contacted us as to whether or not it's constitutional to do, what the committee intends to do, at least the Minority members of the committee?

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending motion by Senator **McALEVEY** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

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Off Record Remarks

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

**ORDERS**

**Joint Order**

On motion by Senator **ROTUNDO** of Androscoggin, the following Joint Order:

S.P. 613

ORDERED, the House concurring, that the Joint Standing Committee on Education and Cultural Affairs report out, to the Senate, a bill related to funding for the Lewiston-Auburn College Teachers for Elementary and Middle Schools Project.

**READ** and **PASSED**.

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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**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 Bill "An Act to Expand Participation Between Adjoining Towns for Approval of Subdivisions"  
H.P. 1067 L.D. 1430

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-237)** (3 members)

Tabled - May 8, 2001, by Senator **ROTUNDO** of Androscoggin

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

(In House, May 7, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 8, 2001, Reports **READ**.)

On motion by Senator **ROTUNDO** of Androscoggin, 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 Today Assigned matter:

SENATE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Allow Children Less than 16 Years of Age to Hunt, Fish and Trap without a License"

S.P. 466 L.D. 1519

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-143)** (2 members)

Tabled - May 8, 2001, by Senator **CARPENTER** of York

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

(In Senate, May 8, 2001, Reports **READ**.)

On motion by Senator **CARPENTER** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

---

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

Joint Study Order - Relative to Establishing the Joint Study Committee to Study the Need for Additional Civil Legal Resources  
S.P. 423

Tabled - May 8, 2001, by Senator **MARTIN** of Aroostook

Pending - **PASSAGE**

(In Senate, May 8, 2001, Reports **READ**. On motion by Senator **RAND** of Cumberland, the Majority **OUGHT TO PASS** Report **ACCEPTED. READ.**)

On motion by President Pro Tem **BENNETT** of Oxford, placed on the **SPECIAL STUDY TABLE**, pending **PASSAGE**.

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The Chair laid before the Senate the following Tabled and Later (5/2/01) Assigned matter:

An Act to Allow Victims of Crimes More Access to Inmate Records

S.P. 303 L.D. 1050  
(C "A" S-73)

Tabled - May 2, 2001, by Senator **RAND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, April 25, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-73).**)

(In House, May 1, 2001, **PASSED TO BE ENACTED.**)

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

Senator **RAND:** Thank you, Mr. President. I wasn't sure you were going to bring this bill up right now. But since you have. I am not a proponent of this LD, but there is someone present here who would like to talk to me a bit more about the bill. So I would appreciate someone making a motion.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/4/01) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Promote Abstinence in Sex Education and through Public Education"

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-208)** (2 members)

Tabled - May 4, 2001, by Senator **MITCHELL** of Penobscot

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

(In House, May 3, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, May 4, 2001, Reports **READ.**)

On motion by President Pro Tem **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 (#39)**

YEAS: Senators: ABROMSON, BROMLEY, CARPENTER, DAGGETT, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LEMONT, MILLS, MITCHELL, NUTTING, O'GARA, RAND, ROTUNDO, SMALL, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BENNETT, DAVIS, KNEELAND, MARTIN, MCALEVEY, SAVAGE, SAWYER, SHOREY, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senators: CATHCART, LONGLEY, PENDLETON

21 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **MITCHELL** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED.**

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Off Record Remarks

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

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Require a Life Sentence for Murder Unless There Are Mitigating Circumstances"

S.P. 203 L.D. 768

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-95)** (3 members)

Tabled - May 7, 2001, by Senator **MCALLEVEY** of York

Pending - **FURTHER CONSIDERATION**

(In Senate, May 1, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In House, May 4, 2001, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-95)**, in **NON-CONCURRENCE**.)

Senator **MCALLEVEY** of York moved the Senate **RECEDE** and **CONCUR**.

Senator **RAND** of Cumberland requested a Division.

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

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

Senator **MILLS:** Mr. President, men and women of the Senate. The bill that lies before us as amended, as I understand it, would increase the minimum penalty for murder from its present level of 25 years to a level of 35 years. Now, the bill was put forth on the theory that sentences for murder in this state are not severe enough, that judges are soft on crime, that they're soft on murder in particular, and that we need to do something to give them some backbone. Soon to be distributed to you, and perhaps too late for a vote on this motion, is a list of all of the murderers that have been charged in the last 5 years in Maine. It has a table showing the age of the defendant; the disposition of the charge; whether it be by plea, conviction or plea to a lesser charge, for instance manslaughter, or by plea or conviction of being not guilty by reason of insanity. All of those dispositions are in the table. In the final section of this table is the listing of the number of years to which that person was sentenced. You will note from the table that nearly all of them resulted in convictions, most of them in convictions for murder. Many of them in sentences for life, 70 years, 60 years, 50 years, terms that are well beyond the 25 year minimum that is our present law. The very suggestion that the courts in this state are not sanctioning this crime with sufficient severity disappears. That allegation disappears when you look at this table. It will be out shortly, I just ran out and asked that it be photocopied for your benefit and you'll be able to look at it. There are a lot of anecdotes about what happens in the disposition of murder cases. Unfortunately it's the odd case, the unusual case, that sometimes makes us think that it's the rule, that is the common way in which murder cases are disposed of in this state. You'll know from this objective table that the common way is that when you have a bad actor, when you have someone that ought

to be put away for the protection of society, the courts aren't in the least bit reluctant to salt that person away for the rest of his or her life. But once in awhile, once in a great while, you have a case where murder is proven, where almost every reasonable person must take pause when asked to say that he ought to be put away for the rest of his or her life or even for 25 years. I'll give one example.

Not long ago, I think 5 or 10 years ago, there was a fellow in York County who was in his late 50's. He had a father who was in his 80's suffering from cancer. He did something the he shouldn't have done. He killed his father, he put his father down, almost the way you would a dog. He did so because his father was in such pain, because he felt such pity for his father, because his father had no more than a few days or weeks to live, and he thought it was indeed his father's wish. Is that murder? Yes it is because it's the intentional taking of a human life. Should we define murder in some other way in order to accommodate this very difficult case? Oh no we shouldn't. We have no business deliberately taking anybody else's life no matter how compelling the reasons might be. Why shouldn't we be doing that? Should this man have been found guilty of murder? Oh yes, he should be. But the problem with that case is that the minimum mandatory sentence for murder in this state stands today at 25 years. It costs over \$30,000 a year, salted away under any charge. You can send someone to Harvard College for \$30,000 a year. Does it make sense for the State of Maine to incur a \$750,000 obligation over time to keep somebody salted away for a mercy killing that is technically murder? Does it make sense to enhance that penalty from 25 years to 35 years because we feel so strongly that someone like that should be salted away for the rest of his life? Someone that is absolutely no danger to society, is no threat to the rest of us, where there is no likelihood of recidivism, no likelihood that he will ever do it again? That's the problem with minimum mandatory sentences and those who propound them often times do so, taking an anecdote here or an anecdote there and saying 'that justifies a general rule that we should be tough because the courts aren't able to be tough.' Well it's based on the false premise, ladies and gentleman. The table that you will see shortly will demonstrate to you that our courts are hammering these people in almost every case where it's necessary or appropriate to do so. I'm having trouble deciding exactly what the appropriate vote is on this motion. It is my understanding that the House passed this bill. Many of them are relying, I trust, on the wisdom of this chamber to vote against the pending motion so that we do not Recede and Concur and that we vote no in order to do the right thing on this measure. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. I agree with many of the comments of the good Senator from Somerset, Senator Mills. But we do have a bifurcation of philosophy at one point. The judiciary's responsibility is to see that an individual's rights are upheld during the trial and we set down guidelines on sentencing. We set down guidelines, in this body and the other chamber. We set the public policy for the state. Now granted there is a philosophical difference here between groups of people. The reality is we don't have murder in the 1st, 2nd, or 3rd degree, we have murder. Premeditated murder. You made your mind up to kill somebody

and you killed them. If it was an accidental murder, then we call it manslaughter. I think the case that the good Senator from Somerset, Senator Mills, cited was a tragic case. But there is a vehicle that we gave the judiciary and the Attorney General's Office and DA's to deal with a case like that it. It's called plea-bargaining. Plead him to a plea of manslaughter.

As I go through this list that the good Senator is going to have passed out, let's talk about minimum mandatory. Right now we have a minimum of 25 years. I don't think that's enough. I think a number of citizens in this state want more. Originally I went in with the concept of life. Then we could work the sentence down. But we found out, from the Attorney General's office, that would really throw a fly in the ointment of how we compound sentences. I don't think 35 years is unreasonable. The taking of a life is one of the most heinous things a person can do in our society. We do not put them to death for that, I don't support the death penalty. But I do support that they should spend the majority of their life in prison.

Now let's talk about some of these sentences. Remember the cap is 25 years, minimum. Thomas Garrett murder, 35 1/2 years. Jeremiah More, 28 years. Joseph Jackson, 30 years. Harold Pulsifer, you remember Harold, 28 years. Stephen Schoff, the mother of the victim that he killed is here, 28 years. It was premeditated; shot him with a pistol and a shotgun, intentionally. He got about 28 years, which means he'll do about 24. He'll be out about age 45 or 46.

No I don't think by having a minimum mandatory and raising it to 35 years is crimping our judicial system in any way whatsoever. Judges still judge. You look at mitigating circumstances. If there is a specific case that warrants a level of mercy that can be plead down to manslaughter, it happens everyday. We set the public policy in the state not the Judiciary. Minimum mandatory sentences send chills and shivers through the bones of many of us and many on the bench. So if you feel better about this, let's call it an enhancement to 35 years. We set the public policy. We decide how long people who have committed crimes and are found guilty or plead guilty should spend in prison. Personally don't think 35 years is enough. I think they should spent the rest of their life there. Will this stop murders? No, probably not. But what this will do is keep that person in prison and greatly diminish their ability to murder again.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator McAlevey to Recede and Concur. 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 (#40)**

YEAS: Senators: ABROMSON, BENNETT, KNEELAND, LEMONT, MCALEVEY, NUTTING, SAWYER, SHOREY, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON,

GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MARTIN, MILLS, MITCHELL, O'GARA, RAND, ROTUNDO, SAVAGE, SMALL, TREAT

ABSENT: Senator: PENDLETON

12 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MCALEVEY** of York to **RECEDE** and **CONCUR, FAILED.**

The Senate **ADHERED.**

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

Bill "An Act to Allow Washington County to Elect Its Own District Attorney"

H.P. 354 L.D. 444  
(C "A" H-77; H "A" H-111)

Tabled - May 7, 2001, by Senator **MILLS** of Somerset

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-77) AND HOUSE AMENDMENT "A" (H-111)**, in concurrence (Roll Call Ordered)

(In House, April 11, 2001, 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-77) AND HOUSE AMENDMENT "A" (H-111).**)

(In Senate, May 7, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in concurrence. Committee Amendment "A" (H-77) **READ**. On motion by Senator **SHOREY** of Washington, Senate Amendment "A" (S-85) to Committee Amendment "A" (H-77) **READ** and **FAILED**. Committee Amendment "A" (H-77) **ADOPTED**, in concurrence. **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-77)**, in **NON-CONCURRENCE**. Subsequently, **RECONSIDERED**. House Amendment "A" (H-111) **READ** and **ADOPTED**, in concurrence.)

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

On further motion by same Senator, 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 (#41)**

YEAS: Senators: ABROMSON, BROMLEY,  
CARPENTER, CATHCART, DAGGETT,  
DOUGLASS, EDMONDS, FERGUSON,  
GOLDTHWAIT, KNEELAND, LAFOUNTAIN,  
LEMONT, MILLS, MITCHELL, NUTTING, O'GARA,  
RAND, ROTUNDO, SAVAGE, SAWYER, TREAT,  
TURNER, WOODCOCK, YOUNGBLOOD, THE  
PRESIDENT - MICHAEL H. MICHAUD

(In Senate, April 24, 2001, **PASSED TO BE ENGROSSED**, in  
concurrence.)

(In House, May 7, 2001, **PASSED TO BE ENACTED**.)

NAYS: Senators: BENNETT, DAVIS, GAGNON,  
KILKELLY, LONGLEY, MARTIN, MCALEVEY,  
SHOREY, SMALL

ABSENT: Senator: PENDLETON

25 Senators having voted in the affirmative and 9 Senators  
having voted in the negative, with 1 Senator being absent, the  
motion by Senator **GOLDTHWAIT** of Hancock to **INDEFINITELY  
POSTPONE** Bill and accompanying papers, in **NON-  
CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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

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

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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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**RECESSED** until the sound of the bell.

After Recess

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:

An Act to Ban Permanent Replacement Workers in a Labor  
Dispute

H.P. 74 L.D. 83

Tabled - May 8, 2001, by Senator **DAGGETT** of Kennebec

Pending - **ENACTMENT**, in concurrence

At the request of Senator **SMALL** of Sagadahoc a Division was had. 19 Senators having voted in the affirmative and 16 Senators having voted in the negative, **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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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Clarify the Training Requirements for Forest Rangers"

H.P. 273 L.D. 351

Report "A" - **Ought Not to Pass** (9 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (H-308)** (3 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-309)** (1 member)

Tabled - May 8, 2001, by Senator **KNEELAND** of Aroostook

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

(In House, May 7, 2001, Report "A", **OUGHT NOT TO PASS READ** and **ACCEPTED**.)

(In Senate, May 8, 2001, Reports **READ**.)

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

Senator **KILKELLY:** Thank you Mr. President, men and women of the Senate. Even though I am on a different report, I will, in fact, be supporting the Ought Not to Pass Report at this time. I do believe, though, that it's important to put on the record what it is we're trying to do and what I hope will happen in the future because I do think it's important. Forrest rangers are in harm's way on a regular basis. Some will agree with that. Some won't agree with that. It's my opinion. What we do need to do, over the course of the next year or so, is to have a thorough independent analysis of the tasks that make up the job of being a forest ranger. Once that independent analysis is done objectively, we need to determine what the training needs to be for forest rangers. This bill has been put out as a bill that goes back to arming forest rangers. We've heard all that a couple of years ago, for those of you who had the pleasure of sitting through that debate. But what I think we really do need to do is look carefully and make sure that people are trained for the job that they're doing. So while I will be supporting the Ought Not to Pass Report today, it's an issue that's not going to go away and my next effort is to ensure that there is an independent objective assessment of the job of being a forest ranger and a training program put together that means that people will be adequately prepared to do that job. Thank you very much.

On motion by Senator **KNEELAND** of Aroostook, Report "A", **OUGHT NOT TO PASS 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 **LABOR** on Bill "An Act to Provide Notice of Termination Status"

H.P. 187 L.D. 198

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-172)** (7 members)

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

Tabled - May 8, 2001, by Senator **EDMONDS** of Cumberland

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

(In House, May 7, 2001, 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-172)**.)

(In Senate, May 8, 2001, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. I wish to speak in support of this Majority Ought to Pass as Amended report. Women and men of the Senate, this bill is very simple. It requires an employer to post, in a conspicuous place, the terms under which an employee may be terminated. Many folks believe that they cannot be fired unless there is some cause for their firing and that is not the case. Many of us, and many people in state government, are getting calls from folks saying 'how come I got fired, I didn't do anything wrong?' People don't understand that you may be fired at will. So this bill just adds that language to the poster that goes out to all employers to post in a conspicuous place at their place of business and states for people, clearly and unequivocally, the terms under which they can be terminated. It's a simple thing and I hope you will join me in support.

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

Senator **SAWYER:** Thank you, Mr. President, men and women of the Senate. I'd like to speak in opposition to the bill before you. It sounds very innocuous to have a relatively simple provision to the posters that are out in the workplace. I would propose to you that this has a much broader implication. This bill if passed, in my opinion, will make it much easier for those who wish to organize the workplace to highlight potential joiners of the organizing effort where they believe their employer is not an attractive place to be. I'd like to point out that in today's Bangor Daily News, Maine was listed as 42<sup>nd</sup> in the nation in average weekly pay. I would ask, as

we approach a likely debate and vote on labor bills, that we ask ourselves a question. Will the bill before us do anything to improve that standing? Will it move Maine up from our 42<sup>nd</sup> place in average payroll or will it hurt that effort and in fact either maintain the status quo or exacerbate our standing in the nation in what we pay our employees? When I look at this bill and some of the others that we'll discuss today, I believe that this bill will hurt that effort. I believe that it will exacerbate the ability of Maine's worker to move above the 42<sup>nd</sup> place standing within the nation and would urge your voting in opposition to the motion before you. Thank you.

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

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. I found the good Senator from Penobscot, Senator Sawyer's, remarks very interesting. I hope you'll support the Majority Ought to Pass Report. All this bill does is put in writing on a notice what is already the condition in the State of Maine. As was noted previously, Maine is an employment-at-will state. This does not change this. This does not encourage it. It simply lets the people of Maine, who work in this state, know that they are working in an employment-at-will state. Have been so since we've been a state. I find the Senator from Penobscot, Senator Sawyer's, remarks interesting. I don't know if he's correct in his assessment that this posting will increase unionization. But if he is correct in that, I think it's a well known fact that organized workers certainly have a much better chance of increasing their pay and improving the quality of their lives for themselves and their families. So if, indeed, Maine is ever going to rise above this 42<sup>nd</sup> position that we're in one of the most, in my opinion, positive things that workers could do would be to organize. To organize for better benefits and pay in the workplace. That aside, I'm not sure at all, I wish it were true, but I'm not to sure at all that this bill does this. But I can't understand how anyone can vote against letting the people, the workers of the state, know under what conditions they are employed, and that we're an employment-at-will state. To let them know that does not seem anti-management or particularly pro-labor. It's just stating the facts as they are. So I would hope that you would join with me in voting to Accept the Majority Ought to Pass Report.

The Chair ordered a Division. 18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-172) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-172)**, in concurrence.

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

HOUSE REPORTS - from the **LABOR** on Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Medical Payment Coverage"

H.P. 602 L.D. 757

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-173)** (7 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-174)** (4 members)

Report "C" - **Ought Not to Pass** (2 members)

Tabled - May 8, 2001, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)**, in concurrence

(In House, May 7, 2001, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)**.)

(In Senate, May 8, 2001, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. This bill, 'An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Medical Payment Coverage,' is a little more complicated than our previous bill. Let me see if I can be clear about this bill for you. Under current law, employers of employees engaged in agriculture or aquaculture are exempt from the provisions of the Maine Workers' Compensation Act of 1992. If, among other things, the employers maintain medical payment coverage of \$1,000 per individual. This bill increases that required coverage to \$25,000. We had a lengthy discussion and actually revisited this issue a couple of times in our committee. We found that it was possible to raise this coverage to \$25,000 for the cost of about \$40 per employee. We found that to be a reasonable amount, especially given that these employees are not covered by workers' compensation and often don't have any other benefits pertaining to their medical care. It seemed like a reasonable and fair thing to do. We did, in our discussions, get the Maine Farm Bureau to say that they didn't have any opposition to this. So I think it's a fairly clear piece of just trying to raise the medical coverage for these individuals who are, in this particular category, exempted from workers compensation. I hope you'll join me in support of them.

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

Senator **TURNER:** Thank you, Mr. President, men and women of the Senate. I stand reluctantly. It seems that every time I get up and speak against my good friend Senator Edmonds, I end up not dissuading you to vote in my particular direction. But undaunted, let me press on. My recollection of this issue is different than

Senator Edmonds. I believe she is correct that the goal of the legislation was to increase the amount from \$1,000 to \$25,000. There was some discussion about a \$40 cost. I believe that was unsubstantiated and was discussed around increasing the amount from \$1,000 to \$5,000. So, again we find good people listening to testimony and coming to somewhat different conclusions. The reality of this marketplace is that today no one is writing a \$1,000 policy. They are effectively writing a \$2,500 policy. There is an Ought to Pass Committee Amendment "B" Report which asks you to support reflecting in law what is market reality today. There is another provision in here that suggests that rather than have an umbrella liability policy that won't have to have a separate liability policy for \$100,000 dealing with these matters. I think for those of you who care about the very small farmer who is currently exempt from workers comp because he has 6 or fewer employees, or that person engaged in aquaculture with 6 or fewer employees, you are needlessly putting an additional burden of cost on them. It's not clear to me that people in these businesses who may be asset rich but actually very cash flow poor can sustain this cost. For that matter I would ask that you vote against the pending motion and give us an opportunity to vote for Committee Amendment "B", which is the smaller report. Thank you very much, Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, men and women of the Senate. I was a member of the other body a number of years ago when we dealt with the question of increasing the limit that an employer, a farmer, could have and would not have to be covered under the workers' compensation law. The increase occurred from 2 to 6. So now the present law basically says that if you have less than 6 employees, 6 or less, you don't need to take Workers' Compensation. The problem has occurred with the minimum standards that are presently in the law. When a person goes to the hospital, to the emergency room, that limit is very quickly met. In fact, he doesn't get out of the room without having increased that limit. So the employee is still left with a bill, which is a real problem. I will say to you that both amendments do solve the problem of liability. That problem has been, in fact, resolved. But the problem of medical coverage is not resolved. In between sessions just a few minutes ago I was trying to get the cost. Basically I was told if you have 4 to 6 employees, your yearly cost increase would be about \$250 for the increased coverage. The problem I have is that I just don't think that, when we gave this break to farmers, we ought to let the employee that's there still be stuck with the medical coverage if the coverage isn't paid for by the insurance policy. It sort of reminded me of when I was first elected to the legislature, we had a law in Maine that non-profit hospitals could get insurance if they wanted to for liability, but if someone sued they didn't have to pay. It was a great policy for the insurance industry, but it wasn't so great for the employees that worked in those facilities in 1965. We finally made that change and I really think now that I really have a problem leaving the medical costs when we've given the break to the farmer. One of the businesses I happen to be involved in has 2 employees. I'm paying \$2,000 for workers' compensation. I don't have any problem paying that, because I know I don't have to worry about liability, I don't have to worry about medical coverage. I just pay the \$2,000 and I'm clear as long as I'm not negligent in other things. But it seems to me that we have to be a little careful about what we do here. I can just tell you that some of the accidents

that occur on the farms in Aroostook cost more than \$5,000. It wasn't as much of a problem before because, you see, many of the farmers then had a lot more employees. The limit of 6 wasn't as much of an issue. But now with more mechanization having occurred, there are many more farmers now who don't need workers' comp. They are increasingly getting more product out of the ground because of what's happened. Most employers that I know in Aroostook, the farmers, make every effort to make sure they're employees are covered. The ones that I talk to would not have a problem with this increase. I would certainly hope that for their sake and their employee's sake that you would vote for the Majority report.

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

Senator **TURNER:** Thank you, Mr. President, men and women of the Senate. I don't disagree with many of the points made by the good Senator from Aroostook, Senator Martin. I would simply add, in closing, that we had no testimony from anyone that indicated that \$25,000 was insufficient coverage, notwithstanding your comment that you can have an accident that would cost \$5,000 or so, which could happen. So again, I would ask that you please not vote for this one and consider the Committee Amendment "B" Report. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you very much, Mr. President, men and women of the Senate. In reference to the Senator from Cumberland, Senator Turner, I just have to tell you of one incident last fall. Where we had a student who almost lost his arm. This is all that was paid, and it became a charity case for the hospital.

The Chair ordered a Division. 18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)**, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-173) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)**, in concurrence.

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the Membership of the Workers' Compensation Board"

H.P. 810 L.D. 1065

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

Minority - **Ought to Pass** (6 members)

Tabled - May 8, 2001, by Senator **EDMONDS** of Cumberland

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

(In House, May 7, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 8, 2001, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. This bill is another simple bill. I know I shouldn't say that. This bill amends the membership of the Workers' Compensation Board by requiring that 2 labor representatives must be selected by Governor, by the labor population at large, and may not be representatives of any labor organization or association of employees. I am opposed to this. It seems to me that the Workers' Compensation Board representation is sufficient. It's doing well. It has people on it who have spent their time trying to figure out how to make sure that working people's rights are well thought about in these circumstances. I understand the idea of having the labor population at large, I don't know how you'd actually go about it in a reasonable fashion. And I just think 'if it ain't broke, don't fix it' and this piece of the workers' comp situation is not broken by my estimation, so I hope you'll join me in accepting the Majority Ought Not to Pass Report.

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

Senator **SAWYER:** Thank you, Mr. President, men and women of the Senate. While the World Wide Wrestling Federation is probably not entirely appropriate here other than Senator Turner and I are in this tag team thing, it's my turn. I guess the piece of this that I would ask you to consider if we move outside of the realm of worker's compensation and labor and management. If we are putting together a civil rights board and we wanted to consider the needs and legal positioning of minority members of our community, would we say we're going to fill the 4 seats representing minority members of our community with all African Americans? Because that's 12% to 13% of the population; at least of the country at large. Would we say we're going to fill the 4 seats representing minority members of our community with all Latinos, because they're 12%, 13% or 14% of the population? I think the answer is clearly no, that we would try to figure out a way to balance that representation of all of the effected parties. The workers that are represented in this body in the State of Maine currently have a representation from the AFL-CIO that is merely 12% of the work force. We in the Minority report happen to believe there is a better way. We would not be doing this racially; I would propose to you that we shouldn't be doing this for the same employment status. And so I would encourage your vote against the motion before you.

**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 like to pose a question through the Chair to anyone who might answer?

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

Senator **RAND:** As we know, the membership of the Workers' Compensation Board is made up of management representatives, labor representatives, and I believe there are neutrals or at least one neutral in there. I would like to know if this bill contains any restrictions on the management people as to associations, or organizations that they can belong to or are associated with?

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

The Chair ordered a Division. 20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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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 Promote Healthy Workplaces"

H.P. 496 L.D. 636

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-297)** (8 members)

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

Tabled - May 8, 2001, by Senator **ROTUNDO** of Androscoggin

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

(In House, May 7, 2001, 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-297)**.)

(In Senate, Reports **READ**.)

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

Senator **YOUNGBLOOD:** Thank you, Mr. President, men and women of the Senate. This bill as amended is a better bill than it was as originally put together. As it was originally put together, if the state were doing some renovations to the Ranger Camp at Clayton Lake we would have to put in a bicycle rack. I've been to Clayton Lake. The ranger up there does not ride a bicycle. It did get amended so that it only effects the buildings that include in fact State Office workers, and does have at least 100 employees

working in that particular location. The state has demonstrated, as you have seen at the Cross Office Building and at MDOT, that as it is redoing significant structures or building new structures that have a significant number of employees. It is installing shower facilities and the state has very clearly indicated to anyone that would like bicycle racks, they are more than willing to put them in.

The law doesn't do a lot of damage. I personally we don't believe that we need laws that only enforce exactly what the state has already indicated that they are, in fact, willing to do. Put in showers and put in bicycle racks. They have demonstrated that they are doing that very successfully and want to continue to do that. On that basis I would urge you to vote against the Ought to Pass recommendation of this report

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

Senator **PENDLETON:** Thank you, Mr. President, men and women of the Senate. I agree with the Senator from Penobscot, Senator Youngblood, my colleague on the State and Local Government Committee. The reason I voted in favor of this piece of legislature, and I hope you will to, is because of the amendment, because we changed it to be not quite as desperately restrictive as it was and that it wouldn't cost as much money. We don't have a fiscal note on the bill, but I don't think it would be a very big one if we did. So I hope that you will vote in favor of this piece of legislature.

I must tell you that part of the reason behind the bill is to make sure that we have very productive, happy, and healthy employees. I must tell you, please no laughing, I use to ride my bicycle to work. Not because I wanted to be particularly healthy, but we didn't have enough money for 2 cars. The hospital I worked at did have a shower and I was able to get into my uniform and look very professional. I must say, back in those days 30 years ago, I think I was probably moving a little faster than I am now. I hope you'll provide this opportunity to other folks and vote in favor of this. Thanks.

The Chair ordered a Division. 16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a Vote of 2/3 of Each House of the Legislature to Enact or Include a Tax or License Fee

H.P. 280 L.D. 358

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-57)** (6 members)

Tabled - May 8, 2001, by Senator **GAGNON** of Kennebec

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

(In House, May 7, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 8, 2001, Reports **READ**.)

On motion by Senator **SMALL** of Sagadahoc, 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 (#42)**

YEAS: Senators: ABROMSON, BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MARTIN, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, KNEELAND, LEMONT, MCALEVEY, MILLS, MITCHELL, NUTTING, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Specially Assigned (5/1/01) matter:

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Require the Destruction of Confiscated and Forfeited Handguns"

S.P. 209 L.D. 774

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-96)** (6 members)

Tabled - April 30, 2001, by Senator **MCALEVEY** of York

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

(In Senate, April 30, 2001, Reports **READ**.)

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. I will be very, very brief. The feeling of the majority of the committee, in reporting this out as Ought Not to Pass is because of what we've heard from the Department of Public Safety. Of course the State of Maine handles all homicides. They do not resell firearms used in murders. They are held and can eventually be destroyed. Many weapons are destroyed by order of the court. In one case, an individual requested that they be present at the destruction of the firearm that was used to kill a family member and the State Police did allow that in order to give the family some final closure. The bill, as written, would require this of towns, which is a local control issue. Yes, the State of Maine does turn in its weapons and resell confiscated weapons. But weapons used in violent crimes, weapons used in homicides, are not in that category. So the current practice is already being done. That is why the committee, I believe, reported out the Majority Ought Not to Pass Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator **O'GARA:** Thank you, Mr. President, ladies and gentlemen of the Senate. I have my rules out of order. I respectfully ask my colleagues in the Senate to defeat the motion so I can offer an amendment that severely narrows the intent of the bill. Mr. President, may I speak to that?

The issue of confiscated guns was dramatically debated in the Criminal Justice Committee. Unfortunately it has become, yet again, another one of those bills that is being labeled as a gun control bill. Nobody could really, truthfully, sincerely call this a gun control bill. When the bill was originally before us, as the good Senator from York, Senator McAlevey, mentioned, it talked about all guns that were confiscated by the state would be destroyed. At that time, I might point out; the State Police spoke in opposition to the bill because they felt it was not a bill that they could support as long as it included all guns. Since that time, we have worked very closely with them. The amendment that I would very much like to offer to you, narrows the intent of the bill down to just those handguns used in the commission of a murder. Just those handguns. It does not ask for any change with respect to the counties and municipalities. It doesn't do anything but order the state to destroy all handguns used in the commission of murder. At the time of the hearing, the State Police testified against the bill. But I have talked to Colonel Harmon of the State Police this morning and have outlined the intent of the amendment. The State Police are now very supportive of the bill, as they told us they would be if we narrowed this bill down.

There is an organization in the state that defends very mightily any attempt, as they see it, to control the citizens to have, own, or whatever a gun. In one of their recent publications, the spokesman for that organization referred to these guns as a state asset. Now I ask you to keep that in mind. As a state asset, to be sold and to raise funds. First of all the number of guns in the category we are now talking about is very very small and would realize very little money, if any. But keeping in mind what I just

said, that the spokesman for this organization, whose paper we get on a regular basis, referred to these guns as a state asset. Now ladies and gentlemen, some of you who are in this chamber now and served with me in the House, know that a few years ago, my wife's brother was shot to death brutally in cold blood; premeditated. I can assure that my wife and her family, and I, do not consider that weapon to be a state asset.

In the Chamber with us today is a Mrs. O'Brien, whose son in 1996 was brutally shot, execution style with 2 different guns. Shot to death. He was 20 years old. I can assure you that Mrs. O'Brien, sitting with us today, and her family do not consider those guns to be a state asset to be sold to realize money for the state's coffers. As I thought and thought about getting ready for today or whatever day we took it up, I am old enough to remember the stories of the wild wild west, when a gun that had a certain number of notches on it was considered to be a treasure, a collector's item for someone to put on his or her wall, as something very valuable to keep. I can't imagine that, and I hope and pray that you will vote against this based on what I'm going to say next. I can't imagine that the majority of you in this body honestly, sincerely could possibly consider a gun that was used to deliberately murder someone, should be back in the hands of somebody else. Now someone might get up and say, the person that buys that gun will never know that it was used to murder. You and I will never know that those things get out, and so it would be known. I cannot imagine that you would support such an idea. That a gun that was used to kill someone in cold blood, murder that person, is a collector's item. And certainly it is not to be considered a state asset. Are we so cold to the feelings and the emotions? God forbid that any of you or I in this room, should ever go through the experience of having a loved one of ours murdered. Are we so cold as to think that we should allow this gun to be a collector's item, to be sold, to be on someone's wall, shelf, in a holster? Interesting enough, and you may or may not already know this, knives and rope or whatever that were used to murder someone; those items are destroyed. But a gun is not.

And I just want to emphasize again, ladies and gentlemen; this is not a gun control bill. This is not taking a gun out of the hands of a law-abiding citizen, because the person who used it was not a law-abiding citizen. I urge you; I ask you, put yourself in the shoes of people whose loved ones have been murdered by a handgun. Please do not allow yourself to be swayed by those who see any reference to a gun as a gun control bill. There are new members in this Senate, so I have to make one more statement that some of you have heard me say and some have not heard. I have never, and every time that the newspaper uses my name in some attempt to point out that I'm trying to take guns away, they never have the courtesy to suggest and to tell you and to tell their readers that in my, almost 17 years now, I have never voted for a bill that would take a gun out of the hands of a law-abiding citizen. Not ever. Not never. And I am not asking you to do that now. This is not about gun control, ladies and gentlemen. And those who are opposing it are opposing it because they see any reference as a gun as a threat to their rights. I have many members of my family, many of my friends who are hunters and they will tell you that they know that I have never done that. I ask you to defeat the pending motion and allow me to present this amendment, which severely narrows it to that kind of weapon only.

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

Senator **MCALLEVEY**: Thank you, Mr. President, men and women of the Senate. I concur with the good Senator from Cumberland, Senator O'Gara. This is not a them versus us, handgun, anti-handgun piece of legislation, piece of public policy. I find it ironic that earlier today we defeated legislation to incarcerate convicted murders and to further imprison them. But we will probably have an extended debate about destroying handguns used in those murders. I think we've got our priorities, well for me I think the priorities should be equal. I find the good Senator from Cumberland, Senator O'Gara's, amendment has merit. It is deserving of discussion. To that end, I would like to discuss that with my colleagues in caucus and ask to table this; not as a gimmick, but as a sincere effort to discuss this further.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** 1 Legislative Day, pending motion by Senator **MCALLEVEY** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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The Chair laid before the Senate the following Tabled and Later (5/2/01) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Improve Limits on Mandatory Overtime"  
S.P. 318 L.D. 1086

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-112)** (7 members)

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

Tabled - May 2, 2001, by Senator **EDMONDS** of Cumberland

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

(In Senate, May 2, 2001, Reports **READ**.)

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

Senator **EDMONDS**: Thank you, Mr. President, men and women of the Senate, another simple bill. This bill limits the amount of mandatory overtime to 60 hours of overtime in any consecutive 2 week period. Current law limits that amount to 80 hours of overtime in a 2 week period. Just so you can keep this in your mind. Just so you can keep this in your mind, this means presently, today, if you're working 40 hours a week you are allowed to work 40 more hours in that same week or 20 in this week, and 20 in the next week. So this bill would reduce that to 60 hours of mandatory overtime, which would mean you could work 70 hours in one week, or, you can figure out the math for the rest of it. We had a fair amount of testimony about this, I think on my side of this it looks to me like, you've got to keep the word mandatory in your minds, lots of people choose to work overtime. So be it. But the situations where people have to work, have to work, where overtime is mandatory, generally means that somebody is working tired. Working tired, as you know because I'm sure we've run into this ourselves, means that you aren't thinking as clearly, you aren't taking the actions you need to take

as well as you should. It generally dampens the actions that you take. There were some people who came and talked to us about the fact that they were concerned about shutdowns and things where people needed to have long work hours to finish something in a short period of time. My thought about that is we're talking about mandatory overtime. If you hire somebody to come to do a shutdown, they know they're going to work long hours. This is only referring to mandatory overtime. I hope you will join me in accepting the Majority Ought to Pass as Amended Report.

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

Senator **TURNER**: Thank you, Mr. President, men and women of the Senate. I would ask that you vote against this motion. As Senator Edmonds has indicated; this does reduce mandatory overtime in a 2 week period from 80 hours to 60 hours. I would remind you that Maine, just with in the last year, enacted new limits on mandatory overtime. Setting that limit at 80 hours, and frankly, the ink is barely dry on that legislation and we're coming back, looking at it again, seeking to reduce it to 60. We're already the first state in the nation to keep mandatory overtime at 80 hours, so if we further reduce this, we will continue to lead in this particular category. Organized labor, as you might suspect, did speak in favor of this bill. However, even they admitted, that we do not yet know the impact of the 80 hour limit we have currently in place. If you look at the amendment, and there is an amendment, it simply says that the state has been unable to determine the impact of this bill on their operating costs, and that includes the operating costs of the legislature. Personally I continue to be very troubled by the attempts by some segments of our political spectrum to pile on and further enhance our reputation as a state that is unfriendly to business. I hope you agree with me, really at it's best, this bill is premature because we don't know the impact of the existing law, and at it's worst, it's totally unnecessary. So I would please ask that you vote against the motion set forth by Senator Edmonds. Thank you very much.

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

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

Senator **SMALL**: Thank you Mr. President, men and women of the Senate. I would also like to pose a question through the Chair?

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

Senator **SMALL**: Thank you Mr. President, if this legislation were to pass, would this also include legislative employees?

**THE PRESIDENT**: The Senator from Sagadahoc, Senator Small poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER**: If it doesn't count as a second time, the answer is yes it would.

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

Senator **FERGUSON:** Thank you, Mr. President, men and women of the Senate. I believe we went to 80 hours a couple of years ago, and I was a strong supporter of that legislation at that time. I did vote against a majority of the people in my caucus. I have had some experience working in an industrial environment. I thought an excess of 80 hours was too much. However at this time I believe that we're going a little too far, we should give the power of legislation the opportunity to work and I will ask you to vote against the pending motion.

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

Senator **MILLS:** Thank you, Mr. President, men and women of the Senate. In years past, this has come up a couple of times as I recall. I think I've opposed the bill on each occasion, for several reasons. Number one, I think if there is an abuse currently in vogue, it's to keep people not for 80 hours every 2 weeks, or 60 hours every 2 weeks, it's the working of a double shift at the time when someone may not be up to doing it. If you have somebody working a 12 hour shift, and the replacement doesn't come in, it's not uncommon in the paper industry, for someone to work the next 12 hours as well; so they are working 24 hours in 24 hours time.

I've personally handled cases where accidents have happened, things have gone awry, people have been killed, as a product of working 24 straight hours; people are overly tired, fatigued beyond their tolerance. The same is true, the highly publicized case, involving the lineman who died after working something like 20 or 24 hours straight, not on a mandatory basis by the way, but because he agreed to serve his employer and assured his employer that he felt fit to do so. So I've never understood, how this bill, and how this law, would actually work in practice. Because it's not the abuse of working an extra 60 hours in 2 weeks, or 80 hours in 2 weeks. The real concern that I have is the notion of working straight for a full day or a day and a half, maybe under conditions of no sleep and duress, as we often see with medical students, with lineman, and other people.

I also recall from last year, and I tried to look it up just now and haven't found it yet. In order to get this bill passed last year, with the help of the administration, the bill was riddled with exceptions. And some of those exceptions, were the cases that some of us had in mind, when we exhibited some concern about the problem. And finally I might say, when we heard testimony from people who wanted this bill passed, all of the testimony, all of the anecdotes, all of the experiences, and there weren't many, but those few who came before us, all came from people who were represented under contracts, negotiated by organized labor. The Poland Spring Company is an example, CMP is another, and their labor is organized.

So if this is a matter of such importance, and it is a matter I suggest to you, of some complexity, because how to apply a reasonable law to all places of employment is very, very difficult. The law that lies before you, whether in it's current form or as amended by today's proposal, doesn't for me, address the problem. However, the problem was presented to us by people who were in organized bargaining units. Why isn't this issue on the table at negotiating time? Why aren't the people who brought this problem to us, getting it solved in contract negotiations where

you can make detailed, complex rules that suit the problems of the employer and the employees mutually? Why are we here, in the legislature, being asked to rewrite an employment contract that the bargaining parties for some reason haven't been able to write for themselves? I don't think that's our role. This is an issue that I believe ought to be solved by private negotiation between labor and management to try to write a law, where one size fits all we're going to do it poorly. In the end we may not even address the real problem. For that reason I will be voting against the Majority Ought to Pass Report. I respect the work of the Labor Committee. I understand this has been a contentious issue, that people have worked hard on this. But in my view, we can't solve this problem through legislation. For this reason I'll be joining with the Ought Not to Pass folks. Thank you.

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

Senator **DOUGLASS:** Thank you, Mr. President, men and women of the Senate. This bill was sponsored by myself, and I am a very strong proponent of it as a matter of public policy. In my first session here, last session, I worked very hard to pass this legislation. Quite frankly, the amount of time that was designated as being over the limit, 80 hours in a 2 week consecutive period, was grabbed out of the air. It had no basis in studies, it had no real discussion in so far as negotiations go because, in general, there were folks who were simply opposed to the concept and there were those who were in favor of it. I want to speak to you today about public policy, because public policy is why I think it's so important to pass this bill. We, as legislators, know that there are limits on our physical abilities and when we pass that ability, that ability to function well, it can be fatal. In fact, late nights at the legislature have claimed some members lives. So when the question is posed as to whether this would affect members of the legislative staff, I think it's fine that it should affect those members and it should affect us in some respects. We should all be careful and mindful that we were created with certain needs, for sleep and certainly the need for rest. I'm not going to suggest any biblical references for that, but I think all scientists and certain people who have religious beliefs understand that we need to rest. In this law, we are creating a public policy statement that it is important not to work or not to force an individual to work more than 60 hours in any 2 week consecutive time period, knowing that they've already worked by this definition an 80 hour period. I think it's important to keep in mind when you vote on this measure, that each of us has different limits. This is about the limits than an employer can impose on an employee. Those limits in those 2 individuals may be different. The employer may have much more tolerance for staying awake; the employee may have much less. It's in that situation that, as a matter of public policy, it's important for us to protect our citizens and the citizens who might be hurt by that employee who is working tired.

I do want to mention some of the exceptions to this law. They involve shutdowns of paper mills, electrical line workers during a storm, and some other categories of employees who we will hear about in other bills before us, another category is those who work in public health. Those individuals, I think, need the same protection, they have the same needs for sleep. There are 5 categories, if you would like to look up the law. It wasn't riddled with exceptions, but there were 5 for significant times when individuals might be asked to work somewhat more than the law

were exempted. I suggest to you that it is wise legislation, it's wise public policy and it's the reason you ought to pass this bill.

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

Senator **SAWYER:** Thank you, Mr. President, men and women of the Senate. I'm truly torn about this legislation. I think the comments that were made about the concern of workers were far more right than wrong. However for me and my vote on the committee, and my vote here today, 2 issues are raised. The first was testimony presented to us is that Maine is the only state in the nation that has this sort of limitation on its employers, affecting it's employees. Notwithstanding Dirigo, I'm not entirely sure that we're not that much smarter than every other legislative body in the rest of the country. Secondly, it's not lost on me that when an employer in another state talks about moving to Maine, that the front page of the Bangor Daily news where Jonathan Carter goes to war with the paper industry is pulled out of a drawer someplace, and an organization is asked, 'do you want to go work in a state where the headline in one of the state's leading papers talks about an environmental group going to war with it's largest employers?' I would pose to you, that likewise I'm very nervous that when a large, good, well paying employee related organization looks to locate in the State of Maine, a Governor in an another state doesn't pull out of a file drawer and says, 'these are the regulations and rules that you'll have to live with in the State of Maine, that you don't have to work if you expand your operation here in state X.' So for me, I'll be voting against the order. I'm worried where it places Maine as we try to compete for employers and provide better opportunities for our employees.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Edmonds to Accept the Majority Ought to Pass as Amended 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 (#43)**

YEAS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, LONGLEY, MARTIN, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, BENNETT, CARPENTER, DAVIS, FERGUSON, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, MILLS, MITCHELL, NUTTING, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/2/01) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the State's Overtime Law"

S.P. 314 L.D. 1082

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-114)** (8 members)

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

Tabled - May 2, 2001, by Senator **EDMONDS** of Cumberland

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

(In Senate, May 2, 2001, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. We have another opportunity to do the right thing. This bill, 'An Act to Amend the State's Overtime Law' speaks specifically in this way; this bill prevents a licensed nurse, or other healthcare worker who provides direct care to patients, from being disciplined for refusing to accept overtime work. Presently, and I hope I've gotten this to all of you, if I didn't I apologize I have copies of our existing law, presently nurses have an ethical duty not to walk away from a patient because they are too tired. They also have an ethical duty not to put patients at risk. This bill allows a nurse to work overtime if she wants to, but prohibits her from being punished if she refuses.

As you well know from lots of articles in the newspaper, there is a very large nursing shortage throughout the country and in the State of Maine. What's been happening, and I don't blame hospitals for this, they are between a rock and a hard place, but what's been happening is that they've been trying to solve this nursing shortage problem by regularly scheduling overtime. Nurses are already working 10 to 12 hour shifts; you're talking about adding more hours on top of that. The good Senator from Somerset, Senator Mill's, point about double shifts or shifts-and-a-half speaks directly to this point.

I wanted to read to you from the law, just in case it didn't get to you, because it's very specific. 'Abandonment of a patient, the termination of the nurse-patient relationship without the patient's consent, without first making arrangements for the continuation of required nursing care by others,' these are all definitions of unprofessional conduct. Further, 'refusal to accept an employer assignment or refusal to accept a nurse-patient relationship is not considered abandonment. The nurse-patient relationship begins when responsibility for nursing care for a patient is accepted by the nurse.' I think what we're saying is, nurses need to be allowed to use their professional judgment. Have they been there, 8, 10, or whatever hours, and in their judgment, they don't want to continue. Their patients care is in their hands and they are the

ones who can know whether or not they can best serve that patient. The amendment that I added was to specify the nursing code of ethics and to cite where you'll find this in the nursing licensing requirements. So that's the amendment to this bill, just to give you it spelled out, what that means.

Let's see if there is anything else I want to add. I guess I just feel Senator Mills earlier made an important point about people in organized bargaining units, making this an issue of their bargaining unit. I wouldn't disagree. The problem is, not all nurses are organized. I might wish they were, but they're not. So they are often put in a situation where they are being forced, literally, to work overtime if they want to keep their jobs. I don't think that's the way we want to actually handle healthcare. I feel badly for the situation of hospitals, but I do think that they can't solve this problem on the backs of nurses. So I hope you'll join me in accepting the Majority Ought to Pass as Amended Report.

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

Senator **SAWYER:** Thank you, Mr. President, men and women of the Senate. Somehow we must have gotten out of synch here. I swear this was the Senator from Cumberland, Senator Turner's, turn to speak.

First of all, if I may within the rules be allowed to comment that May 6<sup>th</sup> through May 12<sup>th</sup>, in the wisdom of a whole lot of folks, established the week as National Nurses Week. For my part, I would like to recognize the Senator from Cumberland, Senator Pendleton, and the Senator from Hancock, Senator Goldthwait, as it is my understanding being career nurses. In my own household, my own wife is not only retired from the Army Nurse Corps, but has spent 30 years not only as a registered nurse but having received a Masters from Boston University. I think one of the questions raised is, 'is there a nursing shortage?' I don't believe anybody argues the point; there is a shortage of nurses. I would propose that the real question however, is what is the cure? Let there be no doubt, at least in my mind, that this is a Maine State Nurses Association, Eastern Maine Medical Center bill. In our hearings, while we received some communication, no one physically came before the committee from Mercy, from Maine Medical, from Southern Maine Medical, from Central Maine Medical, from Penn Bay, from Mayo, from Waldo County, or from Penobscot Valley. All of the presenters before the committee were from Eastern Maine Medical Center and St. Joe's.

This legislation is opposed by O.M.N.I. O.M.N.I is an organization of nursing supervisors. And I would propose to you, that you'll hear reasons later on why in fact nursing supervisors have a greater interest in this bill in one sense, than floor nurses. I believe that the state should not be inserting itself in an otherwise management-labor negotiations that are pending between Maine State Nurses Association and Eastern Maine Medical Center.

Let me give you some numbers from Eastern Maine Medical Center. There is a vacancy rate around the nation of registered nurses of over 14%. There is a vacancy rate in the State of Maine, at least in the year 2000, of 6.7%. There is a vacancy rate at Eastern Maine Medical Center, at least as of January 2001, of even less, 5.8%. There are anecdotal, to be certain, stories in Massachusetts of an ambulance driving around Boston and other places in Massachusetts trying to find an emergency room that will accept patients because of shortages of staff. Some of the things that eastern Maine Medical Center has done to improve the

situation, they have created and were at one time the only hospital to have a full time nursing recruiter. They guaranteed full time positions for qualified new graduates with no limitation on new hires. Eastern Maine Medical Center is offering a retroactive scholarship to new nursing graduates of \$6,000, the department heads have been told to over hire to anticipate the existing shortage. Eastern Maine Medical Center provides financial support of over \$150,000 a year to the Husson School of Nursing in an attempt to create more graduates. The medical center has offered to partner with the State of Maine in matching dollar for dollar state money for retraining of displaced nurses. Eastern Maine provides on site childcare to the tune of about \$150,000 a year to make working at the Medical Center more attractive.

During testimony, grant 5 was the poster child of the nursing problem, at least at Eastern Medical Center. And grant 5 does in fact have a turn over problem; there are currently only 6 vacant positions, 4 full and 2 part-time. There has been 1 mandated stay in grant 5 since December. This occurred after an RN called in sick. Eastern Maine Medical Center has a ten-point hierarchy on how to solve a vacancy problem. Option 10; the last option they use is mandatory overtime. In this case, an RN called in sick; 27 staff members were called to determine if they would be willing to fill the opening. No other staff member was willing to volunteer to fill the shift. Therefore 1 RN was mandated to stay. For the time period between January 6<sup>th</sup> to March 17<sup>th</sup>, the average hours worked for registered nurses, granted there are more professionals on the floor than just RN's, full time average: 38 hours, part time average: 27 hours. There has never been an occurrence of a registered nurse being disciplined for refusing to work overtime at Eastern Maine Medical Center.

The Maine Hospital Association, and its members, has a stated policy regarding mandatory overtime. Maine Hospital Association says they believe that it is in the best interest of patients and staff to minimize the use of all overtime. Mandatory overtime should be used only as a last resort, after all alternatives have been exhausted. Situations will arise in which an organization must resort to overtime to assure patient safety. Health care organizations much have the ability to require overtime in emergency situations when there is a risk to patient safety if needs go unmet. Finally, Mr. President, I would call your attention to the blue sheet, which I believe each of us was presented with earlier today, entitled Mandatory Overtime. The heading on the bottom is the Maine State Nurses Association. I would like to respond to the statements that are made. Nurses are already working 10 to 12 hour shifts, adding overtime would mean 18 to 24 hour shifts. My response is, not necessarily. Some nurses work 8 hour shifts, some nurses work 12 shifts. At least at Eastern Maine Medical Center, if a nurse calls in sick and I am currently on duty, and they have gone through the nine-point protocol of trying to fill that position, I am asked to work half the next shift. The nurse that would replace me is asked to come in and cover the other half of that shift.

Ninety-eight thousand patients are killed due to medical mistakes. Frankly I think it is a bit of a red herring in this instance, but the people who are working with less sleep or less rest, certainly include far more of the nurses. And I would point out in at least the bill summary of the copy of the bill that I have on L.D. 1082, the summary reads: 'this bill prevents a licensed nurse or other health care worker who provides direct care to patients from being disciplined for refusing to accomplish overtime work.'

Could I pose a question to be certain that this language remains in the bill. Or was that one of the amendments?

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

Senator **SAWYER:** I know there was some discussion about removing language of 'other health care workers,' I query whether that was done?

**THE PRESIDENT:** The Senator from Penobscot, Senator Sawyer poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you Mr. President, men and women of the Senate. The language remains as you see it in the summary.

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

Senator **SAWYER:** Thank you, Mr. President, men and women of the Senate. As an-aside to this I do believe this creates a bit of a Pandora's Box regarding interns and other professionals, this language, this bill is far more encompassing than just RN's. I would argue with the 3<sup>rd</sup> line, '1997, Research.' I believe that is true. The 4<sup>th</sup> item, 'mandatory overtime is unsafe for patients who have tired nurses working on them.' Yes, I would only propose to you out of a ten-point hierarchy, tired nurses are preferable to no nurses. Mandatory overtime is driving the nursing workforce to seek non-nursing jobs. That may well be true but I would propose to you that study after study have documented that government mandated paperwork is a far greater burden to nurses than mandatory overtime. 'The public is concerned with overtime based on safety issues.' That is true. 'Nurses are ethically bound to refuse to engage in behavior that they know could harm our patients,' that is true. The last line, 'nurses have never refused overtime in emergency situations,' I suspect is not true but I certainly won't argue the point.

This bill is not the appropriate remedy to the problem before us. If we're serious about improving health care generally, and nurses in particular, I would propose to you that we have 2 vehicles before us. The first, is we can improve loans and scholarships to people in nursing. The solution, the cure if you will, is to add nurses not intrude in negotiations between labor and management. I've seen in this body, documents that suggest that there are open slots at the technical colleges, and \$100,000 here, \$35,000 there from this body, would help free up some of those slots to add nurses. I'm quite sure that the Appropriations Committee could cure this nursing shortage. I believe the bill is flawed, I believe that it is the wrong cure for the disease and I urge you to vote against it. Thank you very much.

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

Senator **PENDLETON:** Thank you, Mr. President, men and women of the Senate. I would like to address you today on this issue of mandatory overtime for nurses. And the reason I do is because of past experience of being a nurse and also that I was a prime sponsor of this piece of legislation. I did it for several reasons. Probably the most important reason to me for sponsoring this piece of legislation is patient safety. We can argue about a tired nurse, or no nurse, or any argument that we

want to. One thing you need to keep in mind is that nurses are working not just an 8 hour shift, the way it used to be 30 years ago when I was nursing, but they're working a 10 or 12 hour shift and when you add the 4 hours on to that, you have a very tired nurse. I would have to disagree about a tired nurse is better than no nurse. Because when you're standing there and you're supposed to be thinking on your feet, you're supposed to be giving medication; you're tired and what if you give the wrong dose. What if you do give an overdose of medication because you're tired? Would it be better off if I was not there, or would it be better if I gave you double the dose that you were supposed to get? Think about that. Because that's what we're dealing with; we're dealing with patient safety.

One issue that came to my attention yesterday actually was a report that came out from Philadelphia, and it was a study about nurses and why they are leaving the profession. Why are we having a shortage? One of the issues is working conditions. Thirty percent of the new graduates said, in this study that came out of Philadelphia, 30% said that they would be leaving nursing in the year 2003. The reason? Poor working conditions, excessive overtime, conditions that were almost intolerable as far as working in your profession in the way that you feel appropriate.

I remember nursing 30 years ago and I remember doing an overtime shift. I also remember trying to take an EKG in the coronary intensive care unit that night after doing 15 hours of work and I was supposed to get off after 16 hours of work. When I took the EKG test, I applied it to the patient improperly. I didn't hurt the patient, thank goodness, but I pushed the wrong button and the EKG came out in double time so that when the physician looked at it, had I not realized my mistake as I'm reporting off to the next nurse, he would have read that and thought there was something totally different wrong with the patient than what was coming out on my report. That frightened me to death. I didn't do a double shift after that. I worked in the intensive care unit and asked that I would do 1/2 of a shift, 12 hours, if they would get someone to come in and finish that nighttime shift. So I think the important thing here are working conditions for nurses, but also for patient safety and patient care.

I do remember one little thing, that one time in the legislature we were here until 2 or 3 o'clock in the morning, and we passed a whole bunch of legislation, and the next day we realized that we had passed an amendment on 1 of the bills, I don't know if it was the budget or whatever, but we had passed an amendment when everyone was tired that would allow the Secretary of State to park his car on the second floor balcony. Now that was a pretty big mistake, but we were all very tired and no one got hurt, and we realized the mistake. And what I'm saying to you is as Legislators we make mistakes. I mean it was a pretty dumb mistake, it showed up in the news and everyone wondered what we were doing, of course they said we were snoozing, and yes I think some of us probably were. But the point is, when you're in the hospital and you're a nurse and you're taking care of a patient, God forbid you make that mistake. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. It is a pleasure to speak in favor of this bill, which I think is quite an important one. First I want to thank the Senator from Penobscot, Senator Sawyer, for his kind words about Nurses Week, I appreciate that, thank you. I think I can

solve a mystery for him about why more nurses didn't come to the hearing; they were all working overtime.

The issue for me and this bill is quality of care. Because I don't know a nurse that doesn't pull significant overtime and just about always rise to the occasion when asked to do that. So as it's expressed in the bill, it really is a quality of care for our patients issue. The reason we're asked to work overtime because it's busy, and when it's busy in the hospital, here is what it means. I'm talking about my own experience in a rather small rural hospital. I've not worked in a hospital as large as Eastern Maine, but I know at our hospital where we have 1 nurse on duty and then the last couple of years that we've gone to a second nurse in the ER. We are busy. We have 5 beds an usually we're a small city in the summer, all 5 of those beds are going and we have an extra stretcher we can put in the hall and sometimes we're doing partial, initial treatment in the lobby, etceteras, trying to keep that moving. And that means not sitting at a desk and doing paperwork, it means that you're climbing over and under beds and running down hallways and transporting patients, carrying them at times, moving them around in bed. It is quite strenuous work, physically. And it's also very demanding mentally. If you want a nurse that has been on for 20 hours, calculating your dopamine drip, you're welcome to, but that's not what I want. And having had to do it myself when I was fully alert, I dread the thought of having to do that sort of mental work when I'm tired. We get a list once a month in my hospital of all the shifts and all of the holes in the schedules. And generally there are dozens of them. I'm trying to estimate on an average mailing that I get from my hospital, there are as many as 50 uncovered shifts for the upcoming 30 days and they are in a variety of departments and we have the opportunity to sign up for those uncovered shifts. And generally by the time the day rolls around, those are all filled in. But despite that effort to plan for those empty spots in our shifts we are nevertheless asked very, very frequently, I would say 2 or 3 times a week, when I'm on, I'm asked to stay on for extra time. Maybe for a whole shift, maybe could you stay for half a shift and we'll try to find somebody else to come in for the second half. Sometimes they do, sometimes they don't, and then they're back saying could you stay for the second half? By no means am I critical of my hospital for this. Because it is a small hospital, we don't have a large pool of available nurses when there is an emergency, so most of the time we say, sure I'll stay. We don't get paid extra for overtime. When I stay beyond 8 hours we get paid our flat rate. If we work beyond 40 in a week, we get overtime pay for staying beyond 8 hours so the incentive to stay for 16 hours and sometimes 24 certainly isn't a financial incentive. Often we've been working for 16 hours, literally without a break, no lunch, no bathroom, no nothing and again that is not a criticism of my hospital because they make every effort to provide coverage for us to get a break, but it's simply not always possible in a tiny hospital when you're trying to run coronary care an ER, an OB unit, and a med-surg unit. It reaches the point where it interferes with our family relationships and with our health, and yet nurses continue to come out and work those hours because of that quality of care issue. If it snows hard and the nurses that live on the other side of my island can't make it over to Bar Harbor, they call me and I go in. If we have a transfer in the middle of the night of a baby that's sick or a person that's been injured and they need that person delivered to Bangor in an ambulance, I go in. If another nurse calls in sick and they can't find a replacement, I happen to live 2 blocks from the hospital, they call me up and I go in. I have absolutely no

reluctance to do that time. But there are moments when there are nurses who in their best judgment feel that they cannot safely continue to work, they should not have to risk being disciplined for saying no. When you sign up to be a nurse, and I'm talking sort of your average garden variety hospital nurse like I am, you are doomed to work every other weekend of your life of your whole working career. It is difficult when you're working that every other weekend and thinking, well maybe you'll get the evening with your family to be asked to stay on and work a second shift. There is also a liability issue here, because unlike many of the TV shows, maybe not so much anymore, we are not the handmaiden of the physician, though the physician might like to think we are, we are not working under an MD's license. We are licensed professionals working under our own license. We are as responsible for carrying out an improper physicians order as the physician is. So if a tired physician orders 5 milligrams instead of .5 milligrams and I administer it, I am every bit as liable as that physician for placing the order. It is no defense to say that is what the doctor ordered. I am meant to know what those dosages are and to administer those dosages accordingly. Many nurses carry their own insurance; almost all do now. And so it's a difficult position to be put in, as a nurse, to be told you have to stay, when in your own judgment you are not capable of giving adequate professional care. I do want to speak to 1 piece specifically. I think you get the message at this point. But I believe I heard the Senator from Penobscot, Senator Sawyer, say that he disagreed with the last bullet on the mandatory overtime handout that says nurses have never refused overtime in emergency situations. Well never is a big word, but I can tell you that in 22 years of nursing I have never seen a nurse refuse to work in an emergency situation, in fact this bill, in the amended version, provides that there are exceptions. One is when overtime is mandated because of an emergency declared by the governor. Or, when overtime is necessary to protect public health of safety and is outside of the normal course of business. So, there are provisions for nurses to have to work even though they are tired, if there is an unusual circumstance going on, and against the most important factor to me is never in my career have I seen a nurse abandon a patient or think about abandoning the patient. We do this because we are saps, we like people, we want to help them, and we are easy marks for somebody saying, 'your patients need you, can you stay?' And we say, 'OK, I'll stay.' So, this is simply a bill that would protect that nurse who has truly reached, feels that he or she can no longer give good care, and I would urge your support for the bill. Thank you.

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

Senator **YOUNGBLOOD:** Thank you, Mr. President, men and women of the Senate. I will speak but for just a minute. I promised a lady last night that I would say a few words. My daughter-in-law of 2 years is an RN and I could not agree more with the good Senator from Hancock, Senator Goldthwait, on how tough nurses are. My mother of 87 is an RN. I remember the Christmases when she was working because she had an extra shift because they were short in the little town of Milo. My daughter-in-law of 2 years works at the Eastern Maine Medical Center in the cardiac care area. Obviously a very, very critical area. A couple of years ago, when they got married, being dutiful parents you counsel them, you know they aren't going to listen to you, but you counsel them anyway that they need to get their act

together, they need to get financially sound and do the things that we adults all think come first. There is always time to raise a family. Well the reason I was talking to her last night, at 11:30 last night, was to announce to my wife and I that we're going to be grandparents. But she also said, 'speak to this bill.' In 2 years in the cardiac care unit at the Eastern Maine Medical Center, she knows of no incident during that period of time where anyone has ever been made to work overtime. Obviously it speaks to the kinds of people that they have, that they are willing and eager to volunteer, even though they may be tired. But she does make a very, very good point. The cardiac care area is not like other areas of the hospital. You get very attached to your patients, they obviously are critically ill, having just undergone bypass surgery or whatever kind of open-heart surgery may have been involved. I would hate to think, to use her words, 'that if for some reason I was so sick that I could not go to work or felt that I ought not to go to work, so not to pass on those germs and they could not get someone else to volunteer to take care of my patients, I then as a sick person who in good faith had said I ought not to go to work, would in fact then go to work and possibly be endangering my patients or they would have no one to take care of them.' And obviously in that area they need someone on a regular basis to take care of them. So, I think again we talk about a bill, I've not heard anyone say that throughout this state we have hospital, after hospital, after hospital, that is saying mandatory hours for you this week. Mandatory hours for you this week. I believe I'm correct in saying that at the Eastern Maine Medical Center, where this all began, that they have had 1 incident last year that came out at a meeting that 3 or 4 of us attended quite some time ago, where a person had worked 24 hours. And that was used as an example. It turned out that the 1 person who had worked 24 hours, had volunteered to do that because her spouse had gone away for the weekend, and said that 'I would be more than happy to stay in another 12 hour shift.' I believe as a result of that coming out and being used as an example, it is now not allowed at all under a volunteer basis or any other basis to work 24 hours at the Eastern Maine Medical Center. But I don't see this as a problem, I don't see why we are saying that if there is an incident where these very strong, healthy, over-active nurses, and they are tough, can't find someone to work, why we can't say to somebody, you have to work because these patients have to be covered. And I thank you very much for your attention.

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

Senator **TURNER:** Thank you, Mr. President, men and women of the Senate. I think the testimony from the Senator from Hancock, Senator Goldthwait, really is quite compelling, for this reason; it reinforces, yet again, to me and I think to all of us, how professional nurses are. When you get on the other side of the equation, I think you find that the hospitals and the administration of the hospitals are equally professional and care about the patients. All of that said, I do believe referring back to the testimony of the Senator from Penobscot, Senator Sawyer. When you go down through the list of things that you will agree to do at some point you need to have the option to specify somebody to stay for mandatory purposes. The consequence of not allowing that further erodes the care in that it probably goes to a supervisor who would not be as skilled even though they may not be as sleepy. It's been suggested that 12 hour shifts, for which you are then subjected to overtime, cause a problem. Again I can only

refer back to the testimony in our committee. That was testimony specifically to Eastern Maine Medical Center and I am told because it's customary, because the nurses want it, to work 12 hour shifts. So it's often the case that nurses will work 3 days, and then have 4 days off. In EMMC's case they were averaging 1 ½ hours of overtime per week, per nurse. Now that's an average, so somebody could have none and others could have a great deal under that. But I do believe that this bill is asking you to consider an organizing issue or bargaining issue and that's not our purview. I think it should be left to the bargaining table and I would also encourage you to vote against the pending motion. Thank you very much.

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

Senator **BROMLEY:** Thank you, Mr. President, men and women of the Senate. I just want to say a few very brief things. One is that this bill came about as the result of routine scheduling of overtime as a solution to a nursing shortage. That's very different than some of the things we're talking about. Also if you're worried about nurses abandoning a patient, that's already covered in statute. It's already considered grounds for discipline in the piece of paper that Senator Edmonds provided to you. Third, I want to just briefly talk about my roll when I worked at Southern Maine Technical College. I counseled people who were interested in technical careers, and many of them were single parents. I can tell you there were more than a few young women who were interested in the nursing profession, but because of the scheduling and because of their situation being a single parent, they chose not to go into nursing as a result as simply the scheduling and went into one of the other allied health professional fields. So, though I don't pretend that this is the answer to the nursing shortage, I will tell you as the nursing faculty has told me, that the scheduling is very much a part of what's making it difficult to encourage people into this field today. With that, I urge you to vote with Senator Edmonds. Thank you.

On motion by Senator **SMALL** of Sagadahoc, 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 (#44)**

**YEAS:** Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

**NAYS:** Senators: ABROMSON, BENNETT, CARPENTER, DAVIS, MCALEVEY, MILLS, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-114) **READ**.

On motion by Senator **EDMONDS** of Cumberland, Senate Amendment "A" (S-137) to Committee Amendment "A" (S-114) **READ** and **ADOPTED**.

Committee Amendment "A" (S-114) as Amended by Senate Amendment "A" (S-137) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-114) AS AMENDED BY SENATE AMENDMENT "A" (S-137)** thereto.

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 Today Assigned matter:

An Act to Allow Victims of Crimes More Access to Inmate Records

S.P. 303 L.D. 1050  
(C "A" S-73)

Tabled - May 8, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **ENACTMENT**, in concurrence

(In Senate, April 25, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-73)**.)

(In House, May 1, 2001, **PASSED TO BE ENACTED**.)

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

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. I hope that you will join me in voting in opposition of enactment of this bill. It's actually not an easy bill for me to be speaking against because there are people very closely affected by this bill that are with us here today and feel very strongly that my position is not correct. But my opposition to the bill is that this is an act to allow victims of crimes more access to inmates records. My opposition is that victim, as far as I can tell, in this bill is not clearly defined. It says that a person's status as a victim must be verified by the department of the prosecuting attorney, but I don't see how or where it establishes a process regarding

how this is to be done. I am not sure what the victims do, once we've decided who the victims are, what the victims do with the information that they garner. The subject section of law deals with confidentiality of information and limits the release of correctional facilities information to a prisoner's guardian or legal representative, state agencies, criminal justice agencies, persons engaged in approved research, persons responsible for the health and welfare of juveniles, or anyone else pursuant to a court order. I don't understand where the victim is supposed to fit into any of these groups. I am having a very difficult time trying to find out what group the victims would fit in and also what possible need the victim has for the information. Now the bill very carefully continues to protect health records and health information of the inmate. What the bill would allow the victim to know is whether the inmate committed any offenses while incarcerated, and if they did, what type of punishment was given out. Now if this bill was to allow victims to go to a parole board hearing to keep a prisoner in longer because of offenses, it's not necessary. Murders are not allowed out on parole in Maine. For other perpetrators of violent crimes, the victims are already notified. I just cannot understand why this bill is useful to the victims. To me it perpetuates probably something that borders on an unhealthy fixation that victims could have with the perpetrators of the crime. The general standard for those concerned regarding the release of information to victims, is that victims should have access to any and all information necessary to preserve their safety when the perpetrator is released from prison, they should know where this person resides etc. But I believe this bill exceeds that standard, and I would just urge you to vote against enactment. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. Today seems to be Criminal Justice and Labor day, I'm not sure which came first. This is a Department bill, the Department came forward with it. And it's supported by the Department. The confidentiality law that now exists is a blanket law; it covers everything. The victim of a crime, if I want to know if the person who committed the crime against me is going to be on a pre-release situation working in the community, I can't be told that. I can't even be told where he's moved to, where he's living. If a person commits a crime in prison and they are found guilty, or plead guilty the penalty for that sentence is added on to the end of the existing sentence. There are victims who may like to know if there is another trial coming up for this individual. In 1 specific case, we had a follow-up trial in York County. The trial date was set, the families of the deceased prepared to go to trial; showed up, no trial. The Department of Corrections had moved the individual out-of-state. And the question was, well, we were interested in knowing where the trial is and when. 'Well we can't discuss that with you, that's confidential.' Now as far as anyone's perception of why a victim wants this information or a survivor of a victim wants this information - there is a variety of reasons. The biggest thing is closure, you're entitled to your opinion if you think they have a sick fascination with the people in prison, but I can assure you the victims I am aware of, and I work with the parents of murder victims, are not sick, nor do they have a fascination for that person in prison. They are in some cases, dissatisfied with the length of the sentence they got for the murder, and obviously if there is more criminal conduct would like to see that sentence

enhanced. Most of all it's peace of mind, knowing when this person is being released, when he's going out in the community, when he's being furloughed. It does offer some closure for them. Now the process is such that not everyone gets access to this information. At the time of sentencing you have to petition the court, an independent review by the judge is performed and decides whether the victim or survivor's family member has a need to know. And if that happens then they are allowed to call the Department of Corrections and ascertain on a very limited scope, what information is available; where that person is incarcerated. The department has the ability to deny that information even though the court may say so for security reasons. Personally, if my daughter was a victim of a serious crime, and she was going to take a job and move to Windham, I would like to know or she should know if that perpetrator is in Windham. Because, if I were she I wouldn't want to live there. I'd move somewhere else, even though they're behind locked bars. There is a psychological thing here. But this does give some closure to some people who are authorized by a judge to gain access to the information. There is the disciplinary actions, when they're being housed, the classification of their housing and when and if they are being moved. It is as simple as that, nothing else, nothing more. And I believe it's a victim's right to know this information and I believe in confidentiality but I sense that you lose some things when you go to prison. You lose your free will of where you can move and you're told what to do and when and how and wheres. Information that is not medical should be available to the victims of that crime. On behalf of parents of murder victims and victims everywhere, I would ask you to support this legislation.

The Chair ordered a Division. 26 Senators having voted in the affirmative and 7 Senators having voted in the negative, **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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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Classify Employer-provided Medical Treatment as a Payment under the Maine Workers' Compensation Act of 1992" H.P. 644 L.D. 844

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-244)** (7 members)

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

Tabled - May 8, 2001, by Senator **EDMONDS** of Cumberland

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

(In House, May 7, 2001, 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-244).**)

(In Senate, May 8, 2001, Reports **READ.**)

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

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. This one is more complicated, ladies and gentlemen of the Senate. This bill provides that medical treatment provided by an employer, or a contractor of an employer, constitutes a benefit payment by the employer for purposes of determining when an injured employee must file a petition with the Workers' Compensation Board. In other words, if you have a large work place that provides a nurse or doctor to treat folks that are injured at work, at the moment under current law, most injured workers feel like their injury will be provided for without filing a petition. The Workers' Comp Board says that provisions of in-house medical care is payment of a benefit, but recently a divided judicial court ruled otherwise; stated that provision of an in-house treatment is a charitable act and not benefit of a payment. I feel, and proponents of this bill feel, that this is a situation that actually sort of traps an unwary employee. The employee has done everything that they were asked to do by the employer. They've gone to their nurse or doctor at the worksite. They have proceeded along in the way they have been asked to. But what happens is, they're penalized. You can see from that example that employees in smaller companies are treated one way. In other words, if you go to the doctor this month because something happened to you at work, it starts to toll the statute in terms of workmans' comp and then less than 2 years pass and you decide that in fact the injury you had contributed to a workmans' comp claim. If you've been in a small employment situation where you didn't have an in-house medical treatment, you're treated one way. But if in fact you've been in a larger institution where there is an in-house medical treatment and that initial treatment that you got from your doctor wasn't considered a benefit payment, then you're out of luck. Even if 2 years down the road it turns out that the injury you had was in fact due to workers' compensation. That's the gist of it. It basically means that an employee is treated by an in-house healthcare provider and the treatment continues at least 6 occasions within a year of the first treatment and the employer of the provider knew that the injury or illness was work related that it would in fact mean that the in-house treatments tolls the statute on workers' compensation. Hope that has been helpful and I hope you will join me in accepting the Majority Ought to Pass as Amended report.

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

Senator **TURNER:** Thank you, Mr. President, men and women of the Senate. I'm starting to believe that every day is labor day. Many things that the Senator from Cumberland, Senator Edmonds does mention are in fact true. But let's explore these a little bit further. Under this bill, in house medical treatments will constitute a benefit. And that extends the statue of limitations for 6 years each time an injured worker visits the medical department of a large employer. So I think the bill actually discourages in house medical treatment which today is an employee benefit. Keeping in mind now that in today's environment it's 2 years, this bill would extend it to 6. As a result, I think what will happen here, minor injuries, minor medical treatment can be resurrected by employees years later. Employers will have to defend these

cases just as they defend the truly serious ones today. So I think it adds uncertainty to the system and frankly I think more litigation will occur as a result. It also adds an unnecessary long term administrative burden to the filing of first reports for all minor injuries, and frankly from my perspective, that can only mean increased costs to employers and increased costs to the Workers' Comp Board. I would urge you to vote against this motion and help us keep these costs down. Thank you.

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

Senator **SAWYER:** Thank you, Mr. President, men and women of the Senate. It is my turn again, thank you, to the Senator from Cumberland. I would like to reiterate a comment I made earlier, or at least a question that I made earlier. In my mind will this bill do anything to improve Maine's 42<sup>nd</sup> place ranking in what we pay employees on a weekly basis? I would ask you to conjure what I call the IP triangle. Earlier today we reaffirmed that the IP Mill at Jay is not allowed to hire permanent replacement workers. That's well and good. That's the sort of thing that this institution does. Earlier this year IP laid off 250 people in Costigan and we decided to berate them for that action. I propose to you there is a 3<sup>rd</sup> leg to the IP triangle. My rhetorical question is 'will we once again beat our chests when IP decides to take some action that we don't like now at Bucksport?' Thank you.

The Chair ordered a Division. 16 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, 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 **CRIMINAL JUSTICE** on Bill "An Act to Make Refusing a Blood-alcohol Test a Crime"

S.P. 392 L.D. 1288

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-147)** (6 members)

Tabled - May 8, 2001, by Senator **DAGGETT** of Kennebec

Pending - motion by Senator **MCALEVEY** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report

(In Senate, May 8, 2001, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, men and women of the Senate. I would urge you all to take a look at the amendment and the bill. I guess I'm rising to discuss this, because if I didn't I think that the professor that taught me constitutional law at the University would be somewhat ashamed of me. This bill basically says, without a trial, if you get stopped by police officers and you refuse to take the blood test, you automatically will serve 48 hours in jail. I'm not sure how that sits with you, but this means without a trial, you go to jail. Now, I know why some people refuse blood tests, but I assume there are all kinds of reasons. The present law on the books now is that if you refuse to take a blood test, and the police can't prove that you were driving under the influence, which by the way is a trial, if they want to charge you with that, and you've refused the blood test the Secretary of State pulls your license. That's present law. But apparently now, the police, the Secretary of State, want to make it even easier and they'll simply throw you in jail for 48 hours if you refuse to take the blood test. That to me smacks a little bit into one's constitutional rights. I'm not sure where this bill is going to end up, because I notice that the other body most probably will take care of it. But I think that we ought to take care of it here as well.

Senator **MARTIN** of Aroostook moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**.

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

Senator **DAVIS:** Thank you, Mr. President, men and women of the Senate. I'm not exactly sure what the good Senator from Aroostook, Senator Martin's, interpretation is, but it is considerably different than mine of this bill. My understanding of this bill, which I submitted after reading it and after speaking at considerable length with the Maine Prosecutor's Association, does not violate your rights. It creates a new crime. A crime of refusing a blood alcohol test, which you would have to be convicted of prior to any incarceration. The good Senator from Aroostook, Senator Martin, prior to this being tabled, raised a question if anyone had talked to the Attorney General's Office, of our state about the constitutionality of the bill. The answer to this is yes, they did most assuredly. There was a lot of long discussions, a lot of work went into the construction of this bill. But not only did that happen, I would point out to everyone here, this bill is fashioned after a law that is currently on the books in the State of Alaska which has been appealed in the Federal Court covering Alaska, was held to be constitutional, was appealed in the 9<sup>th</sup> District Court which covers I believe a good part of the northwest of our country including Alaska, and it was upheld there as being constitutional. So I'm not sure where my good colleague is coming from. I would like to tell you though what, in my opinion, is the need for this bill. A lot of things, ladies and gentlemen, are discussed here that I don't have a lot of knowledge about and I'm ready to admit it. I admit it by staying in my seat and listening to the debate. But one thing I do know something about, after having spent nearly 30 years in law enforcement and having the privileged of wearing the uniform of the Maine State Police for almost 24 years, I do know something about drunken driving and OUI. I have had, and I don't want to go into great details, ladies and gentlemen, but I have had the unfortunate experience of

having children die at my feet. I have awakened parents at 3 o'clock in the morning to tell them that their loved ones, their children, their husbands, their wives, their whatever, are dead because of the people who drank and drove. It is a curse of our highways, our Governor spoke 2 years ago about domestic violence and he said it was public enemy number 1 and I agree with him. Right beside it though is drunken driving and it is a battle that I have spent most of my adult life fighting, almost all of it. Although I hope there is quite a lot of it left yet cause I don't want to spend it fighting drunk driving, unless it's here. It's no secret amongst police officers, amongst prosecutors, and amongst good attorneys, such as some who are represented here, that people who are caught the first time for drunken driving take a test. It's a new territory to them, they take the test. They go to court and if the test is .08 or above, they plead guilty, almost all of them. And almost all of them go about their lives afterwards and you don't see them again in traffic court for OUI. However, ladies and gentlemen, there are certain groups that come back. And they know that if they get caught again, and they found this out through the barroom lawyers and all the things that go on with what happens in the courtroom, they know that if they don't have the test to be used against them the scientific evidence that says they have too much alcohol in their blood, then the chances of them beating this are considerably higher than what it is if the test is there to be used against them. All that is left is, if there is no test, is the officer's testimony, what he saw, what he witnessed, perhaps the sobriety test that he did, perhaps an accident, perhaps some other witnesses, but it's almost all word-of-mouth, one against the other. But with a scientific test, it's a different story. They know that they have a much better test to be used against them. Therefore, they refuse it so they can win. And as I pointed out earlier in our caucus, they hire a good attorney and he wins it for them. The officer gets on the stand a year and a half later, after the offense took place, after many, many delays. In my 23 years, ladies and gentlemen, I have arrested maybe 800 or 900 people for drunken driving. I'm not real thrilled over that, I don't like to brag about that, it's not a trophy for me. None of them were fun, I didn't enjoy any of it. But sometimes, it would be a year or a year-and-a-half later, though unlike the symbol of my party, my memory is short. My good friend here, the good Somerset, Senator Mills, if I were going to go against him with an OUI, after it happened a year-and-a-half ago, I would be in trouble, unless I had the scientific evidence. What this bill would do, ladies and gentlemen, would require the person if they refused to take a blood test, or a breath test, they would be facing a new crime of refusing that test. They would have to go to court and be charged with it and have a trial. If they won, then they walk, if they don't walk it's the same penalty as if they were caught for OUI. The fight against drunken driving is like the fight against domestic violence, it's like the fight against many of the curses of society in our lives, it can't stop. Drunken driving has become a profession in some people's mind and in some people's minds it's a game as to how they can get out of it. One way they've found is by refusing the test. Thank you very much, Mr. President.

Senator **DAVIS** of Piscataquis requested a Roll Call.

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

Senator **MCALLEVEY:** Thank you very much, Mr. President, men and women of the Senate; just a couple of sobering facts. Over

50,000 people die every year on the highways of this nation. A good portion of them die as a result of being struck by drunk drivers or being in vehicle that is operated by a drunk driver. The State of Maine has made some major steps in the last 7 or 8 years to stiffen our OUI laws. We're to be applauded for that and prior legislatures are to be applauded for that. But that doesn't mean we should rest on our laurels. Think of the statistic. Law enforcement has what they call their 'golden drive time.' As you drive home from wherever you are coming from on Friday night, or Saturday and Sunday, count the cars that pass you, either coming on to you or passing you on the left. For every 10 cars that pass you, 3 of those drivers are statistically, legally drunk. I equate that to driving down the road, driving past 10 people and have 3 people shoot at you with a firearm. That car is just as deadly and you wouldn't tolerate that for a second. This is a safety issue. This gets the chronic drunks off the road. People do not accidentally drive while intoxicated. It's a compact that they make with themselves and whomever they talk to, just as you and I might make a compact as we operate our vehicle above the speed limit. I will, because I'm late, make a conscious decision to speed. I will weigh the risk, saying the need to speed outweighs the potential penalty of being caught. That's a conscious decision, and in most cases the decision to drive drunk in this day and age is also a conscious decision and unfortunately it's so close to being unconscious, it's scary. In this day and age, there is no reason for anyone to drive while intoxicated. Not with designated drivers, not with the education we have, not with businesses and business owners keeping people from driving intoxicated. It's unconscionable. But unfortunately, the people who repeatedly drive drunk are the people who have the problem. Nothing is going to stop them unless you send them a very strong message. This message is if you refuse a blood test, after due process and your right to representation and a trial by a judge or by a jury, you may be held criminally liable for your refusal to take a test. The implied consent form says you have a duty to submit to a test and what we're saying is you will now have an obligation to take a test. If you don't, you could face some criminal prosecution. This is a safety issue. This is an attempt to make our highway's safer, not at anyone else's expense. Trying to keep our highways safer for our families, our children, you, and I. Simply, that's the policy question, we have an opportunity to do that, and do you choose to do that? Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, men and women of the Senate. Before someone gets the impression that I'm soft on people who drink and drive, let me just tell you that I voted to decrease the alcohol blood level from 1.5 to .10. And it was during my term as Speaker that a member of my staff was killed by an OUI driver on a weekend and that resulted in lowering the alcohol point content, for those of you who may remember to .08 and that is why the law is where it is today. I firmly believe that it ought to be 0.0, for adults as well as minors. That is what I personally believe. But there is a difference with this issue. And I would caution you to look at it, and it says 'if there is a probably cause to believe a person has operated a motor vehicle while under the influence, intoxicated etc., a person shall submit and complete the test. Failure to submit to and complete the test is a class D crime.' That is what you are doing today. It has nothing to do with OUI; nothing, absolutely nothing. You are making

someone commit a Class D crime for refusing to take the test. And then you follow that up and you give them a ticket. The only thing the judge decides is whether or not you failed to take the test, not whether or not you're guilty of having even had one bit of alcohol in you. That is my concern. I have no problem as to whether or not there is alcohol. But that is not what is going to be determined. First, you'll have to be adjudicated on the question of whether or not you failed to take the test. Not on whether or not you even had one ounce of liquor. You may have been taking Scope in the morning and that gives the police officer suspect that perhaps you had a bottle of some form of alcohol. If I'm wrong, and this is not where it is, I have no problems admitting to the fact that I'm wrong. But if my comments are correct then I suspect that we're going to have some awfully upset people, once we leave this place if we were to enact this piece of legislation.

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

Senator **MILLS:** Thank you, Mr. President, men and women of the Senate. The good Senator from Aroostook, Senator Martin, makes a good point in his first speech to the Senate, and that is that it is a bit harsh to punish somebody for refusal for the first offense of OUI, to count that as a first offense OUI and then take the extra step of saying that the person ought to do 48 hours in jail. Our OUI statutes are extremely complex, but the system goes a little bit like this. If you get convicted of your first OUI, normally you will not go to jail for that. There is a stiff fine, there's a license suspension, but that's it. Only if you are guilty of one of the aggravating factors do you go to jail for 48 hours. For instance, if your blood test instead of being .08, is up at .15, nearly twice the legal limit, if it's that high, then the judge may send you to jail for 48 hours. If you are speeding more than 30 miles an hour over the speed limit under the influence, to any degree, then you can go to jail for 48 hours. If you try to elude the officer, then you go to jail for 48 hours, even though it's your first offense, or if you have a child in the car. You go to jail, even though your level may have been only modest and it's your first offense. The bill as written says, that if you fail to take the test, regardless of what your blood alcohol level is, even if you have no blood alcohol, if you merely refuse, on your first time, then you will automatically go to jail for that refusal, a bit harsh in my view. On the other hand, the good Senator from Piscataquis, makes the point, that on the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and trust me folks I've seen them, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> OUI, you know what you're doing at that point. You know that the refusal at least gives you a shot at staying out of jail. It doesn't give you a shot against saving your license, because we already suspend your license automatically for the refusal, at least for some period of time. But it does make some sense to say that the refusal should carry with it the sanction of automatic jail. Which conviction for the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> OUI does. Jail is automatic with your 2<sup>nd</sup> OUI within 10 years. Doesn't matter how low your blood alcohol level was, as long as it's above the legal limit you're going to jail automatically. So I can see a point there, if you've made a refusal and this is your 2<sup>nd</sup> time, 3<sup>rd</sup> time, that should be considered a conviction. Because you're sophisticated in the ways of the law with that point. But I agree with the Senator from Aroostook to say that somebody ought to do 48 hours in jail who might be perfectly sober or nearly to, and is being sent there merely because he has refused to take a test and it's counted as a conviction if you will. If that's your desire, count it as a conviction, but not as one of those convictions that yields a super

harsh penalty on the first offense. For that reason I intend to vote for the bill in hope that we can perhaps amend it to suit some of the conflict in this body. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, men and women of the Senate. I'm pretty confused. I've been in serious consultation with my attorney on this matter and I'm not sure that I really understand one piece of this legislation, and that is this adds an additional section to the penalties section, which suggests that it only happens following a conviction. So is that a conviction based on the other statutory language that says if you refuse to take the test, you're convicted or is it a conviction on some other grounds? I'm not quite certain whether the test to apply the penalty comes based on a conviction or not, if I may pose that question.

**THE PRESIDENT:** The Senator from Hancock, Senator Goldthwait poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Mr. President, men and women of the Senate. Good question, as always from the Senator from Hancock, Senator Goldthwait. The bill actually has 2 major branches. One of them makes it a separate crime to refuse. In other words, it would be the same thing as if you were driving OUI, no difference. It counts. That is the part of the bill I think I agree with. But it also enters the penalty section for first time offenders. It says, if you're a first time offender, we're going to add to the list of aggravating circumstances that will send you to jail for that offense, because normally you don't go to jail for the first offense. You only go to jail if you've been speeding 30 miles over, you've got a kid in the car, your test is .15 or higher. This would add a new section that says: you failed to submit to a test. That may have been the sole basis for your conviction. But the bill also says that it will be the basis for ordering you to jail for 48 hours. That's the part where I lose ground here. That's the part that I would like to see changed. That's the part where I agree with the Senator from Aroostook. I think we should amend it to reflect that the penalty enhancement part should be stricken from the bill, but I think we should count refusal as equivalent to the crime. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, men and women of the Senate. I would like to respond to the question of Senator Goldthwait. My recollection of the law, is that if you refuse to take the blood test on the first time you are stopped by a police officer and subsequently you are stopped again, whether you are convicted or not convicted it is treated as a second offense under OUI with the Secretary of the State for the purpose of determining your loss of license under the OUI provision. That's the present law, so you automatically lose your license at that point for 18 months, and are subject to the fine schedule as well. And if there is further confusion, I would suggest perhaps we table it until tomorrow so it is clear. Because I really am fearful, I know I'm right now on one issue, because Senator Mills agrees with me on

the first point, I'm not sure, but my recollection of the law is as I just stated. But before we pass this and do something we should not do, I would suggest that perhaps someone might table this.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending motion by Senator **MARTIN** of Aroostook to **INDEFINITELY POSTPONE** Bill and accompanying papers. (Roll Call Requested)

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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 **CRIMINAL JUSTICE** on Bill "An Act to Relieve Counties from the Expense and Responsibility of Transporting Certain Prisoners Between Correctional Facilities and Courts"

H.P. 805 L.D. 1060

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-352)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-352)**.

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

**READ ONCE.**

Committee Amendment "A" (H-352) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-352)**, in concurrence.

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The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Control the Illegal Diversion and Abuse of Prescription Narcotic Drugs"  
H.P. 1270 L.D. 1728

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-353)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-353)**.

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

**READ ONCE.**

Committee Amendment "A" (H-353) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-353)**, in concurrence.

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The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Amend the Laws Governing the Suspension and Revocation of Hunting and Fishing Licenses"  
H.P. 1095 L.D. 1464

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-344)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-344)**.

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

**READ ONCE.**

Committee Amendment "A" (H-344) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-344)**, in concurrence.

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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 Continue the Sales Tax Exemption on Vehicles Sold and Leased and Removed from the State" (EMERGENCY)

H.P. 916 L.D. 1230

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-354)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)**.

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

**READ ONCE.**

Committee Amendment "A" (H-354) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)**, in concurrence.

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The Committee on **TRANSPORTATION** on Bill "An Act to Allow Municipalities to Lower Certain Speed Limits"  
H.P. 503 L.D. 643

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-357)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357)**.

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

**READ ONCE.**

Committee Amendment "A" (H-357) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357)**, in concurrence.

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The Committee on **TRANSPORTATION** on Bill "An Act to Amend Certain Motor Vehicle Laws"  
H.P. 1223 L.D. 1664

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-355)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355)**.

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

**READ ONCE.**

Committee Amendment "A" (H-355) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355)**, in concurrence.

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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 Pursuant to Joint Order**

The Committee on **JUDICIARY** on Resolve, to Establish the Commission to Review the Child Protective System (EMERGENCY)

H.P. 1338 L.D. 1793

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1303.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in 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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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:

**Emergency Measure**

An Act to Safeguard Production of Groundwater  
S.P. 301 L.D. 1012  
(C "A" S-119)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **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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**Emergency Measure**

An Act to Establish a Commercial Green Crab Fishing License  
S.P. 526 L.D. 1649  
(C "A" S-128)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO**

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

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:

**Emergency Measure**

An Act to Amend the Maine Athletic Commission Laws  
S.P. 561 L.D. 1723

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency Measure**

An Act to Amend the Charter of the Vinalhaven Water District  
H.P. 1275 L.D. 1735  
(C "A" H-269)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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:

**Emergency Measure**

An Act to Amend the Laws of the Maine State Retirement System  
S.P. 576 L.D. 1754  
(C "A" S-113)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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 Regarding the State's Land Use Mediation Program  
S.P. 68 L.D. 264  
(C "A" S-130)

An Act to Protect the Privacy of Maine Physicians  
S.P. 110 L.D. 336  
(C "A" S-118)

An Act to Clarify the Law Regarding Name Changes  
H.P. 285 L.D. 363  
(C "A" H-280)

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

An Act to Provide Continued Funding for the Maine Airs Program  
H.P. 194 L.D. 205  
(C "A" H-268)

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

An Act to Ensure Statewide Assistance to Maine's Homeless Youth  
S.P. 50 L.D. 218  
(C "A" S-110)

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

An Act to Support Requests for Jobs for Maine's Graduates Programs in Maine Communities  
H.P. 289 L.D. 367  
(C "A" H-267)

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

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 Concerning Private Line Extensions  
S.P. 263 L.D. 910  
(C "A" S-115)

An Act to Permit the Department of Inland Fisheries and Wildlife to Accept Gifts for the Benefit of Wildlife Protection and Conservation  
S.P. 281 L.D. 992  
(C "A" S-117)

An Act to Treat All Children with Dignity  
H.P. 864 L.D. 1136  
(C "A" H-281)

An Act to Amend the Hunting Laws Relating to Blaze Orange  
S.P. 375 L.D. 1213  
(C "A" S-116)

An Act Concerning the Enforcement of Laws Relating to Scalloping in Cobscook Bay  
S.P. 383 L.D. 1280  
(C "A" S-126)

An Act to Amend the Laws Pertaining to the Harvest of Adult Eels  
S.P. 394 L.D. 1309  
(C "A" S-127)

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

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An Act to Fairly Distribute the Payment of Real Estate Transfer Taxes  
H.P. 729 L.D. 949  
(C "A" H-154)

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

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An Act to Require the State to Purchase the Initial Flags That are Required for Veterans' Grave Sites  
H.P. 884 L.D. 1176  
(H "A" H-265 to C "A" H-146)

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

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 Relating to the Office of Substance Abuse  
S.P. 404 L.D. 1320  
(C "A" S-120)

An Act to Clarify the Laws Governing Employment by the State  
S.P. 489 L.D. 1578  
(C "A" S-109)

An Act to Address Confidentiality of Records in the Medical Examiner Act  
H.P. 1213 L.D. 1645  
(C "A" H-282)

An Act to Make Certain Technical and Clarifying Changes to the Medical Examiner Act  
H.P. 1258 L.D. 1705  
(C "A" H-283)

An Act to Clarify the Maine Biomedical Research Program  
S.P. 552 L.D. 1710  
(C "A" S-121)

An Act Concerning Disabled Hunters, Trappers and Anglers  
S.P. 609 L.D. 1785

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

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An Act to Expand Research and Development Facilities within the University of Maine System  
S.P. 537 L.D. 1668

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

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An Act to Ensure Adequate Funding for School Construction Costs  
H.P. 1241 L.D. 1684  
(H "A" H-258 to C "A" H-193)

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

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:

**Resolves**

Resolve, Authorizing the Adjutant General to File a Finalized Declaration of Covenants and Restrictions with the Kennebec County Registry of Deeds in the Veterans' Memorial Cemetery Located on the Mount Vernon Road in Augusta  
S.P. 408 L.D. 1352  
(C "A" S-131)

Resolve, to Study the Statutes Pertaining to Funeral Homes, Crematories and Cemeteries  
S.P. 413 L.D. 1357  
(H "A" H-248 to C "A" S-86)

**FINALLY PASSED** and having been signed by the President were presented by the Secretary to the Governor for his approval.

Resolve, Establishing an Education Funding Reform Committee to Make Recommendations to Reduce the State's Reliance on the Property Tax as a Funding Source for Education  
H.P. 751 L.D. 970  
(C "A" H-216)

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** 1 Legislative Day, pending **FINAL PASSAGE**, in concurrence.

Resolve, to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families  
H.P. 1097 L.D. 1466  
(C "A" H-245)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

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

**ORDERS**

**Joint Resolution**

On motion by Senator **RAND** of Cumberland (Cosponsored by Representative DUDLEY of Portland and Senators: ABROMSON of Cumberland, BROMLEY of Cumberland, GOLDTHWAIT of Hancock, NUTTING of Androscoggin, O'GARA of Cumberland, TURNER of Cumberland, Representatives: MURPHY of Berwick, SHERMAN of Hodgdon) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214), the following Joint Resolution: S.P. 614

**JOINT RESOLUTION MEMORIALIZING CONGRESS TO SUPPORT NATIONAL ELECTION REFORM**

WE, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the Congress of the United States as follows:

WHEREAS, many Maine citizens believe that the presidential election of November 7, 2000 was finalized through a flawed and imprecise process; and

WHEREAS, immediately following the election of November 7, 2000, widespread and numerous problems concerning the election process in the nation as a whole, and in the State of Florida in particular, were brought to the awareness of the American voters; and

WHEREAS, voting irregularities publicized during the election of November 7, 2000 are illustrative of the inadequacies of voting procedures that exist nationwide; and

WHEREAS, we wish to acknowledge the citizens' desire to channel that concern into action that results in substantial election reform that ensures nondiscriminatory equal access to the election system for all voters, including seniors and disabled, minority, military and overseas citizens, and that ensures the complete and accurate counting of all votes cast; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request the United States Congress to support significant reforms to our nation's voting system; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Congress in support of major electoral reform in order to ensure that the true intent of the country's voters shall determine the outcome of all future elections.

**READ and ADOPTED.**

Sent down for 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 **JUDICIARY** on Bill "An Act to Amend the Maine Tort Claims Act"

H.P. 596 L.D. 751

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

Signed:

Senators:

RAND of Cumberland  
McALEVEY of York  
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton  
BULL of Freeport  
JACOBS of Turner  
MITCHELL of Vassalboro  
MUSE of South Portland  
SIMPSON of Auburn  
MADORE of Augusta  
WATERHOUSE of Bridgton  
SHERMAN of Hodgdon

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-338)**.

Signed:

Representative:

MENDROS of Lewiston

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

Reports **READ**.

On motion by Senator **RAND** of Cumberland, 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 Clarify the Jurisdiction and Qualifications for Protection from Abuse Hearings" (EMERGENCY)

H.P. 662 L.D. 862

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-334)**.

Signed:

Senators:

RAND of Cumberland  
McALEVEY of York  
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton  
BULL of Freeport  
JACOBS of Turner  
MITCHELL of Vassalboro  
MUSE of South Portland  
SIMPSON of Auburn

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

Signed:

Representatives:

MADORE of Augusta  
WATERHOUSE of Bridgton  
SHERMAN of Hodgdon  
MENDROS of Lewiston

Comes from the House with 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-334)**.

Reports **READ**.

On motion by Senator **RAND** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-334) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-334)**, 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 Provide Compensation to a Person Detained on the Basis of a Warrant Issued in Error"

H.P. 819 L.D. 1073

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

Signed:

Senators:

RAND of Cumberland  
McALEVEY of York  
FERGUSON of Oxford

MUSE of South Portland  
SIMPSON of Auburn  
MADORE of Augusta  
WATERHOUSE of Bridgton  
SHERMAN of Hodgdon

Representatives:

LaVERDIERE of Wilton  
BULL of Freeport  
JACOBS of Turner  
MITCHELL of Vassalboro  
MUSE of South Portland  
SIMPSON of Auburn  
MADORE of Augusta  
WATERHOUSE of Bridgton  
SHERMAN of Hodgdon

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-331)**.

Signed:

Representative:  
MENDROS of Lewiston

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

Reports **READ**.

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

Signed:

Representative:  
MENDROS of Lewiston

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

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

Reports **READ**.

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

Off Record Remarks

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

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

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Reduce Frivolous Protection from Harassment Actions"  
H.P. 889 L.D. 1181

On motion by President Pro Tem **BENNETT** of Oxford, **ADJOURNED** to Wednesday, May 9, 2001, at 9:00 in the morning.

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

Signed:

Senators:

RAND of Cumberland  
McALEVEY of York  
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton  
BULL of Freeport  
JACOBS of Turner  
MITCHELL of Vassalboro