

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

In Senate Chamber
Wednesday
May 23, 2001

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

Prayer by Senator Betheda G. Edmonds of Cumberland County.

SENATOR EDMONDS: Good morning. Holy One of blessing, Your presence fills creation. Your voice is heard in the wind as it moves through the trees, in the song of that house wren as it calls for its mate, in the cry of a loon over a quiet lake, and in the rush of waves at the water's edge. Your voice is heard wherever anyone speaks out against hatred, injustice, and greed. Let our voices speak with you today. Let us speak for compassion, righteousness, and generosity. Amen.

Doctor of the day, Donald Hankinson, D.O. of Cape Elizabeth.

Reading of the Journal of Tuesday, May 22, 2001.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** Bill "An Act to Allow for the Taking of Palm Prints, Footprints and Photographs of a Person Charged with the Commission of a Juvenile Crime" (EMERGENCY)
S.P. 174 L.D. 602

Majority - **Ought to Pass** (9 members)

Minority - **Ought Not to Pass** (4 members)

In Senate, May 22, 2001, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED**, and the Bill **PASSED TO BE ENGROSSED**.

Comes from the House, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Committee to Study Access to Private and Public Lands in Maine"
H.P. 1353 L.D. 1810
(S "A" S-219)

In House, May 17, 2001, **PASSED TO BE ENGROSSED**.

In Senate, May 22, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-219)**, in **NON-CONCURRENCE**.

Comes from the House, the Bill and accompanying papers **COMMITTED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in **NON-CONCURRENCE**.

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

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 306

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

May 22, 2001

The Honorable Michael H. Michaud
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Business and Economic Development has had under consideration the nomination of Brian E. Thibeau of Hermon, for reappointment to the Loring Development Authority of Maine.

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

YEAS Senators 3 Bromley of Cumberland,
Shorey of Washington,
Youngblood of Penobscot

Representatives 10 Bryant of Dixfield, Clough of
Scarborough, Dorr of
Camden, Duprey of
Hampden, Hatch of
Skowhegan, Michaud of Fort
Kent, Morrison of Baileyville,
Murphy of Kennebunk,
Richardson of Brunswick,
Thomas of Orono

NAYS 0

ABSENT 0

Thirteen 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 Brian E. Thibeau of Hermon, for reappointment to the Loring Development Authority of Maine be confirmed.

Signed,

S/Kevin L. Shorey
Senate Chair

S/John G. Richardson
House Chair

READ and ORDERED PLACED ON FILE.

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

The Following Communication: S.C. 307

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

May 22, 2001

The Honorable Michael H. Michaud
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Business and Economic Development has had under consideration the nomination of James O. Donnelly of Brewer, for appointment to the Loring Development Authority of Maine.

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

YEAS Senators 3 Bromley of Cumberland,
Shorey of Washington,
Youngblood of Penobscot

Representatives 10 Bryant of Dixfield, Clough of
Scarborough, Dorr of
Camden, Duprey of
Hampden, Hatch of
Skowhegan, Michaud of Fort
Kent, Morrison of Baileyville,
Murphy of Kennebunk,
Richardson of Brunswick,
Thomas of Orono

NAYS 0

ABSENT 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of James O. Donnelly of Brewer, for appointment to the Loring Development Authority of Maine be confirmed.

Signed,

S/Kevin L. Shorey
Senate Chair

S/John G. Richardson
House Chair

READ and ORDERED PLACED ON FILE.

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

The Following Communication: H.C. 276

**STATE OF MAINE
HOUSE OF REPRESENTATIVES**

May 22, 2001

Honorable Joy J. O'Brien
Secretary of the Senate
120th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Legalize Hemp for Agricultural Purposes" (H.P. 882) (L.D. 1174)

Representative BULL of Freeport
Representative HAWES of Standish
Representative CHICK of Lebanon

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

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Establish a Single-payor Health Care System" H.P. 964 L.D. 1277

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

Signed:

Senator:
DOUGLASS of Androscoggin

Representatives:
DUDLEY of Portland
SMITH of Van Buren
O'NEIL of Saco
SULLIVAN of Biddeford
CANAVAN of Waterville
MARRACHE of Waterville

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

Signed:

Senators:
LaFOUNTAIN of York
ABROMSON of Cumberland

Representatives:
YOUNG of Limestone
MAYO of Bath
GLYNN of South Portland

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

Reports **READ**.

Divided Report

The Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Require Certain Employers to Provide Certification for Employees Who Dispense Medications" H.P. 603 L.D. 758

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-464)**.

Signed:

Senator:
BROMLEY of Cumberland

Representatives:
RICHARDSON of Brunswick
BRYANT of Dixfield
DORR of Camden
HATCH of Skowhegan
MICHAUD of Fort Kent
THOMAS of Orono

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

Signed:

Senators:
SHOREY of Washington
YOUNGBLOOD of Penobscot

Representatives:
MORRISON of Baileyville
DUPREY of Hampden
CLOUGH of Scarborough
MURPHY of Kennebunk

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-464) AND HOUSE AMENDMENT "A" (H-541)**.

Reports **READ**.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Permit the Submission of Citizens' Initiatives and Citizens' Vetoes to School Districts"
H.P. 1004 L.D. 1341

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

Signed:

Senators:
MITCHELL of Penobscot
NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:
RICHARD of Madison
DESMOND of Mapleton
WATSON of Farmingdale
ESTES of Kittery
CUMMINGS of Portland
STEDMAN of Hartland
ANDREWS of York
WESTON of Montville
LEDWIN of Holden

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-552)**.

Signed:

Representative:
SKOGLUND of St. George

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Reinstate the Cost-of-living Factor in the School Funding Formula"
H.P. 1033 L.D. 1390

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

Signed:

Senators:
MITCHELL of Penobscot
NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:
RICHARD of Madison
DESMOND of Mapleton
WATSON of Farmingdale
WESTON of Montville
LEDWIN of Holden
STEDMAN of Hartland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-533)**.

Signed:

Representatives:
SKOGLUND of St. George
ESTES of Kittery
CUMMINGS of Portland
ANDREWS of York

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act Relating to Discovery Procedures under the Maine Unfair Trade Practices Act"
H.P. 733 L.D. 953

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-335)**.

Signed:

Senator:
RAND of Cumberland

Representatives:
LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn

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

Signed:

Senators:
McALEVEY of York
FERGUSON of Oxford

Representatives:

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

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-335)**.

Reports **READ**.

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

Senate

**Ought to Pass
Pursuant to Joint Order**

Senator **MARTIN** for the Committee on **NATURAL RESOURCES** on Bill "An Act to Prevent Infestation of Invasive Aquatic Plants and to Control Other Invasive Species" (EMERGENCY)
S.P. 630 L.D. 1812

Reported that the same **Ought to Pass**, pursuant to Joint Order (S.P. 599).

Report **READ**.

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

Senate

Divided Report

The Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Resolve, to Enhance Economic Development in Eastern Maine (EMERGENCY)
S.P. 286 L.D. 997

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

Signed:

Senator:
BROMLEY of Cumberland

Representatives:

MORRISON of Baileyville
DUPREY of Hampden
CLOUGH of Scarborough
DORR of Camden
MURPHY of Kennebunk

MICHAUD of Fort Kent

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

Signed:

Senators:
YOUNGBLOOD of Penobscot
SHOREY of Washington

Representatives:

THOMAS of Orono
HATCH of Skowhegan
RICHARDSON of Brunswick
BRYANT of Dixfield

Reports **READ**.

Senator **SHOREY** of Washington moved the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Prohibit Issuance of a Concealed Firearms Permit to the Subject of a Permanent Protection from Abuse Order"
S.P. 255 L.D. 885

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

Signed:

Senators:
McALLEVEY of York
DAVIS of Piscataquis

Representatives:

POVICH of Ellsworth
O'BRIEN of Lewiston
BLANCHETTE of Bangor
TOBIN of Dexter
PEAVEY of Woolwich
SNOWE-MELLO of Poland
GERZOFISKY of Brunswick
MITCHELL of Vassalboro
WHEELER of Bridgewater

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

Signed:

Senator:
O'GARA of Cumberland

Representative:
QUINT of Portland

Reports **READ**.

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

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending motion by Senator **MCALLEVEY** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

An Act to Protect Highway Travelers and Maine's Highway System by Increasing Fines on Excessively Loaded Trucks
S.P. 431 L.D. 1411
(C "A" S-184)

Tabled - May 22, 2001, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, May 15, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-184).**)

(In House, May 21, 2001, **PASSED TO BE ENACTED.**)

Senator **SMALL** of Sagadahoc requested a Roll Call.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Requested)

ENACTORS

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

Acts

An Act to Consolidate the Laws Regulating Transient Sellers and Door-to-door Home Repair Transient Sellers
H.P. 981 L.D. 1305

An Act to Repeal Certain Boards and Commissions
H.P. 1349 L.D. 1806

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 Ensure Access to Health Insurance
H.P. 1256 L.D. 1703
(C "A" H-370)

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Requested)

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

Senator **TREAT** 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.

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 Specially (5/22/01) Assigned matter:

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/22/01) Assigned matter:

SENATE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Conform the State's Financial Services Privacy Laws with Federal Law" (EMERGENCY)
S.P. 521 L.D. 1640

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-235)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-236)** (6 members)

Tabled - May 22, 2001, by Senator **LAFOUNTAIN** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-235)** Report

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

Senator **LAFOUNTAIN** of York requested a Division.

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

Senator **DOUGLASS:** Mr. President, women and men of the Senate. I would like to ask you if you saw the privacy notice that you should by now have received from your banking institution, your insurance institution, and any other financial organization with whom you do business? I further ask whether you have returned that form to make a choice as to whether or not your personal financial information will be shared? Under the Gramn Leach Bliley Act, which will take effect in July of this year, that information will be shared unless you have affirmatively taken the time to find that notice, take it, fill it out, and mail it to your financial institution. What information is it that they are going to share about you? Your name, your address, telephone number, your account balances, your payment history, your account activity, information from your employer relating to your account, information from third parties that is held by your banking institution, and your social security number. I have received some of these notices, and because I serve on the Banking and Insurance Committee, I did take the time to search for them and was quite astonished at the amount of information that can be shared about me if I don't find this notice from each and every institution, for each and every account for which I own. The notices are small, folded white paper enclosures, generally in your monthly statement. I suggest to you that it's the type of thing that most consumers in the State of Maine will throw out. What will happen then is that their information will be shared or may be shared if they do not do anything further. That's the difference between opt out and opt in. Under the opt in scenario, you must give your permission to your financial institution in order for that information to be shared. Now it's important to stress that whether or not you choose to opt in or opt out under law, and those are the choices in the reports from the committee, personal information about you will be shared in order to service your accounts. That is your checks will be cleared, your debit purchases will be made, and the other financial services provided

to you by your institution will continue because, of course, that information must be used by them.

The issue here is marketing. What kind of use will your personal financial information be used for under Gramn Leach Bliley if you choose opt out and fail to send in a notice saying that you do not want your information shared? The information will be shared with affiliates of your financial institution and non-financial companies as well. These could be companies engaged in direct marketing or selling of consumer products and services. Let's say you inherited \$100,000 from Aunt Rosa. It goes into your bank account. That account information can be shared with the affiliates of the bank. The bank may sell that information to a third party and that third party may be engaged in direct marketing and selling of consumer products and services. Let's say that third party is engaged in, something that we think we might all agree is worthwhile, nursing home or long term care insurance. They suggest to you that you have the ability to pay for such and such an amount of insurance. It's perfectly within reason that that scenario could happen because there will be people under the opt out provision who will get personal information about citizens that can be shared and used for marketing.

I want to be clear that the Gramn Leach Bliley Act has some very good parts to it. It does provide the next step in business transactions for financial institutions in terms of their ability to go into other areas of business. I have no objection to that. I'm fully in support of business progress. I am standing today to urge you to vote for the Majority report which would have Maine adopt an opt in requirement on all financial institutions because I think it's imperative that we protect our personal financial information and we can accomplish the purposes of Gramn Leach Bliley while protecting the privacy of consumers in Maine. I want to just point out to you some parts of the Gramn Leach Bliley Act which exempt transactions which you would consider normal transactions of the financial institution. Exempted from all the privacy rules, whether they are opt in or opt out, are, and perhaps I can quote it this way 'Gramn Leach Bliley shall not prohibit disclosure of non-public personal information as necessary to effect, administer, or enforce a transaction requested or authorized by the consumer or in connection with servicing or processing of financial a product or maintaining or servicing the customers' account or a proposed or actual securitization secondary market sale.' So there are general exceptions within the Gramn Leach Bliley for the normal progress of business and I think we all understand that that information, while information about you and your credit history or your account balances, must be shared privately with the folks who are servicing your financial institution. Let's say your institution sends its checks out to be processed by a third party. Those are normal, course of business, matters and those will continue whether you choose opt in or opt out. What's different is marketing and who gets your personal information. Under opt out, unless you find all of those notices and send them all in, your information may be shared. Let's be honest, we have to consider not what the best of the banks will, but what the worst of the financial institutions will do. That's what we are here for as a government, to protect our citizens from what the worst of our corporate citizens might do.

I want to just read to you something from State Health Notes, it's a national conference of state legislatures May 7, 2001, pamphlet which says in quoting the Kansas Insurance Commissioner and NAIC's, that is the National Association of Insurance Commissioners, president, Kathleen Sebelius. She says, 'the current exception for marketing guts the stated purpose

of protecting consumer's health information.' I'm sorry, that relates to health insurance, which was deleted. But the same can be said of the other financial information, such as your account balance, with respect to the aspects of the law that was passed.

In concluding, I hope this body will vote in favor of protecting consumers and place the burden of getting marketing information on the financial institutions that choose to use that information rather than placing the burden on the consumers who will be forced to look for the notice, find the piece of paper they have to send in, and pay to get all of that completed. I'd ask you to consider whether you found all of those notices for yourself and what can the most feeble of our citizens actually do? Will we be protecting them if we do not follow this path by choosing to opt in? Thank you.

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

Senator **YOUNGBLOOD:** Thank you, Mr. President, ladies and gentlemen of the Senate. Opt in, opt out. I expect we all know all the intricacies. We probably know more about opt in and opt out than we'd really care to know. Is it opt in or is it opt out? Is it the right way to go? I don't think there's anybody in this chamber that believes that confidentiality, protecting the materials that you have on each one of us, is obviously very important. I wasn't always a banker. One of the things that really, really, really surprised me when I did become a banker was how protective the banking industry is of those very valuable customers, those very valuable names that they have. I can tell you inequitably, bankers are more protective of their customer lists and who has them than they probably are protective of their spouses and the rest of their families. Their livelihood, in these smaller institutions, is that customer base. They don't sell that base perversely. The real issue in this whole debate isn't opt in, isn't opt out, it's confusion. How confused do we really want the public to be? I have an 87 year old mother that every time she gets another disclosure from this bank or this insurance company or this brokerage institution, she picks up the phone. She's one of the few people that calls me Eddie. She'll say 'Eddie, I've got a problem.' We all have somebody that puts that faith in us that says 'I have this message, what should I do?' If I sat down with her and explained this document and say this is opt in. If you want your banking institution not to be able to send your information to anybody else, sell your information to anybody else, you don't have to do anything. Just hang onto it. Next week, next month, time after time, she gets a notice that looks somewhat similar from Citi Corp, from Discover Card, from an insurance company, from a bank in New Hampshire, or from where ever it may be and says 'oh, this looks like the one that Eddie reviewed with me back a month ago. I must have to do nothing with this so that I can ensure that they won't be using my name.' In fact, all of those other ones they received were opt out. It's about confusion. Best banks, worst banks. Are there worst banks out there? Probably. Are they in Maine? I'm not so sure of that. Opt in could very well drive some of our large banks here in the State of Maine that have home offices in Maine but operate in multiple states to leave the state. Is that what we want because opt out is a better alternative for them? That's where we're heading. Do we want to put Maine's small institutions that do not have the capital to form their own affiliates, to create their own insurance arm, to create their own brokerage arm? They have to do it through a third party. That's the only way they can justify and do it. Do we want

to say to them you're going to be at a disadvantage because you don't have the capital that the bigger banks have, that can form their own insurance companies, that can form their own brokerage companies, and have those affiliates? So you've got some that can share and some that cannot share. Is that what Maine is coming down to? Confusion, fairness, equity amongst everyone is really what it is all about. I would urge you strongly to defeat the motion that we have on the floor to opt in so that we can get on with opt out and make Maine the same as the 45, 46 or 47 growing number of other states out there that are all going opt out. It would be a severe disadvantage to development in the State of Maine to be different. Thank you very much.

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

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. I will also be opposing the pending motion but maybe for very different reasons. Those people who are frustrated with the bank, the large banks, the out-of-state firms that use our names and our information as marketing, I have a solution. That is to deal with your credit unions. I am a member of a credit union. For those of you who don't know how the credit unions work, you are a member of the credit union. You run the credit union, not some out-of-state firm. If there is something that the credit union does that you don't like, you can do something about it. There are members of the community that are part of the board. There are annual meetings. The annual meetings of my credit union usually have 400 to 500 people at them. Incredible showing. The staff and the board of directors are eager to do what the members of the credit union want. You know what, the members of the credit union don't want these lists sold. So they don't. So what we're doing with this law, as the good Senator from Androscoggin, Senator Douglass, said, that it's not the best, it's the worst that we have to deal with. But what we end up doing is taking the best and punishing them for being so good at what they do, listening to their members, listening to their customers. They are very good at what they do. In fact, I would argue that that is competitive advantage. You've seen those bumperstickers that say 'go bankless, go with the credit unions.' That's one of the reasons I do as well as the fact that it is totally local control of what goes on. What this will do is place an extra burden on the credit unions, who provide excellent service, that will eventually just increase the cost of doing business at my credit union. So while I have no doubt that there are some banks, the worst of the worst, who take this information and provide it to mailing houses, credit card companies, and whatnot. Mine doesn't. Don't punish my credit union with this law. I would encourage you to vote against the pending motion. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, ladies and gentlemen of the Senate. This will be the first time in my legislative history that I've ever spoken on a banking issue. I defer to our colleagues on that committee. But this is more than just a banking issue. It deals with privacy, which is something I know something about. Having been a licensed private investigator for about 5 years, dealing with legal information. Let me tell you, you can get anything legally about anybody. We're awash in facts and figures. Biggest problem I had as an

investigator was how current was the information, not whether the information was true or not. We're talking about a commodity, maybe an intellectual property right. Who owns that? We have a special relationship with our banking institutions, credit unions, and credit card companies. We do business, we allow them to use our money to make a profit, they pay us a small fee in interest charges. They maintain and hold a lot of information about us in confidence. That information is about us, not the banking institution. When I was a drug agent, if we were targeting a 'bad guy' we would pick their garbage, legally. Was allowed to do it. In it we would find banking records, canceled checks, and credit card receipts. Follow the money. That's the first rule of investigating fraud or drug cases.

It's amazing what you can find out about a person in their financial records. You can find out if they are ill, if they are under treatment. I have constituents who would not file with their insurance company to pay for an abortion for a daughter because they didn't want that information in the public domain, so they used their credit card. Would a bank sell that? The issue is, who owns this information? You do right now? Confusion? Yes, there could be some confusion. I see very little confusion about having to take an affirmative step in letting the bank sell your personal information. But there is a tremendous amount of personal information that banks would sell, would give to their affiliates for a financial fee or a financial gain. It's about you, your family, your habits. I believe in protecting our personal privacy.

Now I don't want to hurt our banking institutions. Maybe some of these large institutions may leave the State of Maine. Certainly that would open up a lot of opportunities for our smaller institutions wouldn't it? But the reality is that we have to make a decision and we're going to vote in a few minutes to opt in or to opt out. That's our opting in and opting out today. Personal information, keep it confidential versus doing something other than that. Now will this totally make you secure in your private information? No. There is still tons of information out there from other sources. But this closes one area. It's bad enough, and I know this is off the track, that a faceless bureaucrat in an insurance company in Atlanta, Georgia makes decisions about my health care when I file an insurance claim. I have no input to it. But do we now want marketing companies making decisions on what to send me or send somebody else about my purchasing power, my purchasing ability, what I purchase? Nothing I purchase that I wouldn't share with anybody in this room, but the reality is that it is my information. I want the banks to keep it unless I choose to let them let it go. I can pick up the phone or sign the form and say yes, you may share this. I believe in you and you're doing a good enough job and this will help keep you financially successful. I don't care. Fine. But the reality is the needs to protect our privacy, I believe, far out weigh the needs of any commercial enterprise in this state. Thank you very much.

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

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. Again today I follow the good Senator from across the way, and for equally compelling reasons, I take a different point of view. The point of view I take is to support living wage jobs in Maine. I'm here to tell you a few quick stories.

The best things that have happened to my constituents have been living wage opportunities. First there is the people I see who didn't have that opportunity. I'll tell you about Verna. Verna

worked in the seafood factory. Showed up at 5 every morning. Taped her fingers for an hour. Started work with her sisters on a long assembly line. Took a break from 10 to 10:12. Smoked as fast as they could. Ate as fast as they could. Went back to work. Fortunately, even though Verna may have missed the living wage job opportunities that eventually came at the end of her life, at least 3 years before she died, after she got sick, she met a trucker and she got to travel. I went to her funeral this summer. There is a big 18 wheel semi on her tombstone. It was a Salvation Army funeral. Verna had a little bit of life for her last few years. I'm grateful. Had she been born 10, 20, or 30 years later, she would have had an opportunity for so much more in terms of income. She was a good person with a good mind and she needed a good job, but she never got it. She liked to work with the mentally retarded on the weekends because she couldn't stand it when people were born with good brains and didn't use them. She organized walks for the kids. She was a fabulous person. She never got a chance to get a living wage job and she worked her fingers to death.

Then there is Ed and Brenda. Ed worked on a campaign. Never thought they could afford a mortgage on a home. Got a job with a living wage and they could afford a mortgage. That story is told time and time again in my district. Then there is Kevin, a friend from Lewiston. Classical pianist, talented as can be. Went into the business I'm talking about in my district. Said there must be a place in this big operation for someone like me. Found a place. He managed to move home from the Reservation where his kids were being made fun of. He was able to spend much more time with his kids. Lastly there is Chris. Chris was a student of mine at Unity College. Wanted to go in the outdoors. Ended up at MBNA. Had a baby within the week and has a home. It's another success story where they have a living wage opportunity.

So for me, anything I can do to help make it easier for those who are providing living wage opportunities to the citizens of Maine, I'm going to do what I can. Today I'm showing that support with a vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. I want to talk a little bit about the business aspects, as my good friend from Penobscot, Senator Youngblood, and the good Senator from Waldo, Senator Longley, mentioned a little bit. I'll ask you to defeat the pending motion so we can pass the Minority report. We are not doing the citizens of Maine any favors at all by discouraging businesses from coming here or encouraging businesses to leave here. Financial modernization is here whether we like it or not. Maine is not an island unless we choose to be. If we go with the report that is in front of us right now, we will, indeed, be an island. Forty-four states in the United States right now have opt out. Two states have changed from opt in to opt out. Why would we want to be different? Why would we want to discourage companies who are looking at coming here? Why would we want to encourage companies to look at elsewhere to go? That does not make sense to me. We'll hurt our small institutions who don't have the money for the computer programs that will be needed to keep up. Institutions in Maine would have to comply with the opt in but financial institutions like Citi Bank and First USA wouldn't. Is that fair to the financial institutions in Maine? Is that fair to the workers in Maine? If we pass opt in,

that's one more reason on top of our tax structure, which we'll get into later, for business not to bother with Maine. I would urge you to defeat the pending motion so we can pass the Minority report and be in compliance with the rest of the country. Thank you.

On motion by Senator **DOUGLASS** of Androscoggin, 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 (#68)

YEAS: Senators: DOUGLASS, EDMONDS, LAFOUNTAIN, MCALEVEY, RAND, TREAT

NAYS: Senators: ABROMSON, BENNETT, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LEMONT, LONGLEY, MARTIN, MILLS, MITCHELL, NUTTING, O'GARA, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

ABSENT: Senator: PENDLETON

6 Senators having voted in the affirmative and 28 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-235)** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-236)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "B" (S-236) **READ** and **ADOPTED**.

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

On motion by Senator **SHOREY** of Washington, 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 (#69)

YEAS: Senators: ABROMSON, BENNETT, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: DOUGLASS, LAFOUNTAIN, RAND, TREAT

ABSENT: Senator: PENDLETON

30 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 1 Senator being absent, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-236)**.

Sent down for concurrence.

Off Record Remarks

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

RECESSED until 2:00 in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

An Act to Ensure Access to Health Insurance
H.P. 1256 L.D. 1703
(C "A" H-370)

Tabled - May 23, 2001, by Senator **DAGGETT** of Kennebec

Pending - **ENACTMENT**, in concurrence (Roll Call Requested)

(In Senate, May 16, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-370)**, in concurrence.)

(In House, May 22, 2001, **PASSED TO BE ENACTED**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#70)

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

NAYS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, KNEELAND, MARTIN, MCALEVEY, MITCHELL, SAVAGE, SAWYER, SHOREY, WOODCOCK, YOUNGBLOOD

ABSENT: Senators: LEMONT, PENDLETON

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators 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.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Regulate Push Polling" S.P. 308 L.D. 1055

In Senate, May 17, 2001, **PASSED TO BE ENGROSSED.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "D" (H-545)**, in **NON-CONCURRENCE.**

On motion by President Pro Tem **BENNETT** of Oxford, the Senate **RECEDED** and **CONCURRED.**

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Promote Fairness and Equity in Liquor Prices"

S.P. 136 L.D. 460 (C "A" S-168)

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-168)** (3 members)

In Senate, May 10, 2001, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-168).**

Comes from the House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**

Senator **DOUGLASS** of Androscoggin moved the Senate **RECEDE** and **CONCUR.**

At the request of President Pro Tem **BENNETT** of Oxford a Division was had. 21 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **RECEDE** and **CONCUR**, **PREVAILED.**

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/10/01) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Governing Municipal Citizen Initiatives and Referenda" (EMERGENCY)

S.P. 231 L.D. 796

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-167)** (8 members)

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

Tabled - May 10, 2001, by Senator **PENDLETON** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 10, 2001, Reports **READ.**)

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

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

Senator **DAGGETT**: Thank you, Mr. President, members of the Senate. I hope you will vote in opposition to the motion that is on the floor so that we can move to accept the other report. This bill is really about setting a deadline, setting a finish line. Currently, at the local level, once a project is permitted, has gone through an entire permitting process, it is possible for that process to be put on hold, to be stopped, to be changed even after the entire process has been respected. It makes it extremely difficult for projects to go forward, for there to be any degree of predictability. I hope you will oppose this motion. Currently there's a pretty strong process at the local level and opportunity for citizens to be heard. This doesn't change the right of citizens to be heard. It doesn't change the process of petitioning. What it means is that retroactive action cannot take place. I think if we think a little about the work that we do here, it is very uncommon for us to act in a retroactive fashion. That is solely what this is about. I think this gives us an opportunity to respect the local process and to allow localities to have a better determination of their futures. So I hope you will oppose the motion that is on the floor. Thank you.

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

Senator **YOUNGBLOOD**: Thank you, Mr. President, ladies and gentlemen of the Senate. Citizen initiatives and referendum. Four words that put the fear in the heart of every politician, man and woman. But this really isn't about referendums. When it comes to citizen initiatives, when it comes to referendums, and people's right to speak on issues, I'm so close to looking like Mary Adams that you'd think we were joined at the hip. I didn't admit that on the record, did I? But this isn't about referendums. It's about the ultimate 'not in my back yard' statement. I'd like to thank the good people from Portland and Cumberland County for being smart enough to show the rest of the state a way to stop a project. When this came to the Committee on State and Local Government, it was sort of affectionately referred to as 'The Portland Bill.' But it will happen in everyone's yard throughout this state. It happened in Topsham and the good Democratic Representative Lessard from Topsham spoke to it eloquently in committee. If there is a project that is happening in your area, in your community, and somebody doesn't want that fire station in their back yard, that nursing home, that low income housing project, that shopping center and I know that there are some of us who don't like shopping centers, they all have to go through a public process. They all have to meet the criteria of citizen oversight. When the bill first came to committee, it was not anywhere near acceptable. It, in fact, said that once a project had been started, once it was in process, you could not put out a referendum or do anything to stop it. That didn't make sense because no one could identify when a project gets started. It was changed in committee to be after the permits have been issued. All the opportunities arise during that period of time for citizen input and hearings. Ultimately, they take a vote. This says you can have input but if you don't like the vote, here's a chance to slow it down. In Topsham, it was a project that the community badly wanted. A few citizens didn't. It put off the development process for the number of months that it took in order to get this thing built. We all know the worst enemy of any developer is time. The more time that goes by, maybe there will be something that will go wrong, but it prevents the project from taking place. That's their hope. Slow it down. If you don't like the process that your planning board is going through, if you don't like your

comprehensive plan, if you don't like the code, there is always the opportunity for referendum. This doesn't do away with that. It merely says once the permits have been issued on this particular project, you then can't slow the project down by asking for a referendum that may not take place for 6 to 8 months later in the hopes of turning that around. I hope that you will vote against the pending motion of Ought Not to Pass and go with the Majority Report. It was a complete non-partisan vote in the committee. You can turn down the Ought Not to Pass motion so we can vote for the Ought to Pass. Thank you very much.

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

Senator **ROTUNDO**: Thank you, Mr. President, men and women of the Senate. Elected and appointed public officials sometimes make mistakes. Sometimes local governments are not as inclusive as they should be of local citizens when they are making decisions. L.D. 796 takes away the opportunity of ordinary citizens to petition their government when they feel that mistakes have been made and when the process has not been as inclusive as it should have been. Democracy is sometimes necessary, but governments exist to serve the people. We must not take away the ability of ordinary citizens to challenge the power and authority of their government. Particularly so when they feel that mistakes have been made or perhaps the process has not been as inclusive as it should have been. For this reason, I hope you will join me in voting for the motion that is currently on the floor. Thank you.

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

Senator **PENDLETON**: Thank you, Mr. President, men and women of the Senate. It's great to be back with all of you. Just want to say that right off the bat, quick here.

I voted in the Minority Ought Not to Pass on this piece of legislation. I think I owe it to you to explain to you why. It was brought to our attention during the public hearings that it was not just a Portland bill. I was never quite sure why it came out that way. There were other towns and cities that had problems with this issue. The bill, obviously, intends to block citizen involvement and their influence over the direction and shape of their local development. That was one of the things that kind of stuck in my mind and that was one of the reasons I was very reluctant to vote in favor of this piece of legislation. It would prevent citizens from having any oversight over the actions of their municipal officers. When you think of the legislature, when we pass a piece of legislation, our constituents have the opportunity to initiate a citizens veto. Passing this legislation would take that away from people that are dealing with municipalities. That's the reason I voted Ought Not to Pass on this legislation. I hope that you will consider that. Thank you.

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

Senator **DOUGLASS**: Men and women of the Senate, I rise to speak in favor of the pending motion, the Ought Not to Pass Report. I want you to think of the situation of the ordinary citizen in a small town or even one of our larger cities. They are not often able to go down to the councilmen's meetings. They are not

able to go to all the planning board meetings that might be held on a project. In fact, they might not know about a project that they feel is not in the best interest of their community until that project is well along on its way. In general, my experience has been that when a town sees development occurring, generally the town supports it. There are rare instances, however, when that support is not there. There are usually very solid reasons why. I would like you to think about the citizen who learns that a town is about to embark on a great change in its landscape and in its economic life and to think about what that citizen can do. What this bill would do is prevent that citizen from doing anything further. I think that's the wrong message to have in our democracy. That citizen currently can, if it's permitted by their charter, go to their other town members and get signatures on a petition to change the action of their selectmen and their planning board. Think about the number of signatures that takes. Think about the amount of energy that takes. It takes hours. It takes days. It takes weeks. Someone who has taken that position, I argue to you, has taken it very seriously indeed and is working for the betterment of their community. We ought to respect that and respect the democratic process. We ought not to cut off that right, and I think it is a right, before the citizens know of the impending change. That is what this bill would do. It would effectively cut off a citizen's right to petition their government before that citizen really has notice of the issue at hand. Matters that come before the planning board are generally noticed to the adjoining property owners. They are not noticed to the entire community. Similarly, changes at the selectmen's meetings are often not noticed to the entire community and are not talked about until some impending large change occurs. In general, this citizen initiative is little used, but when it is, I suggest to you, it's very important. We ought to honor it. I urge you to vote Ought Not to Pass on this matter.

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

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. I hope that you will accept the Minority Ought Not to Pass Report. This is an extremely important bill to me because it is a direct slam against the rights of the people of this state. It is the taking away of a right that presently exists. I personally don't feel that we have to fear the voters to the extent that we have to curb their democratic rights which now exist.

About 14 years ago we had a situation in my city, the City of Portland. Our elected officials, duly elected, fine people all, decided that there would be no more fishing out of the port of Portland. They decided that there would be condominiums from one end to the other. They decided that the people of Portland would be allowed view corridors of the ocean. They very nicely explained to us, that once they had given their permission, if we stood in the middle of Exchange Street or Pearl Street we would be able to look down and see some water. When the people of Portland heard that this is what our duly elected officials had decided, we were outraged, not only because of our fishermen but because of our longshoremen from the cargo port that is in our harbor. We went through the unbelievably difficult job of collecting the number of signatures in the dead of winter. At that time, you actually had to go to City Hall. The petition could not be circulated. A former member of this body, Senator Georgette Berube from Lewiston, got that changed. When she heard about that little provision, she put a bill through the legislature to change

that so it allows the petition to now be circulated. Because the people of Portland found out about the plan after our city officials, our elected city officials, had okayed it, we had to go through the initiative route. It was not easy. It was 1 ½ years out of my life for sure. The end result was that 28 out of 28 polling places in my city voted to support the initiative. There are not many people today who would not say thank God that happened. We have a vibrant cargo port. We hope to expand it when we move the ferry up to the BIW spot. The fish auction is the envy of the northeast coast. We do still have people fishing out of the City of Portland. If this bill had been law at that time, we could not have done it. The deed would have been done. They would have forced total condominiums onto the people of the city of Portland. 28 out of 28 precincts rejected that.

I would like you to read Senate Amendment 167. This is not just a bill that would stop some building somewhere. This is limitation on ordinance power. You would be limiting the power of your constituents to act. 'A municipal ordinance or bi-law enacted by citizen initiative or referendum may not contain a retroactive clause that invalidates, repeals, revokes, modifies, or has the effect of invalidating, repealing, revoking, or modifying any building permit, zoning permit, land use approval, subdivision approval, site plan approval, rezoning.' Can you imagine, if your city council meets some night and rezones something. That's too bad, you can't ever do anything about it. 'Certification variance, or any other action having the effect of permitting development.' I think that this bill goes way beyond anything that a democratic person, somebody who believes in the freedoms that we have in this country and in this state, would permit. It goes way beyond the pale on this one.

Someone mentioned, I can't remember which Senator, that there is a process, a planning board process, and other things. Most people do not even know what's going on in these planning board meetings and city council meetings. Is that right? Probably not. Is it right that less than 50% of the people in this country vote? Probably not. But it is a fact. When the public does find out about a decision that their city council has made, what you will be telling them by voting for this bill is that's just too bad. You have no say. You cannot access the process that Maine law allows. By the way, after that waterfront referendum in Portland 14 or 15 years ago, we were sued. We were taken to court because of the retroactive clause. Not surprisingly, the court upheld the people's right to do this. It is the law now. By voting against this motion and voting for the Ought to Pass, you will be cutting the legs out from under every citizen who wants to ever, in the future, question an action that their city council has done. I would urge you to please accept the Minority Ought Not to Pass. Thank you.

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

Senator **DAGGETT:** Thank you, Mr. President, members of the Senate. There are certain things that I agree on regarding this bill. It certainly is about people's rights. It's about everyone's rights. It's about the rights of people who have taken the time, had the expense of going through the permitting process at the local level to have their time, their money, their efforts, and their energy respected. I don't think that this is something that should be taken lightly. It's not about developing a plan. It's about a permitted and appropriately approved project. I'm guessing that most of us are familiar with at least certain parts of this process. I

have had the fortune and the misfortune to have been on the permitted and the non-permitted and the approved or non-approved. I've had my needs met on some occasions and have had it not met on others. From the time that a permit is applied for in these processes, there are many opportunities for citizens to be involved. In fact, after a permit is applied for, local government can and has asked for and gotten moratoriums until there is an opportunity to take a further look at what is going on and whether changes in ordinances might be necessary or not necessary. There is a full time for citizens to be involved. I am not an attorney, but it is also my understanding that even after a project has been permitted, there is an opportunity to take it to court to make sure that there has been opportunity for the public to be involved. In fact, after a project is permitted, most communities have a board of zoning appeals which allows the appeal of a permit. So you do have additional time after a project is permitted. Even after that appeal, you have an opportunity to take it to court. It is a process that is open. There's opportunity for comment. There's opportunity for public notice. There are opportunities for citizens to make sure that there is adequate notice by making sure that the zoning ordinances in that community require it. You can specifically require certain notices. In fact, you can require the entire community be noticed of any project if that was what you so chose. It is about people's rights. It is about everyone's rights. Everyone's rights to be respected for what they have done. I would ask that you vote against the motion that's on the floor.

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

Senator **MARTIN:** Mr. President, members of the Senate. Listening to the comments from the Senator from Kennebec, Senator Daggett, reminds me that of course it's possible for anyone to go to court. All you need is \$75 to file at Superior Court. That's about all you need to do. But it's another story about whether or not you're going to win. That poses another dilemma. I'm one of those who has, obviously, been subjected to the will of the people. I was so powerful in my ability to effect the vote that it had an impact in 24 other states. I do think that there is one thing we need to remember, the public may not always be right. But they are the public. They are the citizens. I may not like what they do, I may try to convince them that what they are doing is wrong. I may not like it, I may hate it, and I may tell them so. Which I have done from time to time. But in final analysis, the public has the right and to take away any right from them, I think, is a mistake. I think it's unfortunate that the developers have to work a little harder in order to achieve their goal. But look at what happened in Portland. Who won? Who won? It didn't go into effect. The citizens exercised their right. It went to the voters and the voters rejected the petitioners. That's our process. I don't see anything wrong with that. I don't know why we want to curtail any of their rights. I may absolutely vote against them, and I have, but I think it's a mistake to withdraw the rights of the citizens. I would hope today that we would not do that. In the final analysis, people who vote for this, in my opinion, are removing from the citizens a right that they have. It is their government, not mine, not the developers, nor anyone else. It is theirs. That, in my opinion, is the way it ought to stay. I would urge the members of the Senate to Accept the Ought Not to Pass Report.

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

Senator **MILLS:** Mr. President and men and women of the Senate, permit me please to take an opposing view. If I were to start building a house tomorrow on a plot of land that I'd bought and some of my neighbors took exception to my living there or to building a house. Suppose I had all my permits lined up. I had obeyed the law. I had bought the house in good faith. I took out a mortgage from an eastern Maine institution that we're familiar with. I'm ready to roll, and all of a sudden, some citizens circulate a little petition. They want to prohibit me from building my house on land that I've bought and got a permit to build on pursuant to the ordinances and the statutes. I would be outraged. My house is in progress of being built. I've incurred a lending obligation to a bank. I've got my heart set on this place. There was no law against doing what I did. All of a sudden they create, out of whole cloth, a retroactive law that says 'oh, no, you can't build there. Stop. We just changed the ordinances of the town of Cornville. You can't build there.' I can't imagine any one of us in this room putting up with that in a free and democratic society.

Our laws right now, the laws of the State of Maine, as they govern municipal government and officials, are somewhat in doubt about whether a citizen referendum could turn around a fully permitted project, whether it be commercial, residential, or what have you. The case in Portland at the fisherman's wharf, which was so famous from about a dozen years ago, was not a case where they had gotten the permits. Those folks invested tens of millions of dollars in planning and were advised by counsel that 'oh, don't worry about a referendum, it can't be retroactive. Clearly that would be wrong. There's a state law that says that you don't ordinarily apply ordinances retroactive.' The developers went ahead with a very fancy, very expensive project. They got a long way down stream but they hadn't gotten the permits yet. The citizens referendum was passed to save the waterfront for all of the good reasons that the good Senator from Cumberland, Senator Rand, reminds us of. There was a law suit filed and the Superior Court, believe it or not, agreed with the developer and said 'oh, no, this citizen referendum came too late. It cannot be retroactive.' The case was appealed by the citizens of Portland to the Maine Supreme Court. The Maine Supreme Court said 'no, state law doesn't seem to prohibit a retroactive changing of municipal ordinances, even in this situation.' My reading of the case is that they never got so far as to say what would have happened if the fisherman's wharf developers had already gotten the permits by that point. They hadn't.

Now this bill that lies before us today simply says if you had succeeded in filing your application, had gone to all of the nighttime sessions with your engineer and your developer, you had gotten your financing lined up, and you've made a decent presentation to town officials under the then existing ordinances and state laws, you had gotten your permits from DEP if required, you'd done your soil and water analysis through the conservation district, you've got everything lined up, and then finally, at the end of that long process which sometimes takes 3 months, 6 months, a year, or 2 years, you had gotten that all done and they had stamped your book of plans approved, permit granted, at that point it's too late for a citizen referendum or initiative to declare retroactively 'oh, no, no, it's not going to happen. We're rewriting the laws to prohibit you from doing something that our government has permitted you to do.' That is the very limited impact of this bill. It is still going to be possible, if you pass this

bill, for someone to invest heavily in a project, make an application to the city fathers, go through those nighttime meetings, get all of their bank loans lined up, go to DEP if they need to, get right up to the edge of getting final acceptance of the permits, and have the citizens get an ordinance through that changes the law and prohibits the issuance of that permit. It can still happen, even if you pass this law. But there ought to be a watershed point in time. If due process, fairness, and democracy mean anything in our society, if property rights mean anything in our society, if you reach a point where you've satisfied the law and you've got your permit, you ought to be able to get a backhoe on site and get moving. Somewhere along the line somebody has to say enough is enough, is enough. You're permitted to go ahead. You're a citizen who complied with our laws. Go in peace. That's all that this bill does, it sets a watershed point where it is too late for a change in the laws to prohibit your doing what you may lawfully do. For that reason, I urge that we vote against the Minority Ought Not to Pass Report so we can go ahead and Pass this bill. Thank you.

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

Senator **RAND:** Thank you, Mr. President and men and women of the Senate. If there is one person I do enjoy listening to in this body it is the good Senator from Somerset, Senator Mills. Every single thing that the Senator said is absolutely true. But if this limitation of ordinance power that we're contemplating here is good to take away from the citizens, how come this bill would still allow a board of selectmen or a city counsel? As was pointed out, these things sometimes takes months from conception to permitting. There could be an election and a new city counsel. That city counsel could say 'we don't want it. We're voting no.' So if retroactivity is evil and so horrible, why is it still a valuable tool for city counsels? Why is it a value tool for us here in the legislature to have? You say we rarely pass bills retroactively? That's not really accurate. We've just done 2 in my committee, the Judiciary Committee, just recently. It was necessary. It was absolutely necessary to pass these bills retroactively, to make these corrections. This flies in the face of justice. If retroactive clauses are so bad, so unfair, if they're going to be so trying and so troublesome to developers or Senators who want to build a house that other people don't want, then why doesn't it remove the ability to do things retroactively on all levels? It doesn't. All this bill addresses is the right of your constituents and my constituents to try, and that's the word 'try,' to get the signatures and try to pass a citizen initiated referendum that does contain a retroactive clause. If, as the good Senator from Somerset, Senator Mills, states, the retroactive piece was not really dealt with because of the permitting thing, then so be it. If the good Senator from Kennebec, Senator Daggett, thinks that the people can just go to court instead of doing a citizen initiative, then let the developers or whomever is trying to build whatever they're trying to build, go to court. This is a direct taking away of citizens rights and I believe we would be wrong to do it. Please accept the Minority Ought Not to Pass Report.

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

Senator **SAWYER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I am, by background, a physical

education teacher, garbage man, and now politician. If I harken back to my days at the University of Maine, it seems to me, that in our culture, when the buzzer blows, the game is over. I ask you to harken back several Olympics ago when the United States was playing Russia in the championship round in basketball. It got down to the last bit of the game, the buzzer blew, the United States was ahead, everyone cheered, but apparently the buzzer hadn't blown. The game wasn't done. A few more seconds were added onto the clock. So the game had to continue on for a few more seconds. The United States did their best. The buzzer blew and they won for the second and final time. Everybody cheered. But so quick. There were yet a few more seconds that somehow needed to be added to the game clock. Low and behold, at the third time the buzzer blew, Russia had won the basketball game. I was upset. I assume anybody who's here was upset. America was upset. I propose to you that the obtaining of a bonafide permit to go forward from the appropriate authorities deserves to the applicant the ability to go forward and not be stopped. The buzzer has blown. It's time to move on. Thank you very much.

The Chair ordered a Division.

On motion by Senator **ROTUNDO** of Androscoggin, 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 (#71)

YEAS: Senators: BROMLEY, DOUGLASS, EDMONDS, KNEELAND, LAFOUNTAIN, MARTIN, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, CARPENTER, CATHCART, DAGGETT, DAVIS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, LONGLEY, MCALEVEY, MILLS, MITCHELL, O'GARA, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senators: BENNETT, LEMONT, NUTTING

11 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-167)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-167) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-167)**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/15/01) Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Amend Maine Credit Laws"
H.P. 1276 L.D. 1736

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-274)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-275)** (5 members)

Tabled - May 15, 2001, by Senator **LAFOUNTAIN** of York

Pending - motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-275)** Report, in **NON-CONCURRENCE**

(In House, May 9, 2001, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-274)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-274)**.)

(In Senate, May 15, 2001, on motion by Senator **DOUGLASS** of Androscoggin, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-275)** Report **ACCEPTED**, in **NON-CONCURRENCE**. Subsequently, on motion by Senator **SMALL** of Sagadahoc, **RECONSIDERED**.)

The Chair ordered a Division. 20 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-275)** Report, in **NON-CONCURRENCE**, **PREVAILED**.

READ ONCE.

Committee Amendment "B" (H-275) **READ** and **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-275)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/15/01) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Classify Employer-provided Medical Treatment as a Payment under the Maine Workers' Compensation Act of 1992"
H.P. 644 L.D. 844

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-244)** (7 members)

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

Tabled - May 10, 2001, by Senator **TREAT** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In House, May 7, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-244)**.)

(In Senate, May 8, 2001, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 9, 2001, that Body **ADHERED**.)

(In Senate, May 15, 2001, motion by Senator **EDMONDS** of Cumberland to **RECEDE** and **CONCUR**, **FAILED**. Subsequently, **ADHERED** to **ACCEPTANCE** of the Minority **OUGHT NOT TO PASS** Report. On motion by Senator **TREAT** of Kennebec, **RECONSIDERED**.)
Senator **EDMONDS** of Cumberland moved the Senate **RECEDE** and **CONCUR**.

The Chair ordered a Division. 17 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **RECEDE** and **CONCUR**, **PREVAILED**.

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

An Act to Protect Highway Travelers and Maine's Highway System by Increasing Fines on Excessively Loaded Trucks
S.P. 431 L.D. 1411
(C "A" S-184)

Tabled - May 23, 2001, by Senator **SMALL** of Sagadahoc

Pending - **ENACTMENT**, in concurrence (Roll Call Requested)

(In Senate, May 15, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-184)**.)

(In House, May 21, 2001, **PASSED TO BE ENACTED**.)

On motion by Senator **SMALL** of Sagadahoc, 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.

ROLL CALL (#72)

The Secretary opened the vote.

YEAS: Senators: ABROMSON, BROMLEY, CARPENTER, CATHCART, DAGGETT, DOUGLASS, EDMONDS, FERGUSON, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, MCALEVEY, MILLS, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER

NAYS: Senators: BENNETT, DAVIS, KILKELLY, LONGLEY, MARTIN, MITCHELL, NUTTING, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

ABSENT: Senators: GAGNON, LEMONT

23 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 2 Senators 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.

The Chair laid before the Senate the following Tabled and Later (5/21/01) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Increase Access to Unemployment Compensation for School Bus Drivers"

S.P. 473 L.D. 1537

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-226)** (7 members)

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

Tabled - May 21, 2001, by Senator **EDMONDS** of Cumberland

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

(In Senate, May 21, 2001, Reports **READ**.)

The Chair ordered a Division.

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

THE PRESIDENT: The Chair recognizes President Pro Tem Bennett of Oxford.

President Pro Tem **BENNETT:** Thank you, Mr. President, fellow members of the Senate. I'm hopeful that you will vote for the pending motion, the Majority Ought to Pass Report, on this bill. There is a lot of talk about this bill, L.D. 1537, "An Act to Increase Access to Unemployment Compensation for School Bus Drivers." There's a lot of information being spread about this. I know the school districts, superintendents, and whatnots, have been on the phone talking about what a horror this bill is. But let me tell you,

in my view, this bill, which I sponsored, is long overdue. I put this bill in because I believe that we should correct an inequity which was perpetrated, I believe, back in the late 1970's when a special carve out of our unemployment law was provided to certain municipal employees and employees of school districts. In my view, it's critically important that school bus drivers who work for public systems be given the same rights as school bus drivers who work for private companies. One of the reasons that so many districts are turning to private firms to provide school bus drivers is that it is more and more difficult to attract good people to the career of a school bus driver. So school districts are finding, increasingly, that they must go to private firms to get their school buses driven. The problem and the fundamental inequity this bill would address is that those drivers who work for those private companies, when they are laid off at the end of the school year, get their unemployment benefits because they work for a private company. But if those folks happen to work for a public authority, the school district, directly, they will not get their benefits.

I know there is a lot of concern about this being a mandate. Well, it doesn't have to be a mandate. We could choose to fund this. The cost is significant but it's not exorbitant. In my view, correcting this inequity is completely and totally legitimate and worth the cost. I would ask you to take a look at a document that I had distributed to your desks just a couple of minutes ago. Unfortunately, this particular sender, who I gather is the Superintendent of Schools in Rockland, South Thomaston, Owls Head, Donald Kanicki, speaks volumes in his approach on this issue. His approach is characteristic of some of the hyperbole that I've heard about this issue. I distributed this to you knowing that he is arguing the other side of this issue. But I ask you to read his comments, which I find completely over the top and outrageous. Using terms like asinine legislation.

He goes on to ask a bunch of questions. 'Do you have any idea what an extra tax burden on the tax payers this legislation would cause?' Well, yes. That presumes that we don't go to all private sector school bus drivers in the future, which is certainly the trend we're heading in. But yes, we do know. The committee looked at that question and found out that the fiscal note on this bill was about a million dollars, significantly less than the 2 1/2 to 3 million dollars as was originally proported.

He asks 'why should bus drivers who work 175 days driving bus have access to unemployment?' Well, why shouldn't they have access to unemployment like every other employee? Indeed, as I said, bus drivers who work for private companies do have access to unemployment benefits. What these school districts do to avoid paying the unemployment is that they call them contractual laborers. They are working under a contract. The contract usually consists of one sheet of paper that says 'I agree to work for \$11.50 an hour. Please sign the bottom.' They sign the bottom of it and they end up getting not only \$11.50 an hour but being contractual employees, so they are no longer eligible for unemployment.

Mr. Kanicki goes on and asks 'what about the thousands of other 10 month employees, secretaries, educational technicians, cooks, and other school year personnel?' I believe that there is a difference, a dramatic difference, between school bus drivers and cafeteria workers, custodians, and all the other folks who keep our schools humming. The difference is that we expect these school bus drivers to pick our children up curb side, supervise them alone in a bus as they are driven to school, and they have a tremendous amount of responsibility for our children. Much more responsibility than we put on custodians and cafeteria workers.

It's critically important that these skilled, licensed employees, which they are, are the best that we can get. By not rewarding them appropriately and treating them in manner consistent with their private sector colleagues, I think is a very bad message to send.

Mr. Kanicki goes on to say 'what about teachers? They're not employed during the summer? Should they also receive unemployment benefits?' Teachers get a year-round pay. Bus drivers do not. Bus drivers get an hourly wage. Teachers are contracted on a year-round basis.

There is a lot of hyperbolic language that follows in Mr. Kanicki's memo to me. At the end, of course, he feels the need to impugn my motives personally by saying 'by the way, if you believe you will further your future political ambitions with this type of legislation, you are mistaken. The tax payers will know who it was that caused another unfunded mandate to be added to their high taxes in the mid-coast.' I would submit to you that Mr. Kanicki is adding nothing to the public discourse and breeding on cynicism about public debate when he impugns the integrity of members of this body about our motives on legislation. We can respectfully disagree on issues. I know that I have some disagreements among Republicans on this bill from my caucus. But I am shocked that a member, a leader in a community, a superintendent of schools would engage in the debate in this nature. It is completely and thoroughly inappropriate. I, for one, wanted to bring it to your attention because, unfortunately, as we've seen earlier among leaders who disagree with members of the Senate, there seems to be an open season on us here in the Maine Senate. I wanted to let you know that the attacks continue.

The bottom line is is this bill good for Maine kids? Is it good for Maine families? Is it good for our citizens? The bill is good because it corrects an inequity, it treats these public employees just like the private sector colleagues are being treated now, it tells some very valuable people to the functioning of our schools that we care about them and that we believe that getting the best bus drivers are important, and it is a bill that will strengthen our schools, not diminish them. I hope that you will join me in supporting the Majority Report. Thank you, Mr. President.

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

Senator **DOUGLASS:** Women and men of the Senate, I served as chair of the Labor Committee in our last session. We discussed unemployment compensation. In fact, we had to correct a crisis in that fund because it was not well funded. We did that. When I first was approached about this issue by the man who had driven my school children, I thought that it was not likely we could pass the measure. But I wanted to put on the record the reasons that I'm going to support it today. As a society, we must insist on the best education possible for our children. The only way they are going to get there in our state, which is rural, is on the school bus. Their safety is paramount. Having served on the school committee in Auburn, I know that the bus drivers in that community work 3 hours, then they're off and not paid during the interim, and then they work 3 hours. They have to find employment during the summertime. That is becoming more and more difficult. One of the great joys I had in marrying a person from Maine and moving here was to have a bus driver who had actually driven my husband to school. He's Paul Berry, who was a bus driver in Auburn for 50 years. He was a farmer and still would be if his knees didn't hurt him so much. But as we all know,

our society has changed. The way of the farmer is fading. Agri-business is on the rise. For individuals who can drive a bus full of kids, employment during the summer is difficult. Some of that work is available in the schools and in some school districts it's not the policy to hire those individuals because their pay is more than that of, say, college students who are available. I would like to see that policy changed. I would truly like to see the bus drivers have employment during the summer and passing this bill would encourage us to do that. I want to just leave you with this thought, because I have never taken more than 5 or 6 children in a van anywhere. To drive 75 kids to school each and every day and get them there safely on the icy roads, through the slushy snow, when they are ready to be out of school and no longer interested in cooperating and being good kids on the bus towards the end of school and start of the summer session, I think is a very difficult job. These people are trained to it and do it well. I think we need to be careful, as we vote on this measure, to think about how our society has changed and whether we really can consider that the type of seasonal employment we require for bus drivers is still appropriate. I think it's not.

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

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. It's not very often that I part company with the President Pro Tem, but on this particular issue I'm going to. I would hope that this body would vote against the pending motion. I know up in my district, a lot of the folks that drive school bus have a part time position. They may be housewives or retired people, and they want to work 3 or 4 hours a day. In regards to Mr. Kanicki's letter, he did say one thing in there that I agree with, not in its entirety but partly. It says 'you are opening Pandora's Box.' I wouldn't call it irresponsible legislation, I don't agree with that. But it very definitely is Pandora's Box. What about the cafeteria workers and other part time folks? Maybe even teachers that will try to get this benefit during the summer. I think it's a very expensive piece of legislation and it doesn't pass the commonsense test. I would urge you to vote against the pending motion. I thank you, one and all.

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

Senator **ROTUNDO:** Thank you, Mr. President, men and women of the Senate. Before you vote on 1537, I hope you will think very carefully about the financial impact that this will have on your local school districts and the capacity of those districts, at this point in time, to absorb yet another cost. I also hope you'll think about the financial impact on your districts if other seasonal workers step forward to demand the same kinds of benefits in the future. Ed techs or cafeteria workers for an example. This is going to be a yearly cost for our school districts and it's a cost that is going to translate into the reduction of educational services and/or increased taxes for local property tax payers. This is the kind of unfunded mandate that is very unfair to local communities. As chair of our local school board, I can tell you that these are the kinds of unfunded mandates that are very difficult for us to absorb. I hope you will join me in voting against the Majority Ought to Pass motion.

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

Senator **SMALL:** Thank you, Mr. President and men and women of the Senate. Before we vote on this, I too share the outrage of the good President Pro Tem Bennett of Oxford at the letter he received and I think it is entirely inappropriate. But I don't want to color our debate based on the misguidance of one or perhaps 2 superintendents, because all of us are going to have to live under what ever legislation we pass. All of our districts will be effected. There has been some very good testimony regarding the burden that this will place. For those who have not actually seen a copy of the Maine School Management's testimony, and I know that it's easy to say that this will cost \$2 million or \$3 million, but if you look at it individual districts; the City of Portland would be incurred an extra \$84,300; MSAD 6 would incur \$83,692; MSAD 60, which is Berwick, North Berwick and Lebanon, would have a \$64,000 increase; Skowhegan would have a \$60,000. It goes down to even the smaller towns; Winslow would incur \$16,000; Vassalboro at \$11,000; Van Buren at \$12,000. I'm sure that my school districts are somewhere in the middle of those because they are not particularly large districts for transportation costs. But they are somewhere in the middle. Unfortunately, we're not eligible for Tier 1, Tier 2, or Tier 1A compensation in the budget, so anything incurred through this legislation would have to be borne by our taxpayers. Frankly, with an 8% increase projected in our local property tax this year in part because of the education budget and our municipal budget, I simply couldn't go home to my constituents and explain why I supported this. So I hope you will reject the Ought to Pass Report so we can go on and accept the Ought Not to Pass Report and not send a message to our constituents out there that we are yet again sending out another unfunded mandate. Thank you very much.

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

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. I feel I must clarify a few things that have come before you because I don't think they fully explained all the information that you need to have. The first one is the question of where the money would come from. As you know, the money would come from the unemployment insurance fund. Since school districts are already paying into the unemployment insurance fund for those workers even though no benefits are being given, should there be enough people who would ask for and receive a benefit, they run the risk of, in fact, having their portion that they have to pay into the unemployment insurance fund raised. We don't know what that number is. In the testimony from the folks at Maine School Management, they were very honest in saying that the paper they gave us, that the good Senator is quoting from, refers to figures if every single school bus driver chose to get and ask for unemployment insurance. Those are the figures you see. But the other reality was that we received from the unemployment people themselves is that maybe 40% of the school bus drivers would even seek unemployment insurance. So I think you have to temper the comments you've heard with those pieces of reality. I think that is the only thing I want to add because I think you need to know that it's pretty clear that not every school bus driver is going to ask for it and they have to meet the same standards that everyone else who is asking for unemployment insurance has to

meet in order to receive it. I just want you to have that information before you make your decision. Thank you.

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

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. As most of you know, I have probably been one of the biggest proponents of property tax relief since coming to the legislature. That's the primary reason why I began serving in the House and now here in the Senate. It is very important to me, particularly coming from a city that will be surpassing 25 mills in it's next tax year. But there are some things that are just the right thing to do. This is a bill that would provide benefits to school bus drivers who would be receiving them in the private sector. I think that's only fair that we do the same thing. I'm concerned about property taxes. I'm concerned about school costs. But I'm also concerned about the quality of school bus drivers that we have in the State of Maine. We have sprawl in this state. Children are riding longer, having longer days on buses. Whether we did it by accident or we did it by design, that is the reality of the situation.

A couple of weeks ago, one of my daughters got off the bus and came running and said 'Dad, Larry wants you to vote for some bill, I don't know what it is.' You all know Larry, he's her school bus driver. She has a relationship with Larry. It's the first relationship that she has when she got on the bus for kindergarten. It continues to this day. Larry comes back year after year. Larry is represented by a labor organization in my city. I would argue that we probably have some of the best quality bus drivers in the State of Maine. Even though we're a relatively small city in size and the buses don't put a lot of miles on chugging around the city, they certainly are going to a lot of athletic events, going to a number of field trips, and they are on the road pretty consistently. They are valuable, I think, to the process and particularly to the safety of my children when I'm not there as anyone else in the school. So while I am concerned about property taxes, there are things we can do about that. I'm concerned about educational costs, there are things we can do about that. This is just simply the right thing to do. Thank you, Mr. President.

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

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I'll be very brief. The fiscal note is the fiscal note. It's roughly a \$1.2 million. I think, if we pass this bill, one of two things will happen. Either the school districts will be cutting their services in order to pay the bill or the property taxes, in deference to Senator Gagnon, will go up accordingly. I would urge that you vote against the pending motion so we can adopt the other report. Thank you very much.

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

Senator **SAVAGE:** Thank you, Mr. President, men and women of the Senate. I just want to clarify that just because the good Senator from Oxford, President Pro Tem Bennett, received a letter from a superintendent in my district, that is not the reason that I'll be opposing him on this bill. I have been in municipal government for 20 plus years. I know that every time we send a

mandate to either the municipality or the school district it effects all of my constituents in their pocketbooks. That's what I'm considering when I cast my vote. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Edmonds 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 (#73)

YEAS: Senators: BENNETT, BROMLEY, DAGGETT, DOUGLASS, EDMONDS, GAGNON, LONGLEY, MARTIN, MCALEVEY, PENDLETON, RAND, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, CARPENTER, CATHCART, DAVIS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, MILLS, MITCHELL, NUTTING, O'GARA, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: LEMONT

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/22/01) Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Strengthen the Maine Rx Program"

H.P. 376 L.D. 478

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-249)** (8 members)

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

Tabled - May 22, 2001, by Senator **LONGLEY** of Waldo

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

(In House, May 21, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-249)**.)

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

The Chair ordered a Division.

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

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would ask that you vote against the pending motion. If you will allow me to refer to the amendment, it requires that a prescription provided to someone who buys a medicine not covered by a company participating in the Maine Rx Program to have a prominently displayed label on the prescription or on the packaging. So be it. If that's what you wish, that is what we'll have. Proponents are suggesting to you that the more education a consumer has about prescription drug prices, it will save them money. I heartily agree. I don't think, however, this is the vehicle to provide that education.

This is a prescription bottle, for those of you who may take prescriptions from time to time. Prominently displayed on this is my name and the directions. Somewhat smaller printing tells you what the drug is and tells you who prescribed it. It even has the pharmacy name and number. Over here on the side it says 'important, unless directed otherwise by the physician, all this medication must be taken.' I don't think I paid attention enough. Now inside the prescription packaging was this piece of paper, 8 x 9" in length. I had not much else to do last night besides look at e-mails on 1703 and 1116, so I decided I would count the words. I lost track at 1,750. There is a lot of good information on here. If you'd like to understand the chemical composition of the prescription, it's there. It gives you information on the clinical trials. Tells you an awful lot about the pharmacology. Actually, relative information that I suspect you don't look at and I don't look at. If we could simply get people to read the instructions on this prescription bottle that tells you when to take it and for how long, we would advance the cause of civilization and probably make people in this state even more healthy.

I know that the Maine Rx Program has been an emotional tug of war for many people in this chamber and the other chamber of the legislature. Many of the pieces of the Maine Rx Program I fully support. This is labeled "An Act to Strengthen the Maine Rx Program." I don't think it does anything other than make some people feel good. It's not going to help us with educating consumers. I would request that you join me in voting against the Majority Ought to Pass Report. Thank you very much.

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I, frankly, was not too excited about this bill until, I believe it was, Monday. I was looking at the Wall Street Journal. That liberal paper had an article which dealt with a particular company, Bristol Myers. It talked about what they are trying to do because in a couple of weeks there will be a couple of drugs on the market that will be generic and will basically do away with a lot of diabetic medicine that is now brand named. I quote from the

Chief Executive of Bristol Myers, 'we've got to switch people and we've got to do it as quickly as we can before genetics enter the market.' This was said by the Chairman and Chief Executive of Bristol Myers which is based in New York City. What this bill does, or attempts to do, is to say that you're going to have something on there that is going to force the person to take a look as to whether or not something happens to be generic. Based on what this company is doing, trying to switch people to another drug before their drug loses its ability to be up there as a non-generic, I now understand the game. I didn't until Monday. I voted the other way just because others were going that way, I guess. I just followed the light, so to speak. I've seen the light based on the Wall Street Journal's article. I urge you now to do something that I wouldn't have been standing up and doing and I would have let the Senator from Cumberland, Senator Turner, have his say and I wouldn't have said a word. But the premier business newspaper in the United States now makes it clear as to the fact that we need to vote for this bill.

The Chair ordered a Division. 19 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-249) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-249)**, in concurrence.

Off Record Remarks

President Pro Tem Bennett of Oxford was granted unanimous consent to address the Senate on the Record.

President Pro Tem **BENNETT:** Thank you, Mr. President, fellow members of the Senate. Earlier today I missed a roll call on Unfinished Business #4, L.D. 796. The motion was to accept the Minority Ought Not to Pass Report. If I had been present, I would have voted no. Thank you, Mr. President.

Off Record Remarks

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator **NUTTING:** Ladies and gentlemen of the Senate, I also was absent and missed the vote on Unfinished Business #4, L.D. 796. I would like it to appear on the record that if I had been

present, I would have voted yes on the Ought Not to Pass Report. Thank you.

The Chair laid before the Senate the following Tabled and Later (5/22/01) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Limit Access to Firearms by Those Subject to Protection from Abuse Orders"
H.P. 847 L.D. 1119

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-469)** (7 members)

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

Tabled - May 22, 2001, by Senator **MCALLEVEY** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 16, 2001, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 17, 2001, Reports **READ**.)

Senator **MCALLEVEY** of York moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator **O'GARA:** Thank you, Mr. President, ladies and gentlemen of the Senate. I believe that I probably do not need to repeat all of the statements I made last week on this issue. Even if I do not, the feelings that I have about this issue have not diminished, as they have not diminished over all of the years that I have been involved with this issue. The Majority Report was built around an incredible amount of testimony from individuals and organizations from the highest office, the Attorney General's Office, to individual citizens who spoke very strongly about the need for this legislation. I will try not to be as long as I was last week, but I will try to promise you that. There are those of you in this chamber that know I don't always keep that promise.

One of the people who spoke was a police officer who had been an officer for 14 years. Not only is he a friend of mine and from my city of Westbrook, but also the son of friends of mine. I would just like to read you very briefly one of the things that he said in his testimony. All of us who serve on committees, it is tiring and sometimes it is time consuming. Sometimes we wish we didn't have to go, but one of the advantages is that we, the 13 members of those committees, hear all of the really important testimony. We get a lot of information from lobbyists, and well we should, that's their job. I respect that. We hear from individuals in the hallways, etc. But at the public hearings we really hear from those who have taken time out of their day and put mileage on their cars to be here to speak. This police officer said this, 'some organizations may tell you that it is a constitutional right of all Maine residents to carry a concealed weapon. This is just not true. It is the right of all law abiding citizens that they may apply for a

concealed weapons permit. But in order to keep it, you must be a law abiding citizen.' Now you have heard me use the term law abiding many times. He used this term in his presentation. If someone has behaved to a point that the courts have issued protection paperwork against them, then they are no longer law abiding. They are, in fact, a danger. L.D. 1119 will have no adverse effect on the law abiding Maine sportsman, Maine law enforcement officers, or Maine civilians.

If this proposal prevents just one death then it will be one of the most important pieces of legislation enacted during my career. I am now in my 17th year in this body, there are only 5 legislators who have been here longer in either body than I have. In my judgment, it will be certainly, if not the most important, one of the most important pieces of legislation that we could possibly have passed. You, as freshmen, and me, as a veteran, those who are term limited, those who are running for any other office, those who aren't going to come back for whatever reason, whatever, whatever. It will be remembered by you someday, not next week or next month but someday, as one of the most important pieces of legislation you have been involved with.

One of our several county District Attorneys said at the public hearing, and these are all statements that most of you did not hear because you were not at the public hearings, 'over the past 16 years I have heard from countless women, police officers, and advocates about the fear, intimidation, and apprehension victims and their families have when a recipient of a protection from abuse order has access to weapons. Victims have often expressed shock and anger that Maine law does not give a judge the discretion to prohibit the possession of firearms when the situation is clearly volatile. The passage of L.D. 1119 would be a rational, logical step in combating Maine's public enemy number one.' This is from Michael Cantara of York County. There was on Wednesday, February 7th, a murder in Patten. In the various comments that were made in the newspaper, the Bangor Daily News, of Thursday, February 8th, this comment was made by Lieutenant Smith of the State Police. Smith said 'however, no guns had been taken from the man who committed the murder and that the protection order did not prohibit Gray from having weapons in his possession.' This is what this bill is all about. Taking the possession of guns away from someone who has been issued a protection order.

There are all kinds of groups that spoke and there was lots and lots of testimony. I'm only going to read excerpts from them. This is from an organization that many of you know and have received communication from on a regular basis, Physicians for Social Responsibility; 'guns in the hands of domestic violence predators are a serious problem even' and this is important, ladies and gentlemen of the Senate, because while we are talking about the ultimate abuse of a gun, which is murder, please listen to what he is saying here. 'Guns in the hands of domestic violence predators are a serious problem even when they are not ultimately used as murder weapons. For every actual domestic violence murder that does occur here in Maine, you can be sure that hundreds more are threatened.' I'm quoting, 'as a psychiatrist, I'm afraid I hear some variation of this story too often.'

I must be quick to point out that while I quite repeatedly talk about women, it is true that there are cases where it is a man being abused by a woman. So you'll have to pardon me if I use that term more often than not. A woman caught in a pattern of chronic emotional and physical abuse finally begins to assert herself, perhaps she hints that she might even leave her partner.

Perhaps she does leave for a night and then tries to return. Perhaps they are having another argument. But at some point, when he's feeling angry, he brings out his gun. He may make no direct threat, but his message is clear. If she makes one more move to assert herself or especially, to try to leave him, she knows her life is at risk.

I don't know that I have the exact one here in my hands, but a little later on I may be able to find it. I'm about to say to you try to imagine, but then I'm quick to point out that it's almost impossible for you to imagine what I'm going to ask you to imagine. For instance, we do this all the time, someone who is blind, because we don't know what to say, we say 'gee, I imagine how you must feel.' We can't imagine. Someone loses a loved one and we say to them 'I know how you feel.' We don't know how they feel. Someone loses a limb or loses their property or whatever, and we say to them 'I know how you must feel.' We don't know how they must feel. So it's impossible for me to ask you to do what I'm going to do, but I'm going to say it anyway. Try to imagine yourself waking up every morning wondering if you are going to say something or do something or not say something or not do something that is going to set your spouse, your partner, that man, off so that he will threaten you with a gun. Imagine living that kind of a life. You might say, as I've heard people say, I will not attribute it to any of you because I can't say that any of you have said it and I pray that you have not, 'why doesn't she just leave?' When people make that statement, 'why doesn't she just leave?', that is telling you that they just don't get it. They just don't get it. The reason she doesn't just leave is because of the long period of intimidation and fear of that man who just says try to leave and I will kill you. That's why she doesn't just leave. We're not talking about a normal husband and wife relationship, where they have an argument, someone cheated, someone did this, someone did that, and one decided to walk away. That's a normal husband - wife, male - female relationship. There is probably no violence. There's probably no murder. There's probably no threat of violence. But this isn't a normal situation, at least I pray to the God we all pray to that it is not normal. It's probably more normal than we think. That's another thing we ought to think about because for every report we hear, there are hundreds more that we don't know about because of that continual fear and domination. So this is not a normal situation that we're talking about here.

I spoke as sincerely as I could last week. I probably should not go on at any length. Let me just finish with this. It's pretty close to what I just said to you a minute ago. It is from one of the ladies who spoke at the public hearing. She had been through this long period of intimidation. Finally she decided that she was going to leave. Her husband threatened her and told her that if she tried to leave he was going to kill her. This is an actual documented case we have. But for some reason or another, finally after years she said, 'I'm not going to put up with it anymore and I am going to leave.' She got a restraining order, and in her judgment, that piece of paper saved her life. This is the point I'm trying to get at. You may hear, if there are people who are going to get up and speak against this bill, that it's only a piece of paper. Her point to us that day was that that piece of paper, in her judgment, in that case, saved her life. Will it save every woman's life? I cannot tell you that. But in this particular case, this woman testified that beyond any shadow of a doubt that piece of paper was just enough to prevent that husband from carrying out the threat to murder her.

So here's the thing and then I'll sit down, at least for now. You have a choice of a piece of paper that might not mean anything and a piece of paper that could mean something. You tell me which one you want to live with, my friends in the Senate. One that could possibly save a life or one that you want to term as meaning nothing? I urge you to defeat the motion that is before us so that we can accept the Majority Report which was based on real life testimony. Every law enforcement agency in this state, every individual involved supports this bill. Every organization, you got a whole list. Read some of the things that we passed out to you. Please don't get hung up on technicalities. We can't do this, we can't do that. It's only a piece of paper. It isn't enforceable. What will happen to the weapons? Etc., etc. We've asked all those questions. As I said earlier, I've been here 17 years. We pass legislation all the time that isn't perfect, but which is necessary for us to get it out there. Trust me when I say you have no idea how uncomfortable it is for me to even use the word 'men' when I talk about someone who beats a woman. I don't want to use the word 'animal' either, because that is an insult to the other portion of the animal world that we live in. But we have a way and a means today of taking a position. Even if the law isn't perfect, even if what we're doing isn't exactly perfect, it's good enough for every one of those law enforcement agencies on this sheet. Who else do you need to hear from? We hear from the women and we hear from law enforcement people who are saying a judge needs that discretion. That's what it gives, by the way. It just gives the judge the discretion, in his judgment, to issue this restraining order and take away his right to be in possession of guns.

Well, I probably left something out, ladies and gentlemen of the Senate. That's the story of my life. But I have no other way of saying how I feel about this. I just find it very difficult that you don't feel the same way, to understand why you don't feel the same way. Thank you, Mr. President.

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

Senator MCALEVEY: Thank you, Mr. President, ladies and gentlemen of the Senate. I wish I could join my good friend, the good Senator from Cumberland, Senator O'Gara, in supporting this legislation. But we are on the opposite sides. I have a lot of respect for the good Senator and I understand where he is coming from. He's been very eloquent here today and he's been very eloquent in the committee. These are very passionate issues that have brought a lot of debate, rancor, hand wringing, and sobbing to our committee. These are very terrible hearings to go through and listen to the abuse. I'd like to clarify a couple of things. I know the good Senator left them out by omission, not intentionally. This bill deals with temporary orders. Judges have the ability to remove these weapons on permanent orders. I think it was just an omission by the good Senator.

I'm a victim of domestic violence. I'm one of the strongest advocates for domestic violence in the legislature. I broke my leg and crushed my knee protecting a woman, on Leap Day 1992 at 5:15 in the morning, from being battered by her husband. I lost consciousness and I expected I had died because I figured the perpetrator would take my revolver and shoot me while I was unconscious. All alone on the back road to Lebanon. Who would have thought that got me to the legislature. It did. There's a story there about the horseshoe nail, but anyway I won't go there. But it unfortunately ended my police career, protecting a battered

woman. I've talked to, helped take to the hospital, and carried to the ambulance scores of battered women. There are too many battered women in this state. I've had the duty to arrest many of their perpetrators. So I want to do everything I personally can do, professionally do as a legislator, to strengthen our domestic violence laws. I submitted legislation last year which created the Domestic Violence Law Study Commission, which the good Senator is the chair of and is doing a tremendous job at that. We're looking at these issues. If I thought this bill had any legs in it to do what the proponents would like it to do, I'd support it. I'd give it the benefit of a doubt and support it. But, honestly, it doesn't do it.

I'm not going to talk about constitutional rights. I'm not going to talk about those issues. I'm just going to talk about a couple of technicalities. If you file a protection from abuse order with the court, it's temporary for 21 days. The judge will list what you can and can't do. But, because of the legislature in the past, the legislature says you can't take away their weapons because the hearing is *ex parte*, meaning unrepresented. I won't even go into the Constitution about not being deprived of your property without due process. My experience is that 95% or more of the people who are charged with domestic violence, actually it's supposed to be 100% by state law, are arrested. They have bail conditions. The judiciary sets down conditions to their judges as well as their bail commissioners, which I happen to be a bail commissioner. But under situations where you have a domestic violence arrest, automatic conditions of bail are no contact with the victim, no contact with the residence, if there were alcohol or drugs involved then there would be no use of alcohol or drugs, and no dangerous weapons. Automatic on all domestic violence arrests. That carries some weight. If you violate it, you violate bail. Unfortunately, the situation that we've found ourselves in, and we have legislation pending and hopefully the study committee will work on it, is that sometimes there is lack of enforcement of violations of the protection from abuse order, whether they be temporary or permanent. The batterers scoff at it because they can violate it over and over, and over, and over again. I can't tell you the number of times I've, as a police officer, arrested people for violation of these orders or as a bail commissioner bailed them, set the bail even higher, and even higher. They'd go to court and get bailed out.

I asked the State Police, who are the overseers of permits in the State of Maine, how many permit holders do you have that have lost their permit for being arrested for battering their spouse? They said a check of their records showed none. None. That's really neither here nor there. But it does show that this isn't happening with permit holders. If we want to protect victims from abuse and we want to keep them safe from weapons or the threat of weapons, and I concur with the good Senator that just that threat and knowing that Bubba has the shot gun in the closet is a pretty intimidating fact, let's draft legislation and keep them in jail for the first 72 hours to cool down. That's the most dangerous point, the first 72 hours. We have the ability to do it.

At the end of the conclusion of the gun - anti-gun hearings 2 years ago in our committee, our committee chairs, the good Senator from Penobscot, Senator Murray, and the good Representative from the other body, Representative Volenik, admonished both sides of the proponents and opponents and said get together and come back with legislation that you both agree on, that does something meaningful. I would admonish them right now. Please come back in the 2nd session with

legislation that deals with that 72 hour period of keeping people safe.

Now, philosophically this may be a good idea. But in all due respect to the proponents, who I've learned to respect although I may not support their positions, this doesn't offer one iota of protection to a battered woman. Not one iota. We've heard from the police. If they arrest somebody for domestic violence and they know there are weapons in the house, in most cases they will take those weapons whether they are legally allowed to or not because the spouse has control of those weapons also. They can turn them over to the law enforcement officers. If I thought that this would offer any solid protection or come close to offering protection, I would be up here championing it along with the good Senator from Cumberland, Senator O'Gara. This is not a philosophical point for me. First Amendment or not, regardless of my feelings about the First Amendment, this is a protection issue. Let's do some real protection to keep these batterers off the street during that first 2 or 3 day period when the victims are the most at risk. I could go on, but I'm not going to. This has been a very contentious debate. The good Senator has not made it contentious with his remarks. I hope I have not made it contentious with my remarks. For those who are going to speak after me, I hope that we will have a good philosophical debate and leave that contention at the committee where it was left. Follow the good Senator's lead and my lead. Thank you.

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

Senator **DOUGLASS:** Men and women of the Senate, I rise to speak to you and urge you to vote against the pending motion. Today we have the chance to save some lives. In 2000, 8 women were killed by guns in domestic violence situations. In 2001, already we've had 7 deaths by guns in situations involving domestic disputes. We can do better. This law will provide judges with the tools to separate an angry spouse, and usually it is a man, from his guns. This bill may not be perfect, but I argue to you that it is technically sound under the law. I was prosecutor in the days when the police would come with a complaint and say this is a domestic. This was in the early 1980's, late 1970's. What they meant by using that shorthand was that this is a disagreement between the members of a family and we should not interfere. In general, I think that's true. However, when the police are called because violence is used, we, as a society, must act. The reason we developed protection from abuse orders is because of these very situations. The judge who first hears the case, and yes, it is *ex parte*, makes a determination by looking at the individual who brings the complaint. He makes a determination about whether that person is telling the truth or not. I argue to you that many individuals, almost all of them women, bring these complaints to judges at great personal peril. They do not do this without a sincere fear for their children and for themselves. We should give the judges the power to separate persons in the same domicile with that individual from his guns in this very emotionally charged situation. Why does a woman go to a judge alone? Because she is fearful. I hope you will defeat the pending motion so we can go on to enact the Majority Report and perhaps go further.

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

Senator **EDMONDS**: Thank you, Mr. President. I just have two short stories to tell you, men and women of the Senate. Two years ago, when I was running for office, I had a young campaign worker, a young woman. She arrived at my house one evening with her coat pulled way up around her throat and obviously distraught. It took me a while to get her calmed down. Took me a while to find out what was going on. Then she unzipped her coat and I discovered that she had this big huge red mark around her neck. I said 'what happened?' Well, she wouldn't tell me. But finally, after a long bit of time, I found out that her partner, boyfriend, whatever, had held her up against the wall with a broom handle. My immediate response was we're going to the police. I could not get her to go with me. All she would say was 'he has guns.' I said we'd get a protection from abuse order and she said 'he has guns.'

The second story is much shorter, and unfortunately, much sadder. Joan Paine, age 45, was killed in September of 1996 in Ellsworth by her husband who then killed himself. Thank you.

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

Senator **ROTUNDO**: Thank you, Mr. President, men and women of the Senate. I will be voting against the motion on the floor. I'm going to be voting in memory of Carol Cross who, at age 38, was killed by her boyfriend in Lewiston on August 10, 1999. After she was killed, he then turned the gun on himself and killed himself. Had L.D. 1119 been a law, I would like to think that both of them might be alive today. Thank you.

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

Senator **RAND**: Thank you, Mr. President, men and women of the Senate. As the good Senator from Cumberland, Senator O'Gara., stated, we've gotten a lot of printed material on both sides of this issue. I would like to clarify one of the things that I did get on the opponents literature that came across our desks. First of all, the model for this bill was the State Code on Domestic and Family Violence. That is what was used in drafting this particular language. Contrary to the handout that we received, 10 other states do have similar laws. They are Arizona, California, Florida, Hawaii, Massachusetts, New Hampshire, New Jersey, New York, Ohio, and Utah. This is not an unheard of type of legislation. Certainly I have not heard that law abiding people, gun owners, in these states have been denied their rights to own and possess firearms. Also I would like to point out that when I vote in opposition to this motion so that we can adopt the Ought to Pass Report, I will be doing so in memory of Christina Gray, who was only 24 years old, and her sister, Vicki Morgan, who was only 19. Both of them were killed on February 7 of this year in Patten, Maine, by Christina's husband, who then turned the gun on himself and killed himself. Thank you.

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

Senator **BROMLEY**: Thank you, Mr. President. If I might pose a question through the chair.

THE PRESIDENT: The Senator may pose her question.

Senator **BROMLEY**: If there is any member that might be able to answer the question, who opposed this legislation at the public hearings? It would be interesting for me to hear. Thank you.

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 Cumberland, Senator O'Gara.

Senator **O'GARA**: Thank you, Mr. President. Nobody. There were no opponents at the public hearing. Absolutely none, written or oral. Thank you.

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

Senator **CATHCART**: Thank you, Mr. President, women and men of the Senate. I urge you to vote against this motion so that we can go on to pass this very meaningful piece of legislation. I'm with the Senator Cumberland, Senator O'Gara. It's hard for me to imagine that anyone could oppose this.

A friend of mine was murdered by her husband in the Bangor Travel Agency in January of 1990. Those of you from near and around Bangor will probably remember that because there it was on the TV that night. He was served with the papers by the Deputy Sheriff that day because she had gone to court and applied for a temporary emergency protection from abuse order because he was abusing her and her daughter. Once he received this paper saying he had to go to court and have protection from abuse against you, he went home and got a gun. He went down to her work place, the Bangor Travel Agency, and he killed her.

It happens all the time. I was appalled to read in some newspaper account, and I know we can't always believe things in the media, but I did read a quote from a well known lobbyist here who said, 'well there are no instances where this has occurred, where this has been a problem.' Well, of course there are. Every year we have women murdered by their partners in this state when the women have gotten a protection from abuse order. We all know and have heard today that the most dangerous time for the battered woman is when she leaves. That's because there is a pattern of power and control in these abusive situations. When the woman finally gets the courage up to say okay he may kill me, but I have got to get out of here, and she goes to court and she files her protection from abuse, that sends a message to the abuser that he doesn't have control over his woman any more. That tends to make them do crazy things like going and get the gun and going down and shooting her. It just happens and it happens all the time. I just don't think there is any way that anyone can deny the truth of that.

I won't prolong this, but I do urge you to vote against this pending motion so the we can go on to pass this legislation and send a clear message to the abusers and the abused and all the people of the State of Maine that we will do whatever this state can do to protect our citizens from abuse and to protect them from enraged partners who may use deadly weapons to kill them. When I vote, I'm doing it in memory of my constituent, Linda Grindal, from Greenbush. She was only 39 when she was killed last September 2000 by her husband who turned the gun on himself and killed himself. Thank you, Mr. President.

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

Senator **BROMLEY:** Thank you, Mr. President, men and women of the Senate. Many of you may have seen that I have an intern with me this week. She's a high school student. She was also a Senator at Girl's State and Girl's Nation. I posed the question to her and said what do you think about this. I wanted to hear something from the voices of young people. She said, 'well, if you were fearful, so fearful that you had to get a protection from abuse order, would you want that person to have a gun?' Sort of simple. We're hearing a lot about domestic violence but this isn't just about domestic violence. This could be about us, in this chamber. We make some very public stands on some very unpopular things. We could have someone threaten us. We could have someone with a history of violence threaten us. Would we want that person to have a gun? Would we want to give our court system some teeth and some ability to make sure that that didn't happen? So think of that before we vote.

Also, I too have a slip of paper. It says Cynthia Nelson, age 38, was killed in February 1996 in Gorham by her ex-boyfriend who then killed himself. I've been looking at this in my desk all week and for some reason I couldn't hold Cynthia's name in my head but I kept noticing 'who killed himself.' You have also heard 'who then turned the gun on himself.' Many of you may know that I am a therapist in my other life and I've had a glimpse into a side of violence that many of you may not have. I want you to think about the person on the other end of the gun. That may be a little less popular thing to think about. I want to tell you a little bit about what I know about homicide and suicide. That is that when we are so enraged, so angry, so desperate, so sad, or so depressed that we do not have access to our rational brain for a period of time. Some say it's 2 days, some say it's 72 hours. So we might do things that we wouldn't do if we had access to our rational brain. I suspect many of those that then turned the guns on themselves might not have had access to their rational brain. I want to tell you about my friend, Sam, who is also a therapist. His son was hit by a drunk driver and lay near death. Those of us who cared about Sam went to him and said 'what can we do?' He said 'take my guns and don't leave me alone.' Now I don't know if he was suicidal or homicidal or perhaps both, but we did that for him. That's what we would be doing for the people on the other side of the gun if we did this. We say friends don't let friends drive drunk because we know what happens. If you drink too much, you shouldn't have your car because you might hurt somebody. So if people have a history of violence, isn't it the prudent, the kind, even the thoughtful thing to do to say 'hand over your gun.' So that is what we're asking you to vote on. I hope you join me in doing that. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. I rise in honor of Brenda Knoest, constituent and campaign worker who was killed this July 3rd. I also cite the AP article from October 27th, Maine 6th among all states in killings of women by men. It goes on to say that we may have a low number of total homicides, but a high percentage of homicides that are related to domestic violence. The most recent figures were; 1998, the year used for the study, 26 homicides were recorded in Maine. The victims included 6 wives, 2 girlfriends, 6

children, and 1 mother. Last year, 1999, again more than half of the 25 homicides were the results of domestic violence. We have a problem around guns and domestic violence. I'm not proud to stand here and say we're 6th in the nation for domestic violence homicides. It certainly was a sad July 4th this year to wake up to the news about Brenda Knoest. Some guy was packing, got in a taxi in Bangor, paid like \$40 for the taxi ride to Swanville, hid in the basement, waited for her to put the pit bull out in the morning, and then came up shooting. We heard of her death that day. She was an awfully nice woman and deserved to be able to live in her dream home for a lot longer than she did. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. When I vote against the pending motion today it will be in memory of Irene Placer, 33 years old, of Mt. Desert Island who was shot to death by her husband last week. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#74)

YEAS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, GAGNON, KILKELLY, KNEELAND, MARTIN, MCALEVEY, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GOLDTHWAIT, LAFOUNTAIN, LONGLEY, MILLS, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, TURNER

ABSENT: Senator: LEMONT

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MCALEVEY** of York to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

On motion by Senator **DOUGLASS** of Androscoggin, **TABLED** until Later in Today's Session, pending **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

Senate at Ease.

Senate called to order by the President.

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

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

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Prohibit Issuance of a Concealed Firearms Permit to the Subject of a Permanent Protection from Abuse Order"

S.P. 255 L.D. 885

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

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

Tabled - May 23, 2001, by Senator **DAGGETT** of Kennebec

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

(In Senate, May 23, 2001, Reports **READ**.)

Senator **DOUGLASS** of Androscoggin requested a Division.

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

Senator **DOUGLASS:** I urge you to vote against the Ought Not to Pass Report. This bill provides that when a permanent protection from abuse order is issued, the individual against whom that order is issued will be unable to obtain a concealed weapons permit for a period of 2 years. This bill does not effect that individuals ability to own and carry a gun. It simply effects the right to obtain a concealed weapons permit after that order has gone into effect. Further, it does not effect any concealed weapons permits that exist at the time of the permanent protection from abuse order. I argue to you that this is a very sound safety measure and follows somewhat on the footsteps of the debate on the last bill that we heard here today, L.D. 1119. I urge you to support this matter.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#75)

YEAS: Senators: ABROMSON, BENNETT, CARPENTER, DAGGETT, DAVIS, FERGUSON, KILKELLY, KNEELAND, MARTIN, MCALEVEY, MILLS, MITCHELL, NUTTING, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BROMLEY, CATHCART, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, LAFOUNTAIN, LONGLEY, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT

ABSENT: Senator: LEMONT

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MCALEVEY** of York 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 (5/1/01) Assigned matter:

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Require a License to Sell Firearms" S.P. 141 L.D. 464

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-97)** (6 members)

Tabled - April 30, 2001, by Senator **MCALEVEY** of York

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

(In Senate, April 30, 2001, Reports **READ**.)

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

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

Senator **DOUGLASS:** I would like to briefly speak to this issue because the original bill that was presented to the Criminal Justice Committee was reworked by the committee and for that I am very grateful. The original bill went a bit far. Because I don't trade guns, although my husband does, I didn't understand that it would effect some private sales. My intention all along in bringing forward this bill was to have more checks done of those who are purchasing guns. Currently, under federal law, all guns purchased at a gunsmith shop, or a gun dealers shop, are required to have the Brady check run. That is a criminal record check and a check of the persons mental health history, a check of any history they have of mental instability or lack of mental capacity. I argue to you that we ought to be concerned about allowing people who have criminal felony records and people who have limited mental capacities buying guns. Similarly, the Brady check would also ferret out those who are under age. As we know from the Columbine massacre, the issue of minors purchasing guns was part of the situation. Further, with regards

to that heinous crime, it was a gun show at which the gun was purchased. The perpetrator specifically wished to avoid a Brady check. I argue to you that this bill does not effect the right of any hunter to purchase a gun. It doesn't effect the right of any law abiding citizen. It is a matter that catches felons and unstable individuals who might be in the act of purchasing a gun. I did have the figures from the FBI, but I have lost them. I can tell you that in the last year there was something in the order of 350 folks who were denied the right to purchase a gun because they were felons, were mentally unstable, were underage, or for any of the reasons that the purchase of a gun might be denied under the Brady Bill. Similarly, in this year, approximately 250 and 300 individuals have been denied the right to purchase a gun, this information is from FBI files and I apologize for having lost the piece of paper on which I wrote the numbers. Those figures are large numbers for a small state such as Maine. I think we should be concerned about the fact that right now we are not enforcing our laws at gun shows. We are not enforcing the Brady check requirement. There is also an issue of competitive fairness to gun shop owners. If they have to run record checks on those who would like to buy from them, we ought to require the same of anyone who is selling a gun at a gun show. I argue to you that this amendment narrows down those purchases to only those that occur at a gun show. It does not effect others. I hope you will vote against the pending motion so that we can go on to accept the Ought to Pass Report.

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

Senator **MCALLEVEY:** Thank you, Mr. President, ladies and gentlemen of the Senate. I'll keep my comments very brief. Criminals do not go to gun shows to buy guns because 90% of the people selling the guns at gun shows are registered ATF people who run checks. I asked the representative from one of the proponent groups of this legislation who people would get a license from so you could sell a weapon. They said 'that would be from the Bureau of Alcohol, Tobacco and Firearms, better known as ATF or BATF.' I asked them to come and speak at the hearing and they declined because they didn't want to get into the specifics of them being at gun shows. They are at gun shows. Sometimes their presence is known and many times they are in the parking lot and elsewhere watching for certain individuals. They are undercover. BATF will not issue a license to an individual, only to businesses. So if this legislation passed and I wanted to sell a weapon, I couldn't get a license from ATF. So I asked some of the proponents and the lobbyists for the handgun control people 'was this by omission or by design?' I will repeat that. I asked them because I said during the hearing that I believed the people who put this legislation together are very intelligent, very well spoken, and they knew what they were doing. I said 'was this omission intentional or accidental?' I didn't get an answer. I asked them twice. I've asked them in the hallways. Can't get a straight answer out of them. What does that tell you about credibility? What does that say to you about integrity and honesty? I want to keep handguns out of children's hands. I want to keep handguns out of the hands of criminals. But let's talk about Kennebunk High School. Let's talk about Massabesic High School. Let's talk about Oak Hill. Let's talk about Lewiston. Let's talk about Houlton. There's nothing to talk about because there's no crisis at those high schools. Columbine was terrible. It was an

obscenity. But this bill has had everything but the kitchen sink thrown at it.

If the bill passes you cannot sell a firearm without a license. I submit to you that more people are killed every year in the United States with a vehicle. Over 55,000 people. Let's apply the same logic. You want to sell your motor vehicle? It kills a lot of people. You've got to get a license. The reality is you pass this legislation, you'll have to get a license from ATF. ATF won't issue a license. I would ask the proponents the next time they bring something forward, and I'll exclude the good Senator here, I'm talking about other proponents, to do their very best to answer the questions of the committee and come forward with a straight forward bill.

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

Senator **DOUGLASS:** Mr. President, I rise to speak because the preceding speaker, the good Senator from York, Senator McAlevey, suggested to you that this bill will require a license to sell firearms for every sale and that is not the case. I rise in opposition to the pending motion so that we can go on to adopt the Committee Amendment which speaks only to the matter of gun sales at gun shows. I also think it's important to put on the record, here and now, in the Senate, on this day in May 2001, that we have already had several incidents involving guns in our high schools. They have not involved death. Thank goodness. But if you don't know about them, you ought to. I will refrain from using my faulty memory to name the towns that have been effected because I would not want to get the names wrong. But I know that we've had incidents of guns being brought to school in my community. I suggest that there may have been some in yours. A Brady check will ferret out those who are underage, who are not allowed to buy a gun. We ought to require that type of a check at gun shows. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator McAlevey 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 (#76)

YEAS: Senators: BENNETT, CARPENTER, CATHCART, DAGGETT, DAVIS, FERGUSON, GAGNON, KILKELLY, KNEELAND, LAFOUNTAIN, MARTIN, MCALLEVEY, MILLS, MITCHELL, NUTTING, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, BROMLEY, DOUGLASS, EDMONDS, GOLDTHWAIT, LONGLEY, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT

ABSENT: Senator: LEMONT

23 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MCALLEVEY** of York 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 Today Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Limit Access to Firearms by Those Subject to Protection from Abuse Orders"

H.P. 847 L.D. 1119

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-469)** (7 members)

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

Tabled - May 23, 2001, by Senator **DOUGLASS** of Androscoggin

Pending - **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED REPORT**, in **NON-CONCURRENCE**

(In House, May 16, 2001, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 23, 2001, motion by Senator **MCALLEVEY** of York to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.)

Senator **O'GARA** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

The Chair ordered a Division.

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

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

Senator **MILLS:** Thank you, Mr. President, men and women of the Senate. Before this vote is taken, I just have a couple of words. We've debated this for an hour. It was not my intention to rise on the bill. I have ambivalent feelings about the committee report that lies before you. But I respect the spirit with which that committee amendment was drafted. I've spoken with law enforcement people. I've spoken with judges. I've spoken with other lawyers. I've spoken with many citizens about this bill. It's a bill that concerns me rather greatly because my internal debate, within my own mind, is whether the bill will improve, admittedly, a very difficult situation that so often arises in our courts. My conclusion is that it will, if you will have the patience to see it adjusted somewhat in an amendment to be offered later.

Domestic hostilities, and I don't call it violence, I call it hostilities because I think they are bi-lateral in nature, have reached what I would call an epidemic proportion in the United States and in Maine in particular. I handed out earlier an article from the Economist from about month ago which announced that a state, Wisconsin, was doing some actual experimentation to determine what sorts of social interventions might be helpful in evaluating or in bringing down the incidents of domestic hostilities and the harm that is done through the use of weapons. The point of the article is that it bemoans the fact that there is precious little scientific evidence about what does good and what doesn't do any good. Some years ago, several years ago, we embarked on a campaign against tobacco use, I must say we had a wealth of public health literature to guide us in determining how to spend money effectively in countering this health threat. We know that the ads, for instance, that we are putting on TV work because they've been tested in state after state. I think that most of the money that the state has spent to control tobacco use has been very intelligently spent because we had the benefit of public health studies, medical literature, and all sorts of material to go by. I don't think that we have that same body of literature and scientific information to back up what we are trying to do so often with regards to domestic hostilities. We have, for instance, before us this year a bill that proposes to spend some \$9 million to address the issue of domestic violence and rape crisis. I don't know whether the proposals, the very well meaning proposals, that lie before us under that bill call for us to spend money in an intelligent and wise way or not. It's hard for us in the Appropriations Committee to evaluate that and sort it out against other priorities. The same might be said of the bill that lies before us this afternoon. Will it make a difference if we give judges some greater power, greater flexibility to rule or deal with issues that come before them? Very typically, at this time of night I might add, these protection from abuse orders come in late on a given day. The judge is given a few minutes to try to evaluate whether to issue the order or not issue the order. They are scared to death, frankly, that if they don't issue the order that maybe there will be a homicide of some kind or a suicide-homicide. Maybe they will be in the newspaper the next day as the judge who could have prevented it. Very difficult line of work that we put judges into.

I think on balance, and I sincerely believe, that on many occasions these applications for protection are themselves used as weapons in domestic hostilities. I've seen them used that way in my own law practice where people will go down to court and use the court system as a way of getting even with the spouse with whom they are angry. Often times we're not dealing with an abuser and a victim. We're dealing with 2 very hostile combatants. Sometimes there really is no victim and no abuser. Sometimes we're just dealing with 2 people who are in dreadful pain, breaking apart, coming to grips with the issue of who's going to live in the house that they have both been living in for 20 years, who's going to be taking care of the kids on Monday, kids that they had been raising together up until now, how is all of this going to sort out. Our present system of justice does not do a good job in helping people sort that out because when 2 people break up they cannot live as cheaply as one. Someone has to move out, eventually. Someone is normally going to have primary care of the children. They are going to take their incomes and go their separate ways. It's a very wrenching experience. There are hostilities that break out of this. Sometimes this protection from

abuse procedure is what people resort to, out of desperation, to try to get these temporary questions resolved.

But the judges are fairly good at sorting out what you might call normal hostilities. I hesitate to call them that. But I don't know anybody who's marriage has broken up who didn't encounter some measure of grief, anxiety, hostility, and severe and profound depression. What we trust our judges to do under this law is to sort out the cases where they are simply conflicts of one sort or another that need to be sorted out in due course. Sort those out from situations where there is genuine abuse, where there really is a victim, and where there really is an abuser of some sort. The difficult part of this law is that he has to sort it out on the basis on the victim's statement alone, under oath, admittedly, but usually filled out in an atmosphere of overwhelming emotions.

I think that with the changes that I would like to propose to you, this bill can be fairly narrowly constrained to do the job that needs to be done in these very taut emotional situations. If you will give us the opportunity to proceed with this bill, and you always have the chance to kill it on enactment, I'd be very happy to talk to you, not at such great length I promise, very briefly to explain how I would see the bill changed. Thank you, ladies and gentlemen.

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

Senator **TREAT:** Thank you, Mr. President, men and women of the Senate. I'm rising to speak in support of the Majority Ought to Pass Report. I guess I wasn't actually clear until the final moments of the Senator from Somerset, Senator Mills', speech whether he supports or not. I must say, I wasn't planning to speak. I was going to hold my fire for prescription drugs, which I believe may be around the corner. But I think it is important to say in response to the comments of the good Senator from Somerset, Senator Mills, that this bill is not about sorting out relationships between two people. It's about preventing murders. It's about preventing murders during a very short 21 day period. This is a temporary restraining order. From what I hear from the experts and there appear to be several in this room. I don't say that facetiously, we have people who have worked with women at shelters, who have experienced themselves with their neighbors, what happens when someone goes to court to get a temporary restraining order. They tell me that that is the period when it is most likely that an act of violence will occur. So really this is about a very short period of time. It is about preventing a murder when tempers are most hot. It does not permanently take anything away from anyone. In fact, if the person who is subject to the order wishes to speed up the decision, speed up the hearing, and be able to go hunting or whatever it may be within that 21 day period, they can ask for an expedited hearing so that they won't be without their gun for too long. I think this is a very restrained, simple, logical, good piece of legislation. I hope you will join with me in voting to support the Ought to Pass Report.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. Two very brief, quick comments in response to the good Senator from Somerset, Senator Mills', comments about what people experience in their marriages. I

must have a dumb marriage because neither my wife nor I have ever experienced any of those emotions. But it is a good marriage.

I would like to assure this chamber that regardless of what you do with this piece of legislation, one of the items of the Domestic Violence Study Group, that was put together two years ago and will wrap up next January, was this very issue of protection from abuse orders. The committee is chaired by the good Senator from Cumberland, Senator O'Gara. I am fortunate to serve on that committee and there is a House chair also. One of the major directions that the study committee was given was to look at protection from abuse orders and come back with legislation to strengthen that law. Regardless of what we do today on this bill, I want to assure you that I have every confidence in that committee and the people who presented in front of that committee that we will come back with some solid legislation that will take affirmative steps towards affording more protection to the people who are being battered in this state. So regardless of what you do with this legislation today, we will revisit this one issue on protection from abuse orders, hopefully in much more detail, in the next session. Thank you.

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

Senator **TURNER:** Thank you, Mr. President. It is getting a little late and I may be a little confused. I'd like to pose a question through the Chair to the Senator from Somerset, Senator Mills, because I do not believe he has an amendment posed for this and I need a little guidance.

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

Senator **MILLS:** Mr. President, with your allowance, we do have a rule that we are supposed to discuss the language in front of you and not the language that you might later be offering. But the answer to your question is yes.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator O'Gara. 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 (#77)

YEAS: Senators: ABROMSON, BROMLEY, CARPENTER, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MARTIN, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, TREAT, TURNER

NAYS: Senators: BENNETT, DAVIS, FERGUSON, KNEELAND, MCALLEVEY, SAWYER, SHOREY,

SMALL, WOODCOCK, YOUNGBLOOD, THE
PRESIDENT - MICHAEL H. MICHAUD

ABSENT: Senator: LEMONT

23 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **O'GARA** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE, PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-469) **READ**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-243) to Committee Amendment "A" (H-469) **READ**.

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

Senator **MILLS:** Mr. President, I must express my humble gratitude to the chamber for giving me the opportunity to speak to this amendment today. The language that is before you would be substituted for the operative language of the Committee Amendment by defining only two specific instances in which the judge would be allowed to issue an order to take or deprive the defendant, sometimes called the alleged perpetrator, of weapons. It would narrow the circumstances under which the judge would be authorized to have the police take guns or firearms or dangerous weapons from the defendant. The first instance is when there has been a record of violent behavior by that defendant. I think this is an improvement over the committee language which said simply that the defendant has a history of violence. I wasn't sure what 'history' meant. I like the word 'record' because it lends objectivity to the court and the evidence that must be given to the court to show that there is justification for taking the guns away. A record might be a conviction for assault. It might be a prior abuse proceeding. It might even be an arrest record of sorts. But at least the plaintiff would have to show that they are involved with someone who has a prior record that is objectionable, that shows that person is capable of violent behavior. It won't be simple a momentary quarrel or dispute that gives justification for the courts order.

The second occasion when the judge would be authorized to deprive the defendant of weapons temporarily would be that in which the defendant has actually threatened to use a dangerous weapon, either against the plaintiff or a member of the plaintiff's household. Please observe that that also includes a threat to use the firearm against himself as suicide. Presumably the defendant himself is a member of the plaintiff's household or will be in most instances. The pattern that we see in this state, I think with some disturbing frequency, is that someone who is prepared to use a firearm will use it not only for purposes of doing away with his or her spouse, but also to do away with himself after that is done. We have had that experience in my law office. We represented a wonderful woman who was a town clerk, a very popular woman, very outgoing, very cheery person. She was married to a man who had no history of violence, by the way. The prospect of getting divorced was so completely depressing that, along with other life changes that he was going through, he, for whatever reasons, resolved to do away with his spouse and for a time there

we weren't sure that he wasn't going to do away with his spouse's lawyer. We had the door locked and were watching out the window for several hours. Then we got the report, a very sad report, that he had started a fire in his livingroom, got the fire going in good shape, and then did away with himself. It was a very, very sad situation. But the point is this, I think in most of these cases somebody who is prepared to do that will usually give a verbal signal or threat, if you wish to call it that. Words to this effect, 'If you leave me, I will do away myself and maybe you as well.' This is the language that sometimes gets used by people when they are in desperate circumstances. I suggest to you than when there has been an actual verbal, I won't call it a threat, representation that the defendant is prepared to use a firearm against himself or against others, that that is a pretty good reason for the judge to enter an order on a temporary basis and to ask the police to intervene. It may be the best reason of all and it does not necessarily mean that the defendant has a history of abuse or violence. He may be just profoundly depressed. That's a common situation.

For that reason, I tender this amendment to you as a suggested improvement to the committee's work. I think it follows the spirit of the committee's work. I think it's more particularized. I would urge you to vote yes on my pending motion. Thank you for hearing me.

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-243) to Committee Amendment "A" (H-469) **ADOPTED**.

Committee Amendment "A" (H-469) as Amended by Senate Amendment "A" (S-243) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-469) AS AMENDED BY SENATE AMENDMENT "A" (S-243)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act Relating to Discovery Procedures under the Maine Unfair Trade Practices Act"

H.P. 733 L.D. 953

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-335)** (7 members)

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

Tabled - May 23, 2001, by Senator **MCALLEVEY** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 22, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED**

**TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-335).**

(In Senate, May 23, 2001, Reports **READ**.)

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

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. I hope you vote against the pending motion. This is another instance where government is expanding their powers. I think it's important that we limit their authority in this regard. The Attorney General would like to go into a business and look at their records or books without due process, in my judgment. By their own admission, they told me that this would be used sparingly. If it's used sparingly, it seems to me that it's no imposition or no hardship to go to a court and get a subpoena to look at these records. For those reasons, I would urge you to vote against the motion so we can go on and adopt the Ought Not to Pass report. Thank you.

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

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. This bill does amend the law relating to civil investigations and discovery procedures and the powers of the Attorney General's Office under the Unfair Trade Practices Act. Under the Unfair Trade Practices Act, unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce are declared to be unlawful. When the Attorney General's Office has, in the past, tried to investigate the few companies in this state that have acted in deceptive manners against our people, these companies have had the ability to hide behind the Trade Secrets Provision of the law. What this bill would do is allow the Attorney General's Office to look at that information that these bad companies could no longer hide behind the Trade Secrets Provision. The information would be directed solely at these deceptive acts. It could not be used in any other law enforcement or court proceedings. The amended version deletes the provisions expanding the Attorney General's authority to use the information acquired during these civil investigations in a criminal proceeding. That was the main objection that people had to this bill. The amendment returns the language to its original form, allowing use only for perjury, false statements, and failure to comply with the demand. All things that are illegal now. It returns the language also prohibiting a person from refusing to give information on the grounds that it may incriminate the person or subject the person to a penalty or forfeiture. This is a simple tool that has all the safeguards in it that the opponents of the bill wanted, that allows the Attorney General's Office, on behalf of the people of this state, to investigate companies that persist in using deceptive acts against our people. I would urge you to accept the Majority Ought to Pass report.

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

Senator **TREAT:** Thank you, Mr. President, men and women of the Senate. Having gotten started today, I think I will continue. It was so much fun.

I urge you to support the pending motion and I just want to give you one example of why I believe it's very important. We've all been hearing about what is going on in California with the energy crisis there. California, like a number of states, including Maine, is now very concerned about the potential that a couple of utilities may be taking advantage of a situation and actually engaging in anti-competitive behavior. What has been expressed to us by our chair of the Utilities Commission as 'gaming the market.' In order to find out whether that's going on, you need to have some ability to delve into these sorts of records, which is what this bill is all about. I think we need to give our Attorney General the ability to address these issues, which are extremely serious issues. I know my constituents are very worried about energy costs and this is a particular issue that has been raised to us in the Utilities Committee as one that they think we ought to look at. Many people have said to us 'could California happen here?' We've been saying 'well, no, we did a much better job with our restructuring legislation.' But this is one area where I'm very concerned that we lack the tools to actually address what could be anti-competitive behavior. I encourage you to support the pending motion.

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

Senator **MILLS:** Mr. President, men and women of the Senate. I had a little skepticism about this bill when I first heard about it, but I've since spent some time understanding what it does. When you boil it all down, it seems quite simple. It would enable the Attorney General to get access to trade secrets if they feel that they need that information. More accurately, it would prevent companies from erecting the barrier of claiming that there is a trade secret involved. This would give the Attorney General private access to company information that might be necessary to evaluate what that company's activities are in our state. The Attorney General is bound by the statute not to release that information to anybody else. Now if they need to use the information for purposes of filing a complaint, for instance if they use that information to determine that there is a violation of our Unfair Trade Practice laws and they later decide that they've got to use that information as a basis for suing the company to restrain their behavior, the statute also says they have to give 10 days notice to the company. If, for some reason, the company feels that this information should not be disclosed to the public through being attached to a complaint, or what have you, then they do have a 10 day period in which to go to court themselves and try to get a shroud of protection or secrecy wrapped around whatever it is the Attorney General has decided to do. I suggest that in nine cases out of ten, the Attorney General will probably not use this information in any public way. They probably will simply call the company and try to sort things out. But if they don't have access to the information, it seems to me that we're putting handcuffs on the Attorney General and making it almost impossible, in some cases, for him to do his job by protecting Maine consumers. I thought that the bill was reasonably well crafted. As I said, I was a skeptic when I first heard about it. I intend to vote for the Majority Report at this point. Thank you.

The Chair ordered a Division.

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

THE PRESIDENT: The Chair recognizes President Pro Tem Bennett of Oxford.

President Pro Tem **BENNETT:** Like the good Senator from Kennebec, Senator Treat, I'm sitting here listening to the debate today and it's nice to get some debate going in the Senate chamber. But I'm disturbed by a trend that I see emerging today. That trend is one, in my view, against due process of law. This bill is yet another example of where the Senate seems to be heading in a direction that I object to, and that is giving power to governmental authorities and taking power away from others. The Attorney General is a powerful position of government. A lot of businesses cower when they hear that the Attorney General's Office is on the phone. There is abundant power with the Attorney General currently to dig into the activities of businesses that are malefactors. I don't understand why we need to make their life easier in order to subvert due process. What the good Senator from Somerset, Senator Mills, said actually, I think, had the unintended effect with me of convincing me even more strongly that this bill ought to be opposed. Clearly the testimony that he offered suggested that we should be shifting the burden to the company, in this case the business enterprise, to defend themselves without due process. To defend themselves against the Attorney General. They would have to affirmatively go to court and tell the court that they think that they should be protected from this over-reaching authority.

By not passing this bill, we're not putting handcuffs on. Those handcuffs, if you want to call them handcuffs, exist currently. We are being asked today to change the current law and give the Attorney General power that he does not now have. I have immense respect for the current Attorney General. I was glad to second his nomination on the floor of the Joint Convention. I have faith that this current Attorney General, given this additional power that this bill would give him, would do good work with it. But we're being asked to make a change, not for Attorney General Steve Rowe, but for posterity. I am very concerned about the way that we elect our Attorney General and I am not confident it always gives us the best form of accountability for that office. I believe that we should vote against the pending motion and give this bill its appropriate resting in our files. Thank you very much, Mr. President.

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

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. This morning we had a similar bill in which case we decided that there was something to be said for uniformity and helping businesses do business. Here we have a very similar bill in terms of when the consumers are trying to get their business done. I'm using the words of the Senator from Oxford, Senator Ferguson, are we saying let's just keep them in handcuffs? Make it harder for them? Make them have to go court and dig up this information when the Attorney General is trying to get the information on the consumer's behalf? I think not. Thank you.

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

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. Thinking of this in the context of owning, operating, and managing a business, I can't think of anything more precious than one's trade secrets. It very often is the life blood that gives you a competitive advantage as you compete in a free market enterprise. To somehow be compelled to turn your trade secrets over to the Attorney General, who then may or may not decide to use them, I find terribly disturbing. I'm curious as to whether or not the Attorney General would then have to pay some fine, commensurate with the loss that the business would suffer by virtue of these trade secrets becoming public. I pose that to a question, if anyone cares to answer it. Thank you.

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

Senator **MILLS:** Mr. President, if you'll just beg my indulgence for one moment more. There's an interesting case that's very recent that shows why this law is needed. It involves a well-known publishing house that advertises very frequently on prime time. It became fairly well established in many other states that their practices were causing people of limited understanding and perhaps advanced age to invest very heavily in the magazines that they had to sell on the fond hope that they might be eligible to win sweepstakes and be multimillionaires. These multimillionaire winners are frequently shown on evening television. You see them quite often. The Attorney General in Maine had only 4 complaints from people who felt that the solicitation, the advertising, and the inducements that were offered were worthy of being brought to the attention of the Attorney General. The Attorney General used this law and was in the first instance rebuffed when they asked for all of the subscription lists for all of the residents of the State of Maine, the one with all the names of all the people in this state who had purchased magazines and products from this company. They were told it was a trade secret. Now in this particular case, they were able to get around the trade secret law because the company failed to respond in time and there were certain procedural waivers. They managed to get the information which they wouldn't have gotten if the company had been alert and had exercised its defensive rights under the law as it currently exists. When they succeeded in ferreting out the information after going to court, they found that there were some 800 Maine residents who had invested more than \$500 apiece in the fond hope that they were the lucky people to be admitted to the final drawing stage of the sweepstakes. I think further investigation has borne out that these people were of an understandably vulnerable age, temperament, and intelligence. A situation that clearly warranted intervention. If the company had been sufficiently alert to exercise all of its rights under current law, that information would never have been brought forward. The Attorney General could not have gotten access to it and we would not have a resolution of that issue.

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

Senator **FERGUSON**: Thank you very much, Mr. President. They did get a successful resolution. I would submit to you that the Attorney General could go to court, get a subpoena and get these records. It would be a little more difficult to do, but nevertheless, they could do it. In my judgment, all we're doing is denying due process. So I would urge you to vote against the motion that's on the table so we can go on and adopt the Ought Not to Pass. I think it's imperative that we don't keep expanding the power of government against our citizens and our businesses. We do have the courts in balance. The Attorney General can go to the courts if it's a pressing issue to get a subpoena and get these records. That's all I have to say.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Rand to Accept the Majority Ought 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 (#78)

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

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

ABSENT: Senator: LEMONT

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **RAND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-335) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-335)**, in concurrence.

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

NOMINATION - of Brian E. Thibeu of Hermon, for reappointment to the Loring Development Authority of Maine

Tabled - May 22, 2002, by Senator **SMALL** of Sagadahoc

Pending - **CONSIDERATION**

(In Senate, May 23, 2001, Communication (S.C. 306) from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT, READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#79)

YEAS: Senators: None

NAYS: Senators: ABROMSON, BENNETT, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LONGLEY, MARTIN, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

ABSENT: Senator: LEMONT

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 **Brian E. Thibeu** of Hermon, for reappointment to the Loring Development Authority of Maine 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 James O. Donnelly of Brewer, for appointment to the Loring Development Authority of Maine

Tabled - May 22, 2002, by Senator **SMALL** of Sagadahoc

Pending - **CONSIDERATION**

(In Senate, May 23, 2001, Communication (S.C. 307) from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, **READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#80)

YEAS: Senators: None

NAYS: Senators: ABROMSON, BENNETT, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LONGLEY, MARTIN, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

ABSENT: Senator: LEMONT

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 **James O. Donnelly** of Brewer, for appointment to the Loring Development Authority of Maine 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:

SENATE REPORTS - from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Resolve, to Enhance Economic Development in Eastern Maine (EMERGENCY)

S.P. 286 L.D. 997

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass** (6 members)

Tabled - May 23, 2001, by Senator **SHOREY** of Washington

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS** Report

(In Senate, May 23, 2001, Reports **READ**.)

The Chair ordered a Division.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. This is a bill which is based on some work that has been done by the U.S. Attorney regarding drug use in eastern and northern Maine. It is a title that would not cause you to recognize that fact by looking at it, but that's what it's about. The reason it has a title related to economic development is because we are now discovering that despite all of our efforts to get jobs in eastern Maine and northern Maine, we are finding that many people in the workforce down there are too impaired to work. When we have businesses that take jobs to that area of the state, where we most hope that this will happen, they are finding that there are not enough people prepared to work to fill those jobs. It is a very serious situation. It is a matter, in some instances, of the availability of both heroin and the availability of Oxycontin for abuse, not for legal use. It is related, particularly in the case of Oxycontin, to drugs that come in across the northern border of the state and are in ample supply and readily available. Physiologically, Oxycontin is a heroin surrogate. They work in the same way. It can be shot, it can be snorted, and it essentially has the same effect as heroin. The effect of heroin is that it usually kills you, sometimes quickly and sometimes slowly. It is highly addictive to the extent that a single use can cause an addiction. The recidivism rate, if you will, for addiction of heroin and like substances is something over 80%, even for those people who get off the drug and are clean for a matter of years. Over 80% of users eventually go back to abusing those substances. It obviously impairs your ability to work.

It's a very expensive habit. Oxycontin sells for about \$1 per milligram, so an 80 mg tablet sells for \$80 to \$100 on the street. Once you develop a habit, which happens very quickly, generally you have to start petty larceny to support your habit. Very quickly the habit outstrips your ability to support it by stealing, so virtually everyone who becomes a user attempts to become a dealer. It is the only way you can generate enough income to support your own habit. So we have this rather rapid spiral of people who become addicted and then, in turn, need to addict other people in order to have a pool of people to be paying for these drugs so that they, in turn, can pay for their own. Very rapidly you have a workforce that is not prepared to work.

That is why this bill related to illegal drug use has an economic development title. It is a matter that has to be addressed if we're going to be able to develop that rural part of the state. What this bill would do is provide a pulse of drug enforcement agents to attempt to get a grip on the supply available in rural Maine. There is a strong suspicion, if not a strongly held opinion, in the law enforcement community that it is too late in Portland. There are so many drugs available and the ease of crossing the border into other states and obtaining a supply has meant that we will not be able to extinguish that drug habit in that part of the state. In the rural areas, according to the testimony at the hearing, there is still the possibility that we can get a grip on this. But if we don't do that very quickly, it will, as in

southern Maine, be beyond our ability to control. The bill calls for 20 additional drug enforcement agents for that portion of the state; Hancock, Washington, and Penobscot Counties. The statistics are absolutely shocking. I think it was only 3 years ago we had 4 heroin deaths in Maine. This year we had 30 and the Medical Examiner is still working on another couple of dozen cases which may yet be proven to be related to heroin. We have had enormous drug busts on Mt. Desert Island and in other parts of those communities. We have had many cases where very young teenagers have been addicted to the drug and have been intercepted in terms of dealing that drug. It is the hope that this pulse of law enforcement will control the supply to the point where we could then decrease the numbers again.

We don't anticipate that we would need those 20 enforcement agents forever. But the important thing, according to the U.S. Attorney, is to get a significant law enforcement presence on the ground and dealing with the supply side. The bill also sets up a group to take a look at an overall plan for how we're going to deal with this in the State of Maine and what the treatment options are for people. The most critical piece, before it is too late, is to get the law enforcement end of it on the ground and operating or we will lose what maybe our only opportunity to control these drugs in rural Maine. So I would very much appreciate your support for the bill. Thank you.

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

Senator **BROMLEY:** Thank you, Mr. President, men and women of the Senate. As a member of the Business and Economic Development Committee, if this were a bill about economic development I would be voting for it. But it is not. As a therapist and a person concerned about substance abuse, if this were a bill about intervening in that area I'd be voting for it. But it is not. The problem is compelling. There is absolutely no argument there. This bill would set up a commission that would include a person from the Office of Substance Abuse, someone from the Bureau of Health, the U.S. Attorney, the Director of the Maine Drug Enforcement Agency, a member from the Eastern Maine Medical Center and Maine Medical Association, and a member from the Maine State Nurses Association. All good people, but I would ask how that would enhance economic development? There would also be one person from an economic development organization and some members from the Senate and the other body. It also has a large fiscal note.

I would say there is a problem. I would say we need to do something about it. But I would also urge you that this is not the vehicle and urge you to defeat the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. I urge you not to vote against this bill because you don't like the title. If there is a question of its germaneness, please address that. But there is a problem with drugs in Washington County, Hancock County, and Penobscot County. This bill came about as a result of public input. In Washington County, Jay McCloskey the Federal Attorney, showed a film and had groups of parents, school teachers, and concerned citizens come in. One of the things he brought out was the fact that this can be controlled in rural areas much easier than it is in urban

areas. The reason being is that in rural areas everybody knows what's going on. You know what your neighbors are doing. You know who is dealing the drugs. I guarantee, if you go to Calais right now and you ask the guy who delivers the pizzas who is dealing the drugs, he can tell you. But the problem is that there is one drug enforcement agent right in Washington County. He's on vacation. As a matter of fact, when he comes back from vacation, he's retiring. There is nobody to replace him. So there are no drug enforcement agents right now in Washington County. Well, what does that mean? It's open season out there for our children and for people who want to peddle the drugs. Yes, this is an economic issue. This affects everybody. It's a criminal issue. It's an economic issue. It's an issue that we have to deal with. This is an effective way to deal with it. I would urge you to accept the Minority Ought to Pass Report. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. It's interesting that the Maine DEA keeps coming to our committee every year for more manpower and we do as best we can, through our recommendations to Appropriations and this legislature, to give them some moderate increases. I was amazed this morning when I read this and found that they, from my observation, have been committee shopping. This doesn't make me very happy. The reality is that we need to do everything we can to fight drugs. But I would pose a question through the Chair to anybody who wishes to answer it.

THE PRESIDENT: The Senator may pose his question.

Senator **MCALLEVEY:** I find it interesting that the U.S. Attorney comes forward and proposes that we do this. I just wonder how many Federal Agents he's putting into Washington County?

THE PRESIDENT: The Senator from York, Senator McAlevey poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you very much, Mr. President. I rise in part because I found it interesting that the bill says that these agents are going to be everywhere but the only place that's really unorganized, low populated, and rural. Aroostook County. I started thinking as to why. I guess it came to mind that it's probably because Hancock, Washington, and Penobscot are not doing what Aroostook is doing. The U.S. Attorney came to Aroostook County last year and asked the Sheriff's Department if they would be willing to let some of their deputy sheriffs go into the DEA program. When the county said 'well, we're not sure we have enough manpower to allow that,' they called me, among others, and said 'would you put pressure on the County Commissioners to release one additional,' and by the way, we have more than one now. The county is paying. The county just released another employee to go work with the drug agency. The only economic development I see here is that hiring of 20 more people. Probably they live in Washington, Hancock, and Penobscot. It will bring the economic opportunities to a greater number of people and they will support families and their kids, etc. I don't understand what's going on here except that it appears to me to be a way to circumvent the present legal system that we

have in place now for the Maine DEA to go in and work with local police, where they release them. We, as a county, have done that. I don't understand why Hancock, Penobscot, and Washington Counties Sheriff's Departments cannot do the same thing we have done and why the rest of the state has to pay the price.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I'd just like to respond to a couple of points raised in the debate. First, I would like to congratulate Aroostook County for their initiative in this matter. I wish we were able to do the same, and in some regards, we have been making efforts in that direction. There are 4 separate organizations that I know of in that 3 county area that are doing their best to approach this from a variety of angles. We don't have enough law enforcement available in that tri-county area to be enough of a presence to make a difference here.

As far as the DEA committee shopping, that's certainly not the case. They didn't come to me. I will tell you how I got involved with this issue. That is by noticing that there was going to be presentation at my local high school regarding heroin use in Maine. I attended. If you have not seen the film made, I believe, in Delaware by the police department there, that shows what happens to people who get addicted to heroin, I would urge you, sometime when you're feeling particularly strong, to take a look at it. It was beyond compelling. It was one of the most horrible things, even as an E.R. nurse, that I have ever seen on the screen. It was the turning point in my mind in terms of vowing to commit myself to doing anything that I could to address this problem. We can argue about whether it should be these 3 counties or why the state should pay for it or whether it should be the whole state or anything else. The point is that it was brought to my attention. The problem was described and the statistics comprised that tri-county area. I don't see any reason why I shouldn't try to address that in that area, regardless of whether that program expands to the entire state or not. I would welcome an amendment that would expand law enforcement to the point where we could do this all over the State of Maine. I don't care. I happen to know the problem exists in these 3 counties. There is a business that took 300 jobs to downeast Maine. That business has never been able to employ more than 70 people in the highest unemployment area of the State of Maine. That business has said it is because either people don't show up for their scheduled interview, they show up and get hired and don't show up for work, by the 3rd day they don't show up for work, and they are finding drug paraphernalia in the bathrooms. It's an economic development issue. I am trying to address it. I don't want to argue about should our sheriff be doing it or not. The point is, people in the law enforcement community, not the DEA by the way, have said to me this is the best way to handle the enforcement part of this problem. So I have submitted the bill.

I do hope you will support it because not only is it having significant economic impact in downeast and rural Maine, it is killing our children. It is killing them first one at a time, then by the handful, and now by the dozen. We can argue against the fine points of should I have done it way or should I have done it that way, but the fact remains that this bill is an effort to address a plague that is killing our children and going to kill more of them every week, in greater numbers. I have been told by an authority

who I respect and supported by people from police departments around this area, from nurses and physicians who have grouped together to address this, that this is an effective way to deal with the enforcement part of this problem. I'm not going to argue with that. I'm not in law enforcement. They told me this is the way to do it, I want to do it. This is a bad drug. We need to stop it and I hope that you will help to support this effort in my part of the world. Thank you very much.

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

Senator **BROMLEY:** Sadly, I rise once more to say that, in a environment of scarce resources, to address this problem we need only to look at the federal problem to see what the enforcement piece does. If we are serious, and I'm sure we are, about this, without treatment I would caution that we might be spending money that doesn't address the problem in the way that we would like to. Thank you.

The Chair ordered a Division.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#81)

YEAS: Senators: CARPENTER, GOLDTHWAIT, KILKELLY, KNEELAND, LONGLEY, MILLS, NUTTING, O'GARA, PENDLETON, SAVAGE, SHOREY, SMALL, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, BENNETT, BROMLEY, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, LAFOUNTAIN, MARTIN, MCALEVEY, MITCHELL, RAND, ROTUNDO, SAWYER, TREAT, TURNER

ABSENT: Senator: LEMONT

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SHOREY** of Washington to **ACCEPT** the Minority **OUGHT TO PASS** Report, **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Allow Telephone Wagering for Horse Racing"

H.P. 928 L.D. 1242

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

Signed:

Senators:

DOUGLASS of Androscoggin
BROMLEY of Cumberland

Representatives:

CHIZMAR of Lisbon
COTE of Lewiston
ESTES of Kittery
TUTTLE of Sanford
MAYO of Bath

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-504)**.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

LABRECQUE of Gorham
O'BRIEN of Lewiston
HEIDRICH of Oxford
PATRICK of Rumford
DUNCAN of Presque Isle

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

Reports **READ**.

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

The Chair ordered a Division.

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

Senator **WOODCOCK:** Thank you, Mr. President, ladies and gentlemen of the Senate. This is a very simple bill in many regards. It does carry with it the attachment of a very contagious word. That word is gambling. I do not deny that this is a gambling bill. Unfortunately, the gambling that occurs that this bill is attempting to address is already taking place from this state to other states. With it goes the revenue. The cost of this, the fiscal note, is \$4,000 in 2001 - 2002 and 2002 - 2003. The revenues

which are projected to be coming forth to the Harness Racing Commission in the first year, 2001 - 2002, would be \$104,600. In the second year, \$118,600. Revenues to the General Fund would be over \$50,000 in each of those 2 years. Little expense for a great return.

Now to address the issue of gambling, which I'm sure is in the hearts and souls of everybody's vote. Gambling by telephone already exists. The monies are going to other states. Those monies are being used to enhance the purse accounts of racing in Pennsylvania. I firmly maintain that if we had a choice many of us would eliminate gambling. But in this instance, we are losing the money available for the Maine harness horsemen and the purse account to other states who already take place with this wagering. I would urge you to support the Ought to Pass as Amended Minority Report and reject the motion please. Thank you.

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

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. I also rise to urge you to vote against the pending motion so we can go on and accept the Ought to Pass Report. As a long time member of the Agriculture, Conservation and Forestry Committee, this state has stepped up from many different facets of natural resource based industries, with little helping hands here and there. One industry that we've not helped, in my opinion, as much as we should have is the harness horse industry. There are more horses in the State of Maine than there are dairy cows. A lot of people don't believe that, but it is true. Our harness horsemen are racing under purses that are much smaller because right today, right as I speak, there are people in Maine that are gambling over the telephone with out-of-state tracks. That money is going directly to someone, harness horseman and others, out-of-state. Not a dollar of it goes to any horseman in the state. We're seeing fewer people racing horses. Fewer people keeping the open space necessary to keep those horses. We're seeing a smaller spin-off into the local economies. This bill is not about whether or not we should legalize it. This already ongoing. Some may not like it. I'm not going to argue if that's their position. But my point is that if it's going on this very instance, and I'm sure it is, than our own Maine harness horsemen ought to share some of the benefit from it. So I urge you to vote against the pending motion so we can go on and accept the Minority Ought to Pass as Amended Report. Thank you.

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

Senator **SAWYER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I rise in support of the preceding two speakers. Harness racing appears to be a dying breed in Maine. My hometown of Bangor, Maine has been struggling to keep the Bangor track open as long as possible. I also believe this bill is not about gambling, but is perhaps more about economic development and any money that we can redirect from out-of-state to struggling harness horse owners in the State of Maine I will certainly support. I urge you to vote against the pending motion.

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

Senator **DOUGLASS**: I think it's very important, Mr. President, to put on the record that if you believe that gambling by phone is not a good idea, than you ought to be voting with the Majority Ought Not to Pass Report. I do hear the arguments about collecting money for the State of Maine from that gambling. I agree that Maine ought to be looking for all the money that we can get for our harness racing business. It's a proud tradition of Maine. But I also felt compelled to put on the record that there is a point of philosophy with which I differ on this bill. That is the ability to lose money over the phone. I think that it's important that we make sure that that aspect of this bill is mentioned.

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

Senator **WOODCOCK**: Thank you, Mr. President, ladies and gentlemen of the Senate. I indeed will be very brief. This is a heavy hitters bill. This is not a bill that involves the \$5 or \$10 wager. It's a \$100 minimum. The heavy hitters are already making their wagers over the telephone to other states and they far exceed \$100, believe me. This is not a bill where you address the issue of do you believe in telephone gambling, with all due respect to the good Senator from Androscoggin, Senator Douglass, and I always admire her attempt at closure. But this is a bill that address the minority of people who bet large sums of money on horses over the telephone. We, at this stage of our lives and in this body, will have little effect on those heavy hitters.

The Chair ordered a Division. 9 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

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

READ ONCE.

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-504)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Clarify that Polluters Who Violate the Environmental Laws on Private Land are Liable for Their Actions"

H.P. 236 L.D. 273

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-560)**.

Signed:

Senators:

FERGUSON of Oxford
McALEVEY of York

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn
MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon
MENDROS of Lewiston

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

Signed:

Senator:

RAND of Cumberland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-560)**.

Reports **READ**.

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

At the request of Senator **RAND** of Cumberland a Division was had. 7 Senators having voted in the affirmative and 24 Senators having voted in the negative, the motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED**.

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

READ ONCE.

Committee Amendment "A" (H-560) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-560)**, in concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit the Use of Juveniles in the Enforcement of Laws Governing Tobacco Sales" H.P. 14 L.D. 14

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-456)** (4 members)

In House, May 21, 2001, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456)**.

In Senate, May 22, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

On motion by Senator **MARTIN** of Aroostook, the Senate **ADHERED**.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE** Bill "An Act to Allow for the Taking of Palm Prints, Footprints and Photographs of a Person Charged with the Commission of a Juvenile Crime" (EMERGENCY) S.P. 174 L.D. 602

Majority - **Ought to Pass** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 23, 2001, by Senator **MCALLEVEY** of York

Pending - **FURTHER CONSIDERATION**

(In Senate, May 22, 2001, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED**, and the Bill **PASSED TO BE ENGROSSED**.)

(In House, May 22, 2001, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

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

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 **TRANSPORTATION** on Bill "An Act to Amend the Motor Vehicle Laws" H.P. 512 L.D. 652

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-555)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)**.

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

READ ONCE.

Committee Amendment "A" (H-555) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)**, in concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **KNEELAND** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Authorizing Certain Land Transactions by the Bureau of Parks and Lands S.P. 612 L.D. 1792

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-244)**.

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

READ ONCE.

Committee Amendment "A" (S-244) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-244)**.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator MITCHELL for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Amend the Charter of Bates College"

S.P. 623 L.D. 1805

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

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

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

Sent down for 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 Modify the Dam Repair and Reconstruction Fund"

H.P. 379 L.D. 481

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-559)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-559)**.

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

READ ONCE.

Committee Amendment "A" (H-559) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-559)**, in concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Enhance Tourism Promotion and Increase State Revenues"

H.P. 1230 L.D. 1677

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-557)**.

Signed:

Senators:

SHOREY of Washington
BROMLEY of Cumberland
YOUNGBLOOD of Penobscot

Representatives:

MORRISON of Baileyville
DUPREY of Hampden
CLOUGH of Scarborough
MURPHY of Kennebunk

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-558)**.

Signed:

Representatives:

THOMAS of Orono
HATCH of Skowhegan
RICHARDSON of Brunswick
BRYANT of Dixfield
DORR of Camden
MICHAUD of Fort Kent

Comes from the House with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **TAXATION**.

Reports **READ**.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until

Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

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

ENACTORS

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

Emergency Measure

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003

S.P. 434 L.D. 1414
(C "A" S-51)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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 Allow Marine Patrol Officers to Hold Elected Positions
H.P. 1331 L.D. 1788
(C "A" H-534)

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.

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

ENACTORS

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

Resolve

Resolve, to Provide Access to Personal Care Assistant Home Care Services

H.P. 895 L.D. 1187
(C "A" H-509)

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

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

ENACTORS

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

Acts

An Act to Increase the Bonding Limit of the Trustees of the City of Brewer High School District from \$2,500,000 to \$5,000,000

H.P. 565 L.D. 720
(C "A" H-522)

An Act to Promote Outcome-based Forest Policy
S.P. 544 L.D. 1690
(C "A" S-222)

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 Expand Eligibility for the Elderly Low-cost Drug Program
H.P. 41 L.D. 50
(C "A" H-510)

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

An Act to Implement the Breast and Cervical Cancer Prevention and Treatment Act of 2000

H.P. 208 L.D. 243
(C "A" H-516)

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

An Act to Expand Higher Educational Opportunities in Underserved Rural Areas

S.P. 525 L.D. 1648
(C "A" S-224)

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

An Act to Encourage Independent 3rd-Party Certification of Resource Managers

H.P. 1219 L.D. 1660
(C "A" H-515)

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

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Clarify Rights of Retainage in Public Construction Contracts"

S.P. 514 L.D. 1633

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

Signed:

Senators:

PENDLETON of Cumberland
YOUNGBLOOD of Penobscot
ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias
McDONOUGH of Portland
HATCH of Skowhegan
LESSARD of Topsham
MURPHY of Berwick
CHASE of Levant
HASKELL of Milford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-245)**.

Signed:

Representatives:

McLAUGHLIN of Cape Elizabeth
KASPRZAK of Newport
CRESSEY of Baldwin

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **NUTTING** of Androscoggin, **TABLED** until Later in Today's Session, pending motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Discontinue Complimentary Licenses to Hunt and Fish for Residents over 70 Years of Age"

H.P. 579 L.D. 734

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-565)**.

Signed:

Senators:

CARPENTER of York
KILKELLY of Lincoln
WOODCOCK of Franklin

Representatives:

DUNLAP of Old Town
TRAHAN of Waldoboro
CLARK of Millinocket
HONEY of Boothbay
USHER of Westbrook
PERKINS of Penobscot
TRACY of Rome
BRYANT of Dixfield

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

Signed:

Representatives:

CHICK of Lebanon
McGLOCKLIN of Embden

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-565)**.

Reports **READ**.

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

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

Senator **CARPENTER:** Thank you, Mr. President, women and men of the Maine Senate. The title is real deceiving on this bill, 'An Act to Discontinue Complimentary Licenses to Hunt and Fish for Residents Over 70 Years of Age'. I want you to know that I'm getting closer to that every year and I took care of the 70 and over crowd.

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

READ ONCE.

Committee Amendment "A" (H-565) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-565)**, in concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator DOUGLASS for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Establish the Maine Military Authority"

S.P. 441 L.D. 1495

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

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

READ ONCE.

Committee Amendment "A" (S-246) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-246)**.

Sent down for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/16/01) Assigned matter:

Bill "An Act to Further Reduce Mercury Emissions from Consumer Products"

H.P. 1224 L.D. 1665

(C "A" H-417)

Tabled - May 16, 2001, by Senator **TREAT** of Kennebec

Pending - **ADOPTION OF HOUSE AMENDMENT "A" (H-471)**, in concurrence

(In House, May 15, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417) AND HOUSE AMENDMENT "A" (H-471)**.)

(In Senate, May 16, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE.** Committee Amendment "A" (H-417) **READ** and **ADOPTED**, in concurrence. House Amendment "A" (H-471) **READ**.)

House Amendment "A" (H-471) **ADOPTED**, in concurrence.

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

On motion by Senator **MARTIN** of Aroostook, Senate Amendment "A" (S-247) **READ**.

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. This particular amendment deals with the issue of the amount of testing that will be required for soap products used at the hospitals. Basically what it does is require that the testing will be once a year and this has been worked out with the hospital industry as well as the DEP and the Governor's office.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **MARTIN** of Aroostook to **ADOPT** Senate Amendment "A" (S-247).

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.

On motion by Senator **MARTIN** of Aroostook, **ADJOURNED** to Thursday, May 24, 2001, at 9:00 in the morning.