

MAINE STATE LEGISLATURE

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

Volume II

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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
Monday
June 9, 2003

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

Prayer by Paul Dumais, Cathedral of the Immaculate Conception
in Portland.

MR. DUMAIS: In the name of the Father and the Son and the
Holy Spirit, Amen.

A reading from St. Paul's letter to the Philippians: 'May the
peace of God, which surpasses all understanding, guard your
hearts and your minds in Christ Jesus. Whatever things are true,
whatever honorable, whatever just, whatever holy, whatever
loveable, whatever of good repute, if there be any virtue, if
anything worthy of praise, think upon these things. And the God
of peace will be with you.'

Good and gracious God, You are the giver of all good things.
Bless and sanctify these men and women who devote themselves
so generously to the common good of all. Grant them courage in
the promotion and respect of the fundamental rights of each
individual person. Bestow wisdom upon them as they work for
the development of the temporal goods of society. Sustain them
in vigilance as they foster and protect a true and lasting peace.
Amen.

Pledge of Allegiance led by Senator Betty Lou Mitchell of
Penobscot County.

Reading of the Journal of Wednesday, June 4, 2003.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 275

121ST LEGISLATURE
COMMITTEE ON JUDICIARY

June 5, 2003

The Honorable Beverly C. Daggett
President of the Senate of Maine
121ST Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule
505 of the 121ST Maine Legislature, the Joint Standing Committee
on Judiciary has had under consideration the nomination of
Charles C. LaVerdiere of Wilton, for appointment as the District
Court Judge.

After public hearing and discussion on this nomination, the
Committee proceeded to vote on the motion to recommend to the
Senate that this nomination be confirmed. The Committee Clerk
called the roll with the following result:

YEAS	Senators	3	Pendleton of Cumberland, Cathcart of Penobscot, Woodcock of Franklin
	Representatives	7	Norbert of Portland, Bryant- Deschenes of Turner, Bull of Freeport, Carr of Lincoln, Mills of Farmington, Sherman of Hodgdon, Simpson of Auburn
NAYS		0	
ABSENT		3	Rep. Bennett of Caribou, Rep. Duprey of Hampden, Rep. Richardson of Brunswick

Ten members of the Committee having voted in the affirmative
and none in the negative, it was the vote of the Committee that
the nomination of Charles C. LaVerdiere of Wilton, for
appointment as the District Court Judge be confirmed.

Signed,

S/Peggy A. Pendleton
Senate Chair

S/William S. Norbert
House Chair

READ and ORDERED PLACED ON FILE.

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

The President laid before the Senate the following: "Shall the
recommendation of the Committee on **JUDICIARY** be
overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 121st Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#150)

YEAS: Senators: None

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

ABSENT: Senators: BROMLEY, HALL, PENDLETON, YOUNGBLOOD

EXCUSED: Senator: DAMON

No Senator having voted in the affirmative and 30 Senators having voted in the negative, with 4 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Charles C. LaVerdiere** of Wilton, for appointment as the District Court Judge was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Charles C. LaVerdiere. Would he please rise and accept the greetings of the Maine Senate.

ORDERS

Joint Order

On motion by Senator **BRYANT** of Oxford, the following Joint Order:

S.P. 586

ORDERED, the House concurring, that the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes shall jointly prepare a bill for submission to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters to the First Regular Session of the 122nd Legislature that recodifies the Maine Revised Statutes, Title 7, in accordance with the following:

1. Scope of recodification. In preparing the proposed recodification, the Office of Policy and Legal Analysis and the

Office of the Revisor of Statutes shall reorganize the laws contained in the Maine Revised Statutes, Title 7, eliminate archaic terms and confusing language wherever possible, update cross-references and make other technical changes necessary to improve the readability and accessibility of Title 7. The recodification is not intended to contain substantive changes to the agriculture and animal laws.

2. Participation of department. The Office of Policy and Legal Analysis and the Office of the Revisor of Statutes shall invite the participation of the Department of Agriculture, Food and Rural Resources in preparing the proposed recodification.

3. Report. The Office of Policy and Legal Analysis and the Office of the Revisor of Statutes shall submit the proposed recodification to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters no later than January 15, 2005. If the offices require a limited extension of time to complete their work, they may apply to the Legislative Council, which may grant an extension.

READ and PASSED.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Reimburse Employees for Attorney's Fees and Costs When Forced To Pursue Petitions for Payment of Medical Services" H.P. 395 L.D. 510

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-107).**

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 Minority **OUGHT NOT TO PASS**
Report **READ** and **ACCEPTED**.

Reports **READ**.

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

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

Senator **EDMONDS:** Thank you, Madame President, men and
women of the Senate. This bill comes to us as a result of folks
trying to figure out how to make sure that they are not denied their
chance to have medical benefits paid. The committee
amendment clarifies that attorneys not be prohibited from
accepting fees for representing a claimant seeking payment of
medical expenses when the employer has unreasonably
contested the payment of those expenses. It provides that the
maximum fee, based on benefits accrued and weekly benefit
amounts, does not apply to fees collected for recovery of medical
benefits.

I did forget to tell you this is all about workers' compensation,
but I'm sure you figured that out as we were going along.

What we are trying to deal with here is the fact that
sometimes a person comes in and asks to have a medical benefit
paid, and it is rejected. There are a few, but not many, who
automatically reject these claims. This means that the person
has to go through the whole appeal process. In the end, they are
usually awarded the benefits. However, this takes a long time.
This means the person has been accruing medical costs that are
not being paid. It is stressful and difficult. As a way of trying to
cut down on the amount of folks who automatically, without
provocation, deny claims that they end up paying, it allows the
employee to seek attorney's fees for the payment of those
medical benefits when they have been unreasonably contested.

I realize there will be many who disagree with this position,
but it is a step in an attempt to try to get folks to work through the
workers' compensation system in a reasonable and fair fashion. I
hope you will join me in supporting 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, Madame President, men and women
of the Senate. This bill would return us to the so-called prevail
system in the workers' compensation system. It would reverse
the reforms that have saved us millions of dollars. We heard
testimony from the Executive Director of the Workers'
Compensation System that the Workers' Advocate Program,
which provides free legal counsel to employees in disputed

claims, costs us in the neighborhood of \$1.6 million a year, and
saves us in the neighborhood of \$20 million a year. I would urge
my colleagues today to vote in opposition to the motion on the
floor. Thank you very much.

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 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 (#151)

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

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

ABSENT: Senators: BROMLEY, HALL, PENDLETON,
YOUNGBLOOD

EXCUSED: Senator: DAMON

11 Senators having voted in the affirmative and 19 Senators
having voted in the negative, with 4 Senators being absent and 1
Senator being excused, the motion by Senator **EDMONDS** of
Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS**
AMENDED Report, in **NON-CONCURRENCE**, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in
concurrence.

Senate

Ought to Pass Pursuant to Constitution

Senator ROTUNDO for the Chief Justice of the Supreme Judicial
Court on Resolve, Approving the 2003 Draft and Arrangement of
the Constitution of Maine Made by the Chief Justice of the
Supreme Judicial Court and Providing for its Publication and
Distribution (EMERGENCY)

S.P. 585 L.D. 1630

Reported that the same **Ought to Pass**, pursuant to the
Constitution of Maine, Article X, Section 6.

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

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

Ordered sent down forthwith for concurrence.

Ought to Pass

Senator CATHCART for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Resolve, Concerning Reauthorization of a 1997 Pollution Control Bond Issue
S.P. 583 L.D. 1628

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

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

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

Ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Support Harness Horse Racing in Maine, Equine Agriculture in Maine, Maine Agricultural Fairs and the General Fund of the State"
S.P. 449 L.D. 1361

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-256)**.

Signed:

Senators:

GAGNON of Kennebec
MAYO of Sagadahoc

Representatives:

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

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

Signed:

Senator:

LEMONT of York

Representative:

GLYNN of South Portland

Reports **READ**.

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

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act To Control County Jail Health Care Expenses"

H.P. 585 L.D. 808

Had the same under consideration, and asked leave to report:

That the Senate **Recede and Concur to Passage To Be Engrossed As Amended By Committee Amendment "A" (H-365)**.

That the House **Read** and **Accept** the Committee Report.

On the Part of the Senate:

Senator STRIMLING of Cumberland
Senator DAMON of Hancock
Senator CARPENTER of York

On the Part of the House:

Representative BUNKER of Kossuth Township
Representative LESSARD of Topsham
Representative GREELEY of Levant

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

The Senate **RECEDED** and **CONCURRED**.

Ordered sent down forthwith for concurrence.

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

Senate at Ease.

Senate called to order by the President.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Provide Affordable Loans for Higher Education"
S.P. 579 L.D. 1625

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-257)**.

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

READ ONCE.

Committee Amendment "A" (S-257) **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 **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

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

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

ENACTORS

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

Act

An Act To Improve Enforcement of the State's Natural Resource Protection, Timber Theft and Trespass Laws
H.P. 1059 L.D. 1447
(H "B" H-547 to C "A" H-456)

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:

SENATE PAPERS

Bill "An Act To Prevent the Sale of Water Laced with Nicotine in Maine"
S.P. 587 L.D. 1631

Sponsored by Senator **MARTIN** of Aroostook.
Cosponsored by Representative **KOFFMAN** of Bar Harbor and Senators: **GAGNON** of Kennebec, **SAWYER** of Penobscot, **TREAT** of Kennebec, Representatives: **ANNIS** of Dover-Foxcroft, **MAKAS** of Lewiston, **SAVIELLO** of Wilton, **THOMPSON** of China, **TWOMEY** of Biddeford.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

Ordered sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Change the Name of the Augusta Mental Health Institute to 'Riverview Psychiatric Center'"
S.P. 525 L.D. 1562
(C "C" S-210)

In House, June 3, 2003, **PASSED TO BE ENACTED**.

In Senate, June 4, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (S-210)**, in **NON-CONCURRENCE**.

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

On motion by Senator **MARTIN** of Aroostook, the Senate **ADHERED**.

Non-Concurrent Matter

Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations"
H.P. 996 L.D. 1354

In House, June 3, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-546)**.

In Senate, June 4, 2003, on motion by Senator **MARTIN** of Aroostook, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **GAGNON** of Kennebec, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE**.

(See action later today.)

Senate at Ease.

Senate called to order by the President.

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

SENATE PAPERS

Resolve, To Ratify the Endorsement of the Towns of Otisfield and Harrison in Renaming the Bolsters Mills Bridge

S.P. 588 L.D. 1632

Sponsored by Senator **BENNETT** of Oxford.
Cosponsored by Representative **HEIDRICH** of Oxford and Representatives: **BROWN** of South Berwick, **COLLINS** of Wells, **GAGNE-FRIEL** of Buckfield, **JODREY** of Bethel, **McKENNEY** of Cumberland, **SYKES** of Harrison.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **TRANSPORTATION** suggested and ordered printed.

Under suspension of the Rules, **READ TWICE**, without reference to a Committee.

On motion by Senator **BENNETT** of Oxford, **TABLED** Unassigned, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Improve Conditions for Inmates with Mental Illness"

H.P. 367 L.D. 475

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-548)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-548)**.

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

READ ONCE.

Committee Amendment "A" (H-548) **READ**.

On motion by Senator **STRIMLING** of Cumberland, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-548), in concurrence.

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

COMMUNICATIONS

The Following Communication: H.C. 232

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

June 9, 2003

Honorable Joy J. O'Brien
Secretary of the Senate
121st Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations" (H.P. 996) (L.D. 1354)

Representative **CLARK** of Millinocket
Representative **THOMPSON** of China
Representative **MOORE** of Standish

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and **ORDERED PLACED ON FILE**.

With reference to the action of the Senate whereby it **INSISTED** and **JOINED** in a **COMMITTEE OF CONFERENCE** on the disagreeing action of the two branches of the legislature on:

Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations"

H.P. 996 L.D. 1354

The Chair appointed as conferees on the part of the Senate the following:

Senator **MARTIN** of Aroostook
Senator **BENNETT** of Oxford
Senator **DOUGLASS** of Androscoggin

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