

MAINE STATE LEGISLATURE

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State of Maine

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

In Senate Chamber
Tuesday
April 4, 2000

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

Prayer by Senator John W. Benoit of Franklin County.

Senator **BENOIT**: Thank you Mr. President. May it please the Senate. I want to take this opportunity to express my appreciation to the Secretary for the quality of her office staff. They have been gracious to me and my constituents all during the session. I appreciate that and the Chamber Staff as well. Their Chamber chores have been appreciated. I wanted to take this moment to say that your staff reflects well upon you.

My prayer will be greatly aided if we would be in a prayerful state.

Lord, the far off moon and stars hang timeless. Only things close by seem to age. We can't pin down time. We can't ever glue it. Time waits for no one. So Lord, as we stitch in Senate time together, help us fashion laws well suited to the general good. As for working the remaining publics' hours, Lord, may the only thing with time on its hands be the tick-tock of the Senate Chamber clock for yes, we'll read our lines and act our parts. Motivated, we pray, by purposeful hearts. But Lord, waiting at home are barrows and carts. Amen.

National Anthem sung by Angelique Bourgoin of Madawaska High School.

Doctor of the day, Erik Steele, D.O., Bangor.

Reading of the Journal of Monday, April 3, 2000.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Amend the Franchise Law"

S.P. 681 L.D. 1931
(C "A" S-554)

In Senate, March 22, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-554)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-554) AS AMENDED BY HOUSE AMENDMENT "A" (H-990)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Preserve Live Harness Racing in the State"

H.P. 1214 L.D. 1743

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-913)** (11 members)

Minority - **Ought Not to Pass** (2 members)

In House, March 28, 2000, 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-913)**.

In Senate, April 3, 2000, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

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

House Paper

Bill "An Act to Amend the Unlawful Sexual Contact Penalties"
H.P. 1926 L.D. 2672

Comes from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE** and ordered printed.

REFERRED to the Committee on **CRIMINAL JUSTICE** and ordered printed, in concurrence.

Off Record Remarks

ORDERS

Joint Resolution

Under suspension of the Rules, on motion by Senator NUTTING of Androscoggin (Cosponsored by Representative PIEH of Bremen and Senators: KIEFFER of Aroostook, KILKELLY of Lincoln, Representatives: CARR of Lincoln, COWGER of Hallowell, CROSS of Dover-Foxcroft, FOSTER of Gray, GAGNE of Buckfield, GILLIS of Danforth, GOOLEY of Farmington, VOLENIK of Brooklin, WATSON of Farmingdale), the following Joint Resolution: S.P. 1074

JOINT RESOLUTION IN HONOR OF THE MAINE FARMER AND MAINE AGRICULTURE

WHEREAS, farmers and others employed in associated industries make up 10% of the Maine work force, with about 7,400 farms operating on 600,000 acres of cropland; and

WHEREAS, Maine farmers provide in excess of \$500,000,000 in total farm income and are credited with a contribution of \$1,300,000,000 to Maine's economy; and

WHEREAS, the agri-food business provides 60,000 full-time and part-time jobs throughout the State's economy; and

WHEREAS, Maine is first in the world in the production of wild blueberries, first in the world in the production of brown eggs, home of the world's largest bioagricultural firm, first in New England in the production of food, 3rd in the country in the production of maple syrup and 8th in the country in potato production; and

WHEREAS, Maine farms provide not only food for families but scenic views, open spaces, employment opportunities and a tangible link to our culture and heritage; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Nineteenth Legislature of the State of Maine, now assembled in the Second Regular Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State and to pledge our support and encouragement, and urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agricultural industry; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources in token of the esteem in which those in this vital field are held.

READ.

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

Senator **NUTTING:** Thank you Mr. President. Ladies and gentlemen of the Senate, today is Agriculture Day here. Most of displays today are on the 2nd floor. There are a few on the 3rd floor. I hope people can take a chance today, especially this morning, and tour the exhibits from the various commodity groups that have worked hard to set up attractive displays in the Hall of Flags. I want to also remind members of the Body that today, from approximately 12:00 to approximately after 1:00, is lunch at the Grange. I've been assured that there is at least one piece of homemade pie there for everyone and plenty of other

food to go along with it, of course. A good day for a short drive or maybe a walk, if it doesn't rain too hard. I also want to say that we have a lot to be proud of in the agriculture sector of Maine. I would be remiss if I tried to present the picture that everything is rosy with agriculture in the United States. It isn't. I was privileged last Thursday and Friday to attend the Future of Farming Conference at the National Conference of State Legislatures in Denver. They had a member of Congress and a member from the United States Senate there, both from the Agriculture Committee, that stood up and said that they felt the federal government should stay the course with freedom to farm. I really thought the 200 farmer Legislators that were there were going to lynch them. Much of the discussion there was on the state's role. What can various states do to make up for federal agricultural policy. Many of the things we've done here, and many things that have been proposed for this year's budget, placed Maine in the position of attempting to make up for federal agricultural policy. I think our position in this state is very similar to what many of the other 49 states are trying to do. Enough said about that. Please visit the displays down on the 2nd floor. Don't forget the Grange lunch from 12:00 to a little after 1:00. It's an honor, of course, to have this day and to have the displays here today. I hope you have a chance to visit them. Thank you very much.

ADOPTED.

Sent down for concurrence.

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

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act Regarding Lifetime Hunting and Fishing Licenses" (EMERGENCY)

H.P. 1924 L.D. 2670

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1866.

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.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **TAXATION** on Bill "An Act to Implement the Tax Policy Recommendations of the Task Force Created to Review Smart Growth Patterns of Development"

H.P. 1923 L.D. 2669

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1851.

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.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Create a Heating Oil Emergency Management Program"

H.P. 1922 L.D. 2668

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1821.

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.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Implement the Recommendations of the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims" (EMERGENCY)

H.P. 1927 L.D. 2673

Reported that the same **Ought to Pass**, pursuant to Resolve 1999, chapter 84, section 8.

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.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **TRANSPORTATION** on Bill "An Act to Implement Recommendations of the Joint Standing Committee on Transportation Relating to the Review of the Department of the Secretary of State, Bureau of Motor Vehicles under the State Government Evaluation Act"

H.P. 1921 L.D. 2667

Reported that the same **Ought to Pass**, pursuant to Maine Revised Statutes, Title 3, section 955, subsection 4.

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.

LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE** on Bill "An Act Concerning the Formation of the Central Maine Regional Public Safety Communication Center"

H.P. 1542 L.D. 2196

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-945)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-945) AS AMENDED BY HOUSE AMENDMENT "A" (H-980)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-945) **READ**.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-945), in **NON-CONCURRENCE**.

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Provide for Statewide Standards for Timber Harvesting in Shoreland Areas and to Modify Regulation of Stream Crossings"

H.P. 1919 L.D. 2665

Reported that the same **Ought to Pass**, pursuant to Public Law 1997, chapter 648, section 8.

Signed:

Senators:

NUTTING of Androscoggin
KILKELLY of Lincoln
KIEFFER of Aroostook

Representatives:

PIEH of Bremen
CROSS of Dover-Foxcroft
GILLIS of Danforth
GAGNE of Buckfield
WATSON of Farmingdale
GOOLEY of Farmington
FOSTER of Gray
CARR of Lincoln
COWGER of Hallowell

The Minority of the same Committee on Bill "An Act to Provide for Statewide Standards for Timber Harvesting in Shoreland Areas" H.P. 1920 L.D. 2666

Reported that the same **Ought to Pass**, pursuant to Public Law 1997, chapter 648, section 8.

Signed:

Representative:

VOLENIK of Brooklin

Comes from the House with the Majority **OUGHT TO PASS** (H.P. 1919) (L.D. 2665) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Reports **READ**.

On motion by Senator **NUTTING** of Androscoggin, the Majority **OUGHT TO PASS** (H.P. 1919) (L.D. 2665) Report **ACCEPTED**, in concurrence.

READ ONCE.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Permit the Attorney General, a Deputy Attorney General or a District Attorney to Request Records of Internet Service Providers and Mobile Telecommunications Service Providers" (EMERGENCY)

H.P. 1730 L.D. 2436

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-982)**.

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

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

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

Signed:

Representatives:

PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton

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-982) AS AMENDED BY HOUSE AMENDMENT "A" (H-1026)** thereto.

Reports **READ**.

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

Off Record Remarks

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Promote Microbreweries and Wineries"

H.P. 1835 L.D. 2571

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1006)**.

Signed:

Senators:

DAGGETT of Kennebec
CAREY of Kennebec
FERGUSON of Oxford

Representatives:

LABRECQUE of Gorham
CHIZMAR of Lisbon
MAYO of Bath
O'BRIEN of Lewiston
HEIDRICH of Oxford
McKENNEY of Cumberland
TUTTLE of Sanford
PERKINS of Penobscot
FISHER of Brewer

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

Signed:

Representative:

GAGNE of Buckfield

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-1006)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-1006) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Repeal the Sales Tax on Snack Food Except Candy and Confections"

I.B. 6 L.D. 2602

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1014)**.

Signed:

Senator:

RUHLIN of Penobscot

Representatives:

GAGNON of Waterville
GREEN of Monmouth
COLWELL of Gardiner
STANLEY of Medway
LEMOINE of Old Orchard Beach
LEMONT of Kittery
MURPHY of Berwick

BUCK of Yarmouth

CIANCHETTE of South Portland

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 "B" (H-1015)**.

Signed:

Senators:

DAGGETT of Kennebec

MILLS of Somerset

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1014)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1014)**.

Reports **READ**.

Senator **RUHLIN** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1014)** Report, in 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 BY COMMITTEE AMENDMENT "A" (H-1014)** Report, in concurrence.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act to Promote Safe Mobility for Maine's Aging Population through Education and Community-based, Economically Sustainable Alternative Transportation"

H.P. 1796 L.D. 2521

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-933)**.

Signed:

Senators:

O'GARA of Cumberland

PARADIS of Aroostook

CASSIDY of Washington

Representatives:

FISHER of Brewer

JABAR of Waterville

BOUFFARD of Lewiston

SAVAGE of Union

WHEELER of Bridgewater

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

Signed:

Representatives:

COLLINS of Wells
SANBORN of Alton
CAMERON of Rumford
WHEELER of Eliot
LINDAHL of Northport

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-933)**.

Reports **READ**.

On motion by Senator **O'GARA** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-933) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act to Eliminate the Requirement that a Person Provide a Social Security Number to Obtain or Renew a Driver's License"
H.P. 1869 L.D. 2605

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-996)**.

Signed:

Senators:

O'GARA of Cumberland
CASSIDY of Washington

Representatives:

FISHER of Brewer
COLLINS of Wells
SANBORN of Alton
CAMERON of Rumford
WHEELER of Eliot
SAVAGE of Union
WHEELER of Bridgewater

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

Signed:

Representatives:

LINDAHL of Northport
JABAR of Waterville
BOUFFARD of Lewiston

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

Reports **READ**.

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

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

Off Record Remarks

Senate

Ought to Pass

Senator **LONGLEY** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Create a Linked Investment Program for Child Care Providers"
S.P. 1073 L.D. 2675

Reported that the same **Ought to Pass**, pursuant to Joint Order S.P. 993.

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

READ ONCE.

LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

Senator **BERUBE** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Require the Training of School Personnel Who Administer Medications"
S.P. 424 L.D. 1261

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

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

READ ONCE.

Committee Amendment "A" (S-634) **READ** and **ADOPTED**.

LATER TODAY ASSIGNED FOR SECOND READING.

Senator MITCHELL for the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Provide Adequate Reimbursement for Speech and Language Pathologists
S.P. 889 L.D. 2308

Reported that the same **Ought to Pass As Amended by Committee Amendment "C" (S-633)**.

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

READ ONCE.

Committee Amendment "C" (S-633) **READ** and **ADOPTED**.

LATER TODAY ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (2/29/00) Assigned matter:

SENATE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Increase the Marketable Skills of University of Maine System Students"

S.P. 960 L.D. 2500

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

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

Tabled - February 29, 2000, by Senator **MICHAUD** of Penobscot.

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

(In Senate, February 29, 2000, Reports **READ**.)

Senator **CATHCART** of Penobscot requested a Division.

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

Senator **CATHCART:** Thank you Mr. President. Men and women of the Senate, I just want to say a few words before this Bill goes down because it's an issue that's very important to me. I just want to give a little bit of the history. This Bill has a rather high fiscal note, which is one thing that doomed it from the beginning. But it has some very important parts in it. The one that I wanted to tell you about is that it would provide funding \$3 million a year for a digital library. Now there have been 3 different research and development committees so far. I served on 2 of those and would like you to know that two of those

committees had considered this issue and had unanimously, bipartisanly recommended that funding go to set up a digital library. Last year this legislature designated in statute the Fogler Library at the University of Maine to be our research library for business and technology. However, the funding did not go with the designation, and therefore we still do not have a digital library. We don't have any library in the state, not only for the researchers and the students at our universities and technical colleges, but also for our businesses where they can go and, through the internet, have access to medical journals, business journals, very important documents that our businesses, especially those in southern Maine, the biotech and infotech companies have asked us to make available to them through a state library. I think it's a real shame that we're not putting some money into the digital library. We all talk about the importance of technology. But if we don't make it available to our students, our faculty, and our businesses, then we're really letting them down. Thank you, Mr. President, and I intend to vote against the motion and urge you to join me.

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

Senator **TREAT:** Thank you Mr. President. Men and women of the Senate, I would like to join with the good Senator from Penobscot, Senator Cathcart, in opposing the present motion. This Bill includes a number of other things in addition to the digital library. Personally, I would like to see it get to the point where, perhaps, it could be amended to simply do the digital library piece. It also includes funding for computers at the University of Maine, as well as wiring each of the campuses to support the ATM technology that we currently have out in quite a number of our middle and high schools around the state. However, the University of Maine does not yet have access to that technology. The digital library piece of this is \$1.5 million. Obviously, that is a large amount of money, but it's important to understand that we, right now, are in a digital age. In addition to the issues around hardware and laptops and computers and all of that, which is what you need to get into and have access to what's out there on the world wide web, we also have a need for subscriptions. What this Bill really does is it says that we are going to put aside some money so that the University of Maine can join other higher educational institutions in this state and around the country in accessing electronic databases. Basically, magazines and subscriptions that can only be accessed through the computer. Obviously, we have many journals, academic journals and others, that are in paper form. I think we have to recognize that we have moved to a different era where some of the materials aren't going to be accessible only in paper form. In fact, they're not accessible at all in paper form and they're only accessible through a digital format. We've had a lot of discussion in this body and around the legislature, in general, about issues of technology. I think it's very important that, as we think about this and we think about making sure that there's technology available to students in K-12, we also consider that our University System needs to be competitive with university systems around the country. I, myself, teach as an adjunct at a private institution in this state and I have just started a job and I'm working at another. Both of them have much more access to computers and to this sort of information than the University of Maine. I think it's unfortunate that our own University System, for what is a relatively small amount of money, is put at such a disadvantage. So, I would hope that you consider voting for this

piece of legislation so that it could be amended to greatly reduce the fiscal note and focus specifically on the issue of access to these very important academic journals and electronic information. Thank you.

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

Senator **PENDLETON:** Thank you Mr. President. Men and women of the Senate, I too hope that you will vote against the Ought Not to Pass report. Basically because it's not just access to computers that we're talking about here, it's access to information. Having the personal experience of going back to school just last semester, it is very, very important that we have these periodicals. And I will tell you this, there's a possibility even of saving money, Mr. President, because the periodicals are mailed to the school in bulk and all that business. It costs thousands and thousands of dollars right now for the University to purchase these periodicals. If it was on the internet, what I've been told, it could cost even less money. So I hope that we could look to the future and pass this Bill. Thank you.

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

Senator **MICHAUD:** Thank you Mr. President. Men and women of the Senate, I hope that you do support the majority Ought Not to Pass report. This is an 11 to 2 report out of the Appropriations Committee. When we dealt with this issue, those of us on the Appropriations Committee had to prioritize. We heard recommendations from the committee of jurisdiction. This issue was dealt with in the Education Committee and they unanimously voted Ought Not to Pass and that was their recommendation to Appropriations Committee. Ten million dollars is a lot of money. That's not to say that when we finalize the budget that some amount might get into the budget dealing with this issue. However, this was not a high priority of the Chancellor. When I asked the Chancellor of all the Bills out there, where does this fall on the list; it's at the bottom of the list. So, I hope that this Body would accept the majority Ought Not to Pass report. Thank you, Mr. President.

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

Senator **KONTOS:** Thank you Mr. President. Men and women of the Senate, I too will be voting against the pending motion from a slightly different perspective. I speak to you, at this moment, as Chair of the Research and Development Committee, as well as the Business and Economic Development Committee and I would like you to know that those folks who come before those Committees from the private sector are very anxious to see this kind of technological infrastructure at the University system to allow them to work in a kind of collaborative way between the University and the private sector. As you heard from a previous speaker, there was a request in the research and development appropriation last session, which began the process of the digital access at the library. This needs to be expanded. This is part of the state's infrastructure and I would suggest to you that if we had a state-wide plan for technology, that one of the approaches we would be thinking about would be post-secondary education, as well as K-12, as well as state government, and how those three pieces integrate with our private sector, particularly so we

can enhance e-commerce. I want you to use this Bill as an opportunity to think bigger about the state's opportunities and responsibilities in technology expansion. I think you heard from another speaker this morning that it'll be appropriate to look at this Bill with some amended language to reduce the amount. I am sympathetic with the plight of the Appropriations Committee with a number of competing requests, all of them with merit. I'm here to tell you that had I gone to the Appropriations Committee on this Bill, I would have spoken solidly in favor of it. I think other members of different Committees might have done the same. So, with all due respect to the Appropriations Committee and their challenging task of setting priorities, I will be joining those folks who spoke and others to vote against the pending motion so we can continue this conversation.

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

Senator **HARRIMAN:** Good morning Mr. President. Ladies and gentlemen of the Senate, I want to rise this morning to lend a helping hand to my good friend from Penobscot, Senator Michaud, who chairs our Appropriations Committee. As my colleagues are well aware, the Appropriations Committee is trying to weed through the proposed budget from the Governor's Office, as well as keep an open mind and listen to the ideas coming from the chairs and the members of policy committees. And in fact, if you look at the recommendations that are coming forward from the committees regarding the supplemental budget, it exceeds several hundred million dollars more than we have for revenues before us. And so, like my friend from Penobscot, Senator Michaud, I really appreciate when policy committees have stepped forward and said we have taken a very careful look at the ideas that are before us and we have unanimously come to the conclusion that this particular issue should not go forward. And in this instance, the Education Committee has stepped up and said in the scheme of all the education requests, this one doesn't rise to the level of support for any member of the committee.

Next I want to say, Mr. President, as I'm sure you were all well aware that when you talk about technology and state government, or more specifically, technology costs that are imbedded into our state budget at this particular time, you find that we are spending \$40 million a year on hardware and equipment, and an additional \$12 million on software, maintenance and up grades. I say that because it seems like every part of state government, whether it's the Judicial Branch or the Administrative Branch or the Executive Branch, the Legislative Branch and various departments, are all trying to invent their own approach to deploying technology. And if this Bill were to go forward, it would just contribute to that fiefdom, if you will, of everybody designing technology in their own image. Mr. President, I also want to mention that the University of Maine's budget comes before this legislature as a line item request. They ask for a certain amount of funding and at the end of a legislative session, they're generally pretty satisfied; not all that they want. Hopefully, all that they need. And they are free to spend that money as their Board of Trustees directs. It would seem to me that this is one area, if digitizing the library and upgrading their network capacity, that would rise to the level of the Board of Trustees responsibility in seeking the funding to accomplish that. I also want to mention that the priorities for the University system, at least what I've seen so far, is that in their budget that the Governor's proposed is money to match a

scholarship grant for the so-called OSHA Challenge Grant. We've been asked to fund a salary contract that they agreed to. We've been asked to approve their revenue bonding authority. We've been asked to participate in a general obligation bond authority and expansion of programs. I haven't been able to get my hand on all of the figures that are out there. But I wouldn't be surprised if the requests before us are well in excess of \$70 million. Are they all worthy programs? Sure. Would they all make a difference? Perhaps. But in the scheme of things, we have to make some hard choices and, in this instance, we chose not to fund \$10 million for the item before you. So, I hope you will join me in supporting my colleague from Penobscot, Senator Michaud, in voting with the pending motion, Ought Not to Pass. Thank you, Mr. President.

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

Senator **FERGUSON:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, \$10 million is a lot of money and I'd like to pose a question to anyone that can answer it and I would like to follow-up on the answer once I receive it, if I may, Mr. President?

THE PRESIDENT: The Senator may pose his question.

Senator **FERGUSON:** Thank you Mr. President. The question is how much money do we currently appropriate for the University system for the biennium right now?

THE PRESIDENT: The Senator from Oxford, Senator Ferguson poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Cathcart.

Senator **CATHCART:** Thank you Mr. President. I don't have the numbers in front of me, but I can give you a close approximation. The biennial budget is around \$160 million. Thank you, Mr. President.

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

Senator **FERGUSON:** Thank you very much Mr. President. It seems to me, like my colleague, Senator Harriman stated a few minutes ago, that with that amount of money, it seems to me that the Board of Trustees of the University System could prioritize and be able to operate their system with an appropriation of that amount. It seems to me that just a few years ago, we were talking about \$130 million for the biennium and that wasn't too long ago. So, we have been very generous with the University System and I will be voting for the current motion myself. We do have to prioritize and there is only so much money to go around. Education, we know, is an important thing, but nevertheless, that's not the only concern that we have. Thank you, Mr. President.

Off Record Remarks

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

Senator **MACKINNON:** Thank you Mr. President. Men and women of the Senate, I rise today to ask you to not support the majority and to go on to support the minority report. Not for the \$10 million, but for the access to information. I sat on the High Tech Commission 2 years ago and listened to the proposal from the University of Maine and from the businesses in the State of Maine. One of the major problems we have is access to information. Many of these people, businesses that we have in Maine, cannot get the information here. They either have to pay expensive fees to get it out of Harvard, or some people even go to Stanford to get an internet connection. If we can have the high speed connection out of the University of Maine, it will not only help the research and development situation in the state, it will help businesses already that have come to the State of Maine and want to stay here. When we talk about putting things on a list and we talk about spending money, some of us have spent our lives looking at these lists and some of us have had roofs that had leaked for 40 years and 20 years because the priority list was not there. We tried to put textbooks, computers, and things in the classrooms. This is a priority that will not sift down from the University of Maine System, because it doesn't necessarily fit the mold of directly going to students at the University of Maine. It's a service that we're providing our businesses through the University of Maine. Also, as a side benefit, we upgrade the University of Maine library system to be a topnotch library system and a focal point of our state, which we did in 1997, but we haven't funded it. It's nice to have the carrot out there, but it would be nice to be able to go and access it every now and then. For that reason, I'll be supporting the minority report and voting against the majority. Thank you.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the Senate, I too rise to say let's do what we can do to keep this Bill alive and oppose the pending motion. The expression that comes to mind is, "why walk when we can fly?" This technology is the way we move into the future. If we want to flap our wings and go, we've got to acknowledge that technology is the way we do that. That's how we build our wings. And with all these issues being discussed around school construction and technology, it certainly seems like we can figure out a way to address the issues that the people are telling us are most important, which in my district is school construction, but also figuring out a way to fly with these technology ideas. At the very least, if there's fiefdoms all over the place, let's pull all the lords together and let's come up with a master plan so we can all fly forward together. Thank you.

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

Senator **MICHAUD:** Thank you Mr. President. Men and women of the Senate, I'd like to correct the Senator from Penobscot, Senator Cathcart, in the dollar figure. It wasn't \$162 million for the biennium. Actually it's \$327 million for the biennium. Plus there's an additional request of \$41 million through bills, and that's not counting that there are members of the Appropriations Committee who have additional requests that they want to put

into the budget. So, right now what they get for the biennium is \$327 million to answer the good Senator's question.

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

Senator **CATHCART:** Thank you Mr. President. Men and women of the Senate, I apologize to the good Senate Chair of my committee because I didn't have the tables in front of me. I thought that was biennial. I must say that I'm very pleased that higher education is a big topic of debate this morning. I think we spend almost no time in our legislature looking at the importance of higher education of our universities and our technical colleges to the economy of our state and to the people of our state. We talk about having to give access, but we don't really do it. We don't do much about it. We have a wonderful Education Committee, and I served on that committee, but they spend about 90% of their time on K-12 issues, special education, CDS, and all of those very important issues. So higher education gets short sheift. It may sound like a lot of money in the budget for the University of Maine System. However, a decade ago, they were already getting between \$130 and \$140 million a year. The percentage of the general fund budget that goes to higher education went from 11% around 1990 to 7% of the general fund. They have not recovered from that hit that they had to take in the 90's yet. I think it's good if we compare it with our municipal budgets, our school budgets, and our state budget. Look at the percentage since the early 90's that those budgets have gone up and then look at the percentage that's going to higher education. I think we need to do more. I don't think there's anything more important to our economy than supporting education. This is a Bill that could be amended in the second reading just down to the digital library. Let's make some statement here. We're taking up a lot of time in our debate because, obviously, higher education and technology matter a lot to the people of the state and to us in this room. I urge you to reject this report. Thank you very much, Mr. President.

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

Senator **BENNETT:** Thank you Mr. President. Mr. President and fellow members of the Senate, all those complaints that we hear about the Appropriations Committee, I think we ought to revisit because I, for one, would like to reward them for this profound act of courage in actually coming out with the proposal, the majority report, of not to fund something before it gets to the appropriations table. So, I will be voting with the pending motion. One reason that we do not give a lot of discussion time in this chamber and in the legislature to higher education is because we often deal with these sorts of agencies of state government for public purpose through the budgeting system. We have chosen, in this legislature, to create a Board of Trustees over the technical colleges and over the University System to actually engage in the setting of priority in the creation of the budgets and deciding what direction to take each of their institutions depending on the particular missions with which they are charged. What those who would like to pass this Bill are asking us to do is to get involved above the Board of Trustees level and to set those priorities for the University System. And perhaps we should do that. But if we are going to do that, then let's do it right. Let's not just pick and choose like cherries from the trees, to pick out which particular items that we want to fund and which

ones we do not want to fund and which priorities we're going to get involved with and which ones we're going to wash our hands of. If we want the responsibility, then let's take it. But let's not just pick and choose by selecting a \$10 million appropriation that the University's Board of Trustees has said isn't that important to them. I believe that we ought to respect those institutions. Respect the management of the University System. Respect their Board of Trustees and let's reject this Bill and vote for the Ought Not to Pass report. Thank you.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, I think most of you know that I'm a strong supporter of the University System and I'll be graduating this May with a PhD from the University of Maine and I'm really pleased about that. One of the things that I have noticed about the University System that has been very helpful to me as it's related to this Bill is the fact that back in the middle 1980's, you might remember, I believe, if I remember right, that there was a bond issue that came through the State of Maine and it did pass in referendum and that bond issue put quite a bit of financial resources into the library system. And what it did at that time, you may remember President Lick was involved, Chancellor Woodbury, what it did at that time was to completely change the way that you do library research. It completely changed the way that you research periodicals and books. Basically what it did was it made it a computerized system. If any one of the members of this chamber, Mr. President, go to the University of Maine Library System and they decide they want to do research, instead of going through a card catalog system, all they have to do is get on a computer screen, run through, for example, the URSUS system, you can come up with just about any research that you want in a second. I think the chamber needs to understand that that kind of research capability didn't come for free. And, at least the digital portion of what we're talking about in the library system, sounds like a pretty good idea, and I think it deserves support. To take the next step in terms of who supports what here, I've never understood why the University's System Trustees and chancellor forward the proposals that they do in the manner they do. It's my understanding, and I think we could have a long debate about this, that the Trustees do forward a pretty detailed budget request. But what sometimes happens is the chancellor comes to some of us, as legislators or the President of the Senate for example, the Speaker of the House, and others, with these additional requests because, I believe, they want the strength of a legislative vote behind them as they move through the process. It's really hard, I think, to come up with a whole lot of reasons why the trustees advance proposals in this manner, why the chancellor advances proposals in this manner, but it is important that, when we are judging these proposals, we take a long close look at exactly what is being asked of us at the legislative level. It is an opportunity to cross the line between the separation that was created in 1968 between legislative power to go in there and make curriculum changes, for example, and the power of the University System to make these decisions on their own. I think it's interesting that they have decided to come to us for this kind of decision and ask us whether or not we feel it's an

appropriate one to make. Frankly, I think that there are, maybe not all the parts of this Bill, some parts of this Bill that are excellent proposals that deserve a little more scrutiny by this body and so I'll be joining my seatmate, the Senator from Penobscot, in supporting in opposition to the Ought Not to Pass. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Michaud 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.

The Chair noted the absence of the Senator from Penobscot, Senator **MURRAY** and further excused the same Senator from today's Roll Call votes.

ROLL CALL (#319)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LAFOUNTAIN, MICHAUD, MILLS, MITCHELL, NUTTING, O'GARA, PARADIS, SMALL

NAYS: Senators: CATHCART, DAGGETT, DOUGLASS, KILKELLY, KONTOS, LIBBY, LONGLEY, MACKINNON, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

EXCUSED: Senator: MURRAY

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MICHAUD** of Penobscot 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 (3/23/00) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Expand Eligibility for the Veterans' Property Tax Exemption"

H.P. 1662 L.D. 2331

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-882)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - March 23, 2000, by Senator **RUHLIN** of Penobscot.

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

(In House, March 22, 2000, 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-882)**.)

(In Senate, March 23, 2000, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-882) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the following Tabled and Later (3/31/00) Assigned matter:

Bill "An Act to Limit Mandatory Overtime" H.P. 729 L.D. 1019

Tabled - March 31, 2000, by Senator **LAFOUNTAIN** of York.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-893)**, in concurrence

(In House, March 30, 2000, Report "A", **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-893)**.)

(In Senate, March 31, 2000, Report "A", **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED**, in concurrence. **READ ONCE.** Committee Amendment "A" (H-893) **READ**.)

On motion by Senator **LAFOUNTAIN** of York, Senate Amendment "A" (S-630) to Committee Amendment "A" (H-893) **READ**.

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

Senator **LAFOUNTAIN:** Thank you Mr. President. Men and women of the Senate, this is the Bill we debated a few days ago, "An Act to Limit Mandatory Overtime". As you recall, that Bill prohibited an employer from requiring an employee to work more than 80 hours of overtime in any consecutive 2 week period. It also set out, I believe, 6 exceptions to the proposed law. This would add a seventh. The amendment adds to that list a exemption from the overtime law medical interns and residents working in a health care facility through an approved program

and also removes the appropriation sections and funds this through a special administrative expense fund. Thank you.

On motion by Senator **LAFOUNTAIN** of York, Senate Amendment "A" (S-630) to Committee Amendment "A" (H-893) **ADOPTED**.

Committee Amendment "A" (H-893) as Amended by Senate Amendment "A" (S-630) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

LATER TODAY ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the following Tabled and Later (4/3/00) Assigned matter:

Bill "An Act to Protect Maine Jobs and Natural Resources" (EMERGENCY)

S.P. 1072 L.D. 2674

Tabled - April 3, 2000, by Senator **BENNETT** of Oxford.

Pending - **REFERENCE**

(Committee on **NATURAL RESOURCES** suggested and ordered printed.)

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

Senator **LIBBY:** Thank you Mr. President. Mr. President, I just wanted to ask a couple of questions about this Bill referral.

THE PRESIDENT: The Senator may pose his question.

Senator **LIBBY:** Thank you. The first question I have is is this Bill really a Bill that we want to refer to Natural Resources or is it a Labor issue?

THE PRESIDENT: The Chair would answer that the Secretary has made a suggestive reference. If the member wants to make a different reference, he can so move on the floor.

On motion by Senator **LIBBY** of York, **REFERRED** to the Committees on **LABOR** and **NATURAL RESOURCES**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Permit the Attorney General, a Deputy Attorney General or a District Attorney to Request Records of Internet Service Providers and Mobile Telecommunications Service Providers" (EMERGENCY)

H.P. 1730 L.D. 2436

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-982)** (10 members)

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

Tabled - April 4, 2000, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 3, 2000, 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-982) AS AMENDED BY HOUSE AMENDMENT "A" (H-1026)** thereto.)

(In Senate, April 4, 2000, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-982) **READ**.

House Amendment "A" (H-1026) to Committee Amendment "A" (H-982) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-982) as Amended by House Amendment "A" (H-1026) thereto, **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Senate at Ease.

Senate called to order by the President.

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

Senator **BENNETT** of Oxford was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

On motion by Senator **BENNETT** of Oxford, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Repeal the Sales Tax on Snack Food Except Candy and Confections"

I.B. 6 L.D. 2602

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-1014) (11 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-1015) (2 members)

Tabled - April 4, 2000, by Senator **RUHLIN** of Penobscot.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1014)** Report, in concurrence

(In House, April 3, 2000, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1014)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1014)**.)

(In Senate, April 4, 2000, Reports **READ**.)

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, if I may just briefly with regard to this Bill. When the Tax Committee that I serve on presently, which most members currently serve on, when we gathered for the first time 4 years ago we had an extensive series of sessions in which we met in retreat over across the river and had people come from NCSL. We had economists speak to us. We had professors from the University of Maine. We had literature. We had access to various tax policy studies and a great deal of information about what goes into the makeup of sound tax policy. If there was one message that was iterated over and over and over again, it was that, in general terms, the sales tax structure of the various states in the United States is, in many respects, all together too narrow and thus too volatile, and that Maine's sales tax stood out as being too narrow and too volatile above all others. We don't tax enough products and, for that reason, our sales tax has to be too high. When times are bad, the sales tax plummets to a degree that outstrips the decline of the economy. When the economy is great, as it is right now, the sales tax goes bounding up out of control and produces revenue of unexpected

proportions. There is a remedy for all of this, and a single remedy, one remedy only, and that is to spread the base of the sales tax to as many products and services as possible so that the tax, first of all, may be allowed to do its proper job of raising revenue and that it may raise that revenue in a steady fashion less susceptible to the slings and arrows of the economy.

I'm told by those who were present in 1991 for the adoption of this snack tax, that it was done, not as a gimmick, not as a temporary measure, not as an emergency provision, although Lord knows they needed the revenue at that time, but it was done by most members as a very conscious effort to remedy, or approach a remedy, to this grotesque deficiency within our sales tax code. Most of the people who supported it on the Taxation Committee at that time, regarded it as a permanent broadening of the base of the sales tax that was based on sound policy. Now what is that policy? We do have a policy in this state against the taxation of food. We don't tax grocery staples. We never have. But we do tax restaurant food. We tax prepared food. We tax any food that you can get at a McDonalds or a Burger King or a Pizza Hut. We tax any food that is handed to you over the counter, ready to eat. The policy problem that was confronted by the people on the Taxation Committee in 1991 was that there are certain forms of food that have packaging around them that are ready to eat, that are consumed often times at places like Burnsies, where you may go to the counter with a request for some hot food off the griddle which is certainly taxed and then in your hand you may have a package of muffins or something like that, which at that time, was not taxed. And so, there was a desire to bring our food taxation policies into conformity with each other. And for that reason, what was then an apparent confusion about how to tax food, was regarded as being cleared up in some measure by passage of the snack tax, which produced a uniform state policy on the taxation of food substances. Namely, that if the food is prepared, ready to eat, and comes over the counter in that form, then it should be taxed. Is it uniformly applied? Is it perfectly applied? Is the line cleanly drawn? No, but it's as cleanly drawn perhaps as taxation policy or rule making permits in any area like this. Now it's true that when you go to Burnsies and you want to buy your lunch there, you are taxed on almost everything that you take out of that store. So there's uniformity in that sense. Ever since the snack tax was passed, we've had lobbyists in Augusta who try to tell us that there is a popular groundswell for repealing it because it was regarded as a temporary tax and a gimmick. The Bangor Daily News recently ran a poll to see if that was true and found that the public, at least, was about evenly divided, 46% for repeal and about 40% against, and a number of people, perhaps 14%, undecided. We held a public hearing on this Bill over at the civic center in anticipation that there might be such a crowd show up that we would need the seating capacity of a large room. Well, we could have held the hearing, easily enough, in our usual space. There was not great, popular, hue and cry. There were no great numbers of people showing up to call for the repeal of this tax, and indeed, the editorial opinion around the state has largely been supported of retaining the tax. You have some of that being handed out to you at this point.

It turns out, as you will note from the pink sheets that are being handed out to you, that the entire effort to gather signatures for this, so called, citizen's petition was paid for by the Grocery Manufacturers Association and the Pepsi-Cola Company at a cost of around \$43,500. The money came from Wisconsin Avenue in Washington D. C. The entire effort, all of the signatures were bought and paid for. You'll find on the back of

the pink sheet an expenditure for \$20,800 that was paid to the signature gatherers that stood outside of grocery stores saying, "oh by the way, would you like to be relieved of a sales tax on snacks?" And, of course, a certain number of people will sign a petition of that sort. Who wouldn't, necessarily? The effort was entirely bought and paid for, essentially, in industrial America, commercial America, and companies that are in large measure headquartered out-of-state. We found out in the work session, however, that they overreached. When we examined the text of the Bill, we discovered that the Bill that lies before you, we can't change. We have no power to change even a comma of this Bill. The Bill that lies before you actually repeals about a million dollars of tax annually more than what was put on the books in September of 1991. The fiscal note is on the order of \$16 million a year. If we were repealing the snack tax that was enacted in 1991, it would be about a \$15 million fiscal note. So, the commercial and industrial interests that have brought this before you went out and grabbed another million dollars of revenue thinking they could slip it by this institution. And they will. They will succeed. I would urge you, however, to consider an optional choice. The minority report on this Bill would give the people of Maine the option of addressing property tax relief for Maine municipalities, if they so chose, as an option or choice to spending \$16 million in repeal of the snack tax. I'm not going to argue the minority report, but I'm simply presenting this to you as a reason or justification for rejecting the current majority position on this Bill. Thank you very much.

Off Record Remarks

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

Senator **RUHLIN:** Thank you Mr. President. Senators of Maine, today we have an opportunity to do something that I think is long overdue. You have an opportunity to repeal, or take a meaningful step toward repealing, a tax that, at the time it was instituted, was ill considered. They said on the book ill administered and it is before us today as an example of a most unfair tax as you could possibly look for. That's called the snack tax. A snack tax is that tax in Maine that discriminates, disproportionately, because of the buying habits against our elderly, because it has prepared food as a part of that snack tax. It discriminates, disproportionately, to the lower income, because, again, of the preparation basis. Many people who do not have facilities to fully prepare food rely upon those snacks as part of their diet. So we have a tax that is disproportionate. That discriminates. It has been mentioned, and I remember it well, the retreat that the Tax Committee went on and had a study 2 years ago where they looked at fairness issues in taxes, the reasons for the taxes, and so forth. And at that retreat, what we were trying to do is find a fairer way, a more acceptable way, to have a tax that could be more readily identified. Look at this tax for a moment, if you will, and think of this. You have your major food companies that can take and put the resources readily available to them to program in the barcodes, to program in their computers, and they can get that information directly because they have the manpower, the resources from the Bureau of Revenue Services. Program that in, run through the checkout

line, and they're going to be accurate. But take the mom and pop stores that we all say we want to help, those small Maine groceries and so forth who don't have those resources. Who have to rely upon their interpretation of what a snack tax is and who are liable to an audit from the Bureau of Revenue Services. They're there with their small calculator or whatever it is for an adding machine, trying to do their interpretation, trying to do the right thing with a tax that even people who work in tax law say is hard to identify, hard to administer, hard to tell what item is taxable and what item is not taxable. If they make a mistake, they're liable, not to really make up the tax that they didn't charge a customer, but they're going to make up the interest. They're probably going to get a penalty on it. That's what happens with small mom and pop's on the snack tax. That's why many of us have been opposed to the snack tax since its inception. It was bad tax policy in 1991. It's bad tax policy in the year 2000. I hope you'll join with me in repealing today this unfair and discriminatory tax and remove it from our tax structure. 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, I want to rise here for the fourth time on behalf of Senate District 23 to sit in this seat, for indeed, each and every session I have had the honor of serving here, this question has been before us. Indeed, the arguments in favor of repealing this tax have not changed. This is bad public policy. Let me give you a few examples why I hope you'll come to the same conclusion. The so called snack tax is very difficult to administer, particularly if you run a small business and don't have an infrared scanning system to check out the goods that your customers are buying, because it is so difficult to understand what snack is taxed and what isn't. For example, if you buy blueberry scones, you're not going to pay a tax. But if you buy blueberry muffins, you are. If you buy a croissant, you're going to pay a snack tax, but not if you buy a bagel. If you buy melba toast, rice cakes, or low sodium saltines, you're going to pay a snack tax. But if you purchase vegetable snack sticks, you're not. Buy a blueberry pie and you're going to get taxed. Buy an unbaked apple pie and you're not. Hershey's cocoa powder isn't taxed, but hot chocolate mix is. Kahlua flavored instant coffee, no tax. But if you buy a lemon instant iced tea, you pay the tax. Dried fruit, no tax. Trail mix, you're going to pay the tax. If you buy tapioca pudding, it's taxed. Oreo cookie yogurt cup, you pay the tax. And on and on and on I can go. And that's what we're afforded the opportunity, with this vote today, to clarify the tax law, to clean up a discriminatory tax. Some have discussed the so-called industrial complex, commercial giants who are feeding this discussion. Well, for me the discussion's being fed right out of my home. Everyday there are three youngsters heading off to school and I listen to my wife complain about the taxes she pays on food that goes in their lunch. I suspect that is happening all over the State of Maine, but for many, they don't know that they've paid an additional tax. This Bill before us is an opportunity to clear up the confusion. To get rid of the gimmick. And I would conclude, Mr. President, by suggesting that if you haven't already had the opportunity to visit on the 2nd floor the folks who are representing our agricultural community in this state who are downstairs in the Hall of Flags, I do hope that you will. And as you travel through their booths and meet the people who are trying to generate jobs and economic

security in the agricultural business, I hope you'll notice that most of them, the vast majority of them, are offering you an opportunity to taste their goods that would be snack taxed. Thank you Mr. President.

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

Senator **AMERO:** Thank you Mr. President. Ladies and gentlemen of the Senate, this Bill is before us today as a result of a citizens' initiative and I think it's a result of the fact that this legislature, over the years, has refused to act to remove one of the last remaining gimmicks that came into being in 1992. The motives of the citizens' initiative have been questioned because some of the funding for the petitioners was paid for by the Grocery Manufacturers of America, Pepsi-Cola, and others. But what did these groups have to gain? After all, this is a tax that's being paid for by Maine citizens. Not by these companies. I think it's because their products have been singled out for a tax where other food products are not. And I think it's nothing more than an attempt at dietary engineering for us, as a legislature, to tax only snacks as food products. So I think it's very legitimate that these folks who disclosed all of their expenditures, as they should, in participating and trying to axe the snack tax. But you know what, nobody was paid to sign that petition that I know of. I saw people standing in line at grocery stores in my district. They couldn't wait to axe the snack tax. And I can't wait for us to take the same action in this body and eliminate one of the last remaining gimmicks of the early 90's. Thank you, Mr. President.

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

Senator **DAGGETT:** Thank you Mr. President. Men and women of the Senate, there has certainly been a very good discussion of this by my colleague on the Taxation Committee, the Senator from Somerset, Senator Mills. I would only like to add a few comments to that. I would just say that there are few people around that would choose not to eliminate a tax. There are few of us who ask to be taxed more. It's just not something that we see. After serving several terms on the Taxation Committee, I can tell you that I have yet to hear testimony that says, gee, I'm willing to be taxed more so that someone else can be taxed less. It's just simply something that's not there. In fact, the most common kind of testimony is that if you don't take this tax off me, we'll go out of business. We hear that in the committee on a regular basis. Setting tax policy is very difficult. It's not equal, but, there is a great effort made to make it equal. A couple of years ago, when I was first on the Tax Committee, we did have a retreat and took a look at some of the principles that we were trying to achieve. One of those, that has been mentioned a couple of times, is the issue of volatility. Our tax code is one that provides for incredible income during economic good times and, unfortunately, poor income in bad economic times. Addressing the issue of volatility would help to level out the income so we don't go through these broad swings. Even though this is a relatively small piece, beginning to extend it in some kinds of rational ways, such as prepared foods, helps to eliminate that. It was spoken earlier. Anyone who thinks that the misunderstanding, or the difficulty, with this particular issue is the only one in the tax code, needs only to be reminded of the simplicity of the issue of non-biweekly pay being allowed and knowing that was going on for years. That was pretty easy to

understand, but that wasn't being complied with either. I just say that to indicate that I feel that argument is somewhat irrelevant. Anyone who wants to understand what should and shouldn't be taxed would not have any difficulty figuring it out and working it out with the help of the bureau. So, that's a pretty marginal issue. The problem is, and the plain fact is, it costs money to provide the services that state government is continually asked to provide. And again, I would say it is very rare that anyone comes in and says I'm willing to receive fewer services so that you may cut taxes. That's very rare. Generally, the request is to provide more services. Regardless of income, we have needs in this state for education, for school construction, for technology improvements. There are a lot of needs. I would suggest that there are many people that don't even realize that this was an issue. Didn't even realize it was on their grocery bill, except that, again, it has been elevated to the height of being a huge issue. I hope that you will consider these items when you vote and consider allowing Maine people an opportunity to have an option on the ballot. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Ruhlín to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-1014) 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 (#320)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, CATHCART, DAVIS, FERGUSON, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MITCHELL, NUTTING, O'GARA, PARADIS, PENDLETON, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: DAGGETT, DOUGLASS, GOLDTHWAIT, MILLS, PINGREE, RAND

EXCUSED: Senator: MURRAY

28 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1014)** Report, in concurrence, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-1014) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Off Record Remarks

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

On motion by Senator **BENNETT** of Oxford, **RECESSED** until 1:15 in the afternoon.

After Recess

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: S.C. 615

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

April 4, 2000

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 Marine Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2562 An Act to Grandfather Apprentices in the Lobstering Program for Lobster Management Zone G Entry

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

Sincerely,

S/Sen. Jill M. Goldthwait S/Rep. David Etnier
Senate Chair House Chair

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

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

COMMUNICATIONS

The Following Communication: S.C. 616

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY**

April 4, 2000

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 Agriculture, Conservation and Forestry has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 449 An Act Requiring Disclosures to be Made to Purchasers of Land Abutting Agricultural Land

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

Sincerely,

S/Sen. John M. Nutting S/Rep. Wendy Pieh
Senate Chair House Chair

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Ensure Access to Specialists for Injured Workers"
H.P. 1827 L.D. 2561

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

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

In House, March 27, 2000, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**

In Senate, April 3, 2000, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**

Comes from the House, that Body **ADHERED**.

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

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 Provide for Statewide Standards for Timber Harvesting in Shoreland Areas and to Modify Regulation of Stream Crossings"

H.P. 1919 L.D. 2665

Bill "An Act to Implement Recommendations of the Joint Standing Committee on Transportation Relating to the Review of the Department of the Secretary of State, Bureau of Motor Vehicles under the State Government Evaluation Act"

H.P. 1921 L.D. 2667

Bill "An Act to Create a Heating Oil Emergency Management Program"

H.P. 1922 L.D. 2668

Bill "An Act to Implement the Tax Policy Recommendations of the Task Force Created to Review Smart Growth Patterns of Development"

H.P. 1923 L.D. 2669

Bill "An Act Regarding Lifetime Hunting and Fishing Licenses" (EMERGENCY)

H.P. 1924 L.D. 2670

Bill "An Act to Implement the Recommendations of the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims" (EMERGENCY)

H.P. 1927 L.D. 2673

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

House As Amended

Bill "An Act to Expand Eligibility for the Veterans' Property Tax Exemption"

H.P. 1662 L.D. 2331
(C "A" H-882)

Bill "An Act to Promote Safe Mobility for Maine's Aging Population through Education and Community-based, Economically Sustainable Alternative Transportation"

H.P. 1796 L.D. 2521
(C "A" H-933)

Bill "An Act to Promote Microbreweries and Wineries"

H.P. 1835 L.D. 2571
(C "A" H-1006)

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

Senate

Bill "An Act to Create a Linked Investment Program for Child Care Providers"

S.P. 1073 L.D. 2675

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Require the Training of School Personnel Who Administer Medications"

S.P. 424 L.D. 1261
(C "A" S-634)

Resolve, to Provide Adequate Reimbursement for Speech and Language Pathologists

S.P. 889 L.D. 2308
(C "C" S-633)

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 As Amended

Bill "An Act to Limit Mandatory Overtime"

H.P. 729 L.D. 1019
(S "A" S-630 to C "A" H-893)

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:

SECOND READERS

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

House As Amended

Bill "An Act to Permit the Attorney General, a Deputy Attorney General or a District Attorney to Request Records of Internet Service Providers and Mobile Telecommunications Service Providers" (EMERGENCY)

H.P. 1730 L.D. 2436
(H "A" H-1026 to C "A" H-982)

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

Ought to Pass

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Expand Educational Opportunities for Elderly Persons"

H.P. 1692 L.D. 2398

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

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

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

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

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Regarding Legislative Review of Chapter (Unassigned): Rules Governing Maine Milk and Milk Products, Major Substantive Rules of the Department of Agriculture, Food and Rural Resources (EMERGENCY)

H.P. 1860 L.D. 2595

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1013)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1013)**.

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

READ ONCE.

Committee Amendment "A" (H-1013) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1013)**, in concurrence.

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Exempt Certain Law Enforcement Officers from the Full Course of Training at the Maine Criminal Justice Academy"
H.P. 404 L.D. 546

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1016)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1016)**.

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

READ ONCE.

Committee Amendment "A" (H-1016) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1016)**, in concurrence.

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Promote the Safe Conduct of Fireworks Displays in the State of Maine"
H.P. 1760 L.D. 2466

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1031)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1031)**.

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

READ ONCE.

Committee Amendment "A" (H-1031) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1031)**, in concurrence.

The Committee on **CRIMINAL JUSTICE** on Resolve, to Establish the Commission to Study Domestic Violence (EMERGENCY)
H.P. 1906 L.D. 2651

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1017)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1017)**.

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

READ ONCE.

Committee Amendment "A" (H-1017) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1017)**, in concurrence.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Enable the Formation of Public Charter Schools"
H.P. 1420 L.D. 2027

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1020)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020)**.

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

READ ONCE.

Committee Amendment "A" (H-1020) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020)**, in concurrence.

The Committee on **JUDICIARY** on Bill "An Act to Amend the Laws Governing Paternity Establishment"
H.P. 1634 L.D. 2286

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1032)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1032)**.

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

READ ONCE.

Committee Amendment "A" (H-1032) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1032)**, in concurrence.

The Committee on **NATURAL RESOURCES** on Bill "An Act Regarding Property Owners Whose Land Abuts a Solid or Special Waste Landfill"
H.P. 852 L.D. 1209

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1028)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1028)**.

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

READ ONCE.

Committee Amendment "A" (H-1028) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1028)**, in concurrence.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act Relating to Underground Facility Plants"
H.P. 1721 L.D. 2427

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1025)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1025)**.

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

READ ONCE.

Committee Amendment "A" (H-1025) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1025)**, in concurrence.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Increase Choice in the Designation of Public Safety Answering Points in the E-9-1-1 System"

H.P. 1885 L.D. 2624

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1012)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1012)**.

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

READ ONCE.

Committee Amendment "A" (H-1012) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1012)**, 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 Change Laws Pertaining to the Loring Development Authority of Maine"

H.P. 1498 L.D. 2142
(S "A" S-604 to C "A" H-924)

In Senate, March 29, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-924) AS AMENDED BY SENATE AMENDMENT "A" (S-604)** thereto, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-924) AS AMENDED BY SENATE AMENDMENT "A" (S-604) AND HOUSE AMENDMENT "A" (H-1019)** thereto, in **NON-CONCURRENCE**.

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/27/00) Assigned matter:

Bill "An Act to Exempt Capital Gains from the Maine Income Tax"
H.P. 219 L.D. 297
(C "A" H-890)

Tabled - March 27, 2000, by Senator **RAND** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In House, March 22, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-890)**.)

(In Senate, March 27, 2000, **READ A SECOND TIME**.)

At the request of Senator **RAND** of Cumberland a Division was had. 21 Senators having voted in the affirmative and 4 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-890)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (3/16/00) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Stimulate Job Creation and Investment in Maine by Amending the Income Tax Apportionment Formula"
S.P. 360 L.D. 1064

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-544)** (8 members)

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

Tabled - March 16, 2000, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 16, 2000, Reports **READ**.)

Senator **RUHLIN** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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 before you, although it has a lot of technical complexity, boils down to one very simple thing. It is, for all intents and purposes, a nearly complete repeal of the corporate income tax on 3 sectors of our economy; the Maine pulp and paper industry in its entirety, mutual fund sales companies, and thirdly, so called certain high-tech industries which are rather

loosely defined in the committee amendment to include a large number of categories of businesses, some of which if you read them you would wonder if they are really high-tech or not. The presumed incentive for this Bill is that it will make these industries more interested in locating here and doing business here. I don't know how far we should carry this, except perhaps it would be a good idea simply to repeal the corporate income tax generally and be done with it. It raises only about \$120 million a year, as I recall, in annual revenue.

The interesting thing about this Bill is the fiscal note. Although the Bill itself would repeal practically the entire corporate income tax to the pulp and paper industry, the fiscal note is between \$1 and \$2 million, as I recall. It seems extraordinary to me that the corporate income tax from that sector is so small. We had been told in earlier sessions of our Tax Committee, in prior years, that the pulp and paper industry represented an annual corporate tax revenue of between \$5 and \$10 million, as I recall, maybe more on some years depending the nature of the economy. The fiscal note has always been questioned by me during the spring. I have yet to receive a satisfactory answer as to why the fiscal note is so small. At least one member of the industry itself has told me that it is plainly an error. What is, in reality, going on here is that we have a Bill in front of us that would amount to a tax repeal of about, what I believe to be, close to \$10 million in corporate revenue rather than \$1 or \$2 million. We have granted, in recent years, very substantial tax breaks to this industry in the area of taxation. There is a tax that most complain about, and very legitimately complain about I might add, and that is the personal property tax. A paper machine that may be worth \$200, \$300, \$400 million gets taxed, produces revenue for the town of several million dollars a year, typically \$3 or \$4 million. It sends no kids to school. It doesn't require very much police or fire protection. Maintaining the road that leads up to the paper mill is a fairly nominal expense. The property taxes that flow to the town, or in every real sense, in most cases is a windfall to the community; for the fortunate community that has one. There's certainly room for discussion about whether the property taxation of large commercial, or industrial investments, is appropriately balanced in our state. And I think we've had discussions about that in the passage of the BETR program and the various versions of the TIF program that we have discussed from time to time in this chamber. The whole idea though that we would take an entire segment of our economy and say you don't have to pay any income taxes anymore, or hardly any, makes no sense to me. It isn't the tax that they complain about the most. Certainly, it's not the tax that they have any legitimate reason to complain about given the low level at which it's collected in our state. I think this whole notion of taking a sector of our whole economy and saying well you can pass through for free; we don't impose on you any income taxes, because we would rather tax ordinary citizens at 8.5%. We would rather do that than we would to tax you and that's the way our system is. I think that's, frankly, ludicrous. Thank you.

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

Senator DAGGETT: Thank you Mr. President and members of the Senate. Last fall selected members, I believe, of the Taxation Committee and some others, and I was among them, had an opportunity to look at the single sales factor issue on the Commission to Study the Single Sales Factor Apportionment.

I'm going to call your attention to a few items from that report. I will tell you the commission met 4 times, which is significantly a lack of opportunity to examine an issue as complex as single sales factor. In fact, I find people even had difficulty remembering the name of this kind of taxation. The committee certainly made an admirable effort to try to understand it, but there were several arenas that we just weren't able to get in to and it left me extremely uncomfortable, for some of the reasons that you've heard earlier, in supporting this change in our taxing mechanism. One of the first issues that I would like to mention, and this is aside from single sales factor, is the fact that Maine is involved in unitary taxation. And, aside from getting into a longer explanation, it means that there are possibly numerous affiliates of a given taxpayer that may have to be included in the statutory apportionment of the formula. In any event, testimony in front of the commission indicated that some business enterprises have cited Maine's status as a unitary taxation state as a more significant deterrent to certain types of business expansion in Maine. So this particular piece is by no means one of numerous issues that came in front of us. "But in any event, the commission did not have the time or resources to make a thorough study of that particular area." I'm quoting from the report. In regard to single sales factor there were 3 studies that were reviewed by the commission, in 3 different states that showed significant economic benefits from adopting single sales factor apportionment. However, if those 3 studies were all sponsored by industry associations, and there was some concern about the potential for bias, the commission wanted to replicate those studies in Maine to try to have some kind of an accurate representation. "But, again," it says here "that the commission did not have sufficient resources or time to conduct those types of studies in Maine". There was also an issue regarding how single sales factor apportionment would affect volatility. And, even though it was felt that it might help reduce volatility, I'm quoting again from the report, "...the commission did not have sufficient time or resources to quantify the affect of implementing single sales factor". Four meetings is hardly enough time to come to grips with something as significant a change as this. The commission also was concerned about the potential affects on the Maine economy of neighboring states. Again the commission did not have sufficient time or resources to explore this subject further. And just to repeat an item that was mentioned earlier, because I think this is extremely significant, the commission did hear testimony indicating that corporate income taxes were a relatively insignificant portion of the gross output of corporate business when compared to indirect business taxes such as property and use taxes. I would submit to you that is where one of the real issues is, not here. It concerns me when we further complicate our tax system by making it less predictable and by creating huge exceptions for certain industries. If this is a good mechanism for taxation, then perhaps it should be applied state-wide. There certainly was no support for that for a variety of reasons, not the least of which is that the majority of businesses would lose under that particular mechanism. So as complicated as the entire single sales factor issue may be, the questions remain. Do you feel you understand it well enough to change? Clearly the commission that spent 4 days working on this, hearing from a variety of people, did not feel comfortable with a variety of areas and that is documented in the report. So, if after maybe 15 to 20 minutes of debate, you feel comfortable enough with this, then perhaps you feel you can go forward with it. But it seemed to be a big step to take to address an insignificant issue for corporations. 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, those of you who have the courage to remain here this afternoon, I would like to make a proposal to you. I will try to explain a very complex subject in a very brief amount of time. And if you feel like you're going to go to sleep, raise your hand, I'll notice it, and I'll shorten it up even more. But I think it's important that you understand something. The basic structure, we presently tax, as do 22 other states in this nation, a corporation that does business here and other states, elsewhere, as well. We have what we call an apportionment formula so that their home office, when they come up and come up with a net income tax figure that they're going to have to pay, it's apportioned fairly among the states. And how we get to that formula, presently we do 25% on your real estate, 25% on your payroll, and 50% on your sales. That creates a formula and from that formula we determine what it is you owe the State of Maine for an income tax. This proposal intends to take certain key areas of economic activity in the State of Maine, or hope to be economic activity in the State of Maine, and change that so that you will be encouraged to increase your payroll, because it no longer will be a part of the formula, remember, we're going to remove that; increase your investment in your plant, your infrastructure, because that's no longer going to be a part of the formula. It's going to be based on sales. Now you heard people stand here in this Senate a few minutes ago and tell you that you're going to repeal corporate income tax. Well let me tell you something. Of the 2,100 businesses that we studied, more businesses, 1,400 of them, 2 to 1, will be paying more taxes under this formula. That's right, more taxes, not less. No repeal. It increases taxes, 700 companies would benefit. So the commission, hopefully in its wisdom, I believe so, said wait a minute, we can't go out in a time of economic good times and increase the taxes on two-thirds of our corporate people. That's what you're doing. You're charging more taxes to two-thirds. You're a long way from repealing anything. Believe me. You're charging two-thirds of them more taxes. Can't do that. But, other states are going to this single apportionment. Why? It's very simple. Because it encourages investment in plants, it encourages investments in people. But we feel we are going to hurt 2 out of 3 of our businesses. What are we going to do? We're going to go put our head in the sand and say this is not for us. We're going to create a cocoon and live in it economically. No, let's look at this, let's start a pilot program, let's pick 2 or 3 industries and start a pilot program that is minimal cost. Let's take number one, a completely new industry, a mutual fund industry, which we don't have in the State of Maine. There are no mutual funds that I'm aware of, except for possibly one, in the State of Maine. That does not create a fiscal note. It gives the opportunity for a whole new business doing it this way, an area of business opportunity that says we will never go to Maine under your present tax system, never. Don't even bother knocking on our door. We're not coming with your system that you have, because it disproportionately taxes us. So there's one step on the ladder. Let's reach out to this potentially new business. Two, let's find a business that we have already spent a great deal of time trying to attract, high-tech. They are the future, the future of Maine, I believe. The future that is going to keep our educated youth here rather than migrating. Let's do something for this field of growth. Let's go and get high-tech involved in this. And we

did. By the way, a fairly reasonable definition under IRS standards, mind you, Bureau of Revenue standards of the State of Maine and federal IRS standards to identify high-tech. I don't know what else you want for a definition, but those are the standards we use. Now that we have those 2 steps, the other thing that we and all of New England are fast losing is our quality, basic manufacturing jobs. Where is that best represented? I'll tell you where it's best represented. Our oldest, longest, most loyal manufacturing base that we have, the paper industry. They have been paying and helping. We've had a mutually advantageous relationship. Why should we now say, okay, we're interested in mutual funds. We're interested in the high-tech. And you've been helping us economically, or we've been a team economically, for over a hundred years. Well, we're just not interested in you anymore. So now we have a good mix. We have something that will help keep our manufacturing base, because with this, they'll be more encouraged to invest in their plants, to invest in their workers. So we have that base covered. By covering these bases, this makes, hopefully, the proper pilot project so that Maine does not stand there, financially, with its head in the sand in the 21st Century. That we recognize other states, including Connecticut, including Rhode Island, including Massachusetts, in our own New England, and soon to be, I believe, New Hampshire, have already started down this road. They are going there. As a matter of fact, I would have voted against it had we gone whole hog. It would have cost \$9 million. As I told you, it would have created 1,400 economic losers. That's not what we're proposing to you today. We proposing a small pilot project that's going to at least give us an opportunity to see how this works, with a cost of \$800,000. I think this is an important, very important, economic opportunity. You have right now, I'm not at liberty to go beyond this, people who are watching outside the State of Maine, who will be watching your vote, who are prepared to come here and come here with \$35,000 and \$40,000 a year jobs. Let's take that step. Let's show them that our eyes are open. We are no longer living in the cocoon and go forward and pass this Bill. Thank you.

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

Senator **BENNETT:** Thank you Mr. President. I do indeed hope that people are watching this, more perhaps outside the building than inside. I do rise to ask a question, if I may.

THE PRESIDENT: The Senator may pose his question.

Senator **BENNETT:** Thank you. My understanding is this Bill would apply to four industry segments in the State of Maine and I'm wondering if the committee examined the fiscal note or the fiscal impact of expanding this benefit to assist all industries in Maine and what the size of that fiscal note was. Perhaps the responder to the question could elaborate a bit on the choice and selection of these particular industries. 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 Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you Mr. President. I am very pleased to respond and I feel that it's an excellent question. I wish I had covered it in more detail during the initial presentation. We had

the Bureau of Revenue Services look in great depth at the economic impact of what would happen - who would win and who would gain. Let me explain, basically, how that works. There are those companies that presently are not infrastructure dependent to any great amount and do not pay very high wages as such but, do a lot of sales. To mind, I think most of you can think of, national and international retail sales organizations who come into Maine. But not just them, there are others. Because of their makeup of their business, they become significant losers. They would pay more because their profits are matched with retail sales. If you count those people as being losers and many others, and then I said there will be 1,400 losers, there will be 700 gainers in some of our biggest industries. There's an area of tax statistics and so forth called other transportation, such as Bath Iron Works and other large manufacturers in the State of Maine, who would be, frankly, huge winners. We have taken and added in those 700 winners and then subtracted out the additional income coming from the 1,400 losers. Those 1,400 losers would actually, collectively, be paying approximately \$5 million more. The winners would be walking away with \$14.5 million less. So your net fiscal note on that, balancing them on all, was \$9.5 million. Realistically, I can't and I don't think anybody here can, at a time of economic good time go to somebody, go to two-thirds of all those people, and say the times are good, we're going to spend \$9.5 million to do this new program, but I'm going to charge you more money. You can't do that. I can't. So that's why we ended up where we did. We looked at, precisely what I call a rifle approach, trying to accomplish certain things and trying to do it with a minimal fiscal note and that fiscal note ended up being \$800,000. I hope I've answered the good Senators question in detail.

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

Senator **BENNETT:** Thank you Mr. President. I thank the previous speaker for elaborating upon the fiscal note. My understanding, however, is that this is a voluntary program. If there was going to be a negative impact for a participant, they could just simply opt out of the program and you could alleviate the negative of the fiscal impact for that company through that means, although it would increase the state's fiscal note. I just want to add that I have mixed feelings about this Bill. And I have mixed feelings largely because of the selectivity that we are employing in deciding which industries are going to be the beneficiaries of this and which are not. Given that this is completely elective on the part of the participating company, I think it's unfortunate that this Bill doesn't go far and treat all industries that are doing business in the State of Maine in the same way. I think it's a great weakness in this Bill and, unfortunately, it persists. So we're here today with just a few alternatives. As a practical matter, we can oppose this Bill, or we could try to amend it and try to correct some of these deficiencies; understanding that that would add tremendously to the fiscal impact of the measure. I was particularly concerned with the possible impact that this measure might have for some of our more forgotten industries in the State of Maine. The ones that aren't so sexy and don't show up in the Economic Growth Council's watch list for great, up and coming industries in the 21st Century. Some of the companies that have persisted and struggled in difficult times here in the State of Maine, in very difficult times when worker's compensation costs were higher than they are now. When the costs of doing business were yet

higher than they are now. And have consistently employed our people and have done so in a way of great community participation. You know the companies I'm talking about. They make up the backbone of our communities. They've often been in the state for 50 to 100 or more years. I have been assuaged that most of these businesses probably will not be greatly impacted if they could take advantage of this law, even as it stands. But it does, I think, do a disservice to put forward a Bill that doesn't treat all industries, all business enterprises, the same way. And thus, reluctantly, I will however, support this measure because I do believe that it does offer some promise of moving in that direction in the future. I'm hopeful that, as we debate this, those of us who may be coming back in the next session will try to correct this inequity and make sure that we don't selectively choose which businesses ought to prosper and those who should not. I will be supporting this Bill, but I do want to throw out that cautionary note and hope that in the future we'll work on this matter a little bit more.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just want to respond with perhaps a couple more facts that I did not respond to completely when the good Senator from Oxford made his inquiry. Some members of the commission, back when the commission was active in the fall, late summer or fall, early winter, proposed to do exactly that, opening this up to all 700 so-called winners, those industries that would win, and making it voluntary. Actually, open the whole state to saying voluntary. I'm telling you if you're one of the 1,400 losers and you have an accountant that doesn't get you out of it, you have the wrong accountant. So you're really talking about participation by those 700 so-called winners. And that cost, as I've already said, is \$14.5 million. The proper way, I think, in this area where we've stated as much as we could with the resources that we had available is to go forward, if you will, with your eyes open, with the pilot project rather than saying we're going to go forward \$14.5 million. You only take \$120 million, actually a little less than that, with corporate tax income to start with. That means you're throwing over 10% of your income out the window on a project that you're not sure is going to work. I think it's going to work. I wouldn't be here if I didn't think it was going to work. I don't know it's going to work. I'd rather have this pilot project well thought out in the rifle shot approach used so that then we know it works. And if it works, and if it will bring in the jobs and so forth, then we can expand it. Thank you.

At the request of Senator **HARRIMAN** of Cumberland, 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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

The Chair noted the presence of the Senator from Penobscot, Senator **MURRAY.**

ROLL CALL (#321)

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

NAYS: Senators: DAGGETT, DOUGLASS, LONGLEY, MILLS, PINGREE, RAND, TREAT

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-544) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-544)**.

Sent down 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 Amend the Maine Milk Laws
S.P. 1069 L.D. 2662

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Establish the Committee to Develop a Compensation Program for Victims of Abuse at the Governor Baxter School for the Deaf and to Continue Oversight of Multiagency Cooperation
H.P. 1135 L.D. 1620
(C "A" H-979)

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

Emergency Resolve

Resolve to Establish Task Force to Reduce the Burden of Home Heating Costs on Low-income Households Program
H.P. 1677 L.D. 2343
(H "A" H-977 to C "A" H-841)

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

Acts

An Act Regarding Medicaid Managed Care Ombudsman Services
H.P. 101 L.D. 114
(C "A" H-978)

An Act to Encourage Responsible Employment Practices
S.P. 292 L.D. 810
(C "A" S-535)

An Act to Allow Police Assistance in Emergency Situations
H.P. 1767 L.D. 2480
(C "A" H-908)

An Act to Improve the Regulation of Occupations and Professions
S.P. 996 L.D. 2558
(C "A" S-593)

An Act to Implement Recommendations of the Joint Standing Committee on Education and Cultural Affairs Relating to the Review of the State Cultural and Other Agencies under the State Government Evaluation Act
H.P. 1916 L.D. 2661

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

An Act Regarding Wrongful Death Actions
H.P. 480 L.D. 687
(C "A" H-871; S "A" S-606)

Senator **BENNETT** of Oxford requested a Roll Call.

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence. (Roll Call Requested)

An Act to Allow the Towns of Wells and Ogunquit to Withdraw from Their Community School District

S.P. 602 L.D. 1725
(C "A" S-531)

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

Senator **SMALL** of Sagadahoc inquired if the Act should be considered a Mandate and require a 2/3 vote.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Ordered)

Resolves

Resolve, to Study Youth Homelessness

H.P. 1534 L.D. 2187
(C "A" H-975)

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

Resolve, Authorizing the Refund of Sales Tax Overpayments to a Maine Business

S.P. 1067 L.D. 2660

On motion by Senator **MICHAUD** of Penobscot, 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:

SECOND READERS

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

House As Amended

Bill "An Act to Repeal the Sales Tax on Snack Food Except Candy and Confections"

I.B. 6 L.D. 2602
(C "A" H-1014)

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.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (2/29/00) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Create a Local Option Sales and Use Tax"
S.P. 291 L.D. 809

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-513)** (6 members)

Tabled - February 29, 2000, by Senator **RUHLIN** of Penobscot.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, February 29, 2000, Reports **READ**.)

Senator **RUHLIN** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

Senator **BENNETT** of Oxford 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 rise today, as the sponsor of this legislation, to share a few thoughts with you and to urge your consideration, as well as support, on this measure. One thing that I've heard ever since I first began running for this body through the course of campaigns and through the course of the many issues we deal with, especially those dealing with taxation, is that the thing that troubles people the most is the issue of property tax. And it seems like we hear that same complaint, gripe, concern, however you want to characterize it, no matter where we come from within the State of Maine. There's a great concern about the property tax, the burden that tax has on the people of the State of Maine. The proportion of the tax that falls on a property tax burden, as opposed to other types of taxation that we have here in this state, and the trouble that causes throughout our state. But the other thing I've learned as I've gone through these past few years, and I've sat through proposals and discussions, is that despite the problem that property tax presents to people throughout the state, I'm convinced that there's not necessarily a one size fits all

answer to this vexing problem. There are some communities in the state where the particular burden is greater than others. There are some areas, quite frankly, in the state where property tax is not a problem. But what that presents to me is a solution that we need to authorize that allows the people on the local level to take hold of this issue and deal with it, grapple with it, as best they see fit. And what is presented to you today in this Bill, I believe, is an opportunity for the local communities throughout our state to be given the authority. We're just enabling them to use one more tool to address the issue, this grappling issue, of property tax burdens. Throughout our state, we have about 65 service centers that have been identified by the folks in the Maine State Planning office. And it's these service centers, and each one of our districts has at least one of these service centers, that particularly seem to feel the heat with regard to property tax and the property tax burden. We have not been able to identify any particular way to allow those communities, in particular, but not exclusively, to deal with this issue. Again, this Bill before you today provides at least a tool for those communities, as well as all communities in the State of Maine, to deal with this issue of property tax burden. Well, how does it do that? It's quite simple. This Bill provides the local governing bodies of any municipality in the state the opportunity to present to all of the citizens within that community the question to be presented in a referendum of whether or not to adopt a local option sales tax for that community. There's no tax that will be raised by the passage of this Bill. This is the first step in a three-step process, if this is allowed to go forward. The second step, basically being that the governing body would have to identify this as a need. And then, finally, a referendum of those same people would have to support it. And the Bill is crafted in such a way that it allows for a community to have the flexibility to decide, up to 1%, how much of a sales tax that community would like to issue in their community. It also goes on to say so, in other words the community could decide if it's appropriate for them to have a half cent or up to a whole cent and can choose, quite frankly, within the categories that the sales tax is levied upon, which categories of sales that community wants to tax. So there's a great deal of flexibility that's built into this proposal, as well. Should a community choose to do so, and should the majority of the people within that community vote to adopt that tax, the revenue raised from that would be again limited to the purposes of property tax relief, investment in capital, public improvement investments, or in economic development initiatives within that same community. So this is not meant to be a replacement of the property tax, but, quite simply, an opportunity for the locals to decide, under the theory of local control, what is best for their community. And that's the only way, I think, we are ever going to truly enable these municipalities to address the property tax burden shift that has crept up from year to year. In the past, property tax, income tax, and sales tax has basically shared a fairly equal portion of the tax pie. That's not the case anymore. The property tax share is significantly higher than both income tax and sales tax. And the municipalities simply have no alternative, other than the property tax, to do what they feel needs to be done on a community by community basis. This is the opportunity that municipalities need to deal with this issue. I think, quite frankly, it is the most significant thing that we, as a legislative body, can do to deal with this issue of property tax relief. It's a difficult thing for us to do, because we often times don't like to let go of the control that we sometimes have. But this is the kind of control that I think we need to let go of. We need to give that authority, that power, to the folks on the local

level to start making the decisions they feel they need to have and the citizens within those municipalities the power to decide for themselves, once and for all, what's best for their communities in their areas. I urge you and I hope that you will join me in providing the local communities with this tool that they need, they don't have, and we are the only ones that have the power to give. And I would ask that you support the pending motion.

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

Senator **FERGUSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would hope that you would vote against the pending motion so we can go on and accept the majority Ought Not to Pass report. Now it may be well and good for you folks that live in these so-called service centers. If you live in Bangor, Lewiston, Auburn, or Portland where you have a lot of retail activity going on, that's good. You're going to generate a considerable amount of revenue. The people who live in communities such as I do, the Town of Hanover that has 275 people residing in that community and we have one little store. We generate maybe \$200,000 to \$300,000 worth of business in that particular store in a year's time. It's not going to be so good for us. Most of our people, if they do any shopping, they either go to Lewiston and Auburn, or Portland, or they go to North Conway, New Hampshire where there's no sales tax at all. But in any event, our money from all these small communities throughout the state are going to be going to these service centers. They are going to have to pay an additional 1% on the sales tax to support the people in those communities to their benefit on our backs. I certainly would stand opposed to that and I would hope the members of this Body, most of you here represent small communities, if we added up the people that we represent. And I would hope that you would certainly represent those people today. Vote against the pending motion so that we can go on and accept the majority Ought Not to Pass. And I thank you very much for your indulgence.

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

Senator **CAREY:** Thank you Mr. President. During my life I have been very fortunate. I served as the Mayor of the City of Waterville for eight years. I served as the Town Manager of the Town of Belgrade for 16 months. So I know both sides of the story. And I would tell you that revenue sharing too, is the way to go and not necessarily putting a local option tax. Sure the people within the city will be paying for it. But where do the people from the surrounding town shop? They go to the city to shop. And that's what makes those stores in the city viable. They are supported by the outside towns already. And so I hope that you agree with the good Senator from Oxford, Senator Ferguson, that this Bill should die.

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

Senator **LONGLEY:** Thank you Mr. President. Men and women of the Senate, I am opposed to the current motion. Number one, my constituents have written to me on this issue and I've received a lot of letters, believe it or not. And secondly, I would be open to see how much work has been put into it. It has

everything but the definition of service center communities in there that would allow this just at their level. As it's written, I can't support it and request the yeas and nays, please.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Ruhlin to accept the Minority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

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

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm speaking in favor of this proposal today for a couple of reasons. It's had a very long history in the legislature that well predates my service here. But it's an issue that I've been involved with since 1990 as a municipal official. And the legislation has taken almost every form that I can think of that it could possibly take, meaning that at times it has been a proposal to have it be a regional option tax. It's been a regional option tax with a redistribution mechanism in it so that other towns would realize some of the benefit. It has been, as you see it today, a local option strictly. And it has also been proposed as a pilot in one particular community. And in none of those forms has it been successful. One of the arguments raised about the proposal is that small towns wouldn't benefit. But the issue, I firmly believe with a local option tax, is that neither do small towns without a commercial base have the type of expenses that, in my mind, we're trying to address through this Bill. I have about somewhere between 3 and 4 million people pass through my community every summer. We have what we call the 4th of July flush. That's the capacity that we have to have in the Bar Harbor sewer and water system to cover roughly around 40,000 toilets flushing at the same time. And that's a lot of capacity for a town of 4,000 people. And although we do benefit through the property tax from the many businesses in our community, it is not enough to offset this significant cost of trying to provide public safety protection and adequate municipal infrastructure for the benefit of those many, many visitors to our area. And one of the prime attractions is a very large piece of property that is tax exempt. So, this would certainly be a benefit to my community. And I can say, with some confidence, I think the idea of allowing a municipality to consider this decision for itself is a good one. Because in my town a group of very dedicated volunteers have spent about 2 years looking at this proposal and rather than, as had previously occurred, bringing in a proposal to the legislature that was doomed to failure, they spent quite a long time trying to work with the business community and allay the fears of that community about how this tax would work and what it would be used for. In the course of doing that, a very cooperative hotel owner with a very large property was willing to put up a tourist survey card in the rooms asking how tourists would react if their room rate increased by \$1 a night or a percent a night. It was surprising to us, I think my memory is fading on the numbers, but I think we had several hundred returns that reflected the fact that, although people would reference that fact that they didn't like rates going up, they understood the costs to a tourist community like mine and would certainly not be deterred from visiting that community by \$1 a night increase in room rate. The other issue

that we discussed at some length was exactly how this revenue would be spent. It was our emerging proposal, at the local level, that there be a commission established that would include people from the school system, people from the Chamber of Commerce, and people from local government to make the recommendations to our governing body as to what this money would be used for so that, again, the business community in particular, who would bear the burden of this tax, could be assured that the money would go for the type of capital items that are described in this Bill. And so again, this is a local referendum issue. If your town doesn't like it, you certainly don't have to do it. And it would be a great help to those of us who are struggling, particularly along the coast, in dealing with tourist related issues and maintaining a safe and pleasant infrastructure for those visitors and yet, as coastal communities, receive almost nothing from the state, particularly in terms of school subsidies. So I would urge your support for the proposal. 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, first of all I have to admit that I was very hesitant to get up and speak on this with the great Senator from Oxford speaking and the Senator from Waldo and the Senator from Kennebec. You know, really knowing their wisdom and so forth, I didn't want to speak against them, against their position, I should add. But the Senator from Hancock, she came up with really so many great arguments of why this gives our service center communities the opportunity to invest in themselves. We're not taking our money and giving it to them. These service center communities, which uniformly have a higher tax rate than other communities in the state, than any other community in the state, we're saying to them, we'll enable you, we will enable you, to invest in yourself. Perhaps your citizens don't want to pay the extra, up to 1%, sales tax for a new civic center, which will draw and serve the people from the surrounding area, such as Bangor, or such as Portland. It's not just for Waterville, or wherever the town should be. It serves all the surrounding communities, including the small communities and outlying communities. Those quality services are passed throughout the entire state. If the citizens of those communities that have those high mill rates want to make that investment in themselves and vote for the monies, tax themselves for the taxes within their communities, for those facilities, then I think we should, at the very least, enable them to. Let them, ultimately, make the choice rather than saying no, that's it, you have a high tax rate. You're stuck with it. So let's give them the opportunity and vote for the minority report and enable them to vote for themselves. Thank you.

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

Senator **MILLS:** Mr. President and men and women of the Senate, just three brief points, if I may? I think if this Bill passes, the way it will be implemented by most communities will be to impose a sales and lodging tax only. I've had many discussions over this issue with the good Senator from Penobscot and others about how it might be implemented. It is, I think, inconceivable that a service center community or any other community would elect to impose a sales tax on white goods and cars and large items that generate a fairly large amount of sales tax because dealers within those communities would be tempted to move

away. After all, 1% of tax on a pick-up truck is \$200 and that's enough to change the deal. So, I think that, in practical terms, what this Bill may amount to is to give primarily service center communities, who are the most aggrieved by the property tax, the option of generating some of their revenue largely from out-of-state sources or, at the very least, from taxpayers who have demonstrated their ability to pay the tax by virtue of their willingness to spend money in a class A restaurant or spend money in a hotel, or motel, overnight, whether they be a business visitor, or a tourist, or what have you. So, it is primarily those forms of discretionary spending that I think will be taxed, if any, under this local option proposal. That will have a very interesting consequence, by the way, not only by reducing property taxes in these communities that have mill rates of 25, 26, and 27, like Lewiston, Portland, Bangor, Presque Isle, Caribou. All of these service center communities would be able to reduce, somewhat, their mill rates, but also, as they reduce mill rates, it shifts revenue sharing money to the outlying towns whose mill rates would not be changed because the pool of revenue sharing would stay the same. The amount flowing into the service center communities would be diminished as their mill rates go down. Revenue sharing is proportional to both mill rate and population. So there would be some benefit to all of the other communities in the state. All 494 others, that might not chose to impose this tax would benefit indirectly from its imposition. And finally, I might say, we have in this chamber and the other chamber as well fiercely defended the rights of municipalities to do their own tax planning in the form of approving tax increment financing districts; TIF districts. We have permitted municipalities, rather freely on occasion, to give away their taxing authority as a way of creating local economic activity or engendering it. I don't understand why the other side of the ledger, that is giving the local community the power to tax something that goes on within their borders, why we should greet the proposition with such anathema when we so stoutly defend their capacity to give away taxation, the power of taxation, on the other side. For that reason I urge that we accept the Ought to Pass as Amended report.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Carey:

Senator **CAREY:** Thank you Mr. President. One of the things that happens to many of us who are not in the much larger cities is that we represent both the city and overlapping rural towns. And one of the things that rural towns are very concerned about is that some of them are paying as much as 75% of the taxes that go to a school administrative district; as opposed to having the commercial property that exists in the municipalities, which keep those larger cities from having a school budget which run probably 50% of the total municipal budget. And why don't the rural areas have water and sewer districts, if you would? That's because of the sprawl that the State Planning Office keeps telling us happens out there in the rural area. And there would be no way that people could afford to have either a public water system, or a public sewer system, because of the high cost and, in the rural areas, the large number of farms and woodlots. Water and sewer lines would go by thousands of feet of road frontage before they even got to another house. So the towns prefer to dig wells. Some of which have been contaminated by MTBE, to a large degree. There are no sewer systems. There are septic fields. I lived in Waterville and I had both water and sewer. I lived on a 52 foot lot and there were 8 lots to the acre. Now that's a lot of tax revenue for 1 acre of land. Sure, we sent kids to school, but it

still did not equate to being more than half of what the taxes were collected for. Waterville has given a TIF to a big shopping center on upper Main Street. There's an employee TIF which I was able to gain for Hathaway to keep Hathaway alive. There was a big TIF for Wal-Mart and now there's a 600,000 square foot shopping center that's coming that Waterville has decided that they will give them a big TIF for going in. There's also one planned for the Shore Road, which is almost on the Oakland town line, which is also asking for a TIF. And so, the cities, themselves, are creating the problem for what their tax rate is going to be. Not the people within the city.

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

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate, the problem I see with this Bill is, unfortunately, there are some folks in our state and our communities that have never seen a tax they didn't like. We have just spent years to try and roll back the sales tax from 6 to finally to 5 ½ and now it looks like eventually we will have it at 5%. In the original law, as you all remember, this would have happened months and months ago. That being as it may, I can't imagine, I don't have the numbers in front of me, but even larger cities like Bangor or small communities like the one I live in Calais, have the same situation as the good Senator from Kennebec mentioned. We have rural communities and larger communities so on and so forth, but I can't imagine that the revenues generated on lodging and restaurants would have much of an impact even on a community as large as some of those who are having a tax problem. The first thing that would happen, this would go on all goods and sales as sure as we're standing here. I don't think it will just stay on restaurants and lodging. Also communities, luckily we still have some local control, although we give more up every year we come into session. We lose more and more local control. But fortunately we still have an opportunity to make TIF's as incentives to bring industry into our communities. I think it's wonderful that communities have that position if they decide to do that. I know in our area, and as you know you folks that have had to deal with those in your communities, at least that's an incentive for those industries or businesses, or shopping centers to come in the community. Then that money is rolled over again to be available for other people who are interested in starting other businesses in that community. So people weigh those situations, make those decisions locally if they want that sort of growth, or just exactly what they want, for economic development. And I just have a real hard time to put the burden on communities where we have a sales tax here state-wide, we have our property taxes, we have excise taxes, we have state income tax, and I assume that once we give the local communities a chance to have the sales tax, we'll be back in with local income tax as well. And I just can't support this, and I hope that you will think about some of those things that I mentioned as well. Thank you, Mr. President.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#322)

YEAS: Senators: ABROMSON, CATHCART,
DAGGETT, GOLDTHWAIT, MILLS, MURRAY,
O'GARA, PARADIS, RAND, RUHLIN

NAYS: Senators: AMERO, BENNETT, BENOIT,
BERUBE, CAREY, CASSIDY, DAVIS, DOUGLASS,
FERGUSON, HARRIMAN, KIEFFER, KILKELLY,
KONTOS, LAFOUNTAIN, LIBBY, LONGLEY,
MACKINNON, MICHAUD, MITCHELL, NUTTING,
PENDLETON, PINGREE, SMALL, TREAT, THE
PRESIDENT - MARK W. LAWRENCE

10 Senators having voted in the affirmative and 25 Senators
having voted in the negative, the motion by Senator RUHLIN of
Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS
AMENDED** Report, **FAILED**.

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

Sent down for concurrence.

Off Record Remarks

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 **HEALTH AND HUMAN SERVICES** on
Resolve, to Provide Medicaid Reimbursement for Hospice Care
H.P. 1748 L.D. 2454

Reported that the same **Ought to Pass As Amended by
Committee Amendment "A" (H-971)**.

Comes from the House with the Report **READ** and **ACCEPTED**
and the Resolve **PASSED TO BE ENGROSSED AS AMENDED
BY COMMITTEE AMENDMENT "A" (H-971) AS AMENDED BY
HOUSE AMENDMENT "A" (H-1023)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-971) **READ**.

House Amendment "A" (H-1023) to Committee Amendment "A"
(H-971) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-971) as Amended by House
Amendment "A" (H-1023) 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-971) AS AMENDED BY HOUSE
AMENDMENT "A" (H-1023)** thereto, 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 **TRANSPORTATION** on Bill
"An Act to Allow Registration of Low-speed Vehicles"
H.P. 1904 L.D. 2649

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-1010)**.

Signed:

Senators:
O'GARA of Cumberland
PARADIS of Aroostook
CASSIDY of Washington

Representatives:
FISHER of Brewer
COLLINS of Wells
SANBORN of Alton
CAMERON of Rumford
JABAR of Waterville
BOUFFARD of Lewiston
SAVAGE of Union
WHEELER of Bridgewater

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

Signed:

Representatives:
LINDAHL of Northport
WHEELER of Eliot

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-1010)**.

Reports **READ**.

On motion by Senator O'GARA of Cumberland, the Majority
OUGHT TO PASS AS AMENDED Report **ACCEPTED**, in
concurrence.

READ ONCE.

Committee Amendment "A" (H-1010) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1010)**, 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 Clarify Municipal Responsibility for the Maintenance of Veterans' Gravesites"

S.P. 302 L.D. 873
(C "A" S-581)

In Senate, March 28, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-581)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-581) AS AMENDED BY HOUSE AMENDMENT "A" (H-995)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Authorize School Administrative Units to Utilize Alternative Delivery Methods for a Limited Range and Number of School Construction Projects"

S.P. 892 L.D. 2311
(C "A" S-623)

In Senate, April 3, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-623)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-623) AS AMENDED BY HOUSE AMENDMENT "A" (H-1036)** thereto, in **NON-CONCURRENCE**.

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

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 Mandate

An Act to Amend the Powers of Hospital Administrative District No. 1

S.P. 726 L.D. 2046
(C "A" S-607)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 26 Members of the Senate, with no Senators having voted in the negative, and 26 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 Mandate

An Act to Amend the Farmington Falls Standard Water District
H.P. 1884 L.D. 2620
(C "A" H-959)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX 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 entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

COMMUNICATIONS

The Following Communication: S.C. 617

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

April 4, 2000

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 bill out "Ought Not to Pass":

L.D. 1122 An Act to Return a Percentage of the Meals and Lodging Tax to the Municipality in Which Those Taxes were Levied

We have also notified the sponsor and cosponsors 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.**

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act Concerning the Formation of the Central Maine Regional Public Safety Communication Center"
H.P. 1542 L.D. 2196

Tabled - April 4, 2000, by Senator **RAND** of Cumberland.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-945)**

(In House, April 3, 2000, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-945) AS AMENDED BY HOUSE AMENDMENT "A" (H-980)** thereto.)

(In Senate, April 4, 2000, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE.** Committee Amendment "A" (H-945) **READ.**)

House Amendment "A" (H-980) to Committee Amendment "A" (H-945) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-945) as Amended by House Amendment "A" (H-980) 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-945) AS AMENDED BY HOUSE AMENDMENT "A" (H-980)** thereto, in concurrence.

The Chair laid before the Senate the following Tabled and Later (3/7/00) Assigned matter:

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Clarify Maine's Campaign Finance Laws"

S.P. 710 L.D. 2032

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-519)** (6 members)

Tabled - March 7, 2000, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 7, 2000, Reports **READ.**)

Senator **BENNETT** of Oxford moved the Bill and accompanying papers be **INDEFINITELY POSTPONED.**

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

Senator **BENNETT:** Thank you Mr. President. This is a Bill which I sponsored that would have corrected a problem that I foresee might occur with the Clean Election Act because of the relatively low amounts of money that the Clean Election Act allocates to gubernatorial candidates. Which, I think, might encourage wealthy individuals to run for Governor as means of beating down their opponents who are trying as clean candidates. I won't bother to get into the specifics of the Bill. But I do want to say that the people who worked to pass the Clean Election Act have expressed to me, as well as to everybody else, I think, in this building who's prepared to listen, their concern about amending the Bill before it has a chance to work through at least one election cycle. As it relates to gubernatorial elections, it's not going to have a chance to really work until 2002. But nonetheless, I wish to be respectful of the people's wishes and also to contemplate working in a constructive fashion next year, when the whole Clean Election Act is revisited, to work on this and perhaps some other issues that have been identified with the Clean Election Act to make sure it works. And so, for that reason, at this present time, although I don't dismiss the idea, I dismiss the Bill and hope that you will go along and indefinitely postpone this piece of legislation. Thank you.

On motion by Senator **BENNETT** of Oxford, Bill and accompanying papers **INDEFINITELY POSTPONED.**

Sent down for concurrence.

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.

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:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, to Recognize Veterans of the Vietnam War in the State House Hall of Flags

H.P. 1765 L.D. 2471
(C "A" H-837; S "A" S-540)

In Senate, March 15, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837) AND SENATE AMENDMENT "A" (S-540), in NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837) AS AMENDED BY HOUSE AMENDMENT "A" (H-1037) thereto, in NON-CONCURRENCE.**

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

Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Joint Standing Committee on Marine Resources Relating to the Review of the Maine Sardine Council Under the State Government Evaluation Act" (EMERGENCY)

H.P. 1883 L.D. 2618
(C "A" H-963)

In Senate, March 30, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-963), in concurrence.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-963) AS AMENDED BY HOUSE AMENDMENT "A" (H-1033) thereto, in NON-CONCURRENCE.**

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate **RECEDED** and **CONCURRED.**

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 Implement the Recommendations of the Task Force to Study the Operation of and Support for the Board of Environmental Protection"

H.P. 1814 L.D. 2547

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1027).**

Signed:

Senators:

TREAT of Kennebec
NUTTING of Androscoggin
LIBBY of York

Representatives:

COWGER of Hallowell
JOY of Crystal
TOBIN of Windham
ETNIER of Harpswell
McKEE of Wayne
CLARK of Millinocket
MARTIN of Eagle Lake
DUPLESSIE of Westbrook

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

Signed:

Representative:

CAMERON of Rumford

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-1027).**

Reports **READ.**

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

READ ONCE.

Committee Amendment "A" (H-1027) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1027), in concurrence.**

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

COMMUNICATIONS

The Following Communication: H.C. 414

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

April 4, 2000

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

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted the Majority Ought Not to Pass Report of the Committee on State and Local Government on Bill "An Act Regarding Retainage on Major State and School Construction Projects"

(S.P. 173) (L.D. 529)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

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

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 Protect the Citizens of Maine from the Dangers of Counterfeit Consumer Goods

S.P. 775 L.D. 2174
(C "A" S-612)

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

Emergency Measure

An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 2000-01

H.P. 1831 L.D. 2567
(C "A" H-989)

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

Emergency Measure

An Act to Establish an Appeals Process for License Denial Under Limited-entry Fisheries

H.P. 1847 L.D. 2584
(C "A" H-1003)

This being an Emergency Measure and 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 entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Relating to Protection from Bloodborne Pathogens for Maine Workers

H.P. 1532 L.D. 2185
(H "A" H-999 to C "A" H-948)

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

Acts

An Act Relating to Licensing Board Fees

S.P. 938 L.D. 2388
(C "A" S-613)

An Act to Amend the Laws Governing Municipal Tax Increment Financing to Encourage Downtown Investment

H.P. 1739 L.D. 2445
(C "A" H-869)

An Act to Enhance Public Safety By Updating the Laws Pertaining to Explosives and Flammable Liquids

H.P. 1766 L.D. 2479
(C "A" H-986)

An Act to Alter Eligibility for Lobster and Crab Fishing Licenses for Persons Who are 65 Years of Age or Older

H.P. 1839 L.D. 2577
(C "A" H-950)

An Act Relating to Telemarketing

H.P. 1855 L.D. 2591
(C "A" H-998)

An Act to Require Warranty Certification for Snowmobiles and All-terrain Vehicles

H.P. 1873 L.D. 2610
(C "A" H-988)

An Act to Extend the Removal Deadline for Certain Repaired Concrete Underground Oil Storage Tanks

S.P. 1039 L.D. 2621
(C "A" S-618)

An Act to Ensure that Maine Citizens Injured While Working in Foreign Countries are Provided with Workers' Compensation Benefits

H.P. 1907 L.D. 2652
(C "A" H-969)

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 Establish and Fund Conflict Resolution Programs in the Public Schools

H.P. 928 L.D. 1305
(C "B" H-1005)

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

An Act to Establish State Death Benefits for Law Enforcement Officers Killed in the Line of Duty

S.P. 910 L.D. 2362
(H "A" H-1002 to C "A" S-579)

On motion by Senator **MURRAY** of Penobscot, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

An Act to Revitalize Teacher Certification

H.P. 1763 L.D. 2469
(C "A" H-997)

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

An Act to Appropriate Matching Funds for the Study of Nondefense Uses of the United States Naval Shipyard in Kittery, Maine

S.P. 1031 L.D. 2611
(C "A" S-616)

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

An Act to Exempt a Portion of Private and Public Pensions from Income Taxation

S.P. 1049 L.D. 2641
(S "A" S-619)

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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Implement Municipal Recommendations Regarding Surface Water Use on Great Ponds" (EMERGENCY)

H.P. 1925 L.D. 2671

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1840).

Signed:

Senators:

KILKELLY of Lincoln
KIEFFER of Aroostook

Representatives:

PERKINS of Penobscot
CHICK of Lebanon
TRAHAN of Waldoboro
HONEY of Boothbay
DUNLAP of Old Town
BRYANT of Dixfield
COTE of Lewiston
TRUE of Fryeburg

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1030)**, pursuant to Joint Order (H.P. 1840).

Signed:

Representative:

CLARK of Millinocket

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 **KILKELLY** of Lincoln, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

READ ONCE.

Senator **GOLDTHWAIT** of Hancock **OBJECTED** to **SECOND READING** at this time.

LATER TODAY ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/3/00) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Limit the Issuance of Concealed Firearms Permits"

H.P. 1771 L.D. 2484

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-922)** (7 members)

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

Tabled - April 3, 2000, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 3, 2000, Reports **READ** and Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, April 3, 2000, Reports **READ**.)

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

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

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, I'll talk about this particular measure briefly, in a moment, as to what precisely it proposes to do. But I guess I want to start by saying that it's somewhat unfortunate that this Bill, along with some of the other Bills, have all kind of been lumped together as gun Bills, or antigun Bills, or however you want to characterize them. And by having that characterization, sometimes that all of a sudden sets off alarms, or concerns, or perceptions both in this body and the other body and the general public that quite frankly, unfortunately don't need to be raised in a situation like this. And with this particular Bill, specifically. This Bill, I don't perceive to be a gun Bill, antigun Bill, or however you want to characterize it in those terms. I do perceive it to be a domestic violence Bill, one focused on domestic violence issues. And that's what, hopefully, you'll be persuaded as well after we discuss what precisely the Bill proposes to do. It's been

suggested by others that in this State of Maine, domestic violence ought to be public enemy number 1. And I agree with that perception, because I think for too long the issue has been, if not ignored, certainly not taken seriously enough. This Bill focuses on domestic violence issues in that it focuses on those people who have been victimized to the extent they have needed to seek the assistance of the courts of the State of Maine to seek a protection from abuse or a protection from harassment order. I'd like to take just a minute to briefly run through that process for you so you'll understand what we're talking about with regard to this Bill. If someone is subjected to harassment, stalking, threats, assaults, or danger to a level that they are reasonably intimidated, or reasonably face serious bodily injury, the State of Maine and the laws of this state say that person can seek the protection of the courts of this state, and specifically an order from a court, that prohibits the harasser, the victimizer, the abuser from doing a whole host of things to that person. And the judge has the ability now to prohibit and prevent conduct that is unlawful in this state and that a court order is aimed at trying to prohibit. The individual who's victimized oftentimes goes to court and seeks what's termed a preliminary protection from abuse order and that can be obtained relatively easily. The individual person who is being victimized can go to a judge, complete an affidavit, set forth the facts as to why they need this protection from the court. And often times, if that standard has been met, the judge will issue one of those preliminary orders. If an order is issued preliminarily, it is then followed-up by a permanent protection order that is either agreed to by both parties, the victim and the person who is harassing and abusing, or that person who's the subject of one of these orders has the right to appear in a hearing before a judge and present their side of the story and a judge will weigh that evidence and reach a decision. If that judge is convinced, he'll issue an order prohibiting the abuse, the harassment, the stalking, or whatever it was that may have been going on. That becomes a permanent order that lasts a certain duration of time that the judge will limit and delineate up to a maximum amount of 2 years. That's all current law. That's all aimed at the crisis situations that victims, unfortunately, find themselves in, all too often domestic violence type situations and domestic violence victims. What this Bill does before you today does is very simple. It says in those circumstances that I described to you, where a permanent protection from abuse order has been issued by a judge after a hearing, or after agreement of the parties that it should be so ordered, that that individual, who's the subject of one of these court orders, cannot hold a concealed weapons permit, or if they do hold one, that that concealed weapons permit will be revoked for a period of time. And the period of time will depend upon how long the judge's order lasts and may extend for a period of 2 years beyond the end of that order. That's all this Bill does. This Bill doesn't talk about taking away anybody's gun. The judge may have the authority to do that already, if the judge finds facts sufficient to take that step. All this focuses on is the concealed weapon permit itself, which is not a constitutional right, which is a privilege that is issued by the State of Maine, or one of the municipalities within the State of Maine. It says to that person who has been found to be an abuser, stalker, harasser, sufficient to the level that a court judge has found that that order needs to be issued, that individual shall not have the privilege of holding a concealed weapons permit for this limited duration of time. I think that policy statement needs to be made by the State of Maine. If we are truly serious about domestic violence being public enemy number 1. At a minimum, the State of Maine needs

to be prepared to say if you are this type of person who has been found by the court to be this type of person, you shall not have a concealed weapons permit for that period of time. It's that simple. It's that straight forward. It is not antigun. It is domestic violence and it's a statement that this state needs to make.

The most compelling testimony we heard, in my opinion, during the public hearing was provided by a woman who is associated with one of the family crisis shelters. And she certainly, better than I and better than most of us, knows the reality of domestic violence, knows what is real and what is not real. She knows what kinds of things she can rely upon in terms of safety and when victims are not safe. She made it very clear to us that if this Bill passes that the victims of domestic violence are not going to have any false sense of security by the passage of this Bill. That's not what this is all about. There will be circumstances, whether this Bill passes or not, where crimes more horrendous than the harassment itself will occur. Nobody is deluded by that fact. The violence will go on. The issue before us today is what policy statement does the State of Maine want to make. And she said quite simply and quite eloquently, it's a policy statement on the part of the state to say it's not okay to be the subject of a protection order and to have a concealed weapon permit with the blessing of the State of Maine at the same time. It's just that simple. That's the statement we need to make. That's the kind of statement I hope we today, as a body, will send forth from this point. To start making domestic abuse public enemy number one and I urge you to support the pending motion.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I usually don't try to participate in debates where I haven't been on the committee and heard the arguments. Pretty much going into this tonight, until just now, with my opened mind, just waiting to hear what the debate said as to which way I would go and how I would vote. However, the very good Senator from Penobscot, who I hold in very high esteem, said something that really disturbed me and I think I should respond to the Senate. The concealed weapons permit is a privilege, I agree, and if there is a domestic situation which has required the action of a court, while that action is ongoing, I can see some basis for this. I'm really troubled, when I heard of the testimony just given here today, on how we're going to say that a person, who has never been tried by a jury of their peers, is going to have their right to carry a concealed weapon removed for a 2 year period without a trial. I'm sorry. I can see some benefit, perhaps, to doing certain things. But to remove a person's right to have a concealed weapon for 2 years beyond any pending action without trial by jury, I feel is wrong and I will be voting against the report.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate. The good Senator from Penobscot, Senator Ruhlin, has hit the nail right on the head with his remark. I am greatly concerned over the particular that he has just mentioned and specifically that the idea that if you have a protection order against you and then it's quashed, canceled by the court, that for two years thereafter you are precluded from taking advantage of

the law that exists on the books. I'd like a dollar for every protection from abuse case that went to court connected with a domestic matter, say a divorce case. Parties will race to the courthouse in a divorce case to see who can get there first to couple up their divorce case with a protection from abuse petition. The protection from abuse process has been abused, itself, by parties racing to the court to get this protection order. And here we are joining up with that process that itself is abused, this particular right is going to depend and hinge upon that process. I'm concerned about that. I would like to see this issue governed by the court in the protection from abuse orders themselves. And then, when the judge issues an order of protection from abuse, part of that order can and often does mention the business of a firearm or any weapon and is controlled by the court. And then when that order falls, is quashed or ended by the judge. You don't wait two years, as this Bill suggests, and deny a person the particular right that's in the law. The right springs back into life right then. And it should, because the order is gone. So I would like to leave this, respectfully, to be administered by the court. Not to have the Legislature jumping into the picture this way and tacking onto a particular process, used often by parties, and kind of tacking it onto something itself is abused. That's mainly the reason why I am disturbed about the matter and will not be supporting this particular report. Thank you.

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

Senator **DAVIS:** Thank you Mr. President. Good evening ladies and gentlemen, I want to tell you that my good friend, the Senator from Penobscot, Senator Murray, is my good friend and I've come to be quite fond of him. I know he's going to be shocked. But I would differ with him on this issue. But he is correct in one sense. No matter what happens here, domestic violence will keep continuing. This law won't make any difference. I dislike domestic violence immensely. I've seen a lot of it. I had nearly a 30-year career in law enforcement. I saw it up close. I saw the battered women. I saw the broken children. I saw the bodies and all sorts of things. And I agree that domestic violence is a problem. It's a scrounge and it's a terrible problem. And to that degree, I recently testified before the Appropriations Committee and asked them to put 9 more prosecutors with a specialty of domestic violence to prosecute domestic violence, to stay on these cases, and to pay attention to them and prosecute them. Enforce the laws that we have now. I don't like this Bill for a number of reasons. One of them is that it is a near preponderance of the evidence that a permanent protection order so-called is a shot, which means that it more than likely happen. It isn't as a result of a trial, or result of a jury finding someone guilty. It's a judge saying that it more than likely happened. So, therefore, you automatically lose your concealed weapons permit for longer than what the good Senator from Penobscot, Senator Ruhlin, said. Not just 2 years, but 2 years from the expiration date of the order. Now I take my duties seriously and I don't take this lightly. Two or 3 weeks ago, at the invitation of the Charlotte White Center in Dover-Foxcroft, I attended what was called a batterers group. It was the first time I had ever been to anything like that. I'd heard about, read a little bit about it, and I was interested in what they do. So, I went. It was held down in the extension office in Dover-Foxcroft and present were 2 people that were doing the counseling and 14 young to middle-aged men. They had all been convicted of some sort of a violent act, criminal

threatening, assault, or something like that. Not one of them had done their crime with a firearm. Not a single one. And yet for some of them the judge had seen fit to take their right to possess a firearm away from them. And everyone of them that lost this right was extremely bitter about it and didn't think it was fair that they should lose their firearm rights. I also talked to the young police officer from the Town of Milo recently who, in the performance of his duties, ran a file on some people who had a protection order. A couple that had protection orders against each other, they got back together and they went to court and they got a protection order against the police officer. It turned out to be bogus and he won the case, but he was very upset over it. He, to this day, is applying for jobs and this keeps coming up and interfering with him. I asked the State Police to tell me how many people who have had concealed weapons permits have committed crimes with them. They couldn't find any. None. They went back 10 years. All the murders, everything they had, they couldn't find any. They did find where they had refused to issue a number of permits, as the law allows, because of crimes that were committed. They did tell me that they thought it was working, in so many words, because of the fact they had refused so many. I don't think this is a good Bill, Mr. President. I really feel that it's more of a cause looking for a crisis. It's not going to accomplish anything. It's going to send a false message that people are going to think that we are doing something. I feel that issues such as putting 9 prosecutors on the job and doing something about domestic violence and making sure that these cases are followed up will really do something. And this will do nothing. Thank you very much, Mr. President.

Senator **BENNETT** of Oxford moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in concurrence.

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

Senator **FERGUSON:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, looking at this, I've got the Constitution of the State of Maine out and Article I, Section 16. Article I is a Declaration of Rights, Section 16, keep and bear arms. It says that, "every citizen has the right to keep and bear arms and this right shall never be questioned". Mr. President, I would like to pose a question to anyone that can answer, if I may?

THE PRESIDENT: The Senator may pose his question.

Senator **FERGUSON:** The question is I wondered if the committee, in their deliberations, asked for an opinion from the Attorney General if this Bill would be unconstitutional. It seems to me that it is unconstitutional, but I'm nothing but a mere layman.

THE PRESIDENT: The Senator from Oxford, Senator Ferguson 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 Mr. President. The question whether this is unconstitutional was not asked, but I would suggest to the good Senator from Oxford, the current law allows the judge in a circumstance like this to take away the guns or

order that the guns be taken away if that judge so finds. That, I would suggest, goes far beyond what this particular Bill does in suggesting that a concealed weapons permit only be limited under these circumstances. There are certainly a number of places in our statutes where the ability to have and hold guns is limited. For example, felons. Although the question was not specifically asked of the Attorney General, I feel quite comfortable and confident that this particular proposed measure would not be deemed unconstitutional.

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

Senator **DOUGLASS:** Mr. President and men and women of the Senate, I rise in defense of the victims of abuse. We know that half the murders in Maine are the result of domestic violence. Today we have the solemn privilege and the duty to weigh the right to life against a privilege to carry concealed weapons. The privilege of carrying a concealed weapon is obtained from local authorities under our state law and it is just that. It is a privilege. We've debated many matters here that relate to public safety and you heard our Governor, and I think he was right. I commend him for being the first to say that domestic abuse is the number one enemy in Maine. When half the murders in our state are caused by domestic violence, we have to be concerned and we have to take every step that we can to protect those victims. Yes, it's true. The steps we take will not protect everyone, but they may protect some. And for that the measure is worth it. In a situation where protection from abuse occurs, they're often arising out of separations, out of divorce, out of other matters. In such situations many, many rights are at issue. The right to companionship of children and so forth. None of them rise to the level of life itself. I say to you that we must, as a state policy, standup with courage to say that this measure is in defense and is some small protection for those victims of violence. For Carol Cross who died in Lewiston, who might not have been protected by this measure, but could have been subjected to violence in another way to whom this is related. We have the opportunity to make a change in the direction in which we look at the privilege of carrying concealed weapons. And it should not exist for those who are in the situation of having an abuse order brought out against them. I do recognize that in some of those incidences, there may be questions. With protection from abuse orders the burden of proof is not beyond a reasonable doubt, it's just the civil burden of proof. But, we should take that burden and apply it to denying concealed weapons permits, because once that threshold has been reached, then we can say that we owe it to the safety of our citizens to deny the privilege. I hope you'll vote against the indefinite postponement of this matter and ultimately pass it.

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 you will join with me in voting against the pending motion to indefinitely postpone this Bill so that we may go on to pass it. The Senator from Androscoggin, Senator Douglass, actually said, probably what I'm going to try to say, much more eloquently. But I felt that we needed to have some voices here and perhaps some women's voices speaking to this issue, because it really is, in many cases, a women's issue of being abused and murdered in women's own homes. As the

good Senator from Androscoggin stated, and I would mention, we don't really have a very high murder rate in the state. We're quite blessed to have a low rate of violence. But it is a fact that, in any given year, a very large percentage of those murders are the result of domestic violence. And I think we need to take this issue very seriously. I pushed my request to speak button when the good Senator stood and asked, is this a violation of our constitutional rights? Speaking as a layperson but also an attorney who takes the words of the constitution very seriously. I don't see how, in any way, the privilege of carrying a weapon concealed is constitutionally protected, either under the federal constitution or a much more expansive language in our state constitution. This Bill is really about protecting the lives of potential victims of abuse and also making the statement that we here, in the State of Maine, take that abuse very seriously. And when we are weighing different privileges and rights, we say that the right to be alive is more important than the right to carry a hidden gun. It's been hard for me to understand the arguments against this Bill. In all honestly, I've really had a difficult time understanding how it is necessary to carry a hidden weapon and why that should be more important than conveying to someone, who has already been the subject of abuse, that at a minimum the state will say that is not legal for that other person to go around with a hidden gun on their person, or in their car, or wherever you put it. To me it's just common sense. It is about valuing life and it is about saying that the state, the State of Maine, values life more than the right to have this permit. It does not run afoul to the constitution. It's the right thing to do and I hope you will vote against the pending motion.

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

Senator **MITCHELL:** Thank you Mr. President. May I ask a question through the Chair to anyone who might care to answer and then follow with a statement?

THE PRESIDENT: The Senator may pose her question.

Senator **MITCHELL:** Could anyone please provide me with a summary of any evidence that has been presented where a person with a concealed weapons permit has committed a crime or killed a spouse?

THE PRESIDENT: The Senator from Penobscot, Senator Mitchell 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 Mr. President. The specific, factual information based upon somebody who does, or doesn't, have a concealed weapons permit is not something that is maintained by either the State Police, or by the local issuing agencies, with regard to whether they committed murder, or any other crime. So there's nothing that we can punch up easily and say here's a category of concealed weapons permit holders, as those people aren't treated any differently for purposes of maintaining records. And also the information that was gathered would need to be gathered from both the State Police, which is the issuing authority for about half of the state, and then individually by municipality, which is how the remaining half of concealed weapons permits are issued. And, quite simply, that information is not maintained.

While I'm on my feet on that point, I don't think the question that we need to be posing is what are the numbers with regard to that, because quite frankly, I don't know what that would tell you if the numbers were, 1, 5, 10, or zero. The issue isn't how many have tallied up on this side and that's how I'm going to decide my vote. The issue is we need to speak as a state on the question of these individuals who have been found to have either harassed, victimized, abused, or some other way dealt with the victims of domestic violence. Is it all right for those individuals, in weighing the balance on interest, is it okay for those individuals to hold their concealed weapons permit? If we want to come down on the side of the ledger, obviously, we all have the right to do that. That's not the side of the ledger that I want to be on when we're weighing those interests.

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

Senator **MITCHELL:** Thank you Mr. President. I would like to thank the good Senator from Penobscot, Senator Murray, for his answer. I would like to respond to the question of Senator Treat from Kennebec County and that she would like to hear from some women regarding domestic abuse and violence and their opinion on this Bill. I will be voting for the indefinite postponement of this Bill and papers. I have worked and been around people and volunteering to help people and women with young children who have had domestic abuse and have been very active in Health and Human Services in trying to come up with solutions to solve this problem in Maine. I feel that the solutions are not merely putting another law like this into effect when there's already a federal law and Maine judges already have the authority to put something like this into effect. What we need to do is we need to work with these people to avoid this from happening in another manner, in another way. I feel that we have many agencies that are working along those lines to help these women and we also have the courts who are taking into their own hands these people and sentencing or bringing restitution to these people for the acts that they have committed. But there are protective orders and protection for these women and they need counseling. They need to start a new life. They need to separate themselves from the situations that they are currently in. And many of them are reluctant to do that and go back into the same situation after they have been counseled. And they are abused again and again. And it is not necessarily with a gun. It's abuse, physical and mental and emotional abuse, that cannot be cured by this Bill. I think we need to focus our efforts on how are we really going to solve this problem. And shouldn't we be continuing the efforts that we already have in place? Those of us who enjoy working with these people to help give them a better life, need to continue those efforts and to try to provide the counseling and the guidance and get these women out into the career path and away from the current situation they're living with and give them the incentive to move away from that and not put something into effect that really isn't going to resolve the problem. Thank you. I hope you will join me in voting to indefinitely postpone this Bill.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the Senate, although I would have preferred this Bill came out of committee raising the civil violation of domestic violence to a

criminal situation so there would have been an instant felony and then deprivation of the guns, that's not the Bill that came out. But still, it's not a perfect Bill, but I'm leaning toward supporting it. And I'm leaning towards supporting it only because many of us, probably most of us women, have felt that fear. And one is petrified when one knows that the person is stronger and the person is mad. I remember the night a year and a half ago, two in the morning, home alone, and the person pounding at my door was, I knew, was much bigger than I was and my house was shaking and so was I. That was one of several times when I have been very, very scared for my life. Figuring that night I was going to be raped and then I was going to die. And maybe I could jump out the second floor window. Basically, I didn't see any help around and by the time the State Police got there, I figured I could be dead and gone, easy. That next week, that same person was shooting bullets across my house. It's petrifying. And this concealed weapons Bill, is it going to solve the problem? I don't think it will. But I think we're working at trying to figure out ways to say that if you are brought before a judge and the judge determines that there needs to be a protective order against you, I think that all of society is saying to protect those that you might violate. Let's take a step. And this is a small step. Maybe next session we can improve upon it. I can think of a few different ways to improve upon it already. All I know is that fear is real and any message we can send to those victims is a message of trying to help. I think it will go a long way. And yes, it can be improved. But at the same time, it's a worthwhile step to take today. Maybe we can improve upon it on another day. So I encourage you to vote against the motion to indefinitely postpone. Thank you.

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

Senator **PINGREE:** Thank you Mr. President. Men and women of the Senate, I think there's very little I can say to improve on what has already been said by my good colleagues who are urging you to oppose the indefinite postponement of this Bill and those who have encouraged you to vote in favor of the previous motion. I appreciate all the things people have said on behalf of other victims and on behalf of women who have found themselves in these situations and how important it is that we make this statement tonight. This Bill is not before us because of a few domestic squabbles, a few casual occurrences that happened in a divorce case. This Bill is before us because of a very serious issue of domestic violence that often does end in physical violence or murder. We've heard the statistics and I will just say again, one half to three-quarters of murders, of all murders, in the State of Maine are because of domestic violence. There are victims. There are women everyday who are afraid of someone who is harassing, or abusing, them. I had a chance to look at the report from the Homicide Review Panel this year that came out in January of the year 2000. And they looked at 9 murders that were all amongst family members, or people who had known each other. Of those 9 murders, including one I must add that had 3 victims, a woman and her 2 children who were killed by her husband and the father of the children. That was one of the cases. Of those 9 that they looked at in the State of Maine, 7 of them were committed with a gun and 5 with a

handgun. Now as the good Senator from Penobscot stated, we don't know, because we don't keep the statistics and statistics we probably will choose not to study, but we don't keep those statistics. We don't know if those were concealed weapons permits or not. But we know, in fact, that those were murders. Those were murders and those were cases of domestic violence and those were indications of people who felt afraid for their lives. Once again, these are permanent court orders. This does not require a judge to take away all guns. People can still have a gun that they use to hunt. People can still have a gun that they use for target practice or other things. It's only taking away a concealed weapons permit for 2 years. Once again, a concealed weapon is a hidden gun. A gun you don't want a rabbit, you don't want a deer, and you don't want a potential victim to see. People have said we already have a law. Judges have that right. Well, there are many times when we say to a judge, we care so much about this we want to make it mandatory. We want to require that you take this action. This is one of those cases. As you have heard, it's an important statement for us to make.

I'm just going to offer one last fact and I'm going to quote from a poll. Now I didn't need a poll to make a decision about how I stood on this Bill. I was happy to be a cosponsor of this Bill long before I read this poll that appeared last week, but I think it helps me to understand how strongly the public also feels about this issue. When people were asked this question, "Do you believe someone who is subject to a court order to stop further domestic violence should be allowed to possess a handgun?" That was the question. It was a question asked in a strategic marketing survey poll of a reasonable sample of people reported in all of the newspapers this week, a very valid poll. This was the answer to that question: 91.7% of the people surveyed said no, 91.7%. Nine out of ten people said no. 4.5% said yes. 3.8% said they don't know. You don't get numbers much higher than that in a poll. I feel strongly about this issue. I hope you will all vote no on indefinite postponement and, Mr. President, when the vote is taken, I request the yeas and the nays.

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

Senator **CATHCART:** Thank you Mr. President. Mr. President and women and men of the Senate, I've always supported the Second Amendment and I support the right to bear arms. But I have decided on this issue to come down in favor of the victims of domestic violence. This has been a terrible struggle for me. It's not that I think that taking away a concealed weapon is going to make me safe, or a woman who is a victim and has a protection from abuse order safe, anymore than I can guarantee that safety of a woman who has a protection from abuse order. Many people would say and have said to me, "that's just a piece of paper. It's not worth anything." Well it is worth something. In some cases, yes, if the person is determined to kill, the person will kill one way or another. But in the majority of the cases since we've passed the Protection From Abuse Act, the woman has had greater protection than she would have had without that piece of paper. And so I have to speak for the feelings of those women and the feelings of safety for those women. Now, I have nothing against carrying a concealed weapon. I don't have one myself. But I have friends, I have women friends, who carry concealed weapons because they feel safer in their jobs, or driving at night, the way I feel safer that I have a cell phone in my car when I have a flat tire on the interstate, as I did last year and called the State Police to come baby-sit until the wrecker came to

fix my tire. I was scared out there. I think if we say that domestic violence is public enemy number one and we have to do something about that, what kind of message are we sending to the victims of domestic violence? What kind of message are we sending to the abusers if we say, okay you can't do this anymore, you can't have contact with the victim, but go ahead and carry your concealed weapon. That's fine. It just doesn't seem consistent to me. And I have no idea, of the 60% of the murders in the state that were domestic violence related last year, whether any of those were made with concealed weapons or not. But I can tell you I had a good friend, Pat Crowley, who was murdered with a gun in the Bangor Travel Agency 10 years ago by her husband, a few hours after he was served with a protection from abuse order. And I know the statistics show that people who get protection from abuse orders served on them tend to get very angry and they are more dangerous at that time. Pat was shot down at work. I mean who cares really if his gun was hidden or not. It doesn't make much difference to me. I guess if I were ever the victim of domestic violence, I'd probably prefer that the gun be carried openly, if he was coming after me with one, than to have it concealed. It just seems to me that if this is our public enemy number one and we are doing everything that we can to stop this, we have to send a message that there is zero tolerance in the State of Maine for domestic violence. One way we can do that is we take away a privilege to carry a concealed weapon. And for that reason, I've decided to come down on the side of the victims of domestic violence and vote against the motion to indefinitely postpone. Thank you, Mr. President.

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

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, in Maine we provide a number of protections for our citizens against improper use of guns. It has nothing to do, in my mind, with hunting issues. But as has been mentioned before in this debate, we don't allow, certain people to carry firearms if they're convicted of a crime and they are serving time in prison. We don't allow people to carry firearms on school grounds and in fact, Mr. President, we don't allow people to bring firearms into this chamber. It is not permitted. In fact it's not permitted on state property. And to confirm my impression, because a friend of mine who's a police officer came down one day in uniform with his firearm, which he hadn't really given any thought to, and it was requested he not enter the chamber with that firearm on. And you can check with our security guard who confirmed my understanding that is, indeed, the case. So here we sit in our comfy little chamber with a rule that says you can't have a gun in here, with a security guard walking up and down the hall outside making sure that people obey that rule, and debate whether or not we should extend this protection to the men and women who have good cause to think that someone might perpetrate a violent act against them. Not as in our case, the random unfortunate chance that someone with a mental derangement might come in here with a firearm, but because a court has stated that there is likelihood that person might be in danger of violence. And I don't think that, sitting in a chamber where we are protected from that sort of violence, we should be quite so cavalier about deciding to deny even this minor level of protection to the men and women to whom we have pledged to serve. I urge your opposition to the pending motion. 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, good evening. I will be very brief. This past year one of the young men that graduated with me at Bonny Eagle High School committed a terribly violent crime. He murdered his wife and then turned the gun on himself. The only reason I bring this up, Mr. President, is because I don't think that the debate that I've heard tonight really gets to the heart of the problem. I'm not sure how I feel about this Bill, but probably a lot of you can imagine, I'll fall on the side of the Second Amendment. But the heart of the problem is this, and there are many members of this august body that don't seem to want to face up to it. The heart of the problem is this, whether it was that crime, or another one, or another, or another one, or another one, count them all up and find out how many of them had to do with drugs, illegal drugs, and alcohol, the abuse of alcohol. I'm always in amazement at the little progress that we've made in the past 2 terms that I have been in the Senate combating the problem of illegal drugs and alcohol as it pertains to the problem of domestic violence. There just seems to be a shortsightedness. And it's my fault as well as anyone else, because I haven't done enough to try to combat that problem. But the ultimate problem that you seem to be focusing on, you being this debate in the chamber today, is the act of domestic violence. I think there are several root causes for it, but one of them, one of them, is the abuse of alcohol and the abuse of illegal drugs. I see so little down in this chamber on those issues. So little and, like I say, I'm willing to take responsibility for that, but I would be willing to put forth this day that if you really want to make a difference, this Bill isn't going to do it. If you really want to make a difference, let's start talking about the real problem. Let's start talking about people whose faculties have been impaired, because again, so many cases, so high a percentage, it's been proven, it's a fact, it's out there, it's in the same reports I've heard quoted today, those are the conditions under which these heinous crimes have been committed. So you can feel good today and vote against indefinite postponement of this. And I don't blame people who support that side. I can understand the argument. Or you can start talking about the real problem. I would encourage all of you to start talking about the real problem and I thank you very much this evening, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you Mr. President. Men and women of the Senate, this issue has probably caused me more sleeplessness and more stress than many of the issues that I have dealt with since I've been here. It really touches a couple of pieces for me that are very important. I've worked in domestic violence as a person working in a shelter for awhile. I was also the victim of a stalker for awhile, which was about the most terrifying and unsettling experience I have ever had. I have also, as all of you know, come from a family that has always gone hunting. We've always had guns in the house. I grew up learning how to shoot from my parents and passed that onto my children. So I've really tried to balance all of those concerns and tried to figure out what it was about this issue that I couldn't settle myself on one side, or the other, and feel that that was the right place to be. And as I've listened to the debate tonight and I've listened in caucus, I've come to the conclusion that the

problem that I'm being faced with is that I'm being asked to say yes or no and I'm not sure the question is the right question. A concealed weapons permit is a privilege. I served as Selectmen for 4 years and every week or so we would get concealed weapons applications before us as a Board of Selectmen. We would send them to the Chief of Police who would then do the review and they would come back to us. I recall denying one of those. I don't know that we denied many more than that. People applied for concealed weapons permits for a variety of reasons, including their work, that maybe they worked in a small store, or had a business, and they were carrying a large amount of money around. There were people who were victims who applied for concealed weapons permits because they did feel safer. They were able to be more comfortable about what it was they had to do if they had a concealed weapons permit. There were other people who applied for them for their own reasons and I'm sure there are many. It is a privilege. I don't believe it's a right. It's a privilege. When someone who has a concealed weapons permit is, in fact, looking at being the recipient, I guess if you will, of a protection from abuse order. When a person is charged with abuse and the court decides that the victim needs to be protected and the perpetrator needs to have a protection from abuse order served on him, or her, I do believe that concealed weapons permit issue ought to be reviewed. That it ought to be reviewed in a way that allows the judge to remove that concealed weapons permit privilege from that person. That ought to be an option of the judge to do that for the length of the time of the order, for an extended length of time, or even a lifetime. I would be willing to go that far if the judge looked at a case and said I believe that this person should not be trusted with a concealed weapon forever. I believe that is a reasonable thing to have happen. What I'm faced with is the question of should we automatically have this mandatory sentence of an automatic 2 years beyond the life of the order, without any questions, or should we, in fact, not allow that to happen and have a message go out of here that we're not concerned about victims. I don't believe that either of those things is really where we ought to be. I think where we ought to be is finding a way to enable the judges, the people that we entrust to make life or death decisions in this state, to make that decision. To put the decision before them and say we want you to look at the form you're filling out and make a choice. Does this person have a concealed weapons permit? Should this person be allowed to continue to have a concealed weapons permit? Should this person never be allowed to have a concealed weapons permit? I think that's a much more reasonable approach than looking at it on a case-by-case basis and allowing that to happen. Therefore, I'm going to be voting to indefinitely postpone this Bill. Not because I don't care about victims and not because I haven't been scared and been a victim, but because I don't think the question before us is the right question. Thank you.

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

Senator MILLS: Mr. President and men and women of the Senate, I wasn't really planning to speak on this issue, but there are a couple of technical things that I think I'd like to point out. Number one, it is my memory that on every protection from abuse form there is a provision requiring the presiding justice to determine whether the order should restrict the defendant from possessing firearms, or any other dangerous weapons, at least for the duration of the order, which can be for up to a period of 2

years. I will represent to you that it's in the statute currently that the court has the power to order that the defendant not have in his or her possession any firearms at all for the duration of the order, whether it be a concealed firearm or a hunting rifle or any other firearm. And I have known of instances where a person with a collection of guns had to surrender the entire gun collection pursuant to an order issued by a check mark on this box where the judge said you've been violent in your home or you've been violent to your spouse and the sheriff is going home with you today and all of your guns, and any other dangerous weapons that you may have access to, are going to be removed from your house until I say otherwise. So I think we need to understand, first off, that the court now, presently, has very strong authority to deprive domestic abusers of their access to weapons. And it is, in fact, exercised and it is exercised every week in our district courts. The difficulty with the Bill that lies before us tonight is the one that was well articulated by Senator Kilkelly of Lincoln. And that is that this would impose an automatic 2 year penalty, in some cases. That is, it would be a penalty if you are the holder of a concealed weapons permit. It would be a penalty for you if you are not the holder of a concealed weapons permit that you have a hunting gun collection or some other collection of guns. You would still have the right to continue possessing them and have access to them and so forth. So it would be a very narrow, rather oddly imposed, penalty. But it has a certain twist to it that I think, in some cases, could be devastating. If you are a law enforcement official, a deputy sheriff, a Maine State police officer, a game warden, or a town cop, and if you get involved some evening in a one-to-one confrontation with your spouse, or with another member of your family, and if there is evidence presented in court that justifies a finding of abuse because of that conduct then the court issues an order that finds that person guilty of abuse. That means that person loses his, or her, employment for 2 years. Loses his job. I don't think that this would be lost on spouses who might be bringing a petition under this law. I will say to you that I have seen this law abused in both directions. I have seen people get away with abuse who should have been brought to court, who should have been thrown out of their houses, and should have been brought to justice. But I have also seen cases, any number of them, where the spouse that brings the action is the one really fomenting the abuse based on, in some cases, false testimony, because so often an abusive situation comes down to a one-on-one thing. Do you believe one spouse or do you believe the other? And sometimes, Lord knows, it's very hard to know who's telling the truth. But if you create a situation where the spouse of a police officer, or a law enforcement officer knows, in a highly emotional setting, that he or she has the power over that person's job for 2 years, let me tell you that this statute could be very severely abused in some circumstances if it were passed. I will end simply by reminding the chamber that the court presently has the authority to deprive people who are guilty of abuse from all access to all dangerous weapons, including firearms of every type. It seems to me that this is a situation that we should leave to the discretion of presiding justices who see these situations everyday. In my county, let me tell you, the district court judges know the people, in many cases, that they are dealing with and they know when an order of this kind is appropriate and they will issue it without hesitation. Thank you.

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

Senator O'GARA: Thank you Mr. President. Mr. President, before I make any comments, I'd like to pose a question. I want to make sure that I understand where everybody who is a Senator is, not so much sitting in the back of the room, but a Senator feels. So I pose a question to anybody in this chamber who would like to answer it. Who in this chamber sees this as a gun control Bill? Is there anyone?

THE PRESIDENT: The Senator from Cumberland, Senator O'Gara poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator O'GARA: Thank you. I just want to be very sure that there wasn't anybody in this chamber, other than some of those who might be sitting in the back of the room, who see this as a gun control issue. The first person to raise the issue has now left the chamber, the Senator from Waldo, Senator Longley. We're talking about a, you're glaring at me, Mr. President. Am I out of order?

THE PRESIDENT: The Chair would inform that the Senator needs to direct his comments and gestures to the President of the Chamber.

Senator O'GARA: How can I do that? When the Senator from Waldo, how can I do that, Mr. President? I'm not sure. All right, I understand. I apologize, Mr. President, and to the chamber.

The Senator from Waldo was the first one that brought up the word fear and it has now been mentioned 2 or 3 times. What we are talking about here is fear, ladies and gentlemen. We're not talking about gun control. This is not an issue of taking someone's right to own a gun, as some people around the halls may be suggesting on this Bill and two others that we are going to be talking about later on. This is not a gun control Bill. This is a Bill about fear. Now someone said that there had been no murders. No woman has been killed by someone, and occasionally it happens the other way around with a woman intimidating a man. But, for the most part, we're talking about men using the fact that they have a gun somewhere on their person as an intimidation factor. I cannot understand any woman in this chamber, any woman in this chamber, not understanding what this Bill is about. When is this legislature going to stand up on its hind legs and say it's finally time to send a message to the public, at large, that we the legislative body in this State, whether this is only a token issue to begin with or not, whether some people think it's only a piece of paper or not, whether it may save only one life or not, are finally going to say to the public at large on this issue, and the two coming later, that we are going to take a position? I have been in this legislature for sixteen years. Only one or two in this chamber have been here longer than me. I have never voted for, nor will I ever vote for, a Bill that takes away from a law-abiding citizen, and the emphasis is on law-abiding citizen, to hold, sell, buy, collect, or whatever, a gun. I cannot believe the Second Amendment people, all these other things that we are talking about here that are ignoring what the issue is about. The issue is about, by in large, men intimidating and threatening women and, in fact, someone who has even been mentioned in this discussion tonight, the children. The children and the loved ones of these women. Yes from time to time, a woman may come a week later or two weeks later or a month later and say judge, I want provision done away with. Most of the time it is because they have been threatened by their

male, their husband, their partner, their friend, or whatever you want to call them. This is not a Bill about the probably 95% of law-abiding men in this state. This is not a Bill about taking away the right of law-abiding men and, in the few cases, women to hold, collect, sell, transfer or whatever, guns. This is a tiny little step at saying to those, that small percentage of men. By the way, someone mentioned about judges. Judges in this state who continually see in favor of men and they continue to allow this to happen. Now I don't care if someone can get up and say that no woman has ever been murdered. Now isn't that wonderful to be able to be so comfortable and you can go home tonight and say boy oh boy, not one woman has ever been murdered by a man who has held a concealed weapon. The fact of the matter is the evidence clearly shows that a percentage of the women in this state. Now maybe that isn't your wife or your daughter or your aunt or your cousin or somebody, and God forbid that should ever happen. But you know what's going to happen is that this legislative body or the 120th or the 120-something is never going to take action, probably, until it finally happens to one of you. And I see the Senator, one Senator, I know I shouldn't do this, but I'm one of those, I don't have blinders. When I coach baseball they used to say I have rabbit ears because I heard all the people in the crowd telling me how I should have coached my team. And I don't have blinders and so I see people and I know I shouldn't be looking right ahead. But I see a Senator smiling and shaking his head. Ladies and gentlemen of the Senate, it is time for the Senate, for the Legislature, for the people of Maine, to finally say we're not asking you anymore, we are telling you that this state does not stand for domestic violence. This state will not stand any longer for women being intimidated on a daily basis by some macho man who is protected by people who think the Second Amendment is being abused here. I have hunter friends. I have gun collector friends. I have friends in that field. And they don't see this as a gun control law. Not the next two that we are going to be talking about. And it infuriates me. And I, for one, am no longer going to worry about what happens and, I'll say it before the President can gavel me down, in November by what sponsor I get or endorsement I get by a group, because I can defend to my friends who own guns and who are hunters that I didn't vote for a gun control Bill. I never have and I never will. But for some of the women who got up and talked about the fear that they have, the fear they have experienced. It is time, finally, for a legislative body in the State of Maine to say we have had enough. And however small a step you say this is, any of you. However you hide behind your little statements that this is going to work or whatever. I know that when I leave this chamber and this legislature, whether it be now or 2 years from now or 4 years now or whenever, I will not have to wake up some morning and talk about some woman who was murdered by a person with a concealed weapon or the other 2 Bills that are coming up. I will be able to live with myself. I will know that I did what I thought was best, regardless of what it did for me or didn't do for me later on. I am speaking for women around this state, maybe not in this chamber, although we have heard from a couple who we are speaking for, who are fearful for their life every day because someone that they fear can hold over their heads that they have on their person or they have the ability to have concealed a weapon that could kill them. Kill them. 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, just a couple of brief comments. One thing we need to remember, I know each and everyone of us are so concerned about domestic violence in this state. I serve on the board back home to help prevent domestic violence against children. And you must remember, I think it was pointed out by the good Senator from Somerset, and we've been looking at some of the laws as we have been sitting here and listening to the debate this evening, that this, in fact, these laws are in place at this point in time. I've also, working with constituents and people, have had an opportunity to have to deal with helping people get a protection order from violence. And one of the issues, the first thing the judge wants to know is does that person have weapons. And they can take those weapons. I think what we're doing here is certainly an issue we're all so concerned about, but what we're trying to do is to create another law that we already have laws in effect that handles this whole situation. And the other thing is, fortunately, we do have a low crime rate in this state, murder rate. We had a Bill before our committee, and I think some of the statistics if I remember correctly, we had 25 homicides last year, much, much to many, but a very small percentage compared to other states, and 14 of those were domestic violence. And I must tell you that out of those 14 of domestic violence, there were children and also men killed as well. It's not just women, although the biggest percent are women. We also lose children and a few men in the state, as well. And zero is what we should be looking for. And I agree and I think some of the previous speakers that talked about the abuse with drugs and alcohol. I know in our district, up in Washington County, we have one of the highest unemployment rates in the state. Therefore, I think, that is indicative of the high domestic violence rate we have up in our area. I think drug abuse is high in certain parts of the state. And all these things are related. And I think this particular issue, to zero in on this, to think that this is going to have a big effect. I just think that if a person decides they are going to do harm to somebody, it doesn't matter whether they have a concealed weapon or 14 weapons. They are going to do it. And a concealed weapon thing, I don't think is going to be the issue. If the judge didn't have the authority now and I know that a judge will ask do you have weapons? I mean this is a situation where we are creating a law that I think we don't need. Therefore, I have to respect the opinions of others and I feel just as emotional, compassionate about all of you about domestic violence. I think it's one of the worse fears that a family must have to go through. But I still will have to support the pending motion and thank you, Mr. President.

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

Senator BENOIT: Thank you Mr. President. May it please Senate. I rise to reason with you. I want to have you please understand my agenda. And I reach for my briefcase and show you my sticker. Domestic violence feeds on silence. I've carried that for 6 years, as you know, on my briefcase. I am no Johnny-come-lately to the subject. For 15 years as a district court judge, not one case did I deny a temporary protection from abuse order. Why not? I didn't dare not grant it. That's why. And judges today in the State of Maine; I'll give full credit. There is no judge, in my opinion, that would bypass the form and not check off the box in this area on firearms. Barring the defendant from their possession. Show me the judge that would do that and I will show you an irresponsible person. That does not happen.

Whenever, in the cases as I had, I found there was a firearm, I had it surrendered to either the law enforcement folks locally, or to a responsible person. I disarmed the defendant and I didn't care how many concealed weapons permits that person had. I disarmed the person. To me there's your relief. And I mentioned that trying to reason with you because I have heard comments in the chamber tonight that do not surprise me about your concern. I didn't have to hear them, Mr. President. I know my peers in the chamber. I expected to hear their concerns voiced very well and I rise to reason with you. Please understand that this 2 year provision is defective and I will give you 2 reasons why. Show me the case where you would agree that after a case is over, nevertheless, the bail is continued. Show me that case. It will not exist. Will it? When a case is done, over with, we'll continue the bail for 2 years. No way. And show me the case where when you serve your sentence, Mr. President, you still remain in jail, habeas corpus will spring you out in 5 minutes because that's illegal. And yet here, for 2 years we're going to carry on a denial by a law to a person. Senator Ruhlman, the good Senator from Penobscot, said it well. He brought up the point. He hit the nail right on the head. I rise to reason. What is it that protects our people? The protection order itself has the word in it, protect. There is no protection in a concealed weapons permit document. None whatsoever. It's the protection order that protects. This Bill doesn't say much for the law we put on the books in these cases to protect people, does it? This doesn't say much for the law. It doesn't say much for the bench, either, for that matter. When the court has the authority to disarm the person, that's the complete relief. Disarm the person. You don't care how many permits they possess. It won't do a bit of good. I'll be voting for indefinite postponement, because I believe the Bill is flawed. It is not necessary. The protection order protects. I did rise to reason with you. I have full confidence in the court that it will handle this issue under existing law. Thank you, Mr. President.

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

Senator NUTTING: Thank you Mr. President. Mr. President, permission to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator NUTTING: Thank you Mr. President. I wasn't able to make my caucus. I had to go home and milk some cows tonight. I heard that in every case when a judge who's dealing with a protection from abuse order has taken the guns away. And I've heard, I think tonight, that in some cases judges when they are dealing with a protection from abuse order, do not take the guns away. My question that I'd like to pose is, are there cases when judges are dealing with protection from abuse orders, are there cases where they do not take the guns away?

THE PRESIDENT: The Senator from Androscoggin, Senator Nutting 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 Mr. President. In response to the question posed by the good Senator from Androscoggin, the current law authorizes the judge to take the weapons if the judge makes certain findings as a part of the protective proceedings. We were presented with some information by the Chief Judge of

the District Court who talked to us about his particular practice, and it was his practice that not on all occasions are the guns taken. They make a judgment based upon the facts and evidence that are presented to them. And on some occasions that judge has ordered, checked the box if you will, it's been described, and ordered that the guns be seized. On other circumstances the guns are not seized.

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

Senator **NUTTING:** Mr. President and men and women of the Senate, this is, to me, the guts of this issue. There are cases where the guns are not removed when a judge is dealing with a protection from abuse order. I don't care if it's just one case. In my opinion, this Bill takes a step in the right direction and I'll be voting to oppose the pending motion. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President. This issue certainly is a testy one. I guess when it comes right down to it, and listening to all of the debate, the problem hinges around the gun. I've never heard of a person being shot by a concealed weapons permit. And I would think that if anyone has reached the mental attitude of wanting to do injury to his or her spouse and they own a handgun, regardless of whether or not the judge has taken away their concealed weapons permit, and as long as they own that gun, I think the concealed weapons permit, as such, is kind of academic. I believe if our efforts were directed, perhaps, to require the judge to, in the case of a court order being handed down, a protection order. If the judge were automatically, perhaps, required to seize the weapons from this individual, probably we would be accomplishing something because of the state of mind that that person has reached. But to take away the permit, which is nothing more than a piece of paper at that point and time, doesn't seem to me to be the real culprit here. I'd like to see something done in that regard and whether, through our legal system, we can insist that the judges automatically revoke all weapons from an individual when there is such a restraining order issued. Certainly, I think, that's worthy of support. But to just take away a piece of paper from an individual and let him retain the guns when he's in that state of mind, I really don't think it accomplishes much, Mr. President. Thank you.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, one of the earlier speakers asked a question whether this Bill is about gun control. Of course it's about gun control. I hope that it's about gun control. Because if this Bill is about fear control, we will never be successful with this Bill, or with any other Bill. Mr. President, I think we have been here too long. I think it's time that we adjourn, Sine Die. Why? Because I think we have an inflated view of ourselves. I think that this debate, here today, suggests that we can eliminate fear through passing a Bill, through passing this Bill. Well, for one thing, this Bill is not about concealed weapons, it's about concealed firearms. And there's a large difference between a concealed weapon and a concealed firearm. But more importantly, fear is

not ultimately about a weapon, a knife, a gun, a blackjack, a fist. It is about attitude. It's about control. It's about a lot of things. But it's not about guns. One other thing, I don't think that any of us are immune, in this chamber, from acts of violence. Little acts of violence. The threat of violence. Indeed, I know that there are members in this chamber today who are thinking about this, right this very minute. I know that there are members of this chamber who do not feel protected here. Who have loved ones who are being threatened this very day. And I do not think that it serves the debate well to suggest that we are immune, we are not thinking about this, because I believe that every member of this chamber, whether they are going to be voting for indefinite postponement or not, cares not only about domestic violence but cares about fear and threats of violence that pervade our society. I've been touched by it, and I know that every other member here has been in one way or another. So whatever the result of this vote today, I hope we leave here not saying well, that was a vote against or for the abolition of domestic violence. I hope this debate contributes to the public understanding of this great problem. And that we agree to leave here understanding that every member of this Senate wants to do something and the question is about what can we do that will be effective, competent, perhaps constitutional. That is my hope, whenever this debate ends, that we will leave in that spirit. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Murray to accept the Majority Ought to Pass as Amended report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#323)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CASSIDY, DAVIS, FERGUSON, HARRIMAN, KIEFFER, KILKELLY, LIBBY, MACKINNON, MICHAUD, MILLS, MITCHELL, RUHLIN, SMALL

NAYS: Senators: BERUBE, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KONTOS, LAFOUNTAIN, LONGLEY, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: CAREY

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** Bill and accompanying papers, in concurrence, **FAILED**.

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

Senate at Ease.

Senate called to order by the President.

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 Implement Municipal Recommendations Regarding Surface Water Use on Great Ponds" (EMERGENCY)
H.P. 1925 L.D. 2671

READ A SECOND TIME.

On motion by Senator **GOLDTHWAIT** of Hancock, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, in concurrence.

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

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

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

On motion by Senator **PINGREE** of Knox, **ADJOURNED**, until Wednesday, April 5, 2000, at 9:00 in the morning.