

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twentieth Legislature
State of Maine

Volume 1

First Regular Session
December 6, 2000 to May 23, 2001

Pages 1 - 911

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

In Senate Chamber
Thursday
April 12, 2001

Senate called to order by President Pro Tem Marge L. Kilkelly of Lincoln County.

Prayer by Senator Anne M. Rand of Cumberland County.

SENATOR RAND: Good morning. Thank you, Madame President, and good morning to my fellow Senators and our guests that we have with us here today. I'm privileged to have been asked to offer the prayer this morning because this is a week that is special and exceptionally holy for many different religions. We have Passover and we have Holy Week. As a Catholic, I know many ancient prayers that I could recite here today. In fact, I'm old enough to be reciting them in Latin, to tell you the truth. But instead I've chosen a couple of readings that I think speak to where we are today in this chamber and what we are about. It is from "All Men Are Brothers, the Life and Thoughts of Mahatma Ganda."

"If we believe in God, not merely with our intellect, but with our whole being, we will love all mankind without any distinction of race or class, nation or religion. We will work for the unity of mankind. All my actions have their rise in my inalienable love of mankind. I have known no distinction between relatives and strangers, countrymen or foreigners, white or black." And he goes on to say; "To see the universal and all foreboding spirit of truth face to face, one must be able to love the meanest of creation as ones self and the man who inspires after that cannot afford to keep out of any field of life. That is why my devotion to truth has drawn me into the field of politics and I can say without the slightest hesitation and yet in all humanity that those who say that religion has nothing to do with politics do not know what religion means. God has created different faiths just as he has the votaries thereof. How can I even secretly harbor the thought that my neighbor's faith is inferior to mine and wish that he should give up his faith and embrace mine. As a true and loyal friend, I can only wish and pray that he may live and grow perfect in his own faith. In God's house there are many mansions and they are equally holy."

Doctor of the day, Erik Steele, D.O., of Bangor.

Reading of the Journal of Wednesday, April 11, 2001.

Off Record Remarks

Out of order and under suspension of the Rules; on motion by President Pro Tem **BENNETT** of Oxford, the following Joint Order: S.P. 596

ORDERED, the House concurring, that when the House and Senate stand Adjourned they do so until Tuesday, April 24, 2001, at 9:00 in the morning.

READ and PASSED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Create a Comprehensive Prescription Insurance Plan for Maine Seniors through the Implementation of the Recommendations of the Heinz Family Philanthropies Report" S.P. 592 L.D. 1768

In Senate, April 5, 2001, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES.**

Comes from the House, **REFERRED** to the Committees on **HEALTH AND HUMAN SERVICES** and **BANKING AND INSURANCE** and ordered printed, in **NON-CONCURRENCE.**

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION.**

COMMUNICATIONS

The Following Communication: S.C. 200

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
EDUCATION AND CULTURAL AFFAIRS**

April 9, 2001

The Honorable Michael H. Michaud
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Andrea C. Maker of No. Yarmouth, for appointment to the Maine Public Broadcasting System Board of Trustees.

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

YEAS	Senators	2	Mitchell of Penobscot, Rotundo of Androscoggin
	Representatives	8	Andrews of York, Desmond of Mapleton, Estes of Kittery, Ledwin of Holden, Richard of Madison, Skoglund of St. George, Stedman of Hartland, Watson of Farmingdale
NAYS		0	
ABSENT		3	Rep. Cummings of Portland, Sen. Nutting of Androscoggin, Rep. Weston of Montville

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Andrea C. Maker of No. Yarmouth, for appointment to the Maine Public Broadcasting System Board of Trustees be confirmed.

Signed,

S/Betty Lou Mitchell
Senate Chair

S/Shirley K. Richard
House Chair

READ and ORDERED PLACED ON FILE.

The President Pro Tem laid before the Senate the following:
"Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#23)

YEAS: Senators: None

NAYS: Senators: BENNETT, BROMLEY, CARPENTER, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MCALEVEY, MITCHELL, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - MARGE L. KILKELLY

ABSENT: Senators: ABROMSON, CATHCART, LONGLEY, MICHAUD, MILLS

No Senator having voted in the affirmative and 30 Senators having voted in the negative, with 5 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Andrea C. Maker** of No. Yarmouth, for appointment to the Maine Public Broadcasting System Board of Trustees was **CONFIRMED**.

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

The Following Communication: S.C. 201

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
EDUCATION AND CULTURAL AFFAIRS**

April 9, 2001

The Honorable Michael H. Michaud
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Carrie Graiver of Norway, for appointment as the Student Member, Maine Technical College System Board of Trustees.

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

YEAS	Senators	2	Mitchell of Penobscot, Rotundo of Androscoggin
	Representatives	7	Andrews of York, Desmond of Mapleton, Estes of Kittery, Ledwin of Holden, Richard of Madison, Stedman of Hartland, Watson of Farmingdale
NAYS		0	
ABSENT		4	Rep. Cummings of Portland, Sen. Nutting of Androscoggin, Rep. Skoglund of St. George, Rep. Weston of Montville

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Carrie Graiver of Norway, for appointment as the Student Member, Maine Technical College System Board of Trustees be confirmed.

Signed,

S/Betty Lou Mitchell
Senate Chair

S/Shirley K. Richard
House Chair

READ and ORDERED PLACED ON FILE.

The President Pro Tem laid before the Senate the following:
"Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#24)

YEAS: Senators: None

NAYS: Senators: BENNETT, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MITCHELL, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - MARGE L. KILKELLY

ABSENT: Senators: ABROMSON, MICHAUD, MILLS

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Carrie Graiver** of Norway, for appointment as the Student Member, Maine Technical College System Board of Trustees was **CONFIRMED**.

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

On motion by Senator **McALEVEY** of York, the following Joint Order:
S.P. 597

ORDERED, the House concurring, that the Joint Standing Committee on Criminal Justice report out, to the Senate, a bill regarding the enforcement and prosecution of computer-related crimes.

READ and PASSED.

Sent down for concurrence.

Joint Resolution

On motion by Senator **DAGGETT** of Kennebec, under unanimous consent on behalf of President **MICHAUD** of Penobscot (Cosponsored by Speaker **SAXL** of Portland and Senators: **DAGGETT** of Kennebec, **DAVIS** of Piscataquis, **SAVAGE** of Knox, **SMALL** of Sagadahoc, **TREAT** of Kennebec, Representatives: **COLWELL** of Gardiner, **FISHER** of Brewer, **NORBERT** of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214), the following Joint Resolution: S.P. 595

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE ATTORNEY GENERAL OF THE UNITED STATES, THE SECRETARY OF TRANSPORTATION AND THE CONGRESS OF THE UNITED STATES TO IMPOSE A MORATORIUM ON MAJOR AIRLINE MERGERS

WE, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States, the Attorney General of the United States, the Secretary of Transportation of the United States, the Congress of the United States and the Maine Attorney General, as follows:

WHEREAS, economic development and prosperity are dependent upon a competitive airline industry providing reasonable rates and access and satisfactory and efficient services for the transportation of people and goods; and

WHEREAS, competition in the airline industry will be drastically reduced if pending mergers are allowed to proceed; and

WHEREAS, these merger proposals will inevitably lead to further consolidation in the airline industry; and

WHEREAS, airline industry consolidation may decrease service and access in the State's markets and localities; and

WHEREAS, airline industry consolidation may hinder or prevent new low-cost airline carriers' entrance into the market; and

WHEREAS, airline industry competition is essential to keep prices reasonable and service satisfactory for the State's consumers and business travelers; and

ORDERS

Joint Order

WHEREAS, the lack of competition will cause longer delays in air travel and decreased customer service; and

WHEREAS, these circumstances will have a negative impact on airline service and the overall economy in the State; and

WHEREAS, the United States Congress, the United States Department of Justice and the United States Department of Transportation are currently examining the proposed airline mergers; and

WHEREAS, Maine's Congressional Delegation is working to ensure that airline service to the State is protected; and

WHEREAS, the Legislature, on behalf of the people of the State, is concerned over the prospect of decreased competition in the airline industry and the adverse economic and other impacts on the State, the surrounding region and the nation as a whole; now, therefore, be it

RESOLVED: That We, your Memorialists, urge the President of the United States, the Attorney General of the United States, the Secretary of Transportation of the United States and the Congress of the United States to impose a moratorium on major airline industry mergers in order to fully and carefully consider all consequences; and be it further

RESOLVED: That the Legislature urges the Maine Attorney General to convey the concerns contained in this memorial to the Attorney General of the United States and the Secretary of Transportation of the United States; 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, George W. Bush, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the Attorney General of the United States, to the Secretary of Transportation of the United States and to the Maine Attorney General.

READ and ADOPTED.

Sent down for concurrence.

Off Record Remarks

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Maine Arborist Licensing Laws"

H.P. 899 L.D. 1191

Reported that the same be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

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

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in concurrence.

Ought to Pass

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Amend the Standard Valuation Law for Life Insurance and to Restrict Limitation of Liability for Death by Suicide in Group Life Insurance Policies"

H.P. 873 L.D. 1152

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Bring the Crime of Refusing to Submit to Arrest or Detention into Conformity with the Maine Criminal Code"

H.P. 525 L.D. 680

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Provide a Matching Fund Grant to the Maine Maritime Academy"

H.P. 201 L.D. 231

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-104).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-104).**

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

READ ONCE.

Committee Amendment "A" (H-104) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Require That Elevators in Public Buildings be Large Enough to Accommodate Ambulance Stretchers"

H.P. 56 L.D. 65

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-105).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-105).**

Report **READ.**

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

The Committee on **TAXATION** on Bill "An Act to Exempt Certain Organizations from the Meals and Lodging Tax"

H.P. 460 L.D. 581

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-100).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-100).**

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

READ ONCE.

Committee Amendment "A" (H-100) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Amend the Charter of the Corinna Water District" (EMERGENCY)
H.P. 700 L.D. 904

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-99).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-99).**

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

READ ONCE.

Committee Amendment "A" (H-99) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

Ten members of the Committee on **JUDICIARY** on Bill "An Act to Implement the Continuation of Service Recommendations of the Committee to Develop a Compensation Program for Victims of Abuse at the Governor Baxter School for the Deaf" (EMERGENCY)

H.P. 167 L.D. 178

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-96).**

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn
MENDROS of Lewiston

Two members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-97).**

Signed:

Representatives:

MADORE of Augusta
SHERMAN of Hodgdon

One member of the same Committee on the same subject reported in Report "C" that the same that the same **Ought Not to Pass.**

Signed:

Representatives:
WATERHOUSE of Bridgdon

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-96) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-96).**

Reports **READ.**

On motion by Senator **RAND** of Cumberland, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-96) ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-96) **READ and ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Allow Washington County to Elect Its Own District Attorney"

H.P. 354 L.D. 444

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-77).**

Signed:

Senators:
PENDLETON of Cumberland
ROTUNDO of Androscoggin

Representatives:
BAGLEY of Machias
McDONOUGH of Portland
HATCH of Skowhegan
LESSARD of Topsham
McLAUGHLIN of Cape Elizabeth
MURPHY of Berwick
CHASE of Levant
HASKELL of Milford

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

Signed:

Senator:
YOUNGBLOOD of Penobscot

Representatives:
NORBERT of Portland
KASPRZAK of Newport

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-77) AND HOUSE AMENDMENT "A" (H-111).**

Reports **READ.**

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

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Prohibit State Expenditures on International Treaties not Ratified by the United States Senate"
H.P. 356 L.D. 446

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

Signed:

Senators:
PENDLETON of Cumberland
YOUNGBLOOD of Penobscot
ROTUNDO of Androscoggin

Representatives:
BAGLEY of Machias
McDONOUGH of Portland
HATCH of Skowhegan
LESSARD of Topsham
McLAUGHLIN of Cape Elizabeth
MURPHY of Berwick
CHASE of Levant
HASKELL of Milford
NORBERT of Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-102).**

Signed:

Representative:
KASPRZAK of Newport

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

Reports **READ.**

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

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Designate the Town of Topsham Communications Center as a Public Safety Answering Point" (EMERGENCY)
H.P. 630 L.D. 830

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

Signed:

Senators:

FERGUSON of Oxford
CARPENTER of York

Representatives:

SAVAGE of Buxton
RINES of Wiscasset
CRABTREE of Hope
PERKINS of Penobscot
GOODWIN of Pembroke
BERRY of Belmont
McGLOCKLIN of Embden
BLISS of South Portland
DUNCAN of Presque Isle

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-103)**.

Signed:

Senator:

TREAT of Kennebec

Representative:

HALL of Bristol

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

Reports **READ**.

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

Senate

Ought to Pass As Amended

Senator **SHOREY** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Establish the Maine Regulatory Fairness Board"

S.P. 279 L.D. 990

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-57)**.

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

READ ONCE.

Committee Amendment "A" (S-57) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **BROMLEY** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Increase Business Opportunities at the Port of Eastport"

S.P. 538 L.D. 1669

Reported that the same **Ought to Pass As Amended by Committee Amendment A" (S-58)**.

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

READ ONCE.

Committee Amendment A" (S-58) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **RAND** for the Committee on **JUDICIARY** on Bill "An Act to Allow Principals of Limited Liability Corporations to Appear in Court in Forcible Entry and Detainer Cases"

S.P. 336 L.D. 1143

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-56)**.

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

READ ONCE.

Committee Amendment "A" (S-56) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **O'GARA** for the Committee on **TRANSPORTATION** on Bill "An Act to Authorize the Department of Transportation to Use the Design-Build Method of Project Delivery"

S.P. 211 L.D. 776

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-54)**.

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

READ ONCE.

Committee Amendment "A" (S-54) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Preserve Competition in the Retail Marketing of Motor Fuels"

S.P. 146 L.D. 490

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

Signed:

Senators:

BROMLEY of Cumberland
YOUNGBLOOD of Penobscot

Representatives:

THOMAS of Orono
MORRISON of Baileyville
HATCH of Skowhegan
DUPREY of Hampden
RICHARDSON of Brunswick
BRYANT of Dixfield
CLOUGH of Scarborough
DORR of Camden
MURPHY of Kennebunk

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

Signed:

Senator:

SHOREY of Washington

Representative:

MICHAUD of Fort Kent

Reports **READ**.

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Implement the Recommendations of the Judicial Compensation Commission Regarding Compensation"

S.P. 124 L.D. 400

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-55)**.

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn
MADORE of Augusta
SHERMAN of Hodgdon
MENDROS of Lewiston

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

Signed:

Representative:

WATERHOUSE of Bridgton

Reports **READ**.

On motion by Senator **RAND** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-55) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Off Record Remarks

SECOND READERS

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

House As Amended

Bill "An Act to Clarify Marketing Standards for Telephone Utilities and Competitive Electricity Providers"

H.P. 146 L.D. 157
(C "A" H-93)

Resolve, Directing the Department of Inland Fisheries and Wildlife to Submit a Proposal to Encourage the Harvest of Coyotes

H.P. 199 L.D. 229
(C "A" H-98)

Bill "An Act to Implement the Recommendations Relating to Education Made by the Joint Study Committee to Study Bomb Threats in Maine Schools" (EMERGENCY)

H.P. 232 L.D. 269
(C "A" H-94)

Bill "An Act to Correct Errors in the Laws Regarding Court Unification" (EMERGENCY)

H.P. 732 L.D. 952
(C "A" H-95)

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

Senate

Bill "An Act to Authorize a Major Medical Insurance Program for Prisoners Incarcerated in County Jails"

S.P. 150 L.D. 494

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Clarify the Use of the Municipal Investment Trust Fund"

S.P. 197 L.D. 669
(C "A" S-52)

Bill "An Act Relating to the Celebration of Veterans' Week"

S.P. 277 L.D. 988
(C "A" S-53)

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003" (EMERGENCY)

S.P. 434 L.D. 1414
(C "A" S-51)

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

Sent down for concurrence.

Under suspension of the Rules, 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:

COMMUNICATIONS

The Following Communication: S.C. 202

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
AGRICULTURE, CONSERVATION AND FORESTRY**

April 10, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

L.D. 610 An Act to Ensure Environmental Integrity, Forest Health and Rural Maine Jobs

L.D. 1037 Resolve, to Establish the Maine Agri-tourism Program

L.D. 1154 An Act to Implement the Recommendations of the Maine Millennium Commission on Hunger and Food Security and to Increase the Viability of Maine's Farms and Improve Nutrition

L.D. 1424 An Act to Require State Parks to Honor the Golden Access Passport

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

Sincerely,

S/Sen. Richard Kneeland
Senate Chair

S/Rep. Linda Rogers McKee
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 203

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON BANKING AND
INSURANCE**

April 9, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

- L.D. 414 An Act to Require Health Maintenance Organizations to Cover Optometrist Services
- L.D. 482 An Act to Ensure Equality in Health Insurance Coverage for Eating Disorders for Children and Adults
- L.D. 484 An Act to Mandate Smoking Cessation Services for Health Insurance
- L.D. 573 An Act to Require Health Insurance Carriers to Cover the Cost of Dental Surgery for Children in Need of Hospital Dentistry
- L.D. 812 An Act to Provide Insurance Parity for Substance Abuse Treatment
- L.D. 1572 An Act to Provide Insurance Parity for Mental Health Services

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

Sincerely,

S/Sen. Lloyd P. LaFountain III S/Rep. Christopher P. O'Neil
Senate Chair House Chair

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

The Following Communication: S.C. 204

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
BUSINESS AND ECONOMIC DEVELOPMENT**

April 9, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

- L.D. 682 An Act to Require the Adoption of the 2000 International Plumbing Code
- L.D. 781 An Act to Require Veterinary Clinics to Fully Disclose Their After-hours Staffing Policies
- L.D. 942 An Act to Prohibit the Solicitation of Prearranged Funeral Services
- L.D. 1001 An Act to Protect Consumers During Licensing Hearings
- L.D. 1157 An Act to Amend the Laws Governing the Examination of Electricians

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

Sincerely,

S/Sen. Kevin L. Shorey S/Rep. John G. Richardson
Senate Chair House Chair

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

The Following Communication: S.C. 205

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE**

April 9, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

- L.D. 170 An Act to Amend the Laws Regarding Sex Offender Registration
- L.D. 186 An Act to Exempt from Concealed Firearms Permit Requirements Residents of Other States Allowed to Carry Concealed Firearms
- L.D. 626 An Act to Amend the Laws Governing Sex Offender Registration
- L.D. 817 An Act to Protect Maine Children

- L.D. 935 An Act to Enhance Sentences for Individuals Convicted of Sexually Abusing Children
- L.D. 1019 An Act to Impose Community Service on a Person Convicted of Assaulting a Sports Official
- L.D. 1030 An Act to Strengthen the Sex Offender Laws
- L.D. 1397 An Act to Require the State to Post the Name, Picture and Location of an Individual who is Convicted of a Child Sex Crime
- L.D. 1491 An Act to Protect Minors from Sexual Exploitation

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

Sincerely,

S/Sen. Michael J. McAlevy S/Rep. Edward J. Povich
 Senate Chair House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 206

**120TH LEGISLATURE
 JOINT STANDING COMMITTEE ON HEALTH AND HUMAN
 SERVICES**

April 9, 2001

Honorable Michael H. Michaud, President of the Senate
 Honorable Michael V. Saxl, Speaker of the House
 120th Maine Legislature
 State House
 Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

- L.D. 149 An Act to Provide Services to People with Autism
- L.D. 1172 An Act to Exempt from the Smoking Ban Tobacconists Who Sell or Serve Food or Alcohol
- L.D. 1178 Resolve, Directing the Department of Human Services to Adopt Rules Regarding the Indian Health Clinic
- L.D. 1182 Resolve, to Direct the Department of Human Services to Establish Guidelines Governing Procedures for Giving Injections

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

Sincerely,

S/Sen. Susan W. Longley S/Rep. Thomas J. Kane
 Senate Chair House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 207

**120TH LEGISLATURE
 JOINT STANDING COMMITTEE ON
 INLAND FISHERIES AND WILDLIFE**

April 9, 2001

Honorable Michael H. Michaud, President of the Senate
 Honorable Michael V. Saxl, Speaker of the House
 120th Maine Legislature
 State House
 Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

- L.D. 72 An Act to Allow Bow Hunters to Take a Deer During Bow Hunting Season in Addition to the Deer Allowed During Firearm Season
- L.D. 110 An Act to Allow a 2nd Hunting Tag in Certain Zones
- L.D. 542 An Act to Expand the Muzzle-loading Season to 15 Hunting Days
- L.D. 702 An Act to Prohibit the Sale of Bear and Bear Parts
- L.D. 760 An Act to Amend the Laws Regarding Bear Baiting
- L.D. 1067 An Act to Prohibit the Use of Dogs or Bait While Hunting Bear
- L.D. 1207 An Act to Allow a Hunter to Take a Deer of Either Sex in Black Powder Season
- L.D. 1210 An Act to Allow the Transfer of Antlerless Deer Permits
- L.D. 1422 An Act to Allow Hunters to Transfer an Antlerless Deer Permit
- L.D. 1577 An Act to Encourage New Hunters

L.D. 1598 An Act to Provide for Hunting 7 Days a Week on Lands North of the East-West Highway

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

Sincerely,

S/Sen. David L. Carpenter
Senate Chair

S/Rep. Matthew Dunlap
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 208

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON JUDICIARY**

April 9, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

- L.D. 135 An Act to Ban Partial Birth Abortion
- L.D. 683 An Act to Allow Godparents as Intervenors in Child Custody Cases with the Department of Human Services
- L.D. 745 An Act to Require the Audio Recording of Interviews of Children by the Department of Human Services
- L.D. 791 An Act to Allow a District Attorney to Appeal Court Rulings Without Attorney General Approval
- L.D. 836 An Act to Grant Foster Parents Intervenor Status in Child Protection Proceedings
- L.D. 876 An Act to Require the Department of Human Services to Provide Automatic Discovery to Opposing Attorneys
- L.D. 955 An Act to Ensure Accountability in the Department of Human Services
- L.D. 1009 An Act to Amend the Child and Family Services and Child Protection Act

L.D. 1074 An Act to Require that any Proceedings Initiated by the Department of Human Services to Terminate Parental Rights Be Open

L.D. 1079 An Act to Protect Families by Easing the Standard of Proof for Certain Child Protection Hearings

L.D. 1450 An Act to Protect Parents from Undue Influence in Child Protective Actions

L.D. 1525 An Act Concerning Real Estate Titles

L.D. 1650 An Act to Require Substance Abuse Assessment and Treatment for Parents of Children Referred to Child Protective Services

L.D. 1699 An Act to Make Certain Changes in the Child Welfare Laws

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

Sincerely,

S/Sen. Anne M. Rand
Senate Chair

S/Rep. Charles C. LaVerdiere
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 209

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
LEGAL AND VETERANS' AFFAIRS**

April 10, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

- L.D. 1112 An Act to Allow Oral Campaigning by Candidates at the Polls
- L.D. 1249 An Act Regarding Registration of Voters on Election Day
- L.D. 1296 An Act to Permit the Purchase of Wine by Mail Order

LEGISLATIVE RECORD - SENATE, THURSDAY, APRIL 12, 2001

L.D. 1382 An Act to Permit Internet-based Communications to Facilitate the Purchase and Distribution of Wine

L.D. 1389 Resolve, to Study the Various Types of Ballots Used in the State

L.D. 1446 An Act to Require Political Workers to Wear Name Tags and to Identify Themselves as Political Workers

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

Sincerely,

S/Sen. Neria R. Douglass
Senate Chair

S/Rep. John L. Tuttle, Jr.
House Chair

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

The Following Communication: S.C. 210

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON MARINE RESOURCES**

April 9, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

L.D. 813 An Act to Increase to Previous Levels the Number of Traps a Holder of Lobster Licenses may Maintain

L.D. 1189 Resolve, to Establish the Committee to Study the Feasibility of Establishing a Recreational Saltwater Fishing License

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

Sincerely,

S/Sen. Kenneth F. Lemont
Senate Chair

S/Rep. David G. Lemoine
House Chair

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

The Following Communication: S.C. 211

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON TAXATION**

April 9, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

L.D. 795 An Act to Rebalance Maine's Tax Code and Reduce the Structural Gap

L.D. 1370 An Act to Increase the Tax Deduction Benefit for Retired Teachers to \$10,000

L.D. 1410 RESOLUTION, Proposing an Amendment to the Constitution of Maine to Repeal Constraints on the Property Tax and to Make the State Jointly Responsible with Municipalities for Equity in Education

L.D. 1451 An Act to Remove the Tax on Food, Nonalcoholic Beverages and Medicine

L.D. 1551 An Act to Require That the Excise Tax on Motor Vehicles Be Reasonably Linked to the Value of the Motor Vehicle

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

Sincerely,

S/Sen. Kenneth T. Gagnon
Senate Chair

S/Rep. Bonnie Green
House Chair

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

The Following Communication: S.C. 212

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON TRANSPORTATION**

April 9, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

- L.D. 829 Resolve, Authorizing the Department of Transportation to Designate Routes for Over-limit Vehicles
- L.D. 958 An Act to Amend the Laws Governing the Registration of Farm Trucks and Require the Secretary of State to Respond to Inquiries from the Public
- L.D. 1275 An Act to Exempt 100% Disabled Veterans from Paying the Excise Tax and Registration Fee on Motor Vehicles
- L.D. 1533 Resolve, to Direct the Secretary of State to Establish a Task Force to Create a New Design for Veterans License Plates

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

Sincerely,

S/Sen. Christine R. Savage
Senate Chair

S/Rep. Charles D. Fisher
House Chair

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

Senate at Ease.

Senate called to order by President Pro Tem **MARGE L. KILKELLY** of Lincoln County.

ORDERS OF THE DAY

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

Bill "An Act to Create a Comprehensive Prescription Insurance Plan for Maine Seniors through the Implementation of the Recommendations of the Heinz Family Philanthropies Report"
S.P. 592 L.D. 1768

Tabled - April 12, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **FURTHER CONSIDERATION**

(In Senate, April 5, 2001, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.)

(In House, April 11, 2001, **REFERRED** to the Committees on **HEALTH AND HUMAN SERVICES** and **BANKING AND INSURANCE** and ordered printed, in **NON-CONCURRENCE**.)

On motion by President Pro Tem **BENNETT** of Oxford, the Senate **RECEDED** and **CONCURRED**.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (3/29/01) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Ban Permanent Replacement Workers in a Labor Dispute"
H.P. 74 L.D. 83

Majority - **Ought to Pass** (7 members)

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

Tabled - March 29, 2001, by Senator **EDMONDS** of Cumberland

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

(In House, March 27, 2001, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, March 29, 2001, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Madame President. This bill comes before us and has come before this body and others over many years. It's a bill having to do, in my mind, with fairness. I'll give you a little summary of what the bill is about in case you don't know. The bill requires that a contract between an employer and replacement workers must provide that when the strike is settled or if the employees offer, unconditionally, to return to work, the replacement workers will not be retained in preference to the strikers. This situation exists and this bill will remedy it. It has caused a great hardship for many years for many people, especially during the situation in Jay, Maine. Some people may rise to say that this bill will be preempted by Federal law. I beg to differ, I think we need to bring it forward and see if it is preempted by Federal law. Maine needs to take a firm stand in favor of its working people who decide that they must strike in a particular incident and then, when the strike is finished or solved, need to come back to work. I'll read you just a little piece here from a labor negotiator who spoke at our hearing. "It's been an arena of implementation rather than fruitful negotiation in the past. It's quite a trick to engage in a so called negotiation with an

employer who holds all the chips and knows it." In this situation, where people are putting their work and their life on the line to get a better contract, to have them be unable to then return to the job after they have unconditionally settled the strike seems patently unfair to me. I hope you will join me in accepting the majority Ought to Pass report. Thank you.

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

Senator **TURNER:** Thank you, Madame President. Ladies and gentlemen of the Senate. The Senator from Cumberland, Senator Edmonds, is indeed correct. I will speak to the legal aspects of this pending legislation, among other things. For more than 60 years the national labor policy has served workers, management and our economy very very well. That's because it confers equal powers to both sides in an economic-labor dispute. Because of the balance, most labor disputes, in fact almost all of them, are resolved without strikes. This bill would change that balance. Legislation is not necessary to make employers bargain in good faith. It's already an unfair labor practice not to bargain in good faith. Under law an employer may not permanently replace workers if that employer has engaged in an unfair labor practice. This bill actually gives unions little incentive to avoid a strike. In fact, it's designed to make strikes a more risk-free proposition for unions. In my judgment, this will encourage more strikes and create additional economic disruption. This bill would make it difficult, if not impossible, for many employers to continue operation. It would place companies at a severe disadvantage at the bargaining table, since we would be the only state in the country with such a law. Over time, it is my judgment, that our industries would become less competitive. This is a particularly important point for me. This legislation creates an illusion of protection striking workers. Employees would strike, placing their jobs at risk, believing that the law would prevent their company from permanently hiring replacement workers. Only after the permanent replacements had been hired would the workers, in fact, understand fully that the law they thought was protecting them is unconstitutional. Under federal law employers have every right. That right has been recognized by Congress and the U.S. Supreme Court, the right to hire both temporary and permanent replacement workers during an economic strike. This bill is preempted by federal law and would be unconstitutional if enacted by the Maine legislature. Back in 1989, a nearly identical bill, prohibiting the use of temporary replacement workers for 45 days at beginning of a strike, was found unconstitutional by the Maine Supreme Court. In 1995, when presented with an identical bill to this one, Maine's Attorney General advised the Governor that it would, indeed, be unconstitutional. So I think if you're objective here, to somehow be protecting workers who are organized, I think you're sentiments would be misplaced. I would agree with Senator Edmonds that the strike situation in Jay, which I think is the repeated genesis of legislation of this type, was indeed a very unfortunate event in Maine's economic history. Frankly, I think both management and labor's executive management acted very, very poorly. If you get down inside the covers of that strike and talk to people, you will find that it was labor management from New York that flew in and advised and guided the local union and then, when things were settled to the disadvantage of the union, the leadership flew back to New York and continued to live well while Jay and the surrounding communities were, I think, forever disrupted emotionally because of that strike. I think if you really

care about workers, and I think all the people in this chamber do, you will vote against this because of the unconstitutional signal it would send to employees. Thank you very much.

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

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

Senator **GAGNON:** Thank you, Madame President. Members of the Senate. I tend to agree with all that's been said here today other than that I think it's the role of the legislature to determine the values and the morals of the people of the State of Maine and if the courts find that we are out of place, they will take their action appropriately. It is our role to determine what we should be doing. I have a lot of friends that were involved with that mishap in Jay and I will say that even though it's arguable whether or not both sides were at fault or whether both sides did a poor job, I can attest that both sides did not lose jobs in that situation. There are people who lost their jobs who were on the labor side of that situation. I think this is a wise move for the State of Maine and it is wise for us to take action to determine what our values are in this situation. Thank you.

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

Senator **SAWYER:** Thank you, Madame President. With due respect to the members of the body who have different views over such a complicated and convoluted discussion, I would like to reiterate at least one of the good Senator from Cumberland, Senator Turner's comments in that this law is not necessary to requires employers to bargain in good faith. It is already against the federal law for an employer to fail to bargain in good faith. Secondly, I believe if the details are looked through, we'll find that, in fact, when a \$20 an hour worker removes their labors from the workplace and that job is taken by a \$7 per hour grocery store worker from down the street who would just love to have that job, the net impact is that jobs were kept, jobs were ultimately protected, and in my opinion, this bill, if passed, would unfairly tip the scale that has worked very well in the United States for approximately six decades. I would concur with the Senator from Cumberland, Senator Turner. Thank you.

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

Senator **RAND:** Thank you, Madame President. Men and women of the Senate. I, too, like the good Senator from Kennebec, Senator Gagnon, agree with a lot of what has been said here today with a couple of pretty glaring exceptions. The first is that the system that we have in place now has not worked for 60 years. It is has only been since the 60's that employers have felt embolden enough to, in effect, fire people who belong to a union and are forced to resort to the job action of strike. The ability to strike is not the paramount reason why people belong to unions, but it is the withholding of the labors that is the ultimate act that our law guarantees people in a unionized workplace. But please explain to me the benefits of that law, it's kind of a paper tiger. Explain to me how that can be a benefit in the law for working people or a protection or a right when, if they exercise

that right, they can no longer return to that job. I don't care, quite frankly, who interprets this as constitutional or not. It is our job in this legislature to speak and say whether think that situation is fair or not. That situation where people, workers who belong legally to a legal union, exercise their legal right, at some point in time, to withhold their labors and they are fired. I don't think it takes a genius to figure out that that is a horrible ax that's held over the worker's head. It is not a level playing field at all. I would urge the members of this body to support the working people of this state and accept the majority Ought to Pass report.

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

Senator **TURNER:** Thank you, Madame President. I would just ask those of you who have legal backgrounds, and I'm not sure how many of you have a degree, I know that Senator Longley does, Senator Douglass does. If you pass this law, as I understand it, there are two options that would then come into play for challenging it. One is that you could immediately go to the court and seek some type of temporary injunction, believing that any ruling would be declared unconstitutional. Or you could play a more draconian role and simply sit back, let a strike come to pass, and then challenge the law at that time. I believe we have overwhelming evidence that if you enact this law and that comes to pass, you would be putting the very people you seek to protect needlessly at risk and putting their jobs at risk because they would, again, believe that they have somehow been protected by your actions here when I think those of you who understand the law really understand otherwise. Thank you very much.

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

Senator **DOUGLASS:** Ladies and gentlemen of the Senate, as chair of the Labor Committee in the last session of the legislature, I worked very hard to pass a bill that would prevent a company from hiring permanent replacement workers. The good Senator from Cumberland, Senator Turner, mentioned that there are legal problems with the bill. It is true that it raises the issue of whether or not it conflicts with the National Labor Relations Act. It's not in conflict with the constitution of the United States other than the fact that state law sometimes must give way to national law. The bill in the last session, and I'm sure this bill, was very narrowly crafted to pertain only to the issue of what happens to workers after the settlement of the strike and who gets preference. That's a very narrow issue and I don't believe it conflicts with the National Labor Relations Act, which is the genesis of those questions about our bill here. It's important to remember that many Maine workers work for national and multi-national corporations. This bill is very much about keeping the playing field level and fair. In the past, some of these corporations actually brought workers from the south, where wages are lower, and brought the trailers right in to replace workers the minute they went on strike. This is a situation that workers in Maine simply can't compete with. Certainly in that situation they couldn't. So I would urge you to pass this measure. It gives some small comfort to those who may find themselves in an uneven bargaining situation with a company and it puts the company, at least, at somewhat, the same disadvantage as the workers. For that reason, I believe it's fair.

Off Record Remarks

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

Senator **CATHCART:** Thank you, Madame President. Men and women of the Senate. This is an issue on which I have to rise and speak in favor of the majority Ought to Pass report of the committee. Maine workers deserve fair treatment and when they are forced to the point of voting for a strike, which came fairly near in my district in Old Town in the last few years, they should know that there is an equal playing field. They have plenty of incentive not to strike. Obviously, if they strike, they and their families are going to have drastically reduced wages and they are going to endure hardships that most of us here, thanks to the grace of God, have not had to endure. Those families do not want to strike. The tension in the city of Old Town when the contract was rejected two or three years ago was palpable. There were signs out saying "strike". They voted down the contract that the union officers had agreed to the first time. The officers were really afraid that a strike was going to come. They didn't want those families and their workers to lose their incomes and have to go through weeks and maybe months and then finally lose their jobs. There is just no fairness in this whole system unless we say that they cannot hire permanent replacement workers. This law does not hurt the company. They can hire temporary replacement workers. But then when the strike is ended, they have to take their own workers back. That just seems reasonable and fair to me. It was said earlier that this might be misleading to our Maine workers because it could be overturned in either the State court or the Federal court. I think our workers are fairly sophisticated about the strike breaker bill. They know that they want this to pass and they know what it means if the legislature passes it. The message that we would be giving our Maine employees, our union workers, if we pass this law is that this legislature cares about workers and their families in the State of Maine and we want to give them a level playing field. It is ironic that the same company that hired the permanent replacement workers during the strike that tore apart the town of Jay that has not yet completely healed is the same company that closed two sawmills in my area of the state, laying off 250 good, hardworking employees recently. Then that same company turned down a very viable offer for an employee buyout with solid financial backing. I'm appalled at that in that it is a company that also receives millions of dollars in tax breaks and benefits from this state that we all live in. But all that I can do today about that is to ask you to support this legislation, to give the right message to Maine workers that we care about them and their families and we think they should have fair treatment by their employers. Thank you, Madame President.

Off Record Remarks

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY**: Thank you, Madame President. I stand as one who had thought a previous version of this replacement law was unconstitutional and I stand to say this one, in my opinion, has a strong possibility, based on my legal analysis, of proving itself to be constitutional. The background, real quick, is in, I think it was, 1936, the McKay Decision in the U.S. Supreme Court. They asked, is hiring replacement workers an unfair labor practice? Basically, the National Labor Relations Board had decided that for management to work, to debate issues with labor where there were certain pieces that were unfair labor practices. They tried to set forth what was unfair and what was good faith. They didn't specifically address this issue. It went to the U.S. Supreme Court, and given the circumstances and facts in that case, thought it was unconstitutional. There was a bill that came through here a few years ago that I thought was too close to the McKay case and I wasn't going to use my vote as an act of civil disobedience because it didn't pass my test. This one passes my test and I'll be voting for the majority report coming out of committee.

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Turner, requests unanimous consent of the Senate to address the Senate a third time on this matter. The Senator may proceed.

Senator **TURNER**: Thank you, Madame President. An associate of Senator Edmonds' and mine said to us one day that he learned everything he needed to about politics from Mr. Rogers and that was to be good to your neighbors and to know how to count noses. I haven't counted the noses but I will continue to try to be good to my neighbors. I would ask you to think back to one of the comments made by the Senator from Penobscot, Senator Sawyer. Roughly 15% of our labor force is organized and 85% therefore would not be. The replacement worker, while on a temporary basis, is often somebody from away who is bused in by the employer. The permanent replacement worker is somebody from the community who often times has grown up, gone to school, and gone to church with the person from organized labor who's job he or she now takes. If you enact this, you would, in fact, be disadvantaging those on the unorganized side who would seek to take the jobs that, in many cases, are some of the best paying jobs in the state. I would ask you to consider that as you move to your vote on this particular matter. Thank you very much.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Edmonds to Accept the Majority Ought to Pass 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 (#25)

YEAS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MICHAUD, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT PRO TEM - MARGE L. KILKELLY

NAYS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KNEELAND, MCALEVEY, MILLS, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: ABROMSON

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **PREVAILS**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Off Record Remarks

Senator **DAGGETT** of Kennebec 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.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by President Pro Tem **BENNETT** of Oxford, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, April 24, 2001, at 9:00 in the morning.