

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

In Senate Chamber
Monday
April 3, 2000

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

Prayer by Father Steven White of St. Andrews Episcopal Church of Newcastle.

FATHER WHITE: Let us pray. Almighty God, the author and giver of all that is good, the source of all that is blessed, the bearer of all that is true, we invoke Your name and presence here today. We give thanks that You have called this land and this state to a place of trust and responsibility in the world and to the world. We ask You for protection. But even more, we seek Your guidance. We ask You for knowledge. But even more, we hope for imagination. We ask for strength. But even more, we need Your grace that we might become the kind of people who alter the temper of our times, who champion peace, and who seek to spread justice, honor, humility, and righteousness in all that we are and all that we do. Make us over according to Your will, oh God. Watch over our goings out and our comings in. Rule in our decisions. Preserve us from discouragement, intolerance, and pride. Finally we ask Your blessing upon this Senate and upon all who work and counsel together in this place. We may be encouraged by the support of our fellow citizens. May we be heartened by the company of one another and may we be inspired by the trust that we have been given and the work that is before us this day. Blessed be the name of our God, both now and ever more. Amen.

Pledge of Allegiance led by Senator Lloyd P. LaFountain III of York County.

Reading of the Journal of Friday, March 31, 2000.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from 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
(C "A" S-555)

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-555)** (6 members)

In Senate, March 27, 2000, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-555)**.

Comes from the House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, 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 Promote Workplace Safety"

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

In Senate, March 29, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-948)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-948) AS AMENDED BY HOUSE AMENDMENT "A" (H-999)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Clarify the Rule-making Authority of the Commissioner of Human Services in Relation to Health Maintenance Organizations and Other Health Plans" (EMERGENCY)

S.P. 881 L.D. 2296

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-608)** (8 members)

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

In Senate, March 30, 2000, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-608)**, in **NON-CONCURRENCE**.

On motion by Senator **LAFOUNTAIN** of York, the Senate **ADHERED**.

Off Record Remarks

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

The 240th Anniversary of the Incorporation of Lincoln County. Lincoln County, the 3rd county created in the territory of Maine, was named after Lincoln, England in 1760, 60 years before statehood. We extend our congratulations and best wishes to the good citizens of Lincoln County on this occasion;

SLS 474

Sponsored by Senator KILKELLY of Lincoln. Cosponsored by Representative RINES of Wiscasset, Representative HONEY of Boothbay, Representative PEAVEY of Woolwich, Representative PIEH of Bremen, Representative TRAHAN of Waldoboro.

READ.

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

Senator **KILKELLY:** Thank you Mr. President. Men and women of the Senate, it's delightful to be here today on Lincoln County Day to celebrate the 240th anniversary of our fair county. I want to also take this opportunity to extend an invitation to all of you to visit the 30 plus displays and demonstrations around the 2nd and 3rd floor that service a very tiny representation of all the really wonderful things that are happening in our county. I want to also take this moment to talk a little about what was going on 240 years ago when Lincoln, in fact, became a county. Some interesting points I found from downstairs, the population of the entire region, the entire colonial region was 1.6 million people, only slightly larger than the population currently of the state. In the region of Maine, there were eight attorneys. The first bifocals were created by Ben Franklin who wrote that he tired of carrying two pairs of glasses and it was time to only have one. The greatest transportation development at the time was the Conestoga wagon which was heralded as the wave of the future in terms of transportation issues. There had been a devastating hurricane in 1760, which had laid waste to many of the villages. The members of the assembly in Massachusetts brought forth a petition because of the challenges of people getting to the Shiretown of York and their concerns were that the inhabitants of the eastern parts of said county, having long labored under extreme difficulties, charge an expensive time in traveling to York the Shiretown to transact all of their public business at the courts and offices held there, which is within eight miles of the westerly end of the county, except for some small business that the interior court held once a year in Falmouth, which county is 130 miles long from St. Georges to the Piscataqua River. It seems that one of the things that remains the same is that we will have issues that are brought forth from our constituents that we try to get something done about it. And I'm very grateful that the folks 240

years ago decided that it was time to create a new county and I'm very pleased to be now the Senator representing that county. I'm also pleased to note that the Town of Wiscasset, the Shiretown of Lincoln County is also celebrating their 240th anniversary this year. And I'm also pleased that we have two of the county commissioners here with us today, John O'Connell and Bill Blodgett, who have joined us on this great occasion.

PASSED.

THE PRESIDENT: The Chair is pleased to recognize in the Chamber, County Commissioners from the County of Lincoln, John O'Connell and Bill Blodgett, and ask them to rise and receive the greetings of the Senate.

Sent down for concurrence.

Zachary Grove, of Hampden, who won the Prudential Spirit of Community Award for the middle school level from the National Association of Secondary School Principals and the Prudential Insurance Company. We send our best wishes to Zachary on this occasion; SLS 464

Sponsored by Senator MITCHELL of Penobscot. Cosponsored by Representative PLOWMAN of Hampden.

READ.

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

Senator **MITCHELL:** Thank you Mr. President. Good morning ladies and gentlemen in the Senate, it is a privilege and a honor to have with us this morning Zachary Groves who was named as Maine's top middle level student volunteer in the 5th annual Presidential Spirit of Community Awards. This is a nation-wide program that recognizes young people for outstanding community service. Zachary will receive a \$1,000 scholarship award, an engraved silver medallion, and a trip to Washington D.C., May 6th to the 9th for a series of special recognition events. We are very fortunate to have him with us this morning with his mother Laurie and his sister Hannah. Thank you.

PASSED.

THE PRESIDENT: The Chair is pleased to recognize in the Chamber, Zachary Grove and his mother Laurie and his sister Hannah. Would they please rise and receive the greetings of the Senate.

Sent down for concurrence.

Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of:

Barbara Cooney, of Damariscotta, renowned author and illustrator of more than 100 children's books during her 60-year career, including such favorites as Miss Rumphius and Island Boy. Ms. Cooney's family had deep roots in Maine and she was a regular visitor to Maine during her childhood. She moved to Damariscotta 17 years ago. Her stories, many of which are set in Maine, have been translated into 10 languages and have helped to show the history and culture of Maine to the children of the world. Barbara Cooney was a winner of the National Book Award and twice the winner of the prestigious Caldecott Medal. She was named a Maine State Treasure by Governor Angus King on December 12, 1996, Barbara Cooney Day. Ms. Cooney became a benefactor of the Skidompha Public Library in Damariscotta, enabling the library to plan a new facility. She will be greatly missed by her loving family, her many friends and by the countless readers of her books;

SLS 457

Sponsored by Senator KILKELLY of Lincoln.
Cosponsored by Representative PIEH of Bremen.

READ.

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

Senator **KILKELLY:** Thank you Mr. President. Men and women of the Senate, part of what makes Lincoln County a great county is that we are filled with marvelous people and those people really make up the fabric of our county and the fabric of our communities. One of the folks who was a real shining light in our community was Barbara Cooney. But what's important is we also know that we share her with people, not only around the state and around the country, but around the world. And the fact that her books have been translated into ten languages and do, in fact, represent Maine and what Maine's about is something that we all should take pride in and know that she left us that. She left us those wonderful memories, the wonderful opportunity to present who we are to the world, and particularly to the children of the world. So we take time today to celebrate our county, but it also seemed very appropriate to take time today to remember and celebrate the life of Barbara Cooney. And I'm very pleased that we could do that today and I'm pleased that her son has been willing to join us today and do ask that when we adjourn today, they we do adjourn in memory of Barbara Cooney who was a member of our community and a member of our county, but also a wonderful member of the world. Thank you.

ADOPTED.

Senate at Ease.

Senate called to order by the President.

Sent down for concurrence.

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Provide Consumer Safety Certification for Snowmobiles and All-terrain Vehicles"
H.P. 1873 L.D. 2610

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-988).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-988).**

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

READ ONCE.

Committee Amendment "A" (H-988) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Enhance Public Safety By Updating the Laws Pertaining to Explosives and Flammable Liquids"
H.P. 1766 L.D. 2479

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-986).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-986).**

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

READ ONCE.

Committee Amendment "A" (H-986) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Revitalize Teacher Certification"
H.P. 1763 L.D. 2469

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-997)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-997)**.

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

READ ONCE.

Committee Amendment "A" (H-997) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **JUDICIARY** on Bill "An Act to Correct the Inadvertent Repeal of the Abandoned Property Disposition Process for Municipalities"

H.P. 1845 L.D. 2582

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1000)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1000)**.

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

READ ONCE.

Committee Amendment "A" (H-1000) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **TAXATION** on Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 2000-01" (EMERGENCY)

H.P. 1831 L.D. 2567

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-989)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-989)**.

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

READ ONCE.

Committee Amendment "A" (H-989) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act Relating to Telemarketing"

H.P. 1855 L.D. 2591

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-998)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-998)**.

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

READ ONCE.

Committee Amendment "A" (H-998) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation or Parole"

H.P. 1875 L.D. 2612

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

Signed:

Senators:

MURRAY of Penobscot
O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

CHIZMAR of Lisbon
SHERMAN of Hodgdon
TOBIN of Dexter
POVICH of Ellsworth
PEAVEY of Woolwich

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-946)**.

Signed:

Representatives:

McALEVEY of Waterboro
MUSE of South Portland
O'BRIEN of Augusta
QUINT of Portland

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "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

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-969)**.

Signed:

Senators:
DOUGLASS of Androscoggin
MILLS of Somerset

Representatives:
HATCH of Skowhegan
MUSE of South Portland
GOODWIN of Pembroke
MATTHEWS of Winslow
SAMSON of Jay
DAVIS of Falmouth
MacDOUGALL of North Berwick
TREADWELL of Carmel

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

Signed:

Representative:
MACK of Standish

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-969)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-969) **READ** and **ADOPTED**, in
concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Joint
Study Order to Establish a Committee on Gasoline and Fuel
Prices H.P. 1774

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-957)**.

Signed:

Senator:
PARADIS of Aroostook

Representatives:
FISHER of Brewer
SANBORN of Alton
WHEELER of Eliot
JABAR of Waterville
BOUFFARD of Lewiston
WHEELER of Bridgewater

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

Signed:

Senators:
O'GARA of Cumberland
CASSIDY of Washington

Representatives:
COLLINS of Wells
CAMERON of Rumford
LINDAHL of Northport
SAVAGE of Union

Comes from the House with the Majority **OUGHT TO PASS AS
AMENDED** Report **READ** and **ACCEPTED** and the Joint Study
Order **PASSED AS AMENDED BY COMMITTEE AMENDMENT
"A" (H-957)**.

Reports **READ**.

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

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

Senate

Ought to Pass As Amended

Senator O'GARA for the Committee on **TRANSPORTATION** on Bill "An Act to Increase the Penalty for Leaving the Scene of a Motor Vehicle Accident"

S.P. 942 L.D. 2472

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-615)**.

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

READ ONCE.

Committee Amendment "A" (S-615) **READ** and **ADOPTED**.

LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Prohibit Persons Under 21 Years of Age from Purchasing Handguns"

S.P. 1005 L.D. 2573

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

Signed:

Senator:

DAVIS of Piscataquis

Representatives:

SHERMAN of Hodgdon
TOBIN of Dexter
McALEVEY of Waterboro
POVICH of Ellsworth
PEAVEY of Woolwich
O'BRIEN of Augusta

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-611)**.

Signed:

Senators:

MURRAY of Penobscot
O'GARA of Cumberland

Representatives:

FRECHETTE of Biddeford
QUINT of Portland
CHIZMAR of Lisbon
MUSE of South Portland

Reports **READ**.

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

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

ENACTORS

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

Emergency Measure

An Act to Regulate the Sea Cucumber Fishery

S.P. 921 L.D. 2372
(C "A" S-542)

This being an Emergency Measure and 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 Measure

An Act to Facilitate the Implementation of the E-9-1-1 System

S.P. 939 L.D. 2389
(C "A" S-560)

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

Act

An Act to Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to Review of the State Board of Pesticides Control Under the State Government Evaluation Act

H.P. 1893 L.D. 2634

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

Resolve

Resolve, to Require an Examination of Distributed Generation

H.P. 1691 L.D. 2397
(C "A" H-856)

FINALLY PASSED and having been signed by the President was presented by the Secretary to the Governor for his approval.

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

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

COMMUNICATIONS

The Following Communication: H.P. 1918

JOINT STANDING COMMITTEE ON TRANSPORTATION

March 30, 2000

MEMO TO: The Honorable Mark W. Lawrence, President of the Senate
The Honorable G. Steven Rowe, Speaker of the House

FROM: S/Senator William B. O'Gara, Senate Chair
S/Representative Joseph M. Jabar, Sr., House Chair

RE: Government Evaluation Act Review of the Department of Secretary of State, Bureau of Motor Vehicles.

We are pleased to submit the report of the Joint Standing Committee on Transportation with respect to our review of the Department of the Secretary of State, Bureau of Motor Vehicles pursuant to the Government Evaluation Act, Maine Revised Statutes, Title 3, chapter 35.

A copy of our report is attached. The committee has found that the Bureau is effectively carrying out its statutory mandate to enhance roadway safety by ensuring the accuracy of motor vehicle records and the integrity of driver licensing services and providing efficient and convenient services to Maine citizens.

We have, however, found that new challenges are facing the Bureau. The Joint Standing Committee on Transportation will report out legislation to clarify procedures for the Bureau to electronically process vehicle registrations. Our thinking is outlined in our report and background information is contained in the Bureau's GEA report to the Committee.

Thank you.

Comes from the House, **READ** and with accompanying papers **ORDERED PLACED ON FILE**.

READ and with accompanying papers **ORDERED PLACED ON FILE**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish and Fund Conflict Resolution Programs in the Public Schools"

H.P. 928 L.D. 1305

Reported that the same **Ought to Pass As Amended by Committee Amendment "B" (H-1005)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1005)**.

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

READ ONCE.

Committee Amendment "B" (H-1005) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on **MARINE RESOURCES** on Bill "An Act to Establish an Appeals Process for License Denial Under Limited-entry Fisheries"

H.P. 1847 L.D. 2584

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-1003)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1003)**.

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

READ ONCE.

Committee Amendment "A" (H-1003) **READ** and **ADOPTED**, in concurrence.

LATER TODAY ASSIGNED FOR SECOND READING.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Create a State-sponsored Voluntary Logger Certification Program"
H.P. 1792 L.D. 2512

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

Signed:

Senators:

- NUTTING of Androscoggin
- KILKELLY of Lincoln
- KIEFFER of Aroostook

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-991)**.

Signed:

Representative:

- VOLENIK of Brooklin

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

Reports **READ**.

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

Off Record Remarks

ORDERS OF THE DAY

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

Constitutional Resolution

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow Persons with Mental Illness to Vote
H.P. 1514 L.D. 2162
(H "A" H-850 to C "A" H-796)

Tabled - March 21, 2000, by Senator **CATHCART** of Penobscot.

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 15, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-796) AS AMENDED BY HOUSE AMENDMENT "A" (H-850)** thereto, in concurrence.)

(In House, March 21, 2000, **FINALLY PASSED**.)

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

Senator **MICHAUD** of Penobscot was granted unanimous consent to address the Senate off the Record.

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

An Act to Amend the Felony-operating-under-the-influence Laws
H.P. 1700 L.D. 2406
(C "A" H-810)

Tabled - March 14, 2000, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, March 7, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-810)**, in concurrence.)

(In House, March 9, 2000, **PASSED TO BE ENACTED**.)

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

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

An Act to Support and Expand the Maine Writing Project
H.P. 1708 L.D. 2414

(C "A" H-859)

Tabled - March 23, 2000, by Senator **HARRIMAN** of Cumberland.

Pending - **ENACTMENT**, in concurrence

(In Senate, March 16, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-859)**, in concurrence.)

(In House, March 22, 2000, **PASSED TO BE ENACTED**.)

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

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

Constitutional Resolution

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow the Legislature to Provide for Assessment of Property Used for Commercial Fishing at Current Use

H.P. 1716 L.D. 2422
(C "A" H-820)

Tabled - March 15, 2000, by Senator **MICHAUD** of Penobscot.

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 9, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-820)**, in concurrence.)

(In House, March 14, 2000, **FINALLY PASSED**.)

This being an Constitutional Amendment, in accordance with the provisions of Section 4 of Article X of the Constitution, having received the affirmative vote of 24 Members of the Senate, with no Senator having voted in the negative, and 24 being two-thirds of the Members present and voting, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Secretary of State.

Senate at Ease.

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

HOUSE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "An Act to Limit Lobster Management Zones to State Coastal Waters"

H.P. 1675 L.D. 2341

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-949)** (8 members)

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

In House, March 30, 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-949)**.

In Senate, March 31, 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 **GOLDTHWAIT** of Hancock, the Senate **INSISTED**.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **MURRAY** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Implement the Recommendations of the 118th Legislative Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators" S.P. 111 L.D. 308

Reported that the same **Ought to Pass As Amended by Committee Amendment "B" (S-621)**.

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

READ ONCE.

Committee Amendment "B" (S-621) **READ** and **ADOPTED**.

LATER TODAY ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/29/00) Assigned 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)

Tabled - March 29, 2000, by Senator **DOUGLASS** of Androscoggin.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence (Roll Call Ordered)

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

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following results:

ROLL CALL (#314)

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

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

ABSENT: Senator: RUHLIN

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **FAILED**.

Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Bill "An Act to Restrict Passengers in the Vehicle of a Newly Licensed Driver"
H.P. 1744 L.D. 2450

Tabled - March 31, 2000, by Senator **AMERO** of Cumberland.

Pending - motion by Senator **O'GARA** of Cumberland to **ADOPT SENATE AMENDMENT "D" (S-609) TO COMMITTEE AMENDMENT "A" (H-847)**

(In House, March 29, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847) AS AMENDED BY HOUSE AMENDMENT "B" (H-904)** thereto, in **NON-CONCURRENCE**.)

(In Senate, March 31, 2000, on motion by Senator **O'GARA** of Cumberland **RECEDED** from **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847)**. On further motion by same Senator **RECEDED** from **ADOPTION OF COMMITTEE AMENDMENT "A" (H-847)**. House Amendment "B" (H-904) to Committee Amendment "A" (H-847) **READ** and **ADOPTED**, in concurrence. On further motion by same Senator, Senate Amendment "D" (S-609) to Committee Amendment "A" (H-847) **READ**.)

On motion by Senator **O'GARA** of Cumberland, Senate Amendment "D" (S-609) to Committee Amendment "A" (H-847) **ADOPTED**.

Committee Amendment "A" (H-847) as Amended by House Amendment "B" (H-904) and Senate Amendment "D" (S-609) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847) AS AMENDED BY HOUSE AMENDMENT "B" (H-904) AND SENATE AMENDMENT "D" (S-609) thereto, in **NON-CONCURRENCE**.

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.

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

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

ENACTORS

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

Emergency Measure

An Act to Harmonize State Financial Services Laws with Federal Law

S.P. 1007 L.D. 2574
(C "A" S-589)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with no Senators having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act to Provide Education Benefits For Maine National Guard Members

S.P. 1017 L.D. 2585
(C "A" S-583)

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

Emergency Resolve

Resolve, Authorizing the Commissioner of Inland Fisheries and Wildlife to Allow a Well and Waterline Easement

S.P. 1040 L.D. 2622

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 **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act to Amend the Law Enforcement Officer Certification Standards

S.P. 215 L.D. 637
(C "A" S-578)

An Act to Amend the Qualifications of Weighmasters

H.P. 848 L.D. 1182
(C "A" H-952)

An Act Regarding Promoting Access to Transportation

S.P. 588 L.D. 1668
(C "A" S-595)

An Act to Improve Business Entity Filings and Authorize Mergers, Consolidations and Conversions of Various Business Entities

H.P. 1639 L.D. 2290
(C "A" H-965)

An Act to Increase Access to High-quality Jobs Through the Federal Workforce Investment Act

S.P. 957 L.D. 2498
(C "A" S-577)

An Act to Clarify Terms of Appointment to the Advisory Committee on Family Development Accounts

S.P. 1041 L.D. 2623

An Act to Strengthen the Habitual Motor Vehicle Offender Law

H.P. 1886 L.D. 2625

An Act to Amend the Laws Regarding the Board of Licensure of Water Treatment Plant Operators

S.P. 1060 L.D. 2654

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 Amend the Lobbyist Registration Fee Provisions

S.P. 503 L.D. 1504
(C "B" S-582)

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

An Act to Encourage Funding for Applied Research and Development Relevant to the Maine Economy

H.P. 1081 L.D. 1528
(C "A" H-927)

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

An Act to Promote Bone Marrow Donation

S.P. 916 L.D. 2368
(C "A" S-596)

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

An Act to Establish an Office of Women's Health
S.P. 923 L.D. 2374
(C "A" S-585)

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

An Act to Appropriate Funds to the Forum Francophone
H.P. 1750 L.D. 2456
(C "A" H-907)

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

An Act to Fund the Lakes Heritage Trust Fund
H.P. 1764 L.D. 2470
(C "A" H-972)

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

An Act to Support Child Care Education and Services
S.P. 963 L.D. 2505
(C "A" S-580)

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

An Act to Establish the Applied Technology Development Center System
H.P. 1785 L.D. 2506
(C "A" H-962)

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

An Act to Improve Educational Programming at Juvenile Correctional Facilities
H.P. 1872 L.D. 2608
(C "A" H-956)

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

Resolves

Resolve, Regarding Services for Older Persons with Mental Illness
S.P. 964 L.D. 2513
(C "A" S-586)

FINALLY PASSED and having been signed by the President was presented by the Secretary to the Governor for his approval.

Resolve, Regarding Access to Marijuana for Medical Use
S.P. 1012 L.D. 2580
(C "A" S-597)

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

Bill "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)

Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 2000-01" (EMERGENCY)
H.P. 1831 L.D. 2567
(C "A" H-989)

Bill "An Act to Correct the Inadvertent Repeal of the Abandoned Property Disposition Process for Municipalities"
H.P. 1845 L.D. 2582
(C "A" H-1000)

Bill "An Act Relating to Telemarketing"
H.P. 1855 L.D. 2591
(C "A" H-998)

Bill "An Act to Provide Consumer Safety Certification for Snowmobiles and All-terrain Vehicles"
H.P. 1873 L.D. 2610
(C "A" H-988)

Bill "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)

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

Senate As Amended

Bill "An Act to Increase the Penalty for Leaving the Scene of a Motor Vehicle Accident"
S.P. 942 L.D. 2472
(C "A" S-615)

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 Establish and Fund Conflict Resolution Programs in the Public Schools"
H.P. 928 L.D. 1305
(C "B" H-1005)

Bill "An Act to Establish an Appeals Process for License Denial Under Limited-entry Fisheries"
H.P. 1847 L.D. 2584
(C "A" H-1003)

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

Senate As Amended

Bill "An Act to Implement the Recommendations of the 118th Legislative Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators"
S.P. 111 L.D. 308
(C "B" S-621)

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:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Establish State Death Benefits for State Police Officers Killed in the Line of Duty"

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

In Senate, March 28, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-579).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-579) AS AMENDED BY HOUSE AMENDMENT "A" (H-1002)** thereto, in **NON-CONCURRENCE.**

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Limit the Issuance of Concealed Firearms Permits" H.P. 1771 L.D. 2484

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-922).**

Signed:

Senators:

MURRAY of Penobscot
O'GARA of Cumberland

Representatives:

FRECHETTE of Biddeford
CHIZMAR of Lisbon
MUSE of South Portland
SHERMAN of Hodgdon
QUINT of Portland

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

Signed:

Senator:

DAVIS of Piscataquis

Representatives:

TOBIN of Dexter
McALEVEY of Waterboro
PEAVEY of Woolwich
POVICH of Ellsworth

Comes from the House with the Reports **READ** and Bill and accompanying papers **INDEFINITELY POSTPONED.**

Reports **READ.**

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

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act to Ensure Cost Effective and Safe Highways in the State" S.P. 992 L.D. 2550

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-622).**

Signed:

Senators:

O'GARA of Cumberland
PARADIS of Aroostook

Representatives:

FISHER of Brewer
COLLINS of Wells
SANBORN of Alton
CAMERON of Rumford
WHEELER of Eliot
LINDAHL of Northport
JABAR of Waterville
BOUFFARD of Lewiston
SAVAGE of Union

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

Signed:

Senator:

CASSIDY of Washington

Representative:

WHEELER of Bridgewater

Reports **READ.**

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "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

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-950)** (8 members)

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

Tabled - March 31, 2000, by Senator **GOLDTHWAIT** of Hancock.

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

(In House, March 30, 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-950)**.)

(In Senate, March 31, 2000, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-950) **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-950)**, in concurrence.

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

Off Record Remarks

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

Bill "An Act to Establish a Targeted Need Teacher Certificate"
S.P. 886 L.D. 2301
(C "A" S-610)

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

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-610)**

(In Senate, March 31, 2000, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-610)**. Subsequently, on motion by Senator **LAFOUNTAIN** of York, **RECONSIDERED**.)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-610).

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later (3/29/00) Assigned 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)

Tabled - March 29, 2000, by Senator **NUTTING** of Androscoggin.

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

(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, March 29, 2000, Reports **READ**.)

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

Senator **DAGGETT:** Thank you Mr. President. Members of the Senate, there have been some questions raised regarding this Bill and I would like to briefly address a couple of them in an effort to clarify the current practice in the State of Maine. As you probably know, this Bill would allow people in the State of Maine to place telephone bets on races within the State of Maine, either through an OTB facility or at one of the commercial tracks. There have been questions raised regarding the current ability of citizens to use credit cards for betting purposes. Today, in the State of Maine, credit cards may be used if you are physically at the

facility. They can be used in one of several ways, one of which is through a cash advance from ATM machines that are located there and also there are companies that process credit cards. So credit cards may be used for on-sight betting at Maine facilities today. Currently, you may not bet by telephone to a facility today. You can only place your bets in person. The purpose of the Bill is to allow people to be able to place bets that keep the bet inside the State of Maine and the money would go to support our harness racing industry. Today Maine citizens can bet on races that are outside the state through an out-of-state facility and none of that money goes to support our harness racing industry. The only change that this Bill would provide is that people in Maine can bet on races within Maine. I hope that you will support the majority report. This was a Bill that many of us felt was appropriate to continue to support our harness racing industry here in the State of Maine.

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

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

Senator **NUTTING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I want to thank the good Senator from Kennebec, Senator Daggett, for clarifying what you can do now with the credit card and betting and what you can't. I had heard that up until now, you couldn't bet anywhere on harness racing with a credit card. I now understand that's not true. I understand that you can, indeed, take a credit card to an OTB facility and use it and I understand that you can use a credit card from your home and bet on a harness race out of state. And so I don't really like this type of betting with a credit card, but I think the situation we're in, I have to reluctantly support this Bill. I just feel without allowing our harness horsemen to benefit the same benefits that they do in any other state, really puts them in a disadvantage. Thank you very much.

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

Senator **FERGUSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I do concur with Senator Daggett, who's the Chair of the Legal and Veterans Affairs Committee, and I'm not going to be redundant on what she said. But, in essence, all this does is it allows a person who wants to make a telephone wager to have a deposit at the off-track betting facility. They can call in and place a wager. In my judgment, it's not expanding the gambling in any form or in any matter. They can now do this with a facility in Pennsylvania. What it would do is give our off-track betting operators an opportunity to play on an even playing field. I would hope you would support the 11 to 2 majority Ought to Pass report. Thank you Mr. President.

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

Senator **CASSIDY:** Thank you Mr. President. Mr. President, I would like to pose a question through the Chair, if I might?

THE PRESIDENT: The Senator may pose his question.

Senator **CASSIDY:** To anyone who could answer. I would like to know what percentage of these bets that we raise annually go to support our horse racing here in the state. Thank you, Mr. President.

THE PRESIDENT: The Senator from Washington, Senator Cassidy poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Daggett.

Senator **DAGGETT:** Thank you Mr. President. Members of the Senate, I do not have a specific answer for the Senator from Washington, Senator Cassidy, but there are statutory percentages for the assignment of the revenues that come from harness racing. I would be pleased to take the time to go look those up, but there is no change in this Bill to the traditional distribution of funds to the variety of arenas. I would also beg the Senate's indulgence. There was one item which I forgot to mention when I was speaking earlier and that is I felt that it might be helpful if there was an understanding of actually how these tele-betting situations work. The general mechanism is that if someone wished to establish an account for tele-betting that they would send in or hand over cash and or a check and an application to actually open an account. The accounts are not opened by credit card. They need applications, there needs to be a review of the application, there needs to be verification that the bettor is of legal age. And then, once the account is established, the identification numbers are given to the person who wishes to have an account and then, if the account needs to be extended, it might be extended by a credit card. But the opening account is not set up with a credit card. Thank you.

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

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, I've not ever participated in gambling on harness racing. My exposure to it comes mainly through a gentlemen of my acquaintance who, when the rest of us are dragging out our family photograph albums, he gets out an album of his horses. And it was actually quite an interesting introduction to this type of event and clearly there is a lot of history and tradition in the State of Maine regarding harness racing, and I think it's a good one. But I don't quite understand what it is we're trying to preserve when we are allowing people to bet on their credit cards from their living rooms. That doesn't sound like the historic, traditional, sometimes family-related activity, getting out, going to the fair, watching the races, enjoying the fresh air. I'm not sure how that image in my mind of harness racing matches with someone sitting in their home and placing bets on a telephone. I'm not sure that, as I think of harness racing as an industry, that this is a positive direction to support just because other states allow this. There are a lot of other things that states allow that we don't in Maine and vice versa. I'm not sure why that's so compelling of an argument. We're making it awful easy to lose a lot of money here and if it wasn't based on most people losing money, this industry wouldn't be in existence in the first place. As gambling has been introduced in many different forums and in many different places, it often comes with reassurances that whoever the owner or the people who stand to make the profit from the industry bring with them support services for people who become addicted to gambling, which is, in my mind, is

a passive acknowledgment of the fact that that happens. Maine is not a state that has a lot of discretionary income. To make it even easier for people to be able to bet on these races without even the social aspects of going out and watching a couple of good races, seems to me to be a direction that I don't want to see Maine headed and I hope you will join me in opposing this Bill.

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

Senator **KIEFFER:** Thank you Mr. President. Ladies and gentlemen of the Senate, while I'm very supportive of our harness racing industry, this Bill has made me give a lot of thought to where we are going with this. For the past six months, getting ready to retire, I have been saving my credit card applications thinking that when I reach a cap of some \$10 million, I'd max them out and go to South America. And so far, I have handfuls like this. I'm concerned that certainly my credit rating is not any better than anyone else and if I've received this kind of mass in the mail declaring that your pre-approved or my wife is pre-approved, and my wife hasn't worked outside of the home since we have been married, and yet she's been pre-approved for all these credit limits, I would expect that many other people that probably can't afford to do this are going to get hooked into this possibility of betting with the increase in limit placed on their credit card. I get very disturbed about every other week when I open up the paper and I see a column of names this long in the bankruptcy court. I think that over-extension of credit certainly has contributed towards that. I'd do about anything in way of helping our fairs and our harness horse owners, but I'm not sure that this is going to be the answer. I've thought hard about the money that we have that's going out of state and I would hope that there would be a better way to stop that if we could only come up with a logical way to do it. The credit card part of this scares me right to death, ladies and gentlemen and therefore, I'll have to be voting against it. Thank you Mr. President.

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

Senator **CAREY:** Thank you Mr. President. I also serve on the Legal and Veterans Affairs Committee and as we close down public assembling places to smoking, this will, in fact, be a benefit to those people who like to play the horses, but who would be unable to go because of the smoking conditions, or the non-smoking conditions, that are taking place in some of these buildings and that's one of the reasons that I supported this.

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

Senator **FERGUSON:** Thank you Mr. President. Men and women of the Senate, I don't want to belabor the point. But as far as establishing these accounts, they may be established by cash or they may be established by check and also by credit cards. In regards to Senator Goldthwait, the good Senator from Hancock County, and her concerns of how it benefits racing, I would like to comment on that. A percentage of this wagering does go to support the horsemen and the harness racing industry. The good Senator from Washington asked a question, what percent is it? I certainly don't know and to my knowledge there is probably only one man in the State that does know, and that's Mr. Jackson who

works for the Department of Agriculture. It's a very complicated formula where percentages are split up and it would take a good half hour to go through the formula and then you probably wouldn't understand it. I know I didn't, but I hope that sheds a little light on the matter for before us. Thank you very much.

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 follow-up with my question and the answers that I received. I'm not necessarily really concerned about the formula and the logistics of how it works. I think the point is here, we don't know how many of thousands or even millions of dollars are raised through this. What percentage of that comes back to the harness racing? It could be such a small amount that it may not be worth the effort. We've seen these proposed gambling Bills come through here every which way but loose since I have been in this Chamber for the last six years. I can remember one, we had a possibility of one armed bandits and the argument there was well you can only bet \$2 at a time. Well we figured it out, how many times you could bet \$2 in 60 seconds and I think we configured that we could only lose \$1,500 an hour or something. So, these are the kinds of things that we have to watch out for. I think we've got sufficient gambling in the state. I think the legislature, over the years, has sort of made a statement that gambling that we have here with our Lotto tickets and the other things we allow, the horse racing, off-track betting, those things. I think that's kind of like the limit that I would like to see us have here in Maine. If you have read any of the articles in some of the other states that have allowed all sorts of gambling, there are all sorts of problems that have come along with it. I can remember reading an article that one of our good Senators brought in a few years ago from Minnesota where the crime rate has gone up, suicide rates have gone up, audits have gone up. Everything that can imagine and tied into gambling has been detrimental to those states. I just don't think that we have enough information, number one, about how much this would generate and I agree with so much with the good Senator from Hancock that I think that's getting away from the idea of the family fair and what we do. And also the good Senator from Aroostook, I know we have all gotten tons and tons of these credit cards. I had one come in the mail over the weekend that said that within ten minutes call, we can send you \$25,000. I almost did it, but I thought I would probably have to pay them back. So, I decided not to. I hope that you'll go and not support this pending motion. 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, this Bill isn't about credit cards and not about credit card gambling. Today we have that. Today that is allowed in the State of Maine. Earlier in the decade, when the issue of off-track betting came in front of the legislature at that time, it was in response to changes in the environment, concerns over the cash that was available to support the harness racing industry. There are few people who are close to this industry today that do not view the change to allow off-track betting as providing important, necessary, and vital income to the harness racing industry. That responded to the times, to the kinds of things that were happening then and to the incredible decline in revenue to the harness racing

industry. That is what is this Bill is about. This is about Maine's harness racing industry and the dollars that flow into that. Today you can sit at home in your armchair and place your bet on a far away race. The entire thing goes there. Nothing stays here. There is no different mechanism. There is no change. There is nothing. This Bill is about Maine's harness racing industry. When off-track betting was put into place, there was no significant tele-betting process. No dishes sitting outside people's homes, money going away to races all across the nation. Today there is. We have seen a significant decline in off-track betting and those facilities see the number of dollars that are flowing through these off-track betting sites that provide these dishes as siphoning big dollars out of our industry. That is what this Bill is about. Times change. We meet that change. We feel the harness racing industry is important and it is worth allowing this money to stay in-state, if people choose to have it stay in-state, and support our industry. That's what this is about. It's not about credit cards. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#315)

YEAS: Senators: ABROMSON, CAREY, CATHCART, DAGGETT, FERGUSON, HARRIMAN, KILKELLY, KONTOS, MICHAUD, MITCHELL, MURRAY, NUTTING, PARADIS, PENDLETON, RUHLIN, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: AMERO, BENNETT, BENOIT, BERUBE, CASSIDY, DAVIS, DOUGLASS, GOLDTHWAIT, KIEFFER, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, PINGREE, RAND, SMALL, TREAT

ABSENT: Senator: O'GARA

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAGGETT** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator BERUBE for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on 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

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-623)**.

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

READ ONCE.

Committee Amendment "A" (S-623) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-623)**.

Sent down for concurrence.

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

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

REPORTS OF COMMITTEES

Senate

Divided Report

Seven members of the Committee on **JUDICIARY** on Bill "An Act to Ensure Civil Rights and Prevent Discrimination" S.P. 840 L.D. 2239

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-624)**.

Signed:

Senator: TREAT of Kennebec

Representatives:

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

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

Signed:

Senator:

BENOIT of Franklin

Representatives:

WATERHOUSE of Bridgton
SCHNEIDER of Durham
PLOWMAN of Hampden
MADORE of Augusta

1 member of the same Committee on the same subject reported in Report "**C**" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-625)**.

Signed:

Senator:

LONGLEY of Waldo

Reports **READ**.

Senator **TREAT** of Kennebec moved the Senate **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-624)**.

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 me today in finally extending Civil Rights to everyone in our society, regardless of their sexual orientation. This legislation is very much needed here in the State of Maine. Despite what some people may say, it is still legal to discriminate against people based on their sexual orientation. Currently your constituents and mine can be fired or denied a job, evicted, denied an apartment, denied a loan, denied to access to places of public accommodation simply because they are gay or lesbian. In fact, they can be discriminated against in these ways just because someone believes that they have a different sexual orientation. We need to enact this legislation, because in Maine today anti-gay or anti-lesbian discrimination is a real problem. People are being discriminated against in this state simply because they are gay or lesbian. The Judiciary Committee, which I have served on not only in these past two years but in previous legislative sessions, has heard hours of testimony from people who have been fired. Who have been denied access to housing. Who have faced refusals for public accommodation and credit solely on account of their sexual orientation. We need to enact this legislation today, because in Maine this lack of protection in

law against this sort of discrimination actually causes problems for law enforcement. Many victims of harassment, hate crimes and anti-gay violence refuse to prosecute for fear of losing their job or their housing or their credit should their sexual orientation be publicly reported as a result of the prosecution of the crime against them. This is blaming the victim in the worse possible way and we must stop it. Law enforcement officials need to be able to prosecute effectively when violence occurs to keep our communities safe for all of us. And finally, we need to enact this legislation because in Maine today it is simply good common sense. It's good for business, it's good for tourism, it's just the way Maine ought to be.

Now I want to address a couple of concerns about the amendment, because I know that there has been a lot of discussion. This is not a perfect piece of legislation in the sense that we all would like to sit down, as we often do, and write the perfect piece of legislation in our heads and maybe in the first Bill that gets presented. This is a Bill that has had a history that goes back decades. It is a Bill that has gone through the referendum process in past years. It is a Bill that many people have worked many, many months on to try to come up with something that not only will pass this legislature, but will be acceptable to the people of the State of Maine and that will also effectively end discrimination against the people, regardless of their sexual orientation. There are two provisions in this legislation that I would like to address. One of those is the referendum clause. In a perfect world, I would like not to see a referendum clause in this Bill, and even in this world I would not. But this is a piece of legislation that we have passed in this Body and it has been signed into law and yet it was rejected by voters. This piece of legislation we have here today, I believe it's very important that we end this continuous debate between the legislature and out in the public, that we put it to rest. I think we can put it to rest with this Bill. It is going to referendum, one way or another, I believe. This amendment simply acknowledges that fact and says okay we'll do this on our terms. We won't go through the petition process. We're simply going to take it out there and this time it's going to pass. Because this time, the voters in the State of Maine are going to truly be educated about it. It's going to come up in a presidential election year. It's the right time to have this happen. I don't think that the best way to do things is having the majority decide on the rights of a minority. But this is the best we can do right now. I believe it is the right policy.

Now this amendment also has in it an exemption for some religious organizations, and this, too, has been something that has concerned some people. I want to address that as well. One thing we all need to realize is that the Civil Rights Act that we have today, which addresses other issues such as age discrimination, such as gender discrimination, also has a religious exemption in it. That exemption has not been taken to the courts and fully interpreted by those courts, so we don't know quite how broad that exemption is. But there are many who believe that it is already quite a broad exemption, which would be similar to the more specific language that is in this legislation. This Bill respects religious differences which do exist between different religions in the matter of sexual orientation. But what it also does, and this is something that our current law does not do, it also addresses the issue of uniformly imposing a public policy against discrimination when public funds are used. And for all who are interested in turning to this language, it is section VI of the amendment, which makes very clear that state contracts, it is up to the state to put in language if it wishes, which explicitly bars any discrimination that

would be covered by this legislation or existing law. This is a very important provision because it does clarify that many services that otherwise would be exempted from this law because they do get state funds, most likely will not be. But I also want to mention that this exemption, whether you like it or dislike it, whether you think it's good policy or not good policy, it is quite consistent with the legislation that we have out in the rest of the country on this issue. In fact, an almost identical provision, although in most cases lacking the language concerning public contracts, is in the Connecticut legislation, the California legislation, the New Hampshire legislation, the Vermont legislation, the Minnesota legislation, and the Nevada legislation. Language very similar to what is in our current law, which could be interpreted in a variety of ways and we don't know how it would be interpreted, is in the District of Columbia law, the Hawaii law, the Massachusetts law, the New Jersey law, and the Rhode Island law. So, this is somewhat consistent with what is happening in the country. I would hope that the day would come when our public, our constituents with different religious organizations, are comfortable with this legislation without having this language. And I believe that day will come. One thing we need to remember is that we did not start the Civil Rights Act way back when, when we first enacted it. It did not have in it everything that is in it today. It has been a long process. We have worked through these issues. We have resolved them. People have changed their minds. And we have expanded this legislation continuously over time. I believe that that is the direction that we are going in now. I think this is a good piece of legislation. It is a needed piece of legislation. It is a very positive step for Maine and I hope you will join me and the majority of the Judiciary Committee in voting for Committee Report A.

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

Senator **BEHOIT:** Thank you Mr. President. May it please the Senate. I want to share with you, and briefly, the reasons why I did not join with the majority report and do oppose the pending motion. First of all, I refuse, respectfully, to support a piece of legislation that is going to weaken our Human Rights Act. And that's exactly what this Bill is going to do, because if enacted, there will be an exception in the law for the first time for religious entities. Right now the closest that we find language in the law to an exception, is what is called a preference. Not an exception. And the preference exists for religious entities to hire somebody who's of the same faith. A legislature allows that and calls it a preference. So first of all, I see this law as weakening the Human Rights Act by writing into it for the first time an exception for religious entities. And, Mr. President and members of the Senate, wouldn't you think that if anybody was going to be in the trenches, fighting against discrimination for any reason, it ought to be religious entities out front? And yet they're not going to be on board the boat. Every one of us, except for religious entities, are at the oars, together, pulling together to end discrimination. Except for religious entities are back on shore. And the thing that really disturbs me, and I hope I can say this as constructive criticism because I do belong to the Catholic Church and this Bill is supported by the church, is it's very convenient for the church to support the Bill when it doesn't apply to it. When the church is exempt. How wonderfully self-serving, how wonderfully convenient. It does not, in my view, reflect well on my church. The good Senator from Kennebec, Senator Treat, just

commented and said, you know someday down the road, she would hope, as would I, that the church would come around to support this type of situation. And I would hope that at that time, the church would apologize for its position expressed on this Bill. It doesn't hurt to apologize when you're wrong and to say sorry about it. And I would expect that to happen.

So the first point that bothers me is that this will weaken the Human Rights Act. And then look at what's going to happen when you look at the religious entities that are exempt. Hospitals in the state will be exempt, some of them, some won't. Colleges will be exempt, some won't. High schools will be exempt, some won't. There's a nursery school, there are others in the state, there's one right here in town that will be exempt, and some won't. There are credit unions that will be exempt and some won't. Now if this is a good law, and I'm not saying it isn't a good effort, why do we exempt anybody? Particularly these entities? Why are we going to have a situation under this Bill, if it passes, that there are so many that are going to be excluded from it. It just isn't, to me, right to have that happen in our society. Particularly where the issue is discrimination. That really bothers me, and the point to conclude, Mr. President, is that we just had a referendum and the majority report suggests we send this out to the people. Gee, it hasn't been too long since we've had the issue presented to the citizens of the State of Maine. And here we are again, with this issue going back out to referendum. And it's going to happen because the Bill came to this Body through sponsorship, as one of the methods by which laws do get into the mechanics here. It would have been better, I think, where the last referendum was one generated by the people that defeated the Bill that was enacted here, for the people to go out again who support this and get some signatures for a referendum and come through that same process. But, that's not going to happen. Mr. President, for these reasons, respectfully, I can't support the pending motion. Thank you.

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

Senator **ABROMSON:** Thank you Mr. President. Men and women of the Senate, the last time I addressed you in the interest of full disclosure, I allowed how I had been in the rubber business for 25 years and I asked you to vote for your safety and for the safety of Maine's citizens. I now stand before you and disclose that I am a 61 year-old Jew who suffered overt anti-Semitism and discrimination as a youngster, but now have been afforded the protections of the Maine Human Rights Act, another form of safety for many Maine citizens. It is this Maine Human Rights Act, which LD 2239 seeks to amend in order to allow the voters of Maine to ratify what I'd hope we would do today. That is take the first step toward extending to all citizens, regardless of their sexual orientation, basic rights to protection against discrimination on the basis of race, color, religious, sex, or national origin in the areas of employment, housing, public accommodation, and credit. These are areas of discrimination against gay men and lesbians that are as legal today, in most of Maine, as is going 65 miles an hour on the Maine Turnpike. Notable exceptions are Portland, South Portland, Falmouth, and Long Island, which have local ordinances which prohibit sex discrimination. Most in this Chamber will recall that LD 1116 was passed by both the House and the Senate in the 118th Maine Legislature. Most will recall that the Chief Executive of this State signed the legislation and most will recall that on a cold February 10th approximately 15% of

the eligible voters of the State of Maine voted in favor of the people's veto, thus nullifying the actions of the Legislature and the government. In the first regular session of this Legislature, I introduced LD 2239 and the Judiciary Committee held it over to consider in this session. During the interim, I called the Diocesan Director of their office of Public Affairs, Mark Muddy, and asked him if we could get together to consider if there might be some way that the Diocese could change from being neutral, as they were with respect to LD 1116, to actually supporting LD 2239. He not only accepted my offer, but he invited me and the lobbyist for the Maine lesbian and gay political alliance, Attorney Susan Farnsworth, and openly gay and Catholic representative, Michael Quint, to join him, Father Henchoke, a former chancellor of the Diocese, and outspoken and published opponent of LD 1116, Lewiston Attorney Michael Poulin, for lunch at the chancery. I'm sure the organization that each leads thought that God was preparing a table before them in the presence of their enemy. But both sides learned a lot and gained an understanding of one another at that table. For their willingness to bring their respective organizations together, for their leadership and encouragement, and for their enthusiasm for the result, I believe that we all owe them, as well as Bishop Joseph of the Roman Catholic Diocese, a debt of gratitude. That lunch began a series of very candid discussions during some seven to eight, often long, meetings spread over some four to five months and culminating in the announcement on January 4, 2000 that the Diocese, the MLGPA, and the Bill's sponsor had agreed on language for a revised LD 2239. It is that revised Bill that you are being asked to consider today. Following that announcement, other groups and organizations from the Christian Coalition to Maine Civil Liberties Union have offered suggestions. All were carefully considered, some were incorporated into the Bill. What we are considering today is a completely revised Bill. Completely revised from LD 1116 and even from the LD 2239, which I originally filed. What is in the amended Bill and how does it differ from the Bill that was submitted last session? One, it makes it very clear that there is no special rights. The special rights often referred to by the proponents of the people's veto. No special rights are conferred on anyone or any group. It does not require any affirmative action or require the setting of hiring quotas with respect to sexual orientation. It explicitly states that there is no legislative approval of any person or group of persons. The term sexual orientation excludes from its definition any sexual attraction to a minor by an adult. It does not require or prohibit employers from offering domestic partnership benefits. And the Bill makes clear that the prohibition against discrimination refers to a person's sexual orientation and it does not endorse any sexual behavior. Now, while the Bill exempts religious entities from the prohibition against discrimination based on sexual orientation, it makes clear that this exemption allows the State to require any religious entity with which it contracts to agree not to discriminate based on sexual orientation as a condition of being awarded those contracts. Bear in mind, that includes such things as medicare with a Catholic hospital and medicaid with a Catholic hospital. It is this provision which has perhaps caused the most discussion for there are those who feel that there should be no exemptions at all, and there are those who insist on a clear separation of church and State. All parties to the discussions that resulted in this provision, that is to say the MLGPA, the Diocese, and the Bill's prime sponsor, felt that the provision was right and fair. Now we have had some talk about this exemption, and I refer you to Title V, section 4553 of the Maine Human Rights Act in the definitions,

which exists today, this is not new, under employer, it says "employer does not include a religious or fraternal corporation or association". Under housing, it says "housing accommodation includes any buildings" so on so forth, "accepting the rental of any dwelling owned, controlled, or operated for other than a commercial purpose by a religious corporation". So there are religious exemptions in the law. And finally, this Bill provides for referendum in November of this year during the general election. There are those who object to this provision, because they feel if the Legislature wants this referendum, the Legislature should go out and collect the necessary signatures to place the issue on the ballot as was done with respect to the people's veto initiative. I don't agree. I believe that the electorate elected the members of the Legislature to represent them and that the Legislature should send, only send, this issue to referendum to make sure that a greater number of the electorate has the incentive and opportunity to vote at a convenient time. There are others who feel that the rights of the minority should be subject to the vote of the majority. And while I agree with that philosophy, I'm afraid the passage of LD 2239 without the referendum provision, would only result in another people's veto attempt. I should point out that none of us take pride of authorship in these provisions. For they and others were not created out of whole cloth. As the Senator from Kennebec said, they exist in the laws and statutes of many other states, and even of the federal government. Joining me in cosponsoring this Bill, and therefore urging your support for the majority report, our diverse bipartisan group, made up of seven democrats and six republicans, or ten men and three women, or five Senators and eight Representatives, or the Senate's President and its Minority Leader and the House's Speaker and its Majority Leader and nine other legislators. This Bill, in one form or another, has been introduced to the Maine Legislature, virtually, every two years since 1977. It will not go away until or unless discrimination on the basis of sexual orientation goes away. Let us take another, and hopefully final, step toward that goal. I urge you to join me in voting for the majority Ought to Pass as Amended report. And, Mr. President, I call for a roll call. Thank you, Mr. President.

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

THE PRESIDENT: The Chair recognizes the Senator from 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 amendment. I'll try to be very brief. Most of my reasons have been stated by people previous to me. I have been a supporter of LD 1116. I was the original cosponsor of this Bill, also. But I think when this Bill didn't change its direction when the church was involved to get an exemption. When the church was involved, it came in to make a decision and say we will support this as long as we're excluded in certain areas. To me that violated some of the Constitutional rights, which I think are very important to me. One, there was a separation of church and State. We are now expanding that role to the business of the church, which is the hospitals, the schools, some of the organizations which they have at that particular time. I'm also a believer that we passed LD 1116. It was my belief that we would vote here. I don't want to go out and impose the majority upon

the minority at this particular time. I think that, to me and along with the expansion of the Constitution to allow the church to have an exemption and raise standard within the balance of powers with the State to be excluded in those areas, really turned me against this compromise. I'm certainly in support of the original intent or the original Bill we passed here, LD 1116. And for that reason I'll be voting against this. Thank you.

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 Cumberland, Senator Abromson, made a comment about the existing Human Rights Act and indicated that there were already exemptions there. If he's right, then we don't need these exemptions. These exemptions are in this Bill because they are needed, otherwise it's superfluous. It's repetitious to have them there. I'd like to say something briefly about this argument of separation of church and State. If, in fact, that was the reason why this law should pass with an exemption for the religious entities, why didn't the chancellor of the Catholic Church, in public testimony before the Judiciary Committee, say so? He never did. Here's what he said was the reason for the exceptions in the law. The primary reason for this exception, quote, is to avoid intrusion by the State into the doctrine of choices made by many different kinds of religious organizations, unquote, and here's the punch line, quote, as they order their internal affairs, unquote. In other words to the State, keep your nose out of my business when it comes to discrimination. Keep your nose out of our business, please. Nothing is stated here about the separation of church and State. And, in fact, it can't be, because presently in our law there are no exemptions. We're all in the same boat together when it comes to discrimination, barring it on the basis of age, sex, race, etc. We're all in the same boat together and if, in fact, there are already exceptions and exemptions in the law, we don't need them in this Bill. But they're there. Now I know that this Bill is going to pass, Mr. President, in conclusion, because a stronger Bill already has passed in the Legislature. This is a weaker Bill. There's no question about that. This is a weaker Bill and it will pass. So nothing I'm going to say is going to change any minds on that. Why wouldn't a weaker Bill pass? A stronger one already has. Frankly, when I look back on the stronger Bill that passed and this weaker Bill, I liked the stronger Bill. I think it was a fairer Bill. And in order to get consensus on this situation, some people who support barring discrimination on the basis of sexual orientation, gave up some rights. Gave up something. I don't know why. This Legislature has already passed a stronger Bill. This is a weaker Bill. Now you can vote for a weaker Bill if want to. It's a free country. But I don't plan to. Thank you, Mr. President.

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

Senator **DOUGLASS:** Mr. President and men and women of the Senate, when I was a young girl I had the privilege of being very active in the Civil Rights movement. At that time it involved blacks and whites. I can remember marching through the streets of Newark, New Jersey, I grew up in New Jersey, after the death of Martin Luther King. From that age to this, I have always thought that this country is about tolerance and freedom. We are about human rights and against stereotypes. We should be for

love and not for hate. We should embrace every one of our citizens and give them full status as citizens. I wasn't here to vote on the earlier measure that was vetoed by the people, but I do believe that we deserve it. We owe it to ourselves to give them another chance to be for tolerance and freedom, to be for love and against hate, and I urge you to vote for the majority report.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, I rise today to oppose this Bill for a number of reasons. Some of them were explained, I think, about two years ago in this same chamber. But I need to explain them again so that people understand that people who do have tolerance, people who do want to be inclusive, people who care about Maine people, also can look at this Bill and see it as wrought with some problems. The first problem is a matter of respect. And I want to say this with the great respect and admiration that I have for the Bill's author. But it needs to be said. When you have a state-wide referendum and then submit the same Bill less than eight months later, after the issue has been decided by the Maine people, Mr. President, I think that is the reason why so many people in Maine lose respect for the political process. It needs to be said. I have great respect and admiration for all the people who support this Bill and for the people who authored it. But it is not right. Second, I don't think that religion is the issue. The issue is how we treat each other. In this particular Bill, what I'm having a hard time understanding is how do we find out the sexual orientation of the individual? It's not an outward appearance. You can't possibly understand whether or not somebody has this orientation. So, again as I said two years ago, if I am somebody who is responsible, a lessor for public accommodation, I see this Bill now as a matter of, unfortunately, more and more and more litigation against people who are knowingly making a decision. And we have to also stand up for the rights of these people. I think there's probably been more people misjudged as somebody of a different sexual orientation than there are people who have been judged correctly. I think that fact needs to play into the decision that we are making here today. There are people who are discriminated against every day and it is wrong. What we need to do to solve that is not to stand up here and pass laws. What we need to do is go back home and talk to our friends and neighbors and educate them. There are more people, I venture to guess, who have been discriminated against because, for example, they might be overweight then there are who would be encompassed by what's behind this Bill. And the question is can we ever pass a law to take care of those kind of folks? And the answer is we just will never be able to do that. What we need to make sure that we do is to teach tolerance, to understand tolerance, but you can't always mandate it. And that's what this Bill does. This Bill will open up to a lessor responsibility. Responsibility that can end up in court. Responsibility that the person cannot even judge correctly because they don't know the orientation of this person. And that's wrong. That is absolutely wrong. We can't hopscotch over certain individuals in Maine in order to give some other group the protection that they think they deserve. We cannot do that. And further, we should not open up those people to the expense of litigation that is so unbelievably difficult to bear. I have friends right now who are going through litigation and again, this is personal opinion, but I think through no fault of their own, are in court. It could be, for example, that the

Department of Human Services has come in and taken a child away and the parents want the child back. You're all familiar with that. And those unfortunate people have to bear the expense of the litigation. I know I have constituents that bear expenses of greater than \$30,000 or \$35,000 for the litigation for these kinds of cases. With the passage of this Bill, you're going to do it all over again. You're going to open up this whole new huge section of litigation that is just an incredible burden on the people of Maine. That's not an excuse to vote against this Bill. It's a valid reason. I care about people in Maine. I have friends of all persuasions. And I respect them. People can do, I think, whatever they want to do with their lives and I have no business messing around with that. But we cannot force things on people when they have spoken. And we cannot force things on people that end up hurting more people than it helps. And that, again, is what this Bill does. It's not a question of religion. It's not Catholics or Protestants or Jews or anybody else. It's a question of what is the impact of this Bill. And the impact of this Bill is to cause more harm to Maine people than it is the good that's behind it. I've said my piece and I appreciate your willingness to listen. I thank you very much, Mr. President.

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

Senator **CATHCART:** Thank you Mr. President. Men and women of the Senate, I rise to ask you to support the majority of the committee on this report. Maine is, today, the only New England state in which discrimination based on sexual orientation is still legal. And we have the power to change that through our actions here today. Discrimination is wrong. I have known discrimination, having grown up in a racist society where the racism was institutionalized. Discrimination is about fear. You single out a group who look different, who act differently from the majority and you say that those people are somehow inferior and they don't deserve to be treated the same way as the majority of the people. When I was a little girl, if you went to Sears and Roebuck, on one side of the staircase was a drinking fountain that said white and on the other side was one that said black, and nobody dared cross the line with those racist signs there. Same with the doctor's office, the separate waiting rooms. The same with the schools. I went to school on the white side of the tracks. Everyone of color went on the other side of the tracks to their own separate schools. In church, no black person would have ever been allowed in my church. My parents and my family were kicked out of a church in that town. What reason? First, my parents invited a black minister to sit down at the kitchen table and eat a meal with them. Second, my parents were advocating raising some money to build a church for the students at a black college nearby. And they were ostracized for this and it hurt. It hurt them terribly, and it hurt me too. Racism just cannot be tolerated. Neither can discrimination against other groups. And this is, in some ways, the last one. The previous Legislature has tried to change that. I was very proud when we passed the Civil Rights Bill before. And because we had a people's veto and a citizen initiative, that vote was overturned. That's why today we have to support this amendment from the committee. I do not believe that Civil Rights is an issue for the people to decide. I think the legislators who are elected should lead on this issue. But because of our previous experience, we have to face the reality that we could go through that horrible process again. I would say that had Lyndon Johnson, the President, and the

Congress in 1964, put the Civil Rights out to the people to vote on, the black people in the South probably never would be working in the stores or going to the same schools as the white people. But I have to set that aside, even though it really bothers me and makes me hold my nose a little bit voting for this. As far as the religious exemption, well so be it, if that's what it takes to bring some churches on board and help them to realize that discrimination is wrong. I'm proud to belong to a church where we love and accept all of our fellow human beings. And we believe God loves them too and it's not up to us to judge people based on their sexual orientation. So I urge you to vote for this. It is a chance, finally once and for all, to end discrimination based on sexual orientation. It is the right thing to do and I hope that we can move on with this and pass the referendum in the fall so that, for this 21st Century, people of other sexual orientation will not have to face the hate and fear that they have in the past. Thank you, Mr. President.

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

Senator **CAREY:** Thank you Mr. President. Mr. President and members of the Senate, the good Senator from York, Senator Libby, mentioned people being overweight also being discriminated against. But to my knowledge, no one being overweight has ever been thrown over the railing of the Bangor bridge as happened some years ago to a young boy who was thought to be homosexual. I'm a Eucharistic Minister in my church, which obviously may surprise some of you. But I feel very strongly that all of us should be treated equally, regardless of our private lives. Thank you, Mr. President.

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

Senator **RAND:** Thank you Mr. President. Men and women of the Senate, I certainly do stand here in strong support of this Bill and hope that you will join with me. I would just like to allay a few of the fears expressed by the good Senator from York, Senator Libby. He expressed concern as to how we are supposed to figure out who is homosexual, who is heterosexual? Well that's just about the main reason for this piece of legislation. Somebody's sexual orientation should not be based on whether they are heterosexual or homosexual. In fact, strictly interpreted without this law, somebody who is, or professes to be, heterosexual can be fired or told they cannot rent a certain apartment or be refused public accommodations because somebody accuses them or thinks they may be gay. So it's this very legislation that alleviates all of that and just simply says, regardless, all people will be the same in the State of Maine. And the other point that the good Senator from York brought up that I would like to address is the one that speaks to the citizen's veto of the Civil Rights legislation that this legislature did pass and was signed into law by the sitting Governor. The fact is that even after that vote, the day after that vote, certainly unlike our municipal laws that govern citizen initiated action, the legislature could have met and once again voted and passed Civil Rights legislation. There is no time limit. There's no period of time that the legislature cannot act when a people's veto is enacted. So on both of those counts, I hope I've cleared up some of the misunderstanding, or apparent to me anyway misunderstanding, and I do hope that the members of this Body will do the right thing

and show all of the people in this state that we value each and every one of them and vote yes on this Bill. Thank you.

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

Senator **GOLDTHWAIT:** Thank you Mr. President. Men and women of the Senate, this issue has had a very long history in our state and I would like to say for the record that I think the failures of this issue are completely insignificant in our history. It is our attempts to come to grips with this issue that makes Maine the state that it is and it's a state that I am proud of. And I would resubmit this legislation to the people of Maine every 15 minutes if I could until it gets where I think it should be. It is one of those issues that is a defining issue for us. It's not sludge spreading. It's not tax policy. It's not even lobster zones. It is a defining issue for the State of Maine and it needs to be on the front burner of the debate in the State of Maine until it is resolved. I hope someday, once and for all. It may be many, many years from now. I would like it to be this fall. It may not be. It probably won't be, because there are issues with this particular proposal that will, undoubtedly, bring it back for discussion again. But it is worth the discussion and we are worthy of it. Perhaps one of the reasons why this has not become a perfect Bill quickly is, of course, because the issue is a difficult one. But because discrimination in our state is, fortunately, somewhat sporadic. But for the few times we do indulge in those moments of hatred and discrimination, it is worth this fight if we have to do every year from now until doomsday to get it resolved and to put Maine on the record as refusing to discriminate against anyone for any reason. Is this the ideal Civil Rights Bill? No it isn't. Does it take us one step closer to that ideal Bill? I think so. Don't let the perfect be the enemy of the good. I remember very well the day in the Hall of Flags when I saw those men and women on the steps who had worked for decades to advance this issue. I'm proud of them and I'm proud of my colleagues for the debate we engage in when we do this. Each time it raises us one more level. I am looking forward to this vote. I am looking forward to the debate in the fall. We're getting better every time. I know we can do this. I urge your support for this proposal.

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

Senator **AMERO:** Thank you Mr. President. Men and women of the Senate, I'm proud to be one of the sponsors of LD 2239. In fact, I've been a sponsor of this Bill every time its come before the Senate during my eight years of tenure in the Maine Senate. In fact back in 1993, when the Senator from Cumberland, at that time, Senator Conley, was the primary sponsor of the Bill, I joined him as the Lead Sponsor in the Senate and I believe the House Sponsor, at that time who's sitting in our Chamber today, the former Representative, Susan Farnsworth. I was really proud that at that time, for the first time this Bill went through both the House and the Senate successfully. But unfortunately it fell victim to the veto of the Governor at that time. So I want to commend today the new Senator from Cumberland, Senator Abromson, for all of the work that he has put in on this anti discrimination Bill. And you know he is a master at the art of compromise and I commend him for bringing together so many parties and being able to come up with a compromise. The definition of a compromise is that we are not going to have a perfect Bill. But

maybe we have one that most Maine people can agree on this time. And in fact, the Reverend Mark Carron, Chancellor of the Roman Catholic Diocese of Portland, says that we believe that this is a middle ground position, which most Mainers for the first time will be able to accept. I hope that he is right, because you know Maine law today does allow for discrimination based on sexual orientation. And that's just plain wrong and I think it's time to right that wrong. And it's my last chance to right it as a member of the State Senate. So I hope you'll join with me today in supporting LD 2239, this year's version of the anti-discrimination Bill. Thank you, Mr. President.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, I beg your indulgence for one more brief discussion about this Bill. Two years ago I stood up, maybe it was three, but nearly alone in this Chamber explaining the fact that the people of Maine do understand that discrimination is wrong. They do understand that. And I stood up and explained that this Chamber was not in touch with the voters of their districts. Here we are today and I'm able to say that I was right. The majority of Maine people, after a group went out and gathered some signatures, decided to veto something that the Governor and the Legislature passed. How many times does that happen in our history? The reason for that is, I believe and it's just an opinion, that's all it is, is an opinion, that Maine people know that discrimination is wrong, but there are some pieces of legislation that will not lead to solving the problem. I think they know that. We send a message, on both sides or any side of this issue, that we do not condone discrimination. Nobody does. I think that's important. There is no confusion over the issue that there is something wrong about discrimination. There is confusion over the issue that there is something right about this legislation. The legislation, admittedly by the proponents, is a worse piece of legislation, I've heard that said, than the one that was offered previously. So explain to me why it is that we should support it. If there are problems with it, why should it be supported? Why shouldn't we go back to work and find legislation that will help to solve this problem? Let me give you an example of legislation to help solve this problem. Some will disagree with me on this. Hate crimes legislation. Hate crimes legislation is something that is working toward preventing discrimination in Maine. By having legislation that's already enacted, that has a provision for punishment for people who actually commit crimes, what we have is something that becomes preventative measure. With this piece of legislation, the onus, unfortunately, is on people who cannot tell whether or not they are discriminating or not. So they can't prevent it because they can't understand it. They cannot tell. Again I only use the example of housing because that's the part of this Bill that really bothers me the most, if there was a way to come up with a piece of legislation that could prevent discrimination without hurting lessors, for example, without subjecting them to this incredible liability, then I would be the first to vote for it. It's a simple fact. I am for ending discrimination. I think everybody in this room is. But, you're just kidding yourself if you think that this piece of paper is going to do it. It's just not going to do it. What I think you and I need to do is to come together and talk about methods of education that will help people understand that not just sexual orientations but every kind of group needs to be treated with an equal amount of respect. That every kind of group needs to be protected from

discrimination. This Bill doesn't do that. If it did, I'd vote for it. That's not a smoke screen. I'm not telling stories. I'm being honest and I don't care if I'm the last man standing. But apparently, I'm in the minority. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Treat to Accept Report "A", Ought to Pass as Amended by Committee Amendment "A" (S-624). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following results:

ROLL CALL (#316)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BERUBE, CAREY, CATHCART, DAGGETT, DOUGLASS, FERGUSON, GOLDTHWAIT, HARRIMAN, KILKELLY, KONTOS, LAFOUNTAIN, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BENOIT, CASSIDY, DAVIS, KIEFFER, LIBBY, LONGLEY, MACKINNON

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **TREAT** of Kennebec to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-624)**, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-624) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-624).**

Sent down for concurrence.

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Joint Study Order to Establish a Committee on Gasoline and Fuel Prices

H.P. 1774

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-957)** (7 members)

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

Tabled - April 3, 2000, by Senator **O'GARA** of Cumberland.

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

(In House, March 31, 2000, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Joint Study Order **PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-957).**)

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

Senate at Ease.

Senate called to order by the President.

The Chair ordered a Division. 15 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **O'GARA** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

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

SENATE REPORTS - from 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
(C "A" S-555)

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-555)** (6 members)

Tabled - April 3, 2000, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 27, 2000, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-555).**)

(In House, March 31, 2000, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**)

Senator **NUTTING** of Androscoggin moved the Senate **ADHERE**.

Senate at Ease.

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

Senate called to order by the President.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following results:

ROLL CALL (#317)

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ADHERE, PREVAILED**.

Sent down for concurrence.

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

Bill "An Act to Establish State Death Benefits for State Police Officers Killed in the Line of Duty" S.P. 910 L.D. 2362 (C "A" S-579)

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

Pending - **FURTHER CONSIDERATION**

(In Senate, March 28, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-579).**)

(In House, April 3, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-579) AS AMENDED BY HOUSE AMENDMENT "A" (H-1002)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **MURRAY** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (3/21/00) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Amend the Laws Governing Municipal Tax Increment Financing to Encourage Downtown Investment" H.P. 1739 L.D. 2445

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-869)** (11 members)

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

Tabled - March 21, 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 16, 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-869).**)

(In Senate, March 21, 2000, Reports **READ.**)

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

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

Senator **MILLS:** Mr. President, what this Bill will do if it passes is to permit municipalities to create TIF districts that will include all of downtown, if they so wish, or any portion of downtown without restriction as to area or the percentage of value. Under the current TIF program, there is a 5% cap on how much of assessed value of the town that may be placed within TIF districts generally throughout the community. There is also a 2% area-wide restriction. The intent of those who drafted the law, I assume, back in the 1980's was that there ought to be some limitations on how much property, how much real estate and fixtures, could be placed within a tax-free or semi-tax-free zone. After all, there are reasons for these limitations because it is the legislative body of the town that has the capacity to create these tax exemptions. In a typical city council situation where you may have 7 or 9 members, it only takes a bare majority of perhaps 4 or 5 people to enact a provision giving tax-free status to a major portion of the community for 20 or even 30 years. These are very, very powerful incentives. It's possible for a community, if it goes too far with these things, to make a decision in one year that they may come to regret in the years that follow. We have one such case right now. The City of Waterville, some years ago, created a TIF district to accommodate a shopping center to include a Wal-Mart out on Exit 33. They gave away about 1% of their total valuation for the purpose of creating this retail outlet TIF. Later, a few years

later in the mid-1990's, another proposal came in to build another shopping center, or to improve one, in the next exit up, Exit 34. They gave away what remained of their TIF authority to an entity that controlled a large shopping area at that exit. As a result, they gave away all 5% of their total city valuation. Then they began to wonder why are all the stores closing downtown? Main street looks terrible. Well, it's no wonder. They gave away their tax incentives to Wal-Mart on the one hand and to a large shopping center conglomerate on the other. Something for which the TIF system was never designed for. TIF was designed for industrial expansion and to induce the creation of jobs, new jobs, within a region in Maine or within the community. When you go out and create TIF districts that accommodate retail space, all you're doing is shifting jobs from one retail store to another. We've had the same thing happen in Skowhegan, not under a TIF district arrangement. When Wal-Mart opened up, we lost Ames and all the pavement that lies out in front of Ames is still there and available to park on but the store is vacant. We lost K-Mart and we lost one of the world's few remaining Woolworths. The people that used to work in those three stores are now over working at Wal-Mart for comparable wages and benefits, such as they are. Nothing new happened to benefit the town, frankly. We just have a lot more paved area that is not being used for the parking of automobiles. Waterville underwent the same experience. This Bill would expand, tremendously, some very bad policies that surround the current TIF program. We should have a restriction in the TIF law that says that it's not for retail. It's not for Wal-Mart. It's to expand shopping centers. It is to create new investments and new jobs for exportable products. This Bill steps in exactly the opposite direction by saying if you want to TIF your downtown, you can put all of the retail stores you want to within a TIF district without restriction as to value, without restriction as to square footage or area. As much as can be said for rehabilitating our downtowns, this is about the worst way that I can think of to do it in terms of tax policy. For that reason, Mr. President, I ask that we reject the pending motion. 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, it's interesting to note when you have 12 people on a committee look at a problem, all attempting to get to the same end, all attempting to accomplish the same thing, how you can get two distinctly different ways of doing it. The overwhelming majority, 11 of those 12 people, looked at the problem and said yes, we have a problem of sprawl. How are we going to address that problem? It becomes apparent. If you want to address sprawl, revitalize your downtown. If you want to revitalize your downtown, how do you do it? One way to do it, a good tool to do it with, is with the TIF program, the Tax Incremental Finance program, where you go and encourage not some large and multi-state or multi-national retailer to come into the outskirts of town but to encourage our natives to invest in their downtown and revitalize and make more vibrant those downtowns. The way that you do that is to use that TIF instrument. That's what 11 of the 12 members of the committee could see here. That this would limit sprawl, rather than encourage it. That by allowing the communities to focus on their downtowns, that you could then return the vibrancy to those very communities. Because of that, the overwhelming majority did vote Ought to Pass and I hope you will go along with those

members who studied this matter and felt that this is the best way to reduce sprawl and encourage downtown economic growth commercially. Thank you.

At the request of Senator **MILLS** of Somerset a Division was had. 17 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-869) **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-869)**, in concurrence.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (2/18/00) Assigned matter:

HOUSE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Create a Governance System for Unorganized Towns"

H.P. 221 L.D. 299

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-782)**

Tabled - February 18, 2000, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF THE REPORT**, in concurrence

(In House, February 15, 2000, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)**.)

(In Senate, February 18, 2000, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-782) **READ**.

On motion by Senator **PENDLETON** of Cumberland, Senate Amendment "A" (S-559) to Committee Amendment "A" (H-782) **READ**.

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

Senator **PENDLETON**: Thank you Mr. President. Men and women of the Senate, this amendment simply takes the Bill and rearranges the study commission and the responsibilities of the study commission for unorganized territories. It is a compromise between the sponsor of the Bill and others that had concerns about the Bill. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-559) to Committee Amendment "A" (H-782) **ADOPTED**.

Committee Amendment "A" (H-782) as Amended by Senate Amendment "A" (S-559) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782) AS AMENDED BY SENATE AMENDMENT "A" (S-559)** thereto, in **NON-CONCURRENCE**.

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

Bill "An Act to Promote Workplace Safety"
H.P. 1532 L.D. 2185
(C "A" H-948)

Tabled - April 3, 2000, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 29, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-948)**, in concurrence.)

(In House, March 31, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-948) AS AMENDED BY HOUSE AMENDMENT "A" (H-999)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **DOUGLASS** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

The Chair removed from the **SPECIAL STUDY TABLE** the following:

JOINT ORDER - relative to Establishing the Joint Select Committee to Study the Creation of a Public/Private Purchasing Alliance to Ensure Access to Health Care for all Maine Citizens
H.P. 1857

Tabled - March 3, 2000, by Senator **PINGREE** of Knox.

Pending - **PASSAGE**, in concurrence

(In House, February 29, 2000, **READ** and **PASSED**.)

(In Senate, March 3, 2000, **READ**.)

On motion by Senator **LAFOUNTAIN** of York, Senate Amendment "B" (S-626) **READ** and **ADOPTED**.

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

Senator **LAFOUNTAIN**: Thank you Mr. President. Men and women of the Senate, following HP 1857, making it's way down to this Chamber, the Banking and Insurance Committee heard a Bill, LD 2627, An Act to Create the Community Health Plan Demonstration Project. The committee reported that Bill out unanimous Ought Not To Pass, however, we believed that the issue raised by that Bill should be considered in the Joint Study Order which is now HP 1857. The other change contained in this amendment changes the actual membership of the committee from a membership of 13 to a membership of 7. Thank you.

On further motion same Senator, Senate Amendment "B" (S-626) **ADOPTED**.

On motion by Senator **RAND** of Cumberland, placed on the **SPECIAL STUDY TABLE**, pending **PASSAGE AS AMENDED BY SENATE AMENDMENT "B" (S-626)**, in **NON-CONCURRENCE**.

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

Bill "An Act to Create a Governance System for Unorganized Towns"
H.P. 221 L.D. 299
(S "A" S-559 to C "A" H-782)

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

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782) AS AMENDED BY SENATE AMENDMENT "A" (S-559)** thereto, in **NON-CONCURRENCE**

(In House, February 15, 2000, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)**.)

(In Senate, April 3, 2000, Report **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (H-782) **READ**. On motion by Senator Pendleton of Cumberland, Senate Amendment "A" (S-559) to Committee Amendment "A" (H-782) **READ** and **ADOPTED**. Committee Amendment "A" (H-782) as Amended by Senate Amendment "A" (S-559) thereto, **ADOPTED**, in **NON-CONCURRENCE**. Under suspension of the Rules, **READ A SECOND TIME**.)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782) AS AMENDED BY SENATE AMENDMENT "A" (S-559) thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator KILKELLY for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Authorizing a Land Transaction by the Bureau of Parks and Lands
S.P. 1048 L.D. 2638

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-627)**.

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

READ ONCE.

Committee Amendment "A" (S-627) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-627)**.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator TREAT for the Committee on **NATURAL RESOURCES** on Bill "An Act to Implement the Recommendations of the Task Force to Review Solid Waste Management Policy"
S.P. 1000 L.D. 2565

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-628)**.

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

READ ONCE.

Committee Amendment "A" (S-628) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-628)**.

Sent down for concurrence.

Senator TREAT for the Committee on **NATURAL RESOURCES** on Bill "An Act to Amend the Nutrient Management Laws to Include the Regulation of the Discharge from Fish Hatcheries Except for Aquaculture" (EMERGENCY)
S.P. 1052 L.D. 2642

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-629)**.

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

READ ONCE.

Committee Amendment "A" (S-629) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-629)**.

Sent down for concurrence.

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

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

Off Record Remarks

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

After Recess

Senate called to order by the President.

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

SENATE PAPERS

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

S.P. 1072 L.D. 2674

Sponsored by President LAWRENCE of York.
Cosponsored by Representative HATCH of Skowhegan and Senators: DOUGLASS of Androscoggin, TREAT of Kennebec, Representatives: BOLDUC of Auburn, SHIAH of Bowdoinham. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **REFERENCE**.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator BERUBE for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, to Improve Access to Technical Education and Ensure a Skilled Work Force

S.P. 973 L.D. 2519

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

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

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

Sent down for concurrence.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act to Ensure Cost Effective and Safe Highways in the State"

S.P. 992 L.D. 2550

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-622)** (11 members)

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

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

Pending - **ACCEPTANCE OF EITHER REPORT**

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

Senator **O'GARA** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Senator **CASSIDY** of Washington requested a Roll Call.

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

Senator **CASSIDY:** Thank you Mr. President. This particular Bill that you have before us is a Bill that the committee worked several days on trying to melt this down to something that looked like we might be able to live with in the state. As you can see, we still did not get a unanimous report in the committee. We certainly did get a majority report, but not a unanimous report. As you know, perhaps some of you know, that there was a committee put together between the last time we were here last year and this half of the session to study some of the issues that we refer to as sprawl. This is one of the Bills that came out of that sprawl committee. If you looked at all those Bills, and we're only discussing this one, the concern I had with all of them, exactly, but mostly on this particular Bill that was before our committee, is that what this Bill does is it limits local control again. It seems like so often we put laws into effect, a few years ago we required municipalities to all do comprehensive plans and we set dates and certain timelines for them to do it. We extended the timelines and the dates and finally, I think most municipalities came in compliance with that. Most municipalities today have ordinances and rules and regulations that allows what can happen in that particular municipality. This particular Bill that we have before us this afternoon, takes that right away from those municipalities. What it does, it's this big brother again is looking over your shoulder and the state knows better than you do in your own local community. The other issue that I had is what this is actually going to do. One of the big effects here, is it's going to not allow you to make highway and road cuts, curb cuts we call them, for driveways and growth in your municipality. I think one of the comments during the discussion was what is sprawl in one part of the state may be economical development in another. This is again one of these kinds of Bills where we tried to put into legislation a Bill that fits the entire need for the entire state and it just doesn't work. We're so diversified. Things are so different from one end of our state to the other. I was listening to the State of the State Address and I heard some figures were we had a

6.2% unemployment rate in Washington County. The last folder that you received from the Department of Labor, if you happened to look it over, I noticed that Washington County still has over 12% unemployment rate. We saw things in York and Cumberland in that report where you had a 1.6% unemployment rate. So what we do in one part of the state is not necessarily going to be beneficial to other parts of the state. This is the reason I object to this Bill. There are some good ideas here. I heard it mentioned during the debate that you know sometimes the state will spend some of our taxpayer money and we'll build a nice road and then all of sudden some growth will happen on that particular road. But I think that should be up to the municipality to make that decision. You know the comment, well this is state money. I think we ought to remember this is our money. This is taxpayers' money. This is the folks that we represent. We're the folks paying that money. But if a municipality felt the need, and I know that we heard some really sad cases. I actually had a lady from Eliot offer me two malls for Washington County, my area, and I told her we would take one, maybe, but I didn't know if we need two up there. But I do know that there's problems in certain parts of the state, but I think municipalities have the capability and the brain power from their local ordinances to deal with this. Another part of the Bill was violation. The old law states that there would be a \$100 fine for violation of a curb cut. I actually think if you were going to implement this law, that is needs to have more teeth. This, at least, gives a person a 30 day notice if they were in violation and at that time they could be subject up to \$100 a day fine. But I'm not going to speak much further on this Bill. It's just a situation where it's taking away local control. It's a Bill that is trying to have one size fits all for the entire state and usually those Bills don't work. I hope that we could go on and defeat this pending motion. I thank you, Mr. President.

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

Senator **O'GARA:** Thank you Mr. President. Mr. President and ladies and gentlemen of the Senate, we, as you all know, put an awful lot of money, our tax money and your constituents tax dollars, into improving state roads to either upgrading them or building new ones so that the traveling public can move along. We're not talking now about the little local roads, we're talking about state roads, where the public at-large can move at a relatively good speed and a safe speed at the same time. By all of these individual curb cuts into these major roads, we are defeating the very purpose of improving the roads in the first place. Secondly, I want to make sure you understand that the amendment that is on your desk, or in the book by now, which is Senate Amendment 622, replaces the original Bill. There were things in the original Bill that were very offensive to landowners and to developers. Such as limiting whatever the size of the lot is to just one curb cut. And the fine was considered to be excessive. It was instead of just \$100 fine, it was changed in the Bill to \$100 per day, which was considered excessive. Those two major points have been moved out of the Bill. So we do not have a limit on the number of curb cuts and we don't have the fine. What do we say in the amendment is that the DOT will work with municipalities and local developers so that if there are going to be one or more driveways into their lot, that those driveways will be built to standard, working with local communities. That those driveways will be put in a place not where many are found as you drive the roads and byways of Maine now on curbs and on hills or

in other similar areas that are not visible at once to the traveling public. We don't think that's an unreasonable request, an unreasonable part of the Bill. We also directed DOT to work with all agencies, including municipalities, in the future to help them develop plans for development in the area. When we discussed this Bill at the public hearing, there were a lot of concerns from people who own land, in rural areas especially. And I think the majority of the members of the committee, and by the way was an 11 to 2 report, decided that it would be better to pull in our horns, as it were, and bring this back into the area where this is really a problem. And that is into the more urban area. There were two or three good examples given as to where it has worked and where it has not worked. Two of them are right here in the City of Augusta. One was Western Avenue, where there were no rules, there were no requirements. And as a result, those of you who, like me, get off the Maine Turnpike down below the Senator Inn up there and know how long it takes you to get from the Senator Inn to this parking lot or wherever. The major reason for that is the incredible number of cuts, driveways, stoplights and everything else that are there. As opposed to the road that goes by the Civic Center, whatever that Route number is or whatever the road is called. I don't really know. But all I do know is that when they developed that area, they made the decision that, in fact, there would only be the one major driveway, which by the way if you notice coincides now as they developed across the street so that road is right there as well, and the other one which is a substantial distance away down over the hill, the road that takes you up the back way to the Civic Center or to part of the University of Maine in Augusta campus or whatever. And that road is also directly across the street from another road. So they had that under control.

At the public hearing, there was a lady there that had been on the Kittery Planning Board many years ago. She said that when they were beginning to discuss the very first shopping outlet on that road, Route 1 down there in that area, she was advised by a friend of hers from out of state who had been on a planning board not to go there until they really step back and thought about what was going to happen if they don't have some rules and regulations about how many driveways are going to be coming out onto busy Route 1. She announced to us at the public hearing that they chose to ignore that advice. As a result, you and I and anybody else who drives that stretch of road along those major number of shopping outlets, know how difficult it is because they are indiscriminately placed. They are not opposite of each other for the most part. They are just there and because they had no guidelines. We, the overwhelming majority of Transportation Committee, feel that we have really come up with a compromise. We feel that we have met all the objections. Had we not had a discussion and talk with various agencies, we perhaps would have had a much more divided report. But once we had resolved those issues of the curb cut, the fine, the work of municipalities. No existing driveway, by the way, is impacted by this. Unless someone wants to change the use of that driveway or change the place of that driveway, they do not come under this Bill at all. It is future development. I urge you to support the pending motion. Thank you, Mr. President.

On motion by Senator **CASSIDY** of Washington, 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 Aroostook, Senator Amero.

Senator **KIEFFER:** Thank you Mr. President. Mr. President I'm sorry that my button didn't work properly, earlier. Mr. President can I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **KIEFFER:** Thank you. In reading this, I see no provisions in here that would provide for at least one driveway to any parcel of land. If someone did in fact own 10 acres of land on a state highway and decided to build a home there, or a business, what is there in here that would provide that at least access through one entrance would be available?

THE PRESIDENT: The Senator from Aroostook, Senator Kieffer 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:** If I heard all of the question, understood the question. There was only one cut in the Bill, but in the amendment, that requirement has been removed from the Bill. It isn't down to one cut for that whole lot. Maybe the Senator could repeat the question.

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

Senator **CAREY:** Thank you Mr. President. Men and women of the Senate, as I read this, on the second page of the amendment, 622, there seems to be an inordinate amount under B and C up at the top of the page of the highway people getting involved in timber harvesting and that's an area that they should really be staying out of.

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

Senator **KIEFFER:** Thank you Mr. President. Perhaps I didn't word my question clear enough. I don't know if I can or not. But if you had a 10 acre parcel of land with a thousand feet of road frontage today, without a curb cut so there is no access to it, is there anything in this legislation that would provide for you to at least have one curb cut? One way of access if we pass this Bill or would that owner of that property be landlocked?

THE PRESIDENT: The Senator from Aroostook, Senator Kieffer 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 and I thought I understood the question but apparently I didn't. That concern was amended out of the Bill. And, in fact, any landowner that you're describing would not ever be landlocked. No landowner would be prevented from access to his or her property. That was a concern that was raised and that was all eliminated out by the amendment.

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

Senator **KIEFFER:** Thank you Mr. President. Well I'm glad it was amended out. But it's not in this, as near as I can see it, that would mandate that at least one curb cut would be made available to the owner of that property. I haven't heard that there would at least be specific language in here allowing a person access to the property that he currently owns from a state aid highway.

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

Senator **CASSIDY:** Thank you Mr. President. If I may try and respond to the Chair, the current Senate Amendment 622 changed the original Bill. So now the requirement says that a curb cut could be made by filing application through the department and go through the rules and regulations, so on and so forth. So a person could acquire a permit for a curb cut. They would go through that process. Also I think the amendment mentions that if the municipality had an ordinance, that sort of thing, it would also have to go through that municipality as well. I think the answer here is the amendment has replaced the Bill.

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

Senator **O'GARA:** Thank you Mr. President. What I'm trying to say, and I'm apparently not saying it very well, is that current law, we're not changing it, current law provides him access to that property and so there would be no reason to put it in here. Current law already provides that access.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator Cumberland, Senator O'Gara to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#318)

YEAS: Senators: ABROMSON, AMERO, BENOIT, BERUBE, CATHCART, DAGGETT, DOUGLASS, FERGUSON, GOLDTHWAIT, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MACKINNON, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BENNETT, CAREY, CASSIDY, DAVIS, HARRIMAN, KIEFFER, LIBBY, MICHAUD, MITCHELL

26 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **O'GARA** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-622) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-622)**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act to Amend Weight Requirement Inequalities Between Hauling Wood Products and Hauling Other Products"

H.P. 845 L.D. 1179

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-911)** (5 members)

Tabled - March 31, 2000, by Senator **O'GARA** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In House, March 27, 2000, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-911)**.)

(In Senate, March 28, 2000, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, March 30, 2000, that Body **ADHERED**.)

Senator **O'GARA** of Cumberland moved the Senate **ADHERE**.

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

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

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate, before we vote on this issue, I'd like to just address a couple of points if I might, Mr. President, regarding the minority report on this particular issue. This Bill came before the committee this year. And I think to just give you a little bit of background. We have a law in the State of Maine that forest products are allowed to haul more weight than some other commodities that we have. On tri-axles, forest products are allowed up to 64,000 pounds to be hauled on a tri-axle vehicle. This particular Bill would be a fairness Bill in that it would allow folks who haul gravel, frozen blueberries or other commodities that need to be hauled around the state an equal chance to do that. One reason that I supported the Bill, not only because of fairness so that all vehicles would be hauling the same amount of

weight, is also if you look at this particular Bill you notice that the fines have greatly increased. The problem that we have when vehicles are overweight, sometimes the fine is so low that it's just a routine part of companies doing business. This particular Bill that we have before us in the minority report would allow vehicles to have the penalty quadrupled so that the highest rate would be up as far as \$7,400. That would be the incentive for us to pass this particular Bill. I would like us to go ahead and support the pending motion. Thank you, Mr. President.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate. Recede and concur, never. The State Police testified on this measure and labeled this obscene. X-rated is the way that I see it. And the example they give, Mr. President, is that the Bill would allow small dump trucks to have gross or total weight of roughly 59,000 pounds with 54,000 pounds on the rear axle. Have you ever seen a dump truck do a wheelie? If this Bill passes, you will. And I know my grandchildren would love to see that. But I don't think that's good government. Finally, Mr. President, it is said that the minority report would generate \$200,000 in additional fines. Penny-wise and pound foolish is what's going to happen because we will have \$200,000 come in and there will be millions of dollars of road damage occur. Tonight I am going to have to travel to Rangeley and drive up through Avon, Maine on Route 4, and I'm going to be bouncing all over the road, as it is. I don't think that this is wise legislation to allow our roads to be pounded further by passing this kind of legislation. Thank you.

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

Senator **O'GARA:** Thank you Mr. President. Two quick items. I hope that you all received on your desk a sheet that explains many of the key issues in this. I know you all have read it very carefully, word for word. The question of fairness just came up. One of the comments that I want to make about the truck axle, when we talk about fairness, they're talking about the fact that pulp trucks have this tri-axle already. The fact of the matter is that was supposed to be an experimental issue and it was supposed to have a sunset on it. It only became a permanent law when pulp trucks, I don't recall being here at the time, circled the Capitol Building and with a lot of pressure it became permanent. The Administration and the State Police and everybody else may have opposed that Bill just as they are opposing this one. So it really isn't an issue of fairness, it's talking about damage. The fine increases are an interesting item that was brought up. And I will see it as sort of a smoke screen, in a sense, to justify having this law. What it shows is that trucks that are now not able to have tracks are going to flock to get, in great numbers, the ability to have tri-axle trucks, because to them the fine is just a matter of doing business. The fact of the matter is that the damage that is done on our roads is incredibly significant. And, as was said in another Bill earlier, we put a lot of money into our roads. We don't need to have this kind of a situation. Passing this LD would give Maine the heaviest tri-axle weights in the country. I don't believe we need to have this. No other state in the union, except for Virginia, has accepted the notions that are in this LD. Thank you, Mr. President.

The Chair ordered a Division. 7 Senators having voted in the affirmative and 28 Senators having voted in the negative, the motion by Senator **BENNETT** of Oxford to **RECEDE** and **CONCUR, FAILED**.

On motion by Senator **O'GARA** of Cumberland, the Senate **ADHERED**.

Sent down for concurrence.

On motion by Senator **RAND** of Cumberland, **ADJOURNED**, until Tuesday April 4, 2000, at 9:00 in the morning, in memory of and lasting tribute to Barbara Cooney of Damariscotta.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator KONTOS for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Implement the Recommendations of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy"

S.P. 995 L.D. 2557

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-632)**.

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

READ ONCE.

Committee Amendment "A" (S-632) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-632)**.

Sent down for concurrence.

Senator DAGGETT for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Enter Into the International Emergency Management Assistance Compact" (EMERGENCY)

S.P. 1058 L.D. 2648

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-631)**.

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

READ ONCE.

Committee Amendment "A" (S-631) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-631)**.