

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-First Legislature
State of Maine

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First Special Session
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Second Regular Session
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February 3, 2004 to March 18, 2004

Pages 715 - 1415

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

In Senate Chamber
Wednesday
May 21, 2003

Senate called to order by President Beverly C. Daggett of
Kennebec County.

Prayer by Reverend Paul Cates, Vassalboro Friends Meeting.

REVEREND CATES: Let us join together in prayer. Dear God, this morning I have the sense that I am speaking for the people of Maine in expressing a feeling of deep gratitude. Gratitude for work of our representatives as they have faced serious financial challenges. They have responded to these challenges with determination to find solutions which will have the least possible negative impact on Maine and its people, while maintaining essential state services. It would bring embarrassment to our legislators to be described as belonging to a holy order. Yet I have a strong hunch, yes, even an absolute certainty, that right now I feel Your presence in this chamber. A presence not performing miracles, thus giving our Senators the easy feel of 'well, we're off the hook.' Your presence is rather one that strengthens the resolve to find the best solutions possible. It is a presence that gives the courage and determination to use our minds and our ingenuity to make progress against challenging odds. It is a presence that helps us to maintain hope, to work and to achieve. Dear God, You are always present and available wherever people are working for the benefit of their fellow humans and for the well-being of our fragile planet. In gratitude to You and to our elected representatives, we come to You in the name of all the Mainers and on behalf of the great State of Maine in which we are privileged to live. Amen.

Doctor of the day, Stephen Nightingale, M.D. of Ellsworth.

Reading of the Journal of Tuesday, May 20, 2003.

Off Record Remarks

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate on the Record.

Senator **DAVIS:** Thank you very much, Madame President. I'd like to say, and I know you will fully understand, that all of our society, in our towns, villages, cities, and among our population, there is a foundation that is made up of good, solid citizens that keep everything going. For the last 25 years or so, it has been

my great privilege to have amongst my friends Hollis and Rose Nelson, who I classify with those absolutely solid citizens that make up the solid foundation of our society. A few days ago, there was a sentiment in the calendar. I'd like to read it. It says that the members of the Senate and House of Representatives join in recognizing Hollis and Rose Nelson of Monson on the celebration of their 50th wedding anniversary. Married in Greenville, Maine, on June 6, 1953, Hollis and Rose have lived their entire married life in Monson, where they raised 2 sons and have been blessed with 2 grandchildren. They have spent the past 45 years together on the Steward Road in the home that Hollis lived in when he was a boy. The greatest joy in their lives is their family and the friends that they have and the interaction they have with them. I would ask all my colleagues to rise and give Hollis and Rose Nelson a good welcome.

COMMUNICATIONS

The Following Communication: S.C. 247

**121ST LEGISLATURE
SENATE OF MAINE
OFFICE OF THE PRESIDENT**

May 19, 2003

Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Secretary O'Brien,

Pursuant to my authority under Title 5, MRSA, Chapter 319, Section 3371, I am pleased to appoint Senator Bruce Bryant of Oxford and Senator Richard Nass of York to the Maine Fire Protection Services Commission.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Beverly C. Daggett
President of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 248

**121ST LEGISLATURE
SENATE OF MAINE
OFFICE OF THE PRESIDENT**

May 19, 2003

Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Secretary O'Brien,

Pursuant to my authority under Executive Order 11 FY 02/03, titled "An Order Creating the Task Force on the Sustainability of the Dairy Industry in Maine," I am pleased to appoint Senator Bruce Bryant of Oxford and Senator Carol Weston of Waldo to the Task Force on the Sustainability of the Dairy Industry in Maine.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Beverly C. Daggett
President of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 246

**121ST LEGISLATURE
COMMITTEE ON TAXATION**

May 20, 2003

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

Dear President Daggett and Speaker Colwell:

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

- L.D. 174 An Act to Restructure the Maine Income Tax Law
- L.D. 179 An Act to Restructure the Tax System and Make the Restructured System Subject to Referendum
- L.D. 382 An Act To Enhance the Maine Residents Property Tax Program
- L.D. 784 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Allow the Legislature To Establish a Different Property Tax Rate for Secondary Residential Property for Purposes of Education Funding and To Protect State Funding of Education

- L.D. 997 An Act Allowing Municipalities To Create Property Tax Circuit Breaker Programs
- L.D. 1333 An Act To Allow Municipalities To Provide Property Tax Relief through a Local Option Sales Tax
- L.D. 1338 An Act To Reform the Tax Laws
- L.D. 1395 An Act for Comprehensive Reform of Maine's Tax Structure
- L.D. 1418 An Act To Make Changes in Maine's Tax Laws
- L.D. 1421 An Act To Reduce Property Taxes

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

Sincerely,

S/Sen. Stephen Stanley
Senate Chair

S/Rep. David G. Lemoine
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act To Amend the Structure of the Office of Advocacy"
S.P. 572 L.D. 1621

Sponsored by Senator BRENNAN of Cumberland.

(GOVERNOR'S BILL)

Cosponsored by Representative KANE of Saco and Senator: WESTON of Waldo, Representatives: CAMPBELL of Newfield, CURLEY of Scarborough, EARLE of Damariscotta, LAVERRIERE-BOUCHER of Biddeford, LEWIN of Eliot, SHIELDS of Auburn, WALCOTT of Lewiston.

On motion by Senator **BRENNAN** of Cumberland, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Ordered sent down forthwith for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Facilitate Communication between Prescribers and Dispensers of Prescription Medication"
H.P. 702 L.D. 945

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-457).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-457).**

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

READ ONCE.

Committee Amendment "A" (H-457) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Provide the Office of the State Fire Marshal with Adequate Funding for Construction Plans Review"
H.P. 1028 L.D. 1401

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-472).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-472).**

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

READ ONCE.

Committee Amendment "A" (H-472) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Ensure Basic Standards for Death Investigations by Law Enforcement Agencies"
H.P. 1053 L.D. 1434

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-474).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474).**

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

READ ONCE.

Committee Amendment "A" (H-474) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Department of Corrections' Laws Pertaining to Juvenile Offenders"
H.P. 1165 L.D. 1592

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-473).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-473).**

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

READ ONCE.

Committee Amendment "A" (H-473) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Retain Teachers Holding Targeted Need Area Certificates"
H.P. 714 L.D. 957

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-458).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-458).**

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

READ ONCE.

Committee Amendment "A" (H-458) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, a Major Substantive Rule of the Department of Education (EMERGENCY)
H.P. 1122 L.D. 1530

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-453).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-453)**.

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

READ ONCE.

Committee Amendment "A" (H-453) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Study Obesity and Methods To Decrease the Cost of Health Care and Increase the Public Health

H.P. 363 L.D. 471

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-464)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-464)**.

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

READ ONCE.

Committee Amendment "A" (H-464) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Notice of Deficient Care Provided in Long-term Care Facilities"

H.P. 936 L.D. 1264

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-466)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-466)**.

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

READ ONCE.

Committee Amendment "A" (H-466) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish Accountability in Out-of-home Abuse and Neglect Investigations"

H.P. 968 L.D. 1314

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-459)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-459)**.

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

READ ONCE.

Committee Amendment "A" (H-459) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Establish the Commission To Identify the Opportunities to Decrease the Occurrence of Developmental Disabilities and Childhood Mental Health Challenges

H.P. 999 L.D. 1364

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-467)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-467)**.

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

READ ONCE.

Committee Amendment "A" (H-467) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act Regarding the Duties of a Personal Representative"

H.P. 102 L.D. 93

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-469)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-469)**.

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

READ ONCE.

Committee Amendment "A" (H-469) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act To Penalize a Person Who is Habitually Late Making Child Support Payments"
H.P. 952 L.D. 1298

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-476)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-476)**.

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

READ ONCE.

Committee Amendment "A" (H-476) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Resolve, Regarding Legislative Review of Rules for the Audio Recording of Planned Interviews of Children, a Major Substantive Rule of the Department of Human Services (EMERGENCY)
H.P. 1157 L.D. 1585

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-477)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-477)**.

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

READ ONCE.

Committee Amendment "A" (H-477) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act To Ensure Access to Intelligence and Investigative Information"
H.P. 1172 L.D. 1598

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-475)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-475)**.

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

READ ONCE.

Committee Amendment "A" (H-475) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LABOR** on Bill "An Act To Clarify Immunity and Workers' Compensation for Search and Rescue Volunteers"
H.P. 1054 L.D. 1435

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-452)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-452)**.

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

READ ONCE.

Committee Amendment "A" (H-452) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Update the Department of Defense, Veterans and Emergency Management Laws"
H.P. 1106 L.D. 1513

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-468)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-468)**.

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

READ ONCE.

Committee Amendment "A" (H-468) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Create the Maine National Guard Education Assistance Program"

H.P. 1126 L.D. 1533

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-455)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-455)**.

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

READ ONCE.

Committee Amendment "A" (H-455) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Facilitate the Implementation, Maintenance and Operation of the E-9-1-1 Emergency System"

H.P. 1042 L.D. 1423

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-451)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-451)**.

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

READ ONCE.

Committee Amendment "A" (H-451) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Enhance Electric Utility Consumer Protections"

H.P. 1169 L.D. 1595

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-426)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-426)**.

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

READ ONCE.

Committee Amendment "A" (H-426) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Sex Offender Registration and Notification Laws"

H.P. 1107 L.D. 1514

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-420)**.

Signed:

Senators:

HATCH of Somerset
CARPENTER of York

Representatives:

BUNKER of Kossuth Township
BLANCHETTE of Bangor
GERZOFKY of Brunswick
LESSARD of Topsham
GROSE of Woolwich
SNOWE-MELLO of Poland
GREELEY of Levant
MAIETTA of South Portland
SYKES of Harrison
CHURCHILL of Washburn

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

Signed:

Senator:

STRIMLING of Cumberland

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-420)**.

Reports **READ**.

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

On motion by Senator **DAVIS** of Piscataquis, 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 (#67)

YEAS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, TREAT, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senator: STRIMLING

ABSENT: Senator: EDMONDS

33 Senators having voted in the affirmative and 1 Senator having voted in the negative, with 1 Senator being absent, the motion by Senator **HATCH** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-420) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish the Full Right of Petition and Redress in Local School Board Decisions"

H.P. 162 L.D. 203

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

Signed:

Senators:
DOUGLASS of Androscoggin
BRENNAN of Cumberland
MITCHELL of Penobscot

Representatives:
DAVIS of Falmouth
FINCH of Fairfield

LEDWIN of Holden
NORTON of Bangor
THOMAS of Orono

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-460)**.

Signed:

Representatives:
CUMMINGS of Portland
GAGNE-FRIEL of Buckfield
ANDREWS of York
FISCHER of Presque Isle
MURPHY of Kennebunk

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

Reports **READ**.

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

Off Record Remarks

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Protect Health Care Practitioners Responding to Public Health Threats"

H.P. 623 L.D. 846

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-435)**.

Signed:

Senators:
PENDLETON of Cumberland
CATHCART of Penobscot
WOODCOCK of Franklin

Representatives:
NORBERT of Portland
BULL of Freeport
RICHARDSON of Brunswick
BENNETT of Caribou
MILLS of Farmington
SHERMAN of Hodgdon
CARR of Lincoln
DUPREY of Hampden
BRYANT-DESCHENES of Turner

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought to Pass as Amended** Report.)

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

Signed:

Representative:
SIMPSON of Auburn

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-435)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-435) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Require State Reimbursement When Laws or Rules Devalue Private Property"

H.P. 663 L.D. 886

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

Signed:

Senators:
PENDLETON of Cumberland
CATHCART of Penobscot

Representatives:
NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
RICHARDSON of Brunswick
BENNETT of Caribou
MILLS of Farmington
DUPREY of Hampden

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.)

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-437)**.

Signed:

Senator:
WOODCOCK of Franklin

Representatives:
SHERMAN of Hodgdon
CARR of Lincoln
BRYANT-DESCHENES of Turner

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

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Make Technical Changes to the Laws Concerning Tobacco Manufacturers"

H.P. 1104 L.D. 1511

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

Signed:

Senators:
PENDLETON of Cumberland
CATHCART of Penobscot
WOODCOCK of Franklin

Representatives:
NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
RICHARDSON of Brunswick
BENNETT of Caribou
MILLS of Farmington
SHERMAN of Hodgdon
CARR of Lincoln
BRYANT-DESCHENES of Turner

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought to Pass** Report.)

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

Signed:

Representative:
DUPREY of Hampden

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

Reports **READ**.

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

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Require Use of United States Citizens for Work with the Bureau of Parks and Lands"

H.P. 227 L.D. 284

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-402)**.

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

SMITH of Van Buren
HUTTON of Bowdoinham
HATCH of Skowhegan
PATRICK of Rumford
JACKSON of Fort Kent
WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

TREADWELL of Carmel
CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland

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-402)**.

Reports **READ**.

Senator **GAGNON** of Kennebec 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

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Change the Personnel Employed by the Commission on Governmental Ethics and Election Practices"
H.P. 106 L.D. 97

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-414)**.

Signed:

Senators:

GAGNON of Kennebec
LEMONT of York
MAYO of Sagadahoc

Representatives:

CLARK of Millinocket
GLYNN of South Portland
BROWN of South Berwick
MOORE of Standish
PATRICK of Rumford
BLANCHETTE of Bangor
CANAVAN of Waterville
JENNINGS of Leeds
HOTHAM of Dixfield

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

Signed:

Representative:

LANDRY of Sanford

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-414)**.

Reports **READ**.

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

On motion by Senator **DAVIS** of Piscataquis, **TABLED** until Later in Today's Session, pending the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Establish a Municipal Affordable Housing Development District Tax Increment Financing Program"

H.P. 635 L.D. 858

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-412).**

Signed:

Senators:

STANLEY of Penobscot
STRIMLING of Cumberland

Representatives:

LEMOINE of Old Orchard Beach
McGOWAN of Pittsfield
SUSLOVIC of Portland
McCORMICK of West Gardiner
SIMPSON of Auburn
PERRY of Bangor
LERMAN of Augusta

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

Signed:

Senator:

NASS of York

Representatives:

CLOUGH of Scarborough
COURTNEY of Sanford

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-412).**

Reports **READ.**

Senator **STANLEY** of Penobscot 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

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Allow Women Recovering from Childbirth To Be Issued Temporary Handicapped Parking Permits"

H.P. 766 L.D. 1049

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-409).**

Signed:

Senators:

HATCH of Somerset
SAVAGE of Knox
DAMON of Hancock

Representatives:

SAMPSON of Auburn
JODREY of Bethel
MARLEY of Portland
McNEIL of Rockland
COLLINS of Wells
USHER of Westbrook
MARRACHÉ of Waterville
PARADIS of Frenchville

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

Signed:

Representatives:

McKENNEY of Cumberland
BROWNE of Vassalboro

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-409).**

Reports **READ.**

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

On motion by Senator **BENNETT** of Oxford, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Same Senator moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE.**

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

Senator **BENNETT:** Thank you, Madame President. If this bill passes, it is my understanding that we will be singling out a particular condition for the definition of handicapped so that people with that condition will be automatically entitled to handicapped parking permits. I think currently women recovering from childbirth can be issued temporary handicapped parking permits, according to the current system. I see no reason to start the snowball of listing particular conditions to give people handicapped parking permits. People who have that condition may, in fact, not need the handicapped parking permit. If they don't, they will be taking spaces from people with legitimate need for those spaces. So I encourage you to vote to indefinitely postpone.

Senator **BENNETT** of Oxford requested a Roll Call.

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise today to ask you to vote against the indefinite postponement of this bill. All this does is require that a notice be sent out to the hospitals and so forth stating that women, indeed, can get these permits to park in these parking places. Many times women don't need them. I was one of those fortunate ones that didn't. Although I had a lot of help after my pregnancies, there are some women out there who don't. As a matter of fact, during the time when I was having my children, there were no handicapped parking places. We all took our chances. This is only for those women that maybe had a C-section. There seems to be a lot more of those going on out there. I don't know if anybody here, especially members of the other gender, have ever had a C-section, but I can tell you it's not a pleasure. Therefore, I ask that you vote against the indefinite postponement. Thank you.

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 PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Bennett to Indefinitely Postpone the Bill and accompanying papers. 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 (#68)

YEAS: Senators: **BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LAFOUNTAIN, LEMONT, MITCHELL, NASS, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD**

NAYS: Senators: **BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, MARTIN, MAYO, PENDLETON, ROTUNDO, SAVAGE, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT**

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, FAILED**.

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

READ ONCE.

Committee Amendment "A" (H-409) **READ** and **ADOPTED**, in concurrence.

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

(See action later today.)

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Authorize a Pilot Project To Allow Commercial Vehicles at Canadian Weight Limits Access to the Woodland Commercial Park in Baileyville"

H.P. 1147 L.D. 1565

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-410)**.

Signed:

Senators:

HATCH of Somerset
DAMON of Hancock
SAVAGE of Knox

Representatives:

USHER of Westbrook
PARADIS of Frenchville
MARRACHÉ of Waterville
SAMPSON of Auburn
McKENNEY of Cumberland
COLLINS of Wells
McNEIL of Rockland
BROWNE of Vassalboro
MARLEY of Portland

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

Signed:

Representative:

JODREY of Bethel

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-410)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-410) **READ** and **ADOPTED**, in concurrence.

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

Senate

Ought to Pass As Amended

Senator PENDLETON for the Committee on **JUDICIARY** on Bill "An Act to Increase Courthouse Security"

S.P. 110 L.D. 328

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-215)**.

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

READ ONCE.

Committee Amendment "A" (S-215) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Senator PENDLETON for the Committee on **JUDICIARY** on Bill "An Act To Protect Campers by Making Personal Information Confidential"

S.P. 467 L.D. 1419

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-216)**.

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

READ ONCE.

Committee Amendment "A" (S-216) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Improve the State's Returnable Bottle Law and Adjust Handling Fees"

S.P. 326 L.D. 985

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-217)**.

Signed:

Senators:

BROMLEY of Cumberland
HALL of Lincoln

Representatives:

SULLIVAN of Biddeford
O'BRIEN of Lewiston
DUPREY of Medway
PELLON of Machias
SMITH of Monmouth
JACOBSEN of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-218)**.

Signed:

Senator:

SHOREY of Washington

Representatives:

AUSTIN of Gray
BERUBE of Lisbon
RECTOR of Thomaston
ROGERS of Brewer

Reports **READ**.

Senator **BROMLEY** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-217)** 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 TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-217)** Report.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Approve Public Charter Schools in Maine"

S.P. 461 L.D. 1391

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

Signed:

Senators:

DOUGLASS of Androscoggin
BRENNAN of Cumberland
MITCHELL of Penobscot

Representatives:

CUMMINGS of Portland
GAGNE-FRIEL of Buckfield
FINCH of Fairfield
NORTON of Bangor
THOMAS of Orono
FISCHER of Presque Isle
DAVIS of Falmouth
LEDWIN of Holden

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-219)**.

Signed:

Representatives:

MURPHY of Kennebunk
ANDREWS of York

Reports **READ**.

Senator **BRENNAN** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **WOODCOCK** of Franklin, 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 (#69)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **BRENNAN** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

Divided Report

Five members of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Change the Name of the Augusta Mental Health Institute to 'Riverview Psychiatric Center'"

S.P. 525 L.D. 1562

Reported in Report **"A"** that the same **Ought to Pass as Amended by Committee Amendment "A" (S-208)**.

Signed:

Representatives:

EARLE of Damariscotta
CRAVEN of Lewiston
KANE of Saco
CURLEY of Scarborough
WALCOTT of Lewiston

Two 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" (S-209)**.

Signed:

Representatives:

LEWIN of Eliot
LAVERRIERE-BOUCHER of Biddeford

One member of the same Committee on the same subject reported in Report **"C"** that the same **Ought to Pass as Amended by Committee Amendment "C" (S-210)**.

Signed:

Senator:

BRENNAN of Cumberland

Reports **READ**.

Senator **BRENNAN** of Cumberland moved the Senate **ACCEPT** Report **"C"**, **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (S-210)**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report **"C"**, **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (S-210)**.

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:

**Pursuant to Constitution
Public Land**

Resolve, Authorizing the Transfer of Land from the State to Maine School Administrative District No. 16

H.P. 1136 L.D. 1550
(C "A" H-388)

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 35 Senators having voted in the affirmative and no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** 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 Improve the Administration of the Baxter Compensation Program

S.P. 263 L.D. 768
(C "A" S-164)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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 Concerning Storm Water Management

S.P. 529 L.D. 1570
(C "A" S-151)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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 To Protect the Small Forest Landowners

S.P. 500 L.D. 1500
(C "A" S-162)

An Act To Promote and Monitor Competition in the Solid Waste Industry

S.P. 507 L.D. 1515
(C "A" S-163)

An Act To Protect Plaintiffs and Minor Children in Certain Civil Protection Order Cases

S.P. 527 L.D. 1568
(C "A" S-165)

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 Implement the Recommendations of the Task Force on Rail Transportation and Correct an Inconsistency

S.P. 208 L.D. 599
(C "A" S-136; H "A" H-400)

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

An Act To Clarify When Notice is Effective to Terminate a Tenancy at Will

H.P. 729 L.D. 1008

On motion by Senator **STRIMLING** of Cumberland, **TABLED** until Later in Today's Session, 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 To Reimburse the State Poet Laureate and To Provide Access to the State Poet Laureate's Services

H.P. 93 L.D. 84
(C "A" H-392)

An Act to Clarify the Definition of Livestock

H.P. 140 L.D. 181
(C "A" H-377)

An Act to Elevate the Standards of Foster Parenting in the State
H.P. 194 L.D. 239
(C "A" H-399)

An Act To Promote Consistent Protection of the State's Waters
H.P. 200 L.D. 245
(C "A" H-378)

An Act To Protect Health Care Workers Who Report Medical Errors
H.P. 526 L.D. 720
(C "A" H-396)

An Act To Amend the Maine "Lemon Law"
H.P. 664 L.D. 887
(C "A" H-382)

An Act Concerning Municipal Firearms Discharge Ordinances
H.P. 781 L.D. 1063
(C "A" H-321)

An Act To Encourage Hunting by Simplifying Hunting Laws
H.P. 801 L.D. 1083
(C "A" H-391)

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 Ban Smoking in Beano and Bingo Halls
H.P. 186 L.D. 227
(H "B" H-309)

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.

On motion by Senator **TURNER** of Cumberland, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Ordered)

An Act To Change the Options for a Lobster Management Zone and To Change Entry Criteria for Noncommercial Licensees
H.P. 520 L.D. 703
(C "A" H-375)

On motion by Senator **CATHCART** of Penobscot, 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 To Amend the Laws Regarding Junkyards, Automobile Graveyards and Automobile Recycling Businesses
H.P. 1002 L.D. 1367
(C "A" H-381)

An Act To Clarify the Timber Harvesting Notification Requirements
S.P. 463 L.D. 1407
(H "A" H-385)

An Act To Create the Scallop Advisory Council and the Scallop Research Fund
H.P. 1039 L.D. 1416
(C "A" H-374)

An Act To Amend the Forester Law
H.P. 1063 L.D. 1455
(S "A" S-156)

An Act To Amend Maine's Arborist Licensing Laws
H.P. 1068 L.D. 1463
(C "A" H-386)

PASSED TO BE ENACTED and having been signed by the President were 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 To Protect Maine Consumers from Hidden Fees and Charges
H.P. 1084 L.D. 1479
(C "A" H-394)

An Act To Amend the Motor Vehicle Laws
H.P. 1113 L.D. 1520
(C "A" H-371)

An Act To Reclassify Certain Waters of the State
H.P. 1121 L.D. 1529
(C "A" H-373)

An Act To Amend Certain Provisions Relating to a Permit To Carry Concealed Firearms To Be Consistent with Changes to the Statute Relating to Possession of Firearms by Prohibited Persons
H.P. 1132 L.D. 1546

An Act To Amend the Laws Concerning State Board of Alcohol and Drug Counselors

H.P. 1142 L.D. 1559

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Require State Reimbursement When Laws or Rules Devalue Private Property"

H.P. 663 L.D. 886

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-437)** (4 members)

Tabled - May 21, 2003, by Senator **TREAT** of Kennebec

Pending - motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

(In House, May 20, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 21, 2003, Reports **READ**.)

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#70)

YEAS: Senators: BENNETT, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, SAVAGE, STANLEY, STRIMLING, TREAT, TURNER, WESTON, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BLAIS, DAMON, DAVIS, GILMAN, KNEELAND, NASS, SAWYER, SHOREY, WOODCOCK, YOUNGBLOOD

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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 Require Use of United States Citizens for Work with the Bureau of Parks and Lands"

H.P. 227 L.D. 284

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-402)** (8 members)

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

Tabled - May 21, 2003, by Senator **GAGNON** of Kennebec

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

(In House, May 20, 2003, 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-402)**.)

(In Senate, May 21, 2003, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I'd like to give you a little outline of what this bill is about, and hopefully, you will join me in the Ought to Pass as Amended report. What this bill is trying to do is make sure that US workers get to be the ones who cut trees in Maine woods. It is pretty simple. What it does is clarify that the application of the United States citizenship requirement and adds hauling to the list of activities that may be performed only by United States citizens. It clarifies that the citizens requirement does not apply to corporations and other legal entities, but it does prohibit those entities from employing persons who are not United States citizens to cut, skid, or haul timber on or from public reserve lands or non-reserve public lands under any contract or permit. In other words, this has to do with cutting, skidding, and hauling. It does not have anything to do with brush hauling. There can be other companies. There are Canadian companies who work in the north woods, but this would say to them that they have to hire US citizens to do this work.

As you probably have heard many times, one of the problems for US workers in the northern woods is that Canadian workers can be hired at a cheaper rate because they already have health care and we don't. Sometimes we do, but we might not. It makes for an unfair playing field. This is an attempt to redress this wrong. I hope you will join me on the majority Ought to Pass as Amended report. Thank you.

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

Senator **BLAIS:** Thank you very much, Madame President and fellow members of the Senate. I would like to point out that there is a prevailing wage law that does attempt, although it is imperfect, to protect the wages of American workers. This bill sounds like a reasonable measure on its face. Quite frankly, I agree with the title of the bill. My concern is that the underlying purpose of the legislation is to drive up wages for American loggers and haulers at the expense of conservation. It should be noted that the Department of Conservation is required to seek American workers before hiring Canadian workers. There is a waiver process in effect. I think we also heard reasonable testimony that the waiver process is imperfect. The Department of Conservation and others say there simply are not enough American workers to meet the needs of the department.

There is a fiscal note on this, since the department claims that this requirement will reduce its ability to harvest lumber and maintain the land. The fiscal note indicates a potential cost loss to the Department of Conservation of a quarter of a million dollars a year.

I would request a division, Madame President. While I support the desire of Maine workers to maintain their standard of living, I am concerned that the cost will severely hamper conservation efforts in the Maine woods. I would ask you to join me in opposing the motion on the floor. Thank you very much.

Senator **BLAIS** of Kennebec requested a Division.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Let me just begin from another starting point. The present law, basically, allows that the Bureau of Public Lands to get two sets of bids for someone who wants to contract to remove wood. One is based on the assumption that the wood will be sold to Maine mills. The second one is if it was sold to foreign mills. Guess who wins? It is the wood that will be going to foreign mills, being sold to Canada, who ends up winning the bid. It's more than simply who gets the work. In addition to who gets the work, it's also who gets the wood.

I find it ironic that people would argue that we don't have enough workers to cut the wood. There are plenty there. The problem is that when someone gets the high price to get it to Canada, what happens is that it is then an incentive to use the bonded labor rate. The bonded labor rate set by the Department of Labor actually is insufficient in order to attract people to work in those areas. I would point out that the areas we are talking about are the areas in northern Piscataquis, Somerset, Penobscot, and Aroostook. Those are the areas and they are on state land.

For those who argue that it's going to hurt the environment, you need to know that the amount of cut that is presently being done on public lands is actually about a 50% cut as opposed to if you were privately doing the cut, when you'd be doing somewhere around 65% of the fossil base cut. So it is a misnomer to say that they are going to lose money. Part of the problem is the way in which they handle it.

The situation to me is very simple. We have an opportunity in which we can keep more Maine people working. That is all it is. It would seem ironic that we would then choose to want to

give it to a contractor who is not from this country, who would give it to bonded laborers who are not from this country. They then take the money home, which is paid in American funds. They divert it to Canadian funds that is, at this time, 66¢ to the dollar and get about \$1.50 for it on the Canadian side. Not having to worry about Workers' Comp. Not having to worry about health insurance. What a deal. It's too bad we can't make that deal in reverse. I certainly urge you to accept the majority Ought to Pass report.

Senator **MARTIN** of Aroostook requested a Roll Call.

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

Senator **TURNER:** Thank you, Madame President. May I pose a question through the chair?

THE PRESIDENT: The Senator may pose his question.

Senator **TURNER:** Actually I'd like to pose two.

THE PRESIDENT: The Senator may pose his questions.

Senator **TURNER:** Thank you, Madame President. Question one, as I listened to the good Senator from Cumberland, Senator Edmonds, speak; if the bill passed as you suggest, could one not subvert the bill by creating an LLC, and therefore, becoming an limited liability corporation even if the corporation only has one individual? That would be question number one.

Secondly, you are talking about subsidization of workforce across boundaries of Canada and the United States. Does that not fall under the purview of NAFTA? Would that not be an appropriate place in which to try to redress the subsidization of which you speak? Thank you.

THE PRESIDENT: The Senator from Cumberland, Senator Turner poses two questions through the Chair to anyone who may wish to answer. The Chair recognizes the Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I appreciate the good Senator from Cumberland, Senator Turner's question regarding NAFTA. We had our analyst extensively investigate this question. All her investigation, and you know how diligent she is, yielded no place where it was clear that NAFTA could deal with this at all. They talked to people in Washington. While they might think it was a little unorthodox, they were clear that they would take no position here. We felt that we were on solid ground to go forward.

May I continue, Madame President? I just wanted to respond to one more thing. The question has been raised about whether or not there would be enough US workers to, in fact, fill these jobs. All I can say to you is that we had our entire committee room filled with haulers who drove down here from Aroostook, who were incredibly eloquent about the fact that they wanted these jobs. I understand that the Department of Conservation has concerns, but weighing that out, it didn't look that way to me. Thank you.

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

Senator **BLAIS**: Thank you, Madame President. I would like to attempt to answer the first question of the good Senator from Cumberland, Senator Turner. My understanding, in terms of the wording of the legislation, is that it would apply to any company, any LLC, that hires individuals who are not US citizens. So if there is an individual who is not a US citizen that is in the mix, that company would not be able to bid on the contract.

If I may continue, Madame President? With due respect to the good Senator from Aroostook, Senator Martin, and I appreciate the comments. Quite honestly, I've never been up there and I don't know. I do want to believe what the departments of our state government say to us. I'd like to read the fiscal note on this, which is prepared by the Office of Fiscal and Program Review, which says that not allowing the Department of Conservation to contract with certain workers for timber harvesting will result in the estimated loss of other special revenue funds in the amounts of \$168,750 this year and \$225,000 in fiscal years 2004 and 2005 respectively. If the department is not successful in hiring additional timber cutting crews that are composed of US citizens, the revenue loss could be significantly more and the amounts cannot be determined at this time.

The testimony that we heard in regard to whether there are enough workers or not came from the Department of Conservation. Thank you very much.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. I'm always intrigued by the departments who chose to add fiscal notes when they don't want something. I'm pleased to see that the good Senator from Kennebec, Senator Blais, will always believe the department on their fiscal notes in the future. I don't believe them now and will not believe them in the future.

This is the same department who informed me that they could not find bilingual individuals to work along the border for forest fire protection 20 years ago. It's amazing that, once the law made it clear that they had to, they found them and have them.

In reference to the first question from the good Senator from Cumberland, Senator Turner, pertaining to the word 'individual.' Even though I'm not an attorney and practice all the time without a license, to my understanding in law applies to both; all corporations, LLC, and everything else. That is the way the law is written.

In reference to the other factor as to whether or not it applies to NAFTA, when we created this law, which was an attempt in the double standards that were established as to whether or not you were going to have one contract or the other, the department was going to go out for bids on both. There was a contract for whether or not the wood was going to be taken outside of the country or kept within the country. That is part of the state law now. We went to the Attorney General's Office a number of years ago and they ruled that this was not a problem because it was actually Maine land, owned by the state. It is no different than if it were own by an individual. You could choose to sell it wherever you wanted to.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON**: Thank you, Madame President, men and women of the Senate. I think this is one of those defining issues in which we, as a state, have to determine what our values are going to be. We are not in a position where we want to hire children to do work for the state. We don't want to hire people and pay them very low wages. This is one of those defining moments in which it is important for us to say that our citizens are going to come first. We are the legislature of the State of Maine. We know that most of the jobs that we are talking about are Maine jobs. This is just one of those issues that I feel strongly about. The state has to set a standard for itself because it is very difficult for us to start demanding standards of other companies and other people when the state doesn't establish certain values for itself. Thank you.

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

Senator **LAFOUNTAIN**: Thank you, Madame President. May I pose a question through the chair?

THE PRESIDENT: The Senator may pose his question.

Senator **LAFOUNTAIN**: Thank you. To anyone who may answer, in reviewing this amendment, I was reminded of the fact that, when I was in high school, I was surprised to learn that several of my classmates, who had lived in Biddeford for 13 or 14 years, were actually not US citizens. My question is, since this bill appears to be Aroostook County specific, did the committee consider how many residents of Aroostook County, who are currently involved in this industry, may be precluded from future employment if this passes?

THE PRESIDENT: The Senator from York, Senator LaFountain poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN**: Thank you very much, and thank you for the question. I will begin with the last work that we did on the question of who is a citizen or not a citizen. I deal with that every so often because I do, as some of you may understand, a lot of campaigning from time to time. This is one of the things that we have been involved in during the last number of years since the federal law got changed. There are very few people now living in the St. John Valley that are not citizens. We've made an effort to make them citizens. There was a time when Canada did not recognize dual-citizenship. So many of them refused to become American citizens due to the fear of losing their rights in Canada. What has happened, under the Canadian law that was passed, I want to say 10 years ago, is that Canada now recognizes dual-citizenship. I would like to say that in the last 10 years we've probably have done 2,000 citizenships. You may find that ironic, but it's one of the ways in which we can get people to become Democrats in the St. John Valley. So you can rest assured that it's worked very well.

To answer your question specifically, and to the point, I would say there are none. If there are any, let me know and I'll take care of them.

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

Senator **BENNETT**: Thank you, Madame President and fellow members of the Senate. I rise merely to inform the Senate, and particularly the Senator from Aroostook, Senator Martin, that, in fact, fiscal notes are, in fact, not done by the departments. They are done by the non-partisan legislature Office of Fiscal and Program Review. It is regrettable to have that office's work demeaned in the debate here today.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Kennebec, Senator Gagnon 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 (#71)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, PENDLETON, ROTUNDO, SAWYER, STANLEY, STRIMLING, TREAT, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, GILMAN, MITCHELL, NASS, SAVAGE, SHOREY, TURNER, WESTON, WOODCOCK

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-402) **READ** and **ADOPTED**, in concurrence.

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

Senator **HATCH** of Somerset moved the Senate **RECONSIDER** whereby it **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence, the following:

Bill "An Act To Allow Women Recovering from Childbirth To Be Issued Temporary Handicapped Parking Permits"

H.P. 766 L.D. 1049
(C "A" H-409)

(In House, May 20, 2003, 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-409).**)

(In Senate, May 21, 2003, Reports **READ**. On motion by Senator **HATCH** of Somerset, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence. On motion by Senator **BENNETT** of Oxford, **RECONSIDERED**. Motion by same Senator to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, FAILED**. On motion by Senator **HATCH** of Somerset, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-409) **READ** and **ADOPTED**, in concurrence. Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

On motion by Senator **HATCH** 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 Hatch.

Senator **HATCH**: Thank you, Madame President. I request that people who care about this bill will vote against the reconsideration. Thank you.

On motion by Senator **WOODCOCK** of Franklin, **TABLED** until Later in Today's Session, pending the motion by Senator **HATCH** of Somerset to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence. (Roll Call Ordered)

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/6/03) Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Keep Foster Children Safe and Healthy"

H.P. 63 L.D. 55

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-170)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 6, 2003, by Senator **BRENNAN** of Cumberland

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

(In House, May 5, 2003, 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-170) AS AMENDED BY HOUSE AMENDMENT "B" (H-240)** thereto.)

(In Senate, May 6, 2003, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-170) **READ**.

House Amendment "B" (H-240) to Committee Amendment "A" (H-170) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-170) as Amended by House Amendment "B" (H-240) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-170) AS AMENDED BY HOUSE AMENDMENT "B" (H-240)** thereto, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/9/03) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act To Amend the Laws Governing Wage and Benefit Records Kept by Contractors Working on Public Works Projects"
H.P. 281 L.D. 361

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-93)** (8 members)

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

Tabled - May 9, 2003, 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 8, 2003, 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-93)**.)

(In Senate, May 9, 2003, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-93) **READ**.

On motion by Senator **BLAIS** of Kennebec, Senate Amendment "A" (S-126) to Committee Amendment "A" (H-93) **READ**.

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

Senator **BLAIS:** Thank you very much, Madame President. The majority report committee amendment for this bill is for organized labor, which continues to complain and assert, with no empirical evidence, that merit shop contractors are violating prevailing wage rules on public works projects. As first drafted, it would have forced contractors to maintain wage and benefit records on every job site, with the public authority that let the contract, and would have allowed anybody to walk onto the job site and demand to see the records. The majority amendment has toned it down a bit by limiting job site access to the Bureau of Labor Standards and the contracting public authority. Although it also provides access to a public authority's agents, whenever or whoever they may be, it also changes the status of the public records and suggests each authority maintain the records, adopt rules to protect social security numbers, but does not specify other private information that must be protected. The way things work now, wage and benefit information is kept at the job site. The Bureau of Labor Standards can check records anytime to insure compliance.

The changes are designed to permit labor representatives to act vigilantes, with permission to pour through the personal wage and benefit records of employers and their employees while searching for violations. Exposing the wage and benefit information beyond the Bureau of Labor Standards, which is responsible for enforcing the prevailing wage, has the potential to undermine the competitive bidding process, since many employers pay more than the prevailing wage, and their competition would not be able to collect that information and use it to formulate a winning bid.

The majority amendment expanded the reach of the legislation at the same time that it toned down some areas. Where the section once demanded reporting of wage and benefit information, it now demands reporting of all forms of remuneration, whatever that may mean. It also now demands that contractors must be responsible for reporting remuneration, not just for the employees, but also for all sub-contractors and even independent contractors.

We heard from two state agencies. The Bureau of Labor Standards testified that its staff is perfectly capable of enforcing prevailing wage standards. They provided enforcement data indicating there is no rampant violations of reporting requirements of prevailing wage standards, as asserted by the union officials that want to get access to this information. The Director of the Bureau of General Services testified in opposition to the legislation, stating that few public agencies have the time or resources to store and maintain the wage and benefit information, let alone manage the public record process and provide services to union officials who presumably would be demanding to review all of those records.

Men and women of the Senate, this legislation has the potential to undermine the integrity of the competitive bidding process. It unfairly makes general contractors responsible for reporting wage and benefit information for independent contractors. It places an unnecessary paperwork burden on systems and on state agencies. It potentially exposes the private information of employees and allows untrained and unrestrained

activists to interfere with the enforcement work better trusted to the state's own Bureau of Labor Standards. This would allow members of organized labor to engage in fishing expeditions.

The amendment that I bring before you, at this time, preserves the majority amendment change to L.D. 361 in wage and benefit reporting records that makes such records public information. It continues to provide that such records will be maintained by the contracting public agency. It does clarify several sections that could prove to be unworkable and also provides stronger language to protect the privacy of employees. First, it clarifies that the law pertains to wage and benefit information because that is, after all, the title of this section of the law. It strikes the vague reference to remuneration. Second, it provides that contractors and sub-contractors are responsible for wage and benefit reporting only for their own employees. Third, it specifically states that public contracting agencies must adopt rules that specifically protect names, addresses, telephone numbers, social security numbers, and taxpayer identification numbers of persons indicated in the wage and benefit records. I urge you to please support Maine's many small business contractors and their employees with you vote in favor of this amendment. Thank you very much.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I would urge you to reject the amendment put before you at the moment. I think the clearest thing I can say to you is that, when they were questioned, the Department of Labor acknowledges that they have not had any complaints. However, they only have 3 people for the entire state who would investigate and it's very difficult to make a complaint. You can only be a person who is presently working on a job and having a complaint. If you are person who is presently working on a job, you don't want to jeopardize the job that you have. So it puts you in an untenable situation in terms of making a complaint.

The amendment that is before us, I think, does not serve to get to the question that is trying to be gotten to, which is making sure that everybody who is hired for public works contracts is, in fact, paying workers' compensation, paying health care, and all the things that we want to make sure our workers, in the State of Maine, are getting and being protected by.

I urge you to reject the pending amendment. Thank you.

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

Senator **BLAIS:** Thank you very much, Madame President. With all due respect to the good Senator from Cumberland, Senator Edmonds, I don't believe that health care is part of the prevailing wage standards and the wage and benefit information that the Bureau of Labor Standards is attempting to enforce. I would also like to read to you from the testimony from the Bureau of Labor Standards with respect to the work that those three enforcement officers are conducting. Of the 124 projects in which the bureau knew that contracts had been awarded, these are public works projects, 29 inspections, or nearly 25%, of the projects were audited. There were no violations found in 16 of the inspections. In five a violation was found for failure to post the prevailing wage rates. Four inspections yielded unsubstantiated and invalid complaints, so we know there are people who are complaining

and are not afraid to complain. Two inspections resulted in the contractor conducting a self-audit and correcting wage errors. Contractors do make mistakes, not everything that they do is designed to exploit the workers. One inspection revealed that the contractor had the wrong wage determination and it was corrected. The remaining two inspections validated complaints and resulted in appropriate wage recovery. So out of 29 inspections, there was one problem that was found. It sounds to me like the three enforcement officers are doing their job, are perfectly capable of doing their job. We do not need to deputize a vigilante force to go through the public records and the private information of Maine workers and employers to enforce the wage and benefit prevailing wage laws. Thank you very much. I would hope you would support the amendment on the floor.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Blais to Adopt Senate Amendment "A" (S-126) to Committee Amendment "A" (H-93).

The Chair ordered a Division.

On motion by Senator **WOODCOCK** of Franklin, 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 (#72)

YEAS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

NAYS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, MAYO, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **BLAIS** of Kennebec to **ADOPT** Senate Amendment "A" (S-126) to Committee Amendment "A" (H-93), **FAILED**.

Committee Amendment "A" (H-93) **ADOPTED**, in concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/9/03) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act Regarding Wrongful Discharge"

H.P. 820 L.D. 1117

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-265) (8 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-266) (5 members)

Tabled - May 9, 2003, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-265)** Report, in concurrence

(In House, May 8, 2003, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-265)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-265).**)

(In Senate, May 9, 2003, Reports **READ.**)

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

Senator **BLAIS:** Thank you, Madame President. The ostensible rationale for this legislation is to ensure that Maine workers are aware that Maine is an at-will state, like most of the rest of the nation. It demonstrates the author's complete misunderstanding of the purpose of employer policy manuals, especially for small businesses. Large employers can afford to have attorneys to draft policy manuals. Maine's small businesses cannot. When they do create manuals, they typically provide information about things like dress codes, work habits, holidays, and other benefit information, not detailed legal language regarding the process for discharge. This bill would force many small businesses, who cannot afford to hire attorneys, to abandon policy manuals altogether. It further creates an unmanageable condition, since it requires employers, whose manuals do not take into account the at-will statement, to discharge employees only according to written procedures in their manuals. The question I pose is, what if they have no such procedures in their manuals?

Maine already provides a clear means to make employees aware of our state's at-will status. A poster must be posted in clear view of employees for every employer in our state. I'm certain that you've all seen them. If it is important public policy to make absolutely sure employees understand their at-will status, let's make the font size of that at-will statement on the poster big enough so no one could miss it. I urge you to oppose this unmanageable legislation by voting against the motion on the floor so that we may go on to pass the more reasonable minority report.

I would also add that I appreciate the thought behind the bill in terms of making the at-will status clear to employees, but I would also point out that at-will status is a two way street. Employees have an opportunity to leave a business anytime that they like. There is no requirement in our law that prevents

employees from reimbursing a business for an investment that it's made in that employee. I can tell you from personal experience that businesses place a high value on their employees and that they do make considerable investments in employees. Yet employees can leave at any time. I think that this bill before us sends a bad message to Maine businesses. It increases the impediments on doing business in this state and continues to increase the perception that our state is an unfriendly place to small businesses. I would very much hope that you will join me in voting against this. Thank you very much.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I just want to point out that we heard testimony that the single most asked question when people who have lost their job calls is, 'can they do that?' I believe we heard testimony or else I just heard this by talking to folks at the Department of Labor. No, it was the Unemployment Compensation Commission and other folks who work at the Career Centers. It is a reasonable question. Have they broken some kind of law? I guess I bring this up just to point out that many people do not understand their at-will status in this state. It's unfortunate. I don't suppose anybody's trying to keep it from them. I don't think this is a mass conspiracy. I just think it's a fact. We are trying to figure out as many ways as possible to give employees the information that this is an at-will state and they can be fired at any point in time, except for those violations that are protected by the Human Rights Act. So it's pretty straightforward. Thank you.

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

Senator **BLAIS:** Thank you, Madame President. Our state has a excellent way of notifying employees of all kinds of information about their work status. I'm sure you've all seen the plethora of posters that are posted at every employer location in this state. They are mandatory. There is a poster that deal with the at-will status. If the concern is that the employees are not reading the posters, let's make that at-will statement big enough so that they can see it. I think that it is bad public policy, and we heard from the Department of Labor on this, that the courts in this state have consistently ruled that employee manuals are not contracts. What this legislation does is try to turn employee manuals into contracts.

What will happen if some Mom and Pop store, because they didn't have an attorney draft this thing and didn't read Maine law, goes ahead and produces a small employee manual that deals with benefits, vacation, and whether you should chew gum or not, but doesn't deal with discharge and termination? This poses an unfair burden on those employers and it's unmanageable. It says that if there is not an at-will status, they must be discharged according to policies and procedures that are defined in the manual. I've got to tell you very few small employers in this state put those kinds of procedures in their manuals. How do we even manage this law? How do we carry this law out? I can't answer that question. I wish somebody could answer that question for me. I think it's an unmanageable law. I would urge you to vote against the motion on the floor and go on to pass the minority Ought to Pass report. Thank you.

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

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 by Committee Amendment "A" (H-265) 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 (#73)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, MARTIN, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LAFOUNTAIN, LEMONT, MAYO, MITCHELL, NASS, PENDLETON, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-265)** Report, in concurrence, **FAILED**.

On motion by Senator **EDMONDS** of Cumberland, **TABLED** until Later in Today's Session, pending **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-266)** Report, in **NON-CONCURRENCE**.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/14/03) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Protect Public Safety Using DNA Data of Juvenile Violent Offenders" H.P. 300 L.D. 380

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-313)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - May 14, 2003, by Senator **STRIMLING** of Cumberland

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

(In House, May 13, 2003, 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-313)**.)

(In Senate, May 14, 2003, Reports **READ**.)

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

Senator **CARPENTER:** Thank you, Madame President, ladies and men of the Maine Senate. This bill has, pretty much, now turned into the committee amendment. It isn't the original bill. This is what we are debating. I urge you not to vote for the Ought Not to Pass report. It's coming out of the Criminal Justice Committee at 11 in favor of acceptance and 2 for the Ought Not to Pass. I think what I want to say on this item is that it's coming out of the Criminal Justice Committee and it would be absolutely criminal if you did not pass this bill.

This amendment to the bill narrows the scope of subjecting of juveniles to DNA testing. If the juvenile is committing a specific juvenile crime that if committed by an adult would constitute an offense listed in the Maine Revised Statutes, this change would subject the juvenile to DNA testing for only the most violent crimes. This list is more limited than the list of crimes for which adults must submit to DNA testing. This amendment also allows for the collection of biological samples instead of only blood draws for DNA testing. The process for collection of biological samples, other than blood draws, is less complicated, less expensive, and less invasive. This change would apply to both juveniles and adult offenders subject to DNA testing.

The crimes that juveniles could be tested for are: murder, felony murder, manslaughter, aggravated assault, elevated aggravated assault, gross sexual assault, unlawful sexual contact, kidnapping, criminal restraint, burglary, robbery, arson, aggravated criminal mischief, and causing a catastrophe. These also have the support of a number of coalitions. The Maine Coalition Against Assault supports this bill in its present form and Criminal Law Advisory Commission also helped us with it. I urge you, when the vote is taken, to pass Ought to Pass and eliminate the Ought Not to Pass. Thank you.

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

Senator **DOUGLASS:** Madame President, men and women of the Senate, I rise because I have some serious concerns with both reports on this particular issue. Generally, I am not in favor of gathering evidence that is then going to be used to solve crimes in the future. However, I guess my one exception to that is with regard to crimes of a sexual nature where the evidence is often so small and so hidden. I would to explain more about that in the future.

I do have some problems with the particular report that is at issue here at the moment. For instance, a juvenile who's adjudicated to have committed, for instance, criminal mischief, which could be something rather small and rather juvenile, would then have their DNA in a data base forever. I also, if need be, will speak to the other more major crimes.

At this point, I would like to urge the body to reject the Ought Not to Pass report so that we can go on to accept the majority report. I have some further additions to that report if we get to that stage. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I rise today to urge my colleagues to vote for the majority Ought Not to Pass report. Over a century ago, in this country and in this state, we decided we were going to treat juveniles differently than we treat adults. We decided that when we send kids to prison, they should be treated differently because developmentally they are at a different place. What today's bill does, unfortunately, is begin to cross the line where we begin to treat those kids like adults. What this bill would do is if some 12 year old kid happens to be hanging out with the wrong group of kids and gets busted for breaking and entering or robbery, that kid's DNA will be in a data bank for the rest of their life.

The reason that we, in this country, decided to treat children differently than adults is because we believe in giving people a second chance. We say to kids that, up until they reach 18 years old, you make mistakes. We understand they make mistakes. At age 18, we will erase the record and they can start again. I work with these juveniles. I work with these kids. I work with kids in the Maine Youth Center. It is imperative, in our conversations with those kids, that we say to them, 'you will have a second chance at age 18, I assure you your record will be erased.' Developmentally, emotionally, and psychologically for that kid it is important to know that they can turn it around. If we are now looking those kids in the face and saying, 'I'm sorry, it's not going to be erased, your DNA is going to be in a data bank, they can follow you for the rest of your life. If you trip up again, it will all come back to you.' It's going to do damage. They are not going to be able to move on. They are going to say, 'why don't I just stay in the life I've been leading already?'

I'd remind my colleagues that two years ago, overwhelming, both bodies took juveniles out of the law. When the DNA law was put in place in the 119th, the next session it was realized it was too much to do to kids. We took it out, overwhelmingly, the committee and both bodies. I would encourage you to please vote for the minority Ought Not to Pass report. There is a reason we treat children differently in this country. It's important that we continue that tradition. My fear is that if you tell kids that they are criminals as a child, they are going to be a criminal for the rest of their life. They will remain a criminal. Let's give them a second chance. Thank you.

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

Senator **SHOREY:** Thank you, Madame President, men and women of the Senate. I rise today to speak this. I agree with the good Senator from Cumberland, Senator Strimling. They do need a second chance. Juveniles should not be treated as adults in correctional facilities. However, at 18, their slate will be wiped clean and I'm not willing to give them a second chance of not getting caught again. That is what I look at this as. If they are not going to commit another crime, there is no problem. There is no problem with having that DNA on record. Again, let's give them a

second chance, but not a second chance at getting away with another crime. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I would urge you to vote against the motion on the floor by the Senator from Cumberland, Senator Strimling. I would ask the Senator to consider the power of DNA. It's actually a wonderful tool. It gives us the option of letting things cut both ways. We have prisons in this country, death chambers, and death rows. Many of the people on those death rows have been exonerated because DNA evidence has proven, in fact, that they were innocent.

The reality, regrettably, is that many young violent offenders, juveniles, go on to become adult offenders. If you paraphrase Humphrey Bogart in Casablanca, 'let's round up the usual suspects.' So these folks that the Senator from Cumberland, Senator Strimling, seeks to protect often are, in reality, drawn in because of their past history. DNA, in fact, for those who are innocent, is going to ensure that they remain innocent and are not wrongfully charged and wrongfully convicted.

So I would urge that you vote against the good Senator from Cumberland, Senator Strimling's motion. Thank you.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise today to urge you to oppose the motion before us. I applaud the efforts of the good Senator from Cumberland, Senator Strimling, and his work with the young people in his community. I, too, have worked with young people for 25 years in the classrooms of public schools in this state. I would also agree with the good Senator from Cumberland, Senator Strimling, that 100 years ago we did decide to separate the youth of this country from the adults of this country. However, I think today, unfortunately, we see too many instances where the youth of this state and other states cross over that line mentioned by the good Senator from Cumberland, Senator Strimling, and commit adult crimes. The fact that today both adults and youths make decisions that impact society, to me this is a very important point in considering the data base of the DNA for this particular bill.

We have violent crimes committed by people in the age group of 5 - 10 years old. We struggle. Do you incarcerate an 8 year old in the same institution as a 35 year old? I would say no. Did the 8 year old commit the same crime? Perhaps taking a life, as an example? Was it the same crime as the 35 year old? That answer is yes. One hundred years ago, we did not have the same society that we have today in the year 2003. This, as mentioned by the good Senator from Cumberland, Senator Turner, offers us an opportunity to have on record a data base for which we could use in the future, not necessarily to incarcerate, but sometimes to exonerate. I would urge you, once again, to oppose the motion so we may go on to pass the majority Ought to Pass report.

Senator **WOODCOCK** of Franklin requested a Roll Call.

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. It's not often that I disagree with the good Senator from Cumberland, but this is one of those times. I believe sometimes you have to be tough and you have to use good common sense. At the hearing, Public Safety distributed a list of 11 hits on the DNA data base. It helped them solve a number of crimes. Six of the 11 had formerly been committed to the juvenile correctional facility and 5 of them were currently on probation. When they did away with the law in regards to the DNA 2 or 3 years ago, I think that we did the wrong thing. I think knowing that your DNA is on file would probably make people think twice about getting out of a correctional facility and having to reenter in a short period of time if they know that it is very easy to get your DNA and have it checked. It isn't easy when you hang up on your kids, but sometimes it is necessary. This is one of those times when I felt that we should take the appropriate steps to do this. So I would ask that you vote down the Ought Not to Pass report.

At the request of Senator **HATCH** of Somerset, Reports **READ**.

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

Senator **STRIMLING:** Thank you, Madame President. Just briefly, I need to respond to a couple of points. I do also want to say that it certainly does pain me to be on opposite sides of the fine Senator from Somerset, Senator Hatch. So I'm not going to respond to any of her points, but I will respond to a couple that were brought up.

One, in terms of the record coming back, brought up by my fine colleague, the Senator from Washington, Senator Shorey. I think it is very important that we remember that if the DNA is found and they make a connection with the youth, in court it is going to be asked, 'how did you find the DNA? How did you make the connection?' Automatically, in that case, the jury is going to know that there is a record from when they were a juvenile. They are going to have to testify as to where they got the evidence to be able to find the kid. So to say that the record is absolutely gone and washed away, even if they don't bring up what that crime was, immediately the jury will know that kids had committed another crime and that adds to the piece.

In terms of the DNA cutting both ways, stated by my fine colleague, the Senator from Cumberland, Senator Turner, I think that this is right, but I would say that if we ever want to find out whether somebody is innocent, you can always go and ask them to give their DNA. That is where we make a decision between whether we are going to force children to give their DNA, or if in a case later in life, if we think this person did it, we can go to them and they can offer their DNA to be able to exonerate themselves. Otherwise, we would just take the DNA of everybody when they are born. Why wouldn't you go as far as that if it's to figure out if somebody is innocent? I daresay, the intent of this law, the intent of this change, is to find more children guilty later in life, not to find more innocent. Thank you.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#74)

YEAS: Senators: BRENNAN, BROMLEY, DAMON, EDMONDS, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, BRYANT, CARPENTER, DAVIS, DOUGLASS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: CATHCART

7 Senators having voted in the affirmative and 27 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-313) **READ**.

On motion by Senator **DOUGLASS** of Androscoggin, Senate Amendment "A" (S-196) to Committee Amendment "A" (H-313) **READ**.

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

Senator **DOUGLASS:** Men and women of the Senate, in our earlier debate we heard that DNA may be used to exonerate certain people. Well that is true, whether or not someone has been adjudicated of an offense. What this DNA is primarily used for is solving unsolved crimes. With this amendment, I am limiting the crimes for which that DNA could be taken to gross sexual assault and unlawful sexual contact. The reason I am doing that is because I believe that we should be aware that sexual crimes, in particular, are ones in which DNA evidence is often crucial. Often, there is not much other evidence involved, other than bruises that are hard to identify or pinpoint to a particular individual. There is not always other types of body fluids that can be analyzed in another way than DNA. I am in favor of using or invading this sort of concept of privacy with regard to our future conduct, that is the conduct of these juveniles, with regard to

sexual crimes. I do believe it can be used to solve crimes that would otherwise not be solvable. I believe that has been proven to be true.

However, I have serious concerns with placing DNA into a data bank that is then going to be forever used in whatever crime, or even innocent passing by, might occur. Let me just give you a scenario. One of the first cases in our family that involved a juvenile was someone who stole a donut on a bicycle. The young person involved happened to have a knife, so this thing got elevated. He had one prior theft offense, which may have been food as well, I'm not sure. I have some real reservations about taking DNA evidence from someone who is adjudicated on that type of a crime and then that DNA is used to solve any crime in the future. Particularly knowing that the places where this evidence could show up might be an innocent, someone who is in a location and left, and might not be the actual evidence that cracks the case. This could lead to negative consequences for that individual, even if they had led a very exemplary life.

I have proposed an amendment that would limit the crimes for which DNA swabs could be taken to those crimes that I think are the most hidden. I hope it will get your approval and that you will vote in favor when we get to that point. Thank you.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. The way I read this amendment, and I would appreciate a clarification from the sponsor or anybody else if I'm reading it incorrectly, is that this amendment would restrict the taking of DNA to those who were found guilty of gross sexual assault or unlawful sexual contact. There are somewhere in the neighborhood of 14 actions that the committee amendment would apply to, ranging from murder, felony murder, manslaughter, and all the way to burglary, robbery, arson, aggravated criminal mischief, or causing a catastrophe. I might, in fact, favor a restriction from the committee's report to eliminate some of those 14, but to accept something that allows the taking of DNA for those convicted of gross sexual assault and unlawful sexual contact, but not murder, seems, to me, to an odd listing of priorities. In fact, I would envision scenarios where a murder and a sexual assault, having been committed, that the offender may be convicted of murder but not sexual assault, in which case, notwithstanding the fact that the offender committed gross sexual assault, the DNA would not be taken. It seems to me a strange priority. If I were reading this incorrectly, I would welcome further clarification. Thank you, Madame President.

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

Senator **DOUGLASS:** Madame President, perhaps I needed to give some extra examples to convey the difference between these types of crimes. In murder, which historically has been one of those crimes that is committed between individuals who know each other, that is what 80% of murders is about, there is usually solution. Similarly, in some of the other crimes that were enumerated, such as arson, which is a difficult one because there usually isn't any evidence left, DNA or otherwise. The others all have more exterior evidence involved. The issue here really is how much of a police state do we want to become? If we have the DNA of every individual who has ever been convicted of

anything from the age of 10 and for the rest of their lives, I know there was a murder conviction of someone at the age of 10, who is now back in the city of Auburn, whose record has been clean, as far as I know. I just wonder if that is really the kind of state we want to have. If there is a further crime, other than those that involve sexual crimes, there is generally evidence of it. In murder you have the knife, you have the gun, you have usually another instrument. In arson you have the accelerant or the powder burns on the defendant. There is a lot of other evidence. There is evidence in robbery and theft as well. For theft we have video cameras and so forth.

The question we are really deciding here is what is the purpose of this law? The purpose is to solve future crimes. I think we want to have some limits on how we are going to solve future crimes. We want to have a police force that is responsible for looking at the evidence that exists, and not simply finding DNA from anyone who might happen to have been at that location. We want to have them analyze how, if in a murder, the murder weapon was used. We want to make sure. It's part of making sure that the police do their job, which they have done to this point very effectively. Where have they been stymied? Generally, it's in the sexual assault area. That is why I put forward the proposed amendment. You can say, why would I want to protect those who committed murder? Well, this is about the future. Those individuals are going to serve their time, they've been adjudicated, and this bill today is about the future and police crime solving techniques. I want to live in a society where we continue to hold the police responsible for good investigations. We also recognize the value of evidence that may be very easy, and it really is very easy, to obtain. How easy do we want to make it? I think that is the question you have to answer. I want to make it easier in the cases of sexual assault, but I want to hold the police to evaluating the evidence that is there. It is there in these other crimes. For that reason, I hope you will vote in support of this amendment.

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. Yes, there is a list of 14 that we agreed to. It is a shorter list than there is for adults. You have to understand that, while sitting in the committee, we were surrounded by people who have a lot more knowledge than we do in regards to crime. I really think, when you get down to murder, felony murder, and manslaughter, even in the youngest of felons, it's time to take notice. Not everybody is 12 who end up there, that is a very small group, I'm sure. When you get to those kinds of thing that happen out in the real world, it's time to take notice. They say that maybe you'll never have any use for this DNA that is stored in the data bank. That is wonderful. If it deters one person from ever committing a crime again, it's all been worth it at this point. So I would ask that you vote down this amendment and go with the committee's original amendment. Let's get on with it. We have a lot of work to do. Thank you.

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

Senator **LAFOUNTAIN:** Thank you, Madame President, men and women of the Senate. I also rise in opposition to the pending motion. It is my understanding, and I obviously stand to be

corrected, that both the committee and the Criminal Law Advisory Commission did have an opportunity to review the language that is proposed in this amendment. The Criminal Law Advisory Commission, which is comprised of both prosecutors and defense attorneys, indicated that this list was too narrow, as indicated by the good Senator from Oxford, Senator Bennett.

Secondly, the standard of low risk, which we haven't really focused on, is not workable. That is the standard that a judge must apply to determine whether or not to move this child forward through the DNA process. Thank you.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. Although I do agree in concept with some of the statements made by the good Senator from Androscoggin, Senator Douglass, I am bothered somewhat by the inference of a police state. I think we do hold the police of this state to a very high standard. It really isn't, from my perspective, an issue of whether or not we're going to be a police state, but whether or not justice is served. I think each of us would have the opportunity, perhaps should we be drawn for jury duty, to adjudicate whether or not the police had the highest standards during the investigation when coming forth with a verdict in whatever case it was we were attempting to decide. I don't think we should be concerned whether or not we are forcing ourselves towards a more restrictive 'police state,' but whether or not justice is served. This is solely a tool for justice to use to best serve the population of this state. I too would urge opposition to this motion.

Senator **WOODCOCK** of Franklin requested a Roll Call.

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

Senator **STRIMLING:** Thank you, Madame President. Although it is very difficult for me to cross this line at all, I do support the amendment that has been put forward. I did want to respond to a couple of the issues that were brought up. In fact, I had originally drafted this amendment within the committee, thinking I might put it forward as a minority report for the two of us that were on that report, but decided not to. I never actually offered it because I felt too uncomfortable with crossing that line at all. However, the reason that this amendment was originally put together is because the sexual abuse response groups felt like the part of this bill that they supported, and really the only part of the bill that they supported, was the issue around sexual assault and sexual crimes. That is why they were supporting the bill. I felt like, if we were going to do anything, there is some evidence of recidivism among youth around sexual crimes. There is really very, very little evidence that youth recommit as adults. There is very, very little evidence that children who murder ever do it again, as the Senator from Androscoggin, Senator Douglass, mentioned. That is really such a limited crime. Kids who do that don't do it again. That is why it really doesn't need to be in there. It wouldn't matter, I suppose, if it were, because they are not going to recommit. The issue around sexual assaults, there is some evidence of recidivism in some areas around that. I understood why the sexual assault groups wanted to make sure that we at least had that piece in there. That is why that piece is there. I do

support this amendment. I hope you will support taking a much smaller step than the bigger one at the moment. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Douglass to Adopt Senate Amendment "A" (S-196) to Committee Amendment "A" (H-313). 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 (#75)

YEAS: Senators: BROMLEY, BRYANT, CATHCART, DOUGLASS, EDMONDS, GAGNON, HALL, ROTUNDO, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, BRENNAN, CARPENTER, DAMON, DAVIS, GILMAN, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, SAVAGE, SAWYER, SHOREY, STANLEY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

11 Senators having voted in the affirmative and 24 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **ADOPT** Senate Amendment "A" (S-196) to Committee Amendment "A" (H-313), **FAILED**.

Committee Amendment "A" (H-313) **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME**.

Senator **DOUGLASS** of Androscoggin requested a Division.

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#76)

YEAS: Senators: BENNETT, BLAIS, BRYANT, CARPENTER, DAVIS, GILMAN, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, SAVAGE, SAWYER, SHOREY, STANLEY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

NAYS: Senators: BRENNAN, BROMLEY, CATHCART,
 DAMON, DOUGLASS, EDMONDS, GAGNON,
 HALL, ROTUNDO, STRIMLING, TREAT, THE
 PRESIDENT - BEVERLY C. DAGGETT

23 Senators having voted in the affirmative and 12 Senators
having voted in the negative, the Bill was **PASSED TO BE**
ENGROSSED AS AMENDED, in concurrence.

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

Off Record Remarks

On motion by Senator **TREAT** of Kennebec, **ADJOURNED** to
Thursday, May 22, 2003, at 10:00 in the morning.