

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

In Senate Chamber  
Thursday  
April 8, 2004

Senate called to order by President Beverly C. Daggett of Kennebec County.

---

Prayer by Reverend Kenneth Lewis, Green Memorial African Methodist Episcopal Zion Church of Portland.

**REVEREND LEWIS:** Let us pray. Dear God, we praise You for Your love that embraces us and gives us security. Your joy, that uplifts us and gives us resiliency. Your peace, that floods our hearts and gives us serenity. Your spirit, that fills us and gives us strength and endurance. Be with us, Lord, so we can maximize the hours of this day. Help us to think clearly without confusion, to speak honestly without rancor, to debate without division, and to decide courageously without contention. We rejoice in You for the privilege of serving in the Senate, for supernatural gifts of wisdom, discernment, and vision to maximize the talents that You have given us. Endow these Senators with the grace to lead, the humility to follow, and a mind to work on behalf of the people of the State of Maine. Amen.

---

Reading of the Journal of Wednesday, April 7, 2004.

---

Off Record Remarks

---

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

**ORDERS**

**Joint Order**

On motion by Senator **TREAT** of Kennebec, the following Joint Order:  
S.P. 802

ORDERED, the House concurring, that when the Senate adjourns Thursday, April 8, 2004 it does so until Tuesday, April 13, 2004, at 10:00 in the morning and when the House adjourns Thursday, April 8, 2004, it does so until Monday, April 12, 2004, at 9:00 in the morning.

**READ and PASSED.**

Ordered sent down forthwith for concurrence.

---

**COMMUNICATIONS**

The Following Communication: S.C. 566

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY**

April 7, 2004

The Honorable Beverly C. Daggett  
President of the Senate of Maine  
121<sup>st</sup> Maine Legislature  
State House  
Augusta, Maine 04333-0003  
Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 121<sup>st</sup> Maine Legislature, the Joint Standing Committee on Agriculture, Conservation and Forestry has had under consideration the nomination of Carole Dyer of Bowdoinham, for reappointment to the Land For Maine's Future Board.

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

YEAS	Senators	2	Bryant of Oxford, Kneeland of Aroostook
	Representatives	6	Carr of Lincoln, Churchill of Orland, Honey of Boothbay, Pineau of Jay, Piotti of Unity, Smith of Monmouth
NAYS		0	
ABSENT		5	Rep. McKee of Wayne, Rep. Eder of Portland, Rep. Fletcher of Winslow, Rep. Lundeen of Mars Hill, Sen. Youngblood of Penobscot

Eight 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 Carole Dyer of Bowdoinham, for reappointment to the Land For Maine's Future Board be confirmed.

Signed,

S/Bruce S. Bryant  
Senate Chair

S/Linda Rogers McKee  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#331)**

YEAS: Senators: None

NAYS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TREAT, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senator: CATHCART

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 **Carole Dyer** of Bowdoinham, for reappointment to the Land For Maine's Future Board was **CONFIRMED**.

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

The Following Communication:

S.C. 567

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY**

April 7, 2004

The Honorable Beverly C. Daggett  
President of the Senate of Maine  
121<sup>st</sup> Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 121<sup>st</sup> Maine Legislature, the Joint Standing Committee on Agriculture, Conservation and Forestry has had under consideration the nomination of Jeffrey A. Thaler of Yarmouth, for appointment to the Land For Maine's Future Board.

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

YEAS	Senators	2	Bryant of Oxford, Kneeland of Aroostook
	Representatives	6	Carr of Lincoln, Churchill of Orland, Honey of Boothbay, Pineau of Jay, Piotti of Unity, Smith of Monmouth
NAYS		0	
ABSENT		5	Rep. McKee of Wayne, Rep. Eder of Portland, Rep. Fletcher of Winslow, Rep. Lundeen of Mars Hill, Sen. Youngblood of Penobscot

Eight 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 Jeffrey A. Thaler of Yarmouth, for appointment to the Land For Maine's Future Board be confirmed.

Signed,

S/Bruce S. Bryant  
Senate Chair

S/Linda Rogers McKee  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#332)**

YEAS: Senators: None

NAYS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TREAT, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Jeffrey A. Thaler** of Yarmouth, for appointment to the Land For Maine's Future Board was **CONFIRMED**.

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

---

The Following Communication: S.C. 568

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON BUSINESS, RESEARCH  
AND ECONOMIC DEVELOPMENT**

April 7, 2004

The Honorable Beverly C. Daggett  
President of the Senate of Maine  
121<sup>st</sup> Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 121<sup>st</sup> Maine Legislature, the Joint Standing Committee on Business, Research and Economic Development has had under consideration the nomination of Elizabeth Horning of Richmond, for reappointment to the Maine State Housing Authority.

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	Senator	1	Bromley of Cumberland
	Representatives	10	Sullivan of Biddeford, Austin of Gray, Beaudette of Biddeford, Berube of Lisbon, Duprey of Medway, Jacobsen of Waterboro, O'Brien of Lewiston, Pellon of Machias, Rogers of Brewer, Smith of Monmouth
NAYS		0	
ABSENT		2	Sen. Hall of Lincoln, Sen. Shorey of Washington

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Elizabeth Horning of Richmond, for reappointment to the Maine State Housing Authority be confirmed.

Signed,



Representatives	10	Sullivan of Biddeford, Austin of Gray, Beaudette of Biddeford, Berube of Lisbon, Duprey of Medway, Jacobsen of Waterboro, O'Brien of Lewiston, Pellon of Machias, Rogers of Brewer, Smith of Monmouth
NAYS	0	
ABSENT	2	Sen. Hall of Lincoln, Sen. Shorey of Washington

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Carol A. Kontos of Windham, for appointment to the Maine State Housing Authority be confirmed.

Signed,

S/Lynn Bromley  
Senate Chair

S/Nancy B. Sullivan  
House Chair

**READ and ORDERED PLACED ON FILE.**

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#334)**

YEAS: Senators: BLAIS, WESTON

NAYS: Senators: BENNETT, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

2 Senators having voted in the affirmative and 33 Senators having voted in the negative, and 2 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 **Carol A. Kontos** of Windham, for appointment to the Maine State Housing Authority was **CONFIRMED**.

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

---

The Following Communication:

S.C. 570

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON BUSINESS, RESEARCH  
AND ECONOMIC DEVELOPMENT**

April 7, 2004

The Honorable Beverly C. Daggett  
President of the Senate of Maine  
121<sup>st</sup> Maine Legislature  
State House

Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 121<sup>st</sup> Maine Legislature, the Joint Standing Committee on Business, Research and Economic Development has had under consideration the nomination of John C. Witherspoon of Kingfield, for appointment as the Chief Executive Officer of the Finance 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	2	Bromley of Cumberland, Hall of Lincoln
	Representatives	10	Sullivan of Biddeford, Austin of Gray, Beaudette of Biddeford, Berube of Lisbon, Duprey of Medway, Jacobsen of Waterboro, O'Brien of Lewiston, Pellon of Machias, Rogers of Brewer, Smith of Monmouth
NAYS		0	
ABSENT		1	Sen. Shorey of Washington

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of John C. Witherspoon of Kingfield, for appointment as the Chief Executive Officer of the Finance Authority of Maine be confirmed.

Signed,

S/Lynn Bromley  
Senate Chair

S/Nancy B. Sullivan  
House Chair

**READ and ORDERED PLACED ON FILE.**

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#335)**

YEAS: Senators: None

NAYS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TREAT, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **John C. Witherspoon** of Kingfield, for appointment as the Chief Executive Officer of the Finance Authority of Maine was **CONFIRMED**.

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

**THE PRESIDENT:** The Chair is pleased to recognize in the rear of the chamber John C. Witherspoon with his wife, Cathy; his children, Carter, Amy, and Sam; and family friend, Justin. Would they please rise and accept the greetings of the Maine Senate.

---

**ORDERS**

**Joint Order**

Expressions of Legislative Sentiment recognizing:

The Make-A-Wish Foundation of Maine in Camden, which in April 2004 will celebrate granting its 500th wish to a seriously ill child in Maine. This chapter of the nationally known foundation was launched in 1992 by a small group of citizens led by Caroline and Wayne Morong of Camden. Over the years it has grown into the organization that it is today, granting wishes to children who have life-threatening medical conditions. We extend our appreciation to the foundation for its continued dedication to the youth of the state;

SLS 650

Sponsored by Senator SAVAGE of Knox.

Cosponsored by Representative: BOWEN of Rockport.

**READ.**

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

Senator **SAVAGE:** Thank you, Madame President, men and women of the Senate. It really gives me pleasure and I'm honored to present this sentiment on behalf of my favorite charity. It was back in the fall of 1992 that a small group of Maine citizens, led by Caroline and Wayne Morong of Camden, launched the Maine Chapter of the nationally known Make a Wish Foundation to grant the wishes of Maine children living with life-threatening medical conditions. From slow and steady beginnings, because it took nearly a year to grant the first wish, the chapter has grown to serve numerous children in every county of the state. This month, April 2004, the Make a Wish Foundation of Maine will celebrate the fulfillment of its 500<sup>th</sup> wish to a seriously ill Maine child. Each wish has been magical. Children take family trips to Walt Disney World Resort, they go surfing in Hawaii, fish in Alaska, meet celebrities, or fulfill fantasies such as being a zookeeper or a flight commander for a day. The Foundation expects to grant the greatest wish of over 75 seriously ill Maine children in 2004 alone, which is an average of one wish in every five days somewhere in Maine. The mission of the Make a Wish is to provide each wish child not only with an unforgettable experience, but also with hope, strength, and joy. I have distributed on your desks a fact sheet on the mission of Make a Wish. In case any of you know a seriously ill child, you can find out on that fact sheet how you can refer that child. I'm delighted today to have with us Tom Peaco, who is the Executive Director of the Make a Wish Foundation of Maine. We also have a wish child with us today. Elijah Austin from Augusta, along with his family; his mother, father, twin sister, and younger sister, and the wish granter, Faye Rodrigue is with us. Thank you, Madame President.

**PASSED.**

Ordered sent down forthwith for concurrence.

**THE PRESIDENT:** The Chair is pleased to recognize in the rear of the chamber Tom Peaco, the Executive Director of the Make a Wish of Maine; 5-year old Elijah whose wish was granted by Faye Rodrigue, and Elijah's mother and father, Shawn and Evangeline; his twin sister, Brynne, and younger sister, Kiara. Would they all please stand and accept the greetings of the Maine Senate.

---

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act To Provide Collective Bargaining Rights to Certain Forest Products Workers"

H.P. 972 L.D. 1318

Reported that the same **Ought to Pass as Amended by Committee Amendment "C" (H-848)**.

Signed:

Senators:

EDMONDS of Cumberland  
STANLEY of Penobscot

Representatives:

SMITH of Van Buren  
HUTTON of Bowdoinham  
HATCH of Skowhegan  
PATRICK of Rumford  
JACKSON of Fort Kent  
WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

TREADWELL of Carmel  
CRESSEY of Baldwin  
HEIDRICH of Oxford  
NUTTING of Oakland

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 "C" (H-848) AS AMENDED BY HOUSE AMENDMENT "A" (H-864)** thereto.

Reports **READ**.

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

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

---

Off Record Remarks

---

**ENACTORS**

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

**Emergency Resolve**

Resolve, Regarding Legislative Review of Portions of Chapter 1: Procedures and Portions of Chapter 3: Maine Clean Election Act and Related Provisions, Major Substantive Rules of the Commission on Governmental Ethics and Election Practices

H.P. 1392 L.D. 1868  
(C "A" H-835)

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

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in **NON-CONCURRENCE.**

---

**Act**

An Act To Promote Safety and Fair Labor Practices for Forestry Workers

H.P. 1015 L.D. 1380  
(C "A" H-810)

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

---

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass Pursuant to Joint Order**

Senator DOUGLASS for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding the Continued Provision of Free and Appropriate Public Education for Eligible Children of Kindergarten Age"

S.P. 801 L.D. 1960

Reported that the same **Ought to Pass**, pursuant to Joint Order 2004, S.P. 680.

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

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

Sent down for concurrence.

---

Off Record Remarks

---

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 Promote the Financial Security of Maine's Families and Children"

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

In Senate, April 1, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-744) AS AMENDED BY SENATE AMENDMENT "B" (S-476)** thereto.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774) AS AMENDED BY HOUSE AMENDMENT "B" (H-871)** thereto, in **NON-CONCURRENCE**.

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

---

Senate at Ease.

Senate called to order by the President.

---

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

**REPORTS OF COMMITTEES**

**House**

**Pursuant to Joint Rule 309**

From the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Make the Children's Ombudsman Program an Independent Office"

H.P. 81 L.D. 73

Received by the Clerk of the House on January 26, 2004, pursuant to Joint Rule 309.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-650) AND HOUSE AMENDMENT "B" (H-841)**.

Report **READ**.

Senator **BRENNAN** of Cumberland moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

---

**Ought to Pass**

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, To Clarify Title to Land Related to the Waldo-Hancock Bridge Replacement

H.P. 1447 L.D. 1947

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

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

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

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

---

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

**ENACTORS**

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

**Act**

An Act To Govern and Regulate Life Settlements

H.P. 1411 L.D. 1907  
(C "A" H-796; H "A" H-849)

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

---

Senate at Ease.

Senate called to order by the President.

---

Off Record Remarks

---

**ORDERS OF THE DAY**

**Unfinished Business**

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

The Chair laid before the Senate the following Tabled and Later (2/24/04) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Make Retirement Benefits More Equitable by Imposing a Surcharge on Income from Congressional Retirement Benefits"

S.P. 616 L.D. 1684

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-392)** (7 members)

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

Tabled - February 24, 2004, by Senator **STANLEY** of Penobscot

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

(In Senate, February 24, 2004, Reports **READ**.)

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. This bill was born out of the frustration or inability to do anything for our constituents who are affected by social security offsets of one various kind or another. I don't know about you, but it makes me angry that time after time, for years now, we've been in contact with our federal representatives of both parties, asking them to do something about this and nothing seems to happen. All we get is a response that says, 'Well, we've sponsored or co-sponsored a bill.' We all know what that is about here.

Basically, this is an attempt to put their feet to the fire, to suggest to them that they might want to do more than just sponsor a bill about this, or at least come home and tell us why they haven't been able to do anything about it. That is the least we could expect. This is an attempt to address that. Basically, it taps into their retirement system and suggests that they might want to make a

significant contribution to the State of Maine should they find themselves in that position. Thank you.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. While I share the frustration of the good Senator from York, Senator Nass, I must say, from my point of view, two wrongs don't make a right. I know we all understand that our Congressional delegations from both parties have been doing what they can and apparently they haven't got the votes to do what we wish they would do for us. I can't see any reason to penalize them for the fact that they are outnumbered in Washington. Instead, I think we have to keep encouraging them, as we have been, to keep working to change this so that everybody doesn't have to suffer from the social security offset that exists and badly affects our teachers, in particular, and retirees in general. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you very much, Madame President, ladies and gentlemen of the Senate. I appreciate the comments from the good Senator from Cumberland, Senator Edmonds. However, as I am sure is no shock to her, I disagree with her. I have had constituent after constituent during the last six years that I have been in the Maine Senate contact me and complain about the social security offset. I have written letter after letter, made call after call to our Congressional delegation, people from both parties. I get the same answer every time. It's in committee. I've co-sponsored it. It's in committee. I've co-sponsored it. I would agree that probably this isn't the best idea. I would agree that two wrongs don't make a right. Sometimes you have to hit somebody aside the head to wake them up. I think it's time that the United States Congress woke up to the injustice that they are putting forth here. If you don't think it is an injustice, go to your computer, go on U.S. Congress, push on benefits. If you think that it is all right to take \$200 away from an old lady in Dover-Foxcroft who is getting \$400 to begin with, look at what our Congress people are giving themselves. It's time to wake them up. Maybe they don't have the votes to completely repeal it, but they could do something. They could fix it so that the people who pay for this don't have to pay for it anymore or they could give them a refund on what they've paid in. It needs to be done.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Stanley 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 (#336)**

**YEAS:** Senators: BENNETT, BLAIS, CARPENTER, DAMON, DAVIS, GILMAN, KNEELAND, LEMONT, MARTIN, MAYO, MITCHELL, NASS, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

**NAYS:** Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, PENDLETON, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **STANLEY** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-392) **READ** and **ADOPTED**.

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

Sent down for concurrence.

---

The Chair laid before the Senate the following Tabled and Later (4/1/04) Assigned matter:

Bill "An Act To Reclassify Certain Downeast Waters"

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

Tabled - April 1, 2004, by Senator **WOODCOCK** of Franklin

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-791)**, in concurrence

(In House, March 30, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-791)**.)

(In Senate, April 1, 2004, **READ A SECOND TIME**.)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-791)**, in concurrence.

---

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

---

The Chair laid before the Senate the following Tabled and Later (4/5/04) Assigned matter:

**Pursuant to Constitution  
Public Land**

Resolve, Authorizing the Transfer of a Parcel of Land on Peaks Island to the Peaks Island Land Preserve

S.P. 652 L.D. 1719  
(C "A" S-455)

Tabled - April 5, 2004, by Senator **CATHCART** of Penobscot

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 29, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455)**.)

(In House, April 2, 2004, **FINALLY PASSED**.)

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

Senator **CATHCART:** Thank you, Madame President. I believe that this bill is, indeed, ready for final passage because the Appropriations Committee members have all voted to exempt this from the table so that it can be finally passed. Thank you, Madame President.

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

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I just want to give you a clear explanation, for the record, of the land transaction. I want to make sure that it is clear that this is a situation where Inland Fisheries and Wildlife takes of public lands that people give them. In this case, I want to make it clear on the record, it is not a precedent setting piece. I want to make sure that people clearly understand that this piece of land was given to Inland

Fisheries and Wildlife a number of years ago. The people who gave that land are still alive. They want the land transferred over a different agency. Therefore, we are willing to do that. I want to make it clear, for the general public and everyone else that is concerned, the land that Inland Fisheries and Wildlife has will be entrusted and taken care of. Thank you.

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

Senator **BRENNAN:** Thank you very much, Madame President, men and women of the Senate. I just wanted to reiterate comments from the Senator from Oxford, Senator Bryant, for the record. There is a couple on Peaks Island that did donate the land to the state. They did that because there was no non-profit organization on Peaks Island that would have been able to protect the land. There is now the Peaks Island Conservation Corporation that exists for the very purpose of protecting land on Peaks Island. Rather than having the state hold it, the people that had donated the land have requested that this land be given back and it will be given to this land trust so that they will be able to have it in conservation and perpetuity. As the good Senator from Oxford, Senator Bryant, already pointed out, we just want to make sure that this is a unique situation and it does not establish any precedent.

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 35 Senators having voted in the affirmative and no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

---

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

**Emergency Resolve**

Resolve, Regarding Legislative Review of Portions of Chapter 1: Procedures and Portions of Chapter 3: Maine Clean Election Act and Related Provisions, Major Substantive Rules of the Commission on Governmental Ethics and Election Practices

H.P. 1392 L.D. 1868  
(C "A" H-835)

Tabled - April 8, 2004, by Senator **TREAT** of Kennebec

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, April 5, 2004, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, April 7, 2004, **FAILED FINAL PASSAGE**.)

On motion by Senator **GAGNON** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-835)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-503) **READ**.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. This amendment simply removes the emergency enactor from the bill, having failed to receive passage down at the other body. These are election laws and by removing the emergency it pushes us into the middle of an election cycle. There will be a follow up amendment from the good Senator from Sagadahoc, Senator Mayo, following this amendment, if we can get this on. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-503) **ADOPTED**.

On motion by Senator **MAYO** of Sagadahoc, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-835), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-504) to Committee Amendment "A" (H-835) **READ**.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. This is a somewhat technical amendment. What it does is place the date for the adoption of these rules at January 1, 2005. The reason that this amendment is coming forward is that with the adoption of the previous amendment these rules would take effect between the upcoming election cycle. They would take effect after the primary and before the general election. It is my feeling, and the feeling of many, to change the rules of the ballgame once the ballgame has started is very unfortunate and confusing to the candidates.

Purely by happenstance, before I left Bath this morning before 7:00, I happened to open my e-mail and I had an e-mail from a treasurer of one of these people running for re-election in the House. It happened to be the candidate's wife. She was very concerned that this bill, prior to this amendment being adopted, was going to necessitate a change in how she operated in reporting expenditures. I hope that my response to her, explaining that, hopefully, this amendment would pass today, would clarify that. The rules take effect January 1, 2005, as we start a new election cycle. I would urge your adoption of this amendment. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-504) to Committee Amendment "A" (H-835) **ADOPTED**.

Committee Amendment "A" (H-835) as Amended by Senate Amendment "A" (S-504) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-835) AS AMENDED BY SENATE AMENDMENT "A" (S-504) thereto, AND SENATE AMENDMENT "A" (S-503), in NON-CONCURRENCE.**

Sent down for concurrence.

---

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

---

Senate at Ease.

Senate called to order by the President.

---

Off Record Remarks

---

Senate at Ease.

Senate called to order by the President.

---

Off Record Remarks

---

Senate at Ease.

Senate called to order by the President.

---

Off Record Remarks

---

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

---

Senator **WOODCOCK** of Franklin was granted unanimous consent to address the Senate off the Record.

---

**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

---

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by the Calais School District" (EMERGENCY)

H.P. 1452 L.D. 1953

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

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

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

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

---

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

---

Off Record Remarks

---

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

---

**RECESSED** until 4:00 in the afternoon.

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 Today Assigned matter:  
HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act To Provide Collective Bargaining Rights to Certain Forest Products Workers"

H.P. 972 L.D. 1318

Majority - **Ought to Pass as Amended by Committee Amendment "C" (H-848)** (8 members)

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

Tabled - April 8, 2004, by Senator **EDMONDS** of Cumberland

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

(In House, April 7, 2004, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-848) AS AMENDED BY HOUSE AMENDMENT "A" (H-864)** thereto.)

(In Senate, April 8, 2004, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I rise today to strongly encourage you to support the majority Ought to Pass as Amended report. This bill applies to landowners who own or control more than 400,000 acres in a labor market area. Maine has 35 labor market areas. Only three landowners will be affected. This allows loggers and truckers to join and form associations for rate setting, making it no longer an anti-trust violation. It allows the negotiation of rates before a rate determination proceeding, no longer an anti-trust violation. A petition may be brought by three or more loggers or truckers. The petition will be specific to a forest landowner in a labor market area and the forest landowner may also petition. The rate determination will be brought before a three person forestry rate proceeding panel. The panel will consist of one member representing loggers and truckers, one member representing the forest landowners, and one member is a neutral from the Board of Arbitration and Conciliation and the Governor will appoint the members of the panel.

I want to let you know the Labor Committee worked very long and hard, specifically around this issue, to make sure that as fair a board was created as possible. We worked with the Board of Arbitration and Conciliation to get their input about how best to do this. I feel like we came up with a good solution. The costs are divided equally between the parties. The rates set will not affect existing contracts between other landowners or contractors. This protects persons involved in negotiations from reprisals.

I've given you all the details, which you probably have at your desks as well. I guess the next thing I want to say is that it was very clear to us in the public hearing and during the work session, hearing from forest landowners and from loggers, that this situation arises out of real problems that people are having today in the north woods. People have felt the need to negotiate with their landowners and have felt that this has not been possible. They have been talking about money, but it seems the money situation was not the real issue. The real issue seems to be about not letting these folks get together and bond together to put forward an alliance. We do that already in the State of Maine around things like the Dairy Stabilization Board. The major issue that I felt came clearest from all who spoke was that they wanted to have a situation where they would be able to talk, be able to negotiate, be able to bring issues forward, and have an honest debate about them. There wasn't a situation where that could happen, given the anti-trust concerns and reluctance. I think what this does is allows loggers and truckers to have a place that is sanctioned, with a set of

guidelines around, it to have conversations and negotiations with landowners. That seems like a fair and honorable way to proceed. I hope you will join me on the majority Ought to Pass as Amended report. Thank you.

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

Senator **BLAIS:** Thank you very much, Madame President, men and women of the Senate. I rise in opposition to the motion that is before us. Before I make my remarks, I would like to commend the good chair of my committee, the Senator from Cumberland, Senator Bromley, for all of the hard work that she put into steering this legislation through two sessions. We heard a great deal of testimony from all sides on this issue. I would concur with her that there definitely is an issue in northern Maine between loggers and haulers and landowners. I don't necessarily believe that this issue is something that extends to other parts of our state.

Fundamentally, the issue boils down to a free market issue. The loggers and haulers are not workers in the common sense that we understand the term 'worker' here in the legislature. They are small business people. They are independent. They pay their own Workers' Compensation just like many other small business people do. There are loggers and haulers, there are painters, there are carpenters, and there are restaurant owners. We have a lot of small business people in our state. I would suggest to you that many of the small businesses in our state would like to be experiencing a higher return for their efforts. That is part of what being in business is all about. It's part of what being an entrepreneur is all about. People are making decisions across our state every single day as small business people and as the customers of those small business people. In the free market, those decisions come down to something that is very simple. Am I willing to purchase your product, which in this case is a service, for the price that you want for it? If I'm not able to purchase that product then I have a number of decisions that I can make, namely that I don't purchase that product. That is why we don't just have, for example, one car dealership in the State of Maine where you go and purchase cars. We have many because, as you all know who have experienced purchasing a car, you go from dealership to dealership until you get the best deal that you can.

Now I certainly will also recognize that it's a bit more difficult in northern Maine to find other landowners that you can take your service to, but what we are dealing with is really kind of a flipping of this notion on its head. You have a lot of small business people who find it difficult to negotiate with, in this case, a single landowner or a few landowners. They do have decisions to make and they do have economic tools that are available to them. I think last winter we saw them employ some of those economic tools that are available to them. They can simply choose not to provide the services at the rates that landowners are offering.

In terms of them getting together, there are other things that they can do. They can form larger businesses. They don't have to be independent contractors. They can form larger collections of businesses. Fundamentally, as the good Senator from Cumberland, Senator Bromley, suggested earlier, what this legislation is about is trying to get around anti-trust laws. If some of the small businesses in Kennebec County, for example, the painters or carpenters decided that they all wanted to get together and talk and establish a single rate for what it would cost to paint a house in Kennebec County or elsewhere, they might find themselves in violation of anti-trust and be subject to jail terms for engaging in that type of activity. What this legislation is about is not just loggers and haulers having an opportunity to get together and talk amongst themselves about how they would like to negotiate with landowners. It's really about them having a collective capacity, but not just having a collective capacity but having a collective capacity that has the full power of the State of Maine behind it, the imprimatur, if you will, of the State of Maine, to set rates for logging and hauling in the forest products industry.

As I said before, I appreciate the concerns. I appreciate the difficulties. I appreciate what it is like to be a small business person, struggling with the regulations that we face, the high wages and taxes that we face, the Workers' Comp, the unemployment taxes that we face in this state, a regulatory burden. Loggers and haulers in northern Maine are not the only ones who face those difficulties. This legislation began as a kind of a club, I think. Loggers and haulers and their representatives have been struggling for some time to find a resolution to the issues that they face in northern Maine. I appreciate the frustration that they have had. What they are seeking is an economic victory. I appreciate the fact they are pulling out all the stops to see that economic victory.

As I said, when this legislation first came before our committee a year ago this thing truly was a club. It was a club that probably would immediately have resulted in either federal or state legal action for anti-trust violations. What has happened over the last year and a half is that this piece of legislation has gone through a number of permutations. It certainly is no longer the same bill that it was when it first came before us. What it does is create a new section of our law, it carves out entirely new territory that exists nowhere else in the country in this form, certainly not specifically in the forest products industry. We had a hand-out that was delivered earlier today from the

Professional Logging Contractors of Maine which characterizes this legislation as a new non-employee labor model to work for all partners in the world marketplace. This is new territory. I use the term 'we're plowing new ground' here in the State of Maine. We certainly are leading in the State of Maine. My concern about this club that was created, which over the past year and a half has had various layers of cushioning and velvet applied to it in order to make it more palatable to those who may have been more inclined to oppose it over the last number of months, is that underneath it still is an economic club and potentially an unfair club. I would say definitely an unfair club.

The good Senator from Cumberland, Senator Bromley, suggested that this legislation would define a landowner only as a person who acquires control over more than 400,000 acres in a labor market area. There are 35 in the State of Maine. They are determined by the federal government. That is one of those cushioning layers, the velvet that was applied to this club. It was designed in an attempt to try and lessen the potential statewide impact of this legislation on other landowners in this state. This definition essentially carves out and applies this piece of legislation to a specific company in northern Maine. My concern is that may work right now. I'm not suggesting that this is fair in any way, but I think many members of this body are comfortable with this notion that it may apply to just one landowner. I would like to remind you how easy it is to take the number 400,000 and change it to 300,000 or 200,000. Right now we have a circumstance where you have a rate setting panel that is setting rates for the logger and hauler services for a specific landowner in northern Maine. We don't have the same economic issues in western or southern Maine.

Suddenly someone finds that there is this great law on the books for loggers and haulers, who are getting fair returns on their investment in the business in which they are engaged in with a landowner. They see this as an opportunity, if they could just change this legislation slightly, to benefit them and increase their profits. I wouldn't blame them if they wanted to come to the legislature and lobby for this number to be changed. Suddenly this club was designed and cushioned and softened to apply just to a specific landowner in northern Maine, because of a small change of a number in this legislation, could potentially cascade down and apply to every single labor market and every single landowner in the State of Maine. I don't know whether that will or will not happen. I think we should consider the possibility that it could happen.

Even more importantly, I think we should consider what the potential impact of that might be on the industry itself. Of course the industry has three significant parts. It has the landowners. It has the haulers and loggers, the people who are providing those services. It also has the mills. This economic dispute may be between loggers and haulers and landowners, but there is a third party that is involved. It's our mills which provide much needed employment in our state. We know that it costs already, because of regulatory environment, considerably more for mills to operate in the State of Maine than it does elsewhere in the United States. If we have legislation like this that begins to tinker with the notion of the free market, that delicate balance that exists between one business and another business that potentially requires prices to be negotiated on a quick individual basis will be affected. Today we may have to have one price, but if something changes in the world scene, we may have to have another price tomorrow. If we don't have that ability, and if the mills don't have the ability to negotiate with the landowners because the landowners are coming to them and saying, 'I'm sorry, we have rates that are set for us, we can't move, our decision is that either we don't cut or you pay this price.' In this legislation, the rate setting panel that is contemplated in it could take, at a minimum in order to do due process of this system, thirty days to be able to establish a rate. Those thirty days could be far, far too long for the mills that are waiting for that lumber, for the pulp. What might they do? Well, they might say, 'We can't afford to do business with you, we're going to look to a global market and get more of our pulp from someplace that we can depend on more for our prices.'

While I respect greatly the issues that exist, and I do still feel that there are other ways to resolve this matter using free market principles, my concern is that this certainly isn't the first piece of legislation in Maine that begins to tinker with our free markets. It is a very significant piece of legislation. While it certainly would result in an immediate economic victory for the sponsors of the legislation and for those who they represent, it has the potential, by tinkering with the free market system and by upsetting that delicate balance between mills, loggers and haulers, and landowners, to disrupt the entire system and hasten the demise of the forest products industry in the State of Maine and hasten the loss of critical jobs in the State of Maine. Sadly, while it may result in an immediate victory for the loggers and haulers in northern Maine, the end result for them may be the destruction of the very industry that they depend on for their income and for their lifestyle. I would implore all of you here today to think before you vote on this measure. I want to again say that I respect the division, I respect the economic challenges that exist, and share with you that those economic challenges exist for all small business people in Maine. I would implore you to consider that the adoption of this type of legislation which attempts to involve the power of the state and the free market system may result, faster than you can believe, in a significant disruption, if not

destruction, of the forest products industry in the State of Maine. Thank you very much for your time and I would ask you to, please, oppose the Ought to Pass motion that is before us.

Same Senator requested a Roll Call.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Let me first begin by simply saying that if I thought for a moment that this legislation would impact the future of northern Maine I would not be speaking for it, I would not be supporting it, I would not have endorsed it, and I would not have sponsored it. Let me, for a moment, talk about another subject. That is potatoes. Some 25 years ago we had the same identical problem in Aroostook County, where the potato market was controlled by a few individuals. The citizens of Aroostook came to me and I sponsored the legislation that created the Agricultural Bargaining Council. Today, that council has saved the potato industry in Aroostook County. The farmers now, collectively, can get together. They can negotiate with the one producer that we have. You can talk to that producer and they will tell you the same thing I'm telling you today about what it's done for them. As a matter of fact, there is a member of our body who is actually a member of that organization. That has worked extremely well.

About five years ago I came up with the idea that perhaps we could do the same thing for forestry and structure it this way. I quickly found out that the federal law prevents it for forestry. They are carved out. They are not defined. They are not within the agricultural portion of the federal law. So what you have before you now is a mechanism in which I've tried to circumvent, to some degree, the anti-trust regulations. I was involved, as were many others, last January with the problem that developed in northern Maine. Those three weeks when people were not working was not helpful to the industry. It was not helpful to landowners. It was not helpful to the truckers. It was not helpful to the loggers. As I told the president of one of the companies the other day, I can assure you that this legislation will be better than what we went through last year. I'm sure they are not sure of that. I can understand where they are coming from.

Let me say that if there has ever been a small business piece of legislation in this legislature it is this one. This is it. Let me explain it to you because under the way in which it is operating now one skidder is an independent contractor. One truck owner is an independent truck owner and truck company. Two of them, same thing. On and on and on and on. That's how it is dealt with. These people can't even get together to talk about prices. As a matter of fact, in the negotiations that took place in January with the company, it was all by third person, back and forth. The company was not interested, nor in a position, to legally talk to the men directly. It was illegal and they were not ready to get themselves caught in anti-trust. Frankly, many of us could have sat there and sued them on that basis. I was one that had to tell those workers that they can't collectively do that, they had to do it individually. Let me tell you how it works individually. I respect the good Senator from Kennebec, Senator Blais, when he talks about what happens in the free market system. Let me assure you that this is the opposite of the free market system. I have in my hands a contract. The contract is simply given. Here it is, sign it. If you don't, you don't have a job. That, to me, is not the free market system. I want to read a portion of that contract to you. It says, to all the conditions to which you can be fired for not doing your job and all of that, and I quote, 'In addition to the company's right to terminate this agreement that is set forth in preceding subparagraph, the company shall have the right to terminate this agreement whenever and for whatever reason it chooses.' That's one heck of a contract. It's a one day, perhaps a minute, contract because they can come in and say you're done at any time. If I believed that this violated the free market system, I wouldn't be here today because I believe in it and I practice it. If you don't believe me, come to my business and I'll be more than happy to see you.

Let me just say this, this bill attempts to do is to try to solve a problem. That is our job in this legislature. It is not to hide behind some lobbyist who comes to us and says it's really going to hurt so-and-so. It doesn't affect them. This affects only three individuals or corporations that own the 400,000 acres that is within the labor market. It is geared, obviously, towards an area from Greenville north. That is where the impact could potentially be. That impact, under this legislation, will only occur if individuals are willing to get together. By the way, this won't be cheap because the way the legislation is drafted one half of it will be borne by those individuals who want to move in that direction by paying legal costs, paying the cost of petitions, paying the cost of the labor board, and if it gets to that point, paying the cost of someone being appointed as the neutral. What better way to solve the problem? You are going to have someone who will be chosen by the employees, if you want to call them that rather than individual contractors, by the company, and finally by an independent who will attempt to work out the final problem. I suppose I could go on forever because I have been part of this system, indirectly and directly, since I was born because my father was in the business. We moved from one place to the other. The reason why I went to

college is very simple, because he told me that if I wanted to spend the summer in Eagle Lake before I went to Connecticut I was going to cut pulp with a bucksaw and horse on the farm. Doing the four-foot and peeling it made my decision for me. That problem and the problem like that has existed in the state for a long time. Now we are far worse than we've ever been because we are at the mercy of a very few very large landowners. We have no collective bargaining available for these individuals. I urge you today to do what I believe is right and that is to vote for the majority report.

On motion by Senator **BLAIS** of Kennebec, 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 Kennebec, Senator Blais.

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. I would just like to begin by saying that I think that our state has benefited greatly by the decision that the good Senator from Aroostook, Senator Martin, made earlier in his life to involve himself in public service rather than the forest products industry. However, I would like to correct a couple of things that were said. One of them is a comparison of the potato industry with the forest products industry. The good Senator suggested that there was simply potato farmers and one purchaser. That was it. That may be the case north of Greenville, but the forest products industry is much bigger than that. As I suggested before, there are three critical components to it. It has the loggers and the haulers. It has the landowners. It has the mills. I appreciate what is being attempted in this legislation. My concern is that this tinkering with the system will ultimately hasten the demise of this industry in the State of Maine at a time when we should be doing everything that we possibly can to help it, to allow it to be more competitive and to keep those jobs here in the State of Maine.

Regarding contracts, I'm not sure I followed the theory that I was hearing. I can tell you from my own personal experience. I have a software business. I have a contract that I like my customers to sign to make sure that someone doesn't steal my intellectual property. When I do business with the State of Pennsylvania, for example, and I bring my contract they say, 'No, here is our contract and you can't change it, this is what it is going to be.' Every business in the free enterprise system is free to negotiate however they like. I've got my contract, they've got their contract. What it boils down to is, in my case, if I want to sell that software to the State of Pennsylvania, I sign their contract. I appreciate the fact that the good Senator from Aroostook, Senator Martin, corrected himself and made sure to define the folks that we are talking about, these loggers and haulers are small business people. They are independent contractors. They are not employees of this company. Consequently, I think that we go down the wrong road when we start to use the power of our great state to change the nature of that relationship and to take small business people and independent contractors and provide them with the economic tools that we provide to organized labor in a circumstance where they might actually be employees. Again, I respect and I recognize the dispute. I think that it would be certainly appropriate to resolve the dispute in a way that is satisfactory to the loggers and haulers in northern Maine. Sometimes when you are in a small business you just have to recognize that you are not going to get everything that you want the way that you want it. There are other economic tools that are available. Some of those tools, as the good Senator from Aroostook, Senator Martin, said can be disruptive. I think it is fundamentally and ultimately better to have those levels of disruption for everyone that is involved so that everyone involved understands the pain that we go through in giving birth to a negotiation rather than use the power of the state to tinker with the system, which has the potential to lead to mischief. I'm well aware this legislation was put together rather hastily because I sit on the Labor Committee. I watched it come in, I know how much time we had to debate it, and how much time we had to take testimony on it. The fact is that it is in its forth iteration before us today.

Regarding the notion that this is applying to just these three landowners in northern Maine in a single market area, I'd like to point out that the Rate Proceedings Panel, and I'm going to quote from the legislation itself, 'Shall issue a decision determining reasonable rates for services that are the subject of the petition and' listen carefully please, 'reasonable geographic applicability for the rates as the panel determines appropriate.' That means that the decision of the panel trumps whatever else is said in the legislation regarding market areas or geographic area. If the panel has the ability to determine the geographic applicability for the rates than that panel is invested with a tremendous amount of power. That power has the ability to cause irreconcilable harm to the forest products industry in our state, to the mills in our state, and to those critical jobs that we would all like to keep here in our state. Please vote in opposition of the motion that is before us. Thank you.

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



ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT -  
BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, CATHCART, GILMAN, MAYO,  
MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, WESTON,  
WOODCOCK, YOUNGBLOOD

ABSENT: Senator: TURNER

20 Senators having voted in the affirmative and 14 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, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "C" (H-848) **READ**.

House Amendment "A" (H-864) to Committee Amendment "C" (H-848) **READ** and **ADOPTED**.

Committee Amendment "C" (H-848) as Amended by House Amendment "A" (H-864) thereto, **ADOPTED**, in concurrence.

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

---

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

**PAPERS FROM THE HOUSE**

**House Paper**

Resolve, Authorizing Professional and Occupational Licensing Authorities in State Government To Defer or Waive Continuing Education Requirements for Military Personnel (EMERGENCY)  
H.P. 1459 L.D. 1959

Comes from the House, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

On motion by Senator **BROMLEY** of Cumberland, **READ ONCE**, without reference to a Committee.

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

---

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 **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act to Define a Scope of Practice for Acupuncture"  
S.P. 97 L.D. 263

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-414)** (12 members)

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

In Senate, April 7, 2004, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-414)**.

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

Senator **BROMLEY** of Cumberland moved the Senate **INSIST**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **INSIST**.

---

**ORDERS OF THE DAY**

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

HOUSE REPORT - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Make the Children's Ombudsman Program an Independent Office"

H.P. 81 L.D. 73

Report - Received by the Clerk of the House on January 26, 2004, pursuant to Joint Rule 309

Tabled - April 8, 2004, by Senator **BRENNAN** of Cumberland

Pending - motion by same Senator to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**

(In House, April 7, 2004, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-650) AND "B" (H-841)**.)

(In Senate, April 8, 2004, Report **READ**.)

On motion by Senator **BRENNAN** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**, 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**

Nine members of the Committee on **NATURAL RESOURCES** on Bill "An Act To Protect Public Health and the Environment by Providing for a System of Shared Responsibility for the Safe Collection and Recycling of Electronic Waste"

H.P. 1402 L.D. 1892

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-861)**.

Signed:

Senators:

MARTIN of Aroostook  
EDMONDS of Cumberland  
SAWYER of Penobscot

Representatives:

KOFFMAN of Bar Harbor

TWOMEY of Biddeford  
HUTTON of Bowdoinham  
MAKAS of Lewiston  
THOMPSON of China  
ANNIS of Dover-Foxcroft

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

Signed:

Representatives:

TOBIN of Windham  
JOY of Crystal  
DAIGLE of Arundel

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-862).**

Signed:

Representative:

SAVIELLO of Wilton

Comes from the House with Reports **READ** and the Bill and accompanying papers **COMMITTED** to the **COMMITTEE ON NATURAL RESOURCES.**

Reports **READ.**

Senator **TREAT** of Kennebec moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-861)**, in **NON-CONCURRENCE.**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-861)**, in **NON-CONCURRENCE.**

---

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

## **REPORTS OF COMMITTEES**

### **House**

#### **Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Give Teachers a Greater Voice in School Improvement"

H.P. 990 L.D. 1344

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

Signed:

Senators:

DOUGLASS of Androscoggin  
MITCHELL of Penobscot  
BRENNAN of Cumberland

Representatives:

CUMMINGS of Portland  
FINCH of Fairfield  
LEDWIN of Holden  
MURPHY of Kennebunk  
ANDREWS of York

FISCHER of Presque Isle

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-804)**.

Signed:

Representatives:

GAGNE-FRIEL of Buckfield

DAVIS of Falmouth

NORTON of Bangor

THOMAS of Orono

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-804) AS AMENDED BY HOUSE AMENDMENT "A" (H-829)** thereto.

Reports **READ**.

On motion by Senator **DOUGLASS** of Androscoggin, **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:

#### **REPORTS OF COMMITTEES**

##### **House**

##### **Ought to Pass As Amended**

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners" (EMERGENCY)

H.P. 1409 L.D. 1903

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-860)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-860)**.

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

**READ ONCE**.

Committee Amendment "A" (H-860) **READ** and **ADOPTED**, in concurrence.

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

---

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

#### **ENACTORS**

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

##### **Emergency Measure**

An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by the Calais School District

H.P. 1452 L.D. 1953

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:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Reestablish the Great Ponds Act" (EMERGENCY)

H.P. 1251 L.D. 1675

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

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

In House, March 25, 2004, the Bill and accompanying papers **COMMITTED** to the Committee on **INLAND FISHERIES AND WILDLIFE**.

In Senate, April 7, 2004, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-876)**, in **NON-CONCURRENCE**.

Senator **BRYANT** of Oxford moved the Senate **ADHERE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ADHERE**.

---

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

**ORDERS**

**Joint Order**

On motion by Senator **GAGNON** of Kennebec, the following Joint Order:

S.P. 803

ORDERED, the House concurring, that, pursuant to its authority under the Constitution of Maine, Article IV, Part 3, Section 18, the Legislature hereby orders a special election to be held at the statewide election in June 2004 for the purpose of submitting to the electors Initiated Bill 4, L.D. 1893, Bill, "An Act To Impose Limits on Real and Personal Property Taxes"

; and be it further

ORDERED, that notice of this order be forwarded forthwith to the Secretary of State.

**READ.**

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by same Senator to **PASS**.

---

**ORDERS OF THE DAY**

