

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Nineteenth Legislature
State of Maine

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

In Senate Chamber
Monday
May 24, 1999

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Senator Marge Kilkelly of Lincoln County.

SENATOR KILKELLY: Let us be in a Spirit of Prayer. Great and Eternal God, Designer and Creator of all that is, who is known by every name, and experienced in every life. Open our eyes to Your ever presence. Open our ears to the voices of Your children. Open our hearts to those in need. Help us to know Your will even in those things we cannot understand. Keep us ever mindful of why You have chosen us to be here. Help us to debate respectful of our opponents position. Help us to see Your Holy Spirit in those with whom we disagree. And make us ever respectful and grateful to all the staff who support our work in this place. Not our will, but Thy will be done. Amen.

Pledge of Allegiance led by Senator Richard Carey of Kennebec County.

Reading of the Journal of Friday, May 21, 1999.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 841

**THE SENATE OF MAINE
OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

May 15, 1999

Senator Beverly Daggett
Representative John Tuttle
Chairpersons
Joint Standing Committee on Legal and Veterans Affairs
119th Legislature
Augusta, Maine 04333

Dear Senator Daggett and Representative Tuttle:

Please be advised that Governor Angus S. King, Jr. has withdrawn his nomination of Donald A. Strout of East Corinth for appointment as a member of the Commission on Governmental Ethics and Election Practices.

Pursuant to 1 M.R.S.A. §1002 and 3 M.R.S.A. §154, this nomination is currently pending before the Joint Standing Committee on Legal and Veterans Affairs.

Sincerely,

S/Mark W. Lawrence
President of the Senate

S/G. Steven Rowe
Speaker of the House

READ and REFERRED to the Committee on LEGAL AND VETERANS AFFAIRS.

Sent down for concurrence.

The Following Communication: S.C. 292

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE**

May 19, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

L.D. 2098 An Act to Improve the Safety of Firefighters

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

Sincerely,

S/Sen. Robert E. Murray, Jr.
Senate Chair

S/Rep. Edward J. Povich
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 293

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

May 19, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

L.D. 1229 Resolve, to Promote Community Mental Health Services

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

Sincerely,

S/Sen. Judy Paradis
Senate Chair

S/Rep. Thomas J. Kane
House Chair

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

The Following Communication: S.C. 294

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

May 19, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

L.D. 187 An Act to Change the Dates of the Moose Hunting Season

L.D. 325 An Act to Change the Time of the Moose Hunting Season

L.D. 446 An Act to Amend the Application Process for the Moose Lottery

L.D. 513 An Act to Require Resident Moose Lottery Applicants to Hold Big Game Hunting Licenses

L.D. 520 An Act to Increase the Number of Moose Hunting Permits to 3,000

L.D. 844 An Act to Change the Moose Hunting Season to the Last Week of September

L.D. 978 An Act to Allow a Subpermittee on a Moose Hunting Permit to Be Named after the Moose Lottery

L.D. 1150 An Act to Amend the Moose Hunting Laws

L.D. 1387 An Act to Facilitate Moose Hunting Permits for Active Military Personnel

L.D. 1465 An Act Regarding Qualifications to Enter the Moose Lottery

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

Sincerely,

S/Sen. Marge L. Kilkelly
Senate Chair

S/Rep. Matthew Dunlap
House Chair

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

The Following Communication: S.C. 295

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

May 21, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

L.D. 1351 An Act to Require that Members of the Workers' Compensation Board be Subject to Review by the Joint Standing Committee on Labor

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

Sincerely,

S/Sen. Peggy A. Pendleton
Senate Chair

S/Rep. Douglas J. Ahearne
House Chair

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

The Following Communication: S.C. 296

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON TAXATION**

May 19, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

L.D. 2071 An Act Concerning Penalties under the Maine Tree Growth Law and the Farm and Open Space Law

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

Sincerely,

S/Sen. Richard P. Ruhlin
Senate Chair

S/Rep. Kenneth T. Gagnon
House Chair

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

The Following Communication: S.C. 297

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON TAXATION**

May 21, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

L.D. 2102 An Act to Exempt from Use Tax Merchandise that is Donated to a Nonprofit Organization

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

Sincerely,

S/Sen. Richard P. Ruhlin
Senate Chair

S/Rep. Kenneth T. Gagnon
House Chair

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

The Following Communication: S.C. 298

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION**

May 19, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

H.P. 1568 Joint Order – Relative to establishing the Commission to Study the Fairness of the Maine Turnpike

L.D. 53 Resolve, Requiring the State to Reimburse Towns for the Construction of Salt and Sand Storage Facilities

L.D. 2205 An Act to Require Legislative Approval of the Automation of 2 Drawbridges between Kittery and Portsmouth, New Hampshire

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

Sincerely,

S/Sen. William B. O'Gara
Senate Chair

S/Rep. Joseph M. Jabar, Sr.
House Chair

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

The Following Communication: S.C. 300

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

May 21, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

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

- L.D. 2167 An Act to Ensure the Availability of Funds for Tobacco Prevention and Control
- L.D. 2169 An Act to Establish the Trust Fund for a Healthy Maine
- L.D. 2191 An Act to Establish the Maine Tobacco Endowment Fund Using Tobacco Settlement Funds

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

Sincerely,

S/Sen. Judy Paradis
Senate Chair

S/Rep. Thomas J. Kane
House Chair

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

SENATE PAPERS

Bill "An Act to Ensure Civil Rights and Prevent Discrimination"
S.P. 840 L.D. 2239

Sponsored by Senator ABROMSON of Cumberland.
Cosponsored by Representative SAXL of Portland, and
Senators: AMERO of Cumberland, President LAWRENCE of
York, MacKINNON of York, MITCHELL of Penobscot,
Representatives: QUINT of Portland, STANWOOD of Southwest
Harbor, WILLIAMS of Orono, CAMERON of Rumford, NORBERT
of Portland, Speaker ROWE of Portland, STEVENS of Orono.

REFERRED to the Committee on **JUDICIARY** and ordered
printed.

Sent down for concurrence.

Bill "An Act to Clarify the Solid Waste Laws as They Relate to the
Exception to the Ban on New Commercial Landfills"
(EMERGENCY)

S.P. 839 L.D. 2238

Sponsored by Senator DAGGETT of Kennebec.
Cosponsored by Representative COWGER of Hallowell.
Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 205.

REFERRED to the Committee on **NATURAL RESOURCES** and
ordered printed.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN
SERVICES** on Bill "An Act to Amend the Law Governing the
Confidentiality of Health Care Information"

H.P. 1156 L.D. 1653

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-280).**

Signed:

Senators:

PARADIS of Aroostook
BERUBE of Androscoggin
MITCHELL of Penobscot

Representatives:

FULLER of Manchester
KANE of Saco
DUGAY of Cherryfield
WILLIAMS of Orono
LOVETT of Scarborough
BRAGDON of Bangor
SNOWE-MELLO of Poland
SHIELDS of Auburn

The Minority of the same Committee on the same subject
reported that the same **Ought to Pass as Amended by
Committee Amendment "B" (H-281).**

Signed:

Representatives:

QUINT of Portland
BROOKS of Winterport

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Relating to Medicaid Liens"
H.P. 1176 L.D. 1687

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-653)**.

Signed:

Senators:

PARADIS of Aroostook
BERUBE of Androscoggin
MITCHELL of Penobscot

Representatives:

KANE of Saco
QUINT of Portland
WILLIAMS of Orono
LOVETT of Scarborough
BRAGDON of Bangor
SNOWE-MELLO of Poland
SHIELDS of Auburn
DUGAY of Cherryfield

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

Signed:

Representatives:

BROOKS of Winterport
FULLER of Manchester

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-653)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-653) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Senate

Ought to Pass As Amended

Senator **PENDLETON** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Improve Access to Electronic Filing for Businesses"

S.P. 77 L.D. 180

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-337)**.

Report **READ**.

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

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act Concerning Access to Obstetrical and Gynecological Services Provided Through Managed Care Plans"
S.P. 416 L.D. 1205

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

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin
ABROMSON of Cumberland

Representatives:

JONES of Pittsfield
NUTTING of Oakland
SULLIVAN of Biddeford
PERRY of Bangor
GLYNN of South Portland
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" (S-334)**.

Signed:

Representatives:

DUDLEY of Portland
O'NEIL of Saco
SAXL of Bangor
RICHARDSON of Brunswick

Reports **READ**.

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

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

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Privatize the Liquor Industry"
S.P. 205 L.D. 594

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

Signed:

Senators:

DAGGETT of Kennebec
CAREY of Kennebec
FERGUSON of Oxford

Representatives:

TUTTLE of Sanford
CHIZMAR of Lisbon
FISHER of Brewer
GAGNE of Buckfield
LABRECQUE of Gorham
MAYO of Bath
PERKINS of Penobscot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-335)**.

Signed:

Representatives:

HEIDRICH of Oxford
McKENNEY of Cumberland

Reports **READ**.

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

Sent down for concurrence.

SECOND READERS

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

House As Amended

Bill "An Act to Protect Victims of Crimes in the Workplace"
H.P. 688 L.D. 944
(C "A" H-642)

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

(See action later today.)

HELD MATTER

Senator **PINGREE** of Knox, moved the Senate **RECONSIDER** whereby it **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report on:

Bill "An Act to Extend Term Limits for Elected Officials and Constitutional Officers"

S.P. 377 L.D. 1078

(In Senate, May 21, 1999, **ACCEPTANCE** of Majority **OUGHT TO PASS AS AMENDED** Report **FAILED**. Motion by Senator **RAND** of Cumberland to **RECONSIDER**, **FAILED**. Subsequently, Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Senate **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report.

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

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

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

On motion by Senator **BENOIT** of Franklin, the Senate **RECONSIDERED** whereby it **PASSED** the following matter:

JOINT ORDER - relative to recognizing Tony McLaughlin, of Wilton, who is retiring as Director of Admissions at the University of Maine at Farmington after 27 years of dedicated service. Through his outreach efforts, Tony has raised the aspirations of countless Maine students and has assisted Maine families in realizing their dream of higher education. We extend our appreciation to Tony and our best wishes on his retirement;
SLS 193

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Joint Order was **PASSED**.

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 Today Assigned matter:

JOINT ORDER - relative to recognizing Charles Hess, professor of physics, who has received the Presidential Research and Creative Achievement Award at the University of Maine. We send our congratulations to him on this occasion;
SLS 194

Tabled - May 24, 1999, by Senator **CATHCART** of Penobscot

Pending - **PASSAGE**

READ.

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

Senator **CATHCART:** Thank you Mr. President. Mr. President and men and women of the Senate, I'm not sure I stood at the proper time since I have several Sentiments that I've sponsored in today's Calendar. But I'll go ahead and speak now and then allow for others to be read. I'm very honored today to recognize Professors from the University of Maine who have received awards this year and also the retiring Provost, John Alexander, to recognize him and thank him for his many years of service to the people of Maine both as Professor and Dean of Engineering and then as Provost. These people have received the Outstanding Faculty Awards and as most of you know the University of Maine is a land grant institution which means that it has a three-fold mission of teaching research and public service. So the people that I'm asking you to recognize and honor with me today have been recognized by the President and by the Alumni Association as being the outstanding people at our fine land grant institution in those three areas. I really appreciate their willingness to come

down and be with us in the Senate today. I urge you when this is all over to congratulate them and be as proud of them as I feel today. I thank you Mr. President.

PASSED

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

JOINT ORDER - relative to recognizing Brenda Power, professor of literacy education, who has been named the University of Maine General Alumni Association 1999 Distinguished Maine Professor. We send our congratulations to her on this occasion;
SLS 195

JOINT ORDER - relative to recognizing Keith Hutchison, associate professor of biochemistry and cooperating associate professor of forest resources and biological sciences, who has received the Presidential Teaching Award at the University of Maine. We send our congratulations to him on this occasion;
SLS 196

JOINT ORDER - relative to recognizing George Jacobson, director of the Institute for Quaternary Studies, professor of botany and quaternary studies, and cooperating professor of wildlife, who has received the Presidential Public Service Achievement Award at the University of Maine. We send our congratulations to him on this occasion;
SLS 197

JOINT ORDER - relative to recognizing John A. Alexander, Ph.D., P.E., on the occasion of his retirement as Vice President for Academic Affairs and Provost at the University of Maine at Orono. Dr. Alexander came to the university in 1970 as an Assistant Professor of Civil Engineering and became a full professor in 1981. He served as chair of the Department of Civil and Environmental Engineering from 1978 to 1991 and was appointed Dean of the College of Engineering in 1994. In 1997, he was selected for his current position. He has served on numerous statewide committees and advisory boards and has authored several publications relating to civil engineering, materials and transportation. We send our appreciation to Dr. Alexander for his years of dedicated service to the State and offer our best wishes for a wonderful retirement;
SLS 198

Tabled - May 24, 1999, by Senator **CATHCART** of Penobscot

Pending - **PASSAGE**

READ and PASSED.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber Professor Charles Hess; Professor Brenda Power; Associate Professor Keith Hutchinson; Director of the Institute for Quaternary Studies and Professor of Botany and Quaternary Studies, George Jacobson; and Vice President for Academic Affairs and Provost for the University of Maine at Orono, John Alexander. The Chair would ask them all to rise and receive the greetings of the Senate.

The Chair laid before the Senate the following Tabled and Later (5/21/99) Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Allow Reimbursement of Registered Nurse First Assistants for Surgical Procedures" H.P. 22 L.D. 32

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-649)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 21, 1999, by Senator **LAFOUNTAIN** of York.

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

(In House, May 21, 1999, 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-649)**.)

(In Senate, May 21, 1999, Reports **READ**.)

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

Senator **ABROMSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand to urge you to vote against the pending motion, so we may go on to the Majority Report of Ought To Pass As Amended. I almost feel like this is some sort of role reversal, in that, I stand as a Republican urging passage of a mandate against my two Democratic colleagues on the Committee. I'm accused, particularly by insurance companies, of never having met a mandate that I didn't like. And in fact, I just counted up this morning, and I think that since I was elected in 1994, I've voted for 13 mandates. Although you can be sure that later on this morning, I will be voting against one. I came to the 119th determined not to vote for any more mandates. Then I got to L.D. 32, and I begged the Bureau of Insurance, who did a mandate study, and the insurance companies to give me a good reason why this mandate shouldn't pass. They gave me two reasons that they always give, with respect to mandates.

One that it's a mandate, and two that it will raise premiums. You know I've heard this so many times, especially with respect to all that I've voted for. That in searching back, I find that since 1975, the cost of all mandates passed by this Legislature, in groups of 20 or more, on indemnity plans, have increased because of the mandates. Premiums have increased, since 1975, 6.74%. For groups of less than 20 it's 2.08%, and for individuals it's 2.07%. And the numbers for HMO's is even less than that. But with respect to this particular Bill, as you may know, we do mandate studies whenever a mandate is proposed, and this is the mandate study that is done by the Bureau of Insurance, or sometimes an outside source. This particular one was prepared by the Bureau of Insurance and according to this the additional cost will be absolutely zero. Blue Cross-Blue Shield already pays this cost. Healthsource already pays this cost. It's a question more of how it's paid, than if it's paid.

According to the Maine Health Management Coalition database, for 1997, Registered Nurse versus Assistants received 18% as much as an Assistant M.D. gets in the operating room. Bear in mind that we had real testimony from a physician saying that there are many, many times he would have preferred to have used a Registered Nurse First Assistant than grabbing a doctor off the floor of the hospital, who perhaps hasn't had any or very little experience in the operation room. He would prefer to work with a Registered Nurse First Assistant.

So I think it's not only a question of cost, it's a question of quality. Whether it cost more, I've already said it won't cost more, I think it may even cost less. In a study that was done by a Florida group, of the whole Country, it was estimated that in the number of different procedures that were done, and had a Registered Nurse First Assistant been used, instead of another physician the savings would have been country-wide in one year, \$118 million. So ladies and gentlemen I would urge that you vote against the Minority Ought Not To Pass Report so we may go on to pass the Ought To Pass Report as Amended. Thank you Mr. President.

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

Senator **LAFOUNTAIN:** Thank you Mr. President. Men and women of the Senate, I rise and encourage you to support the Minority Ought Not To Pass Report. This Bill is a mandate. It's an insurance mandate. And when looking at this Bill and coming to the conclusion whether or not to support it, I ask you to determine whether or not there is a compelling need here to cast such a mandate in stone in our statutes. It's the belief of the Minority in the Committee, that the case for the mandate isn't compelling. Consumers are not being denied qualified services, in fact, consumers aren't even asking that this mandate be placed in statute. This issue does not overcome, in my opinion, the strict scrutiny which should be afforded all proposed health insurance mandates. What this Bill does is it mandates that individual and group health insurance policies pay for the services of Registered Nurse versus Assistants. As I stated, it's a provider mandate. The Majority of RNFA's, as they are known, are employed by surgeons who are employed by hospitals. To our knowledge there are no independent RNRA's. As employers they are either compensated by thier employer physician or the hospital, which pays for their services under the bundled services that the hospital receives for the use of the surgical room from the insurance carrier. Although the cost of this mandate appears to be minimal, it's the belief of the Minority that there are unintended consequences of this Bill. The first being, the other providers, the so-called providers out there who could come forward and make the same case that the RFNA is making. And in this situation, I believe the nearest anesthetist would be next in line. The second is, by paying the RFNA directly does not guarantee that the hospital will unbundle its fee and lower the cost. Therefore, there could actually be a double payment for the services provided by the RFNA, being paid directly by the insurance carrier, and also being paid for in the fee paid, by the insurance carrier to the hospital.

In my opinion there are many other mandates out there that should have greater consideration from the Body than this one. This Bill was sent over to the Bureau of Insurance by the narrowest of margins. In order for a Bill to come forward to you, in most cases, the Committee on Banking and Insurance must first take a straw vote to determine whether or not there is a

significant interest in the Committee to have this Bill go forward. That went over to the Bureau of Insurance on a 7 to 6 vote. We also sent over to the Bureau several other Bills, which you will see next Session, that we carried over. Those include mental health parity and substance abuse parity. In my opinion mandates should be passed by this Body that truly effect consumers and will do them some good. This is not one of them. Thank you.

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

Senator **ABROMSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just want to point out that, indeed, it was 7 to 6 on the Committee to send the mandate over for a study. But when the mandate study came back, the vote was 10-3 that it Ought To Pass. 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, I share a concern about the impact of mandates on health insurance cost. But I fail to grasp why this one would be a negative impact, rather than a positive one given that the providers whom we're looking for reimbursement for are a lower cost provider than a surgeon is. And if it will affect hospital cost in terms of raising them to reimburse a Nurse First Assistant separately, then why don't we have legislation that would say that surgeon's shouldn't be reimbursed separately? We are setting up a double standard here. They are both qualified under certain circumstances defined by the hospital to be the Assistant in certain surgical cases. But when it is a surgeon there is separate reimbursement, when it is a Nurse First Assistant, there is not. And if the case can be made that this could create greater cost, then we should probably be treating both of those providers equally. It is my opinion that in those cases where it is acceptable hospital policy for the Nurse First Assistant to be the Surgical Assistant on a case, that it is appropriate that they are reimbursed as our Surgical First Assistants. And I urge your opposition to the Minority Report and Acceptance in the Majority. Thank you.

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

Senator **LAFOUNTAIN:** Thank you Mr. President. I would like to respond to the issue raised by the good Senator from Hancock, Senator Goldthwait. This second surgeon is reimbursed directly for one simple reason. He is not an employee of the other surgeon, nor is he an employee of the hospital, unlike the RFNA's, who are employees of the surgeon, first surgeon, or employees of the hospital.

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

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm not sure how all hospitals function, but at my hospital in the past year, or may be year and a half the physicians have altered their relationships so that they are employees of our hospital. And so too, to my knowledge are all other people that function in the operating room. Thank you.

The Chair ordered a Division.

On motion by Senator **LAFOUNTAIN** of York, 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.

The Chair noted the absence of the Senator from Waldo, Senator **LONGLEY** and the Senator from Aroostook, Senator **PARADIS** and further excused the same Senators from today's Roll Call votes.

ROLL CALL (#152)

YEAS: Senators: BENOIT, CAREY, CASSIDY, DAGGETT, DOUGLASS, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, MACKINNON, MICHAUD, MILLS, O'GARA, RUHLIN

NAYS: Senators: ABROMSON, AMERO, BENNETT, CATHCART, DAVIS, FERGUSON, GOLDTHWAIT, KONTOS, MITCHELL, NUTTING, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senators: BERUBE, MURRAY

EXCUSED: Senators: LONGLEY, PARADIS

15 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, and 2 Senators being excused, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-649)** Report, **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-649) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/21/99) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Increase to 5.5% the Amount of Revenue Dedicated to General Revenue Sharing"

H.P. 1286 L.D. 1847

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-651) (12 members)

Minority - Ought Not to Pass (1 member)

Tabled - May 21, 1999, by Senator **PINGREE** of Knox.

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

(In House, May 21, 1999, 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-651).**)

(In Senate, May 21, 1999, Reports **READ.**)

Senator **MILLS** of Somerset requested a Division.

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

Senator **MILLS:** Mr. President, I can't recall the Committee vote, but I may well be the only one who will oppose this measure. The issue in front of us is whether we should take General Fund money, money that would otherwise be destined to the General Fund, that comes from the Sales, and Income taxes primarily, and turn more of that money than we do now over to the Revenue Sharing account so that it will be off Budget to us and a direct Budget to our towns and cities. I don't object necessarily to supporting tax relief for the 495 or 494 municipalities in this state. But to do so in this form, I think is bad tax policy. Right now the percentage is 5.1% of Income and Sales Tax revenues that goes directly to our towns. This Bill, contrary to the title, the Bill as Amended would raise that percentage to 5.3%. It may only be two-tenths of 1%, but it is two-tenths of 1% of our entire line of revenue from the two most substantial taxes that we administer. If this money were being used in some more targeted way to relieve municipalities with truly high mill rates, I might be more abatable to considering it. But as it's presently framed it would deliver tax money that we collect to all of the towns and cities in this state. Even to those who have no property tax problem at all. Those with mill rates of 8%, 9%, 7%. Mill rates that are low enough to produce more subsidy for these communities is truly a violation of good tax policy. And for that reason I ask that we vote against the pending motion. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. Members of the Senate, I hope you will join with me and vote for the Ought To Pass As Amended Report. The good Senator from Somerset, I think has laid the case out very well. I would bring your attention to that even though the title does say 5.5%, which would be an increase of about 10% in the General Revenue Sharing account.

5.3%, which is a two-tenths of 1% increase, I'm not that good in math, I'm going to take the Senator's word for that. What it is, is the cost of it is about \$3 million a fiscal year. It's \$3 million that this Report says, we feel the Taxation Committee feels, that the property tax is an onerous burden that we have in the state of Maine for all our taxes. This is a very small attempt. In its entirety it is inadequate. I don't mean to present this as any wonderful solution. It's just one small step, I hope there will be other steps as we advance through this Legislative Session that we could add to it to help lower the pressure that we presently have on the property tax, our most regressive tax in the state of Maine. This is one small step. I hope you will agree with 12 members of the Committee, and a vote this Ought To Pass As Amended.

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

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, the idea of a municipality without a property tax problem intrigues me. And I hope that we are not looking simply at mill rates, when we look at towns and decide whether they have a problem or not. Because there are many other factors that play into that. When the State reaches the point where it is fully funding GPA, where it is paying what it is obligated by statute to pay for special education. When it is paying what is obligated by statute to pay for out-of-district placements. When it is paying what is obligated for payments to the Tree Growth Program, and when it's paying what is obligated by statute to pay for community corrections. Then I will be willing to support the position of the good Senator who spoke on this issue previously. Until then I hope that you will support the Majority Report.

At the request of Senator **MILLS** of Somerset a Division was had. 27 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-651) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the following Tabled and Later (5/21/99) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Repeal the Snack Tax"

H.P. 42 L.D. 56

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-650) (8 members)

Minority - Ought Not to Pass (5 members)

Tabled - May 21, 1999, by Senator **AMERO** of Cumberland.

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

(In House, May 21, 1999, 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-650).**)

(In Senate, May 21, 1999, Reports **READ.**)

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

The Chair laid before the Senate the following Tabled and Later (5/21/99) Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Establish the Maine Single-payor Health Care Plan and to Restructure the State Tax System"
H.P. 1436 L.D. 2059

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-631)** (4 members)

Tabled - May 21, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 21, 1999, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, May 21, 1999, Reports **READ.**)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate **RECONSIDERED** whereby it **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence:

Bill "An Act to Protect Victims of Crimes in the Workplace"
H.P. 688 L.D. 944
(C "A" H-642)

(In House May 21, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642).**)

The same Senator requested 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, I was confused by the title of this Bill and when I actually looked at the text and realized the content I did have some concerns about the Bill and I appreciate the opportunity to speak to that. This Bill is absolutely a measure that I would support except it is the aggregate of Bills that are providing, as this Bill does, for leave from the workplace that is beginning to concern me. Any one of the Bills that make that provision can be strongly argued on their merits but the list of those we are developing now as to reasons why someone could be away from the workplace do concern me. This Bill provides no minimum number of employees to whom the Bill applies and it also has no limit as to the amount of time that can be taken and those two issues really have caused me to ask for the Reconsideration and request of a Division.

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

Senator **DOUGLASS:** Thank you Mr. President. Women and men of the Senate, this particular Bill is a bipartisan Bill at this point because the good Senator from Somerset, Senator Mills, actually helped in the drafting of this. Many parties were interested in the subject of protection of victims of violence. As drafted this Bill allows leave from work in very limited circumstances. Leave is required only to those people who are victims of violence. Those are the words of the Statute. And that employer who has an employee who's unfortunate enough to be a victim of violence has some flexibility in dealing with the situation. First the amount of leave is necessarily limited by court appearance, medical treatment and services necessary to remedy a crisis. I submit to you that all these circumstances are very limited. Hopefully no individual employee would have to go through such difficult circumstances more than once in his or her life. Similarly, hopefully, no employer would have occasion to face this sort of situation more than once in a very great while. So the situation in which leave must be granted is for court appearance, medical treatment and services in a crisis. Now that might include moving since these are also victims of stalking or domestic abuse where, as the name implies, that person might be living with the abuser. The exceptions for the employer are when the employer might sustain undo hardship by having the victim be absent. Also if the victim does not communicate in a reasonable amount of time that the leave is necessary the employer is not required to grant it specifically under the Statute. I'm just looking at Section 2 of the Bill as we have drafted it in the Labor Committee. Third, if the requested leave is impractical, unreasonable or unnecessary based on facts known to the employer, then leave is not required. It's important to note that the first draft of this Bill included a Private Right of Action. That is not included here. The intent of this legislation is to have a dialogue between employee and employer. And further to bring about communication from a victim of crimes that are often not reported so that we can prosecute the people who are abusers in our society and make sure that their guilt or innocence is adequately determined and if guilty that they are then punished within our Court system. I want to point out to you that if there is an unreasonable action by the employer the Department of Labor is entitled to enforce this Bill by a penalty of up to \$200.

We heard testimony in the Joint Standing Committee on Labor from District Attorneys, from victims and from employers. You probably received a handout on Friday that gives a little bit of testimony from these various individuals. We heard from the Skowhegan Savings Bank. We heard from the Dry Dock Restaurant and Tavern in Portland. We heard from a business in Milbridge. We heard from Andrew Ketterer, the Attorney General. We heard from Michael Panterra, District Attorney in York County. We heard from Jeffrey Rushlaw, District Attorney for Sagadahoc. All these individuals came to us saying we need to do something more to help protect victims in job security so that they will appear in court and we can enforce our laws as we should. Some of those individuals gave us the statistics on murders and aggravated crimes in our state. I can't tell you that I recollect them very well, others here may. But by far the greatest number of murders in our state and in our nation occur among those who know each other and they were domestic abuse situations. We could help our citizens and actually this Bill will help morale in the workplace because once we communicate, once we encourage that victim to communicate to the employer the difficulty that she or he is suffering we will be in a position to have dialogue about how to correct the situation and how to deal with it in terms of the workplace. As I noted for you, communication of the need for leave is an important part of the Act in Subparagraph B of Section 2. That communication will allow some dialogue with the employer as to who will substitute when the victim needs to be at court. All the many possibilities that could arise in these circumstances were thoroughly discussed in at least three work sessions by the Committee on Labor including individuals from the Maine Chamber of Commerce, individuals who represent victims, individuals who represent businesses and individuals who prosecute crimes in our state. Most of these individuals agree that we need this law and it's a step in the right direction. It's a modest step and one that we proposed to take forthwith. But the Committee on Labor did ask to have the Department of Labor report to us by December 31, 1999 on any issues that it sees as potentially arising with regards to the difficulties of this law and reserved our right under the Bill as before you to make any adjustments that seemed to be necessary in the next Regular Session. I hope I've answered most of the questions and that you will vote for the Passage of this Bill.

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

Senator **TREAT:** Thank you Mr. President. Men and women of the Senate, I hope that you will vote in favor of this piece of legislation, especially as it has been Amended by the Labor Committee. This Bill is about protecting the lives of people. 57% of the homicides in this state are attributable to domestic violence. This is not a Bill about giving people some time to tidy up their lives, to make things more convenient for them. It is a Bill about saving their lives. If they do not go to court because they are afraid of losing their jobs, they very well may not get a Protection Order and they very well may be killed. That's what this Bill is about. There are protections in the legislation for employers and they are very reasonable protections that have been thoroughly thought out and the Bill was changed a great deal by the Labor Committee before it came to us for our vote. Previous studies that have been done in the last several years have found that a large proportion, I believe it's around 50%, of those in the last couple of years who have been abused have lost

their jobs and financial security is a key component of making sure that people have the wherewithal mentally and financially to go ahead and face up to the fact that they need to get out of their current living situation. This legislation is an important step in making sure that victims of abuse can continue to live their lives and I urge your support of it. Thank you.

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

Senator **MILLS:** Mr. President and women and men of the Senate, I had to rise to say that my participation on the Labor Committee hasn't always been viewed as the touchstone of bipartisanship. Nevertheless, as I recall two of my Republican friends in the House have joined with us to lend some credence to that posture. The most important part of this Bill is the fiscal note of some \$9,000 or thereabouts which will insure that the wording of the Bill in some form would be put up on the poster that will be available to people in the workplace so that they'll understand, both employees and employers, that the Legislature considers it important that a request for leave with or without pay is an appropriate reason for the employer to grant some forbearance. There's no particularly serious sanction here for not complying with those requests although a call to the Department of Labor could be made and the employer could be subjected to a small fine if it were found that the employer had violated the law. My rather rash prediction in the Committee was that we will never have any telephone calls made to the Department of Labor because the law on its face is some imminently reasonable and once it's posted people will understand what the policy is of this State and the discussion will be over.

Having said all of that, I must hasten to concur with the good Senator from Hancock concerning the caution that we not try to write down in these massive red volumes that we offer and reoffer and revise all of the rules that relate to when somebody can leave work and when not. I must hearken back to the discussion of last week when we passed a Bill that would direct employers to let people go for rather routine purposes, appointments that had scheduling flexibility, appointments for schoolteachers and the like. I rather think that that was the Bill that went too far. This Bill on the other hand is narrowly drafted to deal with crises, actual medical treatment arising from being a victim of violence and to attend court. If there was ever a good reason for us to intervene in the relationship between employee and employer, then make it clear that it is the policy of this State to extend some accommodation, a reasonable accommodation, to people who find themselves in that unfortunate circumstance that this is perhaps an appropriate place for us to write some rules. And as I say, the most important thing about the Bill is that these rules will be put on the poster so that everybody will understand what our policies are and I predict that this will be a Bill that, as a practical matter, will receive very little use, notoriety or other public attention. I do urge that we vote in favor of the pending motion. Thank you.

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

Senator **CATHCART:** Thank you Mr. President. Mr. President and members of the Senate, I just have to rise for a minute on this issue because it is one that is so important to me and to the victims of crimes, particularly domestic violence, in our state. It's already been pointed out, and it doesn't hurt to say it again, that

well over half of the victims of murder in this state, our low crime rates, are victims of domestic violence. It's a crime in which we have to intervene, we have to make public policies that will give some special protection to the victims to enable them to get to safety and make the break to end the abuse in their lives. We who have worked in the domestic violence movement, I spent over ten years working at Spruce Run, the battered women's shelter in Bangor, know that the major reason that women go back to an abusive relationship is economic insecurity. Either the loss of a job or the loss of the spouses income and having to go on welfare tends to drive people right back to the abuse because they just can't get out and make it without some help. This would give a little bit of help and a little bit of protection. We have a long history in this State, that we can all be extremely proud of, of giving this kind of protection both civil and criminal to victims of domestic violence.

Twenty years ago the Legislature passed a Protection From Abuse Act. There were many nay sayers. I was around, I was a volunteer at Spruce Run when that law was passed to give protection to victims from abuse. This allowed for an ex parte order that you didn't actually have to have a hearing in court that day and allow the accused person to come and speak but you could give immediate protection if a judge decided that it was necessary to a woman and even to her children to protect her from the abuse that might lead to her death. In the early '90s we learned that our Unemployment Compensation laws applied if you had to leave your job to follow your spouse to another place but they did not apply if you had to leave your job to flee the abuse of your spouse. We changed the law. This Legislature changed that law to make people who had to flee the abuse have a chance to collect unemployment. This Bill would be a way to give them a little more protection, give them the extra small amount of time they need for a short time during their crisis so that they continue to work at their job. They would not have to go on public assistance or go back to the abuser just in order to survive economically, and usually it's with their children. Earlier in this decade in the criminal laws we made the third conviction for domestic violence related crime a felony. That hadn't been done before. We don't do that with so many of our laws but because it's such a dangerous one and because of the danger of murder if it's not stopped sooner, we did that extreme measure and it's worked very well. The laws that we have done so far in this State in the past twenty years have served well and they've protected thousands of people more. This is just giving a little more protection. Let me just tell you from my experience, I have known women who lost their jobs or who were in fear of losing their jobs because of abuse, because of having a court hearing. That's only one of the multitude of problems that a person trying to leave an abusive relationship runs into. Often they have to move into a shelter, put their children in a new school, get to therapy, start looking for new housing because the shelter only keeps them for thirty days and then the court hearings and the threat of more abuse and having to go back on top of that. I think this is a very reasonable new law. It gives some protections to the employer and I urge you to support the engrossment. Thank you very much Mr. President.

On motion by Senator **PINGREE** of Knox, 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 (#153)

YEAS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DAVIS, DOUGLASS, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, O'GARA, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **FERGUSON, GOLDTHWAIT**

ABSENT: Senator: **NUTTING**

EXCUSED: Senators: **LONGLEY, PARADIS**

30 Senators having voted in the affirmative and 2 Senators having voted in the negative, with 1 Senator being absent, and 2 Senators being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642)**, in concurrence.

Off Record Remarks

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

The Chair noted the presence of the Senator from Waldo, Senator **LONGLEY**.

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 Expedite Treatment of Certain Persons with Mental Illness"
H.P. 499 L.D. 706

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-659).**

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

THOMPSON of Naples
BULL of Freeport
LaVERDIERE of Wilton
JACOBS of Turner
MITCHELL of Vassalboro
NORBERT of Portland
WATERHOUSE of Bridgton
SCHNEIDER of Durham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-660).**

Signed:

Representatives:

PLOWMAN of Hampden
MADORE of Augusta

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659).**

Reports **READ.**

On motion by Senator **LONGLEY** of Waldo, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-659) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

REPORTS OF COMMITTEES

House

Divided Report

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

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Revise the Salaries of Certain Kennebec County Officers" (EMERGENCY)

H.P. 1592 L.D. 2240

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1158).

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
RINES of Wiscasset
McDONOUGH of Portland
TWOMEY of Biddeford
BUMPS of China
KASPRZAK of Newport
JODREY of Bethel
RICHARDSON of Greenville

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**, pursuant to Joint Order (H.P. 1158).

Signed:

Representative:

GERRY of Auburn

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

Reports **READ.**

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

READ ONCE.

LATER TODAY ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/18/99) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Prohibit Law Suits by Municipalities Against Firearm or Ammunition Manufacturers" (EMERGENCY)

H.P. 1537 L.D. 2192

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-442)** (7 members)

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

Tabled - May 18, 1999, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In House, May 12, 1999, 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-442).**)

(In Senate, May 17, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 18, 1999, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

Senator **BENNETT** of Oxford moved the Senate **RECEDE** and **CONCUR**.

Senator **TREAT** of Kennebec requested 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, I would urge your opposition to the pending motion. It is a bit distressing to me that following consideration of this Bill and its First Reading, and a fairly solid Report by this Body, that there has been a great deal of subsequent thinking about this, and that there is some sense again that this Bill has to do with a gun control issue. And I'm afraid that a number of people who are lobbying the Bill don't see and understand it, certainly from the point of view that I do, which that it has a lot more to do with municipal control than it does with gun control. One of the comments made in the debate on the previous vote on the Bill, from the good Senator from Washington, Senator Cassidy, expressed it very well when he talked about loss of local control. That it would minimize the role of the municipal officers by limiting their ability to represent their collective interest of a community and a court of law. And he said, you can't really believe in local control just half the time or whenever it is convenient for you. And that to me is the essence of the debate against this Bill, because it really is one of municipal authority and not one of gun control.

In a piece that came across my desk today, it described this legislation or the opposition to it as a sham. The sham to me is that it's trying to make out that this is somehow a violation of Second Amendment rights, and I certainly don't believe that to be true. It is very important that we make a decision that is right for Maine, not a decision that is on somebody's national agenda, or in some bigger context than simply looking at it from the point of view of what is appropriate for our state. To anyone's knowledge no one is contemplating a suit of this sort in the state of Maine. As I mentioned in my previous testimony, the smallest of the cities currently bringing such a suit has a population greater than the entire state of Maine. And it seems to me to be offensive in the first place to grant municipal authority in this way, but certainly in a case where it does not seem to be a problem in our

state. And I would urge your continued support to defeat this Bill and your opposition to this Recede and Concur motion.

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

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, I have said repeatedly in this Chamber, over the course of my three Senate terms, that my constituents agenda leads and my agenda follows. I thought on this issue, when I voted the issue last week, that I understood my constituents agenda and I did not. I have since been well educated as to what my constituents agenda is on the issue and will vote it. I therefore will be supporting the pending motion.

I have also had an opportunity since last I visited the issue to take a look at State law. More specifically, the present statute that deals with firearms regulation. There is a piece of Maine law that prohibits municipalities from enacting any ordinance or regulation in a fashion similar to what this statute proposes, or what this Bill proposes to do. Last week I expressed concern over closing the courthouse doors to anyone in our society believing that we should all have access to the courthouse on important issues. This Bill does not completely close the courthouse doors, as we see this proposed legislation, because it does leave in place the right of a municipality to sue manufacturers of firearms and ammunition, where the action is based on a warranty issue. And that is the way it should be. What did disturb me about the matter, and last week was a situation here that I see in the first sentence of the Bill, and I ask myself, why should any municipality have the right to go to court and obtain an injunction against the manufacturer of something that is legal. The manufacturer of firearms and ammunition is a legal manufacturer today across the country and in this state. So I will for these reasons, having re-thought the issue, be supporting the pending motion. Is my face red? It is. Is my conscience clear? You bet. Thank you Mr. President.

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

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate, I also just want to have a few words about this particular Bill. Last week as I mentioned, I'm very, very, concerned about local control and always have been since I've been here. And I also mentioned my time that I spent in municipal government and always have favored that. But since we did vote on this last week, I also had a lot of constituents phone and talk to me about this particular Bill, and my response to them was, look let me look at this thing again. I'm not going to say exactly if I would consider changing my vote until I see just exactly what we're dealing with. Last night while resting at home after getting my garden planted, and getting my mind back in shape after a real busy week last week here in the Maine Senate, I happened to be watching CNN, and a couple of folks that I spoke with today did see that program, as well.

The issue that they covered last evening in that segment was this very Bill. They interviewed actually the Attorney who was the lead Attorney on the tobacco suit. And he also was heading up this suit against the firearm manufacturers and

dealers throughout the country. He made it pretty clear that his main concern was money for himself. That also, he expected that since those municipalities were going to do this, that he felt it was worthwhile taking this on. In that whole story you could see that the agenda, I mentioned the other day, the extremist that causes legislation like this. I also mentioned to you that I am a member of the NRA, as well. And I've told you before on some of the issues we talked about gun locks, and things about some of the enjoyment in my family and I have had over the years. But when I listened to that program and I also listened to the constituents, I must say of my five years here in the Maine Senate it's the most calls I've ever received on any single issue. But what is clear to me though is that this could affect Maine. We could see a suit come forward that would cost gun manufacturers a lot of money and force them out of business. It certainly is a way to help control guns in our country and go against our Second Amendment. I also, haven't seen the numbers, but I could only guess, and I doubt very much that gun manufacturers have made the money over the years that we have seen the tobacco industry make.

Also, I was sort of joking the other day when I went by, and even today, when we hear so much about the tobacco industry. We're looking at a whole different situation when we talk about tobacco, we talk about our Second Amendment and the right to have guns. You know I think this is an issue that I didn't think the other day could affect me because I also agree with the good Senator from Hancock, Senator Goldthwait. I don't really see this happening in Maine right quick. I don't see a municipality or small town, or city going to be suing right away. But I see something that could happen nationwide that could affect us who live in the state of Maine. And that is why I'm really looking at changing my vote too. And I have very, very, seldom done this over the years. I get into a situation now. What do I do? Do I stick to my local control? Or do I stick with the constituents that I represent in the issue? I will tell you it's very, very, important in my district because there are many folks who own guns, hunt, and shoot skeet, and all those kinds of things. So I guess along with Senator Benoit, I don't know if my face is red, but my conscience is clear. And again, it's tough to go and change about an issue like this, but seeing a program last night, listening to the many people that phoned, as a matter of fact, they are still phoning in today at home. I also intend to support this, and I just thought I would explain why. Thank you Mr. President.

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

Senator **PENDLETON:** Thank you Mr. President. Men and women of the Senate, last week I did mention to you that this already is affecting a business in Maine because it is affecting a business that is in my area, which would be the Colt Manufacturing that was bought up by Saco Defense, or is a part of Saco Defense now. And on your desk you have a letter that I received from the President of Saco Defense explaining the situation and where we are right now. So I hope you take a look at the back side of that page, it's the second paragraph on the second page that tells that Colt Manufacturing has been named as a defendant in several law suits by municipalities, including New Orleans, Chicago, and Cleveland. So I hope you will vote with the pending motion to Recede and Concur. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President. Mr. President may I pose a question through the Chair to anyone who like to answer.

THE PRESIDENT: The Senator may pose his question.

Senator **KIEFFER:** Thank you Mr. President. In the event a national organization, such as, I hate to mention names because you start pointing fingers, but say a national concern like the National League of Cities, were to bring a class action suit against all municipalities that they represent. Some being from Maine, some being from other states in the country. What would be the effect of this Bill?

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

Senator **LONGLEY:** Thank you Mr. President. I'm going to attempt an answer. Basically the provision reads, which the Bill reads, a municipality may not commence a civil action against any firearm or ammunition manufacturer for damages, abatement or injunctively resulting from or relating to the lawful design. Why would anyone bring a suit against anything that is lawful. I read this as restating the obvious and would the National League of Cities do a class action? I just don't see it based on the wording in the Bill before us.

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

Senator **MILLS:** Thank you Mr. President. Men and women of the Senate, I think the answer is that the cities themselves would have to file corporately as individual cities. They might be combined and give proxy to an organization to assist them in managing the litigation. But the actual class action, if you would call it that, would be in a class comprised of all the cities that chose to be members of it. We have lawsuits today that sometimes do involve 1,000 or 2,000. And it could be as many as, you could certainly have 1,000 to 2,000 cities join in. But it wouldn't, I don't think that in an Association all by itself, would have the capacity to bring a suit and purport to represent the members of that class without their consent.

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

Senator **PINGREE:** Thank you Mr. President. Men and women of the Senate, I just wanted to make a couple of comments about this proposal, and urge you to vote against the pending motion. I felt very comfortable voting against this proposal last week, and I'm going to do so again today. And I'm very disappointed to see that there are members who have reconsidered and are changing their position. I like many others, was surprised to find 26 messages on my answering machine during the course of Friday and Saturday. Mostly from gun owners in my district. Most of whom said they were worried we were going to take away their rights. Now I'm not proposing that we take away the rights of gun owners. I'm not proposing that we interfere with hunting or any of the things that people have been traditionally able to do in the state of Maine. I think this is a very different issue and I'm disappointed that there has been a lot of confusion around exactly what it is. And I am angry and disappointed about that.

I think it's two issues. It's about local control, allowing municipalities the option to do this, should they choose. Maine is a state that has cared deeply about local control. I think it is appalling that we would consider taking away the rights of municipalities to make this decision. I also think it is about taking responsibility. We talked a little bit about the tobacco settlement and our desire to look back at the industry and say, we want you to take responsibility for the issues that involve you. There aren't going to be lawsuits that win if there isn't sufficient evidence, and there isn't sufficient documentation to allow them to win. To think that, as the State of Maine, we would prohibit municipalities to require industry to take responsibility for some of the cost that we may be incurring because of their products, is shocking and appalling, as far as I'm concerned. I am very disappointed that we are considering making a change in our overall vote. I think we did the right thing last week and I hope we will continue to do the right thing today. Stick with the issue at hand, not talk about gun rights, and talk about municipalities local control, in asking industry to take responsibility for the products that they manufacture. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would like to ask you just for a moment, if you will, take the mask off the creature and see who it is your being asked to dance with. What has happened, many communities and other entities have looked at what happened with the tobacco settlements, and the tobacco suits, and said gee, that really worked to rein in the power of some of these large national manufacturers. I want to just speak to you and bring to your attention that, that is where the similarity is. It does give them the idea that you can create legislation through litigation. However, it ends there in the sense that tobacco is a product that knowingly harms by itself. The manufacturer of a piece of machinery that is used for hunting, fishing, self defense, whatever you want to call it, whether you call it a weapon or whether you call it a blinking instrument. Whatever you want to call it, it is made in accordance with the laws of the Nation, and the laws of this State. It's manufactured in good faith. What they want to bring suit on is what I would call frivolous suits brought about by the tax payers money. Our monies against private industry to make it so they can drive these small, and in some cases, small manufacturers, into bankruptcy. By forcing them to go to court to defend their right to manufacture under our Constitution, and under the laws of this State. You see criminal misuse, and/or negligent misuse, on a legitimate instrument is an entirely different thing. But as started now, is the suit, which I call frivolous, mean in spirit, meant to bring about the economic destruction of manufacturers, and to do so knowing full well that they have made a legitimate instrument. That is what this Bill addresses. That is why we should exercise our rights. I will remind you the Constitutions says that two forms of government, the Federal form of Government, and the State form of Government. The cities operate under the Charter for the State. So I say it's time for this Senate to ask itself a question. Do you want to allow those entities, which you Charter, to bring frivolous suits that will negatively impact on legitimate manufacturers who are hiring good, hardworking Maine people? I hope you will vote for the Recede and Concur.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, I too would like to urge you to support L.D. 2192. As we have heard, this Bill is before us because several U.S. cities across the country are now suing the American firearms industry for the crimes that criminals commit. As many as 50 cities are expected to file suit before the end of this year. This in my view, is absurd and it's wrong. And most importantly, it cannot stop criminals, but it could leave their victims defenseless. All across the country, states such as Georgia, Arkansas, Wyoming, Texas, Montana, Arizona, and South Dakota are adopting legislation to keep these lawsuits at bay. Not because the plaintiffs can win, after all, we're talking about a Constitutional freedom, and the case is assured to be thrown out in court. This is not about winning, or the danger of winning frivolous cases.

Defense Lawyers still have to get paid, and that can bankrupt all but the biggest gun makers. And force them to raise their prices through the roof to a point that only the elite can afford their products. The net effect in the end is that the Second Amendment can be priced out of reach of the law abiding poor, the victims who must depend on that right to protect themselves and their families. But this is not strictly an issue of gun control. It's something much bigger. If gun manufacturers are responsible for the crimes committed by criminals using firearms, then by the same sophistry car makers are responsible for drunk drivers. Computer makers are responsible for the internet and child pornographers. The power companies are to blame if you stick your fork in your toaster. It's absurd in the face of it. Americans know it, and in survey after survey a far majority of Americans oppose cities suing gun makers for crime. And the reason Americans oppose it is simple. By taking the gun control debate out of Legislatures and into the Courts these lawsuits subvert the Democratic process. These lawsuits in effect make Legislative deliberations, like we're engaged in today, irrelevant and obsolete. The Courts would end up doing the job that voters elected us to do. And that is wrong and the citizens of Maine won't abide by it. I urge you to join in passing this important legislation by voting for the pending motion. Thank you Mr. President.

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

Senator **TREAT:** Thank you Mr. President. Men and women of the Senate, I have a number of concerns about this piece of legislation, and I hope that you will continue to vote against it. And against the pending motion. This Bill goes way beyond what people are saying here today that it will do. It is not just focused on silly lawsuits. In fact, many legitimate lawsuits would be affected by this legislation with language that is very broad, and indiscriminate in its approach. It does not clarify current law.

I was very glad to have had put on my desk a copy of current law, and I hope that everyone here still has that. Someone has written on it L.D. 2192 will clarify current law. Well let's take a look at current law. Current law states preemption. The State intends to occupy and preempt the entire field of legislation concerning the regulation of firearms, components, ammunition, and supplies. And it goes on to talk about orders, ordinances, rules or regulation. This is not a Bill that deals with regulations and ordinances. It is a Bill that deals with litigation. Going into court to go after a company that may have done something

wrong. Now, in our last debate I brought up the subject of hazardous waste. I think this is a perfectly legitimate subject to raise to you. Right now in Portland there is a company, its been on the news for the last couple of weeks, that apparently has been polluting surface waters in the City of Portland. It manufactures something different from guns. The City of Portland is rightly concerned about this pollution, and under current law would have the right, if they so chose, to sue that company for damages or for an injunction, which simply says, stop polluting if you'er going to be in our town, stop polluting. They would have that right. But if another company that manufactured guns was doing the identical thing, the City of Portland could not sue them under this Bill. Now why should we treat a manufacturer of guns one way, but a manufacturer of cement another. It makes no sense whatsoever, and it is one of the reason that I have some very grave concerns about what we are doing here today if we go on to pass this Bill.

Now it has also been said here, and it was also in a handout that we got, that this Bill is merely to prevent silly, frivolous suits. Speaking as a lawyer, who has in fact, invoked Rule 11, which is designed to prevent silly and frivolous suits, that's what it is for, it is to go get those suits thrown out of courts, and it is up to the court to make a decision to throw out such a lawsuit. Now if the concern isn't silly suits, but suits that are inconsistent with our State Constitution and this language that I have read to us. I have a lot of confidence in the Courts of the State of Maine and being able to interpret this language and decide appropriately whether or not the action contemplated was, in fact, intended to be preempted by the language that is already on the books. This vote is not about taking guns away from people. This vote is about passing a law that will exempt certain companies from legal liability for actions that they take. That may be in fact polluting ground water. That may have to do with Workers' Compensation. That may have to do with a whole bunch of other things that are not specifically mentioned in this legislation, but that will be affected. I hope that you will stick with your previous vote and vote against the Recede and Concur motion.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, I'll be brief. The good Senator from Knox, Senator Pingree, said that she was disappointed in seeing some of the Senators changing their position. She said she was possibly disappointed and angry. I'm sorry for that and I mean that sincerely. And I would use this opportunity, Mr. President, to apologize to my peers here in the Chamber for the fact that I am changing my vote. I want to tell you the main reason for that is, as I've said, my mistake in thinking that I knew the agenda of my constituents, and I do try to determine what that agenda is and vote it. I believe in representative government and that's what, to me, it's all about.

You know when you leave Rangely in the morning at 6:00 a.m. and you get home at 10:00 p.m. it doesn't leave a whole lot of time to find out what your constituents agenda might be on the important issues that are before us, Mr. President. And that is my fault. But I have learned since last week, being home over the weekend, what that agenda is, and I'm voting it. I'm sorry. I can tell you that in the 38 years of successful marriage to my wife, I have had occasion to say many times to her, as she to me, I'm sorry. And I think probably that's why our union is stronger today than the day we were married. I want to leave you with an

example of what I think this leads to. In the O.J. Simpson case, we know two people were murdered with the use of a knife. If, in fact, this is legislation that has something to do with the issue of firearms and knives, I suppose we should see municipalities enacting legislation against the cutlery folks. Thank you Mr. President.

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

Senator **LONGLEY:** Thank you Mr. President. And thank you colleagues for all your comments. I've been listening and thinking, and I have constituents on both sides of these issues, as I do on most gun control issues or local control issues. And I guess it is incumbent on me to sort through it all and try to figure out what's the most fair way to go. And with all respect I disagree that voting against the Recede and Concur is somehow subverting the Democratic process. With all due respect I see it as very argueable, and I side with the other side. It's not subverting but supporting the Democratic process of three branches of government. As the Senator from Kennebec said, we in the law field know about how we deal with frivolous lawsuits, and it's with quick dispense. It's a summary dismissal and sanctions against the lawyers bringing these lawsuits. So for me with good people on both sides of this issue behind me and supporting me, I would just say that I'm going to be voting against the Recede and Concur and for local control, and I'm very sorry if it translates as pro gun control that I really see that there are legal provisions in place, which summerally dismiss very quickly frivolous lawsuits. So I think there is a argument to be said that this Bill before us, at this point anyway, strikes me as frivolous. 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 voted to oppose this Bill last week, and needless to say this weekend the phone has been very busy. My family, having a farm the way we do, we own many weapons, and have for generations and generations. My children own weapons. I have had many, many people call me, they have all been very scared about losing their right to continue to own weapons; guns. One person even called and said this Bill had to pass or else this person was going to have to give up his ownership of guns. I thought that was a sad case of some misinformation being fed to a constituent.

I also received calls from the municipal officials not wanting their hands to be tied in this issue. Wanting, even in any small way, to make sure that everyone concerned with guns; their manufacturer and their sale, to do so responsibly and cautiously. As I've said, I got many, many calls. I feel as though our \$4 we spend a month has been very fruitful and educational for me this past weekend. You see my family bought caller ID, so I know where the calls have come from and I was amazed how big my Senate District is. My Senate District extends from Portland to Aroostook County. I did get five calls from people in my district urging me to change my position, and I got countless calls from people not in my Senate District. And I don't really care for that type of tactic. And so you probably already figured it out, but this Legislator is not going be changing his position in todays vote. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Bennett to Recede and Concur. 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 (#154)

YEAS: Senators: AMERO, BENNETT, BENOIT, CAREY, CASSIDY, DAGGETT, DAVIS, FERGUSON, HARRIMAN, KILKELLY, KONTOS, LIBBY, MICHAUD, MILLS, MITCHELL, PENDLETON, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, BERUBE, CATHCART, DOUGLASS, GOLDTHWAIT, KIEFFER, LAFOUNTAIN, LONGLEY, MACKINNON, MURRAY, NUTTING, O'GARA, PINGREE, RAND, TREAT

EXCUSED: Senator: PARADIS

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **BENNETT** of Oxford to **RECEDE** and **CONCUR**, **PREVAILED**.

The President requested the Sergeant-At-Arms escort the Senator from Knox, Senator **PINGREE** to the rostrum where she assumed the duties as President Pro Tem.

The President retired from the Chamber.

The Senate called to order by President Pro Tem **CHELLIE PINGREE** of Knox County.

ORDERS OF THE DAY

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

JOINT ORDER - relative to recognizing Tony McLaughlin, of Wilton, who is retiring as Director of Admissions at the University of Maine at Farmington after 27 years of dedicated service. Through his outreach efforts, Tony has raised the aspirations of countless Maine students and has assisted Maine families in realizing their dream of higher education. We extend our appreciation to Tony and our best wishes on his retirement;
SLS 193

Tabled - May 24, 1999, by Senator **BENOIT** of Franklin

Pending - motion by same Senator to **RECONSIDER** whereby the Joint Order was **PASSED**.

READ.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Madam President. May it please the Senate, I rise this afternoon to say a few words for Tony McLaughlin of Wilton who has been the Director of Admissions at the University of Maine in Farmington for many many years. During his tenure interest at the University has grown markedly. Recent ratings by the U.S. News and World Report indicate the outstanding education that's offered to students who attend the University. I might tell you that when I was a judge up in Farmington I went down to the University and signed up for the International Law course. That was a one semester course given over noon time. I was so taken by the quality of the course and the quality of the materials that I wrote a letter to the President of the University to say how much I appreciated the good quality of education. It was equal to, if not superior to, some of the law school classes that I had, which I thought was quite a thing for me to be saying under those circumstances. But just to show you by that example how the high quality of instruction there, Tony has helped shape the University into a competitive small public campus within the entire University system. On behalf of my constituents we're grateful for the service that is given to young people and families in the area to help them realize their dreams of pursuing an education after high school. This sentiment is something that I am pleased to be able to say these few words about. Thank you Madam President.

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

Senator **SMALL:** Thank you Madam President. Men and women of the Senate, I'm very pleased to be able to rise today and speak a few words on behalf of Tony McLaughlin. Tony has, amongst many, at least three sterling qualities that I'd like to just share with the members of the Senate. The first, not always the foremost, is the fact that he's a former Morse graduate. He's much older than I am so I didn't go to school when Tony was there but I was able to hear reports about him. He was still much of a legend in the high school even when I came many, many years after he did. We always like to recognize and honor local boys who make good because it's not always that often that it happens. For that I'd like to first recognize and honor Tony's achievement. Tony also has had the dubious honor of having to supervise the former Legislator, Wendy Ault, for a good many years. She serves as an Assistant Director in Admissions. I know having been her Co-chair for one year on the Education Committee that following her around and keeping track of her and keeping her on task is a full-time duty. How Tony ever had time to do his Admissions job as well as keeping track of Wendy just shows you the magnitude of his managerial skills, that he was able to do two full-time jobs under one heading. And the third, and I think the most important attribute of Tony McLaughlin, is his devotion to the students and the families that he has helped over the many, many years. I had the good fortune to attend a college planning session at my local high school recently with my daughter and Tony was the speaker there that evening. He was funny, he was helpful and he was sincere in his desire to assist all the students and parents who were there and going through that rather scary process of

selecting and then applying to a college. I have to say that while Tony had his UMF material there with him and was always able and willing to promote that college he was also there to assist all students whether they were looking at going in state, out of state, two year or four year. Tony just pushed the cause of higher aspirations and helped make that process seem a little less intimidating and a little easier for those students and for the parents who were there. I was very much impressed with him that evening. I had seen him, known him, for many years through Wendy but I'd never had the opportunity to attend one of his meetings. I just came away understanding why he was such a favorite with Wendy. He really did do an outstanding job. I think UMF is loosing maybe one of the shining lights in their success. You only do as well as the students that you attract and I think you only attract students by being able to really sell the program and sell the people that are going to be presenting that program. Obviously UMF has done an outstanding job at that. I know that he will be sorely missed not only by the people at UMF but by people all around the state who have benefited from his outreach efforts to get kids into college. For those reasons I am very happy to be a Cosponsor of this Sentiment and I wish Tony very well in his retirement. Thank you.

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

Senator **BENNETT:** Thank you Madam President. Fellow members of the Senate, I too rise as a Cosponsor of this Sentiment and I have to say that I just want to add my small voice to the praise of a great man. I don't know Mr. McLaughlin but my father, who is a Professor at the University of Maine at Farmington, does. I just want to add my voice to those who have spoken earlier and just say that I believe that Mr. McLaughlin has focused attention on a wonderful western Maine institution, the University of Maine at Farmington. He's done that in a way that has put it on the map for students, not only within Maine's boundaries, but beyond. It's a great institution and it's in a great part of the state. I just wish to extend my congratulations to Mr. McLaughlin on his retirement and a sincere thank you to him for his service to the people of Maine.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator MacKinnon.

Senator **MACKINNON:** Thank you Madam President. Men and women of the Senate, I rise today on three occasions to speak on Mr. McLaughlin. Two on a professional level as a former Principal of Sanford High School. Many of our students went on to matriculate at the University of Maine at Farmington and received a very good education. The second part of that as a Principal, we hired many of the students who graduated from there to become permanent teachers. I thought that was a great tribute to the University and also to his selection process of helping Maine students. On a personal note, being a little older than the good Senator from Sagadahoc, Senator Small, and a former graduate of Morse High just a little bit after Mr. McLaughlin, I was very happy to graduate because I got to play full-time and we were much better. Thank you.

PASSED.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the rear of the Chamber Tony McLaughlin of Wilton. Will he please rise and receive the greetings of the Chamber.

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 **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Authorize Sly Brook to Secede from Eagle Lake and to Deorganize"

H.P. 1379 L.D. 1986

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

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
RINES of Wiscasset
McDONOUGH of Portland
TWOMEY of Biddeford
BUMPS of China
JODREY of Bethel
RICHARDSON of Greenville
GERRY of Auburn

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-661).**

Signed:

Representative:

KASPRZAK of Newport

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

Reports **READ.**

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

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Madam President. Ladies and gentlemen of the Senate, you'll note that I am not either a

Sponsor or a Cosponsor on this piece of legislation but I would have been if I had been asked. This is an issue of local control that we have heard so much about here today in so many different instances. I think this is a classic one. I know this area quite well. In my first term in the Senate I represented an area that included the town of Eagle Lake and went on, all the way to Allagash so it is not an area which I am unfamiliar. I believe that these people who live about the same distance away from the town of Eagle Lake, as the people in Augusta do from Waterville, certainly deserve to govern themselves. What would be the reaction of the people in Augusta if they were governed by the actions of the Waterville City Council? I think we'd have a riot on our hands. The location of Eagle Lake and the specific location of the Sly Brook area is on this map which I distributed to you earlier today. That information which they provided clearly spells out that of 32 people who voted, 100% of those that voted, wanted to become an unorganized territory. I believe that this is a classic example of the people that we should listen to. These good people traveled all the way down from Eagle Lake to be here today in the rear of this Chamber. I think it's our responsibility to react favorably to the will of the people. I would hope that you would vote against the pending motion so that we could go on to pass the Minority Ought to Pass Report. Thank you Madam President.

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

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

Senator **PENDLETON:** Thank you Madam President. Men and women of the Senate, I hope that you will vote with the Majority of the Committee on the Ought Not to Pass Report. Let me just tell you why. The issue of local control is actually not totally applicable in this case because this is not about local control, it's about local separation. Sly Brook is a part of another community, a part of another town. We have in our statutes presently, under 30A Section 2171, legislation that has six steps that a town would take in order to secede from an area. However those steps, although they were not followed by the people of Sly Brook, they would have a hard time following these steps because Sly Brook is a part of a community, it is not a community on its own. So we never did see all of the six steps that are mentioned in the current law that we have now, but even if they tried to go by those six steps they would have a hard time.

The other issue, apart from governing themselves, is that Sly Brook, in this Bill they actually are requesting to leave that town and go into and join an unorganized territory. If Sly Brook joins an unorganized territory they will not be governing themselves because they will be governed by the unorganized territory via the County government. I already have a letter in my files from the County government saying that yes, indeed if Sly Brook did separate, then County government would be responsible for the municipal services. The problem the Committee had is there's no provisions in law that apply for part of a town seceding and going directly into deorganization. So our problem in Committee dealing with this Bill was that we had no procedure and the Sly Brook section of Eagle Lake didn't complete the six steps in the current law. So for those reasons I hope that you will vote for the Ought Not to Pass Report. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Madam President. I don't believe that the absence of a law governing part of a town leaving an organized town is a reason for us to bury our heads in the sand. I think it's something that should be addressed. I grant you that the existing law deals only with a municipal body unorganizing, I guess you'd call it, and becoming an unorganized portion of State government. I believe that the fact, and again I repeat, that they could not comply with the six steps that are required in our present law certainly must indicate that our present law is inadequate. Thank you Madam President.

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

Senator **GOLDTHWAIT:** Thank you Madam President. Ladies and gentlemen of the Senate, if you have any karma you're trying to work out, State and Local Government is probably a good place to try to do it and Secession Bills are a large piece of that. This one was no exception. I do want to add just a few comments to what has been said on the floor already. This particular Secession Bill was complicated as the good Senator from Cumberland, Senator Pendleton, said by an effort of a part of a town to deorganize. Potentially we could have worked our way around that complication but the defining issue for me is this: if a portion of a town wants to secede and become a town of its own, or as the Senator from Aroostook said, wants to govern itself they are required to present a whole body of evidence. It's not easy to do. The town has to be quite committed to this effort to assemble all of that information. In this case the community of Sly Brook made a significant effort to present a lot of the information that would be required but they expressed no desire at all to govern themselves. They simply don't want to be governed by the town of Eagle Lake at this point. So the turning point in this Bill is that they really want to become an unorganized territory. Although they followed some of the process to become an independent town, they followed none of the process to become an unorganized territory.

Just like we have a process for a portion of a community to secede and become a municipality of its own, we also have a process for a community to deorganize, and we have another community, Madrid in the state of Maine, who is undertaking that process right now. But that is the process that was not addressed at all by this community and certainly administrators of the unorganized territory raised significant concerns about whether this community was fully aware of what they were getting themselves in for and had actually confronted and made a lot of the decisions about schools and those sorts of issues. So it was number one this rather unusual step of a piece of a town trying to deorganize, but more compelling than that was the fact that if they wished to end up as an unorganized territory they had not undertaken in any way the process that would lead them there. That is the source of my opposition to their secession. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you Madam President. May I pose a question through the Chair?

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

Senator **LAFOUNTAIN:** Thank you. To anyone who can answer. I understand the effort that the residents of the Sly Brook area have made coming before the Legislature here but what I haven't heard is what kind of dialogue did they enter into with the people of Eagle Lake and that government in order to resolve some of their differences?

THE PRESIDENT PRO TEM: The Senator from York, Senator LaFountain poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Pendleton.

Senator **PENDLETON:** Thank you Madam President. Thank you Senator LaFountain from York for asking that question. Without going into any details of who said what or when it was said, I do have documentation in my folder of conversations and letters and things that went back and forth. I'd be more than happy to share them but I don't think that this is exactly the place for me to be reading that. But I do have the information if you need it. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Pendleton 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 (#155)

YEAS: Senators: ABROMSON, AMERO, BENOIT, BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DAVIS, DOUGLASS, GOLDTHWAIT, HARRIMAN, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MACKINNON, MILLS, MURRAY, NUTTING, O'GARA, PENDLETON, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT PRO TEM - CHELLIE PINGREE

NAYS: Senators: BENNETT, FERGUSON, KIEFFER, LIBBY, MITCHELL

ABSENT: Senators: LAWRENCE, MICHAUD

EXCUSED: Senator: PARADIS

27 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 2 Senators being absent, and 1 Senator being excused, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Implement the Recommendations of the Department of Inland Fisheries and Wildlife Regarding Surface Use on Great Ponds" (EMERGENCY)

H.P. 1590 L.D. 2235

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1585).

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

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

READ ONCE.

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

The Committee on **TAXATION** on Bill "An Act to Make Technical Changes and Improvements to the Employment Tax Increment Financing Program"

H.P. 932 L.D. 1309

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

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

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

READ ONCE.

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

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Increase the Availability of Prescription Drugs for the State's Elderly"

H.P. 228 L.D. 332

Reported that the same **Ought to Pass As Amended** by **Committee Amendment "A"** (H-657).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-657).

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

READ ONCE.

Committee Amendment "A" (H-657) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Improve Medical Support for Children"
H.P. 1078 L.D. 1525

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-655)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-655)**.

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

READ ONCE.

Committee Amendment "A" (H-655) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Improve Access to Education for Parents as Scholars Program Participants"
H.P. 1115 L.D. 1574

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-656)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-656)**.

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

READ ONCE.

Committee Amendment "A" (H-656) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Help Homeless Young People Returning to Home or Safe Living Situations
H.P. 1528 L.D. 2181

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-654)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-654)**.

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

READ ONCE.

Committee Amendment "A" (H-654) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Require Electronic Recording of Closed Sessions of Public Bodies"
H.P. 143 L.D. 205

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-635)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-635)**.

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

READ ONCE.

Committee Amendment "A" (H-635) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Abrogate the Rule Against Perpetuities"
H.P. 371 L.D. 496

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-636)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-636)**.

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

READ ONCE.

Committee Amendment "A" (H-636) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Implement Recommendations of the Maine Indian Tribal-State Commission Relating to Child Welfare Services for Indian Children"
H.P. 392 L.D. 523

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-658)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-658)**.

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

READ ONCE.

Committee Amendment "A" (H-658) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Amend Criminal Law Procedures Regarding Defendants Found Incompetent to Stand Trial"
H.P. 1076 L.D. 1523

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-637)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-637)**.

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

READ ONCE.

Committee Amendment "A" (H-637) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Enhance Communications Between the Department of Corrections, the Judiciary and Law Enforcement Agencies" (EMERGENCY)
H.P. 1518 L.D. 2166

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-634)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-634)**.

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

READ ONCE.

Committee Amendment "A" (H-634) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act to Provide Tax-exempt Status to Organizations That Teach Reading"
H.P. 271 L.D. 379

Reported that the same **Ought to Pass As Amended by Committee Amendment "B" (H-647)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-647)**.

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

READ ONCE.

Committee Amendment "B" (H-647) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act to Reimburse Collectors of Sales and Use Taxes"
H.P. 1150 L.D. 1647

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-646)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-646)**.

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

READ ONCE.

Committee Amendment "A" (H-646) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

H.P. 1279 L.D. 1840

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-645)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-645)**.

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

READ ONCE.

Committee Amendment "A" (H-645) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act to Promote Participation in the Maine Residents Property Tax Program"

H.P. 1527 L.D. 2180

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-648)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-648)**.

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

READ ONCE.

Committee Amendment "A" (H-648) **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 Amend the Charter of the Norridgewock Water District
S.P. 718 L.D. 2040
(C "A" S-297)

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

Emergency Measure

An Act to Amend the Maine Residents Property Tax Program
S.P. 776 L.D. 2175
(C "A" S-293)

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

Acts

An Act to Define Paralegals and Legal Assistants
H.P. 517 L.D. 724

An Act to Amend the Requirement that the Employment Rehabilitation Fund Reimburse Employers and Insurers for Benefits Paid pursuant to the Benefits Adjustments
S.P. 269 L.D. 762
(C "A" S-239)

An Act to Minimize the Harmful Effects of Lead
H.P. 625 L.D. 875
(S "A" S-298 to C "A" H-566)

An Act to Allow Three Hunters to Hunt Deer Together
H.P. 704 L.D. 971

An Act to Require Additional Vaccines for Employees of Health Care Facilities
H.P. 846 L.D. 1180
(C "A" H-603)

An Act to Strengthen the Kinship Laws
H.P. 886 L.D. 1243
(C "A" H-599)

An Act Relative to Freedom of Employment in the Broadcasting Industry
S.P. 616 L.D. 1781
(C "A" S-282)

An Act to Establish a Lobster Trap Tag Freeze to Limit Effort in the Lobster Fishery
H.P. 1385 L.D. 1982
(C "B" H-580)

An Act to Amend the Health Care Receivership Laws
H.P. 1410 L.D. 2015
(C "A" H-610)

An Act to Enhance Access to Technology for Maine Schools and Libraries

H.P. 1516 L.D. 2164
(C "A" H-594)

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

An Act to Require the State to Pay Medicare Costs for Retired State Employees and Retired Teachers

H.P. 663 L.D. 919
(C "A" H-358)

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

An Act to Provide Computers for Use in the Legislature

H.P. 666 L.D. 922
(C "A" H-320)

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

An Act to Improve Snowmobile Trail Grooming

H.P. 763 L.D. 1086

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

An Act to Improve Consumers' Opportunities to Hire and Retain Personal Care Attendants

H.P. 935 L.D. 1312
(C "A" H-596)

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

An Act to Implement an Atlantic Salmon Conservation Plan

H.P. 1549 L.D. 2206
(C "A" H-606)

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

Resolves

Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in the Maine Criminal Justice Academy in Waterville; Part of the Kennebec Arsenal in Augusta; Part of the Maine Youth Center in South Portland; and 2 parcels in Gray near the Pineland Center and to Purchase Land for Wetland Mitigation Purposes in Connection with the Construction of the Maine State Prison at Warren

H.P. 1203 L.D. 1713
(H "A" H-516 to C "A" H-413)

On motion by Senator **HARRIMAN** of Cumberland, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**.

Resolve, to Increase Reimbursement for Chiropractic Manipulation under the Medicaid Program

H.P. 1313 L.D. 1896
(H "A" H-625 to C "A" H-602)

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

Resolve, to Establish the Citizens' Advisory Committee to Secure the Future of Maine's Wildlife and Fish

S.P. 725 L.D. 2045
(C "A" S-254; H "A" H-639)

On motion by Senator **HARRIMAN** of Cumberland, 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:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act Regarding Fish Stocking"

H.P. 361 L.D. 486
(C "A" H-607)

In Senate, May 20, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-607)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-607) AS AMENDED BY HOUSE AMENDMENT "A" (H-665)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Resolve, Establishing a Commission to Study the Feasibility of Reestablishing a Brook Trout and Landlocked Salmon Hatchery in Northern Maine

S.P. 332 L.D. 986
(C "A" S-296)

In Senate, May 18, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-296).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-296) AS AMENDED BY HOUSE AMENDMENT "A" (H-641)** thereto, in **NON-CONCURRENCE.**

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

Senate at Ease.

Senate called to order by President Pro Tem
CHELLIE PINGREE of Knox.

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

SECOND READERS

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

House As Amended

Bill "An Act to Increase to 5.5% the Amount of Revenue Dedicated to General Revenue Sharing"

H.P. 1286 L.D. 1847
(C "A" H-651)

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

Bill "An Act to Allow Reimbursement of Registered Nurse First Assistants for Surgical Procedures"

H.P. 22 L.D. 32
(C "A" H-649)

READ A SECOND TIME.

On motion by Senator **MURRAY** of Penobscot, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-649).

On further motion by same Senator, Senate Amendment "A" (S-343) to Committee Amendment "A" (H-649) **READ.**

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

Senator **GOLDTHWAIT:** Thank you Madam President. I was just trying to determine if someone could answer what the content of this Amendment is.

THE PRESIDENT PRO TEM: The Senator from Hancock, Senator Goldthwait poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY:** Thank you Madam President. Men and women of the Senate, it's a privilege as my duty as Chairman of the Committee on Bills in the Second Reading to tell you about the Committee hearing we had on the Amendment posed before you. It basically changes a number on the Section and that is all. It was a unanimous vote of the Committee on Bills in the Second Reading.

On further motion by same Senator, Senate Amendment "A" (S-343) to Committee Amendment "A" (H-649) **ADOPTED.**

Committee Amendment "A" (H-649) as Amended by Senate Amendment "A" (S-343) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

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

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#156)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BERUBE, CAREY, CATHCART, DAVIS, GOLDTHWAIT, KONTOS, LIBBY, LONGLEY, MITCHELL, MURRAY, NUTTING, O'GARA, PENDLETON, RAND, SMALL, TREAT, THE PRESIDENT PRO-TEM CHELLIE PINGREE

NAYS: Senators: BENOIT, CASSIDY, DAGGETT, DOUGLASS, FERGUSON, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LAWRENCE, MACKINNON, MICHAUD, MILLS, RUHLIN

EXCUSED: Senator: PARADIS

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-649) AS AMENDED BY SENATE AMENDMENT "A" (S-343)** thereto, in **NON-CONCURRENCE.**

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

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. 843

ORDERED, the House concurring that the Joint Standing Committee on Natural resources report out, to the Senate, a bill to fund training programs for water pollution control facility operators.

READ and PASSED.

Sent down for concurrence.

Senate at Ease.

Senate called to order by President Pro Tem
CHELLIE PINGREE of Knox County.

The President Pro Tem requested the Sergeant-At-Arms escort the Senator from York, Senator **LAWRENCE** to the rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from Knox, Senator **PINGREE** to her seat on the floor.

Senate called to order by the President.

RECALLED FROM GOVERNOR'S DESK

An Act to Make Failure to Provide Proper Identification a Violation of the Liquor Laws

H.P. 274 L.D. 382
(C "A" H-313)

(In Senate, May 18, 1999, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order S.P. 837, in concurrence.)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENACTED.**

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-313).**

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-313).

On further motion by same Senator, Senate Amendment "A" (S-333) to Committee Amendment "A" (H-313) **READ and ADOPTED.**

Committee Amendment "A" (H-313) as Amended by Senate Amendment "A" (S-333) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-313) AS AMENDED BY SENATE AMENDMENT "A" (S-333) thereto, in **NON-CONCURRENCE.**

Sent down for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/21/99) Assigned matter.

HOUSE REPORT - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Establish a Trust Fund to Provide Statewide Assistance to Low-income Electric Consumers"

H.P. 1069 L.D. 1500

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-618)**

Tabled - May 21, 1999, by Senator **CAREY** of Kennebec.

Pending - **ACCEPTANCE OF THE REPORT**

(In House, May 21, 1999, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-618).**)

(In Senate, May 21, 1999, Report **READ.**)

On motion by Senator **CAREY** of Kennebec, the **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-618) **READ.**

On motion by Senator **CAREY** of Kennebec, Senate Amendment "A" (S-338) to Committee Amendment "A" (H-618) **READ** and **ADOPTED**.

Committee Amendment "A" (H-618) as Amended by Senate Amendment "A" (S-338) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

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 As Amended

Senator **KONTOS** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Provide for the 1999 and 2000 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY) S.P. 417 L.D. 1206

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-341)**.

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

READ ONCE.

Committee Amendment "A" (S-341) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-341)**.

Sent down for 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 **HEALTH AND HUMAN SERVICES** on Bill "An Act to Promote Healthy Maine Families" S.P. 492 L.D. 1477

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-339)**.

Signed:

Senators:

PARADIS of Aroostook
BERUBE of Androscoggin
MITCHELL of Penobscot

Representatives:

KANE of Saco
BROOKS of Winterport
FULLER of Manchester
QUINT of Portland
DUGAY of Cherryfield
WILLIAMS of Orono
BRAGDON of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-340)**.

Signed:

Representatives:

LOVETT of Scarborough
SNOWE-MELLO of Poland
SHIELDS of Auburn

Reports **READ**.

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-339)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (H-339) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

SECOND READERS

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

House

Bill "An Act to Revise the Salaries of Certain Kennebec County Officers" (EMERGENCY)

H.P. 1592 L.D. 2240

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

House As Amended

Bill "An Act to Expedite Treatment of Certain Persons with Mental Illness"

H.P. 499 L.D. 706
(C "A" H-659)

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

Non-Concurrent Matter

Bill "An Act to Increase the Deer Hunting Day by 15 Minutes"
H.P. 30 L.D. 39

In Senate, May 20, 1999, **PASSED TO BE ENGROSSED**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-664)**, in **NON-CONCURRENCE**.

On motion by Senator **KILKELLY** of Lincoln, the Senate **ADHERED**.

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

The Committee on **TAXATION** on Resolve, to Modify the State Valuation for the Sappi Plant in the City of Westbrook for Purposes of Education Funding (EMERGENCY)
H.P. 1593 L.D. 2241

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1584).

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 TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **LABOR** on Bill "An Act to Amend the Laws Relative to Vesting in the Maine State Retirement System"
H.P. 189 L.D. 267

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-652)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-652) AS AMENDED BY HOUSE AMENDMENT "A" (H-670)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-652) **READ**.

House Amendment "A" (H-670) to Committee Amendment "A" (H-652) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-652) as Amended by House Amendment "A" (H-670) 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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, to Address Liquidation Harvesting
H.P. 1526 L.D. 2179

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-640)**.

Signed:

Senators:
NUTTING of Androscoggin
KILKELLY of Lincoln

Representatives:

COWGER of Hallowell
VOLENIK of Brooklin
PIEH of Bremen
WATSON of Farmingdale
GAGNE of Buckfield

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

Signed:

Senator:

KIEFFER of Aroostook

Representatives:

CARR of Lincoln
FOSTER of Gray
GOOLEY of Farmington
GILLIS of Danforth
CROSS of Dover-Foxcroft

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

Reports **READ**.

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

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

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act Concerning Access to Obstetrical and Gynecological Services Provided Through Managed Care Plans"

S.P. 416 L.D. 1205

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-334)** (4 members)

Tabled - May 24, 1999, by Senator **RAND** of Cumberland.

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

(In Senate, May 24, 1999, Reports **READ**.)

Senator **GOLDTHWAIT** of Hancock requested a Division.

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

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, I had hoped that you would oppose the pending motion to accept the Majority Ought Not To Pass Report so that we can go on to accept the Ought To Pass as Amended Report. I'm the Sponsor of this pending legislation and I wanted to just briefly explain to you why I thought it is worthy of our consideration and support today. Currently the statute limits the times and opportunities when a woman can go to see her OBGYN Physician by statute. What the Bill before you proposes to do is to amend those current restrictions in a way that I think more accurately reflects the reality of healthcare for most women, especially the women of childbearing years here in the state of Maine.

Let me explain, if I can briefly, the current configurations and limitations and how this Bill proposes to change those. Currently under State statute, for women covered under HMO Managed Care Plans, a woman is allowed one annual visit with her OBGYN Physician, assuming that OBGYN is in the network or within the HMO Plan. The only exception to that would be if the woman's OBGYN Doctor was also, coincidentally, a Primary Care Provider, or often referred to as the PCP. That is not the case in most circumstances and the Primary Care Provider for most of us, and most women is someone other than an OBGYN. So that presents a bit of a problem. When you look at the current reality, 70% of the healthcare systems services provided to women in their childbearing years relates to an OBGYN issue or treatment that is required. So what we have is that we have crafted a system that allows a woman to go to see an OBGYN once for an annual visit. If there is something discovered or determined at that one annual visit, the woman is not allowed to continue on with a protocol of care with that same doctor unless and until the woman then goes and sees, or has permission from the PCP, Primary Care Provider. And then assuming that permission is granted, the woman can go back to the same OBGYN provider and begin the treatment protocol, or whatever may be appropriate. So we have developed a system, in part by our statute, which allows for this seeming disconnect between treatment and what has been determined through an examination. I don't think that is particularly efficient as well as creating potential problems and restrictions that may, in fact, really decide whether or not the woman obtains the kind of care that is necessary in many respects.

So what this Bill proposes to do is to change that one year limitation in a way such that a woman will be allowed to see the OBGYN provider, assuming again that this OBGYN is somebody who has been approved within the network, not necessarily a Primary Care Provider, but been approved for certification within the network. The woman can see that provider and if there is the need for additional OBGYN care or treatment, that same doctor or Certified Nurse Practitioner can be seen for that purpose. It's a much more logical, in my opinion, system to develop. I think it is more efficient in that your not seeing somebody going to somebody else for approval, going back to the same person for treatment. It's much more fluent in the way that the system is designed, and it also recognizes that in order to maintain this continuing of care we are going to require that these OBGYNs provide written notice to the Primary Care Providers so that, that physician is aware of what's going on and the management of that persons healthcare is going to still be maintained under the

umbrella of the Managed Care. The Committee requested that this be studied. That study has come back. I think it is a fairly modest proposal with regard to its fiscal implications, but it has much more significance as far as its reality in the way that women are going to be able to receive the kind of healthcare that I think most of the women in the state of Maine require. And for all of those reasons, I would urge you to reject the pending motion so that we can go on to accept this relatively modest, but very important improvement to our healthcare delivery system here.

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

Senator **LAFOUNTAIN:** Thank you Mr. President. Men and women of the Senate, I rise and encourage you to support the Majority Ought Not To Pass Report. What this Bill does is it allows women enrolled in a Group Managed Care Plan to receive primary, preventative, and therapeutic OBGYN services from an OBGYN, Certified Nurse Practitioner, or Certified Nurse Midwife participating in the plan, without a referral from a Primary Care Physician, in other words, a PCP. The important words there are, without a referral. Current law, I disagree with the good Senator from Penobscot, the statute doesn't limit one visit, what the statute says is it allows one visit on self-referral. The statute is telling us how many times a woman can see her OBGYN. She can see an OBGYN as many times as she would like, provided that she does have that referral from her Primary Care Physician. It is my understanding, from the testimony that we heard in the public hearing, and at the work session is that most managed care companies allow a one year referral for any kind of chronic OBGYN condition being experienced by their patient. As I said, current law allows one self-referral for an OBGYN exam, and current law allows you to also select an OBGYN as your Primary Care Physician. It was our further understanding through the public hearing that most OBGYNs do not want to be Primary Care Physicians. The net effect of the passing of this Bill will be to unmanage managed care.

When you choose a Primary Care Physician, what happens there is the managed care company pays that physician on a capitated basis. In other words, they're going to pay them a fairly flat fee to see you as their patient. Now for every time, under this Bill, you self-refer, as many times as you want to the OBGYN, what we are going to see is a duplicate cost. The managed care company has already paid for you on a capitated basis, but now they will be paying for every visit that you see your OBGYN on a self-referral basis. What this will do to the State's health insurance plan is it will increase it by \$120,000 per year. And it will also cost the community out there .15% increase in their premium cost. As I indicated, the Bill will undermine managed care. We also had testimony from individuals who suggested to us that there is a reason why you have a Primary Care Physician. And that is to coordinate and manage your care. We had testimony from individuals who told us that when people do, even in a self-referral, go to an OBGYN, we have duplication in some of the services provided. Many times the OBGYN chooses to conduct examinations without coordinating with the PCP that have already been conducted by the PCP during the course of the previous year. In other words, it's a duplication and it's costly. And the persons and individuals who will be paying, will be the citizens of Maine and the business community. I was fairly supportive of this Bill up until the time we got our Report back, and also the Report back on L.D. 857, and if you recall 857 is a

Bill that we saw pass through this Chamber last week and is somewhere off now for signature. And what that Bill deals with is Certified Nurse Practitioners and Nurse Midwives. What we have done in the Committee and what we have done in this Chamber is we have given women an additional choice in their healthcare. Not just the OBGYN self-referral we see in this Bill, but also access to Certified Nurse Midwives and Nurse Practitioners. For those reasons I encourage you to support the Majority Ought Not To Pass Report. Thank you.

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

Senator **DOUGLASS:** Thank you Mr. President. Women and men of the Senate, I am very supportive of a woman's right to see a Gynecologist whenever she needs too, or an Obstetrician. But this Bill, as drafted, basically changes the rules of the game. It allows for self-referrals by a consumer who's in a Group Managed Care without requiring the prior approval of the Primary Care Physician. Now I would like to have that possibility myself. I think it is important that we be able to see physicians as we deem fit, but until we have a better system of health insurance, I don't believe this is the correct Bill to enact at this time. The reason is that we are under heavy fire from various consumer groups with regard to varying needs. The Banking and Insurance Committee went through something like 28 mandates. We decided which ones were of priority interest to us, which one seemed to be the most important to consumers throughout the State. While this one has a lot of appeal, I think it's important to recognize that we can't do every good thing that we want to do. I wish we could. I wish our system of health insurance was better. But by enacting more mandates than we did through our Banking and Insurance Committee, you are adding to the cost of those who are insured. And adding to the cost of managed care in Maine. I'm reluctant to do that with this Bill because it's more open-ended than some of the others. I think it is important to put myself on record for that reason. 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, the reason that I am opposed to the Majority Report on this Bill is, if you visit your OBGYN and they say you have condition X and you need to start treatment Y, and I want to see you again in two months. You then have to call your Primary Care Provider and ask for permission to see that OBGYN. And the Primary Care Provider is either going to say yes, which doesn't make any more visits then if you self-referred yourself, or the Primary Care Provider is going to say, I better see you first to make sure you really need that next visit with the OBGYN. Which will create one more visit. So while this self-referring system is thought to be an increase in cost, I do not know. And I would urge you to oppose the Majority Report. Thank you.

On motion by Senator **RAND** of Cumberland, 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 (#157)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CAREY, CASSIDY, DAGGETT, DAVIS, DOUGLASS, FERGUSON, HARRIMAN, KIEFFER, LAFOUNTAIN, MACKINNON, MICHAUD, MILLS, MITCHELL, O'GARA, RUHLIN, SMALL

NAYS: Senators: BERUBE, CATHCART, GOLDTHWAIT, KILKELLY, KONTOS, LIBBY, LONGLEY, MURRAY, NUTTING, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

EXCUSED: Senator: PARADIS

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator LAFOUNTAIN 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 (5/14/99) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Create a Sales Tax Exemption for Child Abuse and Neglect Councils"

H.P. 976 L.D. 1374

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-395)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 14, 1999, by Senator **LONGLEY** of Waldo.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **ADHERED**

(In House, May 7, 1999, 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-395).**)

(In Senate, May 11, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 12, 1999, that Body **ADHERED**.)

(In Senate, May 14, 1999, on motion by Senator **RUHLIN** of Penobscot, **ADHERED**. Subsequently, Senator **LONGLEY** of Waldo moved to **RECONSIDER**.)

On motion by Senator **LONGLEY** of Waldo, the Senate **RECONSIDERED** whereby it **ADHERED**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-395) **READ** and **ADOPTED**, in concurrence.

Senator **LONGLEY** of Waldo moved the **RULES BE SUSPENDED** for purpose of **SECOND READING**.

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **LONGLEY** of Waldo to **SUSPEND THE RULES** for purpose of **SECOND READING**.

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Repeal the Snack Tax"

H.P. 42 L.D. 56

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-650)** (8 members)

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

Tabled - May 24, 1999, by Senator **RUHLIN** of Penobscot.

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

(In House, May 21, 1999, 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-650).**)

(In Senate, May 21, 1999, Reports **READ**.)

On motion by Senator **AMERO** of Cumberland, 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 Cumberland, Senator Abromson.

Senator **ABROMSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would urge that you vote against the pending motion so we can go on to Repeal the Snack Tax. I know its a big fiscal note. I think what brings me to this is sort of the frustration that I received on March 31. A note from a constituent who wrote, thought you would be interested to know that Shop N' Save is collecting sales tax on matzo this year, sales slip is enclosed. And he enclosed it. He says, I was

brought up to believe that matzo is a religious substitute for bread which is not subject to sales tax. Happy Passover, Best Regards.

I sent a letter to the Bureau of Revenue Services asking about it, and the response reads as follows: Dear Senator Abromson, your letter of April 6, 1999 from Sam Shatz regarding tax on matzo has been referred to me for a response. In 1992, the Legislature included matzo within the definition of grocery staples. Unfortunately, they specifically included unflavored matzo. Using the slip from Shop N' Save, I contacted Hannaford Brothers and was told that Mr. Shatz purchased egg flavored matzo crackers and was correctly charged the tax. The only matzo which is exempt is matzo labeled as plain. Any matzo that is labeled flavored is still considered a snack food and taxable. Please feel free to contact me, and so forth. This is something new to me that egg is now a flavor. I was thinking of putting in an Amendment to eliminate the word plain from the statute, but I just got so frustrated I decided to try to eliminate the whole statute. Thank you Mr. President.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I really appreciate the information from the Senator from Cumberland. A good mutual friend of ours, Rabbi Isaacs, will be retiring I think at the end of the month. I know how to make him a lot happier. We can address that problem separately. What we came to talk about tonight however, Senators of Maine, is something entirely different. I think the Senator from Cumberland has also touched on what, to me, is a very sensitive point. I am not going to stand before you and argue for the Snack Tax. When it was instituted I was then in the other Chamber. I debated against it; fought vehemently against it. I consider myself an opponent of that particular tax over the years. That's not what I'm here to discuss, and it does, it has problems. The real problem is, it makes me grimace every time I see it in the books. I start trying to define it but it's almost indefinable. You take and bake a cake, sell it as a baked cake and you've got to pay a Snack Tax. If it's unbaked it's a staple food. You don't pay a Snack Tax. It puts the person selling the goods in an extremely difficult situation. I don't think there is one person in the state of Maine who can tell you that it's a tax that people could be happy with. That's not the point.

We started out this year, the Taxation Committee, to adjust those items that would be considered tax exemptions, get rid of many of them, to make the sales tax in the state of Maine more evenly, fairly, and clearly defined. We were not, unfortunately, successful. A part of those negotiations was the Snack Tax itself, as well as other items. The snack tax cost \$14 million a year. That's a lot of money. I could sit down and be quiet and urge you to pass it, let it go down on the Appropriations Table, knowing full well we don't have \$14 million. When the time comes it will die on the Appropriations Table. I want you to know it's very tempting to do that. I think we, as a Senate, should also look at true, realistic proposals of what is fiscally responsible for the State of Maine. I hold to you that it's fiscally irresponsible to go forward with the repeal of this very poorly calculated tax. A tax several of us have not found a replacement for, that we have not found a more equitable way of doing it. Until we do, I would urge the keeping of this tax, and look forward to working again with members of both parties, the Tax Committee, and the full Legislature to revamp our sales tax, in particular, in a way that we all could have a little more pride. It would be a little more stable and less

volatile. Until that happens, I can only recommend that you keep the Snack Tax, that you take into consideration the \$14 million, that will be lost annually in revenue, and please vote for the Ought Not to Pass Report because of those reasons.

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

Senator **MACKINNON:** Thank you Mr. President. Women and men of the Senate, I rise today to ask you to not accept the Ought Not to Pass Report for the simple reason that the Snack Tax was put in as a gimmick tax in 1991. I suggest to you today that we have a surplus on overcharging the taxpayers in the state of Maine. It's time maybe we gave a little bit back and this certainly is a tax which helped the less fortunate and also school aged children and their parents. If you think about a person who has a \$20,000 salary, 21% of it goes to approved tax, this certainly would help. As a person who's watched children go through schools and twinkies and a lot of all the other things and being a junk food junky myself who likes popcorn, peanuts, Pepsi and pizza, I'm tired of paying a tax on it and I hope we can do something about that. Thank you.

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

Senator **HARRIMAN:** Thank you very much Mr. President. Good afternoon ladies and gentlemen of the Senate. Mr. President I think there is an opportunity here for this Legislature to once again reinforce the message that was sent in a previous Session that clearly indicates that this law is unworkable, it's discriminatory, it's unenforceable, and it's not really a Snack Tax, it's a "sneak tax." It's unworkable because the Bureau of Revenues Service's has never updated the revisory for retailers to use in collecting the tax. Even though over that same period of time it's my understanding 15 to 20 thousand new products have hit the retail stores. To my knowledge the Bureau of Revenue Services has never successfully completed an audit to prove whether this tax is being appropriately collected or undercollected by law. It's discriminatory because it hits people in an unfair way, most of those who have young children. It's unenforceable because no one knows how to apply the tax. It's collectability in stores is generally dependent upon that store having a scanner for the codes on the box and even then it's been proven, as my good friend from Cumberland, Senator Abromson, has pointed out, it sends the wrong message, I think, to Maine potato growers who for the most part are doing business with companies like Frito Lay. It sends the wrong message to companies like Nissan Baking. Nissan Baking, who has built one of the most premier baking facilities in Biddeford, Maine.

Perhaps some of you recall earlier in the Session, there was a luncheon posted in the Hall of Flags, and I hope that many of you took part in that because at least for me it was very revealing. The products that were down there for us to enjoy at lunch, and the question was asked, was this taxed or not? I remember walking by a table and there was a tray of sandwiches. One sandwich was made with bagels and one sandwich was made with croissant. Much to my surprise, I discovered that if you picked the one with the bagel it wasn't taxed. But if you picked the one with the croissant it was taxed. If you go to the store and you buy shelled peanuts, if you buy the ones that aren't roasted, they are not taxed, but if you buy the roasted peanuts in the shell, they are taxed. Going down the grocery store aisle I

would defy you to determine which one was roasted, let alone which one was "sneak taxed." So for all these reasons, Mr. President, as my good friend from Penobscot, Senator Ruhlin, has already indicated this is an issue that has been before us before, but I would submit to you, like many public policy issues that have taken many Sessions to settle in and have the full affect of law, this is certainly one of them and I hope you will join me in supporting the pending motion.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, I believe the Snack Tax is aptly named because this tax is about our appetite. As the good Senator from Penobscot, Senator Ruhlin, states it's really not about our appetite for food, but our appetite for spending. It's entirely appropriate that now we have sought to undo many of the budgetary gimmicks and revenue sources that were passed, unfortunately, in the early 1990's, as a stop gap for our financial distress at the time. I think it's entirely appropriate that we revisit those issues, and this is one that clearly needs to be addressed. This year we can address it but we need to learn to control our appetite for spending. And that's why this Bill ought to go to the Appropriations Table. Because, as I'm told, the rumors abound, but the budgets which we will shortly have to vote on are likely to include lots and lots and lots of new spending. Millions of dollars, tens of millions of dollars in new spending. This proposal does carry a fiscal note. By denying revenues to the State Treasury in the amount of, according to this, over \$10 million in the first fiscal year and over \$15 million in the second, it just gets down to the essence of philosophy about whether you think the times are good with a \$290 million unexpended balance after increasing the Part I Budget by 10%. What should we do with that money? I think this Bill is worthy of consideration, and reducing, and eliminating this tax is worthy of consideration in that mix. If we want to just say no here, and say we can't afford a tax cut because we've got too much other spending priorities on our Table then that's fine. That's at least an honest view point, if a wrong one. So, I guess we will see today with this vote who is willing to address head-on the question of taxing and spending, and who is not. Thank you very much.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, I'll be brief because we are all thoroughly familiar with this issue, but I wanted to make sure that I said a couple of quick words. The first being, I would like to ask for a Roll Call, Mr. President, and to continue speaking to my motion. It's very important I think to know that I had at one point thought that I had finally beat the Snack Tax and I want you to know how. I stopped on the way up here about a month ago, at a coffee shop right in Hallowell and coffee is really expensive. I stopped in there. I went up to buy my coffee and not only did I buy a cup of coffee but I wanted to buy a pound as well. I ordered the coffee, and they said, well do you want it whole bean or do you want it ground? I said, well I want it ground. The owner of the establishment said, if you get it ground you're going to get charged a sales tax. I said I didn't know that, and I asked, is that part of the Snack Tax? He said, yes it's part of the Snack Tax.

So I went home and I was excited. I was actually thrilled about that because I knew if I went out and I bought a coffee grinder and ground my own beans I was going to beat the Snack Tax because I would never get charged again, I'll just buy whole beans and I will never, ever, ever have to pay the Snack Tax on ground coffee. So, you can't imagine how excited I was. However, the strangest thing happened. I went back to the same coffee shop the next week, you know strutting in there because I knew I had a grinder at home. And I went to make another purchase of a pound of coffee and the gentlemen told me he had been mistaken, it had nothing to do with the Snack Tax. He said, I'm sorry your going to be charged the sales tax on both. It had something to do apparently with employees being involved in actually, you know, adding value to the product. That's what he said. The point I'm trying to make is that he was probably wrong and I was probably wrong. We were all probably wrong. But it's this type of confusion over this tax. Nobody understands it. It's actually not in my mind about tax and spend, it's actually about poor policy. Maine is the only state that still employs a selective tax on food. That's sad. You know I guess the moral of my story is you can't beat it. You think you can beat these taxes back. You try everything. But there's just no way that you can stop from taxing citizens of Maine. The only way is to come right into this Chamber and vote the right way. And that is to Repeal the Snack Tax. Get it down to Appropriations. Hopefully, they will figure out a way to include it in the budget. We will go on from there. So thank you Mr. President.

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

Senator **PINGREE:** Thank you Mr. President, I just want to address a few of the words of the good Senator from Oxford, Senator Bennett, about finally addressing this issue head-on, and mentioning that because the State has surplus this year, I think he said over \$290 million, this is the year we should repeal this tax. Well, as we all know, because we have been struggling to get a Budget for several days and finding how to do it in the best possible way. One of the things we are very aware of is the difference between ongoing and one-time money. We are all well aware that most of the \$290 million is one-time money. I think what we are really addressing head-on here is the question of fiscal responsibility. It is not fiscally responsible to keep repealing taxes with one-time money when we just don't have any ongoing. You know we all like to get up and say I want to fund education. We want to get prescription drugs to seniors. We have a lot of programs that we care about, most of them require ongoing revenue. There's been a lot of talk about lowering the 5.5% Sales Tax to 5%. We have repealed a lot of other taxes in the last couple of Sessions. At some point we have to bite the bullet and say we cannot afford to continue repealing taxes when education is desperately in need, our seniors are desperately in need, our communities through municipal revenue sharing, and a whole host of other issues, need our support. Nobody likes paying taxes. Let's not pretend. There isn't a tax all of us wouldn't like to beat if we had the opportunity. This is not the tax we hear most about from our constituents. We all know that is Property Tax. Every time we cut the coffers in the State, when we repeal these taxes, we put the burden back on our communities on the Property Tax. I think this is irresponsible from a public policy perspective and certainly trying to use one-time money to repeal this tax, this fiscal year is

irresponsible. I hope you will accept the Minority Ought Not to Pass Report.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, I am eager to see the Majority budget that spends not a dime of one-time money on ongoing spending programs. It seems too often that we apply one standard to tax cuts, and a completely different standard to spending cuts. So, I'm eager, and have waited many days now for a budget document that is fiscally responsible and I'll look forward to it. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. Senators of Maine, I don't know about the rest of you, but I feel like I have been left out here a little bit, like I'm missing some information that I should have before I go forward. It's very well to contemplate fiscal responsibility, which I do and recognize the burden, with the burdensome tax that we have in the state of Maine, a Property Tax. The lower the state coffers are the more you shift onto the property tax. That's all very good. The good Senator from Knox made some good statements on that, and they are certainly accurate and to the point. They do address fiscal responsibility, but there are many other things to be taken into consideration. Tonight as we proceed with this, the one thing that kind of leaves me unsettled is the need to know the rest of the story. And I would just like to know, if I could Mr. President, address my question to the Chair, how much the good Senator from York spent for that coffee grinder? I never did get an answer. Thank you.

THE PRESIDENT: The Senator from Penobscot, Senator Ruhlin, addresses a question through the Chair to anyone who may be able to answer.

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

Senator **LIBBY:** Mr. President because I spent \$5 on one of those individual coffee grinders I thought that I would be able to not only make my money back on that but, soon I would be turning a profit.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Penobscot, Senator Ruhlin, to Accept the Minority Ought Not to Pass Committee Report. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#158)

YEAS: Senators: CAREY, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PINGREE, RAND,

RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CASSIDY, DAVIS, FERGUSON, HARRIMAN, KIEFFER, KONTOS, LIBBY, MACKINNON, MITCHELL, PENDLETON, SMALL

EXCUSED: Senator: PARADIS

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

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 Amend the Laws Relating to Notaries Public"
H.P. 643 L.D. 893
(C "A" H-411; S "A" S-314)

In House, May 14, 1999, **PASSED TO BE ENACTED.**

In Senate, May 20, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411) AND SENATE AMENDMENT "A" (S-314), in NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411) AS AMENDED BY HOUSE AMENDMENT "A" (H-662) thereto, in NON-CONCURRENCE.**

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED and CONCURRED.**

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

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

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

SECOND READERS

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

House As Amended

Bill "An Act Relating to Medicaid Liens"

H.P. 1176 L.D. 1687
(C "A" H-653)

READ A SECOND TIME.

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

Under suspension of the Rules, all matters thus acted upon, with the exception those matters being held, were ordered sent down forthwith for concurrence.

On motion by Senator **PINGREE** of Knox, **ADJOURNED**, until Tuesday, May 25, 1999, at 9:00 in the morning.