

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

In Senate Chamber  
Wednesday  
March 22, 2006

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

Prayer by Senator Lois A. Snowe-Mello of Androscoggin County.

**SENATOR SNOWE-MELLO:** Good morning everyone. A Proclamation by Maine Governor Frederick Robie given on March 25, 1885 reads in part; 'The faith of our ancestors in the power of prayer, the Almighty God, and the realization of the entire dependence upon His mercy led them early to set apart a day of public fasting, humiliation, and prayers which has become an honored usage and when accompanied by a humble and sincere belief that He is one who hears prayer as profitable in its continence. Let us continue to implore the favor of God, the forgiveness of sins, the general prosperity of our state and country, the Lord that takes pleasure in them that fear Him, and those that hope in His mercy.'

Let us bow our heads in prayer. Lord, there is need for great wisdom in this body today, as in other days. As the giver of all wisdom, we bow before You according to Your gracious invitation. Bless us with wisdom, with patience, and with grace. Honor us with the work of Your spirit as we honor You by our efforts here on behalf of the people of Maine. We are and shall remain grateful for all You do in us and through us. In Your holy name we pray. Amen.

Presentation of Colors by Post 31, Franco American War Veterans of Lewiston.

Pledge of Allegiance led by Senator Margaret Rotundo of Androscoggin County.

Doctor of the day, Michael Lambke, MD of Skowhegan.

Reading of the Journal of Tuesday, March 21, 2006.

Off Record Remarks

**COMMUNICATIONS**

The Following Communication: S.P. 821

**STATE OF MAINE  
122ND MAINE LEGISLATURE**

March 20, 2006

Sen. John M. Nutting  
Senate Chair, Joint Standing Committee on Agriculture,  
Conservation and Forestry  
Rep. John F. Piotti  
House Chair, Joint Standing Committee on Agriculture,  
Conservation and Forestry  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Nutting and Representative Piotti:

Please be advised that Governor John E. Baldacci has nominated Richard Stevenson of Bath for appointment to the Board of Pesticides Control.

Pursuant to Title 22 M.R.S.A. §1471-B, this nomination will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ and REFERRED to the Committee on AGRICULTURE,  
CONSERVATION AND FORESTRY.**

Sent down for concurrence.

The Following Communication: S.P. 819

**STATE OF MAINE  
122ND MAINE LEGISLATURE**

March 20, 2006

Sen. Lynn Bromley  
Senate Chair, Joint Standing Committee on Business, Research  
and Economic Development  
Rep. Nancy E. Smith  
House Chair, Joint Standing Committee on Business, Research  
and Economic Development  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Bromley and Representative Smith:

Please be advised that Governor John E. Baldacci has nominated Donald Gean of Alfred for appointment to the Maine State Housing Authority.

Pursuant to Title 30-A M.R.S.A. §4723, this nomination will require review by the Joint Standing Committee on Business, Research and Economic Development and confirmation by the Senate.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

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

Sent down for concurrence.

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The Following Communication: S.P. 826

**STATE OF MAINE  
122ND MAINE LEGISLATURE**

March 20, 2006

Sen. Lynn Bromley  
Senate Chair, Joint Standing Committee on Business, Research and Economic Development  
Rep. Nancy E. Smith  
House Chair, Joint Standing Committee on Business, Research and Economic Development  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Bromley and Representative Smith:

Please be advised that Governor John E. Baldacci has nominated the following as members to the Washington County Development Authority:

Edward Pellon of Machias for appointment  
Scott Harriman of Machias for appointment  
Normand Laberge of Trescott for appointment  
James Frey of Milbridge for appointment  
James Parker of Veazie for appointment  
David Burns of Whiting for appointment  
James Porter of Calais for appointment  
Robert Tyler of Calais for appointment  
Eric Robinson of Alexander for appointment

Pursuant to Title 5 M.R.S.A. §13083-C, these nominations will require review by the Joint Standing Committee on Business, Research and Economic Development and confirmation by the Senate.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

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

Sent down for concurrence.

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The Following Communication: S.P. 825

**STATE OF MAINE  
122ND MAINE LEGISLATURE**

March 20, 2006

Sen. Elizabeth H. Mitchell  
Senate Chair, Joint Standing Committee on Education and Cultural Affairs  
Rep. Jacqueline R. Norton  
House Chair, Joint Standing Committee on Education and Cultural Affairs  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Mitchell and Representative Norton:

Please be advised that Governor John E. Baldacci has nominated the following as members to the Maine Community College System Board of Trustees:

Daniel Wathen of Augusta for reappointment  
Dennis King of Freeport for reappointment  
Carol Epstein of Bangor for appointment

Pursuant to Title 20-A M.R.S.A. §12705, these nominations will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ and REFERRED to the Committee on EDUCATION AND CULTURAL AFFAIRS.**

Sent down for concurrence.

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The Following Communication: S.P. 824

**STATE OF MAINE  
122ND MAINE LEGISLATURE**

March 20, 2006

Sen. Bruce S. Bryant  
Senate Chair, Joint Standing Committee on Inland Fisheries and  
Wildlife  
Rep. Thomas R. Watson  
House Chair, Joint Standing Committee on Inland Fisheries and  
Wildlife  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Bryant and Representative Watson:

Please be advised that Governor John E. Baldacci has nominated  
Joseph Clark of Millinocket for appointment to the Inland  
Fisheries and Wildlife Advisory Council.

Pursuant to Title 12 M.R.S.A. §10151, this nomination will require  
review by the Joint Standing Committee on Inland Fisheries and  
Wildlife and confirmation by the Senate.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ and REFERRED to the Committee on INLAND  
FISHERIES AND WILDLIFE.**

Sent down for concurrence.

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The Following Communication: S.P. 820

**STATE OF MAINE  
122ND MAINE LEGISLATURE**

March 20, 2006

Sen. Dennis S. Damon  
Senate Chair, Joint Standing Committee on Marine Resources  
Rep. Leila J. Percy  
House Chair, Joint Standing Committee on Marine Resources  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Damon and Representative Percy:

Please be advised that Governor John E. Baldacci has nominated  
Timothy Harper of Mount Desert for appointment to the Marine  
Resources Advisory Council.

Pursuant to Title 12 M.R.S.A. §6024, this nomination will require  
review by the Joint Standing Committee on Marine Resources  
and confirmation by the Senate.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ and REFERRED to the Committee on MARINE  
RESOURCES.**

Sent down for concurrence.

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The Following Communication: S.P. 822

**STATE OF MAINE  
122ND MAINE LEGISLATURE**

March 20, 2006

Sen. Elizabeth M. Schneider  
Senate Chair, Joint Standing Committee on State and Local  
Government  
Rep. Christopher R. Barstow  
House Chair, Joint Standing Committee on State and Local  
Government  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Schneider and Representative Barstow:

Please be advised that Governor John E. Baldacci has nominated  
Peter Cary of Cape Elizabeth for reappointment to the Maine  
Government Facilities Authority.

Pursuant to Title 4 M.R.S.A. §1602, this nomination will require  
review by the Joint Standing Committee on State and Local  
Government and confirmation by the Senate.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ and REFERRED to the Committee on STATE AND  
LOCAL GOVERNMENT.**

Sent down for concurrence.

The Following Communication: S.P. 823

**STATE OF MAINE  
122ND MAINE LEGISLATURE**

March 20, 2006

Sen. Elizabeth M. Schneider  
Senate Chair, Joint Standing Committee on State and Local  
Government  
Rep. Christopher R. Barstow  
House Chair, Joint Standing Committee on State and Local  
Government  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Schneider and Representative Barstow:

Please be advised that Governor John E. Baldacci has nominated  
Elaine Clark of Cumberland for appointment to the Maine  
Government Facilities Authority.

Pursuant to Title 4 M.R.S.A. §1602, this nomination will require  
review by the Joint Standing Committee on State and Local  
Government and confirmation by the Senate.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ and REFERRED** to the Committee on **STATE AND  
LOCAL GOVERNMENT**.

Sent down for concurrence.

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The Following Communication: S.C. 547

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

March 20, 2006

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd 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 122nd Maine Legislature, the Joint Standing  
Committee on Legal and Veterans Affairs has had under  
consideration the nomination of Orland G. McPherson of Eliot, for  
reappointment to the State Liquor and Lottery 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	2	Gagnon of Kennebec, Plowman of Penobscot
	Representatives	7	Fisher of Brewer, Moore of Standish, Nass of Acton, Patrick of Rumford, Pinkham of Lexington Township, Tuttle of Sanford, Valentino of Saco
NAYS		0	
ABSENT		4	Rep. Brown of South Berwick, Rep. Hotham of Dixfield, Sen. Mitchell of Kennebec, Rep. Ott of York

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 Orland G. McPherson of Eliot, for  
reappointment to the State Liquor and Lottery Commission be  
confirmed.

Signed,

S/Kenneth T. Gagnon  
Senate Chair

S/John L. Patrick  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the  
recommendation of the Committee on **LEGAL AND VETERANS  
AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with  
Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the  
Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#317)**

YEAS: Senators: None

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

ABSENT: Senators: MARTIN, PERRY

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Orland G. McPherson** of Eliot, for reappointment to the State Liquor and Lottery Commission was **CONFIRMED**.

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

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The Following Communication: S.C. 548

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

March 20, 2006

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd 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 122nd Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Michael T. Peters of Dixfield, for appointment to the State Liquor and Lottery 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	2	Gagnon of Kennebec, Plowman of Penobscot
	Representatives	8	Fisher of Brewer, Rep. Moore of Standish, Nass of Acton, Ott of York, Patrick of Rumford, Pinkham of Lexington Township, Tuttle of Sanford, Valentino of Saco

NAYS 0

ABSENT 3 Rep. Brown of South Berwick, Rep. Hotham of Dixfield, Sen. Mitchell of Kennebec

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Michael T. Peters of Dixfield, for appointment to the State Liquor and Lottery Commission be confirmed.

Signed,

S/Kenneth T. Gagnon  
Senate Chair

S/John L. Patrick  
House Chair

**READ and ORDERED PLACED ON FILE.**

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

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The Following Communication: S.C. 549

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

March 20, 2006

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd 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 122nd Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Peter W. Danton of Saco, for reappointment to the State Liquor and Lottery 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	2	Gagnon of Kennebec, Plowman of Penobscot
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Representatives 7 Fisher of Brewer, Moore of Standish, Nass of Acton, Patrick of Rumford, Pinkham of Lexington Township, Tuttle of Sanford, Valentino of Saco

NAYS 0

ABSENT 4 Rep. Brown of South Berwick, Rep. Hotham of Dixfield, Sen. Mitchell of Kennebec, Rep. Ott of York

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 Peter W. Danton of Saco, for reappointment to the State Liquor and Lottery Commission be confirmed.

Signed,

S/Kenneth T. Gagnon  
Senate Chair

S/John L. Patrick  
House Chair

**READ and ORDERED PLACED ON FILE.**

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

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The Following Communication: S.C. 546

**122<sup>ND</sup> LEGISLATURE  
AUGUSTA, MAINE 04333  
LEGISLATIVE YOUTH ADVISORY COUNCIL**

February 14, 2006

The Honorable Beth Edmonds, President  
Maine State Senate

The Honorable John Richardson, Speaker  
Maine House of Representatives

State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to MRSA Title 3, §168-A, the Legislative Youth Advisory Council is pleased to submit its fourth annual report. Copies of the report have been placed on file with the Law and Legislative Reference Library.

Sincerely,  
S/Senator Elizabeth H. Mitchell  
Legislative Chair

S/Ms. Jennifer Thompson  
Youth Chair

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

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The Following Communication: S.C. 551

**UNIVERSITY OF SOUTHERN MAINE  
CENTER FOR EDUCATION POLICY,  
APPLIED RESEARCH & EVALUATION  
98 SCHOOL STREET  
GORHAM, ME 04038**

March 16, 2006

Senator Beth Edmonds  
President of the Senate  
3 State House Station  
Augusta, ME 04333

Dear President Edmonds,

The Maine State Legislature requested the Maine Education Policy Research Institute,

University of Southern Maine Office, to compile and publish a comprehensive description of public education in Maine each year. Appropriately, the recently completed book is entitled *The Condition of K-12 Public Education in Maine 2006*.

We would like to provide you and your staff with copies of the book for use in your daily deliberations. We hope you will find the information broad yet focused on the many aspects of K-12 public education.

Sincerely,

S/David L. Silvernail  
Director

S/Paula B. Gravelle  
Research Analyst

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

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**ORDERS OF THE DAY**

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

NOMINATION - of Michael T. Peters of Dixfield, for appointment to the State Liquor and Lottery Commission

Tabled - March 22, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, March 22, 2006, Communication (S.C. 548) from the Committee on **LEGAL AND VETERANS AFFAIRS, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#318)

YEAS: Senators: None

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

ABSENT: Senator: MARTIN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Michael T. Peters** of Dixfield, for appointment to the State Liquor and Lottery 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 Peter W. Danton of Saco, for reappointment to the State Liquor and Lottery Commission

Tabled - March 22, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, March 22, 2006, Communication (S.C. 549) from the Committee on **LEGAL AND VETERANS AFFAIRS, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#319)

YEAS: Senators: None

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

ABSENT: Senator: MARTIN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Peter W. Danton** of Saco, for reappointment to the State Liquor and Lottery Commission was **CONFIRMED**.

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

#### REPORTS OF COMMITTEES

##### House

##### Ought to Pass Pursuant to Joint Order

The Committee on **MARINE RESOURCES** on Bill "An Act To Establish Harbor Master Training Requirements" H.P. 1448 L.D. 2054

Reported that the same **Ought to Pass**, pursuant to Joint Order 2005, H.P. 1190.

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

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

**READ ONCE.**

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Ought to Pass Pursuant to Resolve**

The Committee on **UTILITIES AND ENERGY** on Bill "An Act Regarding Energy Efficiency Standards for Residential Rental Properties"

H.P. 1468 L.D. 2074

Reported that the same **Ought to Pass**, pursuant to Resolve 2005, chapter 109, section 4.

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

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

**READ ONCE.**

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Ought to Pass**

The Committee on **JUDICIARY** on Bill "An Act To Give Superior Court Clerks and Deputy Clerks the Authority To Issue Process for the Arrest of Persons Charged with Crimes" (EMERGENCY)  
H.P. 1404 L.D. 2002

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

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

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

**READ ONCE.**

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Law Regarding Smoking in Private Clubs" (EMERGENCY)

H.P. 1342 L.D. 1901

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-830)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-830)**.

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

On motion by Senator **TURNER** of Cumberland, the Senate **RECONSIDERED** whereby it **ACCEPTED** the **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **TURNER:** Good morning, Madame President, and thank you. Ladies and gentlemen of the Senate, we're considering 5-4 on our calendar today and before we progress any further there are things I would like to put into the record with respect to this L.D.

It deals with the mechanics of how private clubs can decide to allow smoking or not, and in effect, relaxes the rules that are currently in Maine law. That really should not be our focus when we consider this bill that is before us. It's really a matter of health. In fact, I could go so far as to say that the committee of jurisdiction, in this the Committee of Health and Human Services, left off the first letter in the word of their committee assignment because they did not consider the health aspects of this bill that is before us.

Some of you know of Superman. He was indestructible. Only Kryptonite could bring him down. We had a real-life Superman in Christopher Reeve. In his life, injury from a horse riding accident brought him to his bed and crippled him for the rest of his life. Some of you may not know that Superman was also married. His wife, Dana Reeve, died a month or so ago at age 44 of lung cancer, having never smoked. In the formative years of her life as a young professional, she was a lounge singer and got to sing at length in lounges filled with second hand smoke.

It is interesting, when you think about second hand smoke, that there are a host of chemicals, some of which are toxic, some of which are carcinogens, and others that cause respiratory ailments. Here are some of my favorites: second hand smoke contains ammonia, which is also something you can find in floor cleaners; it contains arsenic, something found in poisons; it contains acetone, for those of you who do your fingernails, it's found in nail polish remover; my favorite, formaldehyde, which is typically found in embalming fluid. For those who are smoking, they are halfway to the embalmer's office while they are still breathing.

Part of the issue that the committee wrestled with is were private clubs also sweeping up veteran's service organizations. Veterans came before the committee and made their point that they were being put upon by the restrictions in respect to smoking. They were too restrictive and they could not overcome those barriers. It is an interesting thing when you consider veterans as we cycle in and focus on those private clubs. Some 81% of Maine's veterans do not smoke. If you were to go to a veteran's club you'd find almost no one younger than Vietnam veterans frequenting these clubs. I believe that is because smoking is the dominant venue. Think about the veterans who have served our country in the first Gulf War. The overwhelming malady they brought back with them was problems with their lungs due to irritants that they incurred during that brief but very



successful Gulf War. If you are interested in doing things for veterans, my suggestion is that you provide them with a smoke-free venue in which to enjoy the camaraderie of their friends in arms.

When you look at other jurisdictions around the country or around the world there are eight states, including two in New England, Rhode Island and Vermont, who do not allow smoking in private clubs if the employers have employees. This law would only apply, as all of our smoking bans have applied, in venues in which there are employees. If you are a club with no employees this law is not germane to you nor is the current law that is on the books. If you go to our north half or more of the provinces of Canada, they also have similar bans prohibiting smoking in private clubs. Most recently Great Britain, including Scotland, England, and Ireland, now prohibit smoking in private clubs. I believe you will find the common thread there, as well, is that it is an effort to protect workers.

This bill is a step backwards for us. I think that's a mistake. Some of you, and perhaps all of you, are aware that our state is the first to get all A's for the way we have dealt with smoking eradication and the use of our tobacco settlement money to further the eradication of smoking. I think this bill is a significant mistake and I want to be on record as being opposed to it. Thank you very much, Madame President.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. Not to prolong this debate a great deal, I do feel that it is necessary to bring before this body the fact that what we are debating this morning is an 11 - 2 report of the Health and Human Services Committee, Ought to Pass as Amended.

**THE PRESIDENT:** The member will refer to this bill, which is a unanimous report.

Senator **MAYO:** Madame President, we are discussing L.D. 1901?

**THE PRESIDENT:** Yes.

Senator **MAYO:** As amended? Thank you, Madame President. There was a question about the previous legislation that was enacted by the committee that was sponsored by the good Senator from Cumberland, Senator Turner, a year ago as to whether or not that piece of legislation is, in fact, legal. The issue around its legality is that in the voting on that particular issue of smoking or non-smoking in clubs and the people who did not vote. If there were 1,000 members in the organization, the veteran's organization, and the ballots were sent out, the notices were done, everything was legal, but only 500 were returned and 250 said they were in favor of smoking, 250 said they were opposed to smoking, 500 did not vote, the 500 that did not vote were counted as no votes. In other words, somebody who did not vote had a vote that was counted in that particular process. That fact has called the entire matter into question as to its legality at this point. The amended version that you have in front of you today allows smoking in clubs if a majority of all valid ballots cast by members and received by the club are in favor of smoking. There is a 30-day notice that this is going to be taking place.

Absentee ballots and notification to the Maine Center for Disease Control and Prevention have to be made. The amendment provides for a transition for qualifying clubs that have satisfied the current law and may have voted under the current law. The amendment directs the Maine Center for Disease Control and Prevention to adopt rules and designates these rules as Major Substantive, which means they have to come back before the committee of jurisdiction, the Committee of Health and Human Services. While I, in all honesty, cannot say that this is not a change in what we currently have, I do feel that L.D. 1901 as amended by House Amendment H-830, is now a legal entity and there will not be a question as to its legality. I would urge this body to support the 11 - 2 report of the committee. Thank you.

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

Senator **ROSEN:** Thank you, Madame President and members of the Senate. Just to add something further to the information that was offered to you from the Chair of Health and Human Services, the Senator from Sagadahoc, Senator Mayo. As he pointed out, this bill addresses the voting mechanism that resulted from the exemption that was passed last session. I'm sure you all recall that the Legislature granted an exemption to the private clubs to allow the veteran's organizations and the other private clubs to have their members vote as to whether or not they would allow smoking. That voting mechanism that was passed last session was very problematic. That is certainly not news to many of you. I'm sure you heard the problems that were associated with that process of voting. As the good Chair of the Committee said, the law that was passed last year required participation of all members of these clubs. All registered members, some of who had not attended or been active for years, some who could not be tracked down. It was an impractical and nearly impossible voting mechanism. What this bill does is simply corrects and amends the voting mechanism. As the Chair has indicated, it requires 30 days notice to all members and it allows a majority vote. That was the key issue. The groups that came before Health and Human Services, particularly the veteran's groups, made it very clear that they supported the exemption that was passed last session but they wanted a voting mechanism that was fair, a voting mechanism that recognized the right of the majority to make a decision, and a voting mechanism that allowed for absentee ballots. That is what this bill corrects. That is what this bill provides. It does not deal with the exemption. I hope you support the committee report.

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

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. This bill does correct some deficiencies but I'm more worried about employees in any organization of any kind that have to work in a smoking environment. Therefore, I am going to oppose anything that would allow smoking anywhere to become easier to do. Employees do not have a right to vote. Employees only have the ability to resign if they don't like their job or take the risk of being fired if they voice opposition to working in a smoking environment. Therefore, I am going to oppose this bill. Thank you.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise to apologize for one statement that I made. With two bills dealing with the same subject on today's calendar, I mixed the votes on those two. This was a unanimous report, the bill that we are currently dealing with, not 11 - 2 as I referred to it. I apologize if it caused any problem.

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

Senator **BROMLEY:** Thank you, Madame President. Permission to pose a question through the Chair?

**THE PRESIDENT:** The Senator may pose her question.

Senator **BROMLEY:** Thank you, Madame President. In my multi-tasking at my desk I was tuned into the debate late. My question is, is it true that private clubs already have the capacity to have smoking in their premises and does this particular bill go just to the voting procedure and that nothing we do today with this bill would limit smoking in clubs? Is that correct?

**THE PRESIDENT:** The Senator from Cumberland, Senator Bromley poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President. In response to the question, the exemption that is on the books remains on the books. This bill is to correct deficiencies in the voting mechanism. If the legislature defeats this bill then we will revert back to the existing voting mechanism that was passed last year, which is highly problematic.

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

Senator **SCHNEIDER:** Thank you, Madame President. I request permission to ask a question through the Chair.

**THE PRESIDENT:** The Senator may pose her question.

Senator **SCHNEIDER:** Thank you, Madame President. Is it true that currently, due to the problems with the current law, we are not protecting employees at all, even by the vote, because there is a stay? Is that correct?

**THE PRESIDENT:** The Senator from Penobscot, Senator Schneider poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President. The answer is yes, there is a stay on the current legislation that was passed a year ago because of the question as to the legality of voting. In other words, the current law is not being enforced.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. It is interesting that the focus drifts over to the voting mechanism and the real issue, as I tried to outline for you when I first spoke, is that it is a matter of health. I can, however, fail to fall into the trap of talking about electioneering, so I will mention a few things to you. The current standard, as it exists in law, is a majority of all the members. That's a higher standard than some. If you are in a corporation and you hold a voting matter before your shareholders it's a majority of all the registered shareholders who make the decision, not just those who vote. This may be out on a tangent a little bit, I want to ask you to think back to the 1850's when this country was embroiled in a decision to expand or not allow the expansion of slavery in territories that were not states of the United States. A powerful U.S. Senator by the name of Stephen Douglas, otherwise known as the Little Giant, was successful in getting something called the Kansas-Nebraska Act passed. A majority of those voting in a territory could decide to extend slavery or not. Not all the people in the territory were allowed to vote. Those who were slaves did not have the option of having a franchise to weigh in on a decision that affected their lives. They have a very low standard; a standard lower than this body or the other chamber has for itself. I think when it comes to health matters the standard for voting should be a higher standard and we should keep the standard that is currently in law in place because it is, as it always should be, a matter of health and for protection of employees. Thank you, Madame President.

Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-830) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Off Record Remarks

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The Committee on **JUDICIARY** on Bill "An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships"  
H.P. 1314 L.D. 1874

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-831).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-831).**

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

**READ ONCE.**

Committee Amendment "A" (H-831) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **LABOR** on Bill "An Act To Improve Workplace Safety"

H.P. 1206 L.D. 1699

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-828).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-828).**

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

**READ ONCE.**

Committee Amendment "A" (H-828) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow the Display of POW-MIA Flags at Courthouses"

H.P. 1340 L.D. 1899

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-827).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-827).**

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

**READ ONCE.**

Committee Amendment "A" (H-827) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects"

H.P. 1146 L.D. 1628

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-732).**

Signed:

Senators:

STRIMLING of Cumberland  
BARTLETT of Cumberland

Representatives:

TUTTLE of Sanford  
CLARK of Millinocket  
SMITH of Van Buren  
DRISCOLL of Westbrook  
HUTTON of Bowdoinham

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HAMPER of Oxford  
CRESSEY of Cornish  
HALL of Holden  
DUPREY of Hampden

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

Reports **READ.**

On motion by Senator **STRIMLING** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

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**Divided Report**

Eight members of the Committee on **NATURAL RESOURCES** on Bill "An Act Making Improvements to the Laws Regarding Local Land Use Ordinances"

H.P. 1080 L.D. 1535

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-832).**

Signed:

Senator:

MARTIN of Aroostook

Representatives:

DUCHESNE of Hudson  
ANNIS of Dover-Foxcroft  
EBERLE of South Portland  
KOFFMAN of Bar Harbor  
TWOMEY of Biddeford  
THOMPSON of China  
WHEELER of Kittery

Two members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-833)**.

Signed:

Senators:

COWGER of Kennebec  
SNOWE-MELLO of Androscoggin

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

Signed:

Representative:

JOY of Crystal

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832)**.

Reports **READ**.

On motion by Senator **COWGER** of Kennebec, Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-833) READ and ACCEPTED**, in **NON-CONCURRENCE**.

**READ ONCE**.

Committee Amendment "B" (H-833) **READ and ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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**Senate**

**Ought to Pass As Amended**

Senator **HOBBS** for the Committee on **JUDICIARY** on Bill "An Act To Establish the Uniform Partnership Act"  
S.P. 591 L.D. 1609

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-506)**.

Report **READ and ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-506) **READ and ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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Off Record Remarks

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**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Deter Environmental Terrorism in the State"

S.P. 706 L.D. 1789

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-504)**.

Signed:

Senators:

DIAMOND of Cumberland  
NUTTING of Androscoggin  
CLUKEY of Aroostook

Representatives:

PLUMMER of Windham  
GREELEY of Levant  
GROSE of Woolwich  
DAVIS of Augusta  
PARADIS of Frenchville

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

Signed:

Representatives:

BLANCHETTE of Bangor  
HANLEY of Gardiner  
CHURCHILL of Washburn  
GERZOFKY of Brunswick  
SYKES of Harrison

Reports **READ**.

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

**READ ONCE**.

Committee Amendment "A" (S-504) **READ and ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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**Divided Report**

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act To Ensure Certain Protections to Communities Hosting Waste-to-energy Facilities"

S.P. 560 L.D. 1578

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

Signed:

Senators:

- COWGER of Kennebec
- MARTIN of Aroostook
- SNOWE-MELLO of Androscoggin

Representatives:

- JOY of Crystal
- WHEELER of Kittery
- DAIGLE of Arundel
- DUCHESNE of Hudson
- ANNIS of Dover-Foxcroft
- EBERLE of South Portland
- KOFFMAN of Bar Harbor
- ROSEN of Bucksport
- THOMPSON of China

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-507)**.

Signed:

Representative:

- TWOMEY of Biddeford

Reports **READ**.

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

Sent down for concurrence.

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**Divided Report**

Six members of the Committee on **NATURAL RESOURCES** on Bill "An Act To Ensure Proper Disposal of Debris and Protection of the Environment"

S.P. 47 L.D. 141

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-508)**.

Signed:

Senator:

- COWGER of Kennebec

Representatives:

- WHEELER of Kittery
- DUCHESNE of Hudson
- EBERLE of South Portland
- KOFFMAN of Bar Harbor
- THOMPSON of China

Six members of the same Committee on the same subject reported in Report "B" that the same **Ought Not to Pass**.

Signed:

Senators:

- MARTIN of Aroostook
- SNOWE-MELLO of Androscoggin

Representatives:

- JOY of Crystal
- DAIGLE of Arundel
- ANNIS of Dover-Foxcroft
- ROSEN of Bucksport

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-509)**.

Signed:

Representative:

- TWOMEY of Biddeford

Reports **READ**.

On motion by Senator **COWGER** of Kennebec, Bill and accompanying papers **COMMITTED** to the Committee on **NATURAL RESOURCES**.

Sent down for concurrence.

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

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**SECOND READERS**

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

**House As Amended**

Bill "An Act To Clarify Maine State Retirement System Benefits for Certain Legislators"

H.P. 1246 L.D. 1806  
(C "A" H-824)

Bill "An Act To Expand the Alternative Aid Program"

H.P. 1294 L.D. 1854  
(C "A" H-820)

Bill "An Act To Protect the Employment Rights of Military Reserve and National Guard Personnel"

H.P. 1339 L.D. 1898  
(C "A" H-823)

Bill "An Act To Make Revisions to the Maine Revised Statutes Relating to Agricultural Fairs"

H.P. 1391 L.D. 1985  
(C "A" H-825)

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

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**Senate As Amended**

Bill "An Act To Support Sibling Rights in Child Welfare Custody Matters"

S.P. 627 L.D. 1682  
(C "A" S-500)

Bill "An Act To Continue the Tourism Cooperative Marketing Fund"

S.P. 652 L.D. 1698  
(C "A" S-502)

Bill "An Act To Promote Economic Development by Enhancing Educational Opportunities"

S.P. 702 L.D. 1785  
(C "A" S-497)

Bill "An Act To Maintain Standards for the Plumbing Profession"

S.P. 723 L.D. 1923  
(C "A" S-496)

Bill "An Act To Include Oral Health Assessment with Other Preschool Testing for Maine's Children"

S.P. 737 L.D. 1936  
(C "A" S-498)

Bill "An Act Regarding the Sharing of Costs in Certain School Districts" (EMERGENCY)

S.P. 750 L.D. 1953  
(C "A" S-495)

Resolve, To Name the New Bridge over the Penobscot River

S.P. 766 L.D. 1986  
(C "A" S-503)

Bill "An Act Amending and Restating the Charter of The President and Trustees of Colby College"

S.P. 774 L.D. 2012  
(C "A" S-501)

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

Sent down for concurrence.

Bill "An Act To Amend the Laws Governing All-terrain Vehicles"

S.P. 722 L.D. 1922  
(C "A" S-494)

**READ A SECOND TIME.**

On motion by Senator **BRYANT** of Oxford, **TABLED** Unassigned, pending **PASSAGE TO BE ENGROSSED AS AMENDED**.

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

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**ENACTORS**

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

**Emergency Measure**

An Act To Amend the Laws Governing Licensure of Workers in the Field of Radiologic Technology

S.P. 687 L.D. 1770

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 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.

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**Emergency Measure**

An Act To Improve the Prisoner Telephone System

H.P. 1324 L.D. 1884  
(C "A" H-793)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 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.

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Off Record Remarks

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**Emergency Measure**

An Act To Create a Tiered Wholesale Seafood Dealer's License

H.P. 1373 L.D. 1961  
(C "A" H-802)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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.

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**Emergency Measure**

An Act To Ensure the Ability of Municipalities To Provide Assistance to Their Citizens

S.P. 755 L.D. 1965  
(C "A" S-481)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 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.

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**Emergency Measure**

An Act To Amend the Charter of the Lisbon Water Department

H.P. 1380 L.D. 1970  
(C "A" H-779)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 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.

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**Emergency Resolve**

Resolve, To Give the Town of Pownal Additional Time To Comply with the Subdivision Laws

S.P. 719 L.D. 1802  
(S "A" S-474 to C "A" S-470)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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.

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**Acts**

An Act To Provide for the Issuance of a Bench Warrant upon Failure To Appear for a Hearing on Nonpayment of a County Jail Reimbursement Fee

H.P. 1216 L.D. 1709  
(C "A" H-792)

An Act To Make Revisions to the Maine Revised Statutes Relating to Agriculture

H.P. 1227 L.D. 1720  
(C "A" H-805)

An Act To Permit Supplemental Environmental Projects for Forest Practices Violations

H.P. 1303 L.D. 1863  
(C "A" H-804)

An Act To Provide Forest Certification Cost-share Incentives to Forest Landowners and Licensed Foresters

H.P. 1312 L.D. 1872  
(C "A" H-798)

An Act Amending the Animal Welfare Laws

H.P. 1321 L.D. 1881  
(C "A" H-774)

An Act Concerning Energy Conservation in Schools

H.P. 1343 L.D. 1902  
(C "A" H-791)

An Act To Raise the Debt Limit of the City of Brewer High School District

H.P. 1393 L.D. 1988

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

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An Act To Authorize State Participation in the Unified Carrier Registration System

H.P. 1367 L.D. 1950  
(C "A" H-770)

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

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An Act To Eliminate Administrative Preliminary Hearings for Probationers

H.P. 1308 L.D. 1868  
(C "A" H-796)

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

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An Act To Require That the Costs Associated with Enacting a Direct Initiative Appear on the Ballot

H.P. 1357 L.D. 1916  
(C "A" H-797)

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

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

Senate at Ease.

Senate called to order by the President.

An Act To Regulate the Use of Batteries Containing Mercury

S.P. 375 L.D. 1058  
(C "A" S-483)

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

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

On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until 11:35 in the morning.

The Doorkeepers secured the Chamber.

After Recess

The Secretary opened the vote.

Senate called to order by the President.

**ROLL CALL (#320)**

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

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

**REPORTS OF COMMITTEES**

**House**

**Pursuant to Joint Order**

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Require Registration by Residential Construction Contractors"

H.P. 1477 L.D. 2089

Reported that the same be **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, pursuant to Joint Order, H.P. 1434.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

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

**REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, in concurrence.

NAYS: Senators: None

ABSENT: Senator: MARTIN

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Resolves**

Resolve, To Address the Telecommunications Needs of Federally Qualified Health Centers

H.P. 470 L.D. 637  
(C "A" H-740)

Resolve, To Require the Reporting of Mercury Amalgam Supplied to Dentists

S.P. 465 L.D. 1338  
(C "A" S-477)

Resolve, To Study the Recycling of Cellular Telephones

H.P. 1280 L.D. 1840  
(C "A" H-800)

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

**PAPERS FROM THE HOUSE**



**Joint Resolution**

The following Joint Resolution:

H.P. 1478

**RÉSOLUTION CONJOINTE HONORANT LES FRANCO-AMÉRICAINS**

Considérant que, l'état du Maine est nommé après la province du Maine en France et que les villages de Paris et Calais dans l'état du Maine portent les noms de la capitale de France et du port français de Calais, respectivement; et

Considérant que, plus d'un tiers de la population du Maine est de descendance française ou canadienne, et les franco-américains du Maine ont contribué beaucoup à la beauté et la qualité de cet état; et

Considérant que, le français est la première langue de milliers de citoyens du Maine; et

Considérant que, il y a eu une augmentation de l'utilisation de la langue française et une appréciation croissante de l'héritage franco-américain à travers l'état; et

Considérant que, des clubs et des associations pour promouvoir la culture et la langue française sont nés à travers l'état, y inclus le caucus francophone à la capitale; et

Considérant que, les gens qui parlent couramment le français et l'anglais sont une ressource économique et culturelle pour l'état du Maine; et

Considérant que, le tourisme culturel sera accru par les véritables centres franco-américains à travers l'état et la grande présence de franco-américains dans le Maine peut renforcer davantage nos relations avec le Canada, la France, et les autres pays francophones; et

Considérant que, le premier Jour Franco-Américain a été célébré mercredi, 6 mars, 2002, à la Capitale de l'État; maintenant, alors, qu'il soit

Résolu, que nous, les membres de la Cent-Vingt-deuxième Législature, assemblés dans la deuxième session régulière, au nom des gens que nous représentons, proclamons que mercredi, 22 mars, 2006 est le Jour Franco-Américain, soit célébré à la Capitale de l'État; et qu'il soit aussi

Résolu, que nous suggérons que le Jour Franco-Américain soit célébré chaque année pour commémorer la riche histoire du peuple français dans l'état du Maine et aux États-Unis d'Amérique.

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WHEREAS, the State of Maine is named after the Province of Maine in France and the towns of Paris and Calais owe their names to the capital city of France and the French port city of Calais, respectively; and

WHEREAS, more than 1/3 of the population of Maine is of French and Canadian descent. Franco-Americans in Maine have contributed much to the beauty and quality of this State; and

WHEREAS, French is the primary language of thousands of Mainers and there has been a resurgence in the use of the French language and a heightened appreciation of the Franco-American heritage throughout the State; and

WHEREAS, clubs and organizations to promote French culture and language have sprung up throughout the State, including the Francophone Caucus at the Capitol; and

WHEREAS, fluent French-English bilingual people are a cultural and economic resource to the State of Maine; and

WHEREAS, cultural tourism can be greatly enhanced by the genuine Franco-American centers throughout the State and the large Franco-American presence in Maine can further strengthen our relationships with Canada, France and the rest of the francophone world; and

WHEREAS, the first Franco-American Day was celebrated on Wednesday, March 6, 2002 at the State Capitol; now, therefore, be it

RESOLVED: That We, the members of the One Hundred and Twenty-second Legislature now assembled in the Second Regular Session, on behalf of the people we represent, proclaim that Wednesday, March 22, 2006 is Franco-American Day, to be celebrated at the State Capitol; and be it further

RESOLVED: That we suggest that Franco-American Day be celebrated annually to commemorate the rich history of the French people in the State of Maine and the United States of America.

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

**READ** and **ADOPTED**, in concurrence.

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

**PAPERS FROM THE HOUSE**

**Joint Resolution**

The following Joint Resolution:

H.P. 1479

**JOINT RESOLUTION COMMEMORATING THE HOLOCAUST AND HUMAN RIGHTS CENTER OF MAINE'S LEGISLATIVE AWARENESS DAY AND YOM HASHOAH, THE DAY OF REMEMBRANCE OF THOSE WHO SUFFERED AS VICTIMS OF THE HOLOCAUST**

WHEREAS, from 1933 to 1945, 6,000,000 Jews were murdered in the Holocaust as part of a systematic program of genocide, and millions of other people suffered as victims of Nazism; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

WHEREAS, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some at the cost of their lives and others with lifelong emotional suffering, as holding an honored place in our history; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, March 22, 2006 has been designated as the Holocaust and Human Rights Center of Maine's Legislative Awareness Day; and

WHEREAS, April 25, 2006 has been designated internationally as a Day of Remembrance of the Victims of the Holocaust and is known as Yom HaShoah; and

WHEREAS, the national community, pursuant to an Act of Congress, will be commemorating April 23rd to April 30th as the Days of Remembrance of the Victims of the Holocaust, with the theme of "Legacies of Justice" in honor of the courage of, and the precedents set by, those who testified during the trials of Nazi war criminals; and

WHEREAS, it is appropriate for the people of the State of Maine to join in the state, national and international commemorations; now, therefore, be it

RESOLVED: That, We, the Members of the One Hundred and Twenty-second Legislature now assembled in the Second Regular Session, on behalf of the people we represent, pause in solemn memory of the victims of the Holocaust, urge one and all to recommit themselves to the lessons of the Holocaust through the Holocaust and Human Rights Center of Maine's Legislative Awareness Day and the national week of commemoration and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., and the Holocaust and Human Rights Center of Maine, on behalf of the people of the State of Maine.

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

**READ** and **ADOPTED**, in concurrence.

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#### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/16/06) Assigned matter:

NOMINATION - of M. Wing Goodale of Gorham for appointment to the Environmental Protection Board

Tabled - March 16, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 16, 2006, Communication (S.C. 528) from the Committee on **NATURAL RESOURCES READ** and **ORDERED PLACED ON FILE**.)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#321)

YEAS: Senators: None

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

ABSENT: Senator: MARTIN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **M. Wing Goodale** of Gorham for appointment to the Environmental Protection Board was **CONFIRMED**.

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

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (3/16/06) Assigned matter:

NOMINATION - of Nancy C. Ziegler of South Portland for reappointment to the Environmental Protection Board

Tabled - March 16, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 16, 2006, Communication (S.C. 527) from the Committee on **NATURAL RESOURCES READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#322)**

YEAS: Senators: None

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

ABSENT: Senator: MARTIN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Nancy C. Ziegler** of South Portland for reappointment to the Environmental Protection Board was **CONFIRMED**.

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

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (3/21/06) Assigned matter:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Improve Water Skiing Safety"

H.P. 1264 L.D. 1824

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-829)** (2 members)

Tabled - March 21, 2006, by Senator **PERRY** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 16, 2006, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, March 21, 2006, Reports **READ**.)

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

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The Chair laid before the Senate the following Tabled and Later (3/21/06) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Amending the Constitution of Maine To Lower the Age of Eligibility for Election to the House of Representatives  
H.P. 1353 L.D. 1912

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-809)** (7 members)

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

Tabled - March 21, 2006, by Senator **SCHNEIDER** of Penobscot

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

(In House, March 16, 2006, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-809)**.)

(In Senate, March 21, 2006, Reports **READ**.)

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

Senator **SCHNEIDER:** Thank you, Madame President. I speak in favor of this bill and I wanted to let my colleagues in the Senate know that originally I was not in favor of this legislation. After the public hearing and hearing various legislators speak on the issue, including a member of the other Body who was originally against this, I shared the thoughts of other colleagues about this piece of legislation. My first concern was the maturity of the candidates who might come forward. Upon further consideration, I realized that, in fact, the person who may decide to run would have to earn the confidence of the voters in order to become elected. That is going to be a challenge. We often talk about engaging youth in civics and yet we don't really encourage it by the current regulations. In my own town of Orono we recently had several young people come forward and run in a municipal election.

Though they were able to run, they were under 21, none of them succeeded, but that was by the choice of the voting population. I have more confidence in the voting population that they will determine whether or not the candidate is going to serve their community well. I also think, on reflection, about the fact that we currently allow people of 18 years to serve us in a time of war and they put their lives in the balance, and in fact hold our lives in the balance, often and have in the past. We entrust in them our lives and yet we won't allow them to serve in the House. I'd like people to consider that before they make their determination on this vote. The other thing is that I'd like you to consider, as I have, the people you have served with in the past and those people who you serve with in the present. Now think of 18 year olds whom you may have met in the past and whether or not they might be able to do as good, or better, job than some of your colleagues who now serve. I'd like you to just reflect on that. These are the things that I have thought of and this is the reason why I support fully this piece of legislation. I think it is possible, absolutely, that a person who is 18 years or older could serve effectively if they were a mature and responsible person. I think that we can determine, as voting people, whether or not a person or candidate is a person we would entrust our representation to. Thank you very much, Madame President.

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

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I will be opposing this motion. I was once 18 and 19 and 20 and 21. I have to tell you that I made some of the worst decisions of my life in those three short years. I also am the mother of teenagers and I will tell you that I expect that they will make some of the worst decisions of their lives during those times. There was a former member of the Body who, when we were sworn in, pointed out that we will be sitting, looking at the people next to us, and saying, 'Wow, look at me. I'm sitting there with them. How did I get here?' and in about 30 days we're going to look at them and say, 'How did they get here?' It's probably one of the truer things I've heard. I will tell you there are some physical changes that take place in those years. The studies have shown that the brain actually begins to grow again at age 18. There is only one part of the brain that actually begins to grow again. It's the part of the brain that directs the decision making process and helps you with those impulsive things that you do. It starts to grow again. You've seen it, if you have teenagers. You've seen that suddenly you are not quite as stupid to a 21 year old as you were when they were 18. There have also been some MRI studies done where they take an adult above 21 and a 18 to 21 year old and they give them problem solving. The MRI lights up the areas of the brain that are working at time of the problem solving. The areas that are working for an adult is the part of the brain that makes decisions, that controls impulsiveness and the thought process. The area of the brain that lights up when a younger person is making decisions is the area of the brain that controls emotions. There was a very interesting study that I read. If you have ever asked your teenager, 'What were you thinking?' they may not even be able to tell you the process about the thinking part because they were

working with the feeling part. The things that were put in the Constitution a long time ago, there was a reason for it. We have a minimum here and there is a minimum in the House. It's not just life experience that we're asking people for. We're asking to see that the life experience with the decisions they have made can feed into what's going on. Age 18 to 21 is a wonderful growing time. Yes, they can fight for their country, but you know what, you told them that they don't know enough to stop drinking. If we have told them that we won't let them abide in alcohol if they are under 21 because they are still learning, still trying to feel out their boundaries, and move into that adulthood where we say, 'Okay, go forward with another step,' maybe it's a bad idea that we keep things the way they have worked for a very long time. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. As the youngest member of this body I would be remiss if I didn't add a couple of very brief comments. The fact that 18 to 20 year olds can't drink might actually have a remarkable sobering effect on the environment of this place. In all seriousness, when it comes to issues of maturity it is a very individualized thing. I know many 18, 19, or 20 year olds who are very thoughtful. I know many 20, 30, 40, or 50 year olds who are very emotional. To me what matters is if the voters in a particular area have faith in somebody to go best represent their interest. There may be areas where there are particularly high numbers of young voters who would very much like to be represented by someone who is 18, 19, or 20. It's also important to bear in mind that lowering the age to 18 doesn't grant anybody a seat. They still have to go out and earn the respect and the trust of the voters just like every one of us. There is a natural check on the issues of maturity, the issues of age. If someone doesn't want someone 18 or 19 representing them they can simply vote no.

Recently, just this past fall, in Westbrook, one of the cities I represent, an 18 year old was elected to the City Council. As I got to know him over the course of the campaign, what I was impressed with was that this is an 18 year old with a remarkable understanding of his community. He's still in high school, but spent time talking with voters. He went out and knocked on just about every door in the city. It was amazing, the energy he had and the enthusiasm. People were really impressed with his knowledge of the real issues that were facing the city of Westbrook. In that case he ran as an at-large candidate and was the lead vote getter in the city of Westbrook. They had the option and they made the choice. To say to someone who is eligible to serve on the City Council and make decisions about budgets, spending, and property taxes that he is not eligible to serve in the legislature just seems anomalous, particularly where this bill is dealing with the House and comes from the House, approved by that Body. They would be the best judges of whether these folks would be appropriately suited to serve in that Body. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I rise in support of this motion. I have to say I am saddened by this discussion. I hear these arguments and they feel so remarkably close to the arguments that were made about denying women the

right to vote. These developmental arguments about whether somebody has the intellectual or the emotional capacity. When we were talking about whether Blacks should have the right to vote and the trials that used to go on at universities in which they would put marbles in people's skulls to see who had the bigger skull and who could have more intellectual capacity based on their race. This is about allowing people the choice to choose who they want to represent them. That's it. We all know that this is an individual argument about individuals and what their capacity is to serve. I believe the voters will make the right choices. Every other state in New England has the age of 18 for their House. They seem to be doing just fine. I think it's about time that we got into the 21<sup>st</sup> Century and recognized that voters in this state can make the right choices for who they want to have serve them.

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

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. I just want to say that regardless of our age and what Body we serve in, some of us, at times, continue to make poor decisions.

**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you very much, Madame President, ladies and gentlemen of the Senate. I certainly would concur with my colleague from Kennebec, the good Senator Cowger, about poor decisions. In my 57 years I've had the opportunity to teach, for 26 of them, high school seniors who are 18 years old. It is my strong belief, and always has been my strong belief, that many of those 18 year olds are far more knowledgeable voters than 40 or 50 year olds. Beyond that statement, at the young and tender age of 19 I went off to the Army. I have always been bothered by the fact that a soldier can die in war and not be able to be a member of the Body. Today, resisting the temptation to agree with many of my colleagues that this will enliven and enlarge the Democratic rolls of 18 and 19 year olds, for me it's a more practical notion. I know that 18 year olds are more knowledgeable than 40 year olds in many cases. I know that you can die in war and not be a member of the House of Representatives. This isn't a partisan vote, this is a vote for changing times. When this was instituted it was a far different world than it is today. Just think about your daughters, those of us who are parents and I have three of them. Your concern for their livelihood and wellbeing was when they were about 13 years old, not 18. They know more about life than many of us ever did at 21. This is not a partisan vote. This is a vote for practicality. In a changing world, 18 and 19 year olds are far more qualified than many of us. I'll be supporting the motion. Thank you, Madame President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#323)**

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

**NAYS:** Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MAYO, MILLS, MITCHELL, NASS, PERRY, PLOWMAN, ROSEN, SAVAGE, SNOWE-MELLO, WESTON

**ABSENT:** Senator: MARTIN

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-809) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

The Chair laid before the Senate the following Tabled and Later (3/21/06) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Clarify the Workplace Smoking Laws"

S.P. 726 L.D. 1926

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass** (2 members)

Tabled - March 21, 2006, by Senator **MAYO** of Sagadahoc

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

(In Senate, March 21, 2006, Reports **READ**.)

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I never pass up the opportunity to pontificate on a smoking opportunity. You have now before you two bills, L.D. 1901 and L.D. 1926. This one is L.D. 1926. If it is enacted it would exempt smoking in any private club that has employees, period. That would strengthen the existing law. The existing law allows you to have smoking if you come over a

threshold that gets you the majority of all members of a private club to indicate that they want smoking. As you know from our earlier discussion, L.D. 1901 is a bill that would allow smoking if a majority of those present and voting, or voting by absentee ballot, in deed wish to have smoking. While we focus on the mechanics of what's allowed or not allowed in voting, I want to remind you once again that this is all about health. We would serve the members of these clubs, whether they are veteran's clubs or not, better to not give them the opportunity to congregate and smoke and to injure the health of their employees. Thank you, ladies and gentlemen of the Senate.

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

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

Senator **STRIMLING:** Thank you, Madame President. I just rise in opposition to the pending motion and just to say that for those who earlier were feeling like we needed to solve the problem of the voting but were worried about the fact that we were rolling back health in the state, this is an opportunity for you to solve the voting problem and to advance it forward, to protect more workers. This is the right answer. The state of Maine has gotten A's across the board in our non-smoking provisions. This is the right answer to make sure that we protect as many workers as possible and that we create a competitive environment for businesses out there. It is very unfortunate that we have different rules for different kinds of businesses, and subsequently, they get additional business just because of the guidelines from here. Let's give them an even playing field and protect all the workers of Maine. Thank you, Madame President.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise to remind you this afternoon that this bill had an 11 - 2 committee vote Ought Not to Pass. It is dealing with private, and I would reinforce the word private, clubs. The committee had a lot of testimony, spent a lot of time on it, and it felt that it was not a bill that it could support. It supported the previous legislation, which went under the hammer. It did not feel that it could support this particular piece of legislation. I would urge that you support the 11 - 2 report of the Committee on Health and Human Services. Thank you.

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

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. I've had conversations with a number of other private establishments, establishments that are privately owned although I guess they are publicly accessible. In that sense perhaps they are public. Many of the bars, restaurants, and places where the public are admitted to in my county have come to me and said that it's dreadfully unfair that a privately closed club of some kind or another is able to extend the privilege to people who come in and smoke there when they don't have the option of doing so in their own business. The competition is

dreadfully unfair. It violates all of the precepts of public health. It seems to me that it's high time to truly level the playing field among these competing businesses. Make no mistake about it, many of these so-called private clubs, even though they are non-profit, are very much businesses. They are run like businesses and they employ people. When they employ people, they invoke the jurisdiction of this state to define what that employment relationship should look like. It has been the policy of this state, and is the policy of this state, that when you employ someone else you do not have the right to expose that person to secondary smoke. That's true almost universally with one or two exceptions and this bill deals with the primary exception. We've seen the entire country of Ireland go smoke free in recent years. We've seen smoking banned entirely on airlines. We've seen smoking banned in many other venues. It seems to me that this last, or this step, should be taken at this juncture. To leave the law as it is would be dreadfully unfair to those folks who are out there trying to make a profit and competing with these so-called private clubs. I urge you to vote against the pending motion. I will be joining the Senator from Cumberland, Senator Turner, in that regard.

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

Senator **COWGER:** Thank you, Madame President. May I pose a question through the Chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **COWGER:** Thank you, Madame President. If the Ought to Pass report is accepted, if there is a private club out there without any employees, will they be allowed to continue to allow smoking?

**THE PRESIDENT:** The Senator from Kennebec, Senator Cowger poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President. The answer is yes. If I may amplify on my answer, there are some 145 veteran's service clubs, a majority of whom do not have employees and would be unaffected by this law. In fact, I think it's probably closer to ¾ or more who do not have employees. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#324)

YEAS: Senators: ANDREWS, BARTLETT, BRYANT, CLUKEY, DAVIS, DIAMOND, HOBBS, MAYO, NASS, NUTTING, ROSEN, SCHNEIDER, SNOWE-MELLO, SULLIVAN, WESTON

NAYS: Senators: BRENNAN, BROMLEY, COURTNEY, COWGER, DAMON, DOW, GAGNON, HASTINGS, MILLS, MITCHELL, PERRY, PLOWMAN, RAYE, ROTUNDO, SAVAGE, STRIMLING, TURNER, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: MARTIN

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

The Minority **OUGHT TO PASS** Report **ACCEPTED**.

**READ ONCE.**

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Chair laid before the Senate the following Tabled and Later (3/21/06) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**, on Bill "An Act To Implement the Recommendations of the Attorney General's Working Group Regarding Sentencing Factors for Crimes against Persons Who Are Homeless"

H.P. 1442 L.D. 2046

Majority - **Ought to Pass** (8 members)

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

Tabled - March 21, 2006, by Senator **DIAMOND** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence (Roll Call Ordered)

(In House, March 16, 2006, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, March 21, 2006, Reports **READ**.)

Senator **WESTON** of Waldo requested and received leave of the Senate to withdraw her request for a Roll Call.

On motion by Senator **DIAMOND** of Cumberland, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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

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

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

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On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Thursday, March 23, 2006, at 10:00 in the morning.