

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Third Legislature

State of Maine

Daily Edition

First Regular Session
December 6, 2006 to June 21, 2007

Pages 1 - 1266

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Tuesday
June 12, 2007

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

Prayer by Reverend Gary R. Akeley of Randolph United
Methodist Church.

REVEREND AKELEY: Let us pray. Almighty God, You rule all the peoples of the earth. Today inspire the minds of all women and men to whom You have committed responsibility of government and leadership. Especially today we ask Your blessings upon those in this room. Give to them the vision of truth and justice, that by their example peoples may work together for the betterment of all in the State of Maine. Dwell in the hearts of all here and be the guide of their thoughts and actions first before party allegiances. I pray for the family members of our senators, to give them the needed strength and love to continue their support of their loved one and the important work they do here for your people. We pray for the people of the State of Maine, that by Your grace they can understand how the lives of so many depend on the courage, the honesty, and the integrity of all who labor here on their behalf. You God are the custodian of the future, we depend on Your grace. Blend our thoughts with Your thoughts. Renew all here in this chamber this day and align their thoughts, words and actions, and votes with Your will for all. Hear our prayer, Almighty God. Amen.

Reading of the Journal of Monday, June 11, 2007.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Exempt Certain Meals Provided to Food Service Employees from the Sales and Use Tax"

H.P. 1271 L.D. 1823
(C "A" H-413)

In Senate, June 7, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413) AND HOUSE AMENDMENT "A" (H-515)**, in **NON-CONCURRENCE**.

On motion by Senator **MARTIN** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Resolve, Regarding the Maine State Cultural Building in Augusta (EMERGENCY)

H.P. 1308 L.D. 1876
(C "A" H-400)

In Senate, June 6, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-400)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-400) AS AMENDED BY HOUSE AMENDMENT "A" (H-466)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **SCHNEIDER** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

COMMUNICATIONS

The Following Communication: S.C. 384

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON JUDICIARY**

June 8, 2007

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Sallie V. Chandler of Lebanon, for appointment to the Maine Human Rights Commission.

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:

LEGISLATIVE RECORD - SENATE, TUESDAY, JUNE 12, 2007

YEAS Senators 1 Hobbins of York
Representatives 8 Simpson of Auburn, Berube of Lisbon, Bryant of Windham, Casavant of Biddeford, Dill of Cape Elizabeth, Dunn of Bangor, Jacobsen of Waterboro, Nass of Acton

NAYS 0

ABSENT 4 Rep. Gould of South Berwick, Sen. Hastings of Oxford, Rep. Mills of Farmington, Sen. Nutting of Androscoggin

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 Sallie V. Chandler of Lebanon, for appointment to the Maine Human Rights Commission be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 385

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON JUDICIARY**

June 8, 2007

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Gregory M. Cunningham of North Yarmouth, for reappointment to the Maine Indian Tribal-State Commission.

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 1 Hobbins of York
Representatives 8 Simpson of Auburn, Berube of Lisbon, Bryant of Windham, Casavant of Biddeford, Dill of Cape Elizabeth, Dunn of Bangor, Jacobsen of Waterboro, Nass of Acton

NAYS 0

ABSENT 4 Rep. Gould of South Berwick, Sen. Hastings of Oxford, Rep. Mills of Farmington, Sen. Nutting of Androscoggin

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 Gregory M. Cunningham of North Yarmouth, for reappointment to the Maine Indian Tribal-State Commission be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 386

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON JUDICIARY**

June 8, 2007

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

LEGISLATIVE RECORD - SENATE, TUESDAY, JUNE 12, 2007

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of James F. Nimon of Augusta, for appointment to the Maine Indian Tribal-State Commission.

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	1	Hobbins of York
	Representatives	8	Simpson of Auburn, Berube of Lisbon, Bryant of Windham, Casavant of Biddeford, Dill of Cape Elizabeth, Dunn of Bangor, Jacobsen of Waterboro, Nass of Acton
NAYS		0	
ABSENT		4	Rep. Gould of South Berwick, Sen. Hastings of Oxford, Rep. Mills of Farmington, Sen. Nutting of Androscoggin

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 James F. Nimon of Augusta, for appointment to the Maine Indian Tribal-State Commission be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 387

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON JUDICIARY**

June 11, 2007

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Rae Ann French of Augusta, for reappointment as a District Court Judge.

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

YEAS	Senators	2	Hastings of Oxford, Nutting of Androscoggin
	Representatives	9	Simpson of Auburn, Berube of Lisbon, Bryant of Windham, Casavant of Biddeford, Dunn of Bangor, Gould of South Berwick, Jacobsen of Waterboro, Mills of Farmington, Nass of Acton
NAYS		0	
ABSENT		2	Sen. Hobbins of York, Rep. Dill of Cape Elizabeth

Eleven 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 Honorable Rae Ann French of Augusta, for reappointment as a District Court Judge be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 388

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON JUDICIARY**

June 11, 2007

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003
Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Rick E. Lawrence of Portland, for reappointment as a District Court Judge.

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

YEAS	Senators	3	Hobbins of York, Hastings of Oxford, Nutting of Androscoggin
	Representatives	9	Simpson of Auburn, Berube of Lisbon, Bryant of Windham, Casavant of Biddeford, Dunn of Bangor, Gould of South Berwick, Jacobsen of Waterboro, Mills of Farmington, Nass of Acton
NAYS		0	
ABSENT		1	Rep. Dill of Cape Elizabeth

Twelve 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 Honorable Rick E. Lawrence of Portland, for reappointment as a District Court Judge be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

SENATE PAPERS

Bill "An Act To Implement the Recommendations of the Committee To Review the Taxation of Slot Machine Revenues, Created by Executive Order 33 Fiscal Year 2006-07"
S.P. 729 L.D. 1924

Sponsored by President **EDMONDS** of Cumberland.
Cosponsored by Speaker **CUMMINGS** of Portland.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **TAXATION** and ordered printed.

Sent down for concurrence.

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

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

J. Hobart Pierce, Jr., of Oakland, for his 15 years of dedicated service to the people of the Town of Oakland. Mr. Pierce has been a tremendous asset to the community and we send him our appreciation for his civic accomplishments;
SLS 299

Sponsored by Senator **MITCHELL** of Kennebec.
Cosponsored by Representatives: **CANAVAN** of Waterville, **CONOVER** of Oakland.

READ.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues of the Senate. Occasionally towns are blessed with extraordinary leaders. I'm delighted that the calendar was corrected to show that this gentleman, Mr. Hobart Pierce has served his community for 30 years. Fifteen years on the school board and another 15 years as a Councilor for the City of Oakland. He is so versed in town politics and state politics. I was able to talk with him about the Sinclair Act because he was there when that happened and helped make SAD 47 a reality. He has decided that he would like to retire and spend more time with his loving wife Jean, who is here with him today. The town manager Steve Dyer has also accompanied him because he's wondering what in the world he's going to do after Hobart Pierce steps down. I know you will join me in celebrating his retirement from the Council of the Town of Oakland. Thank you.

ADOPTED.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber, J. Hobart Pierce, Jr. of Oakland. Would he please rise and receive the greetings of the Maine Senate.

Off Record Remarks

Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of:

United States Marine Corps Lance Corporal Angel Rosa, 21, of South Portland, who died in action while conducting combat operations in Al-Anbar province in Iraq. He was assigned to the 3rd Battalion, 6th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force, Camp Lejeune, North Carolina. Lance Corporal Angel Rosa was posthumously promoted from Private First Class. His awards include the Purple Heart, the Combat Action Ribbon, the National Defense Medal, the Iraqi Campaign Medal and the Global War on Terrorism Service Medal. Lance Corporal Rosa grew up in South Portland, having moved there at the age of 9. He made friends easily and was a 2004 graduate of South Portland High School, where he participated in the Spanish Club, Varsity Club and the homecoming and prom committees. He excelled at soccer and was the team captain in his senior year. He volunteered as a referee for the city's youth soccer program, and he worked with Latino children at Sacred Heart Parish in Portland. Angel Rosa married his wife, Elise, on May 5, 2006. We acknowledge Lance Corporal Angel Rosa's dedicated service, and we recognize the ultimate sacrifice he made for his country. He will be sadly missed and long remembered by his loving wife, Elise, his loving family, his friends and his grateful State and Nation;

SLS 301

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representatives: BLISS of South Portland,
EBERLE of South Portland, KAENRATH of South Portland.

READ.

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

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. Angel Rosa made a big impression in a short amount of time. He was full of life, he was known for deep love of his family and his friends, and for an unusual sense of commitment and service to his school, to his community, and of course, to his country. In Maine we feel a very special connection with our community. We are connected whether we know each other well, or perhaps in passing we brush shoulders. We know each other and we know when something happens to one of us, something happens to all of us. In Portland, we feel the loss of Angel Rosa still. Our hearts are broken, but at the same time, brimming over with admiration and gratitude for the impression that Lance Corporal Angel Rosa made on all of us. So, Madame President, I ask today when we adjourn we do so in honor and lasting tribute to Lance Corporal Angel Rosa.

ADOPTED.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber, Elise Rosa, Angel's widow; Robert Bradbury, Angel's stepfather; Kathryn McInnis-Misenor, Angel's aunt and godmother; Brett Misenor, Angel's uncle and godfather; Michelle McCabe, Elise's mother; Carlos Tirado, Angel's friend; David Creamer, Angel's friend. Would they please rise and accept the greetings of the Maine Senate?

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Authorizing the Department of Conservation, Bureau of Parks and Lands To Convey Certain Lands

H.P. 1347 L.D. 1913

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-520).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-520).**

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

READ ONCE.

Committee Amendment "A" (H-520) **READ** and **ADOPTED**, in concurrence.

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

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

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Promote Community Integration for Individuals with Brain Injuries

H.P. 295 L.D. 365

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-518).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-518).**

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

READ ONCE.

Committee Amendment "A" (H-518) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Regulate Presettlement Lawsuit Funding"
H.P. 1186 L.D. 1703

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-511)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-511)**.

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

READ ONCE.

Committee Amendment "A" (H-511) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LABOR** on Bill "An Act To Increase the Safety of Hospital Patients"

H.P. 1063 L.D. 1538

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-517)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-517)**.

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

READ ONCE.

Committee Amendment "A" (H-517) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act To Implement the Recommendations of the Working Group Studying Mold in Buildings"

H.P. 1337 L.D. 1903

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-514)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514)**.

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

READ ONCE.

Committee Amendment "A" (H-514) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Base Value in Eminent Domain Takings of Businesses on Going Concern Value"

H.P. 720 L.D. 960

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-434)**.

Signed:

Senators:

NUTTING of Androscoggin
HASTINGS of Oxford

Representatives:

DILL of Cape Elizabeth
JACOBSEN of Waterboro
BERUBE of Lisbon
NASS of Acton
GOULD of South Berwick

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

Signed:

Senator:

HOBBS of York

Representatives:

SIMPSON of Auburn
BRYANT of Windham
DUNN of Bangor
MILLS of Farmington
CASAVANT of Biddeford

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought To Pass as Amended** Report.)

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-434)**.

Reports **READ**.

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

Senate

Ought to Pass As Amended

Senator **BROMLEY** for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Implement the Recommendations of the Office of Program Evaluation and Government Accountability Regarding Economic Development in Maine"

S.P. 411 L.D. 1163

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-278)**.

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

READ ONCE.

Committee Amendment "A" (S-278) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Senator **BROMLEY** for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Update Professional and Occupational Licensing Laws"

S.P. 659 L.D. 1842

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-275)**.

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

READ ONCE.

Committee Amendment "A" (S-275) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Senator **DIAMOND** for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Protect Families and Enhance Public Safety by Making Domestic Violence a Crime"

S.P. 571 L.D. 1627

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-276)**.

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

READ ONCE.

Committee Amendment "A" (S-276) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Senator **DIAMOND** for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Allow Blended Sentencing for Certain Juveniles"

S.P. 691 L.D. 1897

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-277)**.

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

READ ONCE.

Committee Amendment "A" (S-277) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Senator **BOWMAN** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Ensure Funding for Higher Education"

S.P. 355 L.D. 1103

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-269)**.

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

READ ONCE.

Committee Amendment "A" (S-269) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Senator BOWMAN for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Improve Efficiency and Effectiveness of Early Intervention and Early Childhood Special Education for Children from Birth to Eight Years of Age through Improved Oversight, Accountability and Interagency Coordination"

S.P. 666 L.D. 1850

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-267)**.

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

READ ONCE.

Committee Amendment "A" (S-267) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Senator BRANNIGAN for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Clarify Involuntary Admissions for Psychiatric Hospitalizations"

S.P. 669 L.D. 1855

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-266)**.

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

READ ONCE.

Committee Amendment "A" (S-266) **READ** and **ADOPTED**.

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

On motion by Senator **WESTON** of Waldo, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**.

Senator MARRACHÉ for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Prevent Additional Housing Charges for Persons Requiring In-home Care"

S.P. 162 L.D. 475

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-280)**.

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

READ ONCE.

Committee Amendment "A" (S-280) **READ**.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-280).

Senator MARRACHÉ for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding Campaign Finance Reporting and the Maine Clean Election Act"

S.P. 668 L.D. 1854

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-279)**.

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

READ ONCE.

Committee Amendment "A" (S-279) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Senator MARTIN for the Committee on **NATURAL RESOURCES** on Bill "An Act To Create the Freshwater Resource Board"

S.P. 610 L.D. 1743

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-273)**.

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

READ ONCE.

Committee Amendment "A" (S-273) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Allow Maine Consumers To Purchase Health Insurance from Out-of-State Insurers"

S.P. 540 L.D. 1517

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

Signed:

Senators:

SULLIVAN of York
BOWMAN of York

Representatives:

BRAUTIGAM of Falmouth
CANAVAN of Waterville
CROCKETT of Augusta
TREAT of Farmingdale
CONOVER of Oakland
PRIEST of Brunswick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-261)**.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

VAUGHAN of Durham
RICHARDSON of Warren
SAVAGE of Falmouth
McKANE of Newcastle

Reports **READ**.

Senator **SULLIVAN** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Protect Fair Share Workers from Termination"
S.P. 714 L.D. 1915

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-274)**.

Signed:

Senators:

STRIMLING of Cumberland
SULLIVAN of York
DOW of Lincoln

Representatives:

TUTTLE of Sanford
CLARK of Millinocket
HASKELL of Portland
DUPREY of Hampden
JACKSON of Allagash
BURNS of Berwick
DRISCOLL of Westbrook

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

Signed:

Representatives:

THOMAS of Ripley
HAMPER of Oxford
SYKES of Harrison

Reports **READ**.

Senator **STRIMLING** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Govern Publicly Funded Advertising during Campaigns"

S.P. 630 L.D. 1779

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-246)**.

Signed:

Senator:

PLOWMAN of Penobscot

Representatives:

MOORE of Standish
WEDDELL of Frankfort
PINKHAM of Lexington Township
TRINWARD of Waterville
NASS of Acton
GOULD of South Berwick
FITTS of Pittsfield

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

Signed:

Senators:

MARRACHÉ of Kennebec
BRYANT of Oxford

Representatives:

PATRICK of Rumford
TUTTLE of Sanford
BLANCHETTE of Bangor

Reports **READ**.

Senator **MARRACHÉ** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

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

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Reduce the Income Tax"

S.P. 303 L.D. 952

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-281)**.

Signed:

Senator:
NASS of York

Representatives:
PIOTTI of Unity
KNIGHT of Livermore Falls
WOODBURY of Yarmouth
HOTHAM of Dixfield
WATSON of Bath
CHASE of Wells
PILON of Saco
LANSLEY of Sabattus

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

Signed:

Senators:
PERRY of Penobscot
STRIMLING of Cumberland

Representatives:
RAND of Portland
CLARK of Millinocket

Reports **READ**.

Senator **STRIMLING** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

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

Divided Report

The Majority of the Committee on **TAXATION** on **RESOLUTION** Proposing an Amendment to the Constitution of Maine To Restrict Tax Increases

S.P. 648 L.D. 1819

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-271)**.

Signed:

Senators:
PERRY of Penobscot
STRIMLING of Cumberland
NASS of York

Representatives:
KNIGHT of Livermore Falls
CLARK of Millinocket
HOTHAM of Dixfield
WATSON of Bath
CHASE of Wells
PILON of Saco
LANSLEY of Sabattus

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-272)**.

Signed:

Representatives:
PIOTTI of Unity
RAND of Portland
WOODBURY of Yarmouth

Reports **READ**.

Senator **STRIMLING** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-271)** Report.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-271)** Report.

ORDERS OF THE DAY

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

Bill "An Act To Clarify Involuntary Admissions for Psychiatric Hospitalizations"

S.P. 669 L.D. 1855

Tabled - June 12, 2007, by Senator **WESTON** of Waldo

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-266)**

(In Senate, June 12, 2007, Report **READ** and **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (S-266) **READ** and **ADOPTED**. **RULES SUSPENDED**. **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**. Subsequently, on motion by Senator **WESTON** of Waldo, **RECONSIDERED**.)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-266).

Sent down for concurrence.

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

SECOND READERS

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

House

Bill "An Act To Permit the Use of Surety Bonds in Lieu of Security Deposits"

H.P. 1160 L.D. 1651

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

House As Amended

Bill "An Act To Provide Fairness in Concealed Weapon Reciprocity Agreements"

H.P. 130 L.D. 148
(C "A" H-478)

Bill "An Act To Take into Account the Crime Committed That Facilitated a Sexual Assault"

H.P. 131 L.D. 149
(C "A" H-508)

Bill "An Act To Provide Leave to a Spouse in the Case of Death of or Injury to a Member of the Armed Forces"

H.P. 212 L.D. 256
(C "A" H-502)

Bill "An Act To Revise the Definition of Service Dog"

H.P. 233 L.D. 289
(C "A" H-472)

Bill "An Act To Support and Create Creative Economy Businesses"

H.P. 348 L.D. 449
(C "A" H-473)

Bill "An Act To Implement the Recommendations of the Human Trafficking Task Force"

H.P. 360 L.D. 461
(C "A" H-488)

Bill "An Act To Improve the Business Equipment Tax Exemption"

H.P. 406 L.D. 528
(C "A" H-453)

Bill "An Act To Fund the Purchase of Maine State Retirement System Time by Certain Veterans"

H.P. 427 L.D. 549
(C "A" H-500)

Bill "An Act Regarding the Valuation of Land within Buffer Areas Established under the Natural Resources Protection Laws"

H.P. 437 L.D. 559
(C "A" H-505)

Resolve, To Assist Veterans in Need of Shelter

H.P. 511 L.D. 662
(C "A" H-459)

Bill "An Act To Enhance Redevelopment of Mill Buildings"

H.P. 596 L.D. 780
(C "A" H-499)

Bill "An Act To Prevent Overcharging for Prescription Drug Copayments"

H.P. 607 L.D. 807
(C "A" H-482)

Bill "An Act To Provide Health Care Insurance to Volunteer Public Safety Personnel"

H.P. 686 L.D. 911
(C "A" H-470)

Bill "An Act Regarding the Determination of the Predominant Aggressor in Domestic Violence Situations"

H.P. 757 L.D. 1039
(C "A" H-461)

Bill "An Act To Extend Eligibility for the Trade-in Credit to All Trailers"

H.P. 770 L.D. 1052
(C "A" H-497)

Bill "An Act To Establish the Hearing Assistance Program for Low-income Persons Who Are Elderly or Disabled"

H.P. 773 L.D. 1055
(C "A" H-501)

Bill "An Act To Establish the Maine Local Land Trust Fund"

H.P. 793 L.D. 1075
(C "A" H-452)

Bill "An Act To Exempt Fuels Used in Farm Tractors from the Sales Tax"

H.P. 811 L.D. 1093
(C "A" H-454)

LEGISLATIVE RECORD - SENATE, TUESDAY, JUNE 12, 2007

Bill "An Act To Implement the Recommendations of the Criminal Law Advisory Commission"	H.P. 882 L.D. 1240 (C "A" H-479)	Resolve, Directing the Department of Transportation and the Maine Turnpike Authority To Conduct a Study of Possible Western Connector Roads to Municipal Centers in Cumberland and York Counties	H.P. 1203 L.D. 1720 (C "A" H-487)
Bill "An Act To Amend Survivors' Benefits under the Workers' Compensation Laws"	H.P. 935 L.D. 1327 (C "A" H-504)	Bill "An Act To Reduce the Spread of Infectious Disease through Shared Hypodermic Apparatuses"	H.P. 1248 L.D. 1786 (C "A" H-486)
Bill "An Act Related to Special Purpose Reinsurance Vehicles"	H.P. 982 L.D. 1390 (C "A" H-456)	Bill "An Act To Amend the Licensing of Landscape Architects"	H.P. 1249 L.D. 1787 (C "A" H-451)
Bill "An Act To Facilitate the Reporting of the Crime of Acquiring Drugs by Deception"	H.P. 999 L.D. 1425 (C "A" H-462)	Resolve, Regarding the Role of Local Regions in Maine's Emerging Public Health Infrastructure (EMERGENCY)	H.P. 1264 L.D. 1812 (C "A" H-458)
Bill "An Act To Provide for the Protection of Communities That Host a Solid Waste Disposal Facility or Incineration Facility"	H.P. 1005 L.D. 1431 (C "A" H-493)	Bill "An Act To Declare a Moratorium on the Sale and Installation of High-emissions Outdoor Wood Boilers That Do Not Meet the Current Federal Environmental Protection Agency Standards for Wood Stoves"	H.P. 1272 L.D. 1824 (C "A" H-494)
Bill "An Act To Prohibit Inappropriate Software Advertising of Prescription Drugs"	H.P. 1009 L.D. 1440 (C "A" H-481)	Bill "An Act To License Certified Professional Midwives To Promote Greater Public Safety and Access"	H.P. 1275 L.D. 1827 (C "A" H-450)
Bill "An Act To Increase Quality Physical Education for Elementary School Students"	H.P. 1011 L.D. 1442 (C "A" H-460)	Bill "An Act To Implement the Recommendations of the Task Force To Engage Maine's Youth Regarding Successful School Completion"	H.P. 1296 L.D. 1860 (C "A" H-474)
Bill "An Act To Clarify the Laws Regarding Physicians"	H.P. 1032 L.D. 1470 (C "A" H-449)	Resolve, To Improve Access to MaineCare Home Health Services	H.P. 1062 L.D. 1537 (C "A" H-484)
Resolve, To Improve Access to MaineCare Home Health Services	H.P. 1062 L.D. 1537 (C "A" H-484)	Bill "An Act Regarding Fairness for Families Regarding Workers' Compensation Coverage"	H.P. 1298 L.D. 1862 (C "A" H-475)
Bill "An Act To Direct Fines Collected on Tribal Lands to the Passamaquoddy Tribe and the Penobscot Nation"	H.P. 1128 L.D. 1606 (C "A" H-491)	Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2007-08" (EMERGENCY)	H.P. 1307 L.D. 1875 (C "A" H-382)
Bill "An Act To Make Changes in the Laws Regarding Raffles"	H.P. 1187 L.D. 1704 (C "A" H-457)	Bill "An Act To Create the Competitiveness Training Fund and Improve Maine Employment Security Programs"	H.P. 1317 L.D. 1884 (C "A" H-503)
Resolve, To Expand the Maine Registry of Certified Nursing Assistants	H.P. 1197 L.D. 1714 (C "A" H-485)	Bill "An Act To Establish the Education Bill of Rights for Deaf and Hard-of-hearing Children"	H.P. 1335 L.D. 1901 (C "A" H-468)

Bill "An Act To Bring Maine into Compliance with Federal Law Regarding Purchases of Firearms by Persons Found To Be a Danger to Themselves or Others"

H.P. 1336 L.D. 1902
(C "A" H-480)

Bill "An Act To Clarify the Authority of Municipal Boards and Committees" (EMERGENCY)

H.P. 1340 L.D. 1906
(C "A" H-495)

Bill "An Act To Stimulate Demand for Renewable Energy"

H.P. 1356 L.D. 1920
(H "A" H-516)

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

Bill "An Act To Exempt Fuel Used by Commercial Groundfishing Boats from Sales Tax" (EMERGENCY)

H.P. 969 L.D. 1377
(C "A" H-498)

READ A SECOND TIME.

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "A" (S-284) **READ.**

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

Senator **STRIMLING:** Thank you, Madame President. This is just a technical change that needed to occur in order to prevent a conflict within the statutes. In my duty as Chair of Bills in the Second Reading, I have been ordered to present this amendment.

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "A" (S-284) **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-498) AND SENATE AMENDMENT "A" (S-284), in **NON-CONCURRENCE.**

Sent down for concurrence.

Bill "An Act To Repeal Inactive Boards and Commissions"

H.P. 1319 L.D. 1885
(C "A" H-496)

READ A SECOND TIME.

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "A" (S-283) **READ.**

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

Senator **STRIMLING:** Thank you, Madame President. This is similar to the last. It is just dealing with a conflict within the statute.

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "A" (S-283) **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-496) AND SENATE AMENDMENT "A" (S-283), in **NON-CONCURRENCE.**

Sent down for concurrence.

Resolve, Regarding Legislative Review of Chapter 007: Implementation of the Essential Programs and Services Funding Model, a Major Substantive Rule of the Department of Education (EMERGENCY)

H.P. 727 L.D. 967
(H "A" H-398)

READ A SECOND TIME.

On motion by Senator **BOWMAN** of York, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Bill "An Act To Create Jobs through the Establishment of a Fund To Enhance Maine's Marine Resource Economy"

H.P. 1325 L.D. 1893
(C "A" H-492)

READ A SECOND TIME.

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

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. I made this motion because this bill, in its entirety with the funding for it and the language, occurs already in our budget as Section VVVV and therefore is unnecessary. Thank you, Madame President.

On motion by Senator **DAMON** of Hancock, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE.**

Sent down for concurrence.

Bill "An Act To Amend the Term Limitation Laws for State Legislators"

H.P. 1075 L.D. 1550
(C "A" H-506)

RESOLUTION, Proposing an Amendment to the Constitution of
Maine To Increase the Length of Legislative Terms to 4 Years
H.P. 1078 L.D. 1553
(C "A" H-509)

**READ A SECOND TIME and PASSED TO BE ENGROSSED AS
AMENDED, in NON-CONCURRENCE.**

Sent down for concurrence.

Senate

Bill "An Act Regarding Local Plumbing Inspectors"
S.P. 376 L.D. 1188

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act To Require Mapping of Conservation Easements,
Purchases and Gifts"

S.P. 92 L.D. 277
(C "A" S-253)

Bill "An Act To Strengthen the Crime of Gross Sexual Assault as
It Pertains to Persons Who Furnish Drugs to Victims"

S.P. 116 L.D. 372
(C "A" S-251)

Bill "An Act To Amend the Motor Vehicle Laws"

S.P. 168 L.D. 513
(C "A" S-242)

Bill "An Act To Reduce the Expense of Health Care Treatment
and Protect the Health of Maine Citizens by Providing Early
Screening, Detection and Prevention of Cancer"

S.P. 312 L.D. 995
(C "A" S-262)

Bill "An Act To Clarify the Authority of the Department of Health
and Human Services To License Residential Parenting Facilities"

S.P. 333 L.D. 1016
(C "A" S-250)

Resolve, To Lower the Cost of State Government
(EMERGENCY)

S.P. 338 L.D. 1021
(C "A" S-264)

Bill "An Act To Clarify the Definition of 'Physical or Mental
Disability' in the Maine Human Rights Act"

S.P. 344 L.D. 1027
(C "A" S-248)

Bill "An Act To Reduce Foreclosures"

S.P. 430 L.D. 1244
(C "A" S-239)

Resolve, To Create Improved Employment Opportunities for
People with Disabilities

S.P. 515 L.D. 1467
(C "A" S-258)

Bill "An Act To Create Child Safe Zones and To Increase the Use
of Electronic Monitoring of High-risk Sex Offenders"

S.P. 518 L.D. 1491
(C "A" S-256)

Bill "An Act To Require Health Insurance Coverage for Hearing
Aids"

S.P. 537 L.D. 1514
(C "A" S-265)

Bill "An Act To Protect Native Diadromous Fish during Their
Migration"

S.P. 551 L.D. 1528
(C "A" S-252)

Bill "An Act To Repeal Strict Foreclosure"

S.P. 561 L.D. 1617
(C "A" S-255)

Bill "An Act To Expand Exemptions from Licensing Laws for
Professional Engineers"

S.P. 566 L.D. 1622
(C "A" S-240)

Bill "An Act Relating to Retirement and Death Benefits for Certain
Law Enforcement Officers"

S.P. 577 L.D. 1672
(C "A" S-257)

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

S.P. 596 L.D. 1689
(C "A" S-247)

Bill "An Act To Amend the Statute of Limitations for Actions
against Professional Land Surveyors"

S.P. 617 L.D. 1750
(C "A" S-249)

Bill "An Act To Amend the Oil and Solid Fuel Board and Propane
and Natural Gas Board Licensing Laws" (EMERGENCY)

S.P. 635 L.D. 1791
(C "A" S-244)

Bill "An Act To Prevent Disclosure of Certain Identifying
Information in Child Protective Proceedings"

S.P. 677 L.D. 1864
(C "A" S-254)

Bill "An Act To Implement Recommendations of the Drinking
Water Program Regarding Public Water Supply Protection"

S.P. 687 L.D. 1888
(C "A" S-263)

Bill "An Act To Implement Recommendations of the Blue Ribbon Commission on Solid Waste Management"

S.P. 708 L.D. 1908
(C "A" S-238)

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

Sent down for concurrence.

Bill "An Act To Allow Direct-to-consumer Wine and Malt Liquor Sales"

S.P. 54 L.D. 143
(C "A" S-245)

READ A SECOND TIME.

On motion by Senator **MARRACHÉ** of Kennebec, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED.**

Bill "An Act To Incorporate Binding Arbitration for Monetary Issues in Collective Bargaining for All State, County and Municipal Employees"

S.P. 257 L.D. 814
(C "A" S-268)

READ A SECOND TIME.

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

On motion by Senator **MITCHELL** of Kennebec, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED.** (Roll Call Ordered)

Bill "An Act Relating to the Wells-Ogunquit Community School District"

S.P. 375 L.D. 1123
(C "A" S-175)

READ A SECOND TIME.

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

On motion by Senator **MITCHELL** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **NASS** of York to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE.**

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Dispose of Unfunded Liabilities in State Retiree Health Care Plans

S.P. 534 L.D. 1511
(C "A" S-259)

READ A SECOND TIME.

On motion by Senator **MILLS** of Somerset, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED.**

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

ENACTORS

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

Emergency Measure

An Act Concerning the Natural Resources Protection Laws and Related Provisions

H.P. 1039 L.D. 1477
(S "A" S-224 to C "A" H-388)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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.

Emergency Measure

An Act To Protect the Scenic Value of the Kennebec River

S.P. 531 L.D. 1508
(H "A" H-422 to C "A" S-147)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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.

Emergency Measure

An Act To Protect the Lives and Health of Members of the Maine National Guard

H.P. 1321 L.D. 1889
(C "A" H-419)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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.

Emergency Resolve

Resolve, To Continue the Tribal-State Work Group
H.P. 891 L.D. 1263
(C "A" H-395)

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

Emergency Resolve

Resolve, To Conduct an Independent Review of the Department of Marine Resources, Public Health Division
H.P. 926 L.D. 1318
(S "A" S-193 to C "A" H-326)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Designate May 1st of Each Year as Cold War Victory Day
H.P. 103 L.D. 111
(C "C" H-334)

An Act To Clarify the Composition of the Advisory Council on Tax-deferred Arrangements
H.P. 215 L.D. 259
(C "A" H-389)

An Act Permitting Substitute Teachers To Opt Out of the Maine State Retirement System
H.P. 258 L.D. 323
(C "A" H-390)

An Act To Protect the Integrity of Security Deposits
H.P. 264 L.D. 330
(C "A" H-420)

An Act Regarding the Reporting Requirements of Conservators
H.P. 284 L.D. 354
(C "A" H-374)

An Act To Establish Penalties for Violation of the Severance Pay Law
H.P. 308 L.D. 392
(C "A" H-391)

An Act To Amend Truancy Laws Regarding Parent Involvement
H.P. 353 L.D. 454
(H "A" H-384 to C "A" H-168)

An Act To Allow Civil Penalties for Trespass while Engaging in Activities Regulated by Inland Fisheries and Wildlife
H.P. 455 L.D. 588
(C "A" H-375)

An Act To Protect Household Pets and Other Animals from Poisoning
H.P. 579 L.D. 758
(C "A" H-399)

An Act To Allow Certain Special Education Teachers To Acquire Time from the Maine State Retirement System
H.P. 624 L.D. 827
(C "A" H-392)

An Act To Enhance Special Education
H.P. 635 L.D. 836
(C "A" H-417)

An Act To Continue To Ensure the Long-term Capacity of Municipal Landfills
H.P. 710 L.D. 935
(C "A" H-411)

An Act To Amend the Employment Practices Law Regarding Substance Abuse Testing of Temporary Workers
S.P. 306 L.D. 955
(C "A" S-190)

An Act To Improve the Protection from Abuse Laws
H.P. 748 L.D. 988
(C "A" H-376)

An Act To Require the Reporting of Executive Branch Lobbying
H.P. 776 L.D. 1058
(C "A" H-367)

An Act To Clarify Worker Payment for Clothing and Equipment
H.P. 804 L.D. 1086
(C "A" H-371)

An Act To Make Circuitbreaker Program Benefits Proportional If a Resident Moves
H.P. 814 L.D. 1096
(C "A" H-373)

An Act To Permit Mental Health Professionals To Disclose Risks to People Likely To Be Harmed by a Patient
S.P. 371 L.D. 1119
(C "A" S-189)

An Act To Protect Owners and Occupiers of Homes from Civil Liability

H.P. 849 L.D. 1156
(C "A" H-396)

An Act To Use the Date of Injury To Calculate the Average Weekly Wage in Occupational Disease Cases

H.P. 887 L.D. 1259
(C "A" H-372)

An Act To Reimburse MaineCare in Certain Workers' Compensation Cases

H.P. 922 L.D. 1314
(C "A" H-393)

An Act To Support Farms and Limit Sprawl

H.P. 997 L.D. 1414
(C "A" H-407)

An Act To Enhance the Workers' Compensation Board Advocate Program

S.P. 506 L.D. 1439
(C "A" S-179)

An Act to Define "Livable Wage"

H.P. 1014 L.D. 1445
(S "A" S-215 to C "A" H-394)

An Act To Limit the Liability of Organized Clubs

H.P. 1067 L.D. 1542
(C "A" H-377)

An Act To Clarify the Use of Tips in Payment of Service Employees

H.P. 1068 L.D. 1543
(C "A" H-370)

An Act To Improve the Process for Adjustment for Sudden and Severe Disruption of Valuation

H.P. 1083 L.D. 1558
(C "A" H-360)

An Act To Grant Supervisory Privileges to Supervising Nurse Practitioners

H.P. 1120 L.D. 1598
(C "A" H-386)

An Act To Promote Recycling of Cellular Telephones

H.P. 1200 L.D. 1717
(C "A" H-418)

An Act To Amend the Laws Relating to Probation and Supervised Release for Sex Offenders and To Make Necessary Changes to the Maine Criminal Code

H.P. 1219 L.D. 1736
(C "A" H-421)

An Act To Preserve the Recycling Value of Beverage Containers

H.P. 1225 L.D. 1759
(C "A" H-387)

An Act To Prevent Duplication in Certification of Hospitals
H.P. 1243 L.D. 1781
(C "A" H-401)

An Act To Fund Pesticide Education in the State
H.P. 1252 L.D. 1798
(C "A" H-324)

An Act To Clarify the Definition of Autism
H.P. 1256 L.D. 1801
(C "A" H-381)

An Act To Strengthen and Clarify Maine's Motor Vehicle Laws
S.P. 646 L.D. 1817
(C "A" S-200)

An Act To Establish the Regional Greenhouse Gas Initiative Act of 2007

H.P. 1290 L.D. 1851
(H "A" H-380 to C "A" H-321)

An Act To Enact the Model Registered Agents Act and Amend Entity Acts To Rationalize Annual Filings

H.P. 1292 L.D. 1853
(C "A" H-397)

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 Provide a Partial Tax Exemption for the Purchase of a Hybrid or Clean Fuel Vehicle

S.P. 12 L.D. 2
(C "A" S-195)

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

An Act To Increase the Property Tax Exemption for Veterans

H.P. 154 L.D. 172
(C "A" H-385)

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

An Act To Ensure the Integrity of School Crisis Response Plans

H.P. 193 L.D. 222
(C "A" H-415)

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

An Act To Implement the Recommendations of the Joint Select Committee on Research, Economic Development and the Innovation Economy

S.P. 90 L.D. 253
(C "A" S-196)

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

An Act To Clarify the Tax-exempt Status of Ornamental Horticulture

H.P. 260 L.D. 325
(C "A" H-406)

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

An Act To Amend the Laws Governing the Burial or Cremation of Certain Persons

H.P. 740 L.D. 980
(C "A" H-366)

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

An Act To Amend the Tax Credit for Biofuel Production

S.P. 320 L.D. 1003
(C "A" S-182)

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

An Act Relating to Uncollectible Cigarette and Tobacco Taxes

S.P. 417 L.D. 1169
(C "A" S-183)

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

An Act To Amend the Laws Governing Stalking

S.P. 681 L.D. 1873
(C "A" S-199)

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

Resolves

Resolve, Concerning the Reporting of Oil Spills

S.P. 138 L.D. 437
(C "A" S-197)

Resolve, To Study Incentives To Encourage All-terrain Vehicle Registrants To Join Local All-terrain Vehicle Clubs

H.P. 707 L.D. 932
(C "A" H-410)

Resolve, Directing the Commissioner of Professional and Financial Regulation To Conduct a Sunrise Review of Oral Health Care Issues

H.P. 822 L.D. 1129
(C "A" H-362)

Resolve, To Improve the Energy Efficiency of Residential and Commercial Buildings

H.P. 1164 L.D. 1655
(C "A" H-331)

Resolve, Regarding Full, Fair and Nondiscriminatory Access to the Internet

S.P. 580 L.D. 1675
(C "A" S-192)

Resolve, To Develop the Outdoor Licensed Network

S.P. 712 L.D. 1912
(C "A" S-186)

FINALLY PASSED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Resolve, To Encourage Financial Education of Children from Kindergarten to Grade 12

H.P. 1089 L.D. 1564
(C "A" H-402)

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

Resolve, To Provide for a Careful Examination of the Motor Fuel Taxes

H.P. 1353 L.D. 1919

On motion by Senator **MARTIN** of Aroostook, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in concurrence.

Senate at Ease.

Senate called to order by the President.

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

ORDERS OF THE DAY

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

NOMINATION - of Sallie V. Chandler of Lebanon, for appointment to the Maine Human Rights Commission

Tabled - June 12, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, June 12, 2007, Communication (S.C. 384) from the Committee on **JUDICIARY, READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#129)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **Sallie V. Chandler** of Lebanon, for appointment to the Maine Human Rights Commission was **CONFIRMED**.

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

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

NOMINATION - of Gregory M. Cunningham of North Yarmouth, for reappointment to the Maine Indian Tribal-State Commission

Tabled - June 12, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, June 12, 2007, Communication (S.C. 385) from the Committee on **JUDICIARY, READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#130)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **Gregory M. Cunningham** of North Yarmouth, for reappointment to the Maine Indian Tribal-State Commission was **CONFIRMED**.

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

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

LEGISLATIVE RECORD - SENATE, TUESDAY, JUNE 12, 2007

NOMINATION - of James F. Nimon of Augusta, for appointment to the Maine Indian Tribal-State Commission

Tabled - June 12, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, June 12, 2007, Communication (S.C. 386) from the Committee on **JUDICIARY, READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#131)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **James F. Nimon** of Augusta, for appointment to the Maine Indian Tribal-State Commission was **CONFIRMED**.

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

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

NOMINATION - of the Honorable Rae Ann French of Augusta, for reappointment as a District Court Judge

Tabled - June 12, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, June 12, 2007, Communication (S.C. 387) from the Committee on **JUDICIARY, READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#132)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Rae Ann French** of Augusta, for reappointment as a District Court Judge was **CONFIRMED**.

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

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

NOMINATION - of the Honorable Rick E. Lawrence of Portland, for reappointment as a District Court Judge

Tabled - June 12, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, June 12, 2007, Communication (S.C. 388) from the Committee on **JUDICIARY, READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#133)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Rick E. Lawrence** of Portland, for reappointment as a District Court Judge was **CONFIRMED**.

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

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 Protect Wild Trout from Exotic Species"
H.P. 799 L.D. 1081

In House, May 24, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-269)**.

In Senate, June 11, 2007, on motion by Senator **BRYANT** of Oxford, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

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

Non-Concurrent Matter

Bill "An Act To Require That Notaries Public Keep Records of Notarial Acts"

S.P. 538 L.D. 1515

In Senate, June 11, 2007, on motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "A" (S-225) **READ** and **ADOPTED**. Subsequently, on motion by Senator **MARTIN** of Aroostook, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Comes from the House, **PASSED TO BE ENGROSSED**, in **NON-CONCURRENCE**.

On motion by Senator **SCHNEIDER** of Penobscot, the Senate **ADHERED**.

Non-Concurrent Matter

Bill "An Act To Establish the Town Academy Advisory Council"
S.P. 601 L.D. 1694
(C "A" S-157)

In Senate, May 30, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-157)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-157) AS AMENDED BY HOUSE AMENDMENT "B" (H-465)** thereto, in **NON-CONCURRENCE**.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Enhance Enforcement of Public Health Measures"

H.P. 908 L.D. 1290

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-521)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-521)**.

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

READ ONCE.

Committee Amendment "A" (H-521) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act To Extend the Property Tax Exemption for Veterans to Persons Living in Cooperative Housing"

H.P. 257 L.D. 313

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-522)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-522)**.

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

READ ONCE.

Committee Amendment "A" (H-522) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Resolve, Directing the Department of Administrative and Financial Services, Bureau of Revenue Services To Study and Develop a Tax Increment Financing Program To Fund the Washington County Development Authority

H.P. 560 L.D. 739

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-523)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-523)**.

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

READ ONCE.

Committee Amendment "A" (H-523) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Increase Funding To Support Research and Development in the University of Maine System"
H.P. 782 L.D. 1064

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-529)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-529)**.

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

READ ONCE.

Committee Amendment "A" (H-529) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Include Institutions Providing an Educational Program among Entities Eligible To Borrow from the Maine Health and Higher Educational Facilities Authority"

H.P. 1332 L.D. 1899

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-533)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-533)**.

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

READ ONCE.

Committee Amendment "A" (H-533) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Reduce the Cost of Hunting and Fishing Licenses for Certain Veterans and Members of the Military Service"
H.P. 654 L.D. 865

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-540)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-540)**.

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

READ ONCE.

Committee Amendment "A" (H-540) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act To Implement the Recommendations of the Right To Know Advisory Committee"
H.P. 1270 L.D. 1822

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-536)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-536)**.

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

READ ONCE.

Committee Amendment "A" (H-536) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act To Decrease the Excise Tax Imposed on Motor Vehicles"
H.P. 605 L.D. 789

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-524)**.

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

READ ONCE.

Committee Amendment "A" (H-524) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act To Change the Process for Applying for Reimbursement of Fuel Taxes"
H.P. 625 L.D. 828

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-525)**.

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

READ ONCE.

Committee Amendment "A" (H-525) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Reduce Maine's Property Tax Burden by Funding County Jails"
H.P. 481 L.D. 632

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

Signed:

Senators:

DIAMOND of Cumberland
McCORMICK of Kennebec
SHERMAN of Aroostook

Representatives:

GERZOFISKY of Brunswick
BLANCHETTE of Bangor
HASKELL of Portland
HANLEY of Gardiner
HILL of York
KAENRATH of South Portland
SYKES of Harrison
GREELEY of Levant
TIBBETTS of Columbia

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-541)**.

Signed:

Representative:

PLUMMER of Windham

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

Reports **READ**.

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

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (6/11/07) Assigned matter:

SENATE REPORT - from the Committee on **TAXATION** on Bill "An Act To Ensure Fairness for Maine Businesses" S.P. 323 L.D. 1006

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-260)** (12 members)

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

Tabled - June 11, 2007, by Senator **STRIMLING** of Cumberland

Pending - motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, June 11, 2007, Reports **READ**.)

On motion by Senator **PERRY** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-260) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Off Record Remarks

Senator **WESTON** of Waldo was granted unanimous consent to address the Senate off the Record.

Senator **MARTIN** of Aroostook was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

On motion by Senator **MITCHELL** of Kennebec, **RECESSED** until 1:30 in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act To Prevent Additional Housing Charges for Persons Requiring In-home Care"

S.P. 162 L.D. 475

Tabled - June 12, 2007, by Senator **WESTON** of Waldo

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-280)**

(In Senate, June 12, 2007, Committee Amendment "A" (S-280) **READ**.)

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

Senator **MARRACHÉ:** Thank you, Madame President, men and women of the Senate. I put this bill in on behalf of family members and also many patients that I had coming to me with similar complaints. What I found was that older people who have dementia were also finding it difficult to stay in their own homes but did not qualify for nursing home care. While they were in their own homes, and many do want to stay in their own homes, they required additional assistance, whether it be somebody coming in, around the clock, or eight hour shifts. I have many home-visit patients that I go see and they have people around the clock that are coming and going endlessly. What we found is that some landlords actually charge an additional fee to these poor people because they have another person in their apartment, their rental, their trailer, or whatever it might be. For many of these patients, they really cannot afford this extra amount of money that is being assessed upon them because they are already paying quite a bit of money for the additional care that they need in their own homes.

I put this bill in to try to remedy a problem situation. It is a unanimous report. I am hoping that we will also find that it is unanimous here in the Senate. Basically it is a two-year bill, with a sunset provision in place. If you have a note from your physician stating that this particular person has a real need for having somebody in their home to help care for them they would qualify to not having an additional fee assessed upon them by their landlords. It will be sunset in 2009. That way we can look and see if we have any issues with this provision or not.

Senator **MARRACHÉ** of Kennebec requested a Roll Call.

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. This bill did come before the committee and it was shown to the committee that there are a lot of people in Maine who need this kind of care. We were approached by landlords who asked for some consideration to be given, not necessarily with respect to rent but with respect to increased usage of utilities. When that was brought to my attention I went to the amendment and the amendment did not take into account the discussion that we had with respect to prorating to some extent the landlord's cost, or at least an acknowledgement of the cost, for utilities. Many of the rents include sewerage, water, and in some instances electricity. I'm sorry that the amendment did not take that into account. The discussion in my notes and the discussion in the committee was what I asserted to in caucus. It is not in there and so I would urge you to think long and hard about this. I wish there had been some kind of consideration because this cost can be substantial when another person moves in, especially on a full-time basis as would be required in this. Thank you.

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

Senator **MARRACHÉ:** Thank you, Madame President. In regards to that desire, we did discuss it in committee and we

decided not to add that but put the sunset provision in to replace that so that if there was an issue in terms of utilities we could address it in a two-year interval. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion to Adopt Committee Amendment "A" (S-280). 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 (#134)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: None

ABSENT: Senator: BROMLEY

34 Senators having voted in the affirmative and no Senator having voted in the negative, with 1 Senator being absent, Committee Amendment "A" (S-280) **ADOPTED.**

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

Sent down for 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 Base Value in Eminent Domain Takings of Businesses on Going Concern Value"

H.P. 720 L.D. 960

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-434)** (7 members)

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

Tabled - June 12, 2007, by Senator **HOBBS** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 11, 2007, 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-434).**)

(In Senate, June 12, 2007, Reports **READ.**)

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

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

Senator **HOBBINS:** Thank you very much, Madame President, men and women of the Senate. As many of you who served in this Body or the other Body may recall, there were numerous bills that related to the issue of eminent domain and taking. Most of them related to or were precipitated by the fact that the United States Supreme Court, in a case that was a landmark case, raised havoc among states in this country and areas of this country with respect to the issue of taking and compensation for taking. As a result of that discussion, the Committees on Transportation and Judiciary dealt with two different bills. One of the bills dealt with Maine Department of Transportation eminent domain takings, and that was LD 1203. The other bill dealt with invisible taking, and that was LD 1297. Those two bills were submitted during the First Session of the last Legislature. These bills were carried over, and a task force made out of representatives of the Maine Municipal Association, the Maine Department of Transportation, the Maine Turnpike Authority, and the Maine Oil Dealers Association worked throughout the summer and brought back a package that would increase payments to businesses that were required by the Maine Department of Transportation for a public purpose. It applied to municipalities the same relocation and reimbursement revisions concerning residential takings. The law that was finally enacted by that carry over legislation effectively did the following: it increased the amount of reimbursement to a business for actual, reasonable expenses of searching for a replacement location from a minimum of \$1,000 to \$2,500, consistent with federal regulations. It applied these to municipalities for the first time, when exercising eminent domain authority. This particular bill, Public Law 624, also increased the maximum reimbursement for expenses necessary to establish a farm, not-for-profit organization or small business from a maximum of \$10,000 to \$20,000. Last week this bill increased the maximum for the reestablishment of business containment or the business or farm displacements from \$20,000 to \$100,000. Last year's bill, which had much discussion by stakeholders and by this Legislature, has been in existence for only one year. Last year's solution was simple. This present proposal is a lot more complicated because it requires value assessments and other calculations with respect to a business. If I had my way, I would support the Majority report. When I say, 'had my way,' the economics of the times and the fiscal stability of the State's municipalities were such that I believe the basic premise that businesses should get the fair market value are their going concern from a value standpoint. But what the Legislature did, and the stakeholders group did, is recognize the reality of the financial situation and ask that we pass a moderate, but I think important, piece of legislation which addressed some of this. One of the disappointments that I have is seeing this back before the

Legislature. Again, anyone can put a piece of legislation in because we've proven that in the years that people have served in this Body. But this was a crafted compromise by the stakeholders and it really hasn't had an opportunity to sink in, to see whether or not the changes that have been put in place are working. The reality is there's a mandate that is placed on this bill, and the political reality is that it will be difficult to acquire the sufficiency of support for such a mandate. Quite frankly, I would like to see the present bill, as crafted by the stakeholders, to be put in place. Now I know that the affordable thing to do for everyone is to support the bill. It's a feel good bill, and we can go back to the business community and say, 'See what I did' but the reality will be that most likely this bill will not be funded. But we did do something very important during the last session, and I would hope that you would look at this bill from a realistic standpoint, and whether or not at this particular time, the municipalities and the State can afford what is called for in this bill. I also ask you to look at the mandate provision that is part of this bill, for your consideration before you vote. But either way you vote on this bill, quite frankly, is not difficult for me to understand, because I quite frankly, but for the fiscal constraints of the bill, would support the Majority report. But I believe I have a commitment that I made to a group of stakeholders that we would attempt to try to resolve the issue in incremental steps. The first step was done a year ago, and I'm not saying the next step will not be done during the next session. So I urge you to support the Ought Not To Pass report, but vote your conscience.

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

Senator **HASTINGS:** Thank you, Madame President, ladies and gentlemen of the Senate. What my good friend, the Senator from York, Senator Hobbins says is true. We worked hard to come to agreement on the Judiciary Committee. This is one of the few instances where I found it necessary to disagree. What Senator Hobbins says about what happened in the last session of the Legislature is true. Stakeholders representing groups of potential holders of property taken by condemnation takes the form of a similar bill, and ended up with a compromise which was less than perfect. It recognized, I believe, that although we are not doing what this bill needs to do. That is, compensate each and every individual whose business is taken by the public exigency of condemnation, is paid for full and complete value for that loss. I do not think this Body is in the position to pay full value for what we take from that individual property owner and businessman. It's one thing to say that we're doing it to an industry overall, but when you come right down to it, you're taking one person's business, their livelihood, and we're saying we don't have the money to pay you what it's really worth. That's what this bill does.

This bill says that we will own up to our obligation to pay full and complete value for a business taken from a Maine citizen due to the public exigency of a highway, generally. Last year we increased relocation expenses and the like that a business can receive in Maine should their business be taken. Interestingly, the Department and towns hold no fiscal impact with that, I believe, some \$46,000 even though we're increasing the payment for displacement from \$20,000 to \$100,000. Interestingly in that compromise there was almost no fiscal impact shown. What today's bill does is simply this: if those payments that you would receive under the existing law do not fully compensate you, as the property owner, for the loss of your going concern value then you

should be compensated the difference. What we're talking about is that rare instance where the business location is so overwhelmingly important that moving it to another location, even if you pay for the full cost of the relocation and all moving expenses, that doesn't leave the owner whole and we have an obligation as a state to make that owner whole. It says that this going concern value, which by the way is a commonly used valuation tool by every commercial bank in Maine when it evaluates almost virtually any commercial loan that it makes. It's not rocket science, it's done every day. That number is fairly readily determined by a well balanced science, if you will. All we're saying is that we're not fully compensating Maine citizens and we think that we need to. We can't put that off to another Legislature, I don't think we can do that to a citizen. One or two, perhaps three or four, will be impacted. The fiscal note is interesting because it shows a cost of \$475,000 during the first year and \$910,000 during the second year, the first year being small because it's only half a year of biennium. The Department has told us that they consider a good part of that cost to be retraining of appraisers, and there'll be some of that. But what they also told us, and what the note says, is that cost for damages could be high. They estimate damages paid to Maine citizens under this bill of a quarter of a million dollars the first year, and five to six hundred thousand dollars the second year. That's eight to nine hundred thousand dollars of property that will be taken from Maine citizens without payment. That is wrong. Ladies and gentlemen of the Senate, that is something that we cannot allow to continue. We're not going to be the first to do this, by the way, these estimates of damage have been taken from the experience of Florida and set into law, to hold up its responsibility, and there are other states that have done the same. Ladies and gentlemen, yes there was a compromise made last year, but the person whose property is going to be taken next year, and who would benefit from this bill, I don't think he or she was at the table last year when that compromise was made. I think it's our obligation to protect that he or she. We need to do the right thing now and I urge you to defeat the pending motion. Thank you.

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. The Transportation Committee has been, and will continue to work diligently to meet the funding challenges that are now creating a crisis for our transportation infrastructure. One of the components of the funding is using money in a responsible and prudent manner, getting the most out of our taxpayers' dollars. In a time when construction inflation has increased by 36 percent in the course of two years, we need to maintain as much predictability as possible in the Highway Fund. Two hundred and eighty-eight bridges are in risk of being posted or closed within 10 years. Over 1,600 miles of un-built road needs to be built. In order to repair these roads with the use of federal dollars, they must meet federal safety and engineering standards. Repairing un-built roads usually means that the roads must be widened considerably, often realigned and straightened, and most always require property acquisition. We simply cannot afford LD 960. Current policy for acquiring property based on property value is predictable, and is consistent with federal guidelines. This State can more easily budget projects based on valuation of property when it's developing its work plans. But basing acquisitions on the going concern of a business is much

more subjective, and could result in more litigation, thus more delays in the project. This Spring many of your constituents experienced road closures to heavy trucks due to poor spring road conditions. These closings were due to un-built roads, not the size of heavy truck traffic. People could not travel on those roads and businesses were impacted considerably. We heard from you and we heard from them. If we cannot afford to build roads more and more businesses will be impacted. Taking over \$900,000 annually out of the capital construction projects for a handful of businesses without considering the loss of business costs with our roads in such disrepair is irresponsible and is bad for business in Maine. I urge you to vote Ought Not To Pass. Good roads mean good business. Thank you, Madame President.

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I do believe good roads are good for business in Maine, but if you've worked very hard and have that perfect spot that makes the difference to run a good business, and they need to take it by eminent domain, all that value means nothing. That's what this bill is about, something you can't recreate. I think having businesses be confident that they will be compensated for that special spot is good for business. I ask when the vote is taken, it is by the yeas and nays.

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

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I just want pick up on one point made by the good Senator from Hancock, Senator Damon. He suggests that value of going concern versus just real estate can cause great uncertainty and lead to possible lawsuits. I simply remind the body that it's a matter of common practice in commercial banking to value properties both ways so that the very common set of standards that are currently used to do valuation of a business is the going concern and also on the real estate alone. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Hobbins 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 (#135)

YEAS: Senators: BRYANT, HOBBS, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON

3 Senators having voted in the affirmative and 32 Senators having voted in the negative, the motion by Senator **HOBBS** of York to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED.**

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-434) **READ** and **ADOPTED**, in concurrence.

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

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

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act To Protect Fair Share Workers from Termination"
S.P. 714 L.D. 1915

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-274)** (10 members)

Minority - **Ought Not To Pass** (3 members)

Tabled - June 12, 2007, by Senator **WESTON** of Waldo

Pending - motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, June 12, 2007, Reports **READ.**)

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm going to ask for a roll call on this vote. I'd like to speak to this motion. I want to explain why I'm on the side of the report that I am on and why I'm going to vote the way I am because negotiations on this was like a soap opera. We had a bill presented by a Republican Representative. That bill was changed around so that it literally turned it up side down and it said just the opposite of what the original bill intended. Yet it still had his name on the bill so one of the other Representatives struck a deal to have his name taken off the bill. In order for that deal to go through I agreed to go along with the Representative so we wouldn't end up with the original bill, with the original name,

which was completely opposite of what it was supposed to have been. I did it all in the guise of following the instructions that I was given when I was put on the Labor Committee. They wanted me on there to calm them down a little bit. I felt that was my major function. I wasn't the only one that was calm on the committee, or helped calm them down. I thought it went very nicely this time. We got some glowing reports written up about us. I did oppose this issue. I'm on it to help calm the committee down and get the amendment through to remove the Representative's name from the bill because he no longer wants it on there. I am now going to vote Ought Not to Pass, which was what I wanted to do originally but was politely asked if I would support one of the other Representatives so it wouldn't leave him holding the bag and I did. Thank you very much. On motion by Senator **DOW** of Lincoln, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **STRIMLING:** Thank you, Madame President. I rise in support of the pending motion and I do want to thank my good colleague on the committee. He definitely helped calm us down. We had one of our calmer sessions ever and one of our most bipartisan sessions. I'm disappointed that he's not staying with us through this vote. This was, as you will see in the report, bipartisan. Both the lead from the Senate and the House joined this. This was a compromise.

This was a very complicated issue as we were trying to wade through how to deal with the fact that there were a small number of State workers who were refusing to pay the fair share for the contracts that are negotiated on their behalf. What they are doing is against the law. It seems pretty clear to us that what they were trying to do is get them fired in order to create bad public relations as opposed to looking for a solution on how we could resolve this. What we came up with, what you have in front of you, is truly a compromise. It basically says, and the unions have agreed on a number of different pieces, that first and foremost they will not be terminated. If this bill fails, and I need to be as clear as I can, these workers will lose their jobs. They will be fired. A vote against this motion means you are voting to fire those workers who choose to break the law. A vote for this bill means that they will get to keep their jobs. If they choose to no longer work there, then that is their choice. I hope that nobody here would vote to have them fired. They are good employees. They do good work for the State.

Because some of the complaints were that they wanted a little more voice and they wanted a little bit more oversight over the money that they were giving to the Union on behalf of negotiating those contracts, we gave them both. The Union submitted a letter to us afterwards saying that the leadership within there is going to the Executive Committee and put forth resolutions to try to find ways that they can be more included in the process of contract negotiations. Of course if they want to have a vote on the contract they can join. We didn't want to step in and amend the bi-laws of the Union. That's not really appropriate. We did want some assurances that the Union would step forward and give them more voice internally. We also have set up a process by which they can complain about whether or not the fee that is being collected is appropriate or not and take it out of the hands of the Union so it now goes to the Maine Labor

Relations Board. The Maine Labor Relations Board is looking at rules which they will submit to us in order to give the workers who are non-Union members the ability to file a complaint so they get additional strength. That would seem very appropriate to us. They should be allowed to file a complaint if they think their money is being deducted inappropriately. They are going to be able to have the Maine Labor Relations Board step up for them, to work on their complaint.

The other piece that is important is that the unions agreed to have an outside audit done, not just their regular internal audit, about whether the fees are appropriate. They agreed to have someone from outside take a look at it and determine whether this was appropriate and where the money was being spent. The Union really stepped up in three or four ways to say that they were happy to compromise here and in return for that they set up an automatic deduction that says they have to pay. They have to pay now; it's the law. There will be an automatic deduction that will go in so the Union can get their fees. The workers will not be fired. They will be given additional rights to be able to make sure that the money is being spent correctly and if they file a complaint action will not be taken against them because it's taken outside of the Union's jurisdiction.

This was a long, hard negotiation. Yes, we had to go back and forth in terms of whose bill it was and whatnot. I was glad that there was bi-partisan support in the end and I strongly encourage you to support this motion because I don't think these people should be fired. They came forward. They are hard workers. They really are doing good work for the people of Maine. They need to be allowed to keep their jobs. Please support this compromise. Thank you very much, Madame President.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Chamber. I am on this Ought to Pass as Amended report. The word fair share is part of a court settlement that any member, where a union represents them at collective bargaining, will pay their fair share for the cost of representing them and for supporting them in any conflict. We have an open shop here. That means that you don't have to belong to the Union but you do have to pay your fair share. There is a cost to negotiating. There is a cost to representing somebody who rightfully, or unrightfully, ends up being in front of management for a possible termination. That's fair share.

What we clearly heard during the testimony is that these people did not want to be members of the Union. That's not the option. They aren't paying the full Union cost. They are paying what the federal government and the laws of this nation say they will pay. If you are at a company that is represented by the union, you will pay your fair share. I know most of you know I'm a teacher. You will hear that more than once in the next twelve months or so that we are here. You don't have to belong to the Teachers' Association, the union, but the local association has the right to charge each teacher a set amount based on the cost of negotiating the contract or the cost of getting a particular healthcare benefit. Those are all things that people pick up and your union dues help it.

We were told over and over again that they didn't want to belong because they didn't support the candidates that the union supports. That's not what this is about. This is about paying your

fair share for the union that represents you on your collective bargaining. You knew there was a union going in. It was amazing, the reaction when we said that if this doesn't pass they would be terminated. This was a real attempt at trying to make sure that people kept their jobs. It appears that some would rather commit hara-kiri and prove a point. I think it's a very poor way of doing business. With the laws of this country if the company that you work for is represented by a union you have an obligation to pay the fair share for representing you. You had the choice to belong. I think it's fair and I do hope that you will support the motion on the floor in order that people may keep their jobs. If they choose to leave, and not work for a company that has union representation, that is certainly their right. The law of the land is fair share. Thank you.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. As I looked through the summary of the amendment it raises a couple of questions. I see here that it says that up to 10% can be deducted from the gross wages of an employee's check to pay for the fair share and that any fees owed from previous pay periods. I guess my question is, is this the current law or are we putting this into statute when we protect the employees from termination? Are we putting into statutes that they don't get to choose whether or not that money is taken out because it is automatically deducted? I guess that is one of the questions that I have.

The other thing is, is this provision to deduct up to 10% of the employee's pay just for this fair share portion or does that include the entire portion, maybe from a previous disputed pay period? Would they lose 10% per week until that full amount was repaid? If anybody could answer those I would appreciate the explanation.

THE PRESIDENT: The Senator from York, Senator Courtney poses two questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. I think I understand the questions. If I don't get it right please ask it again. The 10% provision was put in there because a lot of the workers asked that it not come out all at once. Once we began talking about this compromise, they wanted to make sure that somebody couldn't go in and just take all of the back dues out all at once. What we did was put in that they clearly cannot take out more than 10% of what is owed from any given paycheck. That was really to protect them. I think that was the question.

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

Senator **COURTNEY:** Thank you, Madame President. Here it says it is 10% of the gross pay, not 10% of what they owed. In addition to that, is it the current law that they automatically take that portion for their fair share out of their check or can they opt out currently? Do they have to go and get it back? I apologize if I'm being a little unclear. Under current law, if they decide not to do that can the State take their money? Is that correct? This law

SENATE REPORTS - from the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Restrict Tax Increases

S.P. 648 L.D. 1819

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-271)** (10 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (S-272)** (3 members)

Tabled - June 12, 2007, by Senator **WESTON** of Waldo

Pending - motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-271)** Report

(In Senate, June 12, 2007, Reports **READ**.)

On motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-271)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-271) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-271)**.

Ordered sent down forthwith for concurrence.

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

Bill "An Act To Allow Direct-to-consumer Wine and Malt Liquor Sales"

S.P. 54 L.D. 143
(C "A" S-245)

Tabled - June 12, 2007, by Senator **MARRACHÉ** of Kennebec

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, June 12, 2007, **READ A SECOND TIME**.)

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

Senator **MARRACHÉ**: Thank you, Madame President, men and women of the Senate. We had a long debate yesterday and I'm sorry to prolong it again today, but I thought I would throw out there some more information for you in terms of voting against this measure and not sending it out as a Minority report. I wanted to reiterate that this will completely gut the three-tier system we have in place in this state. You are now going from wholesalers going through distributors, then to the retailer, and then to the consumer to going straight from wholesaler to the consumer. The piece that is missing is the piece that collects the taxes, that

monitors whether what we are doing is actually following the rules that the State has in place. If we don't do that we're going to see a huge loss of revenue. I'm surprised the fiscal note does not take that into account.

The other thing is that I threw out on your desks a MSNBC story about teens increasingly ordering liquor on-line. They are seeing a problem in open states, where this is happening more often. I don't doubt that this won't start happening here. We do know that people are currently ordering on-line and actually getting it. If they are doing that illegally now whose to say that it's not going to become even more of a problem now that we're going to allow it and teens will get their hands on it. We really have to be very careful about allowing ordering to go from wholesaler to consumers. I want you to take that into consideration and seriously consider your vote on this bill. Thank you.

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

Senator **PLOWMAN**: Thank you, Madame President, men and women of the Senate. As we discuss this bill I will remind you that we adopted Committee Amendment 'A' to L.D. 143 yesterday and we are now talking about the amendment and not the original bill. I appreciate that the Senator from Kennebec, Senator Marraché, brought up the payment of taxes. I will refer you to page 2 of the amendment, paragraph 6, which says that payment of State taxes must be made just as if you were in the State of Maine. As a condition of receiving a certificate of approval, a non-resident shipper shall comply with Title 36, Parts 1 and 3, specifically including and without limitation all requirements relating to registration as a seller and the collecting, reporting and remittance of Maine Sales Tax and Use Taxes and shall agree to be subject to the jurisdiction of this state for purposes of the enforcement of those obligations. The requirements of this subsection shall apply when not withstanding any other provision of state law.

I will refer you to the pink handout that also asserts that taxes will be collected on an annual basis. That is wrong. If you go to paragraph 7 you will find that the annual part is actually an annual report that is an additional requirement put on the people who will be shipping into the state of Maine.

There is also another part on page 4 that says there are no audit or enforcement powers. I will refer you to paragraph 8, the Bureau may perform an audit of a non-resident shipper's records at any time. I would like to point you to the next part that says enforcement issues are important. They certainly are. Paragraph 9 refers you to how we handle a violation and makes it a Class D crime. It also allows the adoption of rules to comply with the bottle bill, which I'm sure will be the next thing that you hear.

The shipper will also be required to follow all of the other mandates as put forward in every other state, and under federal law, the shipment of alcohol must be received by someone who is 21-years old and that the person signing must be 21 and proves that they are. You will probably also hear that this is going to end up on campuses. Well campuses do not allow packages to be brought into a dormitory. They must be received at the postal center and signed for. You must also prove that you are 21-years old at that point.

What I'd like to point out to you is that this is the typical kind of handout that you get when they are trying to shoot a bunny with an elephant gun. This bill was very carefully worked out to

comply with all laws. It does not subvert the three-tier system that was put into effect to keep distributors, manufacturers, and retailers from acquiring a monopoly. That is the purpose of the three-tier system. It also helps to collect the taxes. Those are the two purposes of the three-tier system. We are getting the taxes and there is not going to be a monopoly. What you are hearing for objections are coming from the people who quite enjoy their monopoly, the wholesalers. You are talking about hundreds of cases of wine spread out to be sold to people who will pay a lot of money to have the item shipped. This is not something that you put in a \$1.99 wrapper and send. This is something that is shipped, that has to be protected. This is not a cheap kind of purchase. It's not something done by kids sitting at home saying, 'I think I'll order a case of wine and hope it gets here while Mom and Dad are at work.' That would be something, wouldn't it, if you spent \$100 on a case of wine and Mom was the one that received it? Kind of blows your whole night.

We talk about underage drinking. Underage drinking is not done by the internet. It's done by a 21-year old or 22-year old resident of the state of Maine who usually hasn't had a very successful high school career and is looking for groupies. That's the kind of person that helps our underage drinking flourish. It's not a business bill or a bill like this. I'm glad that the issues came forward and I'm glad that I was able to enlighten you on what we did do with this bill. It was not done willy-nilly. It was done very carefully. I'm very proud of it. I appreciate that you gave me the opportunity to look at this bill and compare it with the handout that you were given and that you will be able to make an intelligent decision. When the elephant gun comes out next time you might think that the poor bunny should at least be given the opportunity to defend itself because I've never seen an industry that whines more. It's not just this bill. It absolutely appalls me that this industry comes out and beats up on little Mom and Pop redemption centers because they are not making enough money yet. We're going to be doing that in a little bit, but I will point out to you that we did our homework on this. I'm glad to have the opportunity. If any of you would like to see the bill as it was adopted yesterday, it is not the bill that was presented to the committee, it is Committee Amendment 'A' with a filing number of S-245. Thank you.

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

Senator **MARRACHÉ:** Thank you, Madame President, men and women of the Senate. The 'we' that we were hearing about isn't I because it was a 12 - 1 report. We in the committee did not support the Minority Report. The second thing I wanted to put out there is, if you are going to make an exception for wine we have already been told that beer and hard liquor will be next in line. I, for one, if we open it for one, we open it for all. If you are going to be an open state, you are an open state for all, not just for some. Thank you.

Senator **MARRACHÉ** of Kennebec requested a Roll Call.

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

Senator **BRYANT:** Thank you, Madame President, ladies and gentlemen of the Senate. I would just say that I'm not sure about the elephant gun but this is the elephant's nose under the tent.

That's what the committee is concerned about. When you have the wholesaler also be the retailer can you stop it from just being for wine? Will it go to Bourbon? Will it go to hard liquor? Will it go to all these other pieces? I think the committee worked the bill and came to the conclusion that it is the slippery slope and it is headed down that way. If you want to make the decision that you don't want to be a control state and you want to go down that road you have to make that decision but you have to put an awful lot of other things in check. I would encourage you to vote with the pending motion.

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

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. I just want to clarify a couple of things. Lots of times we get a little nervous about doing something because we're worried about the slippery slope, but we have total control of the slippery slope right here. This is about wine. It's not about undoing the three-tier system. It's not about getting alcohol in the hands of young people. It's about our ability to ship some wine. More importantly, to me, is the ability of our little farm wineries to have reciprocity, to be allowed to ship their wine out so that if they have a client or customer who buys wine from them and they go to Florida for the Summer and says, 'Can I have one shipped?' they don't have to say, 'Opps, sorry nope. We don't allow wine to be shipped in, so we can't ship it out.' There is no evidence to suggest that this gets in the hands of young people. They have plenty of other avenues. We all know that. It's about a very simple little window and it's about supporting our small businesses that are struggling and giving them another market. Thank you.

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

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#137)

YEAS: Senators: BENOIT, BROMLEY, COURTNEY, DIAMOND, DOW, HASTINGS, MARTIN, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON

NAYS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BRYANT, DAMON, GOOLEY, HOBBS, MARRACHE, MCCORMICK, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, SMITH, THE PRESIDENT - BETH G. EDMONDS

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

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

Bill "An Act To Incorporate Binding Arbitration for Monetary Issues in Collective Bargaining for All State, County and Municipal Employees"

S.P. 257 L.D. 814
(C "A" S-268)

Tabled - June 12, 2007, by Senator **MITCHELL** of Kennebec

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED** (Roll Call Ordered)

(In Senate, June 12, 2007, **READ A SECOND TIME.**)

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

Senator **STRIMLING:** Thank you, Madame President. I rise in support of the pending motion. Just to explain, the title of this bill is a little deceiving at this point. If it passes through it will be a little more clear. When the bill came before us it did, indeed, say binding arbitration for every level of Government; state, county, and local. There were a number of people who supported binding arbitration across the board but of course you hear folks who step up and say, 'Oh, the world is going to end and if you have binding arbitration it means tax rates are going to be set by people who are not elected.' You hear all these arguments, but we also know from other states where they've had this that this is not the case. Having binding arbitration in place is often a good way to get to an answer. A quicker way sometimes to get to an answer because people have to compromise because they know there is this other entity. In the spirit of compromise, as we always like to do on the committee and as we have been doing very well during the last year, we decided to just go on the State level first. Let's not have the county and municipal. Let's just do it on ourselves first and see how that process works. I want to mention to you that there was one person from the other Body who spoke, a Republican who served on a school committee down in Connecticut where they had binding arbitration. He came forward and testified. He said, 'This is the best thing. We had binding arbitration and we beat the union every time. We had the ability, because we had it in place, to step up, have our negotiations, and we would win.' That let everybody know that this is a two-way street. What binding arbitration does is give each side a chance. The two things about this that are important are; number one, public employees are not allowed to strike. Some people might say, 'Well, they've got the ability. They can just strike. They can go off work. That's their negotiating tool.' No, they may not. It's illegal for public employees to strike so they have no final recourse. None. They only have the ballot box, I suppose. They don't have the ability to walk off and say, 'You know what, we're going to shut this place down.' I think that's right and they agree. They don't have the ability to strike but they do need some final ability for somebody to look at this and negotiate the final deal. The second piece is that what they originally wanted was to have

them both throw in their offers and then the arbitrator could cut the baby in half, if you choose. We said no, that this was not appropriate because then what you do is come in with a 10% increase, they come in with zero, and the arbitrator goes to 5%. We said last best offer. Each side has to come in with their best offer and the arbitrator chooses either one of them. That forces the people who are at the table to come up with something reasonable. They have to choose one or the other, so you are going to come in with something reasonable so that you can demonstrate why it is that you deserve that or why it is that they deserve what it is you are trying to put forth. This was a good compromise. It starts on the State. It gives us a chance to look at it. They don't have the right to strike and we made sure it was last best offer to make sure that when they come to the table they are going to come to the table with a reasonable offer. For those reasons I would encourage everyone to support the motion to accept the Majority Ought to Pass report.

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

Senator **SHERMAN:** Thank you, Madame President, ladies and gentlemen of the Senate. I hadn't intended to get up and speak on this one but I think I will. I was on the MEA Board of Directors for a number of years. Maine Education Association back when it used to be called the Maine Teachers' Association. Frankly, we tried to get last best offer binding arbitration in the State of Maine. It was always defeated. I only rise because I heard the good Senator from Portland talk about Connecticut. One of our examples then was Connecticut. I don't know where the good Representative in the other Body got his information, but the information we had is that when Connecticut went last best offer binding arbitration they had to go away from it because the salaries were so high. I think if you check the salaries of teachers in Connecticut you will see they are rather high. My understanding was, and I stand to be corrected, that they have gone away from last best offer binding arbitration in Connecticut.

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I hadn't intended on speaking on this issue either but I just want to remind this Body that we have had final offer binding arbitration in Maine for agricultural contracts for years now between potato growers and potato buyers. The Agriculture Committee has reviewed that over the years. They have had, I believe, over 110 cases where disputes over payment have made it to the final offer binding arbitration stage. It's worked very well in Maine. Both sides make their final offer. The arbitrator has to pick either one or the other. There is a period of time from when both sides make their final offer until he or she makes their decision. What we found, amazing but not so once you think about it, is that after each side makes their best final offer, before the arbitrator makes their decision, it forces people together and they finish working things out because they know they are either going to win 100% or they are going to lose 100%. In all but two cases, agriculturally, in that period just before the arbitrator made their decision they finished working things out themselves. They know they are either going to win everything or nothing. It's worked very well in Maine for years now. I believe it's worth a try with the sunset here now. Thank you.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#138)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, HOBBS, MARRACHE, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DIAMOND, DOW, GOOLEY, HASTINGS, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-268), FAILED.**

Sent down for concurrence.

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

Bill "An Act Relating to the Wells-Ogunquit Community School District"

S.P. 375 L.D. 1123
(C "A" S-175)

Tabled - June 12, 2007, by Senator **MITCHELL** of Kennebec

Pending - motion by Senator **NASS** of York to **INDEFINITELY POSTPONE** the Bill and accompanying papers

(In Senate, June 12, 2007, **READ A SECOND TIME.**)

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending motion by Senator **NASS** of York to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Amend the Labor Laws Regarding Automobile Dealerships" H.P. 913 L.D. 1295

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-476).**

Signed:

Senators:
STRIMLING of Cumberland
SULLIVAN of York
DOW of Lincoln

Representatives:
TUTTLE of Sanford
CLARK of Millinocket
THOMAS of Ripley
HASKELL of Portland
CRESSEY of Cornish
DUPREY of Hampden
SYKES of Harrison
DRISCOLL of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-477).**

Signed:

Representatives:
JACKSON of Allagash
BURNS of Berwick

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-476)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-476).**

Reports **READ.**

On motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-476)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-476) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act To Enable the Creation of Tax Increment Financing Districts for Arts Districts" H.P. 863 L.D. 1182

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-534)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534)**.

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

READ ONCE.

Committee Amendment "A" (H-534) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act To Require Municipalities To Enforce the Collection of the State Excise Tax on Motor Vehicles, Watercraft and Certain Recreational Vehicles Owned by Maine Residents Registered Outside the State" H.P. 1190 L.D. 1707

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-526)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-526)**.

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

READ ONCE.

Committee Amendment "A" (H-526) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Further the Implementation of the Essential Programs and Services Funding Act" H.P. 1282 L.D. 1839

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

Signed:

Senators:

BOWMAN of York
MITCHELL of Kennebec
MILLS of Somerset

Representatives:

NORTON of Bangor
FARRINGTON of Gorham
HARLOW of Portland
SUTHERLAND of Chapman
STRANG BURGESS of Cumberland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-469)**.

Signed:

Representatives:

FINCH of Fairfield
MAKAS of Lewiston
EDGECOMB of Caribou
McFADDEN of Dennysville
MUSE of Fryeburg

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

Reports **READ**.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Resolve, To Explore the Feasibility of Enrolling the Legislature as an Employer Group in Dirigo Health H.P. 1093 L.D. 1568

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-513)**.

Signed:

Senators:

SULLIVAN of York
SNOWE-MELLO of Androscoggin
BOWMAN of York

Representatives:

BRAUTIGAM of Falmouth
CANAVAN of Waterville
CROCKETT of Augusta
VAUGHAN of Durham
TREAT of Farmingdale
SAVAGE of Falmouth
CONOVER of Oakland
PRIEST of Brunswick

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

Signed:

Representatives:

RICHARDSON of Warren
McKANE of Newcastle

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-513) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Maine Liquor Liability Act"

H.P. 818 L.D. 1125

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

Signed:

Senator:

HASTINGS of Oxford

Representatives:

DUNN of Bangor
MILLS of Farmington
DILL of Cape Elizabeth
BERUBE of Lisbon
JACOBSEN of Waterboro
NASS of Acton
GOULD of South Berwick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-537)**.

Signed:

Senators:

HOBBINS of York
NUTTING of Androscoggin

Representatives:

SIMPSON of Auburn
BRYANT of Windham
CASAVANT of Biddeford

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

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

Reports **READ**.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Improve Child Support Services"

H.P. 1066 L.D. 1541

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-538)**.

Signed:

Senators:

HOBBS of York
HASTINGS of Oxford

Representatives:

SIMPSON of Auburn
BRYANT of Windham
MILLS of Farmington
DUNN of Bangor
DILL of Cape Elizabeth
CASAVANT of Biddeford
BERUBE of Lisbon
JACOBSEN of Waterboro
GOULD of South Berwick
NASS of Acton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-539)**.

Signed:

Senator:

NUTTING of Androscoggin

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought To Pass as Amended by Committee Amendment "A" (H-538)** Report.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-538)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-538)**.

Reports **READ**.

On motion by Senator **HOBBS** of York, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-538)** Report **ACCEPTED**, in concurrence.
READ ONCE.

Committee Amendment "A" (H-538) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Provide Maine Land Conservation Tax Incentives"

H.P. 422 L.D. 544

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-528)**.

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland
NASS of York

Representatives:

PIOTTI of Unity
RAND of Portland
KNIGHT of Livermore Falls
CLARK of Millinocket
WOODBURY of Yarmouth
WATSON of Bath
CHASE of Wells
PILON of Saco
LANSLEY of Sabattus

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

Signed:

Representative:

HOTHAM of Dixfield

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-528)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-528) **READ** and **ADOPTED**, in concurrence.

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

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

ORDERS

Joint Order

On motion by Senator **PERRY** of Penobscot, the following Joint Order:

S.P. 730

ORDERED, the House concurring, that Bill, "An Act To Eliminate the Property Tax on Business Equipment Owned by Small Retailers," S.P. 318, L.D. 1001 and Bill, "An Act To Reduce Duplication of Paperwork for Fuel Distributors," S.P. 455, L.D. 1307, and all their accompanying papers, be recalled from the legislative files to the Senate.

READ.

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

Senator **PERRY:** Thank you, Madame President. Last week down in the Taxation Committee we heard and voted on more bills than most committees had over the entire year. Through that very busy week two bills made it out of committee that were not the perfect work product you would expect from us. They got out before we had a chance to attach a couple of amendments. I'd like to withdraw those, send them down to our analyst, put on a couple of amendments, and just send them right back up.

Pursuant to Joint Rule 404 a Division was had. 32 Members of the Senate having voted in the affirmative, and no Senators having voted in the negative, and 32 being more than two-thirds of those present and voting, the Joint Order was **PASSED**.

Ordered sent down forthwith for concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **STRIMLING** for the Committee on **LABOR** on Bill "An Act To Provide a Uniform Retirement Plan for Corrections Officers and Mental Health Workers"

S.P. 424 L.D. 1223

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-286)**.

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

READ ONCE.

Committee Amendment "A" (S-286) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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: H.C. 342

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

June 12, 2007

Honorable Joy J. O'Brien
Secretary of the Senate
123rd Maine Legislature
Augusta, Maine 04333

Dear Secretary O'Brien:

The House voted today to insist on its previous action whereby it accepted the Minority Ought Not to Pass Report of the Committee on State and Local Government on Bill "An Act To Amend the Term Limitation Laws for State Legislators" (H.P. 1075) (L.D. 1550)

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and **ORDERED PLACED ON FILE.**

The Following Communication: H.C. 343

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

June 12, 2007

Honorable Joy J. O'Brien
Secretary of the Senate
123rd Maine Legislature
Augusta, Maine 04333

Dear Secretary O'Brien:

The House voted today to insist on its previous action whereby it accepted the Minority Ought Not to Pass Report of the Committee on State and Local Government on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Increase the Length of Legislative Terms to 4 Years (H.P. 1078) (L.D. 1553)

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

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

COMMUNICATIONS

The Following Communication: S.C. 391

**123RD LEGISLATURE
OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0003**

June 12, 2007

The Honorable Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary O'Brien:

With reference to the Senate's action whereby it insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on the Bill, "An Act to Protect Wild Trout From Exotic species" (H.P. 799) (L.D. 1081)

I have appointed as conferees on the part of the Senate the following:

Senator Bruce Bryant of Oxford
Senator John Martin of Aroostook
Senator Walter Gooley of Franklin

Sincerely,

S/Beth Edmonds
President of the Senate

READ and ORDERED PLACED ON FILE.

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

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Joint Order

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding the Central Voter Registration System" (EMERGENCY)

H.P. 1358 L.D. 1921

Reported that the same **Ought to Pass**, pursuant to Joint Order 2007, H.P. 1329.

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

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

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

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

ENACTORS

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

Act

An Act To Protect Community Safety by Amending Maine's Bail Code

S.P. 169 L.D. 514
(C "A" S-198)

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

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

REPORTS OF COMMITTEES

**Senate
Ought to Pass As Amended**

Senator PERRY for the Committee on **TAXATION** on Bill "An Act To Support Continued Viability of Affordable Housing" S.P. 352 L.D. 1100

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-289)**.

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

READ ONCE.

Committee Amendment "A" (S-289) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Senator PERRY for the Committee on **TAXATION** on Bill "An Act To Strengthen Maine's Craft Brewers"
S.P. 357 L.D. 1105

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-290).**

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

READ ONCE.

Committee Amendment "A" (S-290) **READ** and **ADOPTED.**

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

Sent down for concurrence.

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

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Permit Certain Health Care Practices"
S.P. 539 L.D. 1516

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

Signed:

Senators:
BROMLEY of Cumberland
SCHNEIDER of Penobscot

Representatives:
BEAULIEU of Auburn
SAMSON of Auburn
AUSTIN of Gray
MacDONALD of Boothbay
PRESCOTT of Topsham
SILSBY of Augusta
SMITH of Monmouth
BEAUDETTE of Biddeford
CLEARY of Houlton

RECTOR of Thomaston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-294).**

Signed:

Senator:
COURTNEY of York

Reports **READ.**

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

Sent down for concurrence.

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Amend the Laws Governing the Taxation of Partnerships"
S.P. 488 L.D. 1400

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-288).**

Signed:

Senators:
PERRY of Penobscot
STRIMLING of Cumberland
NASS of York

Representatives:
PIOTTI of Unity
KNIGHT of Livermore Falls
CLARK of Millinocket
WOODBURY of Yarmouth
HOTHAM of Dixfield
WATSON of Bath
CHASE of Wells
PILON of Saco
LANSLEY of Sabattus

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

Signed:

Representative:
RAND of Portland

Reports **READ**.

On motion by Senator **PERRY** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-288) **READ** and **ADOPTED**.

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

Send down for concurrence.

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Repeal the Automatic Increase in the Gasoline Tax" S.P. 33 L.D. 89

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

Signed:

Senators:

- DAMON of Hancock
- DIAMOND of Cumberland
- SAVAGE of Knox

Representatives:

- MARLEY of Portland
- BROWNE of Vassalboro
- FISHER of Brewer
- MAZUREK of Rockland
- HOGAN of Old Orchard Beach
- ROSEN of Bucksport
- THERIAULT of Madawaska
- PEOPLES of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-293)**.

Signed:

Representatives:

- CEBRA of Naples
- THOMAS of Ripley

Reports **READ**.

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Govern Publicly Funded Advertising during Campaigns"

S.P. 630 L.D. 1779

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-246)** (8 members)

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

Tabled - June 12, 2007, by Senator **MARRACHÉ** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report

(In Senate, June 12, 2007, Reports **READ**.)

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

On motion by Senator **MARRACHÉ** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report. (Roll Call Ordered)

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, To Lower the Cost of State Government (EMERGENCY)

S.P. 338 L.D. 1021
(C "A" S-264)

In Senate, June 12, 2007, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-264)**.

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

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

Sent down for concurrence.

Non-Concurrent Matter

Bill "An Act Concerning Certain Flavored Cigarettes and Cigars"
S.P. 475 L.D. 1361
(S "A" S-230 to C "A" S-180)

In Senate, June 7, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-180) AS AMENDED BY SENATE AMENDMENT "A" (S-230)** thereto.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-180) AS AMENDED BY HOUSE AMENDMENT "A" (H-544) AND SENATE AMENDMENT "A" (S-230)** thereto, in **NON-CONCURRENCE**.

Senator **MILLS** of Somerset moved the Senate **RECEDE** and **CONCUR**.

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

Senator **MILLS:** Thank you, Madame President. This is a bill I suppose is in danger of being amended to the third degree. The final amendment from the House, which is on the bill at the request of the tobacco lobby, says to bring the rules about candy and other flavorings in tobacco products back to the January session of the Legislature. Bring them back early so that the Health and Human Services Committee can take a good close look at them and have the benefit of the Attorney General's advice on how to implement the policies addressed in this statute. It's a fine amendment and seems to be consistent with the will of the committee. Thank you, Madame President.

On motion by Senator **MILLS** of Somerset, the Senate **RECEDED** and **CONCURRED**.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (6/6/07) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act Regarding the Reporting of Sexual Abuse"
S.P. 60 L.D. 178

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-204)** (4 members)

Tabled - June 6, 2007, by Senator **HOBBS** of York

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

(In Senate, June 6, 2007, Reports **READ**.)

On motion by Senator **NUTTING** of Androscoggin, **TABLED** until Later in Today's Session, pending the motion by Senator **HOBBS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Senate at Ease.

Senate called to order by the President.

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

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act Regarding the Reporting of Sexual Abuse"
S.P. 60 L.D. 178

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-204)** (4 members)

Tabled - June 12, 2007, by Senator **NUTTING** of Androscoggin

Pending - motion by Senator **HOBBS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, June 6, 2007, Reports **READ**.)

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

Senator **STRIMLING:** Thank you, Madame President. I rise in opposition to the pending motion. I rise in opposition to this motion for a lot of reasons. I want to just tell you where this came from originally. As I was knocking on doors in my district I came upon the door of a fellow who has got a family there, has had a family there for generations, and he said to me, "The Legislature passed a bill a number of years ago that basically took away the statute of limitations for sexual abuse against children from here going forward. You know what, the abuse that happened to me happened before that statute of limitations was lifted. Extensively, because I was abused on a Tuesday but other people were abused on a Wednesday, somehow or another I'm not able to get redress in the courts. Because I was abused on a Tuesday I can't get redress from the courts whereas somebody who was abused on a Wednesday can." I said, "That doesn't make any sense. Whether or not you support whether the statute of limitations should be open or not on the civil side it certainly doesn't make sense that we would determine that because it happened the day before something else that that means that you

can't get recourse.' I looked into it and he was absolutely correct. Our law does state that going forward from 1999 there is no statute of limitations, but before that the statute of limitations has run out. I'm sorry, you're out of luck. You may have been abused as a child. You may have been raped as a child, but you may not have redress in the courts. Originally they wanted to look at the criminal side of this but you can't do that. It's unconstitutional to go back on the criminal side, but you can go back on the civil side. That is simply what this bill does.

First they wanted to open up the civil side for eternity and say if it's good for the goose than it should be good for the gander, for now and forever. I said I didn't think we could go that far. They said, 'Well, in California there was a law that was passed that allowed a window of opportunity for people to be able to file a complaint to confront their abuser.' I said, 'That makes some sense, why don't we do that?' We submitted a bill to give a two-year window. The committee, in its wisdom, said, 'Look, one year is enough. For the people who know that they want to file and need some closure in these cases one year is enough. Not only is one year enough, but we also need to make sure that we raise the level of their ability to get somebody to be found guilty.' We raised it up not quite to reasonable doubt but just below it. It's not just a simple accusation. It's not simply easy for you to get a guilty verdict. There must be clear and convincing as opposed to a preponderance of evidence. If you can get to court and get a jury to agree with you then you would receive civil damages. From that simple law we submitted this bill and I said, 'Who's going to oppose this bill?' I even called some of the defense attorneys because I'm somebody who often speaks out to make sure that the defendant's rights are protected. They said, 'You know what, if you do this that's okay. If you try to open it up all the way that would be too much.' The defense attorneys said this. I called the MCLU because I believe in the MCLU. I'm a member and have been for a long time. I said, 'Are you okay with opening up this statute of limitations?' They said, 'Yes, that's fine. This limited one that you are looking at is fine. If you tried to open it up all the way that would go too far.' I thought I did my homework. I thought I got the people to the table that needed to be there but then, of course, when you get there some of the institutions that might be hurt by this begin to lobby hard. Not the least of which are the insurance industries, who begin to flip out about the possibility that they might have to pay some damages for somebody that was protected by an institution they insured.

Simply, this is a bill to give people an opportunity to get some closure. When this bill happened in California, when it was opened up, they said, 'Oh my God, the floodgates are going to open, it's going to cost us billions and billions of dollars by creating this one-year window.' Out of 35 million people in California there were 800 cases filed. If you equate that to Maine it's about 30 that will probably get to a court. That's not very many but it's 30 more people who get to get some closure and the opportunity to confront their abuser. Equally important are the people who have been accused because a lot of the people that the suit would be brought against have already been accused. People already know who they are, but there has been no ability to go to a court and give them the opportunity to say they are innocent, that they didn't do it and should be found innocent. They should be able to put these charges to rest. It's a good opportunity to gain closure for both sides. These kinds of crimes devastate people for their lifetime. We all know someone who has been abused or we all know someone who has a family member who has been abused. We know what that damage is.

That is a life sentence when a child is raped by an adult. Let us give those children an opportunity now that they are adults to confront their abusers and receive the damages, if the court so sees fit, that are rightfully theirs. I strongly encourage people to reject the motion in front of them and pass the bill. Thank you, Madame President.

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

Senator HASTINGS: Thank you, Madame President and ladies and gentlemen of the Senate. It's a difficult bill. It's a difficult bill when you look at it only from the perspective of the person who had been abused, as the good Senator from Cumberland, Senator Strimling, speaks of. As I speak today I want you to look at this bill from the eyes of a person who did not commit this but has been wrongfully accused. I want you to look at it from that person's eyes as well as you consider this bill.

The good Senator talks about closure. We have to recognize that what this is really about is the institution of a civil law suit for money damages. That's what we are talking about. Often these suits are against more than just the so-called abuser. It can be against any number of institutions, employers, or whatever. Let's think about why it is we have a statute of limitations. What's the reason for that? I think it's pretty obvious. The parties that are injured by another person, we're talking civil damages now not criminal damages, deserve an opportunity to have a forum to recover the damages but the defendants are also entitled to protection from being required to meet and defend claims that are stale and years and years old.

Think of the difficulties if somebody put you on the stand and said, 'What were you doing on the afternoon of September 5, 1968?' Imagine the difficulty of recalling this, finding substantiating evidence, or finding witnesses. If you can find the witness, the memory may be gone. The witness may be missing or dead. It's very difficult. You have to realize that the mere fact that a suit is brought does not mean that the defendant did do what they are being charged with and claimed to have done in the action. You have to think of that person too. It's the very reason we have statutes of limitations, to make sure the people have a right to bring a claim but to make sure that they bring them at a time when it's fresh enough in people's minds so that both sides have a fair chance at presenting a case. We have to think of the rights of the defendant.

The good Senator from Cumberland, Senator Strimling, suggested that it is constitutional in Maine to do this, to retroactively lift the statute of limitations. I don't think that's so clear. Certainly it isn't from a criminal point of view, as the good Senator pointed out. The Supreme Court of Maine has never ruled on this but the one thing they have said in a similar type when they were getting towards this, what we called dicta. This is what the Supreme Court of Maine said in 1980, 'No one has a vested right in the running of a statute of limitations until the prescribed time has completely run and barred the action.' That certainly tells me what the Maine Supreme Court is leaning towards, and if asked the question directly would probably say that this is a vested right. You have a right to be protected from having the case brought back against you after years and years. We're not talking just a few years. We're talking potentially 50 or 60 years back.

I also want to point out that it is clear from the testimony that this was really all about the Catholic Church. There was no

question about that, that this is the impetus for this bill. That's not what this bill talks about. In fact it talks about any action based upon a sexual act towards a minor. Let's go back 50 years. That's pretty dam broad. That could be an action based upon a 17-year old having sexual contact with a 16-year old that happened 40 years ago. If one could make a claim for damages based on that it would be revived by this bill. I know what the good Senator was thinking of, that terrible abuse by a person in authority over some young defenseless child. This bill goes much beyond that. It's any sexual act towards a minor. If that is the impetus or the cause of action then we've opened the door for a year.

Finally, I want you to think. The good Senator speaks of people who have been injured. Yes, they have. Horribly. Hopefully, most of them have been able to have their closure and their recovery within their statute of limitations available to them. This isn't the only situation where we can think of this. I can think of any number of situations where somebody has been harmed terribly but for one reason or another missed the statute of limitations. If we start down this road today with this course of action we're going to regret it because the next session there will be another bill by somebody else who has been harmed terribly and missed the statute of limitations. We just talked about the slippery slope, but I think this is one because there is no difference in the argument. We could make an equally sound argument in favor of any many other types of terribly harmed people who for one reason or another has missed their statute of limitations. I certainly am not here in defense of any institution or of any individual or any conduct. I'm here in defense of a principle of law. Statute of limitations have a sound basis and a real meaning and I think it's our job to defend that. I would urge you to support the pending motion. Thank you.

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

Senator **HOBBS:** Thank you very much, Madame President. First of all I will commend my good colleague and friend, the Senator from Cumberland, Senator Strimling, for bringing this issue forward in a sincere basis. I know that after hearing the testimony for hours there are scores and scores of individuals that are still suffering the effects of being horribly abused as minors. It's inexcusable. In my 28 years or so of practicing law, as a young lawyer I used to have to defend some of these individuals on the criminal side. Those weren't fun cases. As you know, as a young lawyer you draw the short straw when it comes to some cases such as that. I drew many of those. As an adult lawyer I have had the unpleasant circumstance of representing abused grandchildren and abused daughters in civil matters involving a perpetrator who happens to be, in many cases, a family member. It's horrible. It's a horrible experience. I've talked with those psychologists and psychiatrists, those social workers and those individuals who have had to go into a family crisis situation. They are horrible.

We have to separate those instances and the horribleness of sex abuse, especially with minors involving sexual acts and sexual contact, with what we have before us. First of all let's talk about the present law in the State of Maine. Under current Maine law there is no statute of limitations for a civil law suit filed by a person who is under 18 years of age at the time of an incident involving 'sexual contact or sexual act' provided that individual was born on or before August 11, 1970. You can thank another

colleague of ours, the Senator from Androscoggin, Senator Nutting, for sponsoring a bill to address those particular issues in 1999. What this bill attempts to do is to remove that time limit which I just discussed and to create a one-year window during which a person who is now 40, 50, or 60 years of age or even older could file a law suit so long as it involves an alleged sexual act or sexual contact which occurred before that person was 18 years of age. Thus claims which have never been asserted, which have been time barred by this statute of limitations for 10 or 20 or 30 years or more, could be resurrected and granted entry into our court system. Every potential claim affected by this bill will have been barred for at least seven years if this bill becomes law.

My colleague on the Judiciary Committee, the Senator from Oxford, Senator Hastings, is correct. The Maine Supreme Judicial Court does not have a succinct answer to the direct question regarding whether or not an action can be resurrected that is time barred at the present time. You might say, 'What is the purpose of these statutes of limitations?' The formulation of a statute of limitation represents a balancing of several competing interests in our society. First, parties injured by the actions of others must be afforded an opportunity to pursue their meritorious claims and seek relief in our court system. On the other hand, potential defendants are entitled to eventual repose to protection from being required to meet claims which could have been addressed more efficiently if asserted more promptly. Quite frankly, when it comes to these types of cases where psychological evaluation and repressed memory occur, I weigh those very seriously because those do happen. You know, when you weigh the two factors, there is a difficulty for another individual. That is the person that has been accused. That individual will have a very difficult situation, defending a claim that he finds has the potential of having faded memories, dead or otherwise unavailable witnesses, or a loss that has destroyed evidence. This is particularly true in cases based on alleged sexual contact or sexual acts which occurred many many years ago or even decades ago. In most such cases there is no physical evidence to corroborate the allegations or provide a defense. It's not like you see on TV with DNA evidence. In many of those cases you see on TV they talk about how you can solve a crime with DNA evidence. In most such cases it is the testimony of the plaintiff against the testimony of the defendant who is called upon to disprove an allegation that he or she inappropriately touched someone 30, 40, or even 50 years ago. Other witnesses may be dead or beyond the jurisdiction of the court. That leaves the defendant in an impossible position; he or she has to defend themselves.

Apart from the constitutionality issues that were raised and the practicality difficulties, if not impossibility, of defending such claims, there is a strong societal interest in finality and in closure. I know after hearing the testimony from those who have been abused that there are individuals, many individuals, that are looking for finality and for closure in their own lives because of the gruesome and heinous actions of others when they were under the age of 18 years old but our system of law, which underpins our economic and our social structure, has historically reinforced the notion that we may all mutually rely on the principle that at some point an issue is closed.

In assessing whether to extend the statute of limitations the Legislature and we who sit in this Body and in the other Body should weigh such a proposal in the context of the range of claims and limitation periods applicable to other claims. I know

that sexual offenses against minors are unique, but those other claims and other activities must be considered. One would expect a sense of proportion between the importance and seriousness of a certain class of claims and the statute of limitations applicable to that class. Here are the current statutes of limitations, which I'm going to present to you, under Maine law applicable to the various types of personal injuries to give you an idea and a comparison. The general rule under Maine civil law is that all civil actions, unless specifically provided, must be brought by an adult in six years from the time of the offense or the event. For minors it is six years after attaining their 18th birthday. Now, in medical malpractice cases it's three years for an adult and six years after accrual or three years after reaching the age of 18. That's for a doctor. I've seen those cases where people have come to me where a doctor has not performed within their standards after that period of time and their case has been barred. In an assault, battery, false imprisonment, slander, or liable case if you are an adult you have two years to bring a case. If you are a minor you have two years after reaching your 18th birthday. Here is an interesting one, wrongful death. Except against a governmental entity and employee, two years for a minor and two years for an adult. If you happen to be wronged and someone is negligent, involving a governmental entity or employee, in a wrongful death asserted against the governmental entity or employee the claim must be noticed and filed within 180 days. If you are less than 18 years old it's 180 days after their 18th birthday. Under L.D. 178 there is no time limit. Any claim of intentional tort or negligence based on alleged sexual contact and sexual acts when the plaintiff is under 18 years of age in the current law there is no statute of limitations. There is no time limits so long as the date of birth of the individual is after August 11, 1970. Under our current system of laws as they are in place if a minor is viciously beaten by another person and maimed for life the time limit for filing a law suit is two years after reaching the age of 18. If the minor is killed, either intentionally or negligently, the time limit for filing a civil claim is two years unless the person responsible is a governmental entity or employee. In that case that minor must file a claim within 180 days after they obtain their 18th birthday or if you are an adult 180 days. Under this law there is a one-year window. This law, basically, will allow individuals to file a claim against any person who allegedly engaged in a 'sexual act or sexual contact' with a person under 18 and they would be subject to a law suit if the alleged act occurred 30, 40, or 50 years ago. I ask you, how is that proportional to what I just mentioned to you?

Deep down in your heart you think of a relative or someone who has been maimed for life sexually because of the feelings and the memories of that particular act. I have the greatest empathy for those individuals who have suffered those types of horrible assaults and there are many. Whether the defendants are teachers, whether they are members of the family, whether they are clergy, social workers, or whatever profession, I do hope you consider the proportionality of what we're asking here and consider the remarks that the good Senator from Oxford, Senator Hastings, made about what is next. What happens to that person who missed the statute of limitations because of the wrongful negligence of a doctor, of an attorney, or someone else? You know you say that is unfair. You know something, that is unfair because they probably missed it by one day or they miscounted the days of the week. Unfortunately, in our government and our society we need to have finality, we need to have dates, and we need to have certainty for our government and our law and in our

society to go on as a society. As much as I regret that I have to take a position against my good friend because I know it was brought forth with sincerity and as much as I know that there are individuals out there that if this bill passes would be ready to file law suits, I think you have to balance the two. Unfortunately when I balance it I, regretfully, come out supporting the Ought Not to Pass report. Thank you.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I'm going to be very concise, and hopefully, very brief. The difference between this crime and others is substantial. This is not robbing the 7-11. This is one of the most heinous crimes that can be committed against a human being. We talk about GSA, gross sexual assault, aggravated sexual assault, sexual touching, sexual contact, and all those things. It's much different when you see a face and you see those people standing before you, as the good Senator from Kennebec, Senator McCormick, and the Senator from Aroostook, Senator Sherman, and I have seen all too often. This has a safety net, clear and convincing evidence. In many cases it takes time. Clear and convincing evidence. These are unique crimes. This is a good bill. I'm proud to be a co-sponsor and I hope you will oppose the present motion. Thank you, Madame President.

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. It's been mentioned earlier that I sponsored a bill and it passed in 1999 to remove the statute of limitations going respectively forward. I was called to a home in my district right after the election. They wanted to meet with me. I went there. There were over 40 family members in that home. I walked in and I didn't know what to think. Three sisters all talked to me about the abuse that they had received as teenagers by a family member. Serious, terrible, the scarring of sexual abuse. They had all blanked it out until they had their own children. They were in their 30's. At that time the statute of limitations was 6 years. The bill I sponsored called to remove that to 12 years. After these three sisters came to the Criminal Justice Committee the Criminal Justice Committee unanimously removed the statute of limitations altogether after listening to their testimony. Some would say that this bill is just about the Catholic Church. Yes, I'm a bit surprised that they found it necessary to hire lobbying firms to lobby against this bill in order to protect priests that have been accused of wrongdoing. The point I want to make is that this is not just about the Catholic Church. There are real families out there, real people out there, that have not been able to get any closure at all on this issue. This amendment, clear and convincing evidence, with just a one-year window, for civil cases only, to me would allow people who have been abused in the worst way to at least have a chance at closure so they can move on with their lives. These three sisters are very proud of one thing, they are proud of the fact that they talked their father out of killing this particular family member. That's how much pain they are in to this day. By supporting this Minority Report that, to me, is very narrowly drafted and would allow people to get closure. I urge you to oppose the pending motion. Thank you very much.

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

Senator **HASTINGS:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll try to be brief also. The good Senator from Cumberland, Senator Diamond, talked about this and what a horrible crime sexual abuse against a minor is. It is a terrible crime, but we're not talking crime today. This isn't the State of Maine versus anybody. This is one individual against another individual, seeking money damages. You know, the criminal law has statute of limitations. The State could not prosecute this far back. There is a reason for that. The good Senator from York, Senator Hobbins, has stated this over and over. Once again, I'll just remind you to think of this through the eyes of a person who has been wrongly accused. Wrongly sued. Think of the difficulties we placed on that person. We cannot assume that only good righteous lawsuits will be commenced as the result of this statute. We cannot assume that at all. We have to assume that there will be some that are unfounded. We have to assume that because that does happen. Think of those people who have been wrongly accused. Yes, the burden is a little bit higher, but think of the expense we have put that innocent person through to win that jury trial. That's the balance. It is a balance and a difficult decision. I urge you to support the pending motion. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I just want to be as clear as I can. This is not about the Catholic Church. This is not about money. This is not about some principle of law. This is about real people and giving them an opportunity to have closure on an incredible violation that was committed against them when they were a child. That's it. Others have made this about the Catholic Church and the fact that they have come in and hired lobbyists and tried to defeat the bill. Others have made this about money and insurance companies have come in and hired lobbyists and tried to defeat the bill. I can assure you, when I sat in my livingroom and I spoke to the people when we originally put this bill in, it was about people finding closure for themselves and for their children. That's it. The only folks who have made this about the Catholic Church and about money are those who are trying to defeat it. I strongly encourage my colleagues to reject this motion.

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

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

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. It's not a complete answer to the good arguments we've heard on both sides of this issue but we must bear in mind that there isn't anyone who has lost rights under the current law who wasn't at least 24 years old when those rights expired. In many cases they were older still because of the law that was put in by the good Senator from Androscoggin, Senator Nutting, and other intervening laws that have come along. At this point we are dealing with rights that, yes indeed, have expired. Bear in mind

that they have expired a long time ago and they expired only at a time when the person had reached a substantial age of maturity. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#139)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRYANT, COURTNEY, DOW, GOOLEY, HASTINGS, HOBBS, MARTIN, MCCORMICK, MILLS, NASS, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, SULLIVAN, WESTON

NAYS: Senators: BROMLEY, DAMON, DIAMOND, MARRACHE, MITCHELL, NUTTING, ROTUNDO, STRIMLING, TURNER, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BRANNIGAN

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **HOBBS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

Off Record Remarks

On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED**, until Wednesday, June 13, 2007, at 10:00 in the morning, in memory of and lasting tribute to Lance Corporal Angel Rosa of South Portland.