

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

In Senate Chamber
Wednesday
April 4, 2001

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

Prayer by Chaplain Scott Dow of the Augusta Mental Health Institute in Augusta.

CHAPLAIN DOW: Let us pray. Holy One, Creator and Lord of all, the faith traditions of many of us call our attention to holiness this season. These faith traditions inform us about our responsibilities towards You, our obligations towards our world and especially inform us about our calling towards serving Your people. We pause, however briefly, in the midst of this tense and busy time to recognize our need for Your help. Already this morning we have been scurrying about with traveling, with family matters, with conversations and negotiations with our peers, and with the myriad of duties. We take a deep breath and we remember why we are here. Many citizens can make their own wishes known. We are here to represent the voiceless also. Many citizens have more than sufficient resources. We are here to represent the poverty stricken also. Many citizens have access to various avenues of influence. We are here to represent the powerless also. Grant us wisdom. Grant us courage. Grant us vision for the facing of these hours. Amen.

Reading of the Journal of Tuesday, April 3, 2001

Off Record Remarks

COMMUNICATIONS

The Following Communication: H.P. 1296

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

March 30, 2001

Honorable Millicent M. MacFarland
Clerk of the House
2 State House Station
Augusta, Maine 04333-0002

Dear Clerk MacFarland:

Pursuant to my authority under Joint Rule 354, I have appointed the following Representatives to the Joint Select Committee on Joint Rules:

Representative Christopher P. O'Neil of Saco, Committee Chair
Representative Charles C. LaVerdiere of Wilton
Representative William S. Norbert of Portland
Representative Janice E. Labrecque of Gorham
Representative David R. Madore of Augusta

Sincerely,

S/Michael V. Saxl
Speaker of the House

Comes from the House, **READ** and **ORDERED PLACED ON FILE**.

READ and **ORDERED PLACED ON FILE**, in concurrence.

The Following Communication: S.C. 160

**STATE OF MAINE
120TH LEGISLATURE**

April 2, 2001

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

Dear Secretary O'Brien:

Pursuant to our authority under Title 5 Part 18-A Chapter 385 § 13122-C, we have appointed State Senator Edward Youngblood of Brewer and State Representative Rosita Gagne of Buckfield as ex officio members of the Board of Directors that Governs the Maine Science and Technology Foundation.

Should you have questions regarding these appointments, please do not hesitate to contact us.

Sincerely,

S/Michael H. Michaud S/Michael V. Saxl
President of the Senate Speaker of the House

READ and **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 172

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

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

L.D. 1141 An Act to Clarify the Sale of Farm-produced Foods

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

Sincerely,

S/Sen. Richard Kneeland Senate Chair
S/Rep. Linda Rogers McKee House Chair

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

The Following Communication: S.C. 173

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
APPROPRIATIONS AND FINANCIAL AFFAIRS**

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

L.D. 666 An Act to Amend the Law Governing the Governor Baxter School for the Deaf

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

Sincerely,

S/Sen. Jill M. Goldthwait Senate Chair
S/Rep. Randall L. Berry House Chair

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

The Following Communication: S.C. 174

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

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

L.D. 81 An Act to Further Encourage the Creation of Private Purchasing Alliances

L.D. 275 An Act to Create Purchasing Alliances of Small Businesses In Order to Purchase Health Insurance

L.D. 726 An Act to Clarify the Medical Payments Subrogation Statute

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

Sincerely,

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

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

The Following Communication: S.C. 175

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

March 29, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 91 An Act Regarding Notice to the Secretary of State When a Motor Vehicle Insurance Policy is Cancelled
- L.D. 158 An Act to Provide Insurance Plan Coverage for Small Employers
- L.D. 235 An Act to Lower the Cost of Health Coverage
- L.D. 452 An Act to Assist Individuals in Obtaining Catastrophic Insurance
- L.D. 778 An Act to Require Health Insurance Companies to Provide Advance Notice of Cancellation

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

Sincerely,

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

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

The Following Communication: S.C. 176

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

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 341 An Act to Appropriate Block Grants to Promote Regional Tourism
- L.D. 547 An Act to Provide Support for Impoverished Communities for Economic Development

L.D. 924 Resolve, to Grant an Exception for Inspections of Low-use Elevators

L.D. 1299 An Act to Amend the Laws Governing the Licensure of Dental Hygienists

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

Sincerely,

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

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

The Following Communication: S.C. 177

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

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

L.D. 508 An Act to Repeal the Maine Criminal Justice Academy Certification Requirements for Sheriffs

L.D. 861 An Act to Criminalize Failure to Complete Contracted and Paid for Work by a Building Contractor

L.D. 903 An Act Concerning the Cost of Training County Corrections Officers

L.D. 956 An Act to End Internet Crime

L.D. 993 An Act to Expand the Number of Persons Who May Be Appointed Sheriff or Become a Candidate for Sheriff

L.D. 1069 An Act to Amend the Laws Pertaining to Juvenile Offenders

L.D. 1077 An Act to Protect Maine's Elderly from Theft and Fraud

L.D. 1087 An Act to Create the Crime of Fleeing from a Motor Vehicle Stopped by Police

- L.D. 1098 An Act to Increase the Crime Classification of the Crime of Misuse of Identification
- L.D. 1159 An Act to Increase Effectiveness within the Department of Corrections when Serving Warrants of Arrest for Persons Charged with Probation and Parole Violations
- L.D. 1190 An Act to Criminalize the Unauthorized Use of Food Stamp Devices

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

Sincerely,

S/Sen. Michael J. McAlevey
Senate Chair

S/Rep. Edward J. Povich
House Chair

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

The Following Communication: S.C. 178

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

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 627 An Act to Expand the Definition of School Construction to Include Renovation and Expansion of Existing Facilities
- L.D. 1163 An Act to Accelerate the Construction of New Schools
- L.D. 1263 An Act to Increase the Number of Students Eligible for Free Tuition in the University of Maine System
- L.D. 1312 An Act to Eliminate the \$1,000,000 Cap Eligibility Requirement for the School Revolving Renovation Fund

- L.D. 1377 An Act to Credit a Town for Payment from Local Funds for School Construction
- L.D. 1474 An Act to Provide Students Tuition Grants Based on Performance on the Maine Educational Assessment
- L.D. 1636 An Act to Increase Funding Alternatives for Small School Construction Projects

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

Sincerely,

S/Sen. Betty Lou Mitchell
Senate Chair

S/Rep. Shirley K. Richard
House Chair

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

The Following Communication: S.C. 179

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

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 173 Resolve, Directing the Department of Human Services to Amend the Rules Regarding Congregate Housing
- L.D. 419 An Act to Provide Information to Providers of Child Care Regarding Business Support
- L.D. 549 Resolve, to Improve the Accessibility of Nursing Facility Services for Consumers with Chronic Conditions
- L.D. 558 An Act to Add 75 Residential Care Beds Under the Medicaid Program
- L.D. 864 Resolve, Directing the Children's Cabinet to Coordinate the Compilation of a Resource Guide to Assist Crisis Intervention Centers to Help Runaway Youth

- L.D. 1124 Resolve, to Promote More Flexible Use of the Long-term Care Workforce
- L.D. 1216 Resolve, to Create the Task Force to Study the Various Effects of Maine's Long-term Care System
- L.D. 1240 Resolve, Concerning Consumers of Long-term Care Services Who Have Chronic Conditions that Change
- L.D. 1344 Resolve, Establishing the Blue Ribbon Commission to Review Foster Care and Adoption Systems in the State
- L.D. 1431 Resolve, to Establish a Commission to Examine Methods to Ensure the Safety of Children and Families

- L.D. 514 An Act to Require Public Access to All State Waters
- L.D. 596 An Act to Expand Youth Conservation Education Programs
- L.D. 625 An Act to Compensate Citizens When Property is Seized Wrongfully and Damaged
- L.D. 648 An Act to Increase the Period of Ineligibility for the Moose Lottery to 5 years
- L.D. 675 Resolve, to Establish Rules for On-line Sales of Hunting and Fishing Licenses and Watercraft, Snowmobile and All-terrain Vehicle Registrations
- L.D. 799 An Act to Amend the Authority of the Commissioner of Inland Fisheries and Wildlife to Authorize Any-deer Hunting
- L.D. 1279 An Act to Require Hikers to Wear Blaze Orange during Hunting Season
- L.D. 1604 An Act Concerning Moose Hunting Permits for Elderly Hunters

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

Sincerely,

S/Sen. Susan W. Longley
Senate Chair

S/Rep. Thomas J. Kane
House Chair

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

The Following Communication: S.C. 180

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

March 28, 2001

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

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

- L.D. 75 Resolve, Directing the Department of Inland Fisheries and Wildlife to Establish a Preference Point System for the Moose Lottery
- L.D. 105 An Act Concerning the Banding of Game Birds
- L.D. 200 An Act to Allow the Stocking of Hungarian Partridge

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

Sincerely,

S/Sen. David L. Carpenter
Senate Chair

S/Rep. Matthew Dunlap
House Chair

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

The Following Communication: S.C. 181

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

March 29, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 851 An Act to Prohibit the Recording of Private Telephone Conversations Without Consent

L.D. 1195 An Act to Strengthen Penalties for Minors Displaying False Identification

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

Sincerely,

S/Sen. Anne M. Rand S/Rep. Charles C. LaVerdiere
Senate Chair House Chair

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

The Following Communication: S.C. 182

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

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 121 An Act Raising the Minimum Wage
- L.D. 691 An Act to Allow Unemployment Recipients to Declare Estimated Income for Part-time Work
- L.D. 804 An Act to Transfer Health Insurance Eligibility to the Spouse of a Deceased Teacher
- L.D. 1247 An Act to Increase the Minimum Wage in Maine

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

Sincerely,

S/Sen. Betheda G. Edmonds S/Rep. Zachary E. Matthews
Senate Chair House Chair

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

The Following Communication: S.C. 183

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON**

LEGAL AND VETERANS' AFFAIRS

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 520 An Act Concerning Small Breweries That Are Licensed to Serve Liquor on Premises
- L.D. 1035 An Act to Require Proof of Liquor Liability Insurance Upon Demand by a Municipality

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

Sincerely,

S/Sen. Neria R. Douglass S/Rep. John L. Tuttle, Jr.
Senate Chair House Chair

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

The Following Communication: S.C. 184

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

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 834 An Act to Amend the Laws Pertaining to Fishing Near Floating Equipment
- L.D. 965 An Act Relating to Daily Catch Limits for Scallops
- L.D. 1374 An Act to Create the Maine Soft-shell Clam Advisory Council

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

Sincerely,

S/Sen. Kenneth F. Lemont
Senate Chair

S/Rep. David G. Lemoine
House Chair

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

The Following Communication: S.C. 185

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
STATE AND LOCAL GOVERNMENT**

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 522 An Act to Hold Persons Incarcerated in County Jails Accountable for Certain Costs Associated with Their Incarceration
- L.D. 529 An Act to Create the Office of Ombudsman
- L.D. 837 An Act to Require that the State Put Out to Open Bid the Phone Card Plan
- L.D. 848 An Act to Establish the Patricia A. Bailey Memorial
- L.D. 982 An Act to Promote Efficiency in County Government in the Androscoggin County Budget Process
- L.D. 1038 Resolve, Requiring the Maine Municipal Association, the Maine County Commissioners Association and the Office of the Governor to Establish a Permanent Statewide Intergovernmental Advisory Commission

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

Sincerely,

S/Sen. Peggy A. Pendleton
Senate Chair

S/Rep. Martha A. Bagley
House Chair

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

The Following Communication: S.C. 186

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
STATE AND LOCAL GOVERNMENT**

March 29, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 568 An Act to Improve Local Governmental Unit Access to Bulk Purchasing
- L.D. 899 An Act to Expand the Laws Pertaining to Accessibility for Persons with Physical Disabilities
- L.D. 1116 An Act to Honor Maine's French Heritage

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

Sincerely,

S/Sen. Peggy A. Pendleton
Senate Chair

S/Rep. Martha A. Bagley
House Chair

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

The Following Communication: S.C. 187

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

March 28, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 408 An Act to Expand the Jurisdiction of the Maine Turnpike Authority to Include an East-west Highway
- L.D. 411 An Act to Enforce the Speed Limit at Toll Plaza Approaches on the Maine Turnpike
- L.D. 933 Resolve, to Create the Commission to Study Abolishing the Maine Turnpike Authority
- L.D. 1120 Resolve, to Direct the Secretary of State's Office to Institute an Organ and Tissue Donor Registry

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

Sincerely,

S/Sen. Christine R. Savage S/Rep. Charles D. Fisher
 Senate Chair House Chair

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

The Following Communication: S.C. 188

120TH LEGISLATURE
JOINT STANDING COMMITTEE ON UTILITIES AND ENERGY

March 29, 2001

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

Dear President Michaud and Speaker Saxl:

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

- L.D. 892 An Act to Alleviate Heating Prices
- L.D. 959 An Act to Change the Assessment for Sprinkler Systems to a Per-use basis

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

Sincerely,

S/Sen. Norman K. Ferguson, Jr. S/Rep. William R. Savage
 Senate Chair House Chair

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

SENATE PAPERS

Resolve, to Authorize the Northern Maine Technical College to Transfer .26 Acres of Land to the City of Presque Isle to Ensure Road Safety

S.P. 591 L.D. 1766

Sponsored by Senator KNEELAND of Aroostook.
 Cosponsored by Representative BRUNO of Raymond and President Pro Tem BENNETT of Oxford, Senators: DAVIS of Piscataquis, President MICHAUD of Penobscot, SMALL of Sagadahoc, Representatives: COLWELL of Gardiner, DESMOND of Mapleton, DUNCAN of Presque Isle, Speaker SAXL of Portland.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act to Provide the Right to a Jury Trial in Civil Actions for Civil Rights Violations"
 H.P. 47 L.D. 56

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-73)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-73)**.

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

READ ONCE.

Committee Amendment "A" (H-73) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act to Change the Criteria for Intervenor Status"

H.P. 151 L.D. 162

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-74).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-74).**

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

READ ONCE.

Committee Amendment "A" (H-74) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act to Clarify the Laws Relating to Corporate and Other Entities"

H.P. 813 L.D. 1068

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-75).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-75).**

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

READ ONCE.

Committee Amendment "A" (H-75) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Ensure the Continuing Beauty and Accessibility of Capitol Park"

H.P. 158 L.D. 169

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-76).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-76).**

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

READ ONCE.

Committee Amendment "A" (H-76) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Require Telephone Utility Participation in Enhanced 9-1-1"

H.P. 312 L.D. 390

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-78).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-78).**

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

READ ONCE.

Committee Amendment "A" (H-78) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Prohibit Certain Conduct Relating to Elephants"

H.P. 488 L.D. 628

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

Signed:

Senators:

KNEELAND of Aroostook
NUTTING of Androscoggin

Representatives:

HAWES of Standish
LANDRY of Patten
LUNDEEN of Mars Hill
GOOLEY of Farmington
FOSTER of Gray
CARR of Lincoln

JODREY of Bethel

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

Signed:

Representatives:

McKEE of Wayne
VOLENIK of Brooklin
PINEAU of Jay

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

Reports **READ**.

Senator **KNEELAND** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Limit Smoking by Foster Parents" (EMERGENCY)

H.P. 305 L.D. 383

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-47)**.

Signed:

Senator:

MARTIN of Aroostook

Representatives:

FULLER of Manchester
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
LOVETT of Scarborough
SHIELDS of Auburn
KANE of Saco

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

Signed:

Senator:

TURNER of Cumberland

Representatives:

BROOKS of Winterport
DUGAY of Cherryfield
O'BRIEN of Augusta
NUTTING of Oakland

Comes from the House with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**.

Reports **READ**.

Senator **MARTIN** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

JOINT ORDER - relative to the Nokomis Regional High School "Warriors" Girls Basketball Team, who won their first Eastern Maine Regional Championship and are the Maine State Class A Champions

SLS 105

Tabled - March 27, 2001, by Senator **MITCHELL** of Penobscot

Pending - motion by same Senator to **PASS**

(In Senate, March 27, 2001, **READ**.)

READ.

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

Senator **MITCHELL:** Thank you, Mr. President. Good morning members of the Senate. It gives me great pleasure this morning to stand before you and welcome the great Maine girls who won the State Championship for Girls Basketball. The Nokomis Lady Warriors are here with us this morning and I'm very pleased and very proud to have them join us. This team displayed the good sportsmanship and the cooperative effort necessary to win a State Championship. It is particularly enjoyable because this is a first for the Nokomis Regional High School. Not only for the State Championship for the Girls Basketball, but it's the first State Championship in any sport that Nokomis has won. It is always difficult to be the one to set the example rather than to have an example to follow. These girls hope that they have established a tradition for their school. Congratulations coaches and players of our Lady Warriors of the Nokomis Regional High School. We're very proud of you and I'd ask the body to join me in a hearty welcome to our State Champions.

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

Senator **WOODCOCK:** Thank you, Mr. President. Mr. President, men and women of the Senate. It is a bit of a nostalgic moment for which I rise today. It gives me great honor to second the comments from Senator Mitchell. Over the course of my coaching career, I have met very few individuals who better display the talents of a true coach than Earl Anderson. Coach Anderson is a leader who displays compassion and all of the elements of sportsmanship that I think contribute to the success of the Nokomis Lady Warriors. I want to congratulate Coach Anderson in particular and to Captain Pelkey and the rest of the team. You're too young to be champions. You need to understand this. Now the pressure will be on you to defend next year and believe me, with the exception of one small school in western Maine, I wish you the very best. Congratulations.

PASSED.

Sent down for concurrence.

Senate

Change of Committee

Senator GAGNON for the Committee on **TAXATION** on Bill "An Act to Prohibit Grocery Stores From Charging Maine Farmers Access Fees, Slotting Fees and Rebates"

S.P. 470 L.D. 1534

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

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

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

Sent down for concurrence.

SECOND READER

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

Senate As Amended

Bill "An Act to Amend the Small Power Production and Cogeneration Laws"

S.P. 151 L.D. 495
(C "A" S-38)

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

Sent down for 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 Today Assigned matter:

ENACTORS

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

Emergency Measure

An Act to Extend and Amend the Requirement for Giving Prior Notice of Acquisitions of Solid Waste Businesses
S.P. 33 L.D. 131

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act to Ensure Parity in the Sale of Securities by Maine Financial Institutions
H.P. 297 L.D. 375
(C "A" H-43)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act to Amend the Charter of the Portland Water District to Conform to Changes in the Municipal Election Date for the City of Portland
H.P. 497 L.D. 637

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter (unassigned): Rules Providing for the Licensing of Child Placing Agencies With and Without Adoption Programs, Addition of Home Certification Process, a Major Substantive Rule of the Department of Human Services, Community Services Center
H.P. 6 L.D. 6
(C "A" H-40)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act to Allow the Maine Turnpike Authority to Construct Communications Facilities
S.P. 107 L.D. 333
(C "A" S-11)

An Act to Amend the Credit for Reinsurance Provisions of the Maine Insurance Code
H.P. 341 L.D. 431
(C "A" H-44)

An Act to Remove Redundant Written Authorization Requirements
H.P. 449 L.D. 570
(C "A" H-42)

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

An Act to Endow the Maintenance of Maine Civil War Monuments at Gettysburg
H.P. 641 L.D. 841

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

An Act to Establish a Cold Case Homicide Squad
S.P. 570 L.D. 1743

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

Resolve

Resolve, to Require the Building of a Full Boat Launch on the Northern End of Cobbosseecontee Lake
H.P. 179 L.D. 190
(C "A" H-26)

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

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

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Senate at Ease.

Senate called to order by the President.

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

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/22/01) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Discourage Frivolous Appeals"

S.P. 224 L.D. 789

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

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

Tabled - March 22, 2001, by Senator **RAND** of Cumberland

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

(In Senate, March 22, 2001, Reports **READ**.)

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

Senator **DAGGETT:** Thank you, Mr. President and members of the Senate. This bill is a bill that I brought in front of the legislature and it's part of a continuing effort to deal with, what I feel is, a tremendous inequity in the landlord-tenant continuous discussion over who gets to have the most rights. I am a landlord. Have been a landlord for a number of years. Over time, as a Chair of the Legal and Veteran's Affairs Committee, I have spent a fair amount of time trying to make sure that the sides are even. It's unfortunate that, people being who they are, sometimes

there are landlords that are overbearing and sometimes there are tenants that are overbearing. It's been my opinion that we need to have statutory protections for both to prevent action being taken on the part of either party that is unfair to the other party. I think that over the last 8 to 10 years we have been able to do that. In general, things are pretty even. However, I'm going to say about 6 or 8 years ago, which seems to be relatively a short time, but in any event, there was identified a loophole in law where, if a tenant wished to appeal a decision to Superior Court, in this case it would be an eviction appeal, they automatically had close to 6 months before the appeal would be heard because it took about that length of time to get a written transcript. In order for appeals to be heard at the Superior Court level, there needs to be a transcript. So you had the unfortunate opportunity for a landlord to be waiting for the case to be heard, all the time not receiving any rent. We made an effort to deal with that issue in Legal and Veterans Affairs, which is the committee that does landlord-tenant law, and I had legislation in to deal with that issue. It did not work out exactly as we had planned. I came back another session with additional legislation to straighten that out and try to make it better. There continued to be problems, so there continued to be appeals to Superior Court in cases where it seemed clearly it was a matter of delay. That is the purpose of this bill. What this bill does is that it allows treble damages for frivolous appeals. Now there currently exists treble damages for frivolous appeals at the Supreme Judicial Court level. This simply allows the same things and extends it to another level. I would just like to mention briefly, one of my constituents actually was affected by this. It was a person who had a house. It was occupied by someone who was failing to pay rent. The person took it to court and there is a good 6 weeks process now. It's not as lengthy as it used to be. That assumes that you've done everything in a very timely fashion in order to move from a non-payment status to actually getting someone out. There can be things in between that that would not make it shorter, it would always be longer. But you're looking at 6 weeks in any event, so you're looking at probably close to a month and a half with no rent. I had someone who had a house. There had been non-payment. They had taken them to court and waited for the 6 months and finally for a chance at Superior Court. In the meantime they were paying the mortgage, paying the heat, paying the sewer and getting absolutely no money back. In Maine, many of our apartments are owned by people who are somewhat similar to the way my husband and I started renting. We had a duplex. We had two apartments on the other side. We were able to rent them out and have income so that I didn't work and stayed home with our children. I can tell you that if we had had to go 6 months without rent from one of those units, it would have been very serious for us. Generally the courts look very unfavorable on tenants who do not pay their rent, but in order for you to get the ruling, you have to get into court. It's unfortunate that this happens. It's unfortunate that there is a loophole that has been found. It's a delaying tactic. I believe in the responsibility of people to pay their rent. I believe that it is appropriate and I do not believe that we should condone otherwise. Appeals that are made for frivolous reasons, as simply delaying tactics to stay somewhere and not pay your rent, I don't believe are appropriate. I did have a conversation prior to the hearing of this bill with the Chief Justice who has indicated an interest in helping to close this loophole. He had some thoughts, but he suggested that this bill was appropriate and to go forward with it. They do not oppose it. I hope that you will oppose the motion on the floor which is to accept the minority Ought Not to

Pass report so that we can accept the majority Ought to Pass report and take care of this inequity. Thank you.

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

Senator **FERGUSON:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate. This is a very small bill and it actually includes three words "or Superior Court". Rather than appealing to the Law Court, you may move it down to the Superior Court. That's the only thing that's added to current law. I voted on the majority in the committee and I would urge you to vote against the pending motion so that we can go on and accept the majority Ought to Pass report. The good Senator from Kennebec has laid out all the reasons why and there's no reason for me to repeat what she said. Thank you, Mr. President.

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

Senator **RAND:** Thank you, Mr. President and men and women of the Senate. I hope that you will join me in voting to accept the minority Ought Not to Pass report. My reasons for voting Ought Not to Pass are actually many, but I'll stick to just a few. Right now the statute allows for damages to be collected. If you file a frivolous suit in this area, the court can and does charge you attorney fees, court costs and you have to pay the opponent's attorney fees. That seems to me sufficient punishment, I guess punishment seems to be where we're going here, for trying to access the courts and having your case deemed frivolous. Triple costs to me seem overly punitive and would have the affect, a very chilling affect, on people taking a chance to access justice in the courts when they really did not believe at all that their case was frivolous, that they did indeed have a case against a particular landlord in this instance. But the thought that they would have to pay three times the amount, if the case was ruled frivolous and ruled against them on those grounds, would impose a chilling affect on people going forward to access the court system. If the appeals process poses such a problem to landlords, certainly that testimony was not given to the committee. We were not informed of any problem that was out there. We've had several interviews and meetings with the Chief Justice and other members of the Judicial Branch and of the problems that they spoke to us about, certainly frivolous suits for eviction notices were never even mentioned. So certainly the committee was not given testimony that there is a problem out there, that people who are evicted are running to the courts and filing these frivolous suits. As I stated previously, the punishment, if you want to call it that, is already in place. If you are found guilty of filing a frivolous suit for delaying tactics, as the good Senator from Kennebec spoke of, then you do, indeed, have to pay, not only for your own attorney and court costs, but the landlord's attorney. That seems sufficient. Also to restate something that the good Senator from Kennebec, Senator Daggett, mentioned; that there are times when landlords are wrong also. Times when tenants are, but also times when landlords are. I think we could best serve both sides in this debate by keeping the law as it is. I would ask that you join me in accepting the minority Ought Not to Pass report. Thank you.

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

Senator **MILLS:** Mr. President and men and women of the Senate. Some years ago the Maine Supreme Court began using this remedy as a way of discouraging people from taking appeals that were both frivolous and intended for delay. This statute that is being proposed for amendment this morning can't be invoked by the court unless they make a finding on both counts. In other words, they have to find that the appeal was frivolous and that it had no merit. Not only that it was weak, but it was so weak that every reasonable person would regard it as frivolous, foolish, without merit and then they have to find that the person who took the appeal did it with the intention, that they knew they were doing it, only to delay the inevitable. Now a number of appeals used to go bubbling up to the Maine Supreme Court and they would come down with very short opinions and would think "what wacky lawyer or litigant would take an appeal on a situation like that?" It was often times painfully obvious that the appeal was taken because they wanted to delay the effect of the judgment or they wanted to thwart justice for some other reason. Sometimes in a divorce case, sometimes in a real estate case, sometimes in a boundary line case, people just get so angry that the loser will take an appeal regardless of how little merit there was to it. About 15 years ago, maybe 20 years ago, the Maine Supreme Court began to invoke this old statute that said that in certain circumstances, where you are able to make these findings, it's okay to hit the loser with what they call triple costs. They call it treble costs, the old language from 100 years ago. But all it means is that the out-of-pocket expenses for the filing fees, the transcript of the record, the amount of money that you actually had to shell out, that's customarily awarded to the winner now, but if they make a special finding that it's frivolous and intended for delay, they say go ahead and triple that. They began awarding these triple costs. I began seeing a number of them about 15 years ago under Justice McKusick and we've seen some under Justice Waltham's administration as well, and it has helped to quell this tendency that people have sometimes when they get caught up in litigation, to take everything to the final court and litigate it to the last gasp, even when you have no good basis for doing so. All this bill would do would be to give the same power to the Superior Court, which is the next layer down, as is now allocated to the Supreme Court so that when the Superior Court acts as an appeal court from the District Court, which is the initiating court for many controversies, if there is an appeal taken from the District Court up to the Superior Court and that judge makes the same finding that A. this is frivolous and B. this is intended for delay, they would have the same power as the Supreme Court does to say "okay in this case, I'm going to triple the out-of-pocket costs that I'm awarding to the winner and against the loser." It isn't, by any means, restricted to landlord-tenant disputes. It's not restricted even to one side of landlord-tenant disputes. It could be applicable to any case that might come up to appeal to the Superior Court. A zoning case, for instance, that is appealed to the Superior Court. The Superior Court gets some crazy cases that arise out of appeals from zoning decisions that never should find their way into court and are indeed interposed for purposes of delaying a project or delaying a real estate transaction. So I think it would be generally useful to pass this statute. I'm sensitive to the concerns of the good Senator from Cumberland, Senator Rand, about whether it may be overkill. But I don't think so. I think with the two requirements that are built into this law, that the judge has to make a finding of frivolousness and that the person that loses took the appeal only to delay the proceedings. That

seems to me to put a sufficient protection on this remedy, that it won't be abused or overused by the court. For that reason I would join the Senator from Kennebec, Senator Daggett, in voting to oppose the current motion so that we could go on to accept the bill. Thank you.

The Chair ordered a Division. 10 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **RAND** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **FAILED**.

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate at Ease.

Senate called to order by the President.

Senator **EDMONDS** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **EDMONDS**: Thank you, Mr. President. Fellow members of the Senate. I want to remind you that 33 years ago today Martin Luther King, Jr. was in Memphis, Tennessee in support of sanitation workers on strike in that city. While there, he was shot and killed on a motel balcony. His life was dedicated and given to the cause of justice for all. I just wanted to remind you of that fact and remember him and rededicate ourselves to that same cause. I would like the Senate to stand adjourned in his honor today. Thank you.

On motion by Senator **EDMONDS** of Cumberland, **ADJOURNED**, to Thursday, April 5, 2001, at 10:00 in the morning, in memory of and lasting tribute to Martin Luther King, Jr.