

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Nineteenth Legislature
State of Maine

Volume 2

First Regular Session (Continued)
May 6, 1999 to June 18, 1999

Pages 747 - 1547

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

In Senate Chamber
Wednesday
June 2, 1999

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

Prayer by Senator James Libby of York County.

SENATOR LIBBY: Thank you. Today's reading is from Matthew, Chapter 7, Verse 24, and it will be followed by a Prayer. You will recognize this Verse as a favorite of many people.

Therefore, whosoever heareth these sayings of Mine and doeth them, I will liken him to a wise man which built his house upon a rock. And the rain descended and the floods came, and the winds blew, and beat upon that house. And it fell not, for it was founded upon a rock. And everyone that hearest these sayings of Mine and doeth them not, shall be likened to a foolish man which built his house upon the sand. And the rain descended and the floods came, and the winds blew, and beat upon that house. And it fell. And great was the fall of it, and it came to pass when Jesus had ended these sayings that people were astonished by His doctrine. For He taught them as having one authority and not as the scribes.

Please join me in Prayer. Heavenly Father, You have taught us to build a strong foundation. Not upon simple words, but rather upon the doctrine that You have set forth. Help us to remember Your word so that we can build upon the rock and not merely the sand. Father it is our understanding that when the rain descends, and the winds blow and beat upon this house, it is our faith in You that is the rock. Amen

Reading of the Journal of Tuesday, June 1, 1999.

Off Record Remarks

COMMUNICATIONS

The Following Communication: H.C. 218

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333**

June 1, 1999

The Honorable Joy J. O'Brien
Secretary of the Senate
119th Maine Legislature
Augusta, Maine 04333

Dear Madam Secretary:

House Paper 756 Legislative Document 1046 "An Act to Prohibit the Employment of Professional Strikebreakers" having been returned by the Governor, together with objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Eighty-eight voted in favor and fifty-eight against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/Joseph W. Mayo
Clerk of the House

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Sections 61, 62, 63, 68, 69 and 73 of 10-149, Chapter 5: Bureau of Elder and Adult Services Policy Manual, a Major Substantive Rule of the Department of Human Services (EMERGENCY)
H.P. 1572 L.D. 2220

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-727).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727).**

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

READ ONCE.

Committee Amendment "A" (H-727) **READ** and **ADOPTED**, in concurrence.

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

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

ENACTORS

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

Acts

An Act to Clarify the Standard for Cause in the Request for Proposal Process for the Department of Mental Health, Mental Retardation and Substance Abuse Services

H.P. 692 L.D. 959
(C "B" H-709)

An Act to Require Disclosures in Connection with Transfers of Residential Property

H.P. 1368 L.D. 1966
(C "A" H-712)

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

An Act to Provide Equal Treatment in the Taxation of Public Pensions

S.P. 431 L.D. 1268
(C "A" S-348)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, 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
Confirmation Procedure**

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2000 and June 30, 2001

H.P. 454 L.D. 617
(H "K" H-732 to C "A" H-713)

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

Senator **MICHAUD:** Thank you Mr. President. Men and women of the Senate, hopefully before we Enact this Bill, I would like to make a comment about the members of the Appropriations Committee who helped to put this package together. Truly this was a lot more difficult actually than the Part One Budget. I think the Senator from Penobscot, Senator Cathcart, and the Senator from Cumberland, Senator Harriman, were able to put together a package where everyone gave in a little bit. It is a package that could not have been put forth if it wasn't for the cooperation of everyone on the Committee in both political parties. I know the Minority party was very helpful and very respectful of the process. They were also very helpful to us in trying to resolve our differences among members of the Committee. And for that I'm very grateful for the work that Senator Harriman has done as far as being able to get this package put forth. I also rise to comment on the statement of fact which is incorrect in that it talks about General Purpose Aid being \$664 million. That is incorrect, there will be an increase in the next Budget, but that statement of fact is incorrect in that it is not \$664 million, that was probably an assumption that they hoped that we would get there, but clearly we are not there. So I just want to clarify, that is not correct. Once again I want to thank the members of the Minority party and the members of the Majority party who worked together in crafting a Budget that I think we all can be proud of. When you look at the Budget, we definitely increased more money to education, we dealt with children issues, and we dealt with tax reductions. It's a good package. I hope that this Body will endorse it unanimously. Thank you.

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

Senator **HARRIMAN:** Thank you very much, and good morning Mr. President. Ladies and gentlemen of the Senate, I think today is indeed a proud day for the State of Maine, and most especially for the institution we call the Legislature. Since January we have been toiling away at well over 2,300 Bills or more. Thousands of Amendments, and one in amongst those is the blueprint for the State of Maine for the next two years, that we call the State Budget. This blueprint is crafted in a way, to the outside observer at times, that may not look very pleasant or pleasing. But I would submit to you that the work of this Legislature will go down in history as one that decided to join together and govern together, rather than being a Legislature where one tries to govern and the other tries to oppose and point out the weaknesses and flaws. It is indeed, on the edge of the new millennium, an opportunity for future Legislators to follow our lead and to join together and work through the difficult issues when it would be much easier to walk away from the table and point blame. The catalyst for this opportunity, in my view, falls directly on the compliments of the Legislature to the good Senator from Penobscot, Senator Michaud. In each and every turn when it would have been easier to use the gavel to remind us that some are in the Minority party, he chose not to. When it would have been easier to bury everyone in paper and details, he chose to pause and take a moment and make sure that everyone had their question answered and their ideas presented, however frivolous at first it may have appeared. And so on behalf of my colleagues on the Appropriations Committee, and indeed the Legislature, I want to extend my personal appreciation to the good Senator from Penobscot, Senator Michaud, for his leadership and to extend those warm regards as well to the House Leadership on the Appropriations Committee. For those of you who came into this

Session with a notion that we couldn't have a Budget that cut taxes enough, you would be right. For those of you who came here this Session thinking that the unmet needs for Maine's citizens are so great that we could not spend the revenue resources fast enough, you would be right. But at the end of the day, we have to govern, and we have proposed a document before you that I believe finds the balance between the journey towards tax rate reduction for hard working Maine citizens and a helping hand for those who need our help. This Budget also sends a message to all of Maine that we want to help you join Maine's journey into the next millennium. From education to Special Ed class, to school renovations, to Technical Colleges who will finally be able to respond to the hundreds of jobs that are out there, but just need a well trained worker, looking to the future for research and development, we've responded. To our elderly and disabled who are struggling to meet the cost of prescription drugs, we've heard you and have responded. To those that feel we need to pay attention to reducing our debt, we've heard you. To those who say you should use one-time money, or one-time capital expenditures, we've heard you. To those who say that we should be careful about the unbonded indebtedness that we allow institutions in the state to undertake, we've heard you. To those who say we need to pay attention to a rainy day fund, we've responded. To those who believe Maine's future is highly dependent upon access to our natural beauty and resources, we've responded. For those who believe that Maine's heritage of agriculture needs a shot in the arm for marketing efforts, we've responded. I could go on and on talking about the relief of income taxes, sales taxes, the message of preserving our historic downtowns and way of life. To those who are looking for an opportunity to adopt children, those who are concerned about Community Based Mental Health for children. To those who are concerned about the restoration of the Atlantic Salmon in Maine, this Budget responds to all of those and more. I think, Mr. President, what we should all be most especially proud of is that this Budget was passed in daylight, not at midnight. It was passed with due deliberation, and not in haste, and for that I am eternally grateful for the opportunity to be part of it and I thank you Mr. President.

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with 3 Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

Unfinished Business

The following matter 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 (5/26/99) Assigned matter:

JOINT ORDER - relative to the Joint Standing Committee on Appropriations and Financial Affairs reporting out, to the Senate,

an emergency bill to provide additional funding of \$24,557,795 for general purpose aid for local schools for fiscal year 1999-00 in accordance with the recent votes of the Joint Standing Committee on Appropriations and Financial Affairs
S.P. 844

Tabled - May 26, 1999, by Senator **MICHAUD** of Penobscot.

Pending - motion by Senator **MILLS** of Somerset to **PASS**

(In Senate, May 26, 1999, on motion by Senator **MILLS** of Somerset, **READ**.)

On motion by Senator **MILLS** of Somerset, **INDEFINITELY POSTPONED**.

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

Senate at Ease.

Senate called to order by the President.

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.

Off Record Remarks

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

After Recess

Senate called to order by the President.

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

ENACTORS

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

Act

An Act to Amend the Freedom of Access Laws
H.P. 1296 L.D. 1857
(H "A" H-668 to C "A" H-479)

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

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

Off Record Remarks

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend the Laws Prohibiting Terrorizing
H.P. 69 L.D. 82
(C "A" H-20)

Tabled - March 16, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, March 10, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-20)**, in concurrence.)

(In House, March 16, 1999, **PASSED TO BE ENACTED**.)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Timing of Elections Following the Submission of a Petition for People's Veto

S.P. 52 L.D. 122
(C "A" S-24)

Tabled - April 8 , 1999, by Senator **MICHAUD** of Penobscot.

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-24)**.)

(In House, April 7, 1999, **FINALLY PASSED**.)

This being a Constitutional Amendment, in accordance with the provisions of Section 4 of Article X of the Constitution, having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the members present and voting, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Secure Wounded Deer
H.P. 181 L.D. 259
(C "A" H-512)

Tabled - May 17, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 12, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-512)**, in concurrence.)

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

Senator **RAND** of Cumberland requested a Division.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, I don't remember this Bill working it's way through the process earlier. Perhaps someone would stand and enlighten me and perhaps others. Thank you.

THE PRESIDENT: The Senator from Oxford, Senator Bennett poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY**: Thank you Mr. President. Men and women of the Senate, this Bill is modeled after legislation in Vermont and a couple of other states that provides a license for folks to track deer that have been wounded, with dogs on leashes. They are not allowed to just chase after the deer loose and willy-nilly but, in fact, are secured by leashes and are able to track them down. One of the things that has been observed in states where they do this, is that there are fewer deer that are not able to be found and so we felt that it was really a conservation measure and also a humane measure in that it provided an opportunity to secure deer that had been wounded more quickly than if that was not allowed. It also means that if someone has, in fact, shot a deer and has wounded the deer and they are able to find that deer and tag it then they're not out the next morning in search of another deer. So we felt it was a conservation measure and it's modeled after, as I said, legislation in other states and has been quite successful there. We anticipate there will probably be about twenty-five people that may, in fact, apply for these licenses. The list will be maintained by the Department and someone who wants to make use of this service would be in touch with the Department. Eventually, I suppose, we would probably put a list of people in the back of the hunting regulation book so that people who have, in fact, wounded a deer and aren't able to find it would be able to contact these folks. It would be like a guide service. People who want to use the service would pay for it. It would not be a cost to the Department. It's revenue neutral.

At the request of Senator **RAND** of Cumberland a Division was had. 29 Senators having voted in the affirmative and no Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Establish the Crime of Aggravated Criminal Trespass
S.P. 110 L.D. 307
(C "A" S-9)

Tabled - March 16, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, March 4, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-9)**.)

(In House, March 16, 1999, **PASSED TO BE ENACTED**.)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Increase the Sanctions for Criminal Mischief Within a Correctional Facility

H.P. 341 L.D. 457
(C "A" H-149)

Tabled - April 26, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, April 14, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-149)**, in concurrence.)

(In House, April 26, 1999, **PASSED TO BE ENACTED**.)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend the Crime of Theft by Deception to Include False Impressions as to Identity

S.P. 228 L.D. 650
(C "A" S-60)

Tabled - April 26, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, April 7, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-60)**.)

(In House, April 15, 1999, **PASSED TO BE ENACTED**.)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Emergency Measure

An Act to Allow the Commissioner of Inland Fisheries and Wildlife to Determine the Number of Moose Permits to Be Awarded

S.P. 245 L.D. 667
(C "A" S-313)

Tabled - May 25, 1999, by Senator **CATHCART** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 20, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-313).**)

(In House, May 25, 1999, **PASSED TO BE ENACTED.**)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Strengthen the State's Drug Laws
H.P. 694 L.D. 961
(C "A" H-454)

Tabled - May 17, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 11, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-454)**, in concurrence.)

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

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend the Centers for Innovation Program
S.P. 329 L.D. 983
(C "A" S-62)

Tabled - April 26, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, April 8, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-62).**)

(In House, April 26, 1999, **PASSED TO BE ENACTED.**)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Allow the Town of Madrid to Deorganize
S.P. 330 L.D. 984
(C "A" S-133)

Tabled - May 10, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 3, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-133).**)

(In House, May 7, 1999, **PASSED TO BE ENACTED.**)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Provide for Citizen Participation in the Hancock County Budget
H.P. 716 L.D. 1006
(C "A" H-171)

Tabled - May 4, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, April 27, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-171)**, in concurrence.)

(In House, May 3, 1999, **PASSED TO BE ENACTED.**)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Raise Penalties for Cases of Cruelty to Animals or Birds
H.P. 903 L.D. 1281
(C "A" H-419)

Tabled - May 12, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 7, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-419)**, in concurrence.)

(In House, May 11, 1999, **PASSED TO BE ENACTED.**)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Increase the Requirement that Drugs be Confiscated from 48 Hours to 6 Months

H.P. 963 L.D. 1361
(C "A" H-458)

Tabled - May 17, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 11, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-458)**, in concurrence.)

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

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Require That Both the Northern Maine Regional Juvenile Detention Facility and the Maine Youth Center Receive Detainees

H.P. 984 L.D. 1382
(C "A" H-182)

Tabled - April 26, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, April 15, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-182)**, in concurrence.)

(In House, April 26, 1999, **PASSED TO BE ENACTED.**)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Criminalize Internet Dissemination of Child Pornography

H.P. 1116 L.D. 1575
(C "A" H-418; H "A" H-600)

Tabled - May 20, 1999, by Senator **CATHCART** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 18, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-418) AND HOUSE AMENDMENT (H-600)**, in concurrence.)

(In House, May 20, 1999, **PASSED TO BE ENACTED.**)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Increase the Penalties for Persons in Possession of Methamphetamine in Conformity with the Penalties for Similarly Dangerous Drugs

H.P. 1129 L.D. 1588
(C "A" H-535)

Tabled - May 20, 1999, by Senator **CATHCART** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 17, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-535)**, in concurrence.)

(In House, May 20, 1999, **PASSED TO BE ENACTED.**)

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Redefine Trafficking and Furnishing of Heroin in Terms of the Amount of the Drug Possessed

H.P. 1404 L.D. 2009
(C "A" H-456)

Tabled - May 17, 1999, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 11, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456)**, in concurrence.)

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

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

On motion by Senator **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Remove the Statute of Limitations for Unlawful Sexual Contact and Sexual Abuse of Minors

H.P. 1412 L.D. 2019
(C "A" H-536)

Tabled - May 20, 1999, by Senator **CATHCART** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 17, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-536)**, in concurrence.)

(In House, May 20, 1999, **PASSED TO BE ENACTED**.)

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

Off Record Remarks

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 **NATURAL RESOURCES** on Bill "An Act to Establish the Waste Motor Oil Disposal Site Remediation Program" (EMERGENCY)

H.P. 1141 L.D. 1626

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-730)**.

Signed:

Senators:

NUTTING of Androscoggin
LIBBY of York

Representatives:

JOY of Crystal
TOBIN of Windham
MARTIN of Eagle Lake
DUPLESSIE of Westbrook
CAMERON of Rumford
CLARK of Millinocket

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-731)**.

Signed:

Senator:

TREAT of Kennebec

Representatives:

ETNIER of Harpswell
McKEE of Wayne
DAIGLE of Arundel
COWGER of Hallowell

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-730)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-730)** AS **AMENDED BY HOUSE AMENDMENT "A" (H-738)** thereto.

Reports **READ**.

Senator **TREAT** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-731)** Report, in **NON-CONCURRENCE**.

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

Senator **TREAT:** Thank you Mr. President. Men and women of the Senate, this is an issue about which I know every single member like myself, whether you are on the Natural Resources Committee or not, has received tons of mail because it is an issue that affects communities and businesses, large and small, from one end of the state to the other. I'm sure you have heard about this legislation in the halls and, like myself, you have been contacted by businesses concerned about the cost it will take to clean up the Portland, Bangor, and Wells waste oil sites, as well as several other waste oil sites; three that were specifically in the original Bill, L.D. 1626. Indeed the testimony before our Committee was very painful at times, in particular I can recall a woman, who is a secretary, speaking to our Committee who was forced to pay several thousand dollars and simply doesn't have the money. At one time people were taking waste from their gas stations, their automobile dealerships, and either giving it or selling it to a man named George West because they thought it was the right thing to do. Mr. West was an oil-recycler and

because Mr. West kept very good records, they're not perfect records but they are a lot more detailed than we often have with the many hazardous waste sites around this state, many people are on the hook even if they sent a small amount of waste oil to that site.

Report "B" is a fiscally responsible approach to addressing these concerns. What it does, is it sets up a loan fund, what is called a deferred loan, which is actually a grant. It takes \$4 million of existing money that is funded through a tax on oil and gas right now that is sitting in a fund currently earmarked for underground tank removal. That fund right now is a program which works very well. It is a program administered by FAME that they have many years experience administering. The way it works is that, depending on need, you can get either a grant to cover your cost, and this is the same way that is works right now under the Underground Tanks Program, or if you can afford to pay the loan back, you can get a low interest loan all the way up to a loan guarantee. Under Report "D" up to \$50,000 would be available in the form of a loan or, in some cases, if the finances were such and the need was great, in the form of a grant to assist in paying the cost of cleaning up these hazardous waste sites. Now, I think this is the first time that many people in this Body, as well as many people on our Committee, have become aware of how the Hazardous Waste Clean-up Laws work in the State of Maine. Maine has an Uncontrolled Hazardous Site Law, which is very similar to the Federal Super Fund Law, that has been in place since the mid and early 1970's. This law, like the laws in every other state in the Nation, depends on a principle of strict, joint and several liability which requires all participants in the disposal of the product into what turns out to be ultimately a polluting hazardous waste site or dump to participate in the clean up. If there is blame to be shared, then that blame goes to those who are most liable. In this particular case, and I've handed out a nice little handout on yellow that gives you a walk through of how our current hazardous site law works. The participants have been identified and they have been divided into three categories. If you look on the back of the yellow sheet, you will see the three categories that are there. The first are those that have up to 399 gallons deposited in the site. This is the Wells site we're talking about. There are 1,800 of those. The next group is 400 to 999 and there are 633. There is a smaller number above 1,000 gallons. You can see what the assessments are. For those in the smallest level the assessment is \$1,150. The next level is \$2,900 and above that it is based on a \$5.77 fee per gallon. I want to make it clear that this site is similar to 471 other sites in the state of Maine. 72 of those have been cleaned up already. 400 or so remain to be cleaned up. What we do in this Bill will set a precedent, not only for the four waste oil sites that were mentioned in the original Bill L.D. 1626, but also for other sites around the state of Maine. When we were working on this Bill in Committee, we came up with a definition of a waste oil site; at least 50% waste oil. Right off the top we came up with 35 different sites, some already cleaned up and some waiting to be cleaned up, that would be caught in this net, trying to come up with a policy dealing with waste oil as some sort of separate category.

The fact of the matter is that not only are there many waste oil sites, so called, but the Wells site is not simply a waste oil site anyway. It includes much more than motor oil. The list of responsible party waste includes: jet fuel, PCB containing transformer oil, 2 and 6 fuel oil, gasoline, cutting kerosene, paints, and lacquer thinner. These are the types of thing that has been found in other sites, such as the McKinn site, where no one

has ever suggested that the State of Maine come up with funding to pay the cost of the private parties that dispose of waste in those sites. The Minority Report "D", as I said, is a responsible approach. I encourage your support of that approach as opposed to the alternative, which is to give \$2,000 to every company that is a Maine company or individual who disposed of waste at this site, regardless of whether they can pay the bill or not, and ultimately to pay up to \$3 million of the 'orphan share' that they are also going to be responsible for. I want to tell you what that may mean. We are talking about potentially, and these are figures based on the Department of Environmental Protection's calculations, paying say \$351,000 to the Prince of Fundy Lines, \$165,000 to Central Maine Power, \$90,000 to Maine Yankee; coming out of the General Fund. This is a lot of money and we're only talking about \$3 million. If we were to extend this program, and I guarantee you that if the other report passes that there will be legislation in to extend the program to the other three sites, at a minimum we are talking about \$25 million to cover the same proportion of cost that these reports would attempt to cover in this case, which, under the old rainy day fund, would be a quarter of the rainy day fund. Under the new rainy day fund that we just passed, which has an increased limit, it would be one-fifth of the total amount of that fund.

To me this is a very irresponsible policy, it does not make sense, we haven't thought it through. It would be much more appropriate to Pass the Report "B", which sets in place a program to assist people, especially those who need it most, as well as with the Floor Amendment that has been considered which would put in place a study of how we deal with these programs in the future, how we deal with these site cleanups in the future. If we are going to make a major policy change, which this is and there is a tail on this Bill, it may not be in this Bill but it is coming down the road, it's going to make the BETR program, you know, look small. I think before we take that step, it would be a lot better to study this issue and know what we are doing. I've already been told by members of DEP staff that they have major concerns about whether they will be able to negotiate future hazardous waste cleanups because of the potential that someone could come into this Body and seek funding, so that people would be able to get off scot-free. I think we really need to think about the consequences of this and I urge your support of the pending motion.

Off Record Remarks

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

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

Senator MILLS: Mr. President. Very briefly, I think the difference between the two proposals that lie before us have to do with whether there should be some measure of appropriation to State Government to attempt to ameliorate the impact of this Super Fund Cleanup program. As I understand the Report that has been moved, the Minority Report, it provides for a loan fund only with no appropriation from either the rainy day fund, the general

fund, or any other taxation source that would help to relieve, what is in essence, a private tax imposed on, not hundreds but I understand, thousands of Maine citizens who are morally innocent. So the issue is not whether we should impose on ourselves some measure of tax to alleviate this cleanup problem, it is a question of who will be taxed. Those, who over a period of several decades, did the right thing under the law that was then in existence; who were good citizens, who didn't take their oil into the back forty and dump it; who didn't put their oil down the drain into the sewer system; who didn't use their oil to spread on dirt roads to keep the dust down in the winter and in the summer. These are the folks that delivered their oil, in a conscientious way, to the very person who was, at that time, legally endowed to dispose of the oil properly. These are all good citizens who did the right thing. Lord knows how much oil during the 50's and 60's was disposed of by other methods. So the choice is whether we impose a tax, in other words a cleanup fee, entirely on the backs of these innocent people who did the right thing or whether we shift some small measure of that responsibility onto the broader backs of the very government that participated in requiring or establishing these rules. Admittedly, this is a combination or a blend of both Federal Law and State Law. My understanding is our State Law mimics the Federal in this respect. It seems to me that we would be better off at this juncture to vote against the pending motion and against the Pure Loan Program so that we might go on to consider a modest appropriation in order to spread the cost so that it doesn't lie entirely on the backs of those people, many of whom are retired people, small business people who are no longer working, their relatives who have inherited their businesses but are now defunct, so that this rather extraordinary economic burden could be better spread to our society at large that has, in the final analysis, been responsible for creating these rules of responsibility. I would urge you that we vote Against the pending motion so that we could go on to consider Report "A". Thank you.

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

Senator **NUTTING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I also rise this afternoon to urge you to vote against the pending motion so we can go on to accept the Majority Report. Just to remind the members of this Body that the original Bill called for a 20¢ tax on every quart of oil. There was not feeling of support for that in the Committee. The Committee wrestled with this issue through several Work Sessions after a long public hearing. At one point, very briefly, the Committee had four Reports but that was changed with another Work Session.

I decided to sign on to the Majority Report for several reasons. The biggest one was that this site I maintain is much different than the McKinn site. The McKinn site was, I believe, in the high 80% range, covered by insurance policies. This site had very little coverage or insurance policies. The McKinn site had a 10% approximate orphan share. This site a 40% orphan share, or very close to that. Now what do we mean by an orphan share? I want to make sure everybody understands that. The orphan share is if I had a garage and I legally gave oil to Mr. West and he disposed of it under the legal, at the time, set of rules. I may have contributed and owe \$6,000, but my bill is \$6,000 plus 40% of that because of the orphan share. I'm billed for someone else's share if that other person is no longer alive or

they can't find them anymore. Now the Committee heard some testimony from several elderly people that they were the last living person from owning a garage or a small business that put oil into this waste stream. These people had, in my opinion, no ability to pay \$10,000 or \$12,000 unexpectedly. So I felt that, regrettably, I really took a long time to make the decision, we needed to do more than just a loan program, which is what is in the Minority Report. We needed to go further and do some type of a grant program for everyone affected. Now you have heard that it is \$2,000 for everybody. Well that is not true either. The people are divided into several categories. In the lowest category you are billed and the amount of money you owe is \$1,150. If you're in that small category then, of course, that is all you receive. The next category is about \$2,900. You would receive \$2,000. After that you're going to receive \$2,000 plus if there is any money left over, some of that money would go towards helping you with your orphan share.

The Committee worked with the Attorney General's Office. We asked, is it legal to help Maine businesses and not the Federal Government with a military site? We got the answer back, yes we could. We asked the question, is it legal to help a small Maine business but not a large Maine business? The answer was, no we couldn't do that. Yes, some of this money may go to a large business but the vast majority of it, I believe, will go to the small person that does not have the ability to come up with this money themselves. I want to mention that we have heard this Bill has a tale and setting of precedent, etc. We, in the State Government, are continually passing Bond issues to help do environmental cleanup on sites. Many sites have already been cleaned up, and of the 380 sites still left, some are going to be cleaned. Many are going to be cleaned up in that way. I don't think that they will always be coming to the Legislature for this type of an approach.

The last thing I want to close with is what we tried to do in the last Work Session with the Majority Report was to make people continue to work to find the people that are in the orphan share category. We didn't want to just give them money to help them with the orphan share, therefore taking away any impetus they might have to go out and hunt for these people. They are going to have to wait another 18 months before they get any of this help to make sure they go out and thoroughly try to find all the involved parties. Mr. West; one thing he did do was keep immaculate records. I guess the DEP found whole bookcases of records on every day, how many gallons of oil they picked up from everyone. So they do have a list of everybody that contributed oil that's ended up in the Wells site. We also tried to craft it to make sure that they would end up getting more money if they actually worked and found Mr. Smith, who might have moved to California, rather than just looking to the State for help. So I also urge you to vote Against the pending motion so you can go on to support the Majority Ought To Pass Report. Thank you.

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 as the Senator of Somerset has made a lot of my prepared remarks ahead of me, so that is good. I would just like to point out in addition to what has been said so far, the Report in front of you, the Ought To Pass Minority Report, does spend State money. So we cannot say that we're not spending dollars here. Not only does this set up a long program, but it sets up a long program that, in essence, will require less than the

normal collateral in many cases. There are grant opportunities within the program. So what we are doing here in the Minority Report is admitting that the State has a responsibility in this case. If you do not believe that the State has a responsibility, and you want to stick with the model that we have for the super funds, I would say don't vote for this and don't vote for any other. But if you believe that the State has a responsibility in this matter, and I do believe that the State has a responsibility in this matter far greater than this Report in front of you here and now, then you will vote Against the pending motion and you will consider the Majority Report "A" from the Committee. Thank you.

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

Senator **TREAT:** Thank you Mr. President. Men and women of the Senate, just some clarification based on the comments that were made by the good Senator from Somerset, and apparently seconded by the other good Senator from York, concerning how current law works. One point that has been made repeatedly, and it has been made here today, is that supposedly Mr. West was operating under some sanction of the DEP, which supposedly told people to use his service. The correct interpretation really should be that Mr. West was not operating illegally. At the time there were no waste oil regulations or laws. He was handling waste from the 1950's through 1980. We did not have DEP until 1972. So between 1950 and 1972 it is incorrect to say that the DEP sanctioned what was going on. It did not exist. Even when it did exist, it was created primarily to carry out the goals of the Federal Clean Water Act and that was actually the Environmental Improvement Association or something of that nature. They only started looking at waste oil in the year 1979. They enacted legislation in 1980, at which point Mr. West closed up shop because he could not meet those standards. So he was never in compliance with any of the modern rules.

The point here is not to disagree that innocent people have been caught up in this web, but that is the case with the majority of the 472 hazardous waste sites we know about today. Most of those sites are not a nefarious operator who willfully went out, after laws were enacted saying you can't do this, and did it anyway. Most of those sites were created before the laws were in place. Again the point here is, there is significant carryover to other laws and we need to think very carefully before doing it. The second point I would like to make is this issue of the State taking responsibility, given that innocent people are caught up in the net here, and doing something about it. I was just downstairs with the Appropriations Committee which is looking at a very large Environmental Bond Act. One of the provisions of that is \$1.3 million will be for hazardous waste site cleanup. That is a continuing Bond issue. We have already spent \$18 million in hazardous waste site cleanup, which is precisely because there are many people out there that cannot pay their share and the State ends up paying their share. So we have paid already \$18 million to clean up hazardous waste sites and in this particular case, the Wells case, we have already paid \$800,000 of State money to clean up this site. And that is not the money that is the share of the State DOT and other agencies which also used Mr. West's service and didn't know any better at that time. That will be an additional cost that the State will be paying. This is the cost that the State is paying that cannot be paid by others. It is not our share. So I think it is important to understand that. We are talking about major amounts of money. We have an existing

program which does contribute State money to assist. The Minority Report "B" is a responsible approach to this. There is no rush, the bills have already gone out. Let's take some time to look at this issue. The loan program is a responsible way to buy us some time while we study the issue about what to do in the future.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Treat to Accept the Minority Ought To Pass As Amended By Committee Amendment "B" (H-731) Report, in Non-Concurrence. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#187)

YEAS: Senators: DOUGLASS, LONGLEY, MICHAUD, PINGREE, TREAT

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, MACKINNON, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, RAND, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

5 Senators having voted in the affirmative and 30 Senators having voted in the negative, the motion by Senator **TREAT** of Kennebec to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-731)** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-730)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-730) **READ**.

House Amendment "A" (H-738) to Committee Amendment "A" (H-730) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-730) as Amended by House Amendment "A" (H-738) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-730) AS AMENDED BY HOUSE AMENDMENT "A" (H-738)** thereto, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act Regarding the Interest and Penalties on Unpaid Taxes when the Taxpayer Files for Bankruptcy"

H.P. 1216 L.D. 1745

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

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec

Representatives:

COLWELL of Gardiner
GAGNON of Waterville
GREEN of Monmouth
STANLEY of Medway
LEMOINE of Old Orchard Beach
DAVIDSON of Brunswick

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-495)**.

Signed:

Senator:

MILLS of Somerset

Representatives:

MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland
LEMONT of Kittery

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-495)**.

Reports **READ**.

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

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

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

Senator **MILLS:** Thank you Mr. President. Men and women of the Senate, this Bill came before us to correct a rather awkward quirk about interest and penalties that are imposed for non-payment or late payment of taxes. If we were to reject the pending motion and flow with the Bill as the Minority Report proposes, it would correct an inequity, that we perceive, that arises under the bankruptcy code. Apparently the filing of the bankruptcy, when you owe money to the State of Maine, doesn't automatically suspend interest even though it does capture all of your assets. If you file under bankruptcy it ties up all of the assets that you have so that you can't dispose of them. You're at the mercy of the Trustee of Bankruptcy who takes charge of all of your affairs and has the sole responsibility for selling assets or disclaiming them back to you. In the meantime, if one of the elements of your indebtedness is a tax obligation to the State of Maine, one that will survive bankruptcy, the interest and penalties continue to tick right along while the Trustee is doing his administrative work on your estate. So you can be very deeply, and very sadly, prejudiced by the pendency of a bankruptcy proceeding that may be necessary in order to straighten out your affairs and emerge from bankruptcy with a much larger obligation owed to the State of Maine than probably is appropriate given the circumstances. So this Bill, if you pass it, would simply suspend interest and penalties for non-payment or late payment of taxes during the time that you are in bankruptcy, so that it would serve to facilitate one's fresh start after emerging from bankruptcy. It would not in any way detract from the fundamental obligation that is owed to the State. The obligation would remain, it's just that interest from the date of filing bankruptcy would be suspended. That is the purpose of the Bill and for that reason I ask that you vote Against the pending motion so that we might adopt the Minority Ought To Pass version.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, let me point out one thing to you that often confuses people. Bankruptcy is not a means test. Bankruptcy is not a poverty test. It's simply a protection from creditors at that point in time. It's a worthy process. It does serve a purpose. However, to ask the taxpaying community to shoulder, not only the delayed cost of those taxes that have been delayed through the process, but additionally shoulder the interest, that would otherwise become a part of the public purse, is improper. Why should I, a taxpayer, have to go out and, in some cases, pay the interest on someone who is driving around in a BMW. We are going to be filing for bankruptcy. I'm not driving around in a BMW, I will tell you, and I shouldn't be paying his interest. And that is why I would move the Majority Ought Not To Pass Report.

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

Senator **MILLS:** Mr. President. Men and women of the Senate, under current exemption laws under the State of Maine, the person who enters into bankruptcy is permitted to retain a motor vehicle having value on the order of several thousands of dollars. Any BMW that is owned by a bankrupt is very quickly grabbed by any responsible Trustee and sold for the benefit of creditors. Same is true of fancy houses and the like. You are entitled to keep a very modest portion of the equity in your home. Quite

often the businesses that go bankrupt in Maine are the small businesses. Quite often, as they go, they wind up owing an obligation to the State and it is not the suspension of that obligation that this Bill seeks. It is merely the suspension of interest from the date when the person decides that bankruptcy is the only solution to his financial problems. 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 respond to the good Senator from Somerset by mentioning one car dealer, in particular I could think of, who went through bankruptcy and managed to keep his \$3,700 a week salary. I happen to know that, it was in the public record, it can be checked. And you know I sympathize; some of them are small businesses. I am a small business person, I do have sympathy for that. While I sympathize with them, that sympathy does not run so deeply that I feel that I should support forgiveness of his or her normal tax obligation; that I should shoulder an additional obligation in their behalf. Whether it be the BMW or the \$3,700 a week salary, the fact of the matter is to forgive additionally and have the tax for the State of Maine shoulder that burden is unfair. Therefore, I ask that you move on to Accept the Ought Not To Pass Report.

At the request of Senator **MILLS** of Somerset a Division was had. 20 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (6/1/99) Assigned matter:

Bill "An Act to Regulate Push Polling" S.P. 420 L.D. 1257
(C "A" S-315)

Tabled - June 1, 1999, by Senator **BENNETT** of Oxford.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 20, 1999, **READ A SECOND TIME.**)

(In Senate, May 26, 1999, Senator **DAGGETT** of Kennebec moved to **SUSPEND THE RULES** for the purpose of **RECONSIDERATION.** Senator **BENNETT** of Oxford **OBJECTED.**)

On motion by Senator **DAGGETT** of Kennebec, Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/19/99) Assigned matter:

Bill "An Act to Clarify the Equine Activity Law" S.P. 749 L.D. 2108
(C "A" S-305)

Tabled - May 19, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 19, 1999, **READ A SECOND TIME.**)

On motion by Senator **KILKELLY** of Lincoln, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-305).

On further motion by same Senator, Committee Amendment "A" (S-305) **INDEFINITELY POSTPONED.**

On further motion by same Senator, Senate Amendment "C" (S-379) **READ** and **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "C" (S-379).

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/26/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Compensation for Amputation of a Body Part" H.P. 163 L.D. 225
(C "A" H-500)

Report "A" - **Ought to Pass** (6 members)

Report "B" - **Ought Not to Pass** (5 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "A" (H-500)** (1 member)

Tabled - May 26, 1999, by Senator **PINGREE** of Knox.

Pending - motion by Senator **BENNETT** of Oxford to **ADHERE** (Roll Call Ordered)

(In House, May 17, 1999, Report "A", **OUGHT TO PASS, READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 26, 1999, Report "C", **OUGHT TO PASS AS AMENDED, READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-500), in NON-CONCURRENCE**.)

(In House May 26, 1999, that Body **ADHERED**.)

(In Senate, May 26, 1999, motion by Senator **PINGREE** of Knox to **RECEDE** and **CONCUR, FAILED**. Motion by same Senator to **INSIST, FAILED**. Subsequently, Senator **BENNETT** of Oxford moved to **ADHERE**.)

On motion by Senator **LAFOUNTAIN** of York, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-500), in NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** of Committee Amendment "A" (H-500).

On further motion by same Senator, Committee Amendment "A" (H-500) **INDEFINITELY POSTPONED**.

On further motion by same Senator, Senate Amendment "A" (S-380) **READ**.

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

Senator **LAFOUNTAIN:** Thank you Mr. President. Men and women of the Senate, as you know this Bill deals with amputation of a body part within the Workers' Compensation Act. The Amendment is still prospective, but it will apply to injuries occurring on or after January 2, 2000, which is the first day of the traditional payroll period in the new year. Thank you.

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

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#188)

YEAS: Senators: **BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE,**

RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, DAVIS, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, NUTTING, SMALL**

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **LAFOUNTAIN** of York to **ADOPT** Senate Amendment "A" (S-380), **PREVAILED**.

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

Senator **KIEFFER:** Thank you Mr. President. Ladies and gentlemen of the Senate, while this Amendment has passed, I'm not convinced at all that it actually deals with changing the basic fundamental of this Bill. When the question is put forth I would like a Roll Call Mr. 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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#189)

YEAS: Senators: **CAREY, CASSIDY, CATHCART, DAGGETT, DOUGLASS, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, O'GARA, SMALL**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-380), in NON-CONCURRENCE**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for 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 Provide for the 1999 and 2000 Allocations of the State Ceiling on Private Activity Bonds

S.P. 417 L.D. 1206
(S "A" S-362 to C "A" S-341)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act to Revise Certain Provisions of the Fish and Wildlife Laws

S.P. 738 L.D. 2088
(S "A" S-322 to C "A" S-292;
S "A" S-358; S "B" S-368)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED**.

On motion by Senator **KILKELLY** of Lincoln, 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**.

On further motion by same Senator, Senate Amendment "C" (S-377) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292) AS AMENDED BY SENATE AMENDMENT "A" (S-322) thereto AND SENATE AMENDMENTS "A" (S-358); "B" (S-368); "C" (S-377), in NON-CONCURRENCE.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

**Emergency Measure
Confirmation Procedure**

An Act to Retain Jobs at Paper Production Facilities in the State
S.P. 816 L.D. 2222
(C "A" S-373)

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

Acts

An Act to Amend the Harness Racing Laws
H.P. 1276 L.D. 1837
(S "A" S-367 to C "A" H-703)

An Act to Expand Membership on the Maine Tourism Commission
S.P. 824 L.D. 2227
(C "A" S-371)

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

An Act to Provide Assistance to Low-income Energy Consumers
H.P. 1069 L.D. 1500
(H "A" H-692)

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/10/99) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Clarify the Tree Growth Tax Law"
S.P. 490 L.D. 1475

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

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

Tabled - May 10, 1999, by Senator **PINGREE** of Knox.

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

(In Senate, May 10, 1999, Reports **READ**.)

On motion by Senator **PINGREE** of Knox, Bill and accompanying papers **COMMITTED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/28/99) Assigned matter:

HOUSE REPORTS - from 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

Majority - **Ought to Pass as Amended by Committee Amendment "C" (H-705)** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-281)** (1 member)

Tabled - May 28, 1999, by Senator **PARADIS** of Aroostook.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-705)** Report, in concurrence

(In House, May 27, 1999, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-705)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-705) AS AMENDED BY HOUSE AMENDMENT "A" (H-708)** thereto.)

(In Senate, May 28, 1999, Reports **READ**.)

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending motion by Senator **PARADIS** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-705)** Report, in concurrence.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **RAND** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/27/99) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Provide Fairness to Victims of Medical Malpractice"
S.P. 450 L.D. 1325
(C "A" S-352)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-352)** (9 members)

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

Tabled - May 27, 1999, by Senator **RAND** of Cumberland.

Pending - motion by Senator **NUTTING** of Androscoggin to **RECEDE** and **CONCUR** (Roll Call Ordered)

(In Senate, May 26, 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" (S-352)**.)

(In House, May 27, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In Senate, May 27, 1999, Senator **RAND** of Cumberland moved to **ADHERE**. Senator **NUTTING** of Androscoggin moved to **RECEDE** and **CONCUR**.)

Senator **NUTTING** of Androscoggin requested and received leave of the Senate to withdraw his motion to **RECEDE** and **CONCUR**.

On motion by Senator **LONGLEY** of Waldo, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-352)**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED OF COMMITTEE AMENDMENT "A" (S-352)**.

On further motion by same Senator, Senate Amendment "A" (S-381) to Committee Amendment "A" (S-352) **READ** and **ADOPTED**.

Committee Amendment "A" (S-352) as Amended by Senate Amendment "A" (S-381) thereto, **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-352) AS AMENDED BY SENATE AMENDMENT "A" (S-381) thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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

Off Record Remarks

On motion by Senator **LIBBY** of York, **ADJOURNED**, until Thursday, June 3, 1999, at 10:00 in the morning.