

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twentieth Legislature
State of Maine

Volume 2

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May 24, 2001 to June 22, 2001

First Confirmation Session
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Second Confirmation Session
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Second Regular Session
January 2, 2002 to April 1, 2002

Pages 912 - 1844

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

In Senate Chamber
Monday
June 11, 2001

Senate called to order by President Michael H. Michaud of Penobscot County.

Prayer by Senator Chandler E. Woodcock of Franklin County.

SENATOR WOODCOCK: Good morning. Let us pray. Father, yet another glorious day as we come to the Maine Senate to contemplate solutions to complex problems. We are particularly mindful this morning of family. That family which is personal and integral and that family which is extended. We are also particularly mindful of our state and the bountiful blessings which it possesses as we deliberate this morning. We are mindful of our nation, where freedom still rings. We are mindful of this Legislature, for these loyal Senators who serve so many. We ask that You would be with them as they contemplate this morning. Keep us directed, Father. Keep us aware. But most of all, keep us mindful of You. We are grateful for all that is ours, for all that is ours has come from You. Amen.

Pledge of Allegiance led by Senator Beverly C. Daggett of Kennebec of Kennebec County.

Reading of the Journal of Friday, June 8, 2001.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

JOINT ORDER - relative to Establishing 2 Joint Select Committees

H.P. 125

In House, January 11, 2001, **READ** and **PASSED**.

In Senate, January 16, 2001, **READ** and **FAILED PASSAGE**, in **NON-CONCURRENCE**.

Comes from the House, **REFERRED** to the Joint Select Committee on **JOINT RULES**, in **NON-CONCURRENCE**.

On motion by Senator **DAGGETT** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

JOINT ORDER - relative to the Joint Standing Committee on Education and Cultural Affairs reporting out or returning to the House Bill, "An Act to Repeal the Requirement that School Employees be Fingerprinted," S.P. 322, L.D. 1090
S.P. 647

In Senate, June 6, 2001, on motion by Senator **MARTIN** of Aroostook, **READ** and **PASSED**.

Comes from the House, **READ** and **PASSED AS AMENDED BY HOUSE AMENDMENT "A" (H-706)**, **NON-CONCURRENCE**.

On motion by Senator **DAGGETT** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act to Regulate Push Polling"

S.P. 308 L.D. 1055
(H "D" H-545)

In Senate, May 23, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "D" (H-545)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "G" (H-708)**, in **NON-CONCURRENCE**.

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Non-Concurrent Matter

Bill "An Act to Refine the Subdivision and Redistricting Authority of the Maine Land Use Regulation Commission"

S.P. 360 L.D. 1198
(S "B" S-321 to C "A" S-253)

In Senate, June 5, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-253) AS AMENDED BY SENATE AMENDMENT "B" (S-321)** thereto.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-253) AS AMENDED BY HOUSE AMENDMENT "B" (H-704)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **DAGGETT** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Resolve, to Establish the Commission to Develop and Finance Health Care Coverage for All Maine People (EMERGENCY)

H.P. 1121 L.D. 1490

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-329)** (11 members)

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

In House, June 7, 2001, 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-329)**.

In Senate, June 8, 2001, Reports **READ**. On motion by Senator **LAFOUNTAIN** of York, Resolve and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** to **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-329)** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

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

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

Non-Concurrent Matter

Resolve, to Create a Commission to Study Issues Concerning Changes to the Traditional Uses of Maine Forests and Lands, Including Camp Lot Lease Arrangements and Public Enjoyment (EMERGENCY)

H.P. 1366 L.D. 1823

Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested and ordered printed.

In Senate, June 6, 2001, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-695)**, without reference to a Committee, in **NON-CONCURRENCE**.

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Non-Concurrent Matter

Bill "An Act Providing Funding for the Office of the State Fire Marshal and to Increase Certain Fire Inspection Fees" (EMERGENCY)

H.P. 1368 L.D. 1825
(S "A" S-331)

Committee on **CRIMINAL JUSTICE** suggested and ordered printed.

In Senate, June 7, 2001, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-331)**, without reference to a Committee, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-707)**, without reference to a Committee, in **NON-CONCURRENCE**.

On motion by Senator **MCALLEVEY** of York, the Senate **ADHERED**.

Sent down for concurrence.

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

Joint Resolution

The following Joint Resolution: H.P. 1369

JOINT RESOLUTION ESTABLISHING JUNE 17, 2001 AS "WALK WITH THE ONES YOU LOVE DAY"

WHEREAS, on Sunday, June 17, 2001, Maine Speakout Project will sponsor its 4th annual "Walk with the Ones You Love" in the State of Maine; and

WHEREAS, these walks are being held to affirm that Maine is a state where all citizens should feel free to be themselves in public without fear of harassment or violence, regardless of sexual orientation or any other difference; and

WHEREAS, the "Walk with the Ones You Love" is being held to support committed relationships of all couples, gay or nongay; and

WHEREAS, the walks are intended to diminish the isolation and harassment of sexual minority youth who consider suicide at twice the rate of their nongay peers; and

WHEREAS, during the walks, gay and nongay people will walk together to affirm the value of all of our families and the belief that all people in our State deserve the right to be who they are, love whom they wish and walk with whom they choose without fear; now, therefore, be it

RESOLVED: That June 17, 2001 be recognized as "Walk with the Ones You Love Day"; and be it further

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the First Regular Session, on behalf of the people of the State of Maine, take this occasion to urge citizens throughout the State to support and participate in these walks; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Speakout Project.

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

READ.

On motion by Senator **DAVIS** of Piscataquis, **TABLED** until Later in Today's Session, pending **ADOPTION**, in concurrence.

COMMUNICATIONS

The Following Communication: H.C. 296

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE**

June 8, 2001

Honorable Joy J. O'Brien
Secretary of the Senate
120th 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 **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Enable Formation of Public Charter Schools" (H.P. 1134) (L.D. 1531)

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and **ORDERED PLACED ON FILE.**

SENATE PAPERS

Bill "An Act to Provide Dairy Farmer Equity"
S.P. 648 L.D. 1826

Sponsored by Senator **KNEELAND** of Aroostook.
Cosponsored by Representative **SHERMAN** of Hodgdon and Senators: **DAVIS** of Piscataquis, **KILKELLY** of Lincoln, President **MICHAUD** of Penobscot, Representatives: **CARR** of Lincoln, **GOODWIN** of Pembroke, **GOOLEY** of Farmington, **JODREY** of Bethel, **STANLEY** of Medway. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested and ordered printed.

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

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

Off Record Remarks

REPORTS OF COMMITTEES

House

**Ought to Pass
Pursuant to Joint Order**

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Resolve, Directing the Department of Economic and Community Development to Study the Designation of Tourism Regions

H.P. 1370 L.D. 1827

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1301).

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

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

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

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Require a 2/3 Vote for the Maine Government Facilities Authority to Issue Securities
H.P. 1298 L.D. 1767

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

Signed:

MUSE of South Portland

Senators:

GOLDTHWAIT of Hancock
CATHCART of Penobscot

5 Members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-561)**.

Representatives:

BERRY of Livermore
MAILHOT of Lewiston
TESSIER of Fairfield
BRANNIGAN of Portland
ETNIER of Harpswell
JONES of Greenville

Signed:

Senator:

FERGUSON of Oxford

Representatives:

MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon
MENDROS of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-699)**.

3 Members of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-562)**.

Signed:

Senator:

MILLS of Somerset

Signed:

Representatives:

NASS of Acton
WINSOR of Norway
BELANGER of Caribou
ROSEN of Bucksport

JACOBS of Turner
MITCHELL of Vassalboro
SIMPSON of Auburn

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

Comes from the House with Report "A", **OUGHT NOT TO PASS** **READ** and **ACCEPTED**.

Reports **READ**.

Reports **READ**.

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

Senator **RAND** of Cumberland moved the Senate **ACCEPT** Report "A", **OUGHT NOT TO PASS**, 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.

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

Divided Report

5 Members of the Committee on **JUDICIARY** on Bill "An Act to Clarify the Maine Human Rights Act Concerning Responsibility for Employment Discrimination"

H.P. 1176 L.D. 1599

Reported in Report "A" that the same **Ought Not to Pass**.

Signed:

Senators:

RAND of Cumberland
McALEVEY of York

Representatives:

LaVERDIERE of Wilton
BULL of Freeport

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Restore an Injured Employee's Right to Sue an Employer for Damages"

H.P. 302 L.D. 380

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-525)**.

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

BUNKER of Kossuth Township
MATTHEWS of Winslow
HUTTON of Bowdoinham
NORTON of Bangor
SMITH of Van Buren
TARAZEWICH of Waterboro

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

Signed:

Senators:

TURNER of Cumberland
SAWYER of Penobscot

Representatives:

TREADWELL of Carmel
CRESSEY of Baldwin
DAVIS of Falmouth
MacDOUGALL of North Berwick

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-525) AS AMENDED BY HOUSE AMENDMENT "A" (H-702)** thereto.

Reports **READ**.

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

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Provide Parity of Representation in Workers' Compensation Claims"

H.P. 1130 L.D. 1527

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-524)**.

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

BUNKER of Kossuth Township
MATTHEWS of Winslow
HUTTON of Bowdoinham
NORTON of Bangor

SMITH of Van Buren

TARAZEWICH of Waterboro

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

Signed:

Senators:

TURNER of Cumberland
SAWYER of Penobscot

Representatives:

TREADWELL of Carmel
DAVIS of Falmouth
MacDOUGALL of North Berwick
CRESSEY of Baldwin

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-524)**.

Reports **READ**.

Senator **EDMONDS** of Cumberland 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.

Senate

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Revoke Voting Rights of Convicted Felons while in Prison

S.P. 311 L.D. 1058

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

That they are **Unable to Agree**.

On the Part of the Senate:

Senator **BENNETT** of Oxford
Senator **WOODCOCK** of Franklin
Senator **KILKELLY** of Lincoln

On the part of the House:

Representative **TUTTLE** of Sanford
Representative **SKOGLUND** of St. George
Representative **PEAVEY** of Woolwich

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

Sent down for concurrence.

ENACTORS

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

Emergency Resolve

Resolve, to Require Further Study of the Effect and Cost Impact of Mental Illness on the State and Private Health Insurance

H.P. 1364 L.D. 1821
(H "A" H-684)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

Resolve

Resolve, to Improve Child Development Services

H.P. 611 L.D. 766
(C "A" H-662)

Senator **GOLDTHWAIT** of Hancock moved the Resolve and accompanying papers be placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

The Chair ordered a Division.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending, **FINAL PASSAGE**, 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:

REPORTS OF COMMITTEES

Senate

Pursuant to Joint Order

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Repeal the Requirement that School Employees be Fingerprinted"

S.P. 322 L.D. 1090

Returned pursuant to Joint Order S.P. 647, as Amended by House Amendment "A" (H-706)

Senator **MITCHELL** of Penobscot moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**.

The Chair ordered a Division.

On motion by Senator **GOLDTHWAIT** of Hancock, **TABLED** until Later in Today's Session, pending motion by Senator **MITCHELL** of Penobscot to **INDEFINITELY POSTPONE** the Bill and accompanying papers. (Division Ordered)

ORDERS OF THE DAY

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

Bill "An Act to Repeal the Requirement that School Employees be Fingerprinted"

S.P. 322 L.D. 1090

Tabled - June 11, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - motion by Senator **MITCHELL** of Penobscot to **INDEFINITELY POSTPONE** the Bill and accompanying papers (Division Ordered)

(In Senate, June 11, 2001, returned pursuant to Joint Order S.P. 647, as Amended by House Amendment "A" (H-706).)

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I urge you to join me in voting against the pending motion to Indefinitely Postpone this bill. It's been an interesting issue in terms of the sort of strange history of the bill from when it first started with no objection and unanimous reports to when it was met with violent opposition by the public. Now, a year or so later, the confusion and concern about this issue seems to be increasing rather than settling down. It is and has been my opinion that with the money we're spending for fingerprinting, we could be putting it to better use for the exact same purpose. I know that this issue was originally brought forward in an absolutely good faith effort to protect children. I don't think it is achieving that end. It is generating more and more problems in our school units as far as discussions about the merits, or lack of, of the program, which we seem to be unable to determine at this point. I will be voting against the pending motion and would request a roll call.

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

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

Senator **MITCHELL:** Thank you, Mr. President, ladies and gentlemen of the Senate. The purpose of Indefinitely Postponing this is because this bill was originally on a carry-over until next year from the Education Committee so that they could look at the information and have a public hearing. This bill has not been given a public hearing. We have not received the information on the status of the people who have currently been fingerprinted and the numbers that have been denied. We've talked about this at length in our committee in our session here. I would ask you to vote with me to Indefinitely Postpone this so it can go through the process as a normal bill should go through the process and let us receive the information, if at all possible, on the current status of what is going on with the current fingerprinting and on how many have been denied recertification or certification. We have had recent numbers far greater than we should have in the last week to ten days on people who have been working in the school system for as many as 30 years and have been arrested and convicted for molesting and attacking young children. We know we cannot possibly attack the child abuse through this, but what we can do through the fingerprinting is to keep these people, who are convicted, from coming back out into the system and to avoid having other people come into the system who do have a criminal record. So I would ask you to please join me in Indefinitely Postponing this so that we can, hopefully, acquire the information on the status of the fingerprinting.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **RAND:** To whomever can answer, I've just heard, what I feel is, upsetting news from the good Senator. It seems that there is information out there that someone in our school system has been found to be a convicted child molester. My question is, when this law first passed, were we not told that all of the information would be confidential, and to whomever may answer, where did this information about this particular 30 year veteran of the school system come from? Thank you.

THE PRESIDENT: The Senator from Cumberland, Senator Rand poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you, Mr. President. This was in the newspapers. This was not due to the fact of the fingerprinting situation. This was due to an arrest and a conviction, as also was the situation, on the day that I mentioned earlier in testimony, that we had another incident where a coach in Damariscotta was also arrested and convicted and will be sent to prison. Without being fingerprinted, when this man comes out, he is free to go into any system and regain a job again.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#124)

YEAS: Senators: ABROMSON, MCALEVEY, MILLS, MITCHELL, O'GARA, ROTUNDO, SAWYER, SMALL, TURNER, YOUNGBLOOD

NAYS: Senators: BENNETT, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, NUTTING, PENDLETON, RAND, SAVAGE, SHOREY, TREAT, WOODCOCK, THE PRESIDENT - MICHAEL H. MICHAUD

ABSENT: Senators: GAGNON, LONGLEY, MARTIN

10 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **MITCHELL** of Penobscot to **INDEFINITELY POSTPONE** the Bill and accompanying papers, **FAILED**.

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

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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

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.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

ENACTORS

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

Emergency Measure

An Act Concerning Technical Changes to the Tax Laws
H.P. 1190 L.D. 1613
(C "A" H-689)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Acts

An Act to Ensure That State Employees Receiving Workers' Compensation and Filling a Limited Period Position Remain in Their Respective Bargaining Units
H.P. 592 L.D. 747
(S "A" S-328)

An Act to Amend the Finance Authority of Maine Act
H.P. 1259 L.D. 1694
(S "B" S-325 to C "A" H-467)

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 Facilitate the Implementation of the Enhanced 9-1-1 Emergency System
H.P. 1098 L.D. 1467
(H "A" H-687 to C "A" H-442; S "A" S-252)

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

ORDERS OF THE DAY

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

Bill "An Act to Regulate Push Polling"
S.P. 308 L.D. 1055
(H "D" H-545)

Tabled - June 11, 2001, by Senator **DAGGETT** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, May 23, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "D" (H-545)**, in concurrence.)

(In House, June 8, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "G" (H-708)**, 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 Today Assigned matter:

An Act to Facilitate the Implementation of the Enhanced 9-1-1 Emergency System
H.P. 1098 L.D. 1467
(H "A" H-687 to C "A" H-442; S "A" S-252)

Tabled - June 11, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **ENACTMENT**, in concurrence

(In Senate, June 7, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442) AS AMENDED BY HOUSE AMENDMENT "A" (H-687) thereto, AND SENATE AMENDMENT "A" (S-252)**.)

(In House, June 11, 2001, **PASSED TO BE ENACTED**.)

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

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

HOUSE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a 2/3 Vote for the Maine Government Facilities Authority to Issue Securities
H.P. 1298 L.D. 1767

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

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-699)** (5 members)

Tabled - June 11, 2001, by Senator **GOLDTHWAIT** of Hancock

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

(In House, June 8, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 11, 2001, Reports **READ**.)

The Chair ordered a Division.

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

Senator **MILLS:** Mr. President, before we take a division, I might, with the indulgence of the Senate, make a few points in regards to this bill. The draft of this proposed Constitutional amendment has undergone several evolutions. The original bill simply said that bonds issued under the facilities authority would require a two-thirds approval from each chamber of the legislature. What used to be the Court Facilities Authority, and was expanded a couple of years ago to be the Government Facilities Authority, and as members may be aware, we have borrowed through the use of this mechanism, as I recall, something like \$210 million without going to the people for bonding. We've done it, by in large, by majority vote of the two chambers. This is clearly, in the view of many of us, inconsistent with that provision of the State Constitution that requires the bonds go out to the people. The original draft of this bill was to make it clear that the Government Facilities Authority would require for its bonding authority a two-thirds vote of each chamber, even though they don't have to go out to the people for ratification. The redraft that lies before you is somewhat broader because the point was raised that if you put something into the Constitution about forbidding the Government Facilities Authority from bonding without a super-majority, then it would be easy for the legislature to create another entity with a slightly different name and go out and do exactly the same thing, under the same concepts. So the wording of the presently proposed amendment does encompass, in a generic way, the different modes of borrowing that have, often times, been used by the legislature with some measure of moral authority behind them. The amendment that lies before you covers facilities that are like the Government Facilities Authority and other such financial instruments. A lot of thought went into the final draft of this bill. It has been worked and reworked by the committee. For those of us who favor putting restrictions on the legislature's capacity to borrow, I think this represents a very thoughtful and very appropriate draft. If we don't put such restrictions on, we really don't have any such thing as a balanced budget amendment because you can evade the impact of the balanced

budget amendment by simply authorizing borrowing by majority vote for anything that you can't fund in the regular budget. It is a very clear, blatant, significant evasion of fiscal responsibility to do what we have been doing in recent years. It should not go unchecked. This proposed Constitutional Amendment, I think, will be immensely popular when presented to the public. I think we have a duty to the public to put certain constraints on our borrowing authority. This bill, I think, would do the job. I think it is thoughtfully crafted and I would recommend that you vote against the pending motion so that we could go on and have an affirmative vote for this proposed amendment. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President. Ladies and gentlemen of the Senate. I had a strong inclination to be sympathetic to the issue about two-thirds vote for bonding authority and when the whole Government Facilities Authority was addressed, but there is a serious problem with this piece of legislation in the amended form in which it is before you today. First of all, the title of the amendment would require a two-thirds vote for certain financing agreements entered into by the state. That is rather different than the original title of the Maine Government Facilities Authority to issue securities. The implication of that is that for lease/purchase agreements, they would now fit under the umbrella, should the pending motion not be successful, to be under the authority of this legislation. This would mean that lease/purchase agreements would be subject to the same test and also any document, for instance a state budget, in which a lease/purchase agreement is specified, and they are legion within most budgets, there would never be an option, which in some peoples' eyes might be an improvement, to consider majority legislation for any legislation that contained a lease/purchase agreement would require a two-thirds vote. So I would urge support of the pending motion for the Ought Not to Pass Report because I think, although the efforts were to improve the other report, they have actually broadened the legislation to a degree that goes far beyond the original effort to deal with the situation of the Government Facilities Authority. So I urge your support for the pending Ought Not to Pass motion.

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

Senator **MILLS:** Mr. President, men and women of the Senate. And well they should be included. Lease/purchase agreements are nothing more than security agreements or loans of bond-like instruments under a different name. One of the proposals, that will lie before you before we're out of here this year, is a proposal to buy a whole new communications system for the Maine State Police. The current proposal in front of Appropriations is to make a very small down payment on the lease. I approve of what we're doing but I think we should do it by a two-thirds vote. The arrangement that we're making, just to give you a clear example, is that we will spend perhaps \$300,000 or \$400,000 in this biennium on an interest payment on the lease. We will authorize the Maine Public Safety people to go out and buy a huge communications infrastructure to help the Maine State Police talk to each other and to talk with the sheriffs and warden service and everybody else in this state. The overall cost of this thing is \$8 or \$9 million. We're going to ask, not this legislature but the next three or four legislatures, to pay for it. Now, there is nothing

wrong with doing that, but I think we should do it with some solemnity. It should require a commitment of two-thirds of this Legislature to cast an obligation on to the next three legislatures. Otherwise, we will do more of what we have been doing in the last several years, postponing the inevitable and borrowing money against the future with a bare majority. That way lies chaos. That's what they thought in 1847 when they passed the balanced budget amendment. That's what I think in the year 2001 when I ask you to vote for this. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President. Ladies and gentlemen of the Senate. You would have thought we could have worked this out in committee, wouldn't you? The good Senator from Somerset, Senator Mills, mentions chaos. That is partly what is driving my support for the Ought Not to Pass motion. We are nine days shy of statutory adjournment here and are having a rather difficult time pulling the last of this process together. If you think it would help that process for the entire legislature to be involved, by way of a two-thirds vote, on central motor pool purchases, then you might want to vote against this motion. But that is the effect it would have. It would reach into very mechanical details of state government in terms of these lease/purchases and bring them before the full legislature, looking for a two-thirds vote on issues that would amount to micro-management of the highest order. I would repeat my urge that you vote in favor of the pending motion.

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

Senator **NUTTING:** Thank you, Mr. President. Ladies and gentlemen of the Senate. I will be voting against this pending motion. I was the Chair of the State and Local Government Committee when the Court Facilities Authority was amended to become the Governmental Facilities Authority. When that was done it required a two-thirds vote of the legislature to borrow money if it didn't go to the public. I've always supported that. I do share the concerns of the good Senator from Hancock, Senator Goldthwait, that this is a little too broad. I agree with that, but I can only offer an amendment on second reading. So I'm going to vote for the Ought to Pass at this reading in hopes that we can get it into a position that it can be clarified and further narrowed in the future. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#125)

YEAS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, LAFOUNTAIN, MARTIN, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, KILKELLY, KNEELAND, LEMONT, LONGLEY, MCALEVEY, MILLS, MITCHELL, NUTTING, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: ABROMSON

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

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE.**

READ ONCE.

Committee Amendment "B" (H-699) **READ** and **ADOPTED.**

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

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

Senator **NUTTING:** Mr. President, ladies and gentlemen of the Senate. During my very brief speech on this issue, I entertained that I thought Committee Amendment "B" was a step in the right direction, but that it was drafted a little too broadly and I wanted a chance to offer an amendment on second reading. I would still like to do that. That's why I pushed my button before we voted on second reading.

On motion by Senator **NUTTING** of Androscoggin, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE.**

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Clarify the Maine Human Rights Act Concerning Responsibility for Employment Discrimination"

H.P. 1176 L.D. 1599

Report "A" - **Ought Not to Pass.** (5 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A"** (H-561) (5 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B"** (H-562) (3 members)

Tabled - June 11, 2001, by Senator **RAND** of Cumberland

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

(In House, June 8, 2001, Report "A", **OUGHT NOT TO PASS READ and ACCEPTED.**)

(In Senate, June 11, 2001, Reports **READ.**)

The Chair ordered a Division.

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

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

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. I hope that you will accept Report "A", Ought Not to Pass on this L.D. What this bill does is, supposedly, make a clarification in the Maine Human Rights Act. But I think it fails to do that. What it does is if a supervisor is the perpetrator of discrimination against an employee under his or her supervision, if this bill passes, that supervisor will not be held responsible. The employer will be held responsible. So I would hope that you would accept the Ought Not to Pass Report. By doing otherwise, you would be allowing the perpetrator, if the supervisor is the perpetrator of the harassment or discrimination, to escape justice, if you will, and the employer would be held responsible for the actions of that supervisor. So I would, again, ask you to accept the Ought Not to Pass.

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

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. It is my hope that we can defeat the motion and go on and accept Report "B". What this does is makes the employer responsible for the action of the employee or the supervisor. Lots of times the supervisor may be enforcing or conducting the policy of the employer. It seems to me that, ultimately, the employer should be the one that is responsible for the actions of his employees, including the supervisor. Report "B", I'm just going to read what it says here, 'an individual acting as agent of or in the interest of an employer is not personally liable as an employer for actions that constitute unlawful employment discrimination under Section 4572.' This clearly places the responsibility of the workplace on the employer. If you have a situation where you have litigation, you may have a supervisor, or an employee that is in a supervisory capacity, just carrying out the policy of the employer. It seems to me that logic would have the employer be the one who is responsible. Quite frankly, employers normally have deeper pockets than employees. I would hope that you would go and defeat the pending motion so we can adopt Report "B". Thank you, Mr. President.

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

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. The good Senator from Oxford, Senator Ferguson, is absolutely correct in his assessment of this piece of legislation. I would ask you to please consider though, a situation where a supervisor is not carrying out the supposed wishes of the

employer when he or she perpetrates the act of discrimination against an employee. Under this scenario, should this bill pass, the supervisor would not be held responsible. The employer would be. Again, I ask you to join me in accepting the Ought Not to Pass.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Rand to Accept Report "A", 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 (#126)

YEAS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **RAND** of Cumberland to **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in concurrence, **PREVAILED.**

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Restore an Injured Employee's Right to Sue an Employer for Damages"

H.P. 302 L.D. 380

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-525)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - June 11, 2001, by Senator **EDMONDS** of Cumberland

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

(In House, June 7, 2001, 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-525) AS AMENDED BY HOUSE AMENDMENT "A" (H-702)** thereto.)

(In Senate, June 11, 2001, Reports **READ.**)

The Chair ordered a Division. 14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

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

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Provide Parity of Representation in Workers' Compensation Claims"

H.P. 1130 L.D. 1527

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-524)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - June 11, 2001, by Senator **EDMONDS** of Cumberland

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

(In House, June 7, 2001, 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-524)**.)

(In Senate, June 11, 2001, Reports **READ**.)

The Chair ordered a Division. 16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/7/01) Assigned matter:

An Act to Require Full Disclosure of Prescription Drug Marketing Costs

H.P. 778 L.D. 1022
(S "A" S-304 to C "A" H-517)

Tabled - June 7, 2001, by Senator **TREAT** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, June 4, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-517) AS AMENDED BY SENATE AMENDMENT "A" (S-304)** thereto, in **NON-CONCURRENCE**.)

(In House, June 6, 2001, **PASSED TO BE ENACTED**.)

Senator **MITCHELL** of Penobscot moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **TREAT:** Thank you, Mr. President, men and women of the Senate. I urge that you vote against the pending motion so that we can continue to enact this bill which will provide important information to state regulators and the public about expenditures on advertising and marketing activities of the drug companies. As you all know, we have been working very hard to do whatever we can to reduce drug costs to our citizens and to expand access to health care in a variety of mechanisms. While I am not claiming this bill will, in any way, by itself reduce drug prices, I do think it is an important informational piece of legislation. It has been narrowed so that it will not cause undue difficulties to any company in providing the information. It is a very simple bill that is simply a filing of information with the Department of Human Services. The information will be available for public inspection. There is a provision that protects against any confidential information being provided because it is current law that may not be disclosed to the public nor may it be required under this legislation to be provided to DHS. I think the one concern I've heard lately about the bill is that it might, in some way, discourage pharmaceutical companies from providing free samples to doctors. I actually think it would do just the reverse. By providing information about the amount of money that they are spending on free samples, I believe that there would be an incentive for them to continue to do so since that is something that the public certainly benefits from directly. So I do urge your voting against the pending motion.

Senator **LONGLEY** of Waldo requested a Roll Call.

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

Senator **MITCHELL:** Thank you, Mr. President, ladies and gentlemen of the Senate. I fail to understand why we feel that these drug companies would still continue to provide over 50% of their marketing expenditures on free samples of prescription medications if it was necessary for them to go to the extra expenditures in this duly burdensome, legally flawed, impractical, and counterproductive law that is going to create huge expenses on these various companies. The problem I see with this is that I've received many calls, since we've been debating this back and forth between the two bodies, from people who are very concerned and very scared because people who cannot afford the prescription drugs rely on their doctor giving these free samples to them to help defray the cost of their drugs. If we are so concerned, which we are, about reducing the cost of drugs to our people in this state, why do we want to vote against

something that provides more free samples for these people to help defray the cost more than the 20% that they are going to be getting with our RX program? I would ask you to strongly consider what we are doing here. If we don't indefinitely postpone this, we are putting into jeopardy the large amount of monies that are being spent for free samples that are being given to the physicians and to the health clinics where our rural people are people who are on low income status and who derive their medication from these free prescription samples that they have received. When you think about it, the fact that 50% of the marketing expenditures are attributed to these free samples, that is a huge amount. Preventative medicine has reduced illness and hospitalization and promoted healthier people at less cost. Why do we want to continually take away that opportunity for our people?

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#127)

YEAS: Senators: ABROMSON, BENNETT, CARPENTER, DAVIS, FERGUSON, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, MILLS, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

NAYS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **MITCHELL** of Penobscot to **INDEFINITELY POSTPONED** the Bill and accompanying papers, in **NON-CONCURRENCE, PREVAILED.**

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:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Amend the Laws Governing Term Limits"
H.P. 697 L.D. 901

In House, June 7, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "D" (H-690).**

In Senate, June 8, 2001, on motion by Senator **DOUGLASS** of Androscoggin, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "E" (H-703)**, in **NON-CONCURRENCE.**

President Pro Tem **BENNETT** of Oxford moved the Senate **ADHERE.**

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#128)

YEAS: Senators: ABROMSON, BENNETT, CARPENTER, DAVIS, DOUGLASS, FERGUSON, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

NAYS: Senators: BROMLEY, CATHCART, DAGGETT, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, LONGLEY, MARTIN, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by President Pro Tem **BENNETT** of Oxford to **ADHERE, PREVAILED.**

ORDERS OF THE DAY

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

JOINT RESOLUTION - relative to establishing June 17, 2001 as "Walk With The Ones You Love Day" H.P. 1369

Tabled - June 11, 2001, by Senator **DAVIS** of Piscataquis

Pending - **ADOPTION**, in concurrence.

(In House, June 8, 2001, **READ** and **ADOPTED.**)

(In Senate, June 11, 2001, **READ.**)

The Chair ordered a Division. 21 Senators having voted in the affirmative and 14 Senators having voted in the negative, **ADOPTED**, in concurrence.

Senate at Ease.

Senate called to order by the President.

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

Resolve, to Improve Child Development Services
H.P. 611 L.D. 766
(C "A" H-662)

Tabled - June 11, 2001, by Senator **DAGGETT** of Kennebec

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, June 5, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662)**, in concurrence.)

(In House, June 8, 2001, **FINALLY PASSED**.)

Senator **GOLDTHWAIT** of Hancock **RENEWED** her motion to place the Resolve and accompanying papers on the **SPECIAL APPROPRIATIONS TABLE** pending **FINAL PASSAGE**, in concurrence.

Subsequently, same Senator requested and received leave of the Senate to withdraw her motion to place the Resolve and accompanying papers on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

Senator **MITCHELL** of Penobscot moved the Resolve and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

The Chair ordered a Division.

Senator **LONGLEY** of Waldo requested a Roll Call.

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

Senator **LONGLEY:** Thank you, Mr. President. Colleagues in the Senate. This bill should continue on its normal course. The votes that happened ought to be honored. The shenanigans that are happening since then are unacceptable. What we're trying to do is make it so that the Child Development Services Program is improved. As we said the other day, this has been studied to death. As I said the other day, insanity, to me, is to continually repeat unsuccessful actions. The motion before us is an attempt to continue what has not proven to be successful. It lost round one and I encourage you to help it lose round two.

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

Senator **MITCHELL:** Thank you, Mr. President. Ladies and gentlemen of the Senate. For the same reasons that the good Senator from Waldo, Senator Longley, has mentioned, the shenanigans and that it has been studied to death, is the reason why we want to indefinitely postpone this bill and all its accompanying papers. There are ongoing studies currently in progress. There is feedback that will be coming back to the Education Committee and will be shared with the Committee on Health and Human Services. There will be a joint meeting in January to assess the next action that should be taken. So please join me in voting to indefinitely postpone this bill.

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

Senator **TURNER:** Thank you, Mr. President. Ladies and gentlemen of the Senate. I realize we have discussed this particular issue extensively. I would urge you to vote against the motion, give the Department of Education the opportunity to deal with the problem that is before them. It has been studied multiple times. I think now the time has passed for studying and action is required. Thank you.

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

Senator **MARTIN:** Thank you, Mr. President. Members of the Senate. I follow the two other members in the Human Services Committee and agree that the time has come to do something and maybe finally accomplish the goal that many people have tried to accomplish for the last ten years. It has been studied. This is not a study. It is actually a requirement that the Commissioner do something about it. I urge you to support the bill and to vote against the motion to indefinitely postpone. In conclusion, Mr. President and members of the Senate, if we've not learned our lesson, we have through this session that bills should not be referred to two committees.

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

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. I want to agree with the good Senator from Aroostook, Senator Martin, on the two committee point he just made. But I'm not going to agree. I'm going to be voting for the indefinite postponement motion. I just want to very quickly reiterate why. The Department of Education has formed a working group on this very contentious subject about eighteen months ago. That working group is made up of the providers and of the site managers. They have already resolved four very contentious issues on their own. I believe, and so does the Department, that in the future they will also resolve some more very contentious issues that, before the working group was created, no one thought could be resolved. But they have. I just think we need to give them a little more time to do what they are already doing. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#129)

YEAS: Senators: ABROMSON, BENNETT, CARPENTER, DAVIS, DOUGLASS, FERGUSON, KILKELLY, KNEELAND, LEMONT, MARTIN, MILLS, MITCHELL, NUTTING, O'GARA, ROTUNDO, SAWYER, SHOREY, SMALL, TREAT, WOODCOCK

NAYS: Senators: BROMLEY, CATHCART, DAGGETT, EDMONDS, GAGNON, GOLDTHWAIT, LAFOUNTAIN, LONGLEY, MCALEVEY, PENDLETON, RAND, SAVAGE, TURNER, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **MITCHELL** of Penobscot to **INDEFINITELY POSTPONE** the Resolve and accompanying papers, in **NON-CONCURRENCE, PREVAILED**.

Senator **MARTIN** of Aroostook moved the Senate **RECONSIDER** whereby it **INDEFINITELY POSTPONE** the Resolve and accompanying papers, in **NON-CONCURRENCE**.

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

Senator **MARTIN:** Mr. President and members of the Senate. I believe that this bill is the end all and begin all. But I do know that this bill has died today because of the lobbying of the Department of Education and the bureaucrats in that office. That has not been a secret and I think it is no secret to anyone in this body. The owners now of the responsibility of CDS lies clearly with them. When a lack of action takes place next year, and the problems continue throughout this state, the responsibility clearly will lay upon the Department and its employees. There will be no one else to blame. I would hope that every member of the Senate next year will remember that and remember where the responsibility lies.

Subsequently, Senator **MARTIN** of Aroostook requested and received leave of the Senate to withdraw his motion to **RECONSIDER** whereby the Resolve and accompanying papers was **INDEFINITELY POSTPONE**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

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

On motion by President Pro Tem **BENNETT** of Oxford, **ADJOURNED** to Tuesday, June 12, 2001, at 11:00 in the morning.