

STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
SECOND SPECIAL SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
March 11, 2004

Senate called to order by President Pro Tem Sharon A. Treat of Kennebec County.

Prayer by Reverend Nancy Moore, St. Augustine Episcopal Church in Dover-Foxcroft.

REVEREND MOORE: As we gather ourselves in stillness to prepare for this day, let us remember our sister, Beverly, as she recovers from illness and send prayers and energy for her healing.

Oh gracious and life giving Creator, grant that Your people here gathered may come to undertake the work of state government as a vocation and a ministry; that they may bring to their work their brains that think and their hearts that feel; that they may have ideals, imagination, wisdom, and courage; that they may never be enslaved by routine and convention and popular opinion, but ever be upheld by Your free spirit. Through the grace that created and ever renews us, Amen.

Doctor of the day, Jennifer Hartman, M.D. of Waterville.

Reading of the Journal of Wednesday, March 10, 2004.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Allow Beverage Sales from Mobile Service Bars on Golf Courses"
H.P. 486 L.D. 656
(S "A" S-421 to C "A" H-636)

In House, January 29, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-636).**

In Senate, March 9, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-636) AS AMENDED BY SENATE AMENDMENT "A" (S-421)** thereto, in **NON-CONCURRENCE.**

Comes from the House, that Body **ADHERED.**

Senator **GAGNON** of Kennebec moved the Senate **RECEDE** and **CONCUR.**

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

The Chair noted the absence of the Senator from Kennebec, Senator **DAGGETT** and further excused the same Senator from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#260)

YEAS: Senators: BLAIS, BRYANT, CARPENTER, CATHCART, DAMON, DOUGLASS, GAGNON, GILMAN, HALL, HATCH, LEMONT, MAYO, MITCHELL, SAVAGE, SHOREY, STANLEY, STRIMLING, TURNER, WESTON

NAYS: Senators: BENNETT, BRENNAN, BROMLEY, DAVIS, EDMONDS, KNEELAND, MARTIN, NASS, PENDLETON, ROTUNDO, SAWYER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM – SHARON A. TREAT

ABSENT: Senator: LAFOUNTAIN

EXCUSED: Senator: DAGGETT

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **GAGNON** of Kennebec to **RECEDE** and **CONCUR, PREVAILED**.

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require All Health Insurers To Cover the Costs of Hearing Aids"
S.P. 359 L.D. 1087
(C "B" S-394)

Report "A" - **Ought to Pass as Amended by Committee Amendment "B" (S-394)** (7 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "C" (S-395)** (4 members)

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

In Senate, March 4, 2004, on motion by Senator **LAFOUNTAIN** of York, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-394)**.

Comes from the House, Report "C", **OUGHT NOT TO PASS READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Resolve, To Promote Recruitment and Retention of Direct-care Workers in Long-term Care in Maine

S.P. 362 L.D. 1090
(C "A" S-402)

In Senate, February 26, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-402)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-402) AS AMENDED BY HOUSE AMENDMENT "A" (H-743)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **BRENNAN** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act To Provide for Department of Marine Resources Jurisdiction Over Certain Sections of the State's Endangered Species Program"

S.P. 634 L.D. 1702
(C "A" S-403)

In Senate, March 3, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-403)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-403) AS AMENDED BY HOUSE AMENDMENT "A" (H-741)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **DAMON** of Hancock, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act To Honor Maine's First Peoples"

H.P. 1254 L.D. 1732
(C "A" H-717)

In Senate, March 3, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-717)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-717) AS AMENDED BY HOUSE AMENDMENT "A" (H-744)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **DAMON** of Hancock, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act To Provide Equity in Veterans' Property Tax Exemptions"

H.P. 1268 L.D. 1746
(C "A" H-725)

In Senate, March 4, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725) AND HOUSE AMENDMENT "A" (H-742)**, in **NON-CONCURRENCE**.

On motion by Senator **STANLEY** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

COMMUNICATIONS

The Following Communication:

S.C. 491

**121ST LEGISLATURE
COMMITTEE ON JUDICIARY**

March 10, 2004

The Honorable Beverly C. Daggett
President of the Senate
The Honorable Patrick Colwell
Speaker of the House of Representatives
121st Legislature
State House
Augusta, ME 04333

Dear Madam President and Mr. Speaker:

Pursuant to Title 3, Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Judiciary from the review and evaluation of the Office of the Attorney General under the State Government Evaluation Act. In its review, the committee found that the Office of the Attorney General is operating in accordance with its statutory authority and is meeting its statutory and administrative mandate.

Sincerely,

S/Senator Peggy A. Pendleton
Chair

S/Rep. William S. Norbert
Chair

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Address the Temporary Maximum Levels of Assistance for General Assistance Established in 1991"
H.P. 784 L.D. 1066

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-738)**.

Comes from the House with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-738)**.

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

READ ONCE.

Committee Amendment "A" (H-738) **READ and ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Provide Accurate Vital Records for Adults in Maine"

H.P. 1217 L.D. 1640

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-739)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-739)**.

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

READ ONCE.

Committee Amendment "A" (H-739) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House

Bill "An Act To Amend the Membership of the Children's Cabinet"

H.P. 1352 L.D. 1829

Resolve, Regarding Legislative Review of Chapter 31: Affordable Housing Development District - Recovery of Public Revenue, a Major Substantive Rule of the Maine State Housing Authority

H.P. 1376 L.D. 1850

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

House As Amended

Bill "An Act To Amend the Charter of the Dover and Foxcroft Water District" (EMERGENCY)

H.P. 1248 L.D. 1672

(C "A" H-734)

Bill "An Act To Permit the Photocopying of Driver's Licenses in Financial Transactions"

H.P. 1324 L.D. 1802

(C "A" H-683)

Bill "An Act To Provide for the Safe Disposal of Household Hazardous Waste"

H.P. 1328 L.D. 1806

(C "A" H-732)

Bill "An Act To Amend Water Quality Laws To Aid in Wild Atlantic Salmon Restoration"

H.P. 1358 L.D. 1833

(C "A" H-731)

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

Senate As Amended

Bill "An Act To Create the Maine Military Family Relief Fund"

S.P. 657 L.D. 1724

(C "A" S-422)

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

Sent down for concurrence.

ENACTORS

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

Mandate

An Act Requiring Blood Testing of All Drivers Involved in Fatal Accidents

H.P. 1325 L.D. 1803
(C "A" H-712)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

All matters thus acted upon were ordered sent down forthwith for concurrence.

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

ORDERS

Joint Order

On motion by Senator **GAGNON** of Kennebec, the following Joint Order:
S.P. 763

ORDERED, the House concurring, that when the House stands Adjourned it does so until Tuesday, March 16, 2004, at 9:00 in the morning and the Senate Adjourns until Tuesday, March 16, 2004, at 10:00 in the morning.

READ and **PASSED**.

Ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (1/27/04) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require that Patients in Private Mental Hospitals Be Afforded the Same Rights As Patients in State Mental Institutions"

S.P. 79 L.D. 156

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

Minority - **Ought to Pass** (5 members)

Tabled - January 27, 2004, by Senator **BRENNAN** of Cumberland

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

(In Senate, January 27, 2004, Reports **READ**.)

On motion by Senator **BRENNAN** of Cumberland, Bill and accompanying papers **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (1/27/04) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish a System of Advocacy and Oversight To Benefit Persons with Mental Retardation and Autism"

S.P. 422 L.D. 1291

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

Minority - **Ought to Pass** (5 members)

Tabled - January 27, 2004, by Senator **BRENNAN** of Cumberland

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

(In Senate, January 27, 2004, Reports **READ**.)

On motion by Senator **BRENNAN** of Cumberland, Bill and accompanying papers **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (1/27/04) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act To Increase Maine's Minimum Wage"

S.P. 237 L.D. 673

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-359)** (8 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - January 27, 2004, by Senator **EDMONDS** of Cumberland

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

(In Senate, January 27, 2004 Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. Forgive my voice this morning, I'm a little croaky. I want to say a few words about the importance of this bill.

As you probably know, raising the minimum wage as is proposed in this bill will provide well targeted relief to working poor families in Maine. Nearly 2/3 of minimum wage workers are adults, 40% are the sole breadwinners in their families, and nearly 1/3 are working parents with children. 63% of the gains from a \$1 increase in the minimum wage can be expected to accrue to working households in the bottom 40% of the income distribution. We hear lots of conversation in this state about raising median the income of our Maine families. This is a way to begin doing it. It's not the

only way, but it is a way. Currently 12 states, including Maine, have a state minimum wage that is above the federal wage. The highest is Alaska with a minimum wage of \$7.15. Washington State and Connecticut follow close behind at \$6.90. Three states have now indexed their minimum wage to prevent its continual erosion from inflation. Each of the New England states, except New Hampshire, has a minimum wage in excess of the federal minimum. These are details. They are important details.

I think what I want to say to you is that the folks who earn minimum wage in this state are often hidden from our view, but they are, as I have just quoted, a substantial population of the working poor of this state and they deserve our support. We are all working in every way possible to bring the median income for our Mainers up into a place where people can live without having to seek public assistance. I would strongly encourage you to support the Ought to Pass as Amended report. I appreciate your time. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you very much, Madame President, men and women of the Senate. This does sound like a great idea. Let's just raise the minimum wage, pay everybody more money. Once again, the Labor Committee has it wrong. This is not the way to do it. The way to do it is to make it easier for businesses in the state to do business so they can pay the people more money. You can't legislate business to the degree that you are going to say, 'you are now going to pay people \$20 an hour, \$40 an hour, \$50 an hour.' What is that? That is wrong headed. I would suggest that anybody that has ever tried to run a business, or ran a business, would not support this because they know this is not the way to do this.

During a floor speech a while back I mentioned Burt's Bees and how she moved to North Carolina. When she moved to North Carolina she said one of the things that happened when she moved down there is that her wages went up to over \$10 an hour. That's \$3 an hour higher than what we are looking at right here. She said she is still making more money because of the regulatory climate down there.

This is not the way to do this. We need to look at the entire process that businesses in Maine go through to do business here. It is awful to do business in the State of Maine. I can tell you that right now. The only reason I'm here with my business is because I love the State of Maine. I want to employ people here in Maine. As a business decision, it's not smart to be here right now, especially if you have a minimum wage that is set like this. I would say, and I suggest to you, that if you really want to help businesses in the State of Maine, if you really want to help people in the State of Maine, think about what you are doing. Don't throw a band aid on something. This would be ridiculous to do. Thank you.

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. This is the fifth time that I've sponsored a minimum wage bill. Since 1992, I've been an advocate of the poorest people in this state who need to earn a minimum wage that will at least put groceries on their table. During the course of the last year I've seen many businesses in my area close. When they did, people drew unemployment for short periods of time. Many of those people could not afford to move, and could not afford to seek employment in southern Maine. They took two or three minimum wage jobs. Having children that needed clothes and shoes, they had to go to the town to get local assistance because these two or three minimum wage jobs, which they worked 10 to 15 hours a week at, had no benefits and paid very little. I'm not blaming it on the business community because they have to close down. We all know that many do and they leave in their wake shattered lives. We know that we had a minimum wage increase in the last two years while I was gone and unable to sponsor a minimum wage bill. This bill is not against the business community, as we know it. This is only to help people afford the very simple, little things in life.

When I began working, some 35 years ago, the minimum wage was around \$1.25 an hour. It seems to me that when everything in this world has risen in price over 100% over those 35 years, that the minimum wage also should keep some kind of standard. Until we get really serious about raising the minimum wage when the CPI goes up, you are going to have these bills before you. I believe this is a good bill. I believe those people who testified in favor of it did so in good faith. They know what the serious issues are that face families who are trying to stay together. Sometimes they are torn apart just so that they can seek assistance through the state. Will this solve all the problems in the world? No, but it will tell the people who support us and vote for us on a one-to-one basis that we value them, that we value them to the point where we will say, 'if you work, you should be paid.' Thank you.

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

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. I think we've heard some very compelling arguments today on both sides of this issue. I find it very interesting, and agree with the good Senator from Somerset, Senator Hatch, that it is important to link this issue to the loss of business in our state and the loss of jobs in our state. This proposed increase in the minimum wage would make Maine the fifth highest minimum wage state in the nation. Arguably, Maine already has a very generous minimum wage.

It's easy to assume that raising the minimum wage is about fairness and about providing families with livable wages. Unfortunately, it's wrong. The vast majority of people earning minimum wage are young people, ages 16 to 24, who are working for the first time. Many of them are living with their parents and working part-time. Fewer than one in five minimum wage workers has a family to support. The vast majority of employers providing these types of jobs are Maine's struggling small businesses. I'm a small businessperson just like the good Senator from Washington, Senator Shorey, and I have personal experience with this. Small business people in our state are strained to the breaking point. Some of you here are familiar with the notion of wearing multiple hats when you run a small business. You are the bookkeeper, the doorkeeper, and you do a variety of other things. In my business I probably wear about five hats. I would love to be able to hire more people to be able to do those jobs to give me more time to represent my constituents here and to do my job here as well as to be responsible to my business.

This type of legislation hits small businesses, Mom and Pop operations, particularly hard. This is not about big corporations. They already pay very favorable wages. For those Mom and Pop operations an increase in payroll, which includes increases in unemployment and Workers' Compensation taxes as well, could well mean the difference between employing two people or laying one off. For that person who loses their job to this kind of legislation, the minimum wage becomes zero. Haven't we killed enough jobs in this state already?

The best way to increase wages is to stimulate our economy with lower taxes, which will lower unemployment and create more competition for workers. Right now Maine's ranking is second to last nationally in terms of small business survivability. We pride ourselves in leading in this state. I hope that we are not going to be taking pride in leading ourselves further to the bottom of the pack in terms of small business survivability. Most economists agree that artificially high minimum wage laws increase unemployment amongst the least skilled, the least experienced, and minority workers. With a little experience these people are likely to be worth more, but they can't move up the ladder if they can't get on the ladder. I urge you to vote to protect jobs, to give our young people a chance to get those entry level jobs that will help them work their way towards skilled, high paying employment. Thank you very much, Madame President.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I just wanted to add a couple of ideas. I guess the thing I want to say is that, from my point of view, when you raise the level of the minimum wage, you raise all wages. There is going to be disagreements. I know people can pop up on the opposite side and disagree with me, but this is my belief. That is something that I think we have to take into consideration. Frankly, I think if we are going to talk about ridiculousness, it is ridiculous in this state that there are working families who work just as hard as any other family and are getting paid the minimum wage and can't live on it. That is the ridiculous thing for me. We need for people who are working forty hours a week and putting their heart and soul into their work to be able to live on the wage that they receive. That is just where I stand and I hope you will join me. Thank you.

THE PRESIDENT PRO TEM: 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.

The Chair ordered a Division. 13 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, **FAILED**.

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

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Specially (1/29/04) Assigned matter:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Permit Small Game Hunting on Private Property on Sunday in Unorganized Territory" H.P. 308 L.D. 388

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-623)** (8 members)

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

Tabled - January 28, 2004, by Senator **BRYANT** of Oxford

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, January 27, 2004, 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-623)**.)

(In Senate, January 28, 2004, Reports **READ**.)

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

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

Senator **BRYANT:** Thank you, Madame President. I'd like to take just a minute and go through some provisions and really let this Senate try to understand what we have here. What we have here is an opportunity for the people that work five or six days a week, who buy their hunting or fishing license, which actually pays for the protection of the wildlife and endangered species and all the other things we enjoy in the State of Maine. They ask for little in return from the state. What we are trying to do is give them the opportunity to have some expanded access in areas where there are very few people. Actually there are no people in this area. It is for small game hunting only.

I'd like to have people look at the bill and the amendment. Basically, this is what it does. It sets aside a wildlife management districts 1, 2, 4, and 5. You have some sheets in front of you that show it is the northern woods. It allows for Sunday hunting on grouse, rabbit, and woodcock during the open seasons.

I believe that this bill is important for a number of different reasons. One reason is that the Department of Inland Fisheries and Wildlife is supported mainly by hunting and fishing licenses. This will help us keep that going. We need to have access for people that want to recreate and do this sport in areas such as this. There are large landowners that are agreeing that they don't have any problem with Sunday hunting in their area and there are sportsmen that want to do it. The argument that some people don't like it and it will be a problem, it's not in their area. To say to the rest of the state that we're not going to allow them to have an opportunity to do some things that they enjoy because others don't enjoy doing them is wrong. I would encourage you to vote for the pending motion. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER:** Thank you, Madame President and women and men of the Maine Senate. It finally came out of the woods. It's been held for quite a while, but we're ready. I think the reason that there is so much discussion or feelings on this, or there will be, is that a large portion of the state doesn't want Sunday hunting. I know in my area it is just a day of rest for the animals. They need a day of rest just like the hard working people that need a day of rest. You can't just keep on going, you need to back up and relax. The unorganized territory idea is fine if it stays there. That shaded area on the paper that was passed out. I know that after a two year test period we will be looking to vote for Sunday hunting throughout the state. When I hunt, I go to camp on Sunday to set up the camp, get the firewood, and maybe go out and look for signs of the quarry that I am going

to shoot. It's a day of rest, even when we go hunting, because we use it for those things plus sighting in rifles and looking for signs. I'm very much opposed to it, along with all my neighbors. They just like to walk in the woods on Sunday during hunting season and not worry about it.

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

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I don't know about the rest of you, but I'm personally offended that anybody would hunt woodcock on any day of the week. For that reason alone, I will be opposing this motion. Thank you.

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

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I'm going to leave the shooting of woodcock alone for right now. I did want to make two or three different points. One is the point that we should not tell our constituents, or the Maine State Senate should not tell people, which day that they have to do whatever activity they want. As we know, people work five and six days a week. We should not restrict the day that they have an opportunity to do some activities that they like. One of the arguments to this bill is that we should have a day of rest. I don't think that the State Senate or the state government needs to set the schedules for everybody that has daily activities. We know life is faster, it gets more complicated, and the timeframe that you have available to do your activities is limited. This is a chance to give the opportunity to rabbit or grouse hunters to use the day as they need it. I would encourage you to vote for the pending motion. Also understand that the license fees have been going up and the sales have been going down. The hunters and fishermen of this state support and basically manage all the wildlife in the state, all the endangered species. These funds are paid directly by the hunters and fishermen. If the decline keeps coming, that money is going to have to come out of the General Fund. We need to allow them the opportunity to have access. In New Hampshire you can hunt on Sunday, anytime and anywhere. You have to compete with the license sales with other states. I would just encourage the Senate to vote in favor of the pending motion.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER:** Thank you, Madame President. This is just a quick reminder, I also encourage you to rush down and buy fishing and hunting licenses. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Oxford, Senator Bryant 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 (#261)

YEAS: Senators: BRYANT, DAVIS, EDMONDS, GAGNON, GILMAN, HATCH, MARTIN, PENDLETON, SHOREY, STANLEY

NAYS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, CARPENTER, DAMON, HALL, KNEELAND, LAFOUNTAIN, LEMONT, MAYO, MITCHELL, NASS, ROTUNDO, SAVAGE, SAWYER, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - SHARON A. TREAT

ABSENT: Senators: CATHCART, DOUGLASS

EXCUSED: Senator: DAGGETT

10 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **BRYANT** of Oxford 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.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (2/11/04) Assigned matter:

JOINT STUDY ORDER - Requiring the Joint Standing Committee on Judiciary To Study and Report on Court-imposed Administrative Fees

S.P. 651

Tabled - February 11, 2004, by Senator **TREAT** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, January 7, 2004, on motion by Senator **ROTUNDO** of Androscoggin **READ** and **REFERRED** to the Committee on **JUDICIARY**.)

(In House, February 10, 2004, **READ** and the Joint Study Order and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

On motion by Senator **GAGNON** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

The Chair laid before the Senate the following Tabled and Later (2/12/04) Assigned matter:

HOUSE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act Providing for Regulation of the Cable Television Industry by the Public Utilities Commission"

H.P. 181 L.D. 222

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-670)** (4 members)

Tabled - February 12, 2004, by Senator **HALL** of Lincoln

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

(In House, February 11, 2004, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, February 12, 2004, Reports **READ**.)

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

Senator **HALL:** Thank you, Madame President, men and women of the Senate. I feel obliged to give a very brief explanation as to why the majority of the committee felt that it was not appropriate to pass this bill. The very simple fact is that federal preemption would not permit us to regulate almost all aspects of cable television service within the state. I'm well aware, as I'm sure you are, of the growing unpopularity of many of the cable television companies. We have all heard, I suspect, of the problems that many municipalities are having in renegotiating with the bankrupt Adelphia company. Many of us, I'm sure, have heard from constituents who are angry at the rising rates for

almost all cable services. However, the reality is that only one state, to my knowledge, has attempted to impose state regulation over cable television services. That state is Connecticut, where the role of the state has been limited to the very simple one of setting the price for the basic package of services. All other attempts to regulate have been ruled inconsistent with the federal preemption. I therefore urge you, my colleagues, to support the Ought Not to Pass report, recognizing that I do so with sorrow because I would very much like to do something for those of my constituents who are very angry about cable television service. Thank you.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. This seems to be my day to speak to you. I would like to urge you to defeat the pending motion and support the minority report. As was previously mentioned, and I thought this was a wonderful little piece of information, on a report on public radio on Monday, March 1st, 2004, it was explained that cable television firms have replaced the Internal Revenue Service as the most hated entity in the nation. Apparently, much of that has to do with the fact of costs. The second largest consumer complaint is service.

This bill is asking for a simple thing. It is asking for a chance for consumers to have an opportunity to speak to their cable company and tell them what they like and what they don't like. This seems to be a very simple request. I understand that there is a possible federal preemption. I understand that the PUC is not interested, or feels that they are not responsible here. I guess I want to ask what voice do consumers of cable television have if they are trying to make their views known? Once the towns and municipalities have taken on a particular cable company, there is no incentive to go anywhere else because that is the cable company that you have.

In my community, there is a significant number of low income, especially elderly, folks for whom this is a primary source of entertainment. Also, unfortunately, it is a primary source of frustration. They really want to be able to say, 'gee, you know, love your programming, would love to have some input on what else you do.' My sense of this bill is that this is what we are trying to do here. I hope you will join me in supporting this on behalf of the consumers in your communities.

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

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I would encourage you to vote against the pending motion. I think that in some ways Maine likes to lead the nation and be the first to take on issues, especially when they protect and serve the constituents that we have. I think it's important that people feel that they have some way to have representation or at least have their voices heard. I think this bill will allow them to do that. I would encourage you to vote against the pending motion.

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

Senator **YOUNGBLOOD:** Thank you, Madame President, ladies and gentlemen of the Senate. This was not a bill that I expected that I would be speaking on. I do want to encourage you to vote for the pending motion so ably laid out by the Senator from Lincoln, Senator Hall, who is the chair of the Utilities and Energy Committee. When this bill first came to that committee there were lots of people that were involved. I would like, at this point, to publicly thank the Maine Municipal Association, who I think did a very good job over the year that this bill was held with laying out for communities how they can better negotiate with their cable companies. There was a lot of confusion in that particular endeavor as to how to negotiate a better deal for the people who live in their communities. If this bill was to pass, all it does is try to fool your constituents into believing that there is some place they can go to get an answer to their problem. They need to be going to their municipal office. This bill does a wonderful job of letting the local municipalities off the hook and saying, 'gee, don't call us, call the PUC.' The PUC was not involved in negotiating any of the contracts that went on in that community. Obviously, the community that negotiated it are the ones who should be taking the heat or taking the credit for a deal that they have made with the cable company. If this was to pass, you would be able to go home and say, 'gosh, neighbor, we did a great job in providing you somebody you can complain to.' The PUC can do absolutely nothing about it. It needs to go back to the municipality, where it is now. The Maine Municipal Association did a good job of putting together a book that helps them better negotiate their contracts. I strongly urge you to vote for the motion.

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

Senator **STRIMLING:** Thank you, Madame President. I urge you to vote against the motion. I pulled out the bill to read it. I think there are all kinds of ideas floating around about what this does. This is simply a consumer protection bill. The meat of the bill is basically five points. Prior to increasing a rate or changing service, you have to notify all the affected customers, you have to hold a public hearing, you have to respond to any complaints, and you have to notify people of the increases. That is what we are talking about. We are talking about making sure that people know what is going on. You hold a hearing about it, you let people respond, you let people complain, and you have to respond. Then there is an opportunity at the end to partition and review if they disagree. We all believe in the importance of notifying consumers and letting them know what is going on. This isn't stopping their ability to do what they are going to do. This is making sure the people of the State of Maine see the rate increases. We see them in Portland all the time. They go up and we have no say in the matter. It goes through our city counsel and it is gone. This makes sure that the public is involved in the process. It's very simple. We do it in all forms across the state. Let's do it in this industry, which doesn't have enough protection for the consumer today. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Hall to Accept the Majority Ought Not to Pass Report.

The Chair ordered a Division. 21 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **HALL** of Lincoln to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (3/4/04) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act To Clarify the Prevailing Wage Law"

S.P. 655 L.D. 1722

Report "**A**" - **Ought to Pass as Amended by Committee Amendment "A" (S-413)** (6 members)

Report "**B**" - **Ought Not to Pass** (6 members)

Tabled - March 4, 2004, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED**

(In Senate, March 4, 2004, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. This does seem to be my day to speak to you. I'm going to encourage you to join me in the Ought to Pass as Amended report. The intent of the prevailing wage law is to put good wages in the hands of Maine workers. We all want to raise the per capita income in our state. Unfortunately for us, because there have been significant lags in the necessary surveys that are done regarding prevailing wage on the federal level, there is a fairly substantial discrepancy between the state prevailing wage and the federal prevailing wage. The problem with that is that when you come to do a federal project in the State of Maine you are paying on the federal prevailing wage. Because those surveys have been lagging, there is an enormous discrepancy. Somebody who gets X dollars on a state job would get Y dollars on a federal job. This means that Maine workers are not getting paid what they should. You are going to hear a lot about how this is going ruin all kinds of things, but from my point of view, I want to make sure that Maine workers get paid what they deserve to get paid. Just because

9 Senators having voted in the affirmative and 25 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED, FAILED.**

Report "B", **OUGHT NOT TO PASS ACCEPTED.**

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (3/9/04) Assigned matter:

SENATE REPORT - from the Committee on **TAXATION**, pursuant to Public Law 2003, chapter 498, section 11 and Resolve 2003, chapter 101, section 3, on Bill "An Act To Improve the Viability of Railroads Operating in Maine"

S.P. 757 L.D. 1918

Report - **REFER** to the Committee on **TAXATION**

Tabled - March 9, 2004, by Senator **STANLEY** of Penobscot

Pending - **ACCEPTANCE OF REPORT**

(In Senate, March 9, 2004, Report **READ.**)

On motion by Senator **STANLEY** of Penobscot, **READ ONCE**, without reference to a Committee.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/10/04) Assigned matter:

SENATE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Require That a Directory Listing of a Commercial Toll-free Number Include an Address"

S.P. 643 L.D. 1711

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-398)** (4 members)

Tabled - March 10, 2004, by Senator **HALL** of Lincoln

Pending - **FURTHER CONSIDERATION**

(In Senate, February 25, 2004, on motion by Senator **HALL** of Lincoln, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In House, March 9, 2004, 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-398) AS AMENDED BY HOUSE AMENDMENT "B" (H-737)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **HALL** of Lincoln, the Senate **RECEDED** and **CONCURRED.**

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1423

**JOINT RESOLUTION COMMEMORATING THE HOLOCAUST
HUMAN RIGHTS CENTER OF MAINE'S LEGISLATIVE AWARENESS DAY
AND YOM HASHOAH, THE DAY OF REMEMBRANCE OF THOSE WHO
SUFFERED AS VICTIMS OF THE HOLOCAUST**

WHEREAS, from 1933 to 1945, 6,000,000 Jews were murdered in the Holocaust as part of a systematic program of genocide, and millions of other people suffered as victims of Nazism; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

WHEREAS, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some at the cost of their lives and others with lifelong emotional suffering, as holding an honored place in our history; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, March 11, 2004 has been designated as the Holocaust Human Rights Center of Maine's Legislative Awareness Day; and

WHEREAS, April 18, 2004 has been designated internationally as a Day of Remembrance of the Victims of the Holocaust, and is known as Yom HaShoah; and

WHEREAS, the national community, pursuant to an Act of Congress, will be commemorating the week of April 18th to April 25th as the Days of Remembrance of the Victims of the Holocaust, with the theme of "For Justice and Humanity"; and

WHEREAS, it is appropriate for the people of the State of Maine to join in the national and international commemorations; now, therefore, be it

RESOLVED: That, We, the Members of the One Hundred and Twenty-first Legislature now assembled in the Second Special Session, on behalf of the people we represent, pause in solemn memory of the victims of the Holocaust, urge one and all to recommit themselves to the lessons of the Holocaust through the Holocaust Human Rights Center of Maine's Legislative Awareness Day and the national week of commemoration and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., and the Holocaust Human Rights Center of Maine, on behalf of the people of the State of Maine.

Comes from the House, **READ** and **ADOPTED**.

READ and **ADOPTED**, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1424

JOINT RESOLUTION ENDORSING OPERATION COMMUNITY SUPPORT

WHEREAS, the President of the United States has activated and deployed thousands of men and women from throughout the nation to assignments and missions related to the ongoing global war on terror and in support of Operation Iraqi Freedom; and

WHEREAS, the State of Maine now ranks 2nd highest in the nation in percentage of National Guard personnel deployed in Iraq; and

WHEREAS, citizens throughout the State support and appreciate the brave men and women serving in the United States military and wish them well in their dangerous missions and a safe return to their families and friends; and

WHEREAS, we gratefully acknowledge that we live in freedom today because of the many sacrifices that have been made by the valiant servicemen and servicewomen in the Armed Forces and their families; and

WHEREAS, a statewide movement, Operation Community Support, has been established with the mission of easing burdens of the families of our citizen soldiers serving overseas with community resources from those wishing to express their support to the families by extending complimentary admissions to selected community cultural and sporting events, museums, camps, schools and other events and programs; now, therefore, be it

RESOLVED: That We, the Members of the Senate and House of Representatives of the 121st Legislature now assembled in the Second Special Session, urge communities throughout the State to become a "Battle Buddy" and join Operation Community Support; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Department of Defense, Veterans and Emergency Management to be given to military family assistance programs throughout the State.

Comes from the House, **READ** and **ADOPTED**.

READ and **ADOPTED**, in concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

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

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

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

On motion by Senator **GAGNON** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, March 16, 2004, at 10:00 in the morning.