

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

In Senate Chamber
Tuesday
March 7, 2000

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

Prayer by Senator John Benoit of Franklin County.

SENATOR BENOIT: Thank you Mr. President. May it please the Senate. Less than two weeks to go to the first day of spring and the older I get, it seems, each year the earlier I get spring fever and the wonderful thing about it is there's no medical treatment to prevent it. My prayer poem this morning will be greatly aided if we would be in a prayerful state.

Lord, this time of year is a wonderful thing.
This time of year when we think about spring.
Soon from our waters, the ice will go out,
then we'll cast flies for the wile trout.
We'll pretty up yards at homes that are ours,
trimming the shrubs, planting some flowers.
Soon we'll rake extra leaves from last fall,
scrub up our windows, play catch with a ball.
Lord, we give thanks and we want so to sing
but we become mute by the Senate bell ring.
Lord, can you help us? Can you show us the way
to finish all our work by adjournment day.
Lord, give us the sense of working together
with hearts lightened up by springtime weather.
For You know best, Lord, when all's said and done.
Though making our laws can sometimes be fun
that job can't be done outdoors in the sun.
Amen

Pledge of Allegiance led by Senator Norman Ferguson Jr. of Oxford County.

Doctor of the day, Jane Garfield, M.D., Blue Hill.

Reading of the Journal of Friday, March 3, 2000.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Prohibit the State from Competing with Private Industry"

S.P. 179 L.D. 533
(C "A" S-478)

In Senate, February 15, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-478).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-478) AS AMENDED BY HOUSE AMENDMENT "A" (H-824)** thereto, in **NON-CONCURRENCE.**

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

Non-Concurrent Matter

Bill "An Act to Amend the Low-emission Vehicle Program"

S.P. 868 L.D. 2278
(C "A" S-486)

In Senate, February 18, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-486).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-486) AS AMENDED BY HOUSE AMENDMENT "A" (H-839)** thereto, in **NON-CONCURRENCE.**

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

Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Joint Standing Committee on Utilities and Energy Arising from its State Government Evaluation Act Review of the Public Utilities Commission"

H.P. 1820 L.D. 2554

In Senate, February 22, 2000, **PASSED TO BE ENGROSSED,** in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-838),** in **NON-CONCURRENCE.**

On motion by Senator **CAREY** of Kennebec, the Senate **RECEDED** and **CONCURRED.**

COMMUNICATIONS

The Following Communication: S.C. 533

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT**

February 25, 2000

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

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2443 An Act to Provide for Statewide Redemption of Returnable Containers

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

Sincerely,

S/Sen. Carol A. Kontos S/Rep. Gary O'Neal
Senate Chair House Chair

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

The Following Communication: S.C. 534

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

February 25, 2000

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

Dear President Lawrence and Speaker Rowe:

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

L.D. 2429 An Act to Address the Teacher Shortage in Maine

L.D. 2440 Resolve, to Equalize State Funding of Higher Education Programs within the University of Maine System

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

Sincerely,

S/Sen. Georgette B. Berube S/Rep. Michael F. Brennan
Senate Chair House Chair

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

The Following Communication: S.C. 535

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

February 25, 2000

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

Dear President Lawrence and Speaker Rowe:

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

L.D. 2416 An Act to Limit the Duration that Businesses May Hire Employees as Temporary Employees

L.D. 2431 An Act to Change the Retirement Eligibility Requirements for Certain Employees of the Department of Environmental Protection

L.D. 2491 An Act to Permit the Option of Retaining Health Insurance Coverage for Law Enforcement Personnel Who Have 25 Years of Creditable Service

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

Sincerely,

S/Sen. Neria R. Douglass S/Rep. Pamela H. Hatch
Senate Chair House Chair

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

The Following Communication: S.C. 536

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

February 25, 2000

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

Dear President Lawrence and Speaker Rowe:

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

L.D. 2543 An Act Regarding Limited Entry Into the Maine Shrimp Fishery

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

Sincerely,

S/Sen. Jill M. Goldthwait
Senate Chair

S/Rep. David Etnier
House Chair

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

The Following Communication: S.C. 537

**STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
38 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

March 1, 2000

Honorable Mark W. Lawrence
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Lawrence:

Pursuant to "A Resolve to Implement the Recommendations of the Commission to Study Poverty among Working Parents with Regard to an Annual Report Card on Poverty" I am pleased to submit the enclosed 1999 Report Card on Poverty in Maine to you. A supplement to this report concerning creation of a basic needs budget will follow shortly.

I hope you find the information contained therein of use to you. If you have questions or would like further information, please feel

free to contact Joyce Benson at this office. (tel. 287-1461 or email joyce.benson@state.me.us)

Sincerely,

S/Evan D. Richert, AICP
Director

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

SENATE PAPERS

Resolve, to Ensure Adequate Funding for the Lewiston District Court

S.P. 1029 L.D. 2609

Sponsored by Senator BERUBE of Androscoggin.
Cosponsored by Representative MENDROS of Lewiston and Senator: DOUGLASS of Androscoggin, Representatives: BOUFFARD of Lewiston, COTE of Lewiston, GERRY of Auburn, MAILHOT of Lewiston, O'BRIEN of Lewiston, SHIELDS of Auburn.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Sent down for concurrence.

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

ORDERS

Joint Order

On motion by Senator KILKELLY of Lincoln, the following Joint Order: S.P. 1024

ORDERED, the House concurring, that Bill, "An Act to Establish Mandatory Labeling for Genetically Engineered Foods," H.P. 506, L.D. 713, and all its accompanying papers, be recalled from the legislative files to the Senate.

READ.

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

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Eliminate Regulation of Public Heating Utilities"
H.P. 1637 L.D. 2288

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

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

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

READ ONCE.

TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Provide Standard-offer Service to Certain Customers"
(EMERGENCY)
H.P. 1638 L.D. 2289

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

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

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

READ ONCE.

TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Make Certain Public Utility Commission Rules Routine Technical Rules"
H.P. 1722 L.D. 2428

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

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

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

READ ONCE.

TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act to Clarify the Laws Relating to Corporate and Other Entities" H.P. 1664 L.D. 2333

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-818)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-818) AS AMENDED BY HOUSE AMENDMENT "A" (H-826)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-818) **READ**.

House Amendment "A" (H-826) to Committee Amendment "A" (H-818) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-818) as Amended by House Amendment "A" (H-826) thereto, **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Add Emergency Medical Services to the Municipal Fire Department Authority" H.P. 1676 L.D. 2342

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-822)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822)**.

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

READ ONCE.

Committee Amendment "A" (H-822) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **TAXATION** on 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

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-820)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-820)**.

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

READ ONCE.

Committee Amendment "A" (H-820) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act Regarding the Administration of Polygraph Tests to Prospective Law Enforcement Personnel" H.P. 249 L.D. 353

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

Signed:

Senators:

MURRAY of Penobscot
O'GARA of Cumberland

Representatives:

CHIZMAR of Lisbon
SHERMAN of Hodgdon
TOBIN of Dexter
McALEVEY of Waterboro
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-819)**.

Signed:

Representatives:

O'BRIEN of Augusta
MUSE of South 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 **JUDICIARY** on Bill "An Act to Amend the Installment Payment Order Capability of the Disclosure Court"

H.P. 243 L.D. 347

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-816)**.

Signed:

Senators:

LONGLEY of Waldo
BENOIT of Franklin

Representatives:

THOMPSON of Naples
LaVERDIERE of Wilton
JACOBS of Turner
BULL of Freeport
MITCHELL of Vassalboro
PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton
SCHNEIDER of Durham

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

Signed:

Senator:

TREAT of Kennebec

Representative:

NORBERT of Portland

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-816)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-816) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Provide for a Limited Waiver of Immunity"

H.P. 916 L.D. 1294

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-815)**.

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

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

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

Signed:

Representatives:

PLOWMAN of Hampden
WATERHOUSE of Bridgton

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-815)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-815) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act to Prohibit Drugging in a Portion of the Taunton River Area" (EMERGENCY)

H.P. 1745 L.D. 2451

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

Signed:

Senators:

GOLDTHWAIT of Hancock
PENDLETON of Cumberland
MackINNON of York

Representatives:

ETNIER of Harpswell
STANWOOD of Southwest Harbor
USHER of Westbrook
VOLENIK of Brooklin
PINKHAM of Lamoine

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

Signed:

Representatives:

HONEY of Boothbay
BAGLEY of Machias
McNEIL of Rockland

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-821)**.

Reports **READ**.

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

READ ONCE.

House Amendment "A" (H-821) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Base the Rate of Tax Imposed on Married Couples Solely on Income Earned in this State"

H.P. 1482 L.D. 2122

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-803)**.

Signed:

Senator:

RUHLIN of Penobscot

Representatives:

GAGNON of Waterville
GREEN of Monmouth
DAVIDSON of Brunswick
STANLEY of Medway
LEMONT of Kittery
MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland
LEMOINE of Old Orchard Beach

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

Signed:

Senators:

DAGGETT of Kennebec
MILLS of Somerset

Representative:

COLWELL of Gardiner

Comes from the House with the Bill and accompanying papers **COMMITTED** to the Committee on **TAXATION**.

Reports **READ**.

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

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act to Clarify Repair and Inspection Standards for Punctured Tires"

H.P. 1732 L.D. 2438

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

Signed:

Senators:

PARADIS of Aroostook
CASSIDY of Washington

Representatives:

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

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

Signed:

Senator:

O'GARA of Cumberland

Representatives:

LINDAHL of Northport
JABAR of Waterville

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

Reports **READ**.

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

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

Senator **O'GARA:** Thank you Mr. President and ladies and gentlemen of the Senate. I would first say to you that I, like probably many of you in this chamber, have driven on tires that have one or more plugs in them at some time in your driving career. And I never gave much thought to it until we had the public hearing on this particular Bill. And I was impressed with the presentation that was made, not only by the State Police. And I would remind you as I begin my remarks that we in this Body, as in any part of the legislature, are always looking to the professionals outside of the legislative body to present us with information and then, of course, leave it up to the legislative body to make the decision whether we will follow their advice or ignore it. Today you will have one of those opportunities. All of you, or nearly all of you, in this Body have had a presentation in your respective caucus from people who are in the tire business. They are, in fact, the professionals. I am not, and I suspect neither are any of you, in the use of plugs in a tire for long periods of time and long periods of driving at high rates of speed. The manufacturer of plugs themselves, if you were to pick up a packet in a automotive shop, says this to you, permanent tire repairs used in this product must be done by a professional tire repairer who should remove the tire from the rim, inspect the tire, fill the area and then apply a repair patch from the inside. Temporary tire repairs using this product may be done in an emergency. In an emergency situation. This is not a permanent repair. This is a temporary repair and, in this case, should not travel more than fifty miles or exceed fifty miles per hour. As I mentioned earlier, I suspect we have all had plugs in our tires and may this very day be returning to our automobiles with tire, or more, having plugs in them. The manufacturer of those plugs themselves say you should not drive more than fifty miles and definitely not exceed fifty miles an hour. I would think it's safe to say that very few of us in this chamber travel to and from this hallowed hall at fifty miles per hour.

I had never seen; I had no interest to see, the inside wall of any of my tires. It is not one of the things on my list of things I'm awfully excited about seeing. But in the last few weeks, I have seen the inside of tires and what happens is, as you heard in the caucus if you were able to be at that caucus on that particular day when this was shown to you, the nail or spike or whatever object it is that caused that penetration of that tire, the hole on the inside

may not be, and quite often is not, as nice and neat as it would appear when the man, or person who arrives at your home or whatever, pulls that spike or whatever object it is out and it appears that you have a nice neat little hole there. And why not put a plug in there? It seems like that would do the job. But if you take a look at the tire wall on the inside, you see the fibers quite frequently, and you can't see them unless you take the tire off, there is more damage on the inside than there is on the outside. And it can only be seen by taking the tire off. The cost could range, if it has to be rebalanced, from eighteen to twenty dollars. I don't know what value you put on the safety of your wife or your children who have taken the car out for a ride or even more importantly certainly, or least as importantly, your own life. But that inexpensive amount of money, that inexpensive cost, I think is worth being done.

Now I realize this is a very emotional issue and, in fact, I know you've heard from people who feel that this is yet another infringement on Mainers' right to be independent. You've heard from people who have driven for all these miles and never had a problem. Good for them. As the Chairman of the Transportation Committee, and having now seen the possibility of damage and the damage that has been done to tires that have been brought in to be shown, it is my responsibility to say to you, by representing the minority report of that Committee, that we consider this to be a dangerous situation. We put a lot of stock in our State Police. Many of us even carry a banner that says Support Your State Police. The State Police are telling us that this is a dangerous situation and I urge you to accept the minority ought not to pass report. Thank you, Mr. President.

Off Record Remarks

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

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate. I would like to just discuss this Bill before us a little bit. As you know, our Committee did hear this this session and, as you can see, I was on the opposite side of my good friend from Cumberland, Senator O'Gara. The majority of the Committee oppose change and to leave this law, in effect, the way it is. What happened with this situation is that this was done by rule making through this State Police a year or so ago. Shortly after that, the law took effect and I had several calls from some of the mechanics and garages in the area that are opposed to that particular restriction. Also I had a lot of constituents concerned about it. So we listened to the Bill this year and I just started to think about my own situation. I wouldn't dare guess how many vehicles I've owned in the last thirty-something years and, having raised four children and helped them all buy a vehicle to get through college and high school and that sort of thing, I wouldn't even dare to count how many of these plugs I've had put in my tires over the years and not once did I personally experience any problem with it. They always say to folks who have children in school, you know, it's not just the tuition and room and board and all those kinds of things we have to worry about as parents. You get the call, you know, Dad, I blew a tire, I need a new battery, and all these kind of things happen that go along with it. So,

fortunately, we were able several times to use a plug such as this and unfortunately some of the presentation that you saw within the last week or so, you can see an extreme on anything. We have tons of new vehicles leave the factory every year and every now and again an engine will go bad right off the assembly line. And I think the same thing happens with these plugs. Everyone of you have had these put in, I'm sure, over the years and I would just like to have one person that comes to me and show that that did not work. Also, we had some examples from some of the local, over-the-counter, stores. Those are nothing like the plugs that I see my mechanic use. The plugs that they use in our garages, when they were allowed to be used, were like a rubber cord sort of thing that is cemented to the tire. I had one person say the other day, you know when a nail goes in the tire, it doesn't go straight in. It goes side ways. Well, so does the plug. And, as I say, I've just had nothing but great experience with it and I think it is one of these situations where, again, we get back to the old saying that you can make life so safe it ain't worth living. I will oppose this pending motion. I hope you join me. Thank you, Mr. President.

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

Senator **HARRIMAN:** Thank you very much and good morning Mr. President. Mr. President, may I pose a question to the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **HARRIMAN:** Thank you very much. My question, Mr. President, is as I understand it, and I'd like to be corrected if it's incorrect, that this vote before us would not prohibit the use of so called plugs to repair tires, but rather it would assure that the car may not pass inspection if a plug has been used. So I am wondering if someone could clarify for me, Mr. President, will this prohibit someone from using a plug as a patch temporarily or is this denying them an inspection sticker?

THE PRESIDENT: The Senator from Cumberland, Senator Harriman 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 Mr. President. The answer is no, it would not prevent a plug from being used under the description that I gave you on a temporary basis and the emphasis again is on a temporary basis. So it would not be prohibited.

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

Senator **ABROMSON:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I have to start with a disclosure. I spent twenty-five years in the rubber business; one of those years as a president of Yudy's Tire, which included Ace Tire in Waterville and Edwards Tire in Brewer. Having said that, let me tell you I am no longer connected to the tire business in any way whatsoever. I have nothing to gain by the defeat or passage of this Bill. But I will tell you that what the Senator from Cumberland, Senator O'Gara, says is absolutely true. You were all given a copy of the back side of this tire repair kit the other day and I have to tell you that it is pretty clear what it says. That this

is only for temporary use. I must tell you that my tire guy, Dick Aranson of Century Tire, is here today in the gallery and the first thing I said to him this morning was, Dick when I had that nail in my tire last week, what did you do? He said, I took the tire off before I plugged it. Thank God. I don't want to run around on a tire that was simply plugged and not knowing what happened to the inside of the tire. It's been alleged that people have been riding around on these things forever and nothings happened. Let me just tell you that I have a list here of eight pages worth of lawsuits that are pending strictly because of these plugs. Everything that you have read or that has been put on your desks about these plugs tell you that they should only be done by a professional. Well, what happens is if a plug is put in by a professional and that thing goes, it results in a lawsuit. Because they say you're the professionals, you should know better. So the professionals will be very careful to not only put in the plug but first to check the inside of the tire and make sure it is all right. I would urge, very strongly, that you go on with the State Police as well as the minority report and vote this Bill ought not to pass. Thank you, Mr. President.

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

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate. I never would have dreamed that plugging tires would become a top priority for me but it is today and I do want to add a few comments to the debate so far. I turned to a person who I would consider an expert in both tires and safety, which was my Police Chief, and said, what do you do when a cruiser gets a flat? And he said, well what do you mean? I said, well, do you put a plug in it? He looked at me like I had two heads and said, a plug? You have to be kidding. So that was my first indication that this wasn't such a great idea. We do have examples of fatalities, possibly not in Maine but it doesn't matter where they happen if they happen as a result of plugged tires. It's a serious issue. But the piece that I do want to speak to is that this has somehow been cast as a matter of money. That these greedy tire guys are just trying to find a more expensive way to repair a tire so that they make more money. I think that's really unfair. In this case, they happen to be one of the pools of experts that we have to draw on for this issue. Where I live the tire guy is Albert and Albert says this is a bad idea. He's been plugging or repairing tires, excuse me, since before I was born. So I respect his opinion on this and he said for the safety of himself and the people of his community and, by the way, Albert has won a community award for being a pillar of the community in our area, this is something that he would never do. He would never repair a tire without taking it off the wheel and looking at the inside. He also explained to me that this practice has become especially important since the introduction of radial tires where, unlike the older kind of tires that when they went flat, they went flat and you knew it, you can plug a radial and if it leaks, it will leak very slowly and you may not be aware of it until it's reached a dangerous point. So when I look at a collaboration, if you will, of the experts, which would include the State Police, the Municipal Police, the rubber manufacturers association, and the tire guys, they're all saying the same thing and so am I. I urge you to support the minority report.

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

Senator **CASSIDY**: Mr. President. Members of the Senate, before you vote, I just want to say a couple things. First of all, this practice has been done for years and years and years and years. It was a change in the rules that made this take effect, that we weren't allowed to do this. Not one person has shown me any statistics that this doesn't work. There are no fatalities that I know of in the State of Maine from this thing. You can find extremes for anything. Last year I can remember when we passed the helmet law for children on bicycles. Somebody sent me some statistics where two children died because they had their helmet on and hung themselves in a park. We can go to any extreme we want to, but no one has proven to me that any statistics in the State of Maine that this hasn't worked. It's worked for years and years and years and I think it's just another regulation we don't need. I hope that you will not support this pending motion and go on to accept the majority report. Thank you, Mr. President.

The Chair ordered a Division. 22 Senators having voted in the affirmative and 5 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.

Senate

Ought to Pass As Amended

Senator **NUTTING** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Increase the Rate of Pay for Forest Fire Wardens"

S.P. 894 L.D. 2313

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-520)**.

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

READ ONCE.

Committee Amendment "A" (S-520) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Senator La**FOUNTAIN** for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Prevent Misuse of Mortuary Trust Funds"

S.P. 922 L.D. 2373

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-521)**.

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

READ ONCE.

Committee Amendment "A" (S-521) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Senator O'GARA for the Committee on **TRANSPORTATION** on Bill "An Act to Ensure Fuel Deliveries by Allowing Fuel Delivery Vehicles to Travel on Posted Roads"

S.P. 931 L.D. 2381

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-518)**.

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

READ ONCE.

Committee Amendment "A" (S-518) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Clarify Maine's Campaign Finance Laws"

S.P. 710 L.D. 2032

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

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

TUTTLE of Sanford

CHIZMAR of Lisbon

FISHER of Brewer

GAGNE of Buckfield

LABRECQUE of Gorham

PERKINS of Penobscot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-519)**.

Signed:

Senators:

CAREY of Kennebec

FERGUSON of Oxford

Representatives:

MAYO of Bath

HEIDRICH of Oxford

McKENNEY of Cumberland

O'BRIEN of Lewiston

Reports **READ**.

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

SECOND READERS

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

House

Bill "An Act to Repeal the Nondiscrimination in Pharmaceuticals Pricing Law"

H.P. 1678 L.D. 2344

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

House As Amended

Bill "An Act to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to State Earned Income Credit"

H.P. 90 L.D. 103
(C "B" H-812)

Bill "An Act to Clarify Laws Governing Simulcasting"
(EMERGENCY)

H.P. 1147 L.D. 1644
(C "A" H-807)

Bill "An Act to Amend Maine's Probate Code"

H.P. 1633 L.D. 2285
(C "A" H-817)

Bill "An Act Concerning the Possession of Marine Organisms by Aquaculturists Outside of the Harvest Season"

H.P. 1684 L.D. 2351
(C "A" H-809)

Bill "An Act to Clarify the Prosecution of Aggravated Operating Under the Influence"

H.P. 1700 L.D. 2406
(C "A" H-810)

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

Senate As Amended

Bill "An Act to Establish the Environmental Leadership Program"
S.P. 529 L.D. 1562
(C "A" S-516)

Bill "An Act to Help Support the Medical Ride Volunteer Service"
S.P. 933 L.D. 2383
(C "A" S-517)

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

Sent down for concurrence.

Bill "An Act to Improve the Absentee Voting Process"
S.P. 631 L.D. 1796
(C "A" S-515)

READ A SECOND TIME.

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

ENACTORS

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

Emergency Measure

An Act to Permit Certain Referrals by Health Care Practitioners
H.P. 1578 L.D. 2225
(C "A" H-786)

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

Emergency Measure

An Act to Regulate Nonprofit Debt Management Service Providers

S.P. 865 L.D. 2263
(C "A" S-493)

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

Emergency Measure

An Act to Conform the Maine Tax Laws for 1999 with the United States Internal Revenue Code

S.P. 867 L.D. 2277
(C "A" S-490)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with 1 Senator having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act to Increase the Bonding Limit of the Trustees of the City of Brewer High School District from \$2,500,000 to \$5,000,000

H.P. 1651 L.D. 2320

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act to Revise the Charter of the Madawaska Water District

H.P. 1666 L.D. 2335

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Require Certain Reports Concerning the Use of Automated Telephone Answering Equipment by State Government

S.P. 777 L.D. 2176
(C "A" S-488)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act to Encourage Environmental Management Systems
H.P. 1072 L.D. 1519
(C "A" H-801)

An Act to Grant Municipalities Greater Flexibility in their Arrangements for Tax Base Sharing Agreements
S.P. 873 L.D. 2281

An Act to Maintain the Eel and Elver Management Fund and Regulate Permits for Eel Weirs
H.P. 1632 L.D. 2284

An Act to Address Financial Inequities in Special Waste Fees
H.P. 1656 L.D. 2325
(C "A" H-791)

An Act to Clarify the Laws Governing Solid Waste Disposal Districts
S.P. 900 L.D. 2350

An Act to Simplify the Approval Process of Existing State Tax Increment Financing Districts
S.P. 941 L.D. 2391

An Act to Correct Inconsistencies of the Taxable Wage Amount in the Unemployment Compensation Law
H.P. 1713 L.D. 2419

An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2001

S.P. 950 L.D. 2489
(S "A" S-491)

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

An Act Regarding Taxation of Low-energy Fuels
H.P. 940 L.D. 1337
(C "B" H-788)

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

Senator **LIBBY:** Thank you, Mr. President. May I pose a question?

THE PRESIDENT: The Senator may pose his question.

Senator **LIBBY:** Thank you, Mr. President. Mr. President, I wanted to ask about L.D. 1337. I wondered if I could ask a member of the Transportation Committee to explain to me the policy objective behind changing the BTU formula. I am a little bit confused about the policy objective behind that. I understand the change and I understand the fact it will reduce revenues in the highway fund but I'm not quite sure about the objective behind it.

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

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

Senator **O'GARA:** The response to the question is what I've already indicated to the Senator. I can't give you a definite answer now. All I can tell you is that this was a carry over Bill and when it was discussed in public hearing over a year ago, and then most recently here, the problem is what seems to be the inequity of how many miles you can drive on the fuel they want to use, which is propane, as resultant to regular gasoline. There's a whole confusing issue. If I tried to stand up here and tell you, everybody in this room would know that I was making it up as I went along. So I will get the answer for the Senator.

On motion by Senator **O'GARA** of Cumberland, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, in concurrence.

An Act to Allow the Surviving Veteran Spouse of a Veteran to Continue to Receive the Property Tax Exemption
H.P. 1128 L.D. 1587
(C "B" H-787)

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

An Act to Promote Equity Among Health Care Clinics
S.P. 532 L.D. 1594
(C "B" S-487)

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

An Act to Appropriate Funds for Acquisitions for the Maine State Library
H.P. 1770 L.D. 2483

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

Resolves

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory
S.P. 870 L.D. 2280
(C "A" S-494)

Resolve, to Reinstate Emergency Assistance for Dependents of Veterans

S.P. 688 L.D. 1934
(C "A" S-482)

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

Off Record Remarks

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Improve Educational Programming at Juvenile Correctional Facilities"

H.P. 1872 L.D. 2608

Comes from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

Bill "An Act to Amend the Laws Regarding Foster Parents" (EMERGENCY)

H.P. 1870 L.D. 2606

Comes from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

Bill "An Act to Provide Consumer Safety Certification for Snowmobiles and All-terrain Vehicles"

H.P. 1873 L.D. 2610

Comes from the House, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

REFERRED to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed, in concurrence.

Bill "An Act Concerning Previous Passamaquoddy Indian Territory Legislation"

H.P. 1871 L.D. 2607

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

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

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

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

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

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1874

ORDERED, the Senate concurring, that the Joint Standing Committee on Education and Cultural Affairs report out, to the House, a bill to clarify the tuition waiver program for persons who resided in foster care as children.

Comes from the House, **READ** and **PASSED**.

READ and **PASSED**, in concurrence.

ORDERS OF THE DAY

Unfinished Business

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

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

HOUSE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Establish the Expenditure Forecasting Committee"

H.P. 624 L.D. 864

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-781)** (2 members)

Tabled - February 18, 2000, by Senator **MICHAUD** of Penobscot.

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

(In House, February 15, 2000, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

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

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

Senator **HARRIMAN:** Thank you very much, Mr. President. Good morning, ladies and gentlemen of the Senate. I hope you'll join me in opposing the pending motion. I do so because, as you are well aware, for several years now we have created and used the expertise of the Revenue Forecasting Committee, which meets periodically to take a close look at Maine's economy and the direction it's heading and to advise the legislature and the Governor on what we can expect for revenues in the coming biennium. Many of us thought that this was a worthy idea to get experts who are once removed, if you will, from the day to day operations of the legislature and the executive branch to take a look at the overall expenditures of the State government and to apply some expertise and some empirical data, to advise us on where our expenditures are going to be in the future. And, as you all are aware, the current state budget has what's called a structural surplus. The revenues that are coming into state government today are projected out over into the next legislatures' two year budget cycle and, as it stands today, the next legislature will be facing a structural surplus. There will be more money coming in projected revenues than are projected to go out in expenditures. If the budget that is before the Appropriations Committee today were to pass as it is, the next legislature would, based on the information we have today, be facing at least a two hundred million dollar structural deficit. Stated another way, those of you who are fortunate enough to return to serve in the 120th Maine Legislature will be advised that the budget will be out of balance by about two hundred million dollars. And so it seems to me that we ought to take advantage of the opportunity to assemble people to take a look at where the future of our expenses is going so that we can be in a better position to assure that this legislature does not go through the economic forest fire, if you will, that raged during the 116th legislature when our budget (due to technical difficulties, Senator Harriman's remarks were regrettably not recorded.) So I ask you to join me this morning in opposing the pending motion so that we can go on to establish a process where the future of our revenues are presented to the legislature in a fashion that we can use them as we do our revenue forecasting. Thank you, Mr. President.

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

Senator **MICHAUD:** Thank you Mr. President. Men and women of the Senate, I hope that you will support the pending motion. This sounds like a good idea. Actually it sounds so much like a good idea. Actually, I'm a cosponsor of the Bill. However, having

looked at it more closely, I think it's a bad idea because the language established in this Bill to establish the Expenditure Forecasting Committee for the General Fund and the Highway Fund mirrors the Revenue Forecasting Committee language in both content and process. It presents, I think, several practical problems that we currently do not receive in the Revenue Forecasting Committee. One of them in which the Expenditure Forecasting Committee will have to develop their recommendations by account and character and object. Pretty much what that's going to do is it is going to take this part-time committee and it would have to spend an extremely large amount of time going over these with individual agencies. The other problem that the Expenditure Forecasting Committee has is that it has to take recommendations from the consensus of the Economic Forecasting Commission. The problem with that is that the Commission does not take into account the case load projection, inmate population, estimated fuel costs problems that we have, so that there are a lot of problems with this committee. I think currently that the Revenue Forecasting Committee is a good idea and that it works pretty well. However, on the expenditure side, that's primarily left up to the legislature to decide what the expenditures are going to be. Currently we have our staff go through those expenditures and make recommendations to the Committee and that's why we have currently a different variation as far as what the structural gap will be as they made some assumption different than what the administration has. So there are a lot of problems with the Expenditure Forecasting Committee although it seems like it would be a good idea. I do not believe it is and I hope that you will support the pending ought not to pass motion. Thank you, Mr. President.

The Chair ordered a Division. 17 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **MICHAUD** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (2/25/00) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act to Create a Purple Heart Motorcycle License Plate"

H.P. 1653 L.D. 2322

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-789)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-790)** (4 members)

Tabled - February 25, 2000, by Senator **O'GARA** of Cumberland.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-789)** Report, in concurrence

(In House, February 22, 2000, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-789)** Report **READ** and **ACCEPTED** and the Bill **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-789)**. Subsequently, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-790)**.)

(In Senate, February 25, 2000, Reports **READ**.)

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

Senator **O'GARA:** Thank you Mr. President and members of the Senate. I would first acknowledge that this issue is a little different than the one I spoke to you about earlier. As many of you who have been here for any length of time know, the Transportation Committee some sessions ago voted to require, because we have so many specialty plates for a State our size, we have more specialty plates per capita than any other state in the union. The number of specialty plates are all there and the request for specialty plates is growing all the time. Now this, of course, would not be in the sense of a lot of people, a new plate because, in fact, we already have a purple heart plate the size that all of us have on our vehicles. This would be a much smaller license plate for motorcyclists who have been purple heart recipients. When that law was passed, we set a minimum of 2000 plates to be printed because there was just a request for plates for all types of groups of people with very very small numbers in their organization, or likely to be in their organization or group. And so we set a minimum of 2000 plates and also along with that the money had to be up front. The money had to be raised and up front and there had to be a sponsor of that request. We've been talking about, and you heard us talk about, using decals. Many of you have said, when we've been discussing the various plates in other years, why aren't you using decals like they do in other states? I never realized until I became a member of the Transportation Committee, starting in the other body and continuing here, just how special a persons' license plate is to her or to him and to various groups. And they are significant to a lot of people. First of all, I must say that the number of 2000 would never be reached by those who are still able to request a purple heart plate on a motorcycle. The number is very small. The minority report will make that an exemption and so there will be no requirement for the 2000 plates. And I submit to you that it should be, should the majority report not prevail, a much smaller number. Now I realize that this is a very difficult, emotional, issue. As a matter of fact, the majority report was overturned. I guess I am not supposed to talk about what happened elsewhere. As a matter of fact, I shouldn't even have said that. Maybe you didn't know that. But at any rate, I am not going to make any long and impassioned speech about this. It is our job. We talk about trying to save money and reduce costs of doing things and, again, the department itself came forward and we talked about this issue. There wasn't an awful lot of testimony at the public hearing. There was some, but not an awful lot. And so I just feel, and I am going to continue to support the majority report. We thought we had worked out a compromise and, as a matter of fact, frankly, bluntly, we thought we worked out a compromise that was going to hold us in good stead for the future because by convincing everybody to accept the decal and, when we walked away from the public hearing, I felt we had come up with a compromise that

would be acceptable to everybody, including the purple heart recipients. By accepting that report and if that law were to pass, Transportation Committees now and in the future would not have any hesitation when they went ahead and used the decal because if an organization were to say, why us, why are you using us. We would very honestly be able to say, listen, we said no to purple heart recipients and they accepted the decal. We are now going to a decal system. It would not be as expensive. There would not have to be any requirement of 2000 numbers of plates as there would not have been with the decal system for the purple heart motorcycle. If that were to pass, there would no requirement of 2000. It's only with printing the metal plates. I think it's a good compromise. I think it's time for the state to seriously look at using decals, as they are in other states, and as you have seen as you travel around this country, all over this country. It looks good. It's neat. It does the job and it saves one heck of a lot of money. I urge the Senate to accept the majority report. Thank you, Mr. President.

Off Record Remarks

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

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate, this is an issue that we, as the good Senator from Cumberland has mentioned, have discussed many, many times. But what I want to say to you this morning is that this issue is quite different from the normal requests we have for a specialty plate. And we have had tons of them in the last few years. There's some legislation pending, as was mentioned earlier, to take a look at some decals. It really will make sense, I think, when we have veterans come in to be recognized for the wonderful job that they've done to protect us and give us the opportunity to stand here today and discuss this issue. We had requests for Hiroshima and Pearl Harbor and Vietnam and Korea and I think somebody even thought maybe one of our Senators on the Committee was a veteran of 1812 but I don't think that was the case. So I think this is a good point that we could maybe come up with a situation, and I'll certainly support it when we see that, to have decals, especially on a veterans plate where we can recognize each and every person. But this issue we have pending here today, the problem with the majority report, if we should vote for this, is that we would also have to have a decal on the veterans purple heart plate on the motorcycle. And what we have here is a situation where when we passed the purple heart plate a few years ago, I think it was my first term here and I know many of you supported and I think the veterans really appreciated us allowing the purple hearts plate and, by the way, if you saw the display that the Secretary of State had here two weeks ago, it's very very attractive and a very emotional plate. At that time, we neglected to allow those to be on motorcycles as well. What we have here today is a Bill that would just extend that. It would allow those purple heart plates, it wouldn't change, it would be the same plate you'd have on your vehicles except obviously smaller in size and this is an extension of that law. It's not creating a new plate, it's allowing those veterans who do drive and own motorcycles to have this on the bike. You know, the thing with the

purple heart, you know and I know that you all supported it and we discussed it. I don't think there was anyone in opposition to it years ago when we passed that plate. You know, all of our veterans are men and women of this country who put their lives in harms way for us in order for us to be here today. But the purple heart folks, the folks that receive that reward, left some of the their blood there as well. They just didn't put themselves in harms way, they went there and they gave something of themselves for us. And I think it would be a darn shame if we wouldn't allow them, if they would like to have this plate on their motorcycle, to continue. It's not like we are creating a new plate. We asked the Secretary of State's Office for a report on the cost and, although we know we won't reach 2000, the minimum cost on this proposed by Secretary of State's Department was approximately \$1300. And with a \$4.8 billion budget, if we can't spend \$1300 to recognize our purple heart veterans, then I think we are in a pretty sad state of affairs here in the State of Maine. I ask you to defeat this pending motion so we can go on and move the minority report that will allow these Vets to have this freedom. Thank you, Mr. President.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#280)

YEAS: Senators: DAGGETT, DOUGLASS, GOLDTHWAIT, KONTOS, LONGLEY, MURRAY, O'GARA, PARADIS, RUHLIN

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

ABSENT: Senator: RAND

9 Senators having voted in the affirmative and 25 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **O'GARA** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-789)** Report, **FAILED**.

On motion by Senator **CASSIDY** of Washington, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-790)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "B" (H-790) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

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

HOUSE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Require That All Fines Collected by State Agencies Be Deposited in the General Fund"

H.P. 346 L.D. 462

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-813)** (3 members)

Tabled - March 3, 2000, by Senator **MICHAUD** of Penobscot.

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

(In House, February 29, 2000, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

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

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

Senator **HARRIMAN:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, good morning. I hope that you will join me in opposing the pending motion for this very simple reason. We have four departments over at the Department of Environmental Protection whose budgets to operate their activities, in protecting our environment, are directly related to the number of fines that they can impose in the activities that they are engaged in. Stated another way, we have four departments within the Department of Environmental Protection whose very livelihood depends on finding ways to fine the people who they are regulating. And I hope that you would agree with me that this is not very good public policy. That the people entrusted with protecting our environment ought to be doing so without the subliminal pressure of trying to find revenues to continue funding their departments. The motion before you would allow this practice to continue. And I would simply ask you to pause and ask yourself this question - Why wouldn't we remove from state law that provision that says to these departments that your funding no longer is dependent upon fines? The fees that you generate, the license renewal activities that you generate, all of those things would continue, but that portion of your budget that is related to you going out and fining people will go into the General Fund and then the departments can come before the Appropriations Committee so that they have a stable source of predictable funding. The analogy that I would draw for you would be very similar to allowing the State Police to keep the revenues that they generate from issuing speeding tickets and other motor vehicle violations. We would all find that unacceptable that the State Police would have a motivation to go out and pull people over so that they can support their budget. I think you would agree with me that we would come to the same conclusion with the Judicial system. That the funding of the courts would be directly related to the number of fines that the judge imposed on

the citizenry. So it seems to me, ladies and gentlemen of the Senate, that this is a great opportunity for us to assure that the people that we send out to protect our environment are under no undue influence to seek and find citizens to fine to continue the operations of their department. So I hope you'll join me this morning in opposing the pending motion so that we can go on and accept the minority report. I thank you very much, Mr. President.

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

Senator **MILLS:** Mr. President, and men and women of the Senate, this issue has come up in years past when the budget of the Judicial Department has been under scrutiny. When there's been talk of increasing fines and there's been this fleeting temptation to say that certain forms of monetary sanction not be dedicated either to the Judicial Department or, perhaps alternatively, to a local police department that is out issuing tickets. These things crop up from time to time and it would be, I think, unthinkable for the Judicial Department to consider that their fines should be dedicated to supporting the department itself. I think that is a practical matter about the money that comes in from the collection of criminal fines is almost enough to run maybe a third or a half of the department. It's on that order of magnitude. And yet it would be beyond moral consideration for the court system to consider that they ought to be supporting their own salaries based on the revenue that is collected through fining individual citizens. I find it almost shocking to discover that in the environmental area we permit individual people to be a sort of prosecutor and field judge, if you will, of certain violations and then to be collecting fines that are being used to support their own salaries and activities. There's something very unseemly about it. It strikes right to the heart of good government. I think that the Senator from Cumberland has the right approach on this Bill.

Off Record Remarks

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

Senator **ABROMSON:** Thank you, Mr. President, I request permission to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **ABROMSON:** The Senator from Cumberland, Senator Harriman, has mentioned the DEP and the title, at least, says fines collected by State agencies, which would lead me to believe that was all State agencies. I just wonder how many State agencies are operating in this fashion. Thank you, Mr. President.

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

Senator **HARRIMAN:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, in doing the research for the

amendment that is before you in the minority report, it identifies four specific agencies who are running some or all of their budget, I would say most of their budget, off of fines. We were not aware of other agencies in State government that are in that similar position. Thank you, Mr. President.

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

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

Senator **TREAT:** Thank you Mr. President. Men and women of the Senate, we've heard from the good Senator from Cumberland, Senator Harriman, that this is a great opportunity to cut the DEP budget by \$700,000 and not know where that money is going to come from to replace it. I think we can all agree, in a perfect world, that good budgeting practice, even from DEP's perspective, which is to ensure that they have an even flow of money and that they project \$500,000 over a budget year, that that's actually the amount of money they have. That's something that I think DEP would like to see in the future. We as a Committee, the Natural Resources Committee where this Bill did not go, it went to the Appropriations Committee, but over the last several years we have been working very hard to convince the Appropriations Committee that money should be taken from the General Fund to fund the DEP budget which currently is coming from a variety of sources including fees, penalties, etc. Many of those choices were made when some of us were suffering here in the State legislature trying to figure out how to balance a budget where we had a major budget deficit. And over that time, we have seen the Department of Environmental Protection's budget shifted from a General Fund budget to a budget that depends very heavily on non-General Fund sources. And I think that there is very little disagreement on the part of members of my Committee that we would like to see that shift shift back again because we think that the General Fund's funding is more stable. There certainly are these policy arguments, that make sense. Had the Appropriations Committee taken this into consideration and decided to put a line item in the budget that you have under consideration right now of \$700,000 to replace this money, I might be looking at it in a different manner. But what we have here is a Bill that is now targeted at the Department of Environmental Protection. There is no source of funding to make up that difference. If it does come from the General Fund, it's going to sit on an Appropriations Table with every other Bill that this legislature is considering. And I don't think that is appropriate. The appropriate time to be looking at these overall issues would be most particularly in the beginning of a two year budget cycle, which was last year. And I would suggest that those that would like to put the Department on more of a General Fund basis come back next year and work with the Natural Resources Committee, as well, in figuring out how to do that. But this Bill is a drastic cut. The money right now goes to cleaning up hazardous waste sites, which we are all familiar with. Essentially, we're talking about going in there on an emergency basis and stopping hazardous waste from polluting ground water and other things. It's certainly very much needed. I've become convinced that where the fines are coming from are not sort of small little permits where there might be some kind of quota system for getting additional penalties from people in order to fund the budget. It's pretty much

separated from the actions that have been taken. Long run? Yes. We should look at, you know, in a dispassionate way, it makes some sense. But right now, given the amount of money, given the time we have to come up with the difference, given the lack of support of the Appropriations Committee, to simply to put it into this year's budget, I don't think it's an appropriate thing. And I would ask that you support the pending motion.

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

Senator **CAREY:** Thank you, Mr. President. Mr. President, I would like to pose a question to anyone who may answer.

THE PRESIDENT: The Senator may pose his question.

Senator **CAREY:** Thank you, Mr. President. The Senator from Kennebec, Senator Treat, has explained the DEP position. But there are a couple of dozen other departments, apparently, that have the ability to enforce fines. And I'd like to know if there are any standards from which any Senator can rely on which outline exactly how much you paid, if you'd done this; how much you paid, if you'd done that. And I don't see any consistency in the fines that have been assessed to date and I would like to know if anybody knows if there are, in fact, standards so that the person who is being fined is going to be treated no differently than someone else for the same offense.

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

Senator **TREAT:** Thank you, Mr. President. I believe I can answer this question and it's a very timely one since the committee spent much of yesterday afternoon reviewing the departments' enforcement policy. Many of the fines and penalties are quite specifically laid out in the log. With some of the larger violations there is some discretion, but there are some pretty clear cut standards that the department uses which are outlined in its enforcement policy which go to issues. Such as, is this a first time violation? Is public health threatened by this particular action? Was there intentional activity on the part of the violator or was it inadvertent? Was it a malfunction that you could not avoid? In that case, you would have a much lower or no penalty at all. So there are some pretty clear standards. They are set out in written documents that have been used over time pretty consistently, I believe.

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

Senator **MICHAUD:** Thank you Mr. President. Men and women of the Senate, I'd hope you'd go along with the majority ought not to pass report because this Bill does specifically just target DEP. And to answer a question earlier, I know Senator Harriman partially answered it as far as what the Bill does as it relates to DEP, there are currently 20 other agencies that have fines going into their accounts. And actually the Judiciary also has fines that are going into their accounts, along with Transportation, Public Safety, Agriculture, Conservation, Department of Labor, Workers Comp. So there are a lot of other agencies that currently have

fines that go to run those particular agencies. The reason why I did not support this is clearly, if you are going to look at the whole fine issue, you should look at it in a comprehensive manner and deal with all the agencies. We did not have the time to do that because there are probably fines that probably should stay within those particular accounts. This Bill does not become effective until the next budget cycle of July 1, 2001 and at that time, when the 120th Legislature decides to look at this issue again, they can make the appropriate recommendations because we have, over the past few years, been picking up more of the Department of Environmental Protection's funding mechanism within the General Fund accounts. I am not saying that we would never do that in this particular area, but that is something that we should deal with when we look at all the other issues and fines as being collected from these other agencies. So I hope that you would support the majority ought not to pass report. Thank you, Mr. President.

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

Senator **NUTTING:** Mr. President, ladies and gentlemen of the Senate, I was surprised this morning to hear the good Senator from Cumberland, and other speakers, make the general statement that we have departments in state government that are going out and fining people just in order to balance their budget. I want to compliment this current administration for their role in working with businesses, I think in a very appropriate way, in the whole area of fines and enforcement actions and penalties. Many businesses, on a regular basis, come to the DEP and self report their violations and settle their enforcement and any penalties with the department. To me, that willingness to cooperate with business is something that's been lacking in state government for a long time. To just single out DEP and to say just this department is running around trying to fine people in order to balance their budget, that's not what I've seen from my years of service in the Natural Resources Committee. So I also urge you to support the majority ought not to pass committee report. Thank you.

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

Senator **HARRIMAN:** Thank you very much, Mr. President. Mr. President, I ask leave of the Senate to speak a third time.

THE PRESIDENT: The Senator may proceed.

Senator **HARRIMAN:** Thank you, Mr. President. Ladies and gentlemen of the Senate, before we take the vote, I would just like to say emphatically how proud I am of my environmental record here as a member of this august body and, in bringing this report to the floor of the Senate, is in no way intended to undermine the efforts and the credibility of the Department of Environmental Protection. In fact, just the opposite is the intent here, to remove any doubt as to the motives and the direction of the good people who work in that department. I would just like to share with you some of the comments that were made by the department during our work session on this issue and they are in keeping with the good Senator from the Kennebec, Senator Treat, who has suggested that the goals of this issue before you are one that we should all strive to reach and, in fact, the department's spokesperson who is before us agreed that that is where we

should end up. But they testified against this going forward because they were concerned, afraid is my word not theirs, afraid that they couldn't compete for General Fund revenues and that absent that they wanted to stay out of the arena of the Appropriations Committee hearing process. Well, you can imagine how many other departments of state government that you work with in your committee work who would love to bypass the Appropriations Committee process. And many of them have. For example, the Public Advocates office is one. The Public Utilities Commission is another. E-9-9-1 is a third. Most of the Department of Financial and Professional Regulation run their whole departments of state government without having to compete for the limited resources that the legislature has to work on a department by department basis. And so on that basis, it was their testimony, we agree with you, we understand the mixed message that this is an existing law sends, but please don't put us under the light of day of the Appropriations Committee process. And I would say that if protecting our environment is as important as I know it is to everyone in this chamber, then they could, and they would, successfully compete for General Fund revenues. And if you will join me in defeating the pending motion and go on to accept the minority report, we have thought ahead of the logistics that need to be considered so that the department is not seeing its funding turned off like a spigot when this session adjourns. There is ample time for them to prepare a budget and to come before the legislature. So I hope you will join me, Mr. President, in defeating the pending motion so that we can go on to accept the minority ought to pass report. Thank you, Mr. President.

Off Record Remarks

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#281)

YEAS: Senators: BERUBE, CAREY, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

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

ABSENT: Senator: RAND

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MICHAUD** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Senate at Ease.

Senate called to order by the President.

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

Off Record Remarks

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

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