

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

First Special Session
April 4, 2005 to June 17, 2005

Pages 411 - 1350

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

In Senate Chamber
Wednesday
June 8, 2005

Senate called to order by President Beth Edmonds of
Cumberland County.

Prayer by Senator Karl W. Turner of Cumberland County.

SENATOR TURNER: Good morning. Rhetorical question for you, the power of prayer, does it work? Well maybe not, but maybe yes. I would remind the veterans of the 121st that, in May of last year when I was given the opportunity to lead the Senate in prayer, I asked that the curse of the Bambino be ended and for a World Series victory for our beloved Red Sox. You can see, the rest is history.

Most of us know the Lord's Prayer, which is found in the 3rd gospel of the New Testament. This is the Gospel According to Luke. Luke was a gentile who spoke and wrote in Greek. He was an educated man, was trained as a physician and was a member of the upper class. Interestingly, Luke focused mainly on the poor, the oppressed, and the outcast. He showed a particular delight and appreciation for children. Women, largely ignored by ancient historians, played a large role with Luke. He introduced us to no fewer than 13 women mentioned in no other gospel. Luke speaks of many things. Love for your enemies, judging others, the tree and its fruit, wise and foolish builders, and the list goes on. Let us be together in prayer.

Lord, God, let Your blessings be upon the members of the Maine Senate as we do the business of our people. Invest in our President and our leaders in this chamber the wisdom to make wise choices in these final days of this session. Give us the strength to love our political foes as we test the limits of what is possible and thus doable. Let us build solid sustainable foundations for the solutions we craft. Lastly, God, keep those who bear arms to defend our freedoms safe from harm's way so they may return to their friends and families that love them. In Your name we ask for Your blessings on us all. Amen.

Doctor of the day, Dr. Michelle Sicard of Freeport.

Reading of the Journal of Tuesday, June 7, 2005.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Amend the Child and Family Services and Protection Act"

H.P. 918 L.D. 1320
(C "A" H-611)

In Senate, June 1, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-611)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-611) AS AMENDED BY HOUSE AMENDMENT "A" (H-656)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **HOBBINS** of York, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Amend the Revaluation Process by Municipalities" S.P. 550 L.D. 1563

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-303)** (1 member)

In Senate, June 7, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303)**.

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

On motion by Senator **STRIMLING** of Cumberland, the Senate **ADHERED**.

Sent down for concurrence.

ORDERS

Joint Resolution

On motion by Senator **GAGNON** of Kennebec, under unanimous consent on behalf of President **EDMONDS** of Cumberland (Cosponsored by Speaker **RICHARDSON** of Brunswick and Senators: **BARTLETT** of Cumberland, **BRENNAN** of Cumberland, **BROMLEY** of Cumberland, **BRYANT** of Oxford, **COWGER** of Kennebec, **DAMON** of Hancock, **DIAMOND** of Cumberland, **GAGNON** of Kennebec, **HOBBINS** of York, **MARTIN** of Aroostook, **MAYO** of Sagadahoc, **MITCHELL** of Kennebec, **NUTTING** of Androscoggin, **PERRY** of Penobscot, **ROTUNDO** of Androscoggin, **SCHNEIDER** of Penobscot, **STRIMLING** of Cumberland, **SULLIVAN** of York, Representatives: **ADAMS** of

Portland, BRYANT of Windham, BURNS of Berwick, CAIN of Orono, CANAVAN of Waterville, CLARK of Millinocket, CRAVEN of Lewiston, DRISCOLL of Westbrook, DUDLEY of Portland, DUGAY of Cherryfield, DUNN of Bangor, DUPLESSIE of Westbrook, FAIRCLOTH of Bangor, FISCHER of Presque Isle, HARLOW of Portland, HOGAN of Old Orchard Beach, HUTTON of Bowdoinham, LUNDEEN of Mars Hill, MAKAS of Lewiston, MARLEY of Portland, MAZUREK of Rockland, MERRILL of Appleton, PARADIS of Frenchville, PELLETIER-SIMPSON of Auburn, SAMPSON of Auburn, SMITH of Monmouth, THOMPSON of China, TWOMEY of Biddeford, WHEELER of Kittery) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214.), the following Joint Resolution:

S.P. 634

**JOINT RESOLUTION MEMORIALIZING CONGRESS TO
REJECT PLANS TO PRIVATIZE SOCIAL SECURITY**

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

WHEREAS, the Social Security income protections of guaranteed, lifelong benefits, cost-of-living adjustments to guard against inflation, benefits for families, income replacement for low-income workers and disability and survivor benefits are the backbone of retirement security and family protection in the United States; and

WHEREAS, Social Security provides crucial, often indispensable, income protection for the 47,000,000 individuals, or one of every 6 Americans, receiving benefits; and

WHEREAS, Social Security is the nation's most successful and most important family income protection program, but it has long-term funding needs we should address; and

WHEREAS, some policymakers propose to address these needs by cutting guaranteed benefits and privatizing Social Security by diverting 1/3 or more of workers' payroll tax contributions out of the Social Security trust fund and into private investment accounts; and

WHEREAS, privatization will worsen Social Security's funding needs by draining resources from the trust fund into private accounts, increasing the federal deficit by 2 trillion dollars over the first decade alone and more in the future and putting us in deeper debt to foreign creditors; and

WHEREAS, some officials and members of Congress have suggested the Federal Government will not pay back the money it has taken from the Social Security trust fund over the past 20 years and used for other things, thereby denying working families the money they paid into Social Security and leading to further benefit cuts; and

WHEREAS, privatizing Social Security will cut guaranteed benefits by 30% for young workers, even for those who do not participate in private accounts, costing them \$152,000 over their

retirements, denying them benefits they have earned and imperiling their economic security; and
WHEREAS, cutting guaranteed benefits will hurt the elderly because Social Security is the only secure source of retirement income for most Americans, providing at least 1/2 the income of nearly 2/3 of older Americans' households and lifting more than 11,000,000 seniors out of poverty; and

WHEREAS, cutting guaranteed benefits will disproportionately hurt women and people of color, as they are more likely to rely on Social Security for most of their retirement income, they earn less and are less able to save for retirement and they are less likely to receive job-based pensions in retirement; and

WHEREAS, diverting resources from Social Security to fund private accounts will threaten guaranteed survivor and disability benefits, thus harming working families, particularly African-Americans, as roughly one in 5 workers dies before retiring and nearly 3 in 10 workers become too disabled to work before reaching retirement age; and

WHEREAS, privatizing Social Security will burden state and local governments, as cuts in guaranteed benefits will increase demands for public assistance at the very moment growth in the federal deficit due to privatization induces the Federal Government to shift greater responsibilities onto states and localities; and

WHEREAS, Congress should not rush through drastic and damaging changes in Social Security that undermine its family income protections but instead should take the time needed to develop careful and thoughtful reforms that address Social Security's funding needs without slashing benefits or dramatically increasing the federal deficit; now, therefore, be it

RESOLVED: That, We, your Memorialists, respectfully urge and recommend that:

1. Congress first commit to paying back to the Social Security trust fund all of the money it borrowed and spent on other things;
2. Congress carefully study a variety of potential changes to address Social Security's problems while ensuring the program will continue to meet its purpose of providing income protection and economic security for America's families;
3. Any changes adopted by Congress strengthen Social Security's family income protections without slashing guaranteed benefits or increasing the federal deficit; and
4. Congress reject proposals to divert money out of Social Security to fund private accounts; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of the Maine Congressional Delegation.

READ.

On motion by Senator **DAVIS** of Piscataquis, **TABLED** until Later in Today's Session, pending the motion by President **EDMONDS** of Cumberland to **ADOPT**.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Protect Maine Citizens from Identity Theft"
H.P. 1180 L.D. 1671

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-654)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-654)**.

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

READ ONCE.

Committee Amendment "A" (H-654) **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 Protect Children from Individuals Who Have Engaged in Sexual Abuse of Children in the Past"

H.P. 850 L.D. 1232

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-655)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-655)**.

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

READ ONCE.

Committee Amendment "A" (H-655) **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 Make Certain Changes in the Laws Concerning the Family Division of District Court"

H.P. 683 L.D. 973

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-646)**.

Signed:

Senators:

HOBBINS of York
BROMLEY of Cumberland
HASTINGS of Oxford

Representatives:

PELLETIER-SIMPSON of Auburn
FAIRCLOTH of Bangor
GERZOFISKY of Brunswick
CANAVAN of Waterville
BRYANT of Windham
DUNN of Bangor
SHERMAN of Hodgdon
NASS of Acton

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

Signed:

Representatives:

CARR of Lincoln
BRYANT-DESCHENES of Turner

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-646) AS AMENDED BY HOUSE AMENDMENT "A" (H-665)** thereto.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-646) **READ**.

House Amendment "A" (H-665) to Committee Amendment "A" (H-646) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-646) as Amended by House Amendment "A" (H-665) thereto, **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 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Define Marriage

H.P. 891 L.D. 1294

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

Signed:

Senators:

HOBBS of York
BROMLEY of Cumberland

Representatives:

PELLETIER-SIMPSON of Auburn
FAIRCLOTH of Bangor
GERZOFSKY of Brunswick
CANAVAN of Waterville
BRYANT of Windham
DUNN of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-648)**.

Signed:

Senator:

HASTINGS of Oxford

Representatives:

SHERMAN of Hodgdon
CARR of Lincoln
BRYANT-DESCHENES of Turner
NASS of Acton

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

Reports **READ**.

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

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

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act To Improve the Water Quality of Hall Pond in Paris"

H.P. 306 L.D. 421

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

That they are **Unable To Agree**.

On the Part of the Senate:

Senator BRYANT of Oxford
Senator STRIMLING of Cumberland
Senator RAYE of Washington

On the Part of the House:

Representative WATSON of Bath
Representative WHEELER of Kittery
Representative HANLEY of Paris

Comes from the House with the Committee of Conference Report **READ** and **ACCEPTED**.

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

Senate

Ought to Pass As Amended

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Contain Costs, Reduce Paperwork and Streamline the Regulatory Process for Maine's Small Businesses"
S.P. 443 L.D. 1263

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-348)**.

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

READ ONCE.

Committee Amendment "A" (S-348) **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 MAYO for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Further the Transition to the New Department of Health and Human Services"
S.P. 608 L.D. 1642

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-349)**.

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

READ ONCE.

Committee Amendment "A" (S-349) **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.

Off Record Remarks

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Eliminate Estate Taxes on Family-owned Businesses" H.P. 321 L.D. 436

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-589)** (6 members)

In House, June 3, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-589)**.

In Senate, June 7, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

Senator **PERRY** of Penobscot moved the Senate **ADHERE**.

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **PERRY** of Penobscot to **ADHERE**. (Roll Call Ordered)

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act Authorizing Municipalities To Establish Walking Trails" S.P. 165 L.D. 539

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-338)** (3 members)

In Senate, June 7, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (2-338)**.

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

On motion by Senator **HOBBS** of York, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Sent down for concurrence.

Non-Concurrent Matter

Bill "An Act To Eliminate Term Limits in the Legislature" S.P. 180 L.D. 572 (C "A" S-278)

In Senate, May 31, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-278)**.

In House, June 7, 2005, Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**, in **NON-CONCURRENCE**.

In Senate, June 7, 2005, **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

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

On motion by Senator **GAGNON** of Kennebec, **TABLED** Unassigned, pending **FURTHER CONSIDERATION**.

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

COMMUNICATIONS

The Following Communication: H.C. 281

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

June 7, 2005

Honorable Joy J. O'Brien
Secretary of the Senate
122nd 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 Allow Counties a One-year Exemption For Jail Costs from the Limitation on County Assessments" (H.P. 1175)(L.D. 1666)

Representative BARSTOW of Gorham
Representative GROSE of Woolwich
Representative BISHOP of Boothbay

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1194

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs shall report out, to the House, a bill to address pension cost reduction bonding.

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

READ and PASSED, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

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

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

Off Record Remarks

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

Off Record Remarks

On motion by Senator **GAGNON** of Kennebec, **RECESSED** until 3:30 in the afternoon.

After Recess

Senate called to order by the President.

Off Record Remarks

Senator **SAVAGE** of Knox requested and received leave of the Senate that all members and staff be allowed to remove their jackets for the remainder of the Session.

Off Record Remarks

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Eliminate Estate Taxes on Family-owned Businesses" H.P. 321 L.D. 436

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-589)** (6 members)

Tabled - June 8, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **PERRY** of Penobscot to **ADHERE** (Roll Call Ordered)

(In House, June 3, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-589).**)

(In Senate, June 7, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**)

(In House, June 7, 2005, that Body **ADHERED**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#233)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY,
GAGNON, MAYO, NUTTING, ROTUNDO,
SCHNEIDER, THE PRESIDENT - BETH G.
EDMONDS

NAYS: Senators: ANDREWS, BRYANT, CLUKEY,
COURTNEY, COWGER, DAMON, DAVIS,
DIAMOND, DOW, HASTINGS, HOBBS, MARTIN,
MILLS, MITCHELL, NASS, PLOWMAN, RAYE,
ROSEN, SAVAGE, SNOWE-MELLO, SULLIVAN,
TURNER, WESTON, WOODCOCK

ABSENT: Senators: PERRY, STRIMLING

9 Senators having voted in the affirmative and 24 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **PERRY** of Penobscot to **ADHERE, FAILED**.

The Senate **INSISTED**.

(See action later today.)

The Chair laid before the Senate the following Tabled Unassigned matter:

Bill "An Act To Eliminate Term Limits in the Legislature"
S.P. 180 L.D. 572
(C "A" S-278)

Tabled - June 8, 2005, by Senator **GAGNON** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, May 31, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-278)**.)

(In House, June 7, 2005, Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**, in **NON-CONCURRENCE**.)

(In Senate, June 7, 2005, **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

(In House, June 7, 2005, that Body **ADHERED**.)

On motion by Senator **GAGNON** of Kennebec, the Senate **ADHERED**.

On motion by Senator **MILLS** of Somerset, the Senate **RECONSIDERED** whereby it **INSISTED** on the following:

Bill "An Act To Eliminate Estate Taxes on Family-owned Businesses"

H.P. 321 L.D. 436

(In House, June 3, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-589)**.)

(In Senate, June 7, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, June 7, 2005, that Body **ADHERED**.)

(In Senate, June 8, 2005, **INSISTED**.)

Same Senator moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **BRENNAN** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by Senator **MILLS** of Somerset to **RECEDE** and **CONCUR**. (Roll Call Ordered)

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 (6/6/05) Assigned matter:

Mandate

An Act To Establish Harbor Master Standards and Training Requirements

S.P. 584 L.D. 1603
(S "A" S-234 to C "A" S-207)

Tabled - June 6, 2005, by Senator **DAMON** of Hancock

Pending - **ENACTMENT**, in **NON-CONCURRENCE**

(In Senate, June 2, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-207) AS AMENDED BY SENATE AMENDMENT "A" (S-234)** thereto, in **NON-CONCURRENCE**.)

(In House, June 6, 2005, **FAILED PASSAGE TO BE ENACTED**.)

On motion by Senator **DAMON** of Hancock, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-207) AS AMENDED BY SENATE AMENDMENT "A" (S-234)** thereto, in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-207) as Amended by Senate Amendment "A" (S-234) thereto, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "B" (S-346) to Committee Amendment "A" (S-207) **READ**.

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

Senator **DAMON:** Thank you, Madame President. This amendment would simply strip away the mandate. The bill, as previously offered, had a mandate that would cost \$130 per individual to be paid for by the towns. This takes that away. It also only requires this training of prospective harbor masters and attendants, not current harbor masters and current attendants. It is, as I mentioned before, one of the Homeland Security measures that we have before us for guarding our coast. It is, indeed, the harbor masters who are the first responders until the Coast Guard arrives on the scene. For that reason and many others that I won't go into right now, I would urge you to support this amendment and this bill. Thank you.

On further motion by same Senator, Senate Amendment "B" (S-346) to Committee Amendment "A" (S-207) **ADOPTED**.

Committee Amendment "A" (S-207) as Amended by Senate Amendments "A" (S-234) and "B" (S-346) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-207) AS AMENDED BY SENATE AMENDMENTS "A" (S-234) AND "B" (S-346) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/7/05) Assigned matter:

Bill "An Act To Reduce the Minimum Participation Requirements of Insurance Carriers"

S.P. 89 L.D. 269
(C "A" S-73)

Tabled - June 7, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **WESTON** of Waldo to **INSIST**

(In Senate, June 2, 2005, the Minority **OUGHT TO PASS AS AMENDED Report READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-73)**.)

(In House, June 6, 2005, the Majority **OUGHT NOT TO PASS Report READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In Senate, June 7, 2005, motion by Senator **SULLIVAN** of York to **RECEDE** and **CONCUR**, **FAILED**.)

On motion by Senator **WESTON** of Waldo, the Senate **INSISTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/7/05) Assigned matter:

Emergency Measure

An Act To Amend Water Quality Standards
S.P. 496 L.D. 1450
(S "A" S-315 to C "A" S-291)

Tabled - June 7, 2005, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, June 2, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-291) AS AMENDED BY SENATE AMENDMENT "A" (S-315)** thereto.)

(In House, June 7, 2005, **PASSED TO BE ENACTED**.)

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I rise today to urge you to vote against L.D. 1450 as amended. In spite of the fact that there were only two descending votes when the bill was first voted upon in this chamber, it's important to note what an extremely controversial and contentious bill L.D. 1450 has been this session. It's been contentious and controversial because the legislation will set a separate lower standard for the Androscoggin and St. Croix Rivers, so be it to the behest of those currently polluting it. The action means, quite simply, that these two rivers and those communities on those rivers are treated as second class. Those who support L.D. 1450 and its amendment will argue that this bill is necessary to preserve jobs. They argue that is IP is forced to make the upgrades necessary to stop the pollution it will be forced to lay off workers. This job versus the environment, in my opinion, is bogus. The cost to bring the IP mill up to good standards range from \$20 million to \$30 million. It's documented that in one year IP, the largest paper company in the world, paid its top six executives \$26 million in salary and bonuses, yet somehow the company, when asked to make these vitally necessary up grades to lessen the pollution in the Androscoggin River, say that they can't afford them. Some would argue that, in fact, there is greater likelihood that mills will stay in Maine if they

are invested in. Some who support this bill will argue that the lower standards are okay with the EPA. In fact, the section of the EPA letter they quote from that says 19° is alright is taken entirely out of context.

In the course of the debate in past weeks, supporters of L.D. 1450 have argued that the cities of Lewiston and Auburn are taking decades to clean up their discharges so why not let the mills have decades to clean up their discharges. This is like comparing apples and oranges. Lewiston and Auburn discharge into an entirely different section of the river that is, indeed, in compliance with statewide and federal regulations. When faced with significant pollution issues, they cities did not lower their standards in order to meet them. Instead they responded by asking, 'What must we do to clean up the discharges and stop the pollution?' They then raised the money to do it and are well on their way to cleaning up the river.

Finally, you will hear supporters of this bill say that we should vote for it because it's the best deal we can currently get. I would argue that this bill is so damaging to water quality standards that it is better to take a stand against it than to go along with it out of, what I would characterize, a misguided attitude that the end justifies the means. In this case the precedent being set by L.D. 1450 by allowing a ten-year compliance schedule is devastating to the Federal Clean Waters Act enforcement in Maine. I hope you will join me in voting against L.D. 1450 as amended.

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

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

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. I appreciate the opportunity to speak on enactment of this bill because there are some important things to read into the record. I will get to those in a moment.

This bill deals with two very unique situations here in Maine where we have a couple of our Class C rivers impounded by dams. This does, indeed, involve unique sections of the Androscoggin and the St. Croix Rivers. As you can imagine, it is very difficult for the water behind these dams to meet the very high water quality standards that have been established for all the Class C rivers in our state. The water behind these dams is not free-flowing like it is for the rest of the rivers, so it is, in fact, a unique situation. However, many of us, including myself, initially supported another bill in the legislature that would have directed the dischargers to clean up these waters and make dramatic improvements in their effluent in the next five years. This sentiment was shared by several members of the Natural Resources Committee as well. This is a unanimous committee report and I hope you will support it.

Many of us saw the political reality of pushing ahead for improvements in five years. A very similar bill to that, to having immediate improvements, failed in this legislature by a very wide margin in the 121st legislature. Instead, we took the idea to move ahead and extracted agreements from the dischargers to achieve uniform standards on all Class C rivers within not five years but ten years. This was not an easy task to even get to the ten year standard. Tremendous pressure was put on these dischargers to make commitments to achieve significant improvements in the quality of affluent to achieve uniform standards in ten years. This

unanimous committee report was achieved with these commitments, but these commitments are not in this bill. There is no language in this bill that says there is a ten year standard being achieved. These standards were adopted outside of statute and are in several agreements by the discharges. If you will indulge me, I will read a couple of letters into the record. This may not be that stimulating, but it is very important. This is the basis of the agreement to achieve these standards in ten years.

The first letter is from NewPage Corporation and is entitled 'NewPage Corporation Commitment to Androscoggin River Water Quality.' It's addressed to Senate Chair Cowger and House Chair Koffman of the Natural Resources Committee. 'As you requested at the Natural Resources Committee May 16th work session on L.D. 1450, NewPage Corporation's Rumford mill is pleased to publicly affirm our commitment to go beyond compliance to further improve Androscoggin River water quality. As we have previously stated to the Governor, the committee, and the Department of Environmental Protection, we have conceptually agreed with the department to an integrated pollution reduction strategy to further improve water quality in the Androscoggin River. This letter summarizes the agreement and our commitment. The first aspect of the integrated pollution reduction strategy will be an immediate 30% reduction in our biochemical oxygen demand, or BOD, summertime limits contained in our draft license. These new limits achieve compliance with the existing state water quality standards. NewPage and the department have agreed to implement two additional reductions over the next ten years as part of the mutually negotiated agreement to go beyond the water quality standards. The agreement will contain provisions for treating these additional reductions as permit limits for reporting, compliance, and enforcement purposes. The final BOD level, representing a 50% reduction from current levels, will be based on DEP's model for achieving a monthly average of 6.5 ppm dissolved oxygen level at 24° Centigrade. The next aspect of the integrated strategy comes from the implementation of TMDL's total phosphorus and ortho phosphorus allocations for the Rumford mill. We have agreed with the department to implement an aggressive reduction strategy that achieves the final allocation level for the Rumford mill over the next five years. These proposed phosphorus limits are the lowest of any pulp and paper mill in the nation. We have also agreed with the department to implement lower total suspended solids limits over the next five years as part of the integrated strategy to reach the level recommended by the TMDL for the Androscoggin River. Finally, NewPage and the department have agreed to a thermal load reduction plan that will provide nearly a 30% reduction in thermal discharge limits to the Androscoggin River. We are currently working with the department to put in place the agreement to implement this water quality improvement strategy. This agreement recognizes that regulatory certainty is fundamental basis for the Rumford mill to develop an integrated facility strategy that goes beyond compliance while implementing pollution reduction in a cost effective and sustainable manner. Such an integrated strategy allows the department and the public's priorities to be addressed in a manner that allows the mill to develop a long-term plan for continuous improvements that supports its capital investment plan for productivity and competitiveness. We have received assurances that the entire integrative plan will be implemented as a complete package. Assurances have also been made that since the Rumford mill has committed to earlier and greater pollution reductions, the mill will receive equitable treatment with

regard to other parties and will not be penalized if further reductions in any of these pollutants are necessary. These assurances are an integral part of the proposed agreement from our perspective and allow us to make these beyond-compliance commitments within the constraints of our limited capital resources. Thank you and the members of the committee for your efforts on these issues. We respect the commitment of the Administration and the committee members in attempting to provide the wisest public policy for the state in this and other areas.' This is signed by Gary Curtis, Vice President of Maine Operations.

If you will forgive me, I have one other letter from International Paper. 'Dear Senator Cowger and Representative Koffman. I am writing to confirm the commitments we have made to you and your committee with respect to improving water quality on the Androscoggin River, and in particular, Gulf Island Pond. These commitments are reflected in the framework that the DEP presented to the committee on May 11th. That framework represents the agreement we reached with the DEP concerning new limits for BOD, phosphorus, and solids. Each of these commitments will be reflected in the waste water discharge license issued to the Androscoggin mill and in a consent agreement between the DEP and the mill. With respect to BOD, we are committing to an immediate new license for BOD 7,400 ppd. The current license limit is 10,900. We have also voluntarily agreed to further reductions in the limit to 6,350 ppd in 2010 and 5,300 ppd in 2015. At the 5,300 level, the mill's BOD discharge will be equivalent of the discharge needed to comply with the statutory 24° standard. As to phosphorous, I should mention we have already voluntarily reduced our discharge by 1/3 beginning last summer. On issuance of the new license, we are committed to continuing these reductions by accepting a new limit of 193 ppd. The mill currently has no limit for phosphorous. The DEP has, itself, acknowledged that further immediate reductions in the mill could well jeopardize our ability to run an effective wastewater treatment system. That is why we need to proceed in a cautious but deliberate way. Having said that, we share a firm commitment to limiting algae blooms on the river. To that end, we are committed to funding an effort by the DEP to revise its phosphorous water quality model. That revised model will be subject to independent scientific peer review and will become the basis of new license limits in 2010. We are committed to accepting the new license limits that stem from the scientific analysis. Finally, on issuance of the new license, we are committed to reducing our discharge of solids to 12,000 ppd. That limit will be reduced to 11,600 in 2010 and to 10,000 in 2015. I'd like to take this opportunity to inform you of our initial investment plans for beginning on this path of improvement. They include the installation of a belt press and a new sludge return line at the waste treatment facility. They also include the installation of ultra filtration systems to capture and reuse coatings from our coated paper machines. These three projects will reduce the mill's discharge of both BOD and solids at a capital cost of more than \$4 million. More investment will follow. We recognize that not all are satisfied with these new limits, but I want to emphasize that they will push us very close to the limit of what is technologically feasible without investments of a magnitude that could render the mill uncompetitive. I sincerely hope that this is a consequence that we all want to avoid. If you need any further information please do not hesitate to contact me.' Signed by Nelson Rildo Martini.

Just a couple of closing comments, Madame President. I just want to state that this bill does include is a technical correction of a standard that was omitted from last year's bill. It also includes new bacteria standards to further protect water quality. The committee further amended this bill to address, again, the unique situation on these certain segments of the river so this does not imply, in any way, that there is a new ten year window for permit compliance and that is not a new standard to be achieved in the state. This is the reason there is an emergency preamble on this bill. It outlines why these Class C rivers are a unique situation and that we should deal with it in that way. Thank you, Madame President. I hope we have a unanimous vote on a unanimous committee report.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I also rise in support of the unanimous committee report from the committee and to inform you that I was the sponsor of the bill at the request of the department, which was merely to correct the legislation that had been enacted last year. In the course of the drafting, there was an item left out. Actually there was a figure that was left out by accident in the final draft and it was missed in final enactment.

What we did last year, at the request of some environmentalist, which turns out now to be a mistake, was that we put 24 in, at their suggestion since most of the state was already at 24 for Class C water, in knowing full well that it did not meet the criteria for either the Androscoggin or the St. Croix. As we look back upon it, frankly, that was a mistake because they have used it against us ever since. In fact the EPA has indicated, and there are letters to that, that a state can choose anywhere between 19 and 24 centigrade in terms of putting water temperature into law. In fact, if we had simply said 22, some of the Androscoggin people would have been unable to say that they were being treated differently than the rest of the state. Because of what we did in the last legislature, that has been the human cry and you've heard it in every letter that you've gotten from some of the individuals. That is why it ended up there and that is why we had that criticism aimed against some of the people in this body and the other body as well.

Let me just tell you that the committee worked extremely hard in arriving at this unanimous committee report. If I had been where some others would be, I'd been screaming from the highest mountain in this state that this piece of legislation does more than any other piece of legislation for the Androscoggin except for color, water, and foam a number of years ago. It is clearly, in my opinion, a model piece of legislation. There is an exception, obviously, for the St. Croix. The St. Croix is probably one we will never be able to deal with in terms of dealing with raising it to where we are. That is because many years ago the forefathers of Washington County and other parts of the country built along the river all kinds of sawmills. In the middle of that river there is sawdust. The sawdust simply eats up the oxygen. The only way to solve the problem of the St. Croix would be to drench the river and to remove the sawdust. Clearly, if you look at the potential environmental dangers there, you are better dealing with what we have now than trying to change what there is at the moment. That is why the St. Croix, in essence, is carved out and that is the reason why it is.

In terms of the Androscoggin, we would not have a problem on the Androscoggin, quite frankly, if there were not a dam. The dam causes a problem because it holds the river back and creates a problem that is unavoidable, especially during low water and the hot weather of late July and August. There is not enough water flow and there is too much heat. That is why we have what we have.

You have heard me before because I did it last time and I will very quickly do it again today. The city of Lewiston/Auburn and some of the people who are in the city of Lewiston/Auburn seem to want to throw all the problem up river. Let me just tell you that the city of Lewiston/Auburn has a 15 year license to clean up their problem, to clean up their sewage. We are giving IP 10 years, not 15. Clearly we are treating them differently, but to the disadvantage of IP not Lewiston/Auburn. I want to make one additional point to all of you, last year there was one bloom at the dam that could have been resolved by increasing the water flow. During that same period of time, I don't have it with me because I told the good Senator from Androscoggin, Senator Rotundo, that I wouldn't throw out the figures anymore, but I'll just mention so you can go check the figures yourself of the amount of waste from the discharge of Lewiston/Auburn that came down the river. I can assure you that I'd rather swim in a little bit of foam than what came out of the sewage of Lewiston/Auburn sewer district. I suspect the fish will be a little bit better off upstream than downstream of the outflow.

It is an opportunity, in my opinion, in this piece of legislation to do a tremendous amount of improvement for the river. Not to enact this piece of legislation sets us back to where we were 10 years ago. This is a tremendous progressive piece of legislation. We ought not to be ashamed to say we support it because it is real progress for the first time, in my opinion, on this issue. Others have been resolved before and I am hoping that the good Senator from Androscoggin, Senator Nutting, will mention what has taken place in the past. I just want to say this, it is a tremendously important piece of legislation, not only for the Androscoggin Valley, but for the entire state. I absolutely feel no shame about being a proponent and being a supporter and what it is we have been able to accomplish. Clearly we have some people who are taking pot shots and I'm not talking about people in this body. Some of these individuals take pot shots because they need another fundraiser. As long as that comes out there, they can always use it. Keep that in mind because this piece of legislation, to me, has made the most progress of any piece of legislation in the last couple of years on the Androscoggin.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President. To stand here today to talk about the wonderful work that our committee has done makes me a little nervous. I have to say and ask this body to please support the work that Natural Resources Committee has done. I am so extremely proud to have been able to serve on this committee and with such fine members of the committee. Let me explain to you the make up of this committee. We have folks, legislators, that are on both ends of the spectrum; from very conservative when it comes to environmental issues and very liberal when it comes to environmental issues. When this report came to us, I think each and every one of us wanted to do our very best to improve the environment and to improve our Class C rivers. I know, for myself, I wanted to serve on the

Natural Resources Committee just because of this specific reason, the Androscoggin River. I have read report after report in the Sun Journal that has put down the committee's work. I'm going to tell you, it has given me a lot of distress, fully knowing the hard work and dedication each one of us put into this piece of legislation. Many environmentalists have said that we didn't use scientific data. That is so completely false. We used, in my mind, good sound smart science. We had all the facts before us. We set forth and spent much time and had many hearings. We had many types of people coming before us from environmentalists to college students to mill workers that we concerned with losing their jobs. The committee, together, rolled up our sleeves and got to work. I am very proud of the report that is before you. I hope that you will give us the emergency that we need so we can get this bill put into effect so it can clean our rivers. I haven't been on the Natural Resources Committee that long, so I'm not as eloquent as the good Senators from Kennebec, Senator Cowger, and Aroostook, Senator Martin. All I can tell you is that we have done a wonderful job and our rivers will be clean. I ask for your vote. 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. This particular piece of legislation and the impoundment of Gulf Island Pond have been victims of many threats to a great degree. A threat from the International Paper Company, a threat from Florida Power and Light, a threat from environmental groups, a threat from the city of Lewiston/Auburn, and a threat from those not connect to any of the above mentioned. I'm a little hesitant to say this today, but I rise today to support this motion in complete agreement with the good Senator from Aroostook, Senator Martin, when he makes the assessment that this is an important piece of legislation, because behind the scenes there has been a significant amount of negotiation that has taken place in order to arrive at where we are today. I'm hoping this body will have a unanimous Ought to Pass. Thank you.

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I was a prime sponsor of the color, odor, and foam legislation in 1986 that took four years to pass, and it finally did pass after three vetoes and was signed into law in 1990, the mills in Maine didn't even begin to implement color, odor, and foam until six years after the bill was signed. From the time I filed the bill to the time they began to implement the color, odor, and foam bill, I, the State of Maine, and the people on the Androscoggin River waited ten years. Color, odor, and foam brought the standard from over 700 down to 300 pound per ton of wet pulp produced in a mill. As the prime sponsor of the dioxin bill in 1998, the industry was first quite alarmed when I proposed the color, odor, and foam standards from 300 down to 175. A little known fact of my dioxin bill is that it also lowered the color, odor, and foam standards again down to 175. Today every mill in Maine has a color, odor, and foam discharge per ton of wet pulp produced is 100 pounds or less. They have gone beyond the standard enacted in color, odor, and foam in 1990 and dioxin in 1998. Why? They have learned that as they recapture more

before they discharge it they make more money. My firm belief is that as they implement this unanimous committee report, which deals with phosphorus and dissolved oxygen, I believe they are going to learn the same thing, that they are going to make more money by recapturing more chemicals and having to purchase less chemicals. This year, I was the prime sponsor of L.D. 818 for phosphorus because we did have a bloom, a very alarming bloom, on the Gulf Island Pond. I believe this L.D. will fix the phosphorus problem in five years and I'm very pleased with that. I will somewhat disagree with the good Senator from Aroostook, Senator Martin, on one point, however. I know Lewiston/Auburn does have a 15 year license on their over-board discharge in order to finish putting in a separate set of pipes for storm water and for their sewer lines, but they have worked very hard and within six years they will have completed that. I think they should be proud of that fact. I am going to be supporting this unanimous committee report. I had to do so much compromising with color, odor, and foam that at the time I wondered if I was doing the right thing. Waiting ten years was a long time for me. To see the people using the Androscoggin River now, on a daily basis, and the problem we have with the Androscoggin now is everybody wants to live next to it. In the mid-1980's nobody wanted to live next to it. It can, at times, frustrating attempting to clean up our rivers. I understand the frustration out there among some. I think we are going to look back at this day and say that this is a good step. It's a compromise and I believe, in the end, we will bring the Androscoggin ahead to the next level of cleanliness. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion to Enact. 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 (#234)

YEAS: Senators: ANDREWS, BARTLETT, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK

NAYS: Senators: BRENNAN, BROMLEY, MAYO, ROTUNDO, THE PRESIDENT - BETH G. EDMONDS

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with 5 Senators having voted in the negative, and 30 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.

The Chair laid before the Senate the following Tabled and Later (6/7/05) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act To Eliminate the Offset for Social Security and Certain Other Pensions for Unemployment Benefits"

H.P. 365 L.D. 490

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-555)** (7 members)

Minority - Ought Not to Pass (5 members)

Tabled - June 7, 2005, by Senator **STRIMLING** of Cumberland

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

(In House, June 7, 2005, 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-555).**)

(In Senate, June 7, 2005, Reports **READ.**)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. The idea behind the off-set on unemployment insurance benefits for those individuals that also collect Social Security or pension benefits was originally to protect the solvency of the Unemployment Insurance Fund as well as a matter of fairness. Unemployment insurance is meant to be a temporary replacement of lost wages. It is designed to be the sole wage replacement benefit as a bridge between jobs. Individuals who are entitled to Social Security and pension benefits already have one stream of income. Off-setting their unemployment insurance was deemed both fair and necessary so as not to dramatically drain unemployment insurance reserves. The cost associated with L.D. 490 is merely \$6 million next year and steadily climbing, illustrating why the off-set is necessary. By eliminating the off-set, we will in effect create a two-tiered unemployment insurance system in our state, a system that is both unfair and costly. The first tier will be for individuals who receive two more streams when unemployed, unemployment benefits and Social Security benefits. The second group will consist of anyone not entitled to Social Security or pension benefits and who are not entitled to keep any supplemental earnings they may receive when also collecting unemployment insurance. Let me give you an example. A single mother is laid off from her job and is eligible to collect unemployment insurance. If she is able to supplement her unemployment insurance benefits by working temporarily a few hours a week, her unemployment insurance benefits will, in part, be off-set by her earnings. Thus one group of unemployment recipients is treated differently and allowed to keep more money than the other. L.D. 490 is too costly and will drain our unemployment account and creates inequities in our unemployment insurance system. We can fix the

system when we are obliged to fix the system. I ask you to please support the minority Ought Not to Pass. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I rise briefly just to ask my colleagues to support the majority Ought to Pass as Amended report. This, once again, as many of the issues are from the Labor Committee is just an issue of fairness and an issue of justice. This is somebody, mostly who are elderly, who need to work in order to supplement their income. If they get laid off from that job, they should be eligible for unemployment benefits just like the rest of us. The way the law currently works, because they are receiving Social Security, there is going to be an off-set deduction in the amount that they would have been receiving from their unemployment and so they don't receive what they are owed. They pay into unemployment and they should receive unemployment. These are elderly folks who are on Social Security, who need to supplement their income with a job. When they lose that job are we going to say they should not be able to receive enough money to support themselves and to pay their rent and to put food on their tables? This is a basic human right. Let's make sure that our elderly get their needs fulfilled. Please, I urge my colleagues to accept the majority Ought to Pass as Amended report.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. Let's come to an understanding, if we can, about what is the current law and what has been the law for many, many decades and to understand why the current law has not been amended despite previous efforts to do so in just the fashion proposed by this bill. First of all, if you are on Social Security and you go to work and then you are laid off, your benefits under unemployment compensation are not off-set by the entire amount of your Social Security check. They are off-set by half under the theory that half of the Social Security benefit was paid for by the employer during your lifetime of work and the other half was contributed out of your own earnings. The same, by the way, is true of any pension benefits, private pension benefits or defined benefits, that you might be entitled to. Your off-set does not apply to that portion of your contribution to your own Social Security or pension benefit, those contributed by you, out of your own wages and where you paid taxes on them during your lifetime of work. The current law does not deprive people on Social Security of having access to unemployment compensation. It only discounts the benefit by half of what is received under Social Security. There is no means test here. The person who is on Social Security might well have his or her house all paid for. They might have the privilege, I might add, of having access to Medicare. As of January 1, 2006, they will have access to a pretty good drug benefit courtesy of Medicare. They may have other safety nets that our society makes available to people who are over the age of 65 or 62, whenever you chose to take the benefit. The point is that unemployment compensation is designed to be a safety net for the people who are most desperate when they lose their job. I suggest to you that those people include younger people with families who need to put bread on the table with the wages that they earn. When the mill

closes, you want that unemployment compensation system solvent. You want it available to help in those crises. Our system is healthy at the present time. If we pass this bill, then we will be imposing a broad-based tax on every employment relationship in the State of Maine to the tune of over \$5 million per year, ongoing. To benefit what class of people? People who are already receiving Social Security, who have access to health insurance, and who have other safety nets available to them. I suggest that, if we are going to expand benefits under the unemployment compensation system, surely we can think of other classes of people who could make a stronger demand on those resources than people who already have some of the best safety nets that our society provides. I don't want to comment on previous dispositions, but this bill has never been favorably received by the Maine legislature over the last few decades. I don't think it should do so now and I respectfully request that you vote against the pending motion of Ought to Pass. 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 like correct one point of information that the good Senator from Cumberland, Senator Strimling, put into the air here earlier when he indicated that the employees were paying into the unemployment insurance fund. That is not the case. It is employers. Secondly, I think the work that was done on this bill was done at a time before the BRAC commission stepped up and gave us the significant body blow. We know that the current plans of BRAC are to close the Portsmouth Naval Shipyard in Kittery by 2008. I would suggest to you that we have a fund that is healthy today because there are going to be severe strains on that fund over the next few years. We do not need to be draining it for extraneous purposes and setting ourselves up for significant increases in the unemployment insurance rates that we already have in place. I would urge you to vote against the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling 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 (#235)

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, DAMON, GAGNON, MAYO, MITCHELL, PERRY, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BROMLEY, CLUKEY, COURTNEY, COWGER, DAVIS, DIAMOND, DOW, HASTINGS, HOBBS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

ABSENT: Senators: MARTIN, NUTTING

10 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/7/05) Assigned matter:

Bill "An Act Establishing Minimum Energy Efficiency Standards for Certain Products Sold or Installed in the State"

H.P. 999 L.D. 1435
(S "B" S-310)

Tabled - June 7, 2005, by Senator **BRENNAN** of Cumberland

Pending - motion by Senator **BARTLETT** of Cumberland to **INSIST**

(In Senate, June 1, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-310)**, in **NON-CONCURRENCE**.)

(In House, June 6, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-307) AS AMENDED BY HOUSE AMENDMENT "D" (H-549)** thereto, in **NON-CONCURRENCE**.)

(In Senate, June 7, 2005, on motion by Senator **BARTLETT** of Cumberland, **INSISTED**. On motion by Senator **BRENNAN** of Cumberland, **RECONSIDERED**.)

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President. I'm going to ask for a roll call, if you please, and just a reminder that what you have before you is an opportunity to offer a rebate to business owners who are buying commercial appliances that would then make the decision and help fund that decision to buy a more energy efficient appliance. If we agree to this motion, there will be no incentive. If you are conscience of energy efficiency and want to help people make good choices, the carrot is before you and you have the opportunity to vote for that. Thank you.

The same Senator requested a Roll Call.

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

Senator **BARTLETT:** Thank you, Madame President. I would just like to briefly explain what the bill does and does not do. What it does is replaces the original bill, which sought to impose standards on certainly the least efficient produces on the market.

It replaces that with a rebate program of \$500,000 a year. It is important to understand that, with these products, over half the market is already purchasing these products. What we will be doing is using government resources to pay people to do what many are already doing. That's not a good use of resources. What we were trying to do with the original bill was to move forward and tip the market the rest of the way. Over half the market is already going there. This was to finally weed out these very inefficient appliances. They are a good value. A rebate is kind of like a double dip because they are saving the money in reduced electricity costs when they buy these products and now we are going to give them a rebate too. Finally, Efficiency Maine is a program that already provides some refunds to resources to small businesses to help them promote energy efficiency that will reduce energy costs. What we would be doing is sucking money out of that fund, which helps small businesses and individuals reduce their energy costs, and pouring it into rebates, a large percentage of which would be going to people who would be doing this anyways. I just think that, as a straight public policy standpoint, this is not a good use of government resources, particularly given the current budget difficulties we are facing. Our original proposal provided a limited rebate program designed to help those very few businesses that might not be able to make those purchases but for the rebate. The version of the bill that has come down from the House goes way beyond that. They would be providing rebates to anybody on an ongoing basis. I think it's a commitment that we should not be prepared to make at this time.

On motion by Senator **WESTON** of Waldo, supported by a Division of 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 Bartlett to Insist. 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 (#236)

YEAS: Senators: **ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

ABSENT: Senator: **NUTTING**

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BARTLETT** of Cumberland to **INSIST**, **PREVAILED**.

Sent down for 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 (6/7/05) Assigned matter:

Bill "An Act To Exempt Unemployment Benefits from State Income Tax"

H.P. 255 L.D. 332
(C "A" H-404)

Tabled - June 7, 2005, by Senator **DAVIS** of Piscataquis

Pending - motion by Senator **STRIMLING** of Cumberland to **ADOPT SENATE AMENDMENT "B" (S-342) TO COMMITTEE AMENDMENT "A" (H-404)** (Roll Call Ordered)

(In Senate, May 31, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-404)**, in concurrence.)

(In House, June 6, 2005, **FAILED PASSAGE TO BE ENACTED.**)

(In Senate, June 7, 2005, on motion by Senator **STRIMLING** of Cumberland, **RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED.** On further motion by same Senator, **RECONSIDERED ADOPTION** of Committee Amendment "A" (H-404). On further motion by same Senator, Senate Amendment "B" (S-342) to Committee Amendment "A" (H-404) **READ.**)

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

Senator **STRIMLING:** Thank you, Madame President. Just to remind everyone, this amendment to the bill will exempt those individuals who make less than \$25,000 a year and those families who make less than \$50,000 if they are getting unemployment. It is a tax cut for most of the working families in Maine. Some of the fear before was that people who make \$80,000, \$90,000, or \$100,000 would not be paying income tax if they went on unemployment. This is making sure we give it to those folks who need it most. I will credit my good colleague from York County for coming up with the idea. I realize he decided not to put forth the amendment. It is a tax cut for low and middle income families in Maine in case they should get on unemployment.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. Thank you, Senator. I guess my only issue with this, and the reason I did not put forth the amendment, is that we have a tax code and a tax system. Ultimately, that fetters it out because it treats everybody the same based on their

income at the end of the year when they do their tax returns. I really think that we ought to let the code stand on its own. If you chose to increase the amount that you pay for unemployment, that's fine and that is the way to do that. I don't think doing it through the tax code is the way to do it. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **SULLIVAN:** Thank you, Madame President. I am just curious, if this comes out of the state income tax than it must have an effect on our budget. I would ask for a report on that.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. In response to the good Senator's question, it looks as if it is about a \$6 million annual loss of revenue to the General Fund. I'm looking at L.D. 332, Senate Amendment "B" (S-342). It has a fiscal note that, in round numbers, is about \$6 million and \$7 million per year.

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

Senator **SULLIVAN:** Thank you, Madame President. May I pose another question?

THE PRESIDENT: The Senator may pose her question.

Senator **SULLIVAN:** Thank you, Madame President. I certainly understand the word 'round'. I'm having a hard time with the 'million'. That's something that is not in my vocabulary. Should we not have some source of revenue if we are going to take \$6 million out of the budget at this point in time? I'm just curious if we have an answer for where we would make that up at the present time.

THE PRESIDENT: The Senator from York, Senator Sullivan poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. I think we should find other sources. I have many of them. I'd suggest the BETR program as the first place that I would probably go to fund it. I think that we can leave that. The issue right now is whether we believe that somebody who is making less than \$25,000 a year, or a family who is making less than \$50,000 a year, and goes on unemployment, where their standard of living drops dramatically, do we believe that we should try to give them some kind of income tax break for the hardest time of their working life? People get laid off and they go on unemployment, it's very difficult for them to make ends meet. For us, in the state, to say that we

are going to be taking money away from them at the same time seems, to me, inappropriate. One of the things we often talk about and what frustrates people is when we give money and in the same moment we are taking it away at the same time. If we are going to provide a benefit to folks, let's provide that benefit. Let's not make them give some of it back.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I'm going to try to step back from the emotional argument a little bit and just try to point out that if you have someone that is earning \$17,000 working for the entire year and you have someone that is earning \$17,000 and part of that is unemployment, currently they pay the same in Maine State Income Tax. If this bill passes, the person that didn't work because they were unemployed would be receiving the benefit.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Adopt Senate Amendment "B" (S-342) to Committee Amendment "A" (H-404). 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 (#237)

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DAMON, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BROMLEY, CLUKEY, COURTNEY, DAVIS, DIAMOND, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senator: NUTTING

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **ADOPT** Senate Amendment "B" (S-342) to Committee Amendment "A" (H-404), **FAILED**.

Committee Amendment "A" (H-404) **ADOPTED**, in concurrence.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed. 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 (#238)

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, GAGNON, MARTIN, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BROMLEY, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, HASTINGS, HOBBS, MAYO, MILLS, MITCHELL, NASS, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

ABSENT: Senator: NUTTING

7 Senators having voted in the affirmative and 27 Senators having voted in the negative, with 1 Senator being absent, **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-404), FAILED.**

The Chair laid before the Senate the following Tabled and Later (6/7/05) Assigned matter:

An Act To Replace the Interagency Task Force on Homelessness and Housing Opportunities with the Statewide Homeless Council
S.P. 624 L.D. 1678
(C "A" S-320)

Tabled - June 7, 2005, by Senator **MITCHELL** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, June 2, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-320).**)

(In House, June 6, 2005, **PASSED TO BE ENACTED.**)

On motion by Senator **BROMLEY** of Cumberland, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-320).**

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-320).

On further motion by same Senator, Committee Amendment "A" (S-320) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Define Marriage

H.P. 891 L.D. 1294

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-648)** (5 members)

Tabled - June 8, 2005, by Senator **HOBBS** of York

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

(In House, June 7, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 8, 2005, Reports **READ**.)

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **HASTINGS:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise as one on the minority report, which was Ought to Pass as Amended. I want to make it clear what is before us and what is not before us right now. The bill, as originally presented to the Judiciary Committee, was a bill to put out to referendum a proposed amendment to our Constitution to do two things. The bill, as originally written, had two sentences. The first said that only a union between one man and one woman may be a marriage valid in or recognized by this state. The second sentence went on to say that this state and its political subdivisions may not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the designs, qualities, significance, or effect of marriage. This bill, as amended by the committee, deleted the entire second sentence so that the proposed constitutional amendment would simply elevate to the constitution what is now Maine statutory law, that a valid marriage is limited to that between a man and a woman. You should understand what is being proposed to you.

Maine's statutory law does have the requirement that to be married one must be a man and a woman. This amendment, if passed, would not in any way, in my opinion and I think in the opinion of most of the committee or the committee as a whole, prevent or interfere with any law that is now enacted by this state. It would not interfere with the registry statute that now exists. In the future, if it came before this body, it would not interfere with the creation of a institution such as civil unions. That is my main point. I did support the anti-discrimination bill earlier in the session. This is not a discrimination bill, in my mind. It simply states one simple and clear line of demarcation, that the institution of marriage itself will be limited to a man and a woman. I urge you to defeat the pending motion and move to the minority report. Thank you.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I pose a question through the Chair to any member who chooses to answer as to what year we are going to define marriage and under what dictionary? If someone could respond to that question I would appreciate it.

THE PRESIDENT: The Senator from Aroostook, Senator Martin 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, Madame President. Obviously, no one wants to respond because they probably think I know the answer and that is true. I would suggest also that you take a look at what country by which you are going to define marriage. In some countries marriage means the woman is owned by the man. Is that the definition? Are we going to talk about marriage the way it was defined in the 1700's? Are we defining it as today? That is the question because to not define it and leaving it without definition is going cause some serious problems. Someone wants to define it, that this is the way it is defined today in Maine on this day, I'll support that, but don't tell me that we are simply going to leave it in another situation and not define it.

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

Senator **PLOWMAN:** Thank you, Madame President. I'm pretty sure that my husband understands the word marriage and he is expecting me to come back real soon and get back to it, so if we could move on it would be great.

However, we use the word marriage a lot. In fact, we used it to amend the Maine Human Rights Act just a little while ago when we passed the non-discrimination bill that said this does not mean the State of Maine is asking you to recognize that there would be marriage between same sex individuals. That was supposed to be used to make us all feel comfortable, I think it worked because it passed very nicely here and was signed downstairs. I'm brining that up because we just keep doing things with the word marriage and I guess we all have an understanding of what that is.

What I would like to know is, after all is said and done, why did the same committee, after deciding what would be and what wouldn't be a good idea, tell us that a state law is already in effect and defines marriage as a contract or institution between a man

and a woman. We've already used this as an affirmative kind of statement to pass another law. Why shouldn't we put it out to the people of the State of Maine to ask them if they agree with that? If someone from the committee would tell me why they came up with the Ought Not to Pass recommendation I'd be glad to listen. Thank you.

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

Senator **HOBBS**: Thank you, Madame President, men and women of the Senate. I couldn't resist getting up to respond to the good Senator from Penobscot, Senator Plowman. The good Senator from Oxford, Senator Hastings, mentioned that the second sentence of the proposed amendment to the constitution was removed and the first sentence exists as the report of the minority of the Judiciary Committee. Even with one sentence, that sentence still amends the constitution, which I think is a drastic measure because anything contrary to that amendment, in letter or in spirit of the law, is void. In Maine, constitutional amendments, as though in the chamber know, are strictly broadly construed. What do I mean by that? It means that they are accorded a liberal interpretation in order to carry out their broad purpose because they are expected to last over time and are cumbersome to amend. Once this amendment would be in place, if it were adopted and put in the constitution, it trumps all statutes. It would repeal all contrary laws and ordinances that we have in the State of Maine. I ask you this question, why would you risk those protections for all Maine people in order to change the constitution for a problem that presently does not exist? As everyone knows in this chamber, same sex unions are already not legal in the State of Maine. We have had no court cases in which the courts have attempted to sanctify those unions.

When we are dealing with the healthcare issues, jobs, economy, and base closings, this issue is a wedge issue. It's one that I ask you not to support.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Hobbins to Accept the Majority 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 (#239)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MAYO, MILLS, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MARTIN, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, WESTON, WOODCOCK

ABSENT: Senator: NUTTING

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **HOBBS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

Bill "An Act To Establish the Maine-New Hampshire Cooperative Trails"

S.P. 635 L.D. 1688

Sponsored by Senator BRYANT of Oxford. (GOVERNOR'S BILL)

Cosponsored by Representative MUSE of Fryeburg and Representatives: CEBRA of Naples, PATRICK of Rumford, TRAHAN of Waldoboro, WATSON of Bath, WHEELER of Kittery.

Committee on **INLAND FISHERIES AND WILDLIFE** suggested and ordered printed.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Sent down for concurrence.

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

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

Senator **ROTUNDO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

On motion by Senator **BRENNAN** of Cumberland,
RECESSED until 7:00 in the evening.

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:

Acts

An Act To Clarify the Smoking Ban for Off-track Betting Facilities
H.P. 815 L.D. 1186
(C "A" H-528)

An Act To Protect Small Forest Landowners
H.P. 954 L.D. 1368
(C "A" H-629)

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 Authorize a Tax Rebate Program for Established Residents

S.P. 41 L.D. 135
(H "A" H-631 to C "A" S-302)

On motion by Senator **ROTUNDO** of Androscoggin, **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 Further Coordinate the Laws Regarding Certificate of Need, the State Health Plan and the Capital Investment Fund
S.P. 490 L.D. 1401
(C "A" S-333)

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

An Act Regarding Implementation of the Central Voter Registration System

S.P. 583 L.D. 1602
(C "A" S-331)

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

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

ENACTORS

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

Resolves

Resolve, To Study Adoption of the Streamlined Sales and Use Tax Agreement

H.P. 747 L.D. 1094
(C "A" H-603)

Resolve, To Increase the Quality of Care and Reduce Administrative Burdens in the Pharmacy Prior Approval Process
S.P. 493 L.D. 1404
(C "A" S-332)

FINALLY PASSED 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:

An Act To Authorize a Tax Rebate Program for Established Residents

S.P. 41 L.D. 135
(H "A" H-631 to C "A" S-302)

Tabled - June 8, 2005, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, June 6, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-302) AS AMENDED BY HOUSE AMENDMENT "A" (H-631)** thereto, in concurrence.)

(In House, June 8, 2005, **PASSED TO BE ENACTED.**)

Senator **COURTNEY** of York inquired if Committee Amendment "A" (S-302) as Amended by House Amendment "A" (H-631) was **GERMANE**.

The Chair **RULED** the inquiry on the **GERMANENESS** of the amendment **NOT IN ORDER**, the amendment having already been adopted.

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

Senator **COURTNEY:** Thank you, Madame President. With regards to L.D. 135, it was set up as a tax rebate program for senior citizens and I believe it got near unanimous support from the committee. Now it has been changed somewhat so that it is a local option for everyone. I think there may be some unintended consequences. I'm really concerned that if we proceed with this without really looking at these entire issue a little bit further there will be unintended consequences. I have some concerns.

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

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

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 Allowing Certain Commercial Vehicles at Canadian Weight Limits To Travel from the Canadian Border at Calais to Baileyville
H.P. 257 L.D. 334
(S "A" S-319)

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Permit Recording Proceedings of the Legislature"
H.P. 913 L.D. 1315

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

Comes from the House with the Report **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-414) **READ**.

On motion by Senator **GAGNON** of Kennebec, Senate Amendment "A" (S-353) to Committee Amendment "A" (H-414) **READ**.

On motion by Senator **SCHNEIDER** of Penobscot, **TABLED** until Later in Today's Session, pending the motion by Senator **GAGNON** of Kennebec to **ADOPT** Senate Amendment "A" (S-353) to Committee Amendment "A" (H-414).

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Educate Women on the Medical Risks Associated with Abortion"
H.P. 28 L.D. 25

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

Signed:

Senators:

HOBBS of York
BROMLEY of Cumberland
HASTINGS of Oxford

Representatives:

PELLETIER-SIMPSON of Auburn
FAIRCLOTH of Bangor
GERZOFOSKY of Brunswick
CANAVAN of Waterville
BRYANT of Windham
DUNN of Bangor
SHERMAN of Hodgdon

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-650)**.

Signed:

Representatives:

CARR of Lincoln
BRYANT-DESCHENES of Turner
NASS of Acton

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

Reports **READ**.

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

On motion by Senator **WESTON** of Waldo, supported by a Division of 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 (#240)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NUTTING, RAYE, ROSEN, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, NASS, PERRY, PLOWMAN, SAVAGE, SNOWE-MELLO, WESTON

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **HOBBS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Resolve, Directing the Bureau of Health To Study the Effectiveness and Quality of Reproductive Counseling

H.P. 1057 L.D. 1512

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-664)**.

Signed:

Senators:

HOBBS of York
HASTINGS of Oxford

Representatives:

PELLETIER-SIMPSON of Auburn
FAIRCLOTH of Bangor
CANAVAN of Waterville
DUNN of Bangor
SHERMAN of Hodgdon
CARR of Lincoln
NASS of Acton
BRYANT-DESCHENES of Turner

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

Signed:

Senator:

BROMLEY of Cumberland

Representatives:

BRYANT of Windham
GERZOFKY of Brunswick

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-664)**.

Reports **READ**.

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

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Require Parental Notification of Teenage Abortions"

H.P. 1112 L.D. 1575

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

Signed:

Senators:

HOBBINS of York
BROMLEY of Cumberland
HASTINGS of Oxford

Representatives:

PELLETIER-SIMPSON of Auburn
FAIRCLOTH of Bangor
GERZOFKY of Brunswick
CANAVAN of Waterville
BRYANT of Windham
DUNN of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-649)**.

Signed:

Representatives:

SHERMAN of Hodgdon
CARR of Lincoln
BRYANT-DESCHENES of Turner
NASS of Acton

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

Reports **READ**.

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

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **PLOWMAN:** Thank you, Madame President and men and women of the Senate. I ask you not to accept the majority Ought Not to Pass report. As a woman and a mother of several daughters, I will tell you that I want to know when my child is undergoing this kind of procedure and so do most Mainers, according to recent polls. People want to know that something that is going to chance their daughter's life is happening. I just found out that a child can go and get an abortion and actually tell the abortion provider that she was raped by her own father and that abortion provider is not a mandatory reporter. Did you know that there is an exception? There is no mandatory reporting in reproductive clinics. Young women, who present themselves for an abortion because they were incested, return to the same bedroom in which they got pregnant last month. This bill doesn't say that we have to tell her father. This bill says that she doesn't have to tell her father. She gets to tell somebody who is going to protect her because the people that are taking care of her today and taking care of today's problems are addressing today's needs. It doesn't address what is happening to this young woman.

The same thing for rape. Yes, we have an adult involvement law. You will hear that. It could be the man who is responsible

for paying child support for the next 18 years, that accompanies this minor to an abortion clinic. When she sits down she looks at a waiver. She signs off and says that things that will happen to her during this procedure are risks associated with the procedure and that she understands that. The fact that cartilage or bone could perforate her uterus, she's supposed to know what that means? She is supposed to know that this could affect her life? These are children. We've carved out exceptions because it's reproductive freedom but we are asking them to make decisions like they are adults. When children make decisions like they were adults, decisions weigh heavily on them. Someone needs to help a child make a decision. If it can't be the parent it needs to be someone in a position of authority who says that this is how you came about this situation and you need not to be in this situation. I don't think we're asking very much.

You will hear that there is a huge fiscal note on this because there may be 500 cases that will come before the courts. The figures say that 60% of parents are involved in this decision. In 2002, 198 young girls between the ages of 10 and 17 presented for abortions in the State of Maine. If you take out the 60% who do involve their parents, you've got 80 young women who are making this decision on their own. That's a far cry from 500. Some of them, most of them, are probably not in the position that I've just described. They haven't been raped or incested. They are still children making adult decisions.

As this young girl is escorted to an abortion clinic, you have told her that she won't be safe if she doesn't buckle herself in. You have told her that she must buckle in because we know better. You need to be safe. Please buckle up. You told her parents that. You told everybody. Because she's not old enough to make that decision on her own and the person in charge is telling her what is good for her because it is good for her. Why do we carve out such extreme circumstances for our young ladies to go in with no back-up? No, it's not always going to be the family. Sometimes authorities have to step in. When will they? Not because a mandatory reporter says that this child is in danger. The girl is certainly going to go home and try to deal with what happens to her. She's going to deal with it on her own because the person who takes her isn't taking her home and tucking her in bed that night and giving her two Tylenol. They are saying, 'Here, honey, are the instructions. If something happens call us.' Well, she's already hidden something from home. God forbid there should be a complication that night. Is she going to wait until morning to call the person who took her and say, 'I've got a fever, I'm not feeling good, I'm bleeding and I don't think it's what they told me it was going to be'? Is she going to go to her Mom? She's already hid something from her Mom and she's been encouraged to hide that from her Mom. I don't think that we are asking too much to protect young women. These are 10 to 17 years old children. They don't need to have this kind of responsibility heaped on them. They need, in some cases, for someone to reach out and say, 'Honey, you're not going home there tonight.' You are going to hear that a child will not be able to negotiate what is legally needed. Well, I really reject that argument because if this child is helped to negotiate the medical access, the day away from school, the insurance reimbursement, the ride to and from, I imagine that someone can actually take her down to a private meeting between her and a judge and the judge looks at her and says, 'You know, I can see why you couldn't go home and I want to make sure that this is not what you have to do.' I will please ask you to consider that this isn't just about

reproductive freedom. It's about caring for the whole child. The whole child. That is what we are supposed to do. Thank you.

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

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. Just one quick correction, abortion providers are mandated reporters. If a minor disclosed incest that would absolutely be reported. I, as a clinical social worker, if I worked in the clinic, I would be mandated to report as well. I just wanted to clarify that.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Hobbins to Accept the Majority 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 (#241)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, COWGER, DAMON, DIAMOND, GAGNON, HASTINGS, HOBBS, MAYO, MILLS, MITCHELL, NUTTING, RAYE, ROSEN, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BRYANT, CLUKEY, COURTNEY, DAVIS, DOW, MARTIN, NASS, PERRY, PLOWMAN, SAVAGE, SNOWE-MELLO, WESTON, WOODCOCK

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **HOBBS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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 **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Standardized Reporting of the Prices for Certain Health Care Services and To Repeal the Confidentiality of Sentinel Events"

H.P. 975 L.D. 1411

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-660)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-660)**.

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

READ ONCE.

Committee Amendment "A" (H-660) **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 **TRANSPORTATION** on Bill "An Act To Make Supplemental Highway Allocations for the Expenditures of State Government and To Change Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007" (EMERGENCY)
H.P. 946 L.D. 1363

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-663)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-663)**.

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

READ ONCE.

Committee Amendment "A" (H-663) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prevent Lead Poisoning of Children and Adults"

H.P. 719 L.D. 1034

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-642)**.

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook

Representatives:

PINGREE of North Haven
WALCOTT of Lewiston
GROSE of Woolwich
WEBSTER of Freeport
MILLER of Somerville
BURNS of Berwick
CAMPBELL of Newfield

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-643)**.

Signed:

Senator:

ROSEN of Hancock

Representatives:

SHIELDS of Auburn
LEWIN of Eliot
GLYNN of South Portland

(Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought To Pass as Amended by Committee Amendment "A" (H-642)** Report.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642)**.

Reports **READ**.

Senator **MAYO** of Sagadahoc moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642)** 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 BY COMMITTEE AMENDMENT "A" (H-642)** Report, in concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Repeal Certificate of Need as It Applies to Hospitals, Ambulatory Surgical Units and Physician Offices"

H.P. 1043 L.D. 1487

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

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook

Representatives:

PINGREE of North Haven
WALCOTT of Lewiston
GROSE of Woolwich
WEBSTER of Freeport
MILLER of Somerville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-652)**.

Signed:

Senator:

ROSEN of Hancock

Representatives:

SHIELDS of Auburn
CAMPBELL of Newfield
LEWIN of Eliot
GLYNN of South Portland
BURNS of Berwick

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

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-652)**.

Reports **READ**.

Senator **MAYO** of Sagadahoc moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

Senator **ROSEN:** Thank you, Madame President and members of the Senate. Good evening. I hope to take a moment to take a look at the amended version of this bill and suggest that you reject the majority Ought Not to Pass report and go on to accept the Ought to Pass report as amended. This bill deals with the certificate of need process, which Maine currently has as a mechanism to control costs and to improve quality in the healthcare system. I think there are some questions about that as to whether the CON process provides us with the results that we had hoped for; reduction of costs and improvement of access.

The proposal before you would remove ambulatory surgical facilities and exclude them from the CON process. These would be ambulatory surgical facilities that are wholly owned by physicians. It is the feeling of the minority members of the committee that doing this would help improve access to medical care, particularly in the rural parts of Maine. Keep in mind that these are privately owned facilities and they do not enjoy many of the tax benefits of our community hospitals. They are privately

owned and they pay taxes, including property taxes, on the land, on the building, and on the equipment. They also do not have over-night beds. There is no interference with some of the major hospitals in our area with patients being admitted and being treated on an over-night basis. That simply does not occur. Finally, the community is able to decide and the consumer is able to decide whether, in fact, these facilities should be invited in and whether they will receive the business of the men and women or the families in that particular community. The community decides, not Augusta. This is outside of the CON process. State government will not make this decision. You will make the decision as a consumer. Your community will make this decision.

When you think about the assumptions that are put forward around the CON process and whether it has, in fact, achieved the promise and the goal that it was supposed to achieve, just consider for a moment the following questions. Ask the supporters of the CON process to show clear evidence that CON decreases the cost of healthcare other than by decreasing access to care. Is there evidence that the cost of healthcare in Maine is decreasing? Ask them to show that if the current reimbursement for cost system is discarded how can private capital investments cost the state money? Ask them to prove their claims that services will be utilized unnecessarily in order to pay for equipment or facilities and that doctors are unnecessarily ordering expensive tests for their own gain. Remind them of the backed up list of proposed projects due to a moratorium on CON. Were these projects unworthy? Were they a threat to the welfare of the State of Maine so as to justify emergency substantive rules? Ask them if they are aware of the federal Stark laws from 1989 which prohibits a physician from making referrals for clinical lab services in which a physician or immediate family members has a financial relationship. Ask them if they know of the Omnibus Budget Reconciliation Act from 1993 that prohibits physicians from self-referral for PT, OT, radiation, medical equipment, home health, and other services in which there is a financial connection. Ask hospitals why they tend to defend CON when it has been such an obstacle and expense to them. Why are they afraid of competition? ASUs cannot keep patients over-night. Is it your impression that healthcare costs have diminished in Maine under CON?

In summary, ladies and gentlemen, Certificate of Need has not lowered the cost of healthcare, which is the primary objective of the entire CON process. I ask you to reject the majority report as moved and go on to adopt the minority report.

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

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise in support of the motion in front of us, the majority Ought Not to Pass report. While some of what the good Senator from Hancock, Senator Rosen, has stated could be accepted, there are questions about the CON process. In this regard, however, I think that the CON process with regard to ambulatory surgical and physician's offices has done what it was supposed to do and that is that it has held down the rising cost of healthcare. This bill, if the minority report is allowed to go forward, will place the hospitals in this state in a very precarious

financial situation. Let me just cite a hypothetical example for you. In Bucksport there is a hospital that is open 24 hours a day, 7 days a week. Without a CON a physician in Bucksport could open an ambulatory surgical unit for 8 hours a day, 5 days a week and do what is currently being done in that hospital. While it might be somewhat cheaper, it is taking away business that would normally go on a 24 hour cycle to that particular hospital. You multiply that over and over around this state and you are taking away money from the hospitals. There are only so many types of procedures being done. If you take away 10% or 30% of those procedures to another entity you are removing funds from that hospital. We all know that the most expensive and the most costly area within a hospital is the emergency area. The ambulatory surgical is expensive but the income derived from the ambulatory surgical, according to the Maine Hospital Association as recently as today, does go to support a lot of the things that they are losing money on day after day through the 24 hours a day that they feel obligated to do.

If you want to place your local hospital in a precarious financial position, vote as you were asked by the good Senator from Hancock, Senator Rosen. Vote to defeat the current motion before us and go on with the minority report. You will have accomplished, apparently, what you feel you must do. Thank you.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I fully agree with the remarks from the Senator from Sagadahoc, Senator Mayo, in terms of the potential impact on Maine hospitals. If, in fact, you believe that hospitals should be protected, you need to vote the way that we are suggesting. Otherwise, what you are allowing is for the cream of the crop, the easy picking, to go in and set up next door to a hospital, and take that business away. Remember, the hospital's costs, the depreciation, and everything else doesn't drop. It doesn't change. It's going to drive the hospital costs up. We need to be careful of how we approach this. I really urge you to be extremely careful and think about the impact it could have on Maine hospitals.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I couldn't resist the opportunity to rebut my good colleagues on the other side of the aisle. It is interesting when we talk about protecting hospitals. We could do a lot to protect hospitals by simply paying them the money we owe them. They are in much more serious financial distress in the last two years and it is two years the CON has applied to ambulatory surgical units. From inception, they were excluded until Dirigo passed in May 2003. Secondly, it seems to me that a state review of new expensive technology under the existing CON laws we've had for years in Maine have given us what, very expensive healthcare.

I'm looking at the work prepared by the Maine Hospital Association and distributed by the good Senator from Sagadahoc, Senator Mayo. It says ASCs tend to treat less sicker patients. True enough. They are ambulatory surgical units. You walk in, you have your surgery, and you walk out the same day. They are not intended to be emergency rooms. It also says they tend to

treat smaller percentages of Medicaid patients. I would agree they do. They do treat Medicaid patients and they also do pro bono work. They have higher margins. Can't comment because I don't know if they do or do not, but I would suspect they do. There is an ambulatory surgical unit in the Senator from Aroostook, Senator Martin's county that does a booming business dealing with Canadian's who have to wait months and months for surgery of an optional nature and they come to the United States for that surgery. There is one in the Senator from Cumberland, Senator Bromley's territory that is a neurosurgical unit that has a New England wide, if not a national, reputation for neurosurgical activity. Patients come from outside of Maine to these ASCs to get the appropriate surgical care. Physician ownership has averaged slightly more than 50%. Is that bad? I think not. I don't know why it would necessarily be 100%. Also it indicates here they tend to treat a lower share of Medicaid patients. Probably true, but they do treat Medicaid patients. I said earlier that they provide pro bono work. It also indicates here they treat relatively low severity patients. Again, that is the nature of the business they are in. What they do provide is a lower cost alternative to what is provided in our hospitals. If you are looking to provide lower cost care, this is your option. I would further suggest to you that they do repetitive surgery, over and over again. They get very, very good at what they do. The quality is the best you can get in the state. When you get the best quality, you tend to get, guess what, lower costs. I think we are misplaced here with CON. I would suggest that you vote against the pending motion of Ought Not to Pass. Thank you very much.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I was particularly intrigued by the recent comments of the good Senator from Cumberland, Senator Turner. In 2003 we served on the Joint Select Committee on Healthcare Reform. The Senator from Cumberland, Senator Turner, along with myself, voted for Dirigo Health that included the very provisions that he just spoke against. In fact, if during all this downtime that we have, you want some fascinating reading, go back and look at the original Dirigo Health legislation. What you will find is a number 12.5, 12.5% of the capital investment fund for hospitals is set aside for ambulatory surgical units. One would ask, why 12.5? Where did the number 12.5 come from? During the negotiations, the Senator from Cumberland, Senator Turner, wanted 25% to be set aside for ambulatory surgical units and the capital invest fund. The Senator from Cumberland, Senator Brennan, wanted zero. Half of 25% was 12.5%. That is what ended up in the legislation. A compromise. I can't say it was a very eloquent compromise. It was simply cutting something in half. That is where we got 12.5%.

If you listen to the comments of the good Senator from Cumberland, Senator Turner, you would maybe believe that ambulatory surgical units are being treated unfairly. That is simply not the case and that is why the Joint Select Committee on Healthcare Reform unanimously voted to include ambulatory surgical units in the legislation and in the CON process because there is a little loophole in the CON process that said if you are a specialty unit you didn't come under the CON process and you could go ahead and develop, invest, buy as much equipment as you want to, and you could even have a mini-hospital and not have to go through the CON process.

I don't want to make any remarks that are disparaging, that are taken out of context, that are misquoted or misunderstood, but because of that little loophole we have a third hospital in Portland on Sewall Street in Portland. There is a whole line of ambulatory surgical units. You can go and get almost anything that you want done of a medical nature, operation, out-patient surgery, on Sewall Street and not have to ever go to Mercy Hospital or the Maine Medical Center. This is because of the loophole in the CON process at that time. That loophole was closed and basically said that if you are going to develop what essentially ends up being a third hospital, there should be some Department of Human Services oversight in that because those expenditures add to the overall healthcare costs for all of us. What we simply did, and at the time the good Senator from Cumberland, Senator Turner, agreed, was include, out of fairness, ambulatory surgical units in the CON process and we actually carved out an amount of money to be available to them for capital improvements.

The other thing that was equally curious to me is that the good Representative from Auburn, Representative Shields, who introduced this bill, also served on this committee, also voted for the same report, also voted for the compromise, and also voted saying it was fair to include ambulatory surgical units. Now, two years later, all of a sudden the debate has shifted to where we are somehow picking on ambulatory surgical units, that somehow they should not be included in the CON process, and that the agreement and compromise that was reached two years ago should be undone. I would simply submit, men and women of the Senate, that the conclusion that was reached by the majority report of the Health and Human Services Committee was the appropriate and correct conclusion and consequently everybody should vote to accept the majority Ought Not to Pass report. Thank you.

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

Senator **ANDREWS:** Thank you, Madame President and fellow members of the Senate. I'm going to ask you that you support the majority Ought Not to Pass report. I'm sure you've heard me, over the past couple of weeks, expound at great lengths about \$1.1 million. I'm sure I don't have to say it more than once. You are probably tired of hearing me say it. That's the 8-ball that my hospital is operating under. As an ER supervisor and running an ER for 14 years, I can tell you that we consistently lost money every year and a lot of money. We could not turn away anyone. We treated everyone, whether you could pay or not. Knowing the 8-ball that many hospitals are facing, of which York is one, we need all the help we can get to survive. Please support the majority Ought Not to Pass report.

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

Senator **TURNER:** Thank you, Madame President. I always enjoy dialoging on health issues with my good friend from Cumberland, Senator Brennan. A couple of things that you should be aware of, and perhaps this is already in the air and I missed it being said. I think there are either 35 or 36 states that currently have CON laws, of which Maine is one. Of all those states, only one has a CON law that impacts ambulatory surgical centers. That is Maine. My recollection of our negotiations is

different from the Senator from Cumberland, Senator Brennan's. I actually started at 15% and we agreed to 12.5%. I do think, however, the issue on the percentage wasn't CON but was the capital investment fund and what percentage of that we should be able to participate and ensure that capital investment fund was set aside for you. Again, I think we have to ask ourselves; are these folks in the business of doing emergency room services? No, they are not. They are typically doing, as I said earlier, discretionary services that can be scheduled. You go in, you have your surgery, and you leave. There is a wonderfully successful eye surgery unit on Sewall Street. The last time I checked it was \$2,000 an eye and you could get 20-20 vision from almost any visual disparity which you had. These are wonderful resources. They are cost effective deliverers of services. They should be exempted as the minority reports asks. I would urge that you defeat the pending motion so we can go on and accept the minority report. Thank you very much.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. Finally, at 8:10, I get to make a very easy vote. You see, when I came back from supper I received one of those little blue slips. This was put out at 6:13. First of all, I want to say of the CEO of the Southern Maine Medical Center, it's nice to know he's working late, as I am. It's from Ed McGeachey, who is the CEO, and he says, 'Please vote yes to support the majority report on L.D. 1487.' The easiest vote I've made all day. I've been told what to do by probably one of the largest, certainly for southern Maine, community hospital that, like York Hospital, is trying to meet the needs of everybody that they must serve, by law. He's given me my marching orders. I follow them well. Thank you.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. I rise just to make a footnote to this lengthy and informative discussion and suggest that those critical of the CON process that maybe you should do away with CON for hospitals and doctors alike and put them all in the same mix. If we are going to have CON for hospitals, I just think it is equitable that we have CON for doctor's offices that are establishing care facilities that cost \$1.2 million. That's not your old country doc any more. That is a major investment. It seems to me that there is some symmetry to the law as was created in the Dirigo statute and I think there was a balance struck. The other thing we could do, if we are going to create an even playing field, is we could impose charity care obligations on these walk-in surgical units and send all the Medicaid people down there and see if they are quite so profitable and that might level things out real well. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Mayo to Accept the Majority 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 (#242)

YEAS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ROSEN, TURNER, WESTON

32 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **MAYO** of Sagadahoc to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Protect Unborn Children from Acts of Violence"
H.P. 201 L.D. 262

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

Signed:

Senators:
HOBBS of York
BROMLEY of Cumberland

Representatives:
PELLETIER-SIMPSON of Auburn
FAIRCLOTH of Bangor
GERZOFKY of Brunswick
CANAVAN of Waterville
BRYANT of Windham
DUNN of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-647).**

Signed:

Senator:
HASTINGS of Oxford

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

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-647)**.

Reports **READ**.

On motion by Senator **HOBBS** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

ORDERS OF THE DAY

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

An Act To Authorize a Tax Rebate Program for Established Residents

S.P. 41 L.D. 135
(H "A" H-631 to C "A" S-302)

Tabled - June 8, 2005, by Senator **BRENNAN** of Cumberland

Pending - **ENACTMENT**, in concurrence (Roll Call Ordered)

(In Senate, June 6, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-302) AS AMENDED BY HOUSE AMENDMENT "A" (H-631)** thereto, in concurrence.)

(In House, June 8, 2005, **PASSED TO BE ENACTED**.)

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I'd just like to remind everybody that this is a tax rebate program that originally came out of committee with almost a unanimous report. It would have allowed the local municipalities to set this up for people that are 62 years old and older. Now, with the amendment that came back from the House, it's been changed into a tax rebate program for everyone if the municipality chooses to do so. I have a concern about the unintended consequences in this shift. I think that it needs a little bit more work. I would ask that you oppose this bill. Thank you.

THE PRESIDENT: The pending question before the Senate is Enactment. 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 (#243)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NUTTING, PERRY, ROTUNDO,**

SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, 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:

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Reduce Maine's Income Tax Burden" (EMERGENCY)
S.P. 376 L.D. 1059

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

Signed:

Senators:
PERRY of Penobscot
STRIMLING of Cumberland

Representatives:
HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
PINEAU of Jay
BIERMAN of Sorrento
HUTTON of Bowdoinham
SEAVEY of Kennebunkport
WATSON of Bath

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-351)**.

Signed:

Senator:
COURTNEY of York

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **COURTNEY** of York, supported by a Division of 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 (#244)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NUTTING, PERRY, RAYE, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, NASS, PLOWMAN, ROSEN, WESTON**

27 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Create the Crime of Vehicular Manslaughter for Persons Who, while Committing a Traffic Infraction, Cause the Death of Another Person" H.P. 784 L.D. 1141

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

Signed:

Senators:
DIAMOND of Cumberland
NUTTING of Androscoggin
CLUKEY of Aroostook

Representatives:
BLANCHETTE of Bangor
GERZOFISKY of Brunswick
GROSE of Woolwich
PARADIS of Frenchville
HANLEY of Gardiner
CHURCHILL of Washburn
GREELEY of Levant
DAVIS of Augusta
PLUMMER of Windham

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

Signed:

Representative:
SYKES of Harrison

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

Reports **READ**.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Require the Secretary of State To Collect Information on Operating-under-the-influence Convictions from Other Jurisdictions before Issuing a Driver's License in Maine" H.P. 1150 L.D. 1632

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

Signed:

Senators:
DIAMOND of Cumberland
NUTTING of Androscoggin
CLUKEY of Aroostook

Representatives:

BLANCHETTE of Bangor
GERZOFSKY of Brunswick
GROSE of Woolwich
PARADIS of Frenchville
HANLEY of Gardiner
SYKES of Harrison
CHURCHILL of Washburn
DAVIS of Augusta
PLUMMER of Windham

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

Signed:

Representative:

GREELEY of Levant

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

Reports **READ**.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Maine Tort Claims Act"

H.P. 655 L.D. 936

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-657)**.

Signed:

Senators:

HOBBS of York
BROMLEY of Cumberland
HASTINGS of Oxford

Representatives:

PELLETIER-SIMPSON of Auburn
FAIRCLOTH of Bangor
GERZOFSKY of Brunswick
CANAVAN of Waterville
BRYANT of Windham
DUNN of Bangor
NASS of Acton

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

Signed:

Representative:

CARR of Lincoln

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-657)**.

Reports **READ**.

Senator **HOBBS** of York 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 **HOBBS** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in 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:

COMMUNICATIONS

The Following Communication: H.C. 282

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

June 8, 2005

Honorable Joy J. O'Brien
Secretary of the Senate
122nd Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its previous action whereby it accepted the Majority Ought Not to Pass Report of the Committee on **TAXATION** on Bill "An Act To Amend the Revaluation Process by Municipalities" (S.P. 550)(L.D. 1563).

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

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

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

COMMUNICATIONS

The Following Communication: H.C. 283

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

June 8, 2005

Honorable Joy J. O'Brien
Secretary of the Senate
122nd Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its previous action whereby it accepted the Majority Ought Not to Pass Report of the Committee on JUDICIARY on Bill "An Act Authorizing Municipalities To Establish Walking Trails" (S.P. 165)(L.D. 539).

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

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

ORDERS OF THE DAY

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

Bill "An Act To Eliminate Estate Taxes on Family-owned Businesses"

H.P. 321 L.D. 436

Tabled - June 8, 2005, by Senator **BRENNAN** of Cumberland

Pending - motion by Senator **MILLS** of Somerset to **RECEDE** and **CONCUR** (Roll Call Ordered)

(In House, June 3, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-589).)

(In Senate, June 7, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, June 7, 2005, that Body **ADHERED**.)

(In Senate, June 8, 2005, **INSISTED**. On motion by Senator **MILLS** of Somerset, **RECONSIDERED**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#245)

YEAS: Senators: ANDREWS, BRYANT, CLUKEY, COURTNEY, DAVIS, DIAMOND, DOW, HASTINGS, HOBBS, MARTIN, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

NAYS: Senators: BARTLETT, BRENNAN, BROMLEY, COWGER, DAMON, GAGNON, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **MILLS** of Somerset to **RECEDE** and **CONCUR**, **PREVAILED**.

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

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

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

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Thursday, June 9, 2005, at 10:00 in the morning.