

MAINE STATE LEGISLATURE

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

Volume III

Second Special Session (Continued)
March 22, 2004 to April 30, 2004

Second Confirmation Session
August 25, 2004

Interim Appendix

Senate Legislative Sentiments

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

In Senate Chamber
Tuesday
March 23, 2004

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

Prayer by Reverend Kathi Smith, Gardiner Congregational
Church, UCC.

REVEREND SMITH: Let us pray together. Merciful God, we rejoice this day in the glory of Your creation and we marvel at both its simplicity and its complexity. We see the beauty and simplicity in the morning sunrise, the flight of an eagle, the quiet moment of rest at the day's end. We wonder at the complexity of the human body, the interdependence of an ecosystem, and the vastness of the night sky. Simplicity and complexity, Lord, fill our days. Simple needs, complex decisions. Simple decisions, complex relationships. We relish moments of clarity and simplicity in our relationships, our work, and our faith, yet more often we are faced with complex and intricate tasks of balancing the demands of our work, our faithfulness to our beliefs, the needs of our families, and the challenges of our communities. Grant us courage, Lord, to do the work we must do. Transform our hearts and minds and open them to the possibilities that You see and that we often miss. We pray for guidance for all who seek to lead and serve. God of promise and hope, remind us that change is a constant process, despite how we resist it. Help us to move forward, facing the future. Help us to trust You as You lead us down new paths to face new challenges and to make bold new decisions. In the words of St. Thomas Aquinas "Give us, Oh Lord, a steadfast heart which no unworthy affection may drag downwards. Give us an unconquered heart which no tribulation can wear out. Give us an upright heart which no unworthy purpose may temp aside. Bestow upon us, Oh Lord, our God, understanding to know You, diligence to seek You, wisdom to find You, and a faithfulness that may finally embrace You." Amen.

National Anthem performed by Matt Zarolinski, University of
Maine at Augusta.

Reading of the Journal of Monday, March 22, 2004.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 773

**STATE OF MAINE
121ST MAINE LEGISLATURE**

March 19, 2004

Sen. Lynn Bromley
Senate Chair, Joint Standing Committee on
Business, Research and Economic Development
Rep. Nancy B. Sullivan
House Chair, Joint Standing Committee on
Business, Research and Economic Development
121st Legislature
Augusta, ME 04333

Dear Senator Bromley and Representative Sullivan:

Please be advised that Governor John E. Baldacci has nominated John C. Witherspoon of Kingfield for appointment as the Chief Executive Officer of the Finance Authority of Maine.

Pursuant to Title 10 M.R.S.A. § 972, this nomination will require review by the Joint Standing Committee on Business, Research and Economic Development and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett
President of the Senate

S/Patrick Colwell
Speaker of the House

**READ and REFERRED to the Committee on BUSINESS,
RESEARCH AND ECONOMIC DEVELOPMENT.**

Sent down for concurrence.

The Following Communication: S.C. 523

**121ST LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

March 22, 2004

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 Marine Resources has had under consideration the nomination of Michael Danforth of Addison, for appointment to the Marine Resources Advisory Council.

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 | 2 | Damon of Hancock, Bennett of Oxford |
| | Representatives | 5 | Bull of Freeport, Ash of Belfast, Bierman of Sorrento, Percy of Phippsburg, Rector of Thomaston |
| NAYS | | 0 | |
| ABSENT | | 6 | Rep. Dugay of Cherryfield, Rep. Kaelin of Winterport, Rep. McNeil of Rockland, Rep. Muse of Fryeburg, Sen. Pendleton of Cumberland, Rep. Sullivan of Biddeford |

Seven 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 Michael Danforth of Addison, for appointment to the Marine Resources Advisory Council be confirmed.

Signed,

S/Dennis S. Damon
Senate Chair

S/Thomas D. Bull
House Chair

READ and ORDERED PLACED ON FILE.

The President Pro Tem laid before the Senate the following:
"Shall the recommendation of the Committee on **MARINE RESOURCES** 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 Chair noted the absence of the Senator from Kennebec, Senator **DAGGETT** and further excused the same Senator from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#278)

| | | |
|-------|-----------|--|
| YEAS: | Senators: | None |
| NAYS: | Senators: | BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, |

LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - SHARON A. TREAT

ABSENT: Senator: SHOREY

EXCUSED: Senator: DAGGETT

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator 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 **Michael Danforth** of Addison, for appointment to the Marine Resources Advisory Council was **CONFIRMED**.

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

Off Record Remarks

The Following Communication: S.C. 524

121ST LEGISLATURE COMMITTEE ON MARINE RESOURCES

March 22, 2004

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 Marine Resources has had under consideration the nomination of Scott Tilton of Rockland, for appointment to the Marine Resources Advisory Council.

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 | 2 | Damon of Hancock, Bennett of Oxford |
| | Representatives | 6 | Bull of Freeport, Ash of Belfast, Bierman of Sorrento, McNeil of Rockland, Percy of Phippsburg, Rector of Thomaston |

NAYS 0

ABSENT 5 Rep. Dugay of Cherryfield,
Rep. Kaelin of Winterport,
Rep. Muse of Fryeburg, Sen.
Pendleton of Cumberland,
Rep. Sullivan of Biddeford

Eight 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 Scott Tilton of Rockland, for appointment to the Marine Resources Advisory Council be confirmed.

Signed,

S/Dennis S. Damon
Senate Chair

S/Thomas D. Bull
House Chair

READ and ORDERED PLACED ON FILE.

The President Pro Tem laid before the Senate the following: .
"Shall the recommendation of the Committee on **MARINE RESOURCES** 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 (#279)

YEAS: Senators: None

NAYS: Senators: BENNETT, BLAIS, BRENNAN,
BROMLEY, BRYANT, CARPENTER, CATHCART,
DAMON, DAVIS, DOUGLASS, EDMONDS,
GAGNON, GILMAN, HALL, HATCH, KNEELAND,
LAFOUNTAIN, LEMONT, MARTIN, MAYO,
MITCHELL, NASS, PENDLETON, ROTUNDO,
SAVAGE, SAWYER, STANLEY, STRIMLING,
TURNER, WESTON, WOODCOCK,
YOUNGBLOOD, THE PRESIDENT PRO TEM -
SHARON A. TREAT

ABSENT: Senator: SHOREY

EXCUSED: Senator: DAGGETT

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator 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 **Scott Tilton** of Rockland, for appointment to the Marine Resources Advisory Council was **CONFIRMED**.

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

SENATE PAPERS

Bill "An Act To Authorize the Town of Millinocket To Annex a Certain Parcel of Land"

S.P. 774 L.D. 1941

Sponsored by Senator STANLEY of Penobscot.
Cosponsored by Representative DUPREY of Medway.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **ROTUNDO** of Androscoggin, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent down for concurrence.

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

The 89th Anniversary of the Armenian Genocide. On April 24, 1915, a campaign was launched by the Turkish regime of the Ottoman Empire against the Armenian people, resulting in the death of more than 1.5 million Armenians. Some of the survivors settled in the State of Maine and their heirs have made significant contributions to the State. We join our citizens of Armenian heritage on April 24th in remembering this event, and we express our deepest sympathy for the families of those who perished;

SLS 603

Sponsored by Senator BRENNAN of Cumberland.
Under suspension of the rules, cosponsored by Senator: STRIMLING of Cumberland, Representatives: DUDLEY of Portland, EDER of Portland, SUSLOVIC of Portland, ADAMS of Portland, NORBERT of Portland, BRANNIGAN of Portland, MARLEY of Portland, CUMMINGS of Portland.

READ.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I hope you will join me today in showing tribute to those people from the Armenian community who are with us as we recognize a terrible tragedy that many of their families endured and to the contributions that they have made to the State of Maine. Thank you.

PASSED.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the rear of the chamber representatives of Armenia. They are the guests of the Senator from Cumberland, Senator Brennan. They are Patricia Tevanian, Katheryn Durgerian, John Malconian, Gerard Kiladjian, and Aghasi Chitchyan. Will they please rise and accept the greetings of the Senate.

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Medicaid Drug Rebate Program and the Elderly Low-cost Drug Program"

H.P. 1269 L.D. 1747

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-778).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-778).**

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

READ ONCE.

Committee Amendment "A" (H-778) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Rule-making Authority of the Department of Human Services to Ensure Cost-effective Operation of State Medical Services Programs and Compliance with Federal Requirements" (EMERGENCY)

H.P. 1270 L.D. 1748

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-777).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-777).**

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

READ ONCE.

Committee Amendment "A" (H-777) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Bill "An Act To Ban the Sale of Novelties Containing Batteries with Mercury"
H.P. 1237 L.D. 1661

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-780).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-780).**

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

READ ONCE.

Committee Amendment "A" (H-780) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

H.P. 1372 L.D. 1846

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-776).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-776).**

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

READ ONCE.

Committee Amendment "A" (H-776) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Create Guidelines To Promote Good Science in Rulemaking"

H.P. 699 L.D. 942

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-767)**.

Signed:

Senator:

GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth
PEAVEY-HASKELL of Greenbush
CROSTHWAITE of Ellsworth
SUSLOVIC of Portland
STONE of Berwick
BARSTOW of Gorham
SUKEFORTH of Union
BOWEN of Rockport

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

Signed:

Senators:

ROTUNDO of Androscoggin
LAFOUNTAIN of York

Representatives:

BUNKER of Kossuth Township
KETTERER of Madison

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-767)**.

Reports **READ**.

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

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Authorize the Deorganization of the Town of Atkinson"

H.P. 1247 L.D. 1671

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-768)**.

Signed:

Senator:

GILMAN of Cumberland

Representatives:

PEAVEY-HASKELL of Greenbush
CROSTHWAITE of Ellsworth
KETTERER of Madison
STONE of Berwick
SUKEFORTH of Union
BOWEN of Rockport
BUNKER of Kossuth Township

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

Signed:

Senators:

ROTUNDO of Androscoggin
LAFOUNTAIN of York

Representatives:

McLAUGHLIN of Cape Elizabeth
BARSTOW of Gorham
SUSLOVIC of Portland

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-768)**.

Reports **READ**.

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

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

Senate

Ought to Pass As Amended

Senator **MARTIN** for the Committee on **NATURAL RESOURCES** on Bill "An Act Relating to Storm Water Management"

S.P. 712 L.D. 1866

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-441)**.

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

READ ONCE.

Committee Amendment "A" (S-441) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

SECOND READERS

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

House

Resolve, Regarding Legislative Review of Portions of Chapter 850: Health Plan Accountability, a Major Substantive Rule of the Bureau of Insurance (EMERGENCY)
H.P. 1384 L.D. 1859

Resolve, Regarding Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, a Major Substantive Rule of the Department of Education, State Board of Education (EMERGENCY)
H.P. 1393 L.D. 1869

Resolve, Authorizing the Town of Eustis To Exchange a Certain Parcel of Land
H.P. 1403 L.D. 1896

Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Business, Research and Economic Development Regarding the Board of Licensure in Medicine Pursuant to Reviews Conducted under the State Government Evaluation Act"
H.P. 1432 L.D. 1933

Bill "An Act To Clarify Departmental Reporting Requirements for Developmental Disability Prevention Activities"
H.P. 1437 L.D. 1940

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

House As Amended

Bill "An Act To Provide Assistance to Municipalities Regarding Downtown Rehabilitation Building Codes"
H.P. 1239 L.D. 1663
(C "A" H-770)

Bill "An Act To Provide for the Assessment of the Mahogany Quahog Resource" (EMERGENCY)
H.P. 1271 L.D. 1749
(C "A" H-769)

Bill "An Act Making Amendments to the Uniform Commercial Code Covering Provisions Dealing with Negotiable Instruments and Bank Deposits and Collections"
H.P. 1308 L.D. 1786
(C "A" H-772)

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

Senate As Amended

Bill "An Act To Encourage Financial Efficiency of Facilities for Persons with Mental Retardation" (EMERGENCY)
S.P. 613 L.D. 1681
(C "A" S-434)

Bill "An Act To Ensure Compliance with Federal Medicaid Requirements"
S.P. 627 L.D. 1695
(C "A" S-433)

Bill "An Act To Establish the Maine Military Family Relief Fund"
S.P. 631 L.D. 1699
(C "A" S-438)

Resolve, To Reduce the State Valuation for the Town of Lincoln
S.P. 733 L.D. 1887
(C "A" S-440)

Resolve, To Reduce the State Valuation for the Town of East Millinocket
S.P. 741 L.D. 1895
(C "A" S-439)

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

Sent down for concurrence.

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

ENACTORS

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

Act

An Act To Create the Maine Military Family Relief Fund
S.P. 657 L.D. 1724
(C "A" S-422)

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:

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **STANLEY** for the Committee on **LABOR** on Bill "An Act To Protect the Privacy of Home Information of Maine State Retirement System Members, Benefit Recipients, Trustees and Staff"

S.P. 619 L.D. 1687

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-442)**.

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

READ ONCE.

Committee Amendment "A" (S-442) **READ**.

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

Senator **TURNER:** Thank you, Madame President. On the surface this seems to be an appropriate action for us to take, but I wonder if the members of this body understand that at least one unconvicted long term pedophile and abuser of children sits inside this database today and that previous legislatures and this one is now contemplating adding additional money to compensate those victims. So I ask you to think about taking this action, which on the surface would appear to be a judicious action on our part. In so doing, I want you to recognize that at least one, if not more, former members of the Baxter School for the Deaf sit in this system and you are helping protect their location, which I think is outrageous. Thank you, Madame President.

On motion by Senator **DAVIS** of Piscataquis, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-442).

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (2/25/04) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Repeal Outdated and Unfunded Municipal and Educational Mandates"

H.P. 327 L.D. 419

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-631)** (5 members)

Tabled - February 25, 2004, by Senator **ROTUNDO** of Androscoggin

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

(In House, February 24, 2004, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, February 25, 2004, Reports **READ**.)

Senator **ROTUNDO** of Androscoggin requested and received leave of the Senate to withdraw her motion to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On further motion by same Senator, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-631) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/11/04) Assigned matter:

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require All Health Insurers To Cover the Costs of Hearing Aids"

S.P. 359 L.D. 1087

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

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

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

Tabled - March 11, 2004, by Senator **GAGNON** of Kennebec

Pending - **FURTHER CONSIDERATION**

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

(In House, March 10, 2004, Report "**C**", **OUGHT NOT TO PASS READ and ACCEPTED**, in **NON-CONCURRENCE**.)

On motion by Senator **LAFOUNTAIN** of York, the Senate **INSISTED**.

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (3/22/04) Assigned matter:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Permit Small Game Hunting on Private Property on Sunday in Unorganized Territory"

H.P. 308 L.D. 388

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

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

Tabled - March 22, 2004, by Senator **GAGNON** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In House, January 27, 2004, the Majority **OUGHT TO PASS AS AMENDED** Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-623).**)

(In Senate, March 11, 2004, motion by Senator **BRYANT** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report **FAILED**. Subsequently, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, March 18, 2004, that Body **INSISTED**.)

Senator **BRYANT** of Oxford moved the Senate **RECEDE and CONCUR**.

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 (#280)

YEAS: Senators: BRENNAN, BROMLEY, DAVIS, DOUGLASS, EDMONDS, GAGNON, HATCH, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING

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

ABSENT: Senator: SHOREY

EXCUSED: Senator: DAGGETT

12 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **BRYANT** of Oxford to **RECEDE** and **CONCUR**, **FAILED**.

Senator **WOODCOCK** of Franklin moved the Senate **ADHERE**.

Senator **GAGNON** of Kennebec moved the Senate **INSIST**.

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 (#281)

YEAS: Senators: BROMLEY, BRYANT, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, SAVAGE, STANLEY

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

ABSENT: Senator: SHOREY

EXCUSED: Senator: DAGGETT

15 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **GAGNON** of Kennebec to **INSIST, FAILED**.

Senator **GAGNON** of Kennebec moved the Senate **ADHERE**.

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

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. There seems to be some confusion about this. I clearly have supported this bill, however I think it's relatively clear that we're not going to get the support within the body. I would now encourage members to vote to adhere so we can be done with this issue. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Gagnon to Adhere. 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 (#282)

YEAS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senator: BRYANT

ABSENT: Senator: SHOREY

EXCUSED: Senator: DAGGETT

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

The Chair laid before the Senate the following Tabled and Later (3/22/04) Assigned matter:

JOINT RESOLUTION - Memorializing the President of the United States and the Congress of the United States to Ensure the Protection of Civil Liberties and the Security of the United States

H.P. 1433

Tabled - March 22, 2004, by Senator **GAGNON** of Kennebec

Pending - **ADOPTION**, in concurrence

(In House, March 19, 2004, **READ** and **ADOPTED**.)

(In Senate, March 22, 2004, **READ**.)

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I rise today to ask your support for this Resolution. I have a big pile of papers from which I could quote, but I decided, as a librarian, that I would just quote to you from an organization that I'm a member of, the American Library Association. I'll just quote it to you and ask for your support.

'Whereas the American Library Association affirms responsibility for the leaders of the United States to protect and preserve the freedoms that are the foundation of democracy and whereas libraries are a critical force for promoting the free flow and unimpeded distribution of knowledge and information for individuals, institutions, and communities, and whereas the American Library Association holds that suppression of ideas undermines the democratic society, and whereas privacy is essential to the exercise of free speech, free thought, free association, and in a library the subject of a user's interest should not be examined or scrutinized by others, etc.'

I just want you to know that this is an important issue for me, as a librarian, and as a Senator. I think you'll find that folks around the country have real concerns about the need to keep information that is held in libraries, people's records of what they take out of the library, what they check out, what they read, what videos they watch, are meant to be private. I hope you will join me in this Resolution. Thank you.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. I have to say that I share the concerns that some people have in this body and around the country about the Patriot Act and some of its provisions. There are some aspects of it that are troubling and I think it will be the test of time as to whether or not it should be expanded, retracted, or amended.

I have to say to the Senator from Cumberland, Senator Edmonds, and others that there is nothing in this Resolution that is before us right now about libraries and about the privacy of people who use libraries. What is before us now is some specific language regarding this issue. We have to vote on what's here.

My concern about what is before us is that it is watered down considerably and at the same time it is frighteningly exact. Let me give you an example. The forth resolve clause in the Resolution says this, and I quote, 'that laws passed by the United States Congress to specifically combat the threat of international terrorism should not be used in conducting domestic law enforcement.' I ask you to think about that phrase and whether it is something that you really want to vote for, because that is what you are being asked to vote on right now. If we pass this, we are now going to take a stand as a Senate that the laws that we

passed in the wake of 9/11 to combat terrorist threats from abroad should not be the same laws that we would use to enforce domestic terrorists, rather to charge those people and to enforce the laws against them. Should Timothy McVeigh have a different set of laws than Moslem extremist who decide to fly airplanes into our buildings? I don't think so. This points out to me the problem with taking Resolutions like this and sending them straight to the floor of the Senate or the other body for action without following our own internal procedures, which would normally send this Resolution off to a committee to have the words looked at carefully. That is why I wonder if people are really trying to do something and make a substantial point about the Patriot Act or just make people feel good in an election year. If we are serious about this, we ought to send it to committee and have them review the language. I, for one, will not put my name to a document, and in support of a document, that says that domestic terrorists should be treated differently than international terrorists. That is what this does. I ask you to join with me in voting against adoption of this Resolution.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#283)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, MAYO, PENDLETON, ROTUNDO, STANLEY, STRIMLING, THE PRESIDENT PRO TEM - SHARON A. TREAT

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

ABSENT: Senator: SHOREY

EXCUSED: Senator: DAGGETT

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, **ADOPTED**, in concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/22/04) Assigned matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships" (EMERGENCY)

H.P. 1289 L.D. 1767

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-771)** (12 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - March 22, 2004, by Senator **PENDLETON** of Cumberland

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

(In House, March 19, 2004, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-771).**)

(In Senate, March 22, 2004, Reports **READ.**)

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

On motion by Senator **GAGNON** of Kennebec, 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 (#284)

YEAS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO - TEM - SHARON A. TREAT

NAYS: Senators: None

ABSENT: Senator: SHOREY

EXCUSED: Senator: DAGGETT

33 Senators having voted in the affirmative and no Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **STANLEY** of Penobscot to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

Senate at Ease.

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

Off Record Remarks

Senator **WOODCOCK** of Franklin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

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

On motion by Senator **GAGNON** of Kennebec, **ADJOURNED**, to Thursday, March 25, 2004, at 10:00 in the morning.