

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

In Senate Chamber

Thursday

April 1, 2004

Senate called to order by President Pro Tem Sharon A. Treat of Kennebec County.

Prayer by Pastor Stephen Tracey, Lakeview Presbyterian Church in Rockport.

PASTOR TRACEY: I thank you for your kind invitation to be here this morning and to lead in prayer. I was somewhat nervous appearing before such an august body on April Fool's Day, but so far we have survived. Let us pray.

Oh Lord, our God, we recognize that You are high and exalted and sovereign, but You are not distant from us nor remote nor severed from us. We are in Your presence at all time. We pray that You will grant us reverence. We ask this day for wisdom. You have granted gifts to each person here. You have granted the gift of a ready mind and a willingness to serve. We pray that You will grant help in all of today's business. Be pleased to grant clarity of mind, of thought, and of speech, that decisions will be wise, fair, and upright. We ask for compassion. You have called each one here to this office and we pray that You will grant them a heart for the people, that they may use their authority to do that which is right, to uphold justice, and to provide compassion. We ask also for mercy for each one of us. You know our homes and our families, our joys and our pleasures, our pains and our sorrows. We pray that You will draw near to help us. You do also know our own hearts, our secrets and hidden things. Be pleased to reach out to each one of us with Your grace and Your mercy. This we ask in the name of Jesus Christ. Amen.

Reading of the Journal of Wednesday, March 31, 2004.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator **GAGNON** of Kennebec, the following Joint Order:

S.P. 796

ORDERED, the House concurring, that when the Senate adjourns Thursday, April 1, 2004 it does so until Monday, April 5, 2004, at 10:00 in the morning and when the House adjourns Friday, April 2, 2004, it does so until Monday, April 5, 2004, at 9:00 in the morning.

READ and **PASSED**.

Ordered sent down forthwith for concurrence.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Enhance Professionalism of Private Investigators in this State"

H.P. 735 L.D. 1014

(C "A" H-249)

In Senate, May 7, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-249)**, in concurrence.

RECALLED from Legislative Files pursuant to Joint Order, H.P. 1416, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-249) AS AMENDED BY HOUSE AMENDMENT "A" (H-832)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **STRIMLING** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act To Enhance Pine Tree Development Zones"

S.P. 624 L.D. 1692

(C "A" S-446)

In Senate, March 29, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-446)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-446) AS AMENDED BY HOUSE AMENDMENT "A" (H-831)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **HALL** of Lincoln, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act To Require That a Directory Listing of a Commercial Toll-free Number Include an Address"

S.P. 643 L.D. 1711

(H "B" H-737 to C "A" S-398)

In Senate, March 11, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-398) AS AMENDED BY HOUSE AMENDMENT "B" (H-737)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-398) AS AMENDED BY HOUSE AMENDMENTS "B" (H-737), AND "C" (H-827)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **HALL** of Lincoln, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

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

H.P. 1267 L.D. 1745

(C "A" H-755)

In Senate, March 18, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-755)**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-755) AND HOUSE AMENDMENT "A" (H-813)**, in **NON-CONCURRENCE**.

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

Off Record Remarks

House Paper

Bill "An Act To Clarify the Administrative and Financial Relationship between the Maine Military Authority and the State of Maine" (EMERGENCY)

H.P. 1451 L.D. 1951

Committee on **LEGAL AND VETERANS AFFAIRS** suggested and ordered printed.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

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

Ordered sent forthwith to the Engrossing Division.

COMMUNICATIONS

The Following Communication:

S.C. 549

121ST LEGISLATURE

COMMITTEE ON HEALTH AND HUMAN SERVICES

March 30, 2004

The Honorable Beverly C. Daggett

President of the Senate of Maine

121st 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 121st Maine Legislature, the Joint Standing Committee on Health and Human Services has had under consideration the nomination of John R. Nicholas of Winthrop, for appointment as the Commissioner of the Department of Human Services.

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	Martin of Aroostook, Weston of Waldo
	Representatives	9	Kane of Saco, Campbell of Newfield, Curley of Scarborough, Dugay of Cherryfield, Earle of Damariscotta, Lewin of Eliot, Perry of Calais, Shields of Auburn, Walcott of Lewiston
NAYS	Senator	1	Brennan of Cumberland
	Representative	1	Craven of Lewiston
ABSENT		0	

Eleven members of the Committee having voted in the affirmative and two in the negative, it was the vote of the Committee that the nomination of John R. Nicholas of Winthrop, for appointment as the Commissioner of the Department of Human Services be confirmed.

Signed,

S/Michael F. Brennan

S/Thomas J. Kane

Senate Chair

House Chair

READ and ORDERED PLACED ON FILE.

The President Pro Tem laid before the Senate the following: "Shall the recommendation of the Committee on **HEALTH AND HUMAN SERVICES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 121st Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#307)

YEAS: Senators: BRENNAN, BROMLEY, DAGGETT, HALL

NAYS: Senators: BENNETT, BLAIS, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - SHARON A. TREAT

4 Senators having voted in the affirmative and 31 Senators having voted in the negative, and 4 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 **John R. Nicholas** of Winthrop, for appointment as the Commissioner of the Department of Human Services was **CONFIRMED**.

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

THE PRESIDENT PRO TEM: The Chair would like to recognize in the rear of the Chamber John R. "Jack" Nicholas. Would he please stand and accept the greetings of the Senate.

ORDERS

Joint Order

On motion by Senator **DOUGLASS** of Androscoggin, the following Joint Order:

S.P. 797

ORDERED, the House concurring, that the Joint Standing Committee on Education and Cultural Affairs report out, to the Senate, a bill regarding the Maine learning technology plan.

READ.

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

Senator **DOUGLASS:** Thank you, Madame President. I would like to explain that this is a order to put the Maine Learning Technology Initiative into a bill form.

On motion by Senator **DOUGLASS** of Androscoggin, **PASSED.**

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Strengthen the Maine Certificate of Need Act of 2002"

H.P. 447 L.D. 584

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-816)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-816)**.

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

READ ONCE.

Committee Amendment "A" (H-816) **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 Improve the Quality and Safety in the Delivery of Personal Care Services"

H.P. 1275 L.D. 1753

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-817)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-817)**.

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

READ ONCE.

Committee Amendment "A" (H-817) **READ** and **ADOPTED**, in concurrence.

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

Ought to Pass in New Draft under New Title

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Facilitate Summer Employment for Youths"

H.P. 154 L.D. 195

Reported that the same **Ought to Pass in New Draft under New Title**, Bill "An Act to Promote the Coordination of School Calendars for Career and Technical Education Students"

H.P. 1446 L.D. 1946

Comes from the House with the Report **READ** and **ACCEPTED** and the **NEW DRAFT UNDER NEW TITLE** (H.P. 1446) (L.D. 1946) **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-826)**.

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

NEW DRAFT READ ONCE.

House Amendment "A" (H-826) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

Six members of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Promote Transparency in Budgeting"

H.P. 1302 L.D. 1780

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-807)**.

Signed:

Senators:

ROTUNDO of Androscoggin
LAFOUNTAIN of York

Representatives:

McLAUGHLIN of Cape Elizabeth
BARSTOW of Gorham
SUSLOVIC of Portland
SUKEFORTH of Union

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

Signed:

Senator:

GILMAN of Cumberland

Representatives:

PEAVEY-HASKELL of Greenbush
CROSTHWAITE of Ellsworth
KETTERER of Madison
STONE of Berwick
BOWEN of Rockport

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-807)**.

Reports **READ**.

Senator **ROTUNDO** of Androscoggin moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-807)**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-807)**, in concurrence.

Senate

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Require School Administrative Units To Report Their Costs for Legal, Consulting and Other Professional Services to the Department of Education"

S.P. 707 L.D. 1861

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

Signed:

Senators:

DOUGLASS of Androscoggin
BRENNAN of Cumberland
MITCHELL of Penobscot

Representatives:

CUMMINGS of Portland
GAGNE-FRIEL of Buckfield
FINCH of Fairfield
LEDWIN of Holden
ANDREWS of York
FISCHER of Presque Isle

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

Signed:

Representatives:

DAVIS of Falmouth
NORTON of Bangor
MURPHY of Kennebunk
THOMAS of Orono

Reports **READ**.

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

Sent down for concurrence.

Off Record Remarks

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Modify Taxation of Benefits under Employee Retirement Plans, Including Retirement Plans for Teachers"

S.P. 764 L.D. 1927

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-481).**

Signed:

Senators:

STANLEY of Penobscot
STRIMLING of Cumberland
NASS of York

Representatives:

LEMOINE of Old Orchard Beach
LERMAN of Augusta
COURTNEY of Sanford
CLOUGH of Scarborough
PERRY of Bangor
SIMPSON of Auburn
McCORMICK of West Gardiner
TARDY of Newport
SUSLOVIC of Portland

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

Signed:

Representative:

McGOWAN of Pittsfield

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (S-481) **READ** and **ADOPTED**.

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

Sent down for concurrence.

SECOND READERS

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

House As Amended

Bill "An Act To Obtain Severance Pay for the Employees of Great Northern Paper Company"

H.P. 1255 L.D. 1733
(C "A" H-815)

Bill "An Act To Amend the Laws Concerning Optional Membership for Participating Local Districts in the Maine State Retirement System"

H.P. 1332 L.D. 1810
(H "A" H-818 to C "A" H-790)

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

Bill "An Act To Reclassify Certain Downeast Waters"

H.P. 1401 L.D. 1891
(C "A" H-791)

READ A SECOND TIME.

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

Bill "An Act To Promote the Financial Security of Maine's Families and Children"

H.P. 1152 L.D. 1579
(S "B" S-476 to C "A" H-774)

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

Sent down for concurrence.

Senate As Amended

Bill "An Act To Amend the Motor Vehicle Laws"

S.P. 632 L.D. 1700
(C "A" S-473)

Bill "An Act To Amend the Penalty Provisions and Reporting Deadlines of the Campaign Reports and Finances Laws"

S.P. 661 L.D. 1728
(C "A" S-470)

Bill "An Act To Preserve Transportation Projects Statewide by Using Federal GARVEE Financing for the Waldo-Hancock Bridge Replacement"

S.P. 758 L.D. 1922
(C "A" S-478)

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.

ENACTORS

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

Emergency Resolve

Resolve, To Establish the Municipal and Educational Mandate Audit Commission

H.P. 327 L.D. 419
(C "A" H-631)

Comes from the House, **FAILED FINAL PASSAGE**.

Senator **GAGNON** of Kennebec moved to **INDEFINITELY POSTPONE** the Resolve and accompanying papers.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#308)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAGGETT, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, WESTON, YOUNGBLOOD, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WOODCOCK

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **INDEFINITELY POSTPONE** the Resolve and accompanying papers, **PREVAILED**.

Acts

An Act To Amend the Definition of "Electrical Installations" in the Laws Governing Electricians

H.P. 1295 L.D. 1773

An Act Relating to Storm Water Management

S.P. 712 L.D. 1866
(C "A" S-441)

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

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by the Calais School District" (EMERGENCY)

H.P. 1452 L.D. 1953

Comes from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

On motion by Senator **DOUGLASS** of Androscoggin, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Provide for a Limited Transition Provision for Renewal of Certain Social Worker Licenses" (EMERGENCY)

H.P. 1431 L.D. 1931

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.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, 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 **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Amend the Laws Governing Campaign Finance"

H.P. 984 L.D. 1339

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.

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 Make Minor Substantive Changes to the Tax Laws"

H.P. 1335 L.D. 1813

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-824)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-824)**.

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

READ ONCE.

Committee Amendment "A" (H-824) **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 Coordinate Education, Job Training and Employers in Maine"

H.P. 1399 L.D. 1883

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-825)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-825)**.

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

READ ONCE.

Committee Amendment "A" (H-825) **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 **NATURAL RESOURCES** on Bill "An Act To Reduce Contamination of Breast Milk and the Environment from the Release of Brominated Chemicals in Consumer Products"

H.P. 1312 L.D. 1790

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-822)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822)**.

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

READ ONCE.

Committee Amendment "A" (H-822) **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 Pursuant to Joint Order

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Repeal Certain Boards and Commissions"

H.P. 1450 L.D. 1950

Reported that the same **Ought to Pass**, pursuant to Joint Order, H.P. 1400.

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.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (3/10/04) Assigned matter:

Bill "An Act To Amend the Motor Vehicle Laws"

S.P. 626 L.D. 1694

(C "A" S-419)

Tabled - March 10, 2004, by Senator **MARTIN** of Aroostook

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **ADOPTED COMMITTEE AMENDMENT "A" (S-419)**

(In Senate, March 10, 2004, **READ A SECOND TIME.**)

Senator **MARTIN** of Aroostook requested and received leave of the Senate to withdraw his motion to **RECONSIDER** whereby the Senate **ADOPTED** Committee Amendment "A" (S-419).

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-419).

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/23/04) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Authorize the Deorganization of the Town of Atkinson"

H.P. 1247 L.D. 1671

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-768)** (8 members)

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

Tabled - March 23, 2004, by Senator **ROTUNDO** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, March 22, 2004, 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-768).**)

(In Senate, March 23, 2004, Reports **READ.**)

On motion by Senator **ROTUNDO** of Androscoggin, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/29/04) Assigned matter:

Bill "An Act To Encourage Financial Efficiency of Facilities for Persons with Mental Retardation"
(EMERGENCY)

S.P. 613 L.D. 1681

(C "A" S-434)

Tabled - March 29, 2004, by Senator **GAGNON** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, March 23, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-434).**)

(In House, March 26, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-434) AS AMENDED BY HOUSE AMENDMENT "A" (H-811)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **BRENNAN** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

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

The Chair laid before the Senate the following Tabled and Later (3/29/04) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Requirements for Status as Publisher of Legal Notices"

S.P. 721 L.D. 1873

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-459)** (3 members)

Tabled - March 29, 2004, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, March 29, 2004, Reports **READ**.)

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

Senator **MITCHELL:** Thank you, Madame President, ladies and gentlemen of the Senate. This bill that is before is not a new issue. In the four sessions that I have served in this chamber, various legislators across the state have brought this issue to the floor. It is merely a cry from municipal government to ask for choice and flexibility in deciding what they are able to do in determining what legal aspirations they can take to reach out through the legal notices that they need to publish. Currently, the law states that you are required to use second-class postal matter. The municipalities that realize that in order to meet the second part of the law, which is that you are to reach the general circulation of your population, they need to go to more than one newspaper. This creates an additional cost to the municipal government. In order to reach a compromise, we were hoping to change second-class to periodical. It also puts restrictions in the law requiring that the municipality and the local newspaper that they do decide to use under the classification of periodical meets all the standards set forth, other than the mailing standards. Also required is that the municipal record is retained on file and there is an archive by the newspaper. They must have a system to keep all past editions of the paper. It also requires that municipality officials or the legislature approve the use of that newspaper. It does take away the fear of just over-the-counter periodicals that are just handed out. They must use the periodical postal matter. This third-class mail must meet the qualifications of newspapers for publication of legal notices. I would ask you to, please, grant flexibility to municipal governments and give them an opportunity to have a choice, and not a mandate, that incurs more than the cost that they should be able to incur to reach the majority of their circulation. Please join me in voting against the Ought Not to Pass motion.

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

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I rise today to ask you to support the Ought Not to Pass report. Current law allows only newspapers with second-class periodical designation from the U.S. Postal Service to public legal notices. Newspapers with second-class periodical designation are the only publications that can ensure timely, dependable dissemination of legal notices to citizens. To qualify for second-class designation a newspaper must, among other things, have a stated, pre-determined frequency of publication, have at least 25% editorial content in its issues, and have at least a 50% paying subscription base. Moreover, only second-class publications are guaranteed to be delivered by the postal service to readers on the date of publication. Legal notices are serious business, containing information that could potentially impact the rights of citizens. Publication of them should be left to newspapers that ensure dependable, timely dissemination of this vitally important information. I ask you, please, to vote Ought Not to Pass on L.D. 1873. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I obviously am not as aware of what is going on in your districts in respect to the publication or the arrival of new weekly publications. I can tell you that in my Senate district there have been two new papers started in the last year. When one is seeking to get local coverage, and wants to know what is going on in their local community, the citizens of my district are going to their weekly papers, not to the papers that are published daily. I do think this is an opportunity for you to allow municipalities to use their discretion and ensure that their citizens are being properly notified and at the same time doing it in what could very well be a more cost effective manner. I would urge that you defeat the pending motion. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo 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 (#309)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAGGETT, DAMON, DOUGLASS, EDMONDS, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, PENDLETON, ROTUNDO, STANLEY, STRIMLING,

WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - SHARON
A. TREAT

NAYS: Senators: BENNETT, BLAIS, DAVIS, GAGNON, MITCHELL, NASS, SAVAGE, SAWYER,
SHOREY, TURNER

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/31/04) Assigned matter:

Resolve, To Reduce the State Valuation for the Town of Lincoln

S.P. 733 L.D. 1887

(C "A" S-440)

Tabled - March 31, 2004, by Senator **CATHCART** of Penobscot

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 23, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-440).**)

(In House, March 30, 2004, **FINALLY PASSED.**)

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. I moved to table this resolve yesterday so that the Appropriations Committee could consider whether it needed to go to the Appropriations Table or not. Appropriations voted unanimously yesterday afternoon to exempt L.D. 1887 from the Appropriations Table. Therefore, I think it is ready for Final Passage. Thank you, Madame President.

FINALLY PASSED and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (3/31/04) Assigned matter:

Resolve, To Reduce the State Valuation for the Town of East Millinocket

S.P. 741 L.D. 1895

(C "A" S-439)

Tabled - March 31, 2004, by Senator **CATHCART** of Penobscot

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 23, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-439).**)

(In House, March 30, 2004, **FINALLY PASSED.**)

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. L.D. 1895 also was unanimously voted to be exempted from the Appropriations Table yesterday afternoon. It, too, is ready for Final Passage. Thank you.

FINALLY PASSED and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Senate at Ease.

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

Off Record Remarks

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

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

RECESSED until the sound of the bell.

After Recess

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Create a Nonresident Lobster and Crab Fishing License"

H.P. 1454 L.D. 1954

Committee on **MARINE RESOURCES** suggested and ordered printed.

Comes from the House, the Bill and accompanying papers **INDEFINITELY POSTPONED**.

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Promote Transparency in Budgeting"

H.P. 1302 L.D. 1780

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-807)** (6 members)

Report "B" - **Ought Not to Pass** (6 members)

Tabled - April 1, 2004, by Senator **ROTUNDO** of Androscoggin

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-807)**, in concurrence

(In House, March 31, 2004, Report "A", **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-807)**.)

(In Senate, April 1, 2004, Reports **READ**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#310)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAGGETT, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-807)**, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-807) **READ** and **ADOPTED**, in concurrence.

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

Senator **BENNETT** of Oxford requested a Division.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Bennett.

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

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **BENNETT:** Madame President, I haven't read the actual text to this bill and I was given to understand that it requires municipalities to file information about their budgets with a state agency. Is that true? If so, what other measures that might be more merit able does this bill contain? Thank you.

THE PRESIDENT PRO TEM: The Senator from Oxford, Senator Bennett poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President. The bill does require municipalities to submit copies of their annual budgets to the State Planning Office, which will compile the information and make it available over the internet. The purpose of this bill is to make public information more accessible. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Madame President. My understanding is that this information is already available to the public and citizens of the municipality under the law. I think this bill is unnecessary and redundant, and is really inappropriate.

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

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I think I understand what this bill is about. Currently, as a resident of Cumberland, as with all residents, I am mailed a copy of the municipality's annual budget. They have a website, the contents of which contain all the relevant information. It appears to me that we are now going to send this information on to the State Planning Office, that depository of municipal information for things like our comprehensive plans, which go in on year one and sometimes, if we are lucky, come back on year five. I'm at a loss as to what added value this legislation is going to provide either to the state or to the municipalities? It seems to me it ought to, unceremoniously, be defeated. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President, men and women of the Senate. As the good Senator from Cumberland, Senator Turner, said, we, as individual taxpayers in a municipality, receive a copy of the report. Unless it has changed since I was active in municipal government, each municipality is required to send that report, which includes the budget, and action thereof to all of the state agencies. This is a duplication, in my mind.

THE PRESIDENT PRO TEM: 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 (#311)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAGGETT, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON,

ROTUNDO, STANLEY, STRIMLING, THE PRESIDENT PRO TEM - SHARON A.
TREAT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO,
MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON,
WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the Bill was
PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-807), in concurrence.

On motion by Senator **GAGNON** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Monday, April
5, 2004, at 10:00 in the morning.