

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

In Senate Chamber
Thursday
April 13, 2000

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

Prayer by Senator Norman Ferguson, Jr. of Oxford County.

SENATOR FERGUSON: Thank you Mr. President. I'm not going to do what I did the last time I was up here to give the prayer. I thought I'd be smart and give the greeting in Gaelic and after I did that, and we had a break in our activity, the Reporter came over and asked me how spelled that. Fortunately the good Senator from Hancock, Senator Goldthwait, was able to bail me out. I appreciate that.

Let us pray. Father, as we start our 33rd legislative day, thank You for our successes. We ask for Your divine guidance as we conclude our work on behalf of the citizens of Maine. Bless this assembly with Your gifts of wisdom, understanding and counsel. Strengthen us in our resolve to do Your work and the work of our constituents. May we serve You with respect and love for one another. Amen

Reading of the Journal of Wednesday, April 12, 2000.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Amend the Laws Governing the Designation of a Beneficiary of Maine State Retirement System Benefits"
S.P. 625 L.D. 1790
(C "A" S-684)

In Senate, April 8, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-684).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-684) AS AMENDED BY HOUSE AMENDMENT "A" (H-1115)** thereto, in **NON-CONCURRENCE.**

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

Joint Resolution

The following Joint Resolution: H.P. 1943

JOINT RESOLUTION COMMEMORATING 2000 NATIONAL CRIME VICTIMS' RIGHTS WEEK

WHEREAS, until recently, victims of crime received limited services for support and assistance, and there were few laws on both federal and state levels regarding victims' rights; and

WHEREAS, this oversight has been remedied in the courts, in state houses and in communities where voices of victims are heard and valued for the vision of justice they provide; and

WHEREAS, there are now over 10,000 organizations nationwide that provide services and assistance to victims of crime and over 30,000 laws have been passed at the federal and state levels that define and protect victims' rights; and

WHEREAS, 32 states have constitutional amendments that offer a range of participatory rights for victims that result in public policy and increased services that support victims and communities that are hurt by crime; and

WHEREAS, Governor Angus King has proclaimed that April 9, 2000 to April 15, 2000 is Crime Victims' Rights in Maine Week, which corresponds to the National Crime Victims' Rights Week; and

WHEREAS, the theme of this designated week is "Victims' Voices: Silent No More" to remind us of the personal suffering caused by crime; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Nineteenth Legislature, now assembled in the Second Regular Session, recognize victims of crime and those who serve them; and be it further

RESOLVED: That we encourage people throughout the State to salute the many efforts of crime victims and their advocates to make our communities safer and better places to live; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Corrections.

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

READ and **ADOPTED**, in concurrence.

Off Record Remarks

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

The following members and coaches of the University of Maine Hockey Team, the Black Bears, who made it to the 2000 National Collegiate Athletic Association Division I Hockey Semi-Finals: A. J. Begg, Ed Boudreau, Trapper Clark, Kevin Clauson, Niko Dimitrakos, Robert Ek, Captain Ben Guite, Barrett Heisten, Chris Heisten, Doug Janik, Martin Kariya, Dan Kerluke, Captain Cory Larose, Lucas Lawson, Captain Jim Leger, Robert Liscak, Cliff Loya, Anders Lundback, Magnus Lundback, Peter Metcalf, Mike Morrison, Justin Payson, Tom Reimann, Michael Schutte, Gray Shaneberger, Matthias Trattnig, Eric Turgeon, Captain Brendan Walsh and Matt Yeats; Assistant Coaches Grant Standbrook, Gene Reilly and Dave Bauer; and Coach Shawn Walsh. We acknowledge their excellence and extend our congratulations on their achievements;

SLS 513

Sponsored by Senator CATHCART of Penobscot.
Cosponsored by Representative WILLIAMS of Orono,
Representative STEVENS of Orono.

READ.

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

ENACTORS

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

Acts

An Act to Improve Oversight and Accountability of Student Loan Programs Funded with an Allocation of the State Ceiling on Private Activity Tax-exempt Bonds

S.P. 1079 L.D. 2684

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

An Act to Expand a Judge's Powers for Contemptuous Failure to Pay

S.P. 523 L.D. 1557
(C "A" S-668)

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

An Act to Amend the Maine Workers' Compensation Act of 1992 as it Pertains to Occupational Health

H.P. 1454 L.D. 2075
(C "A" H-1034)

Comes from the House, **FAILED ENACTMENT**.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#390)

YEAS: Senators: CATHCART, DAGGETT, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, NUTTING, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BERUBE, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, LIBBY, PENDLETON, SMALL

ABSENT: Senators: BENOIT, CAREY, DOUGLASS, KIEFFER, MACKINNON, MITCHELL, MURRAY

16 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 7 Senators being absent, **PASSED TO BE ENACTED** and signed by the President, in **NON-CONCURRENCE**.

Sent down for concurrence.

Resolve

Resolve, to Create a Commission to Study and Establish Moral Policies Regarding Foreign Investments and Foreign Purchasing by the State

H.P. 1755 L.D. 2461
(H "A" H-954; S "C" S-690
to C "A" H-870)

Senator **CATHCART** of Penobscot moved the Resolve be placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence. Subsequently, the same Senator requested and received leave of the Senate to withdraw her motion to place the Resolve on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in concurrence.

Off Record Remarks

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (4/11/00) Assigned matter:

SENATE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Prohibit Hunting Animals in Enclosed Areas"

S.P. 457 L.D. 1332
(S "B" S-681 to C "A" S-655)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-655)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-656)** (6 members)

Tabled - April 11, 2000, by Senator **NUTTING** of Androscoggin.

Pending - **FURTHER CONSIDERATION**

(In Senate, April 8, 2000, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-655)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-655) AS AMENDED BY SENATE AMENDMENT "B" (S-681)** thereto.)

(In House, April 11, 2000, Reports **READ** and Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

On motion by Senator **KILKELLY** of Lincoln, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-655) AS AMENDED BY SENATE AMENDMENT "B" (S-681)** thereto.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "A" (S-655) as Amended by Senate Amendment "B" (S-681) thereto.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Senate Amendment "B" (S-681) to Committee Amendment "A" (S-655).

On further motion by same Senator, Senate Amendment "B" (S-681) to Committee Amendment "A" (S-655) **INDEFINITELY POSTPONED**.

On further motion by same Senator, Senate Amendment "C" (S-697) to Committee Amendment "A" (S-655) **READ**.

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

Senator **KILKELLY:** Thank you Mr. President. Men and women of the Senate, my guess is that putting the amendment on this Bill is probably more challenging than hunting animals in enclosed areas, but that, in fact, is the Bill that's before us. In the spirit of compromise, in order to get this important legislation through the body, this amendment is being offered that would, in fact, allow these businesses to be transferred. I know that that was a concern on the part of many members. So this amendment would, in fact, allow these businesses that currently exist to be licensed and for those licenses to be transferred in any normal transfer process. Hopefully, that will resolve some concerns and we can move forward in adopting this legislation. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate, I rise to ask the good Senator from Lincoln a question concerning the amendment. My read of the amendment says that the people who own it may not form a corporation with the normal protections that come under a corporation. Do I interpret the amendment correctly?

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

Senator **KILKELLY:** Thank you Mr. President. In response to that question, as this Bill has been moving through the process, one of our concerns was about how long into the future we would, in fact, allow this activity to take place. So one of the concerns, as we were moving forward, was to not have the licenses issued to corporations. These licenses would be issued to individuals, and the compromise position has been to allow those individuals to, in fact, transfer those licenses.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I understand that. I understand where they're coming from, I guess. I have a concern. I also want to ensure that these don't spread out, that we keep a control on it, and that this at some point phases out. As a small business owner, I understand the protections that come to a small business owner by having the right to incorporate. I would like to see these individuals have the right to incorporate. As far as selling to a large corporation, something like that we usually think of. That is not what I am attempting to do. I just have concerns that you are saying to a small business that is presently existing that they may not incorporate. I have a concern about that. I understand and do accept, in principle, the intent to limit passing it on. I would hope that an additional compromise could be reached to address that problem.

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

Senator **BENNETT**: Thank you Mr. President. This issue drew a lot of debate when it was last discussed before the Senate. I had felt that there was a meaningful effort to compromise through Senate Amendment "B", which has now been indefinitely postponed. It appears that compromise has occurred through a process beyond the limits of the actual official business of the legislature. My view is that if we are actually to come to terms with other points of view in other parts of the building, perhaps we should use the means that exist for us to do that through the normal procedures of the Senate, rather than through this means. I understand and respect the efforts of the Senator from Lincoln to try to get something meaningful on the books here. I share many of her concerns, but I'm wondering whether perhaps, the best thing here where we have a non-concurrent matter, is to insist and ask for a Committee of Conference, and do it in the appropriate procedural way rather than try to do some sort of behind closed doors, back room, kind of negotiating with forces that we do not understand. So, thank you very much, Mr. President.

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

Senator **KILKELLY**: Thank you Mr. President. In response to the concern, I guess, that has been raised about the process by which this amendment came about. I guess that it has been my experience, in the time I've been here, to look at as many options as possible and try to, in fact, reach compromise. When I hear concern about an issue and believe that the Bill truly ought to go forward, then I feel that it's my job to find a way to do that. It certainly wasn't intended to be anything that in any way subverted the process. The amendment is offered in good faith as a way to respond to the concerns that were raised about the investments that a person has made in their business and should that business be able to be transferred.

Initially there was suggestion that the transfer of the business only be available to family members. That you could transfer your business, you could leave your business, to a person in your family. That seemed very limiting and so it made more sense to just allow the businesses to be transferred. However, I need to explain to people, this does not, in fact, phase out these establishments. This continues these establishments, these canned hunts, these operations that enclose animals, domestic animals, and then have people hunt them. This does not phase those out. What it does is limit the number of them to the number that are currently in this business and allows them to then sell their business or transfer their business. So I do think that it's a very reasonable compromise. I would hope that you would go along with adopting this and allow us to send it to the other body. Thank you.

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

Senator **LONGLEY**: Thank you Mr. President. Colleagues of the Senate, a lot of us are sitting here very quiet watching this tennis match. I'd just like to add the point that this is one of those votes for me that is basically plug my nose and hit the green. Because I think these canned hunts are really quite ridiculous. I completely agreed with what the Senator from Lincoln said a few weeks ago which is, this is not the culture of the hunters as we know them in Maine. I'm one of the people sitting here being quiet, but I

thought I'd throw in the point that, in the spirit of compromise, I'll be voting in support of this motion. Thank you.

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

Senator **CASSIDY**: Thank you Mr. President. I request permission to ask a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **CASSIDY**: I was here when we voted on this issue the first time. Unfortunately, I wasn't here on the second amendment and I'm a little bit confused when it says strike out some of the language. I would like to know, does this also limit to the ones that are just now in place or does this allow others? At one point we're talking 8 or 5 new facilities. I wondered what that language does. Thank you, Mr. President.

THE PRESIDENT: The Senator from Washington, Senator Cassidy, poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY**: Thank you Mr. President. In response to that question, this limits the number of these facilities to facilities that are currently in business now and can document that they have been in business until March 15, 2000. We estimate that there are about 5 of these businesses, but because they are completely unregulated and completely unlicensed, we really don't know. So what we put in the report was a process for people to prove that they, in fact, are engaging in this economic activity. So it limits it to the number of people who are currently doing this, but it allows them then to take advantage of the equity that they have in this business, and transfer this business. It does not allow new ones to begin operation.

The Chair ordered a Division. 23 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **KILKELLY** of Lincoln to **ADOPT** Senate Amendment "C" (S-697) to Committee Amendment "A" (S-655), **PREVAILED**.

Committee Amendment "A" (S-655) as Amended by Senate Amendment "C" (S-697) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-655) AS AMENDED BY SENATE AMENDMENT "C" (S-697) 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:

PAPERS FROM THE HOUSE

Joint Order

Expression of Legislative Sentiment recognizing:

Representative Thomas M. Davidson, of Brunswick, for being the 1993 Division III National Collegiate Squash Champion, and in extending our congratulations and best wishes to him;
HLS 1247

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

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

Senator **HARRIMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I assume this is of a humorous nature.

THE PRESIDENT: The Chair would answer in the negative. It is a Joint Order passed by the House of Representatives. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** I know the good representative from Brunswick very well. I admire, respect him, and I think I congratulated him previously on this wonderful accomplishment and I would like to request a division.

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

Senator **RUHLIN:** Thank you Mr. President. I just have an inquiry and I would like to have that inquiry in the record to be passed on the Representative from Brunswick.

THE PRESIDENT: The Senator may pose his inquiry.

Senator **RUHLIN:** We make note that he did well in squash, how did he do in zucchini?

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

Senator **MURRAY:** Thank you Mr. President. Point of parliamentary inquiry?

THE PRESIDENT: The Senator may pose his point of parliamentary inquiry.

Senator **MURRAY:** Is there a statute of limitations on these things?

THE PRESIDENT: The Chair would answer in the negative. There is no statute of limitations on all our embarrassments in life.

At the request of Senator **HARRIMAN** of Cumberland a Division was had. 25 Senators having voted in the affirmative and no Senators having voted in the negative, the Joint Order was **PASSED**, in concurrence.

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.

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

After Recess

Senate called to order by the President.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

Expressions of Legislative Sentiment recognizing the members and coaches of the University of Maine Hockey Team, the Black Bears, who made it to the 2000 National Collegiate Athletic Association Division I Hockey Semi-Finals.
SLS 513

Tabled - April 13, 2000, by Senator **PINGREE** of Knox.

Pending - **PASSAGE**

(In Senate, April 13, 2000, **READ**.)

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

Senator **CATHCART:** Thank you Mr. President. Men and women of the Senate, I'm very proud to welcome the University of Maine Black Bears Hockey Team to the Maine Senate today. They've spent several hours, and were good enough to wait for us to come back in session so that we could give them this sentiment. We all watched them last Thursday play that game with North Dakota.

I've told them how we had a big screen TV down in the Council Chamber, and we would all go back and forth, and when the bell rang, we'd rush back and push our buttons, and then go back to see how the team was doing. There was an air of real gloom, just as there was for them, I'm sure. But the fact that they didn't win the National Championship for the second year in a row doesn't mean that we're not just as proud of them and that they didn't do a terrific job. At the beginning of their season, people thought, oh well, you know this team is not going to be great. Well, actually they were great. They've done a wonderful job this season, and they have been excellent representatives of the State of Maine. The Black Bears Hockey Teams have made Maine very proud because they make people in the country aware of how great this state is and what a great university we have in Orono. I'm just thrilled to have them here today and their excellent coaches, and Sean Walsh, of course, we all know and are proud of. I want to thank them for coming and being with us, and wish them well, whether they're sticking around to win the championship next year, or whether they're graduating and going on to other ventures. Thank you again.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the Senate, I'd like to join in this and say that in many, many, many, many ways hockey and politics are alike. We all get checked into the boards all of the time. I would like to just say that when you come and grace us with your presence, it means a lot because we love Maine. Most of all, for me anyway and I think for a lot of us is, we have a work ethic here. When I watched you in the second to last game, when I watched you play, I just felt as though you were giving your all and really showing me, documenting for me, the hustle that's in all of us who get to live in Maine. Thank you for that example. You saw another side of us in the House today when we were giving tribute to a colleague who has been struck with a sad disease, Lou Gehrig's. You saw another side of us. This is a rough sport just like you're in a rough sport. Thank you for your exemplary behavior and making all of us in Maine very, very proud that we have that work ethic just like you do. I wish you could have won that last game, but A+ for effort. Thank you.

PASSED.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber members and coaches of the University of Maine Hockey Team, The Black Bears, who made it to the 2000 National Collegiate Athletic Association Division Hockey Semi-finals. Would they please rise and receive the greetings of the Senate.

THE PRESIDENT: The Sergeant of Arms will escort the Coach and the members forward.

Coach **WALSH:** We are obviously very privileged and humbled to be here. It was a terrific journey. I don't think, at this stage of the game, it's necessary to get caught up in, you know, the end of the journey, the wins or the losses, but rather the beauty of the journey and what it does. I think your honoring us just tells these young men how important citizenship is. How important representing your state is. How important they are as role models in the State of Maine to youth and adults alike. And just how important our program is. We're very, very proud, not just of the 3rd Place Trophy in the nation here to my left, or the Hockey East Championship here to my right, but maybe the fact that one of our players, Jim Ledger, won this award as College Hockey's Finest and Number 1 Citizen for his individual citizenship to the State of Maine. That was given out nationally last Friday to the number one citizen among all hockey players, male and female, across the country. To have that given to one of our representatives just says it all. We just want to say thank you for honoring us. President Lawrence, if you would, I'd like to have Jim Ledger, one of our captains and the winner of the Humanitarian Award as College Hockey's Finest Citizen, present you with something. Jim, could you grab a stick? (President Lawrence was presented with an autographed hockey stick) Thank you.

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

REPORTS OF COMMITTEES

Senate

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act to Support Maine's Only Representative to the Nation's Capital Bicentennial Celebration" (EMERGENCY)

S.P. 1042 L.D. 2630
(C "A" S-605)

Had the same under consideration and asked leave to report:

That the Senate **Recede** from its action whereby the Bill was **Passed to be Engrossed as Amended by Committee Amendment "A" (S-605)**. The Senate **Recede** from its action whereby Committee Amendment "A" (S-605) was **Adopted** and **Indefinitely Postpone** the same. Committee of Conference Amendment "A" (S-701) be **Read** and **Adopted** and the Bill be **Passed to be Engrossed as Amended by Committee of Conference Amendment "A" (S-701)**, in **Non-concurrence**.

That the House **Recede** and **Concur** with the Senate.

Senate at Ease.

Senate called to order by the President.

On the Part of the Senate:

Senator MURRAY of Penobscot
Senator RUHLIN of Penobscot
Senator FERGUSON of Oxford

On the part of the House:

Representative FISHER of Brewer
Representative POVICH of Ellsworth
Representative PERKINS of Penobscot

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

The Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-605)**.

The Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "A" (S-605) and **INDEFINITELY POSTPONED** the same.

Committee of Conference Amendment "A" (S-701) **READ**.

On motion by Senator **BENNETT** of Oxford, the Senate **RECONSIDERED** whereby it **INDEFINITELY POSTPONED** Committee Amendment "A" (S-605).

The same Senator moved the Senate **RECONSIDER** whereby it **ACCEPTED** the Committee of Conference Report.

The same Senator requested a Division.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#391)

YEAS: Senators: CAREY, DAGGETT, DAVIS,
DOUGLASS, FERGUSON, KILKELLY, KONTOS,
LAFOUNTAIN, LONGLEY, MURRAY, O'GARA,
PARADIS, PINGREE, RAND, TREAT, THE
PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT,
BERUBE, CASSIDY, GOLDTHWAIT, LIBBY,
MILLS, NUTTING, PENDLETON, SMALL

ABSENT: Senators: BENOIT, CATHCART, HARRIMAN,
KIEFFER, MACKINNON, MICHAUD, MITCHELL,
RUHLIN

16 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 8 Senators being absent, the Committee of Conference Report, **ACCEPTED**.

The Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-605)**.

The Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "A" (S-605) and **INDEFINITELY POSTPONED** the same.

Committee of Conference Amendment "A" (S-701) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE OF CONFERENCE AMENDMENT "A" (S-701), in NON-CONCURRENCE.

Under suspension of the Rules, ordered sent down forthwith 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 Fairer Pricing for Prescription Drugs"
S.P. 1026 L.D. 2599
(C "A" S-686)

(In Senate, April 11, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-686)**.)

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-686) AS AMENDED BY HOUSE AMENDMENT "A" (H-1114)** thereto, in **NON-CONCURRENCE**.

Senator **PINGREE** of Knox moved the Senate **INSIST**.

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

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

Senator **PINGREE:** Thank you Mr. President. Men and women of the Senate, I want to just explain briefly to you that my motion to insist was because last night the House put on an amendment to this Bill that required that the funding be through the Tobacco Fund.

After considerable debate in the House, it became clear to me that we were better off making sure that any money that was required in this came out of the General Fund. So I have moved to insist, just to bring us back into the position prior to the House Amendment. I think everyone in the House will feel a little more comfortable with that. I am certainly comfortable with that myself.

I would now urge you to oppose the motion to recede. I have had the opportunity to hear some of the debate around this issue, as we've discussed it previously. I was very proud of all my colleagues in the Senate the other day when we passed this Bill,

and took a very bold step, and a very positive step for everyone in the State of Maine who is concerned with the costs of prescription drugs. I don't see any need to further amend this Bill or change this Bill. I am very comfortable with the work done in this committee, with the work we've done in debating and discussing this issue. I will remind you again that all of us heard in public hearings, have heard through our constituent phone calls, mail, e-mail, and letters, that the cost of prescription drugs has become unaffordable to seniors in our state. Many of the citizens in our state who, all too often, pay a call on their doctor, receive a prescription, take it to the pharmacy, find out that they can't afford the cost of filling that particular prescription, and go home without it. I was very proud of us the other day when we passed this Bill. I would look forward to your vote in opposition to the motion to recede and look forward to the moment later today when we pass this Bill finally, for the last time. Thank you very much.

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

Senator **BENNETT:** Thank you Mr. President. The motion to recede does not in any way take away from the efforts of the Senator from Knox or others trying to get this Bill passed. The motion to recede was made because I'm aware of one member of the Senate who would like to put forward an amendment on this particular Bill. We can go ahead and insist, or adhere, or something like that if the motion to recede fails. I think that this chamber, which expressed its views fairly dramatically I think the other day, is in a better position to ensure that this Bill passes and is well considered if the motion to recede were to pass so that we could go on and do a number of good things. One of which would be, according to the Senator from Knox, one of her goals, to get rid of the House Amendment. If the motion to recede should pass, we could indefinitely postpone the House Amendment. We could also consider other amendments in this chamber. So I make the motion to recede just as a courtesy so that we can get this Bill in a posture where we can give it further consideration, not to do any injustice to it. So I ask you to please go along and recede on this measure. If there's lingering questions, perhaps some member would care to table the motion until we have documents in front of us that would make people feel more assured about where we are headed. Thank you very much, Mr. President.

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

Senator **LIBBY:** Thank you Mr. President. Mr. President, in light of the debate that I have just heard, I would hope that you would also support the motion to recede. The reason that I say so is because I've just heard some really disturbing things in the previous comments. One of the most disturbing things that I just heard, given the fact that we are in passage to be engrossed by Committee Amendment "A", was a complete explanation of something that happened in the other body. This is absolutely against the rules. I don't understand why. It's pretty obvious that I've got an amendment coming up. We may not be able to hear that amendment. It's a much better amendment than the Committee Amendment that we have in front of us. But that is beside the point. The fact is that I just heard all about the reason why we should not support this motion to recede. It has to do with breaking the rules of the body. I don't think that we ought to be

barraged by actions that appeared in the House, I have to mention that since everyone else has. But I do have an amendment that actually is an amendment that is a bipartisan effort, because it's something that has been developed over time. It looks like I may not be able to get to that point if we don't support the motion in front of us. Thank you.

The Chair ordered a Division.

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.

On motion by Senator **AMERO** of Cumberland, **TABLED** until Later in Today's Session, pending the motion Senator **BENNETT** of Oxford to **RECEDE**. (Roll Call Ordered)

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/12/00) Assigned matter:

Bill "An Act to Clarify the Authority of Maine Game Wardens to Stop Motor Vehicles"

H.P. 1627 L.D. 2274
(S "A" S-592 to C "A" H-800)

Tabled - April 12, 2000, by Senator **KILKELLY** of Lincoln.

Pending - **FURTHER CONSIDERATION**

(In House, March 9, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-800) AS AMENDED BY HOUSE AMENDMENT "C" (H-852)** thereto.)

(In Senate, April 10, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-800) AS AMENDED BY SENATE AMENDMENT "A" (S-592)** thereto, in **NON-CONCURRENCE**.)

(In House, April 11, 2000, that Body **ADHERED**.)

On motion by Senator **DAVIS** of Piscataquis, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-800) AS AMENDED BY SENATE AMENDMENT "A" (S-592)** thereto, in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "A" (H-800) as Amended By Senate Amendment "A" (S-592) thereto, in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Senate Amendment "A" (S-592) to Committee Amendment "A" (H-800).

On further motion by same Senator, Senate Amendment "A" (S-592) to Committee Amendment "A" (H-800) **INDEFINITELY POSTPONED**.

On further motion by same Senator, Senate Amendment "B" (S-705) to Committee Amendment "A" (H-800) **READ**.

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

Senator **DAVIS:** Thank you very much Mr. President. Men and women of the Senate, I rise to speak on my amendment to "An Act to Clarify the Authority of the Maine Game Wardens to Stop Motor Vehicles." This is quite a ways from that title. This amendment, ladies and gentlemen and Mr. President, allows Maine Game Wardens to exercise the power and the authority that other law enforcement officers have. No more and no less. Traditionally, game wardens have been granted the power to enforce both the criminal and Fish and Game laws of the State of Maine. For decades they have had the same power of all of our law enforcement people. However, last year, because of a conflict in the law, our Attorney General ruled appropriately. I'm not criticizing him one bit, that it was unclear that they, indeed, did have the general powers of law enforcement officers. In fact, he felt that perhaps all they had was the power of enforcing the Fish and Game laws. The difference between my amendment and what we passed the other night is that my amendment clarifies that the Maine Wardens Service does have the same powers as the deputy sheriffs or the same powers that they've always had. No more and no less. My amendment will allow our game wardens to enforce criminal laws. Currently, they do not have that authority.

Now you can just imagine if you own a boat and the game warden is out on the lake and he's witnessing somebody stealing the motor off the back of your boat. As it is right now he can do nothing about it. With the passage of my amendment, they will be able to enforce the criminal laws that are taking place.

There are other issues here that trouble me, Mr. President. I know for a fact that the morale in this organization has really taken a dip. It's pretty low. I have heard of some recent events that convinced me of that. We need to restore the authority they've had for years to them. I've spoken with Commissioner Perry, and I've talked with Colonel Peabody at great lengths. I believe that they are determined and prepared to move the warden force forward in a very positive manner. They have made it very clear to me that their intention is for the wardens to enforce game laws. However, they should have the general police powers if they need them. This amendment would clarify the authority of Maine Game Wardens in a fashion that is more suitable to their role in law enforcement.

In closing, I would just like to say that Maine Game Wardens do not need special authority, they just need equal authority. That's what this amendment will give them. Thank you very much.

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

Senator **KILKELLY:** Thank you Mr. President. Men and women of the Senate, I rise in support of this amendment. I believe it is a fine compromise and I appreciate the work that has been done by the good Senator from Piscataquis County. One of the things that is important to note with passage of the Bill as it is amended. If we are not able to pass this legislation this year, then the ability of a warden to stop a motor vehicle for something outside of Title 12 violation, is in question. If the warden is following someone who they believe to be under the influence of alcohol, they can't stop that person. If they observe someone passing a stopped school bus, they wouldn't be able to stop that vehicle. If they are aware of a theft and the suspect leaves in a motor vehicle, they wouldn't be able to stop that person. Passage of this amendment provides the wardens with the same powers and duties of the sheriff. I think that's appropriate and I hope you'll support it.

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

Senator **LONGLEY:** Thank you Mr. President. I would love to have a copy and I don't think we have a copy of this amendment yet. I can't read the board because of the light.

THE PRESIDENT: It is Senate Amendment 705. Senate Amendment 705 should be in your books. Is there any member who does not have Senate Amendment 705?

On motion by Senator **DAVIS** of Piscataquis, Senate Amendment "B" (S-705) to Committee Amendment "A" (H-800) **ADOPTED**.

House Amendment "C" (H-852) to Committee Amendment "A" (H-800) **READ**.

On motion by Senator **DAVIS** of Piscataquis, House Amendment "C" (H-852) to Committee Amendment "A" (H-800) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **LONGLEY:** Thank you Mr. President. I apologize. I just got an understanding of what number it was. I'm reading that this amendment strikes the language that allows game wardens to stop vehicles. I need further explanation. Thank you.

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

Senator **KILKELLY:** Thank you Mr. President. Men and women of the Senate, in response to the question that has been raised by the Senator from Waldo. That language is redundant because it's already included under the duties and powers of the sheriff.

At the request of Senator **LONGLEY** of Waldo a Division was had. 19 Senators having voted in the affirmative and 2 Senators having voted in the negative, Committee Amendment "A" (H-800) as Amended by Senate Amendment "B" (S-705) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-800) AS AMENDED BY SENATE AMENDMENT "B" (S-705) thereto, in NON-CONCURRENCE.

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

The Chair laid before the Senate the following Tabled and Later (4/12/00) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Ensure that Certain Land Transfers Accomplished through Stock Transfers are not Exempt from the Transfer Tax" S.P. 661 L.D. 1883

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

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-698)** (3 members)

Tabled - April 12, 2000, by Senator **RUHLIN** of Penobscot.

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

(In Senate, April 12, 2000, Reports **READ**.)

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

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

Senator **MILLS:** Mr. President. To refresh our memories. We once debated another L.D. in this chamber at great length that was ruled by you as being Out of Order, and I think appropriately so. The Bill in text now comes back to us all under another filing number. This is essentially the same thing as before.

The issue in front of you is the avoidance, which I regard to be widespread, of the Real Estate Transfer Tax. It appears that under our current law it is extremely easy for somebody involved in a large real estate transaction to avoid completely the tax that is due upon filing a deed in the Registry of Deeds for a transfer. This Bill is an effort to require the payment of that tax, regardless of the system, or the method by which the transaction, or the transfer occurs. It's a sincere effort. There's a fair amount of work that went into it. There was a study commission that looked at the issue this past summer, this past year, before the session commenced. We had several hearings and work sessions on the Bill. It has been written and rewritten in committee several times.

If it's your pleasure to adopt the Bill, there is still a minor, technical amendment that I have on my desk that may be necessary. The effort behind this Bill is to try to capture transactions that involve conveyance of control over real estate holding companies, corporations, LLCs, and partnerships so that even if the name remains the same in the Registry of Deeds, if there's a transfer of control, meaning more than 50% of the equitable interest in the entity that owns the real estate, the real estate itself would be subject to the Transfer Tax. Because we

anticipate that this will generate added revenue, it will result in reducing the Real Estate Transfer Tax payable on deeds for those who are currently paying the tax. I might remind you that under the current system, the burden of paying this tax falls mainly on ordinary homeowners and small business people who find that it's easier to pay the tax than to pay the attorneys to develop a system for avoiding it. But in large land transactions, large real estate transactions, it becomes worthwhile to go through the corporate shell game of avoiding the tax. That is being done rather routinely in this state. Two other states have attempted to capture these forms of transactions. Connecticut had a difficult experience, but my understanding is that our situation is closer in parallel to that of Washington. In Washington, we understand, this has generated revenue through making the textual changes that we have in this Bill. Our Bill is modeled on the Washington model. The reports out of Washington are that it works there. We're in hopes that it would work here. For that reason I urge you to vote against the pending motion so that we may do the right thing, and accept the Minority Report, and send it on down. Thank you.

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

Senator **NUTTING:** Thank you Mr. President. As the good Senator from Somerset said, ladies and gentlemen of the Senate, we debated this Bill just a few days ago. I want to very briefly reiterate why the good Senator from Penobscot and I both brought this Bill forth. We had a situation with some very large landowners who discovered that if they formed a real estate holding company, they could actually purchase large tracts of land and avoid paying any Real Estate Transfer Tax. This, of course, hurts the funding of county government, Maine State Housing Authority, and the general fund. The other reason I urge you to oppose the pending motion is that new phenomenon is not going to be limited just to large corporations. I would think somebody could have a business telling even small businesses and homeowners how to form a real estate holding company and avoid paying any Real Estate Transfer Tax. I think this could spread and have very, very drastic consequences in the future if we don't enact a Bill like this that makes this tax fairly collected and paid by everybody, not just the little landowners, but everyone. So I urge you to oppose the pending motion. Thank you.

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

Senator **FERGUSON:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, hopefully you all remember the debate the other day when the Chairman of the Taxation Committee, the good Senator from Penobscot, Senator Ruhlin, laid out the arguments to vote for the motion of Ought Not to Pass. I must remind the chamber that it's a 10 to 3 committee report Ought Not to Pass. I will try to recall some of his comments to us. It was his view that the Bill has not worked and been refined to the point that we should accept it in this body. Unfortunately, he is not in the chamber right now. I'm sure that he would be speaking if he was. I felt that someone should get up and speak for the motion and I've taken that duty upon myself, Mr. President.

It seems to me that it is a complicated Bill. It was pointed out to us that 45 other states have looked at this, but they don't have a law of this type on the books. It would be my hope that the body would accept the motion that is on the floor and vote Ought Not to Pass. As I recall, if you are in doubt about something and you want to be safe, keep the law the way it currently is and we won't be opening a can of worms. Thank you very much for your indulgence.

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

Senator **DAGGETT:** Thank you Mr. President. Members of the Senate, I remember having debate over this Bill, or a similar one with the content being similar, the other day. Even though it has been represented as pretty complicated, I would just like to say it really isn't very complicated. When almost everyone pays a Real Estate Transfer Tax on the transfer of property, it seems only fair that everyone pay a Transfer Tax on the transfer of real property. It's just as simple as that. It's pretty straightforward and it's good tax policy. We try to make things fair. It's not always easy. But this is a move toward fairness so that when real property is transferred, everyone pays the Real Estate Transfer Tax.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, it is never pleasant for me to disagree with the Senior Senator from Oxford, Senator Ferguson. I've considered this question and I want to remind the Senate that the question before the body is whether to accept the majority Ought Not to Pass report. The question is, "do we think this idea has no merit at all?" I have to confess to you that I think the idea does have merit. I think it may be problematic the way it emerged from committee, but I think it merits some consideration. By just accepting the Ought Not Pass report, I don't believe that that consideration will be given. I understand that a similar law is in place in a couple of other states. I agree with the Senator from Kennebec, Senator Daggett, that this is really a question about the few benefiting from a tax on the many. If a way could be achieved to create more fairness in this particular tax, then I think we ought to give that an attempt. If we vote Ought Not to Pass today, that opportunity will be foreclosed to us for the remainder of the session. I think that would be too bad. I will be voting against the Ought Not to Pass report in the hopes that we can create an opportunity to make this law work. Thank you.

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

Senator **FERGUSON:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I'm not going to prolong this debate much further than just saying one thing. I think that the impression was given that all the large landowners in the state, or transfers, are using this system to avoid the tax and that's not true. I happen to have first hand experience. I remember when Ethyl Corporation bought Boise Cascade. Our foresters spent a month copying deeds. The County of Oxford was the recipient of several hundred thousands of dollars that was paid in to the transfer tax. I would hope that you will support the pending motion. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Ruhlin to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#392)

YEAS: Senators: ABROMSON, AMERO, BERUBE, CASSIDY, DAVIS, FERGUSON, HARRIMAN, LIBBY, MURRAY, SMALL

NAYS: Senators: BENNETT, CAREY, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senators: BENOIT, KIEFFER, MACKINNON, MITCHELL, RUHLIN

10 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 5 Senators being absent, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "B" (S-698) **READ**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-700) to Committee Amendment "B" (S-698) **READ**.

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

Senator **MILLS:** Mr. President. This is a technical amendment only. It changes as I recall the fiscal note. There was some language left in from the previous version of this bill that was inadvertently not removed.

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-700) to Committee Amendment "B" (S-698) **ADOPTED**.

Committee Amendment "B" (S-698) as Amended by Senate Amendment "A" (S-700) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-698) AS AMENDED BY SENATE AMENDMENT "A" (S-700)** thereto.

Sent down for concurrence.

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

Off Record Remarks

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

On motion by Senator **PINGREE** of Knox, **RECESSED** until 7:15 in the evening.

After Recess

Senate called to order by the President.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act to Amend the Laws Governing the Designation of a Beneficiary of Maine State Retirement System Benefits"
S.P. 625 L.D. 1790
(C "A" S-684)

Tabled - April 13, 2000, by Senator **RAND** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, April 8, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-684).**)

(In House, April 12, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-684) AS AMENDED BY HOUSE AMENDMENT "A" (H-1115)** thereto, in **NON-CONCURRENCE.**)

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

Off Record Remarks

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

HOUSE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Enhance Teacher Development and Meet the Special Needs of Students at the Southern Maine Juvenile Facility"

H.P. 1863 L.D. 2598

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-900)** (7 members)

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

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

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-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-900) AS AMENDED BY HOUSE AMENDMENT "A" (H-919)** thereto.)

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

On motion by Senator **MICHAUD** of Penobscot, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE.**

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

The Chair laid before the Senate the following Tabled and Later (3/23/00) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Create Employment Opportunities by Clarifying Maine's Tax Laws Regarding Mutual Fund Companies"

H.P. 1694 L.D. 2400

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-867)** (9 members)

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

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

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

(In House, March 22, 2000, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-867).**)

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

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

READ ONCE.

Committee Amendment "A" (H-867) **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-867)**, in concurrence.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Division.

Off Record Remarks

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

An Act to Promote Bone Marrow Donation
S.P. 916 L.D. 2368
(C "A" S-596)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, March 29, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-596)**.)

(In House, April 3, 2000, **PASSED TO BE ENACTED**.)

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

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

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-596).

On further motion by same Senator, Senate Amendment "A" (S-695) to Committee Amendment "A" (S-596) **READ** and **ADOPTED**.

Committee Amendment "A" (S-596) as Amended by Senate Amendment "A" (S-695) thereto, **ADOPTED** in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-596) AS AMENDED BY SENATE AMENDMENT "A" (S-695) thereto, in **NON-CONCURRENCE**.

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

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

An Act to Encourage Energy Efficiency in Government Facilities
H.P. 1740 L.D. 2446
(C "A" H-1098)

Tabled - April 11, 2000, by Senator **MICHAUD** of Penobscot.

Pending - **ENACTMENT**, in concurrence

(In Senate, April 8, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1098)**, in concurrence.)

(In House, April 11, 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 Amend the Liquor Laws to Create a New Category of License for Pool Halls and Exempt Certain Facilities from the Prohibition Against Smoking

H.P. 1807 L.D. 2533
(S "A" S-669 to C "A" H-1004)

Tabled - April 12, 2000 by Senator **CATHCART** of Penobscot

Pending - **ENACTMENT**, in concurrence

(In Senate, April 10, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1004) AS AMENDED BY SENATE AMENDMENT "A" (S-669)** thereto.)

(In House, April 11, 2000, **PASSED TO BE ENACTED**.)

On motion by Senator **GOLDTHWAIT** of Hancock, 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 (#393)

YEAS: Senators: AMERO, BENNETT, CASSIDY, DAVIS, FERGUSON, HARRIMAN, LIBBY, MICHAUD, MURRAY, O'GARA, PENDLETON, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, BERUBE, CATHCART, DOUGLASS, GOLDTHWAIT, MILLS, NUTTING, PARADIS, PINGREE, RAND, TREAT

ABSENT: Senators: BENOIT, CAREY, DAGGETT, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MACKINNON, MITCHELL, RUHLIN

13 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 11 Senators being absent, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

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

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

Tabled - April 6, 2000 by Senator **CATHCART** of Penobscot

Pending - **ENACTMENT**, in concurrence

(In Senate, April 4, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1014)**, in concurrence.)

(In House, April 5, 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.

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

HOUSE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Promote Equity in Funding of Ferry Services"

H.P. 1894 L.D. 2635

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

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

Tabled - March 31, 2000, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 30, 2000, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

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

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

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (4/12/00) Assigned matter:

JOINT ORDER - relative to the Joint Standing Committee on **BANKING AND INSURANCE** reporting out, to the House, an emergency bill to establish a state plan or other legislative options for guaranteeing access to and availability of healthcare coverage for residents

H.P. 1944

Tabled - April 12, 2000, by Senator **RAND** of Cumberland.

Pending - **PASSAGE**, in concurrence

(In House, April 11, 2000, **READ** and **PASSED**.)

(In Senate, April 12, 2000, **READ**.)

Senator **LAFOUNTAIN** of York moved the Joint Order be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **LAFOUNTAIN:** Thank you Mr. President. Men and women of the Senate, this appears as item number 10 on your calendar under Tabled and Later Assigned. Most of you don't have in front of you the actual text of the Joint Order. What it would require is the Superintendent of Insurance to develop and submit recommendations for legislation to establish a state plan, or other legislative options, for guaranteeing access to and availability of healthcare coverage for all residents of the state affected by recent changes in the marketplace, those changes being the withdrawal of Tufts Health Plan from Maine, the financial problems that Harvard Pilgrim is facing, and also the proposed sale and conversion of Blue Cross and Blue Shield to Anthem.

I ask you to vote for the indefinite postponement for a number of reasons. First of all, I think that the Joint Order before you is premature. What it is asking for is the superintendent to draft legislation that would be speculative in nature. In other words, to speculate what he thinks the outcome of Tufts, Harvard, and Blue

Cross would be as far as their various situations, whether it be withdrawal from the market, financial problems, or conversion. If you take a look at current Maine law, Title 24-A, section 2736. Maine has adopted laws relative to individual health plans in reference to guaranteeing access to individuals in the individual market. We also have in Title 24-A, section 2808-B, a section that deals with accessing and guaranteeing coverage in small group plans. It is my understanding, from current law, that HMOs in Maine are required to abide by those rules and provide and offer insurance coverage in small groups and individual plans.

If you recall, the Governor, in the State of the State Address, created a Blue Ribbon Commission which is addressing the issue of the marketplace in reference to insurance. We're hopeful that that commission will actually come out with some recommendations that may be applicable in this area. They actually just commenced their work two months ago and have a number of months before they'll actually report back to this legislature. We ask that you give that process time and let them consider the situation and come before us with some reforms if necessary.

Also, the Banking and Insurance Committee has, in your calendar you will notice, a special study which is the result of a Bill that was presented to us dealing with private purchasing alliances. It's hopeful that, if that gets funded, the committee will meet over the course of the summer and fall to develop a plan to implement private purchasing alliances here in the State of Maine and maybe even conduct a pilot project in the Mount Desert Island region. So for those reasons, I encourage you to vote for the pending motion, which is indefinite postponement, and don't pass a Joint Order that would be certainly premature, given we don't know the outcome of some of the pending situations. Thank you.

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

Senator **PINGREE:** Thank you Mr. President. Men and women of the Senate, I will not go on at length about this because we had a significant debate the other day about another Joint Order. I would just like to reiterate some of the same issues about this one. I do think a tremendous amount has changed since the passage of the original Bill in 1997. Both the loss of other participants in the market place, the increasing rates, the increasing number of people who are unable to access health insurance, and some of the concerns about this particular sale. For that matter, I hope you will vote in opposition to indefinite postponement so that we may go on to pass this Joint Order.

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

Senator **ABROMSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise to second the motion of the Senator from York, Senator LaFountain, who chaired the Banking and Insurance Committee. He has discussed with you the Blue Ribbon Commission, the fact that the Banking and Insurance Committee will be studying purchasing alliances. By the way, there is a study being undertaken by the Superintendent of Insurance with respect to the individual market, a market that suffers not because it isn't available, but because it's so expensive. For these reasons and those he stated, I also would

urge your vote for indefinite postponement. Thank you, Mr. President.

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

Senator **TREAT:** Thank you Mr. President. Men and women of the Senate, I would just like to say, and put on the record, that I have some really serious concerns about what is happening around private insurance in this state. I'm not sure if this Joint Order, as currently drafted, is the perfect vehicle for addressing those concerns. I understand that the Banking and Insurance Committee has had a full plate and has been focusing on a variety of issues, one of which has to do with private purchasing alliances, which I think is a great idea and it certainly is a piece of the answer to this puzzle. But, I have been having growing concerns about the, perhaps, lack of authority that our own Bureau of Insurance has to look into these issues and to really address them in a comprehensive way. I certainly hope that this Blue Ribbon Commission will come out with something positive that will contribute to our ability to address what are very serious health insurance and healthcare issues in the state. I do think that the legislature should be focused on this as well. I realize it is extremely late in the session to be putting on the plate of the Banking and Insurance Committee legislation. I would like to see that committee meeting over the summer and fall and really focus on this issue. I think that we are way behind the ball on this one. I have real concerns. I think, that the market is changing dramatically. There are tremendous costs for private businesses that are trying to provide healthcare, and the inability of so many of them to even step up to the plate and provide benefits, is a tremendous concern as well.

I am supportive of this even though I think it may not be the perfect approach to this. I am going to be voting against the pending motion simply because I think we need to put on record that there are serious problems that still need to be addressed and our legislative committee, as opposed to this Blue Ribbon Commission, really needs to be focusing on it. I know you have been looking at these issues, but I think it's worth putting this legislature on record, saying that we would like you to focus on it between now and the next session as well.

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

Senator **LAFOUNTAIN:** Thank you Mr. President. Men and women of the Senate, just a few other points. It's my understanding that when an HMO files in the State of Maine in order to be licensed, it is up to the Bureau to determine whether or not that HMO should be licensed and also what area that HMO will serve. If an HMO wants to deviate from its service area, it needs also to modify its plan before the Superintendent of Insurance, to seek approval from them. As a reminder, I know that the issue here centers around Blue Cross Blue Shield and Anthem. Blue Cross Blue Shield currently has the state employee contract, has the contract for the university employees, and also for MEA, which, obviously, is found throughout the state. I think the immediate concern that Anthem may try to pull out of certain parts of the state is not well-founded at this point in time since they are hopeful of taking over all of Blue Cross Blue Shield's clients. Finally, I indicated yesterday on the floor, in reference to the Blue Cross Blue Shield and Anthem hearing, that the Attorney

General's Office had filed a motion to extend time. The Superintendent of Insurance did, just today, grant a partial extension to the Attorney General's request. What he agreed to do is to extend and reopen for purposes of providing the public additional time for submission of written comments with the Superintendent until 5:00 p.m. on April 28. Those comments could come either electronically through e-mail, or addressed to the Superintendent at his address in Augusta, or by hand delivery to the Bureau in Gardiner. Thank you.

The Chair ordered a Division. 16 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **LAFOUNTAIN** of York to **INDEFINITELY POSTPONE**, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

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

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

Bill "An Act to Establish Fairer Pricing for Prescription Drugs"
S.P. 1026 L.D. 2599
(C "A" S-686)

Tabled - April 13, 2000, by Senator **AMERO** of Cumberland.

Pending - motion of Senator **BENNETT** of Oxford to **RECEDE**

(In Senate, April 11, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-686).**)

(In House, April 12, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-686) AS AMENDED BY HOUSE AMENDMENT "A" (H-1114)** thereto, in **NON-CONCURRENCE.**)

(In Senate, April 13, 2000, Senator **PINGREE** of Knox moved to **INSIST.**)

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 late this evening to discuss the reason why I believe that this body should recede from our previous position. In order to talk about an amendment, that I think is a workable amendment about prescription drug pricing, we would need to recede from our current position and then have the ability to discuss that amendment. The question in my mind, having gone out and drafted that amendment, is whether or not the issue that's in front of us, in its current form, is constitutional and workable in our current system of government. By receding from this position, we would be able to offer an amendment that would be right by Maine citizens, an amendment that would admittedly borrow from the Fund for a Healthy Maine, better known as the Tobacco

Settlement Money. It is an amendment that would allow us to set up a Prescription Drug Program that would be based on our current drug card approach. By receding from our current position, I think we can work on a proposal that, over the past several months and even the last year of so, both Republicans, Democrats, and Independents together have worked on. By receding from our current position, I think we can offer seniors help immediately rather than offering them help down the road, after a board is structured, following any kind of discussion about price controls, and on and on that goes. By receding from our current position, we could talk about a plan that is now on your desks, that you have hopefully had a chance to read or at least look at, that reaches out to Maine citizens at or below 300% of the poverty level. By receding from this current position, we will be able to avoid the litigation that is almost guaranteed that we will face by going forward with the current proposal that is now crafted and in front of us. That litigation could lead to the most long, drawn out fight on prescription drugs that this state has ever encountered.

Speaking as a Senator who has voted on every single Prescription Drug Program that I can remember coming through here, regardless of who had proposed it, and having faced some heat on occasion because of that, I believe that it has been a very tormenting experience of all of us to vote on the measure that we voted on just 24 hours ago that involves price controls. In the long run, ladies and gentlemen of the Senate and Mr. President, we all really want to do what's best for Maine seniors. We can do that if we work together. But we can't do it, I believe, if we don't recede from our current position. If we don't recede from our current position, we're going to have an approach that is going to face a lot of controversy throughout the State of Maine. That is going to, unfortunately, lead us down the road of putting in jeopardy the supply of prescription drugs in this state. If we recede from this current position, we can offer a different approach for Maine. One that does not put prescription drug supplies in danger. One that does not lead us down the road of litigation. One that does not challenge the very foundation of our capitalist society that we have built. One that offers an alternative that offers a sliding scale approach to prescription drugs that reaches out to more Maine citizens than ever before, far more than our current drug card with a limited amount of drugs and with very limited eligibility and criteria. Far more.

By receding from our current position we craft a catastrophic plan that has been debated in committee, that most people really believe can work, that does cost some money, but that does serve the citizens of Maine, Maine's current seniors who are eligible for our prescription drug program now and those who are disabled. By receding from our current position, we can take the money that has been designated to defend whether or not this is a constitutional Bill in front of us and put that directly into funding a program that works for Maine's seniors. Now we know that the prescription drug component of medicine today is responsible for about 8% of the total cost of medicine. Within that 8%, what we have is a tremendous opportunity to invest money that will allow people to get therapies from prescription drugs that will keep them out of the hospital, keep them from having surgeries, and keep them on the road to recovery. By receding from our current position, we will not endanger the research and development that this country has been so famous for. We will not endanger the biotech industry that we care so much about in the State of Maine. By receding from our current position, we can continue on drug research that has led to tremendous breakthroughs in

therapies for arthritis, for AIDS, and for a number of medical problems. If we do not recede from our current position, I don't believe that we have those options in front of us. In fact I don't think that we have any of them. What we have, I believe, is a long and protracted court battle that can only hurt us. What I would like to see is the consideration of another alternative, a blend of Republican and Democrat ideas and Independent ideas that may take a few days or weeks to craft, that will be acceptable to the citizens of Maine, the government of Maine, and industry representatives that are even here tonight. We cannot do that unless we recede from our current position. I think you understand the basics of what I'm talking about. A catastrophic type plan that covers all generic drugs, all prescriptions, not just a few. That is what we should be talking about tonight and in the coming weeks. Not a price control board, not litigation, but what is best for Maine citizens. So I urge you to please recede from our current position so that we can go on, and debate what I think is a rather excellent amendment, that is no one's idea but all of our ideas. One that no one needs to take credit for, but all of us can take credit for. One that we can be proud of. Mr. President, I thank you.

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

Senator **PINGREE:** Thank you Mr. President and men and women of the Senate, I will do my best to keep my conversation brief because I feel we already had lengthy debate on this issue recently and have discussed many of the issues brought forward by the good Senator from York, Senator Libby. I urge you to oppose the motion to recede so that we may go on to insist and go back to the majority report of this committee, which we have already given approval in this body. As I said earlier tonight, I was very proud of the work that we did earlier when we voted in the affirmative to approve this particular piece of legislation and I still feel the same way. While we do not have an amendment before us to discuss, the good Senator has given us a sense of what we could potentially do here. I want to be very clear about what the differences are.

What the good Senator is talking about is an increased benefit package. A benefit package to support those people in Maine who need access to prescription drugs. I want to remind all of my colleagues who previously voted for the Fund for Healthy Maine, the Tobacco Settlement, that we have created and funded an increase in our benefit package in the State of Maine. We have already put \$10 million into that fund. If and when we ever vote on a final budget, there's a good chance that money will be in there, because many of us in the majority have already voted on that issue. So I say to you tonight, you can pat yourself on the back for the fact that the legislature looks like it's going to support a \$10 million increase into our benefit package. You have the opportunity to stick with the previous vote and say, "we can also go further." There are many people who have criticized this Bill and said, "Oh, it's going to take so long, we need action now, we need to do something for the seniors in the State of Maine now," and I concur. As I have just said, we have a benefit program, the Low Cost Drug Program for the elderly. We've put money in that. By sticking with our previous motion and insisting on our vote, we get the opportunity to do something in the long term as well. As you have heard already, this is a wonderful Bill that we have before us which says that, "The pharmaceutical industry in order

to be licensed in the State of Maine must sell their product at no higher than they do across the border in Canada."

I hope that I don't need to go over this again because we have discussed this at length. But the fact is, as we all know, particularly the Senator from Aroostook, Senator Paradis, that you can walk across the border and access drugs at a far lower price. Our Bill says it is time that we stood up and said that it is not fair to Maine citizens and we want to do something to change this particular issue. The Bill does that. It gives us 18 months to work through some of the issues. We are hoping to set aside some money in case there is a legal challenge, but as you all know, the Attorney General has said that he thinks this is defensible. In fact, I say until we take this step and deal with the issue, we will not know if there's a legal challenge. We will not know if this goes against the Commerce Clause or if, in fact, this is essential for us to do for the health and safety of our citizens at a critical motion for us to take here in the State of Maine. I just want to say, I think like all of you, we hear all the time from our constituents, seniors, and working families who have a difficult time paying the cost of prescription drugs, who have asked us in the State of Maine to take some serious action, do something that will really change this. We have done that. We have taken a bold step here. I think we can be very proud of the hard work of the Health and Human Services Committee. We can stick with our previous motion and support this.

The good Senator from York said that we should look at this other option that came in really in one of the last days of the legislative session. He said, "We need days and weeks to craft something, we need a blend of ideas." I suggest to you that we've had that opportunity. We've had Bills before us. We've had Bills actually every session I've been in dealing with this issue. During this legislative session, this very Bill was before us for a long time. It had a public hearing. It had work sessions before the committee. Both Republicans and Democrats on the committee had the opportunity to work to make changes, to find ways to improve this legislation. The majority of the committee voted it out in the form that you've got before you. We can be proud of the work that we've done. I urge you to vote in opposition to the Recede motion so that we can go on to give this Bill its final enactment.

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

Senator **HARRIMAN:** Thank you very much Mr. President. Good evening ladies and gentlemen of the Senate. Mr. President, I'm surprised quite frankly that the Bill and its amendment before us has proposed to take funds out of the Fund for a Healthy Maine to pay for the acknowledged cost of litigating this proposal. I say that, Mr. President, because as someone who has worked long and hard at a number of issues dealing with appropriations and financial affairs, the one message that has become very clear, non-negotiable, is that the Fund for a Healthy Maine is to go in one direction and one direction only. Any attempt to use that money other than for the intense purposes of the coalition who has been supporting this Bill, is out of bounds. So I was quite surprised, actually amazed, to find that the very same advocates of "don't touch this money except for our designated purposes" are the ones who have proposed to take the money to hire the lawyers to litigate the case out of that fund. But that aside, Mr. President, I've listened very carefully to the debate and I've read all of the promotional material that has come across my desk over

this issue. In fact, I was pleased to attend one of the forums that the State Employees Union hosted in my district, a month or so ago, where they promoted a forum to allow citizens around the state to come and share their concerns about this issue.

I listened very carefully to the debate that unfolded a few days ago on this issue and chose not to speak, because I really didn't understand all of the details that the Bill entailed and wanted to have the benefit of an open mind and an open ear. I've chosen to speak tonight, Mr. President, because I've come to the conclusion that this entire Bill has already accomplished its mission. That is to, as the good Senator from York, Senator Lawrence, said from the floor the other day, "Shoot a blow across the bow" or something of that nature. That it was time to get the pharmaceuticals attention and, indeed, I am sure, we have. But to push this legislation to its conclusion, to strip off the financial cost so that it can go into law without acknowledging the very time consuming, cost consuming mission this Bill would have to take, would be irresponsible.

I came to this conclusion, Mr. President. We live in a society today where you can dream big dreams, and if you have a good idea, you can find people who are willing to help you find the resources, the money to follow that dream. In our society today, because of the inventions, the scientists, the researchers, the people willing to take risks, people are now able to take a pill, or an injection, or a cream, and save their life. Not only save their life, but also improve the quality of their life. I suspect, Mr. President, that there are people who are alive today who have been here to argue for the passage of this Bill because of that risk, that ingenuity, and the inventions that have come out of the pharmaceutical industry. In fact, I was parenthetically kind of surprised at a number of the people who came here to lobby me to support this Bill are the very same ones I saw out on the portico smoking a cigarette. But I'll leave that as it is. Here's what it boiled down to me. This Bill has isolated one segment of the medical economy, the medical community. We've isolated it. We've put it up there for all to see. We've called it the enemy. When, in fact, it is because of this industry that people do not need surgery, do not need hospitalization, and do not need rehabilitation, saving who knows how much money from other parts of the medical system. So for us to say, we're going to take the pharmaceutical industry and hold it up as the enemy, and not ask ourselves, should we put price controls on physician charges for surgery? Should we put price controls on diagnostic equipment that costs millions and millions and millions of dollars? A few years ago, Mr. President, I tore my rotator cuff in a couple of places and had to have it surgically repaired. A 45 minute procedure to do an MRI cost \$1,200. The surgery was over \$10,000. The rehabilitation was about \$11,000. There's no legislation before us in this session to talk about the high cost of hospitalization, diagnostic equipment, and surgery. Instead, we've chosen to take one emotionally driven issue and say that's the reason that healthcare costs are rising. In my view, that is the very same industry, Mr. President, that is saving lives and improving the quality of life and preventing surgeries, hospitalizations, and rehabilitation. So as the good Senator from York, Senator Lawrence, said, we need to get their attention. I think their listening. Now that we've got their attention, it's time to stop punching them in the face. Thank you, Mr. President.

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

Senator **AMERO**: Thank you Mr. President. Ladies and gentlemen of the Senate, I agree with all of the speakers tonight and in the previous evening on this Bill. This is an issue that we all have a great deal of concern about. But the good Senator from York, Senator Lawrence, asked us a question the other night in the debate. He asked the question, "Where is the outrage?" You know, I've been thinking about that question for some many hours since he raised it. I'm beginning to think that the outrage will come when so many of our seniors out there who are expecting that if this Bill passes that their prescription drugs are going to be cheaper and they're going to be cheaper soon. That's the expectation that we have created in the public. I think there will be outrage when this doesn't happen. I think there will particularly be outrage when the people of this state find out that thousands, maybe millions of dollars, are going to be expended on the promise of lowering drug costs. Actually, the only thing that happens is that we will be bringing in, not lower drug costs but high cost bills from trial lawyers. That's the outrage that I think the people in this state are going to feel. 4 or 5 years down the road, when they haven't yet experienced less expensive drugs, but they have, indeed, experienced mega bills from defense and trial lawyers. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Oxford, Senator Bennett to Recede. 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 (#394)

YEAS: Senators: ABROMSON, AMERO, BENNETT, CASSIDY, DAVIS, FERGUSON, HARRIMAN, LIBBY, SMALL

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

ABSENT: Senators: BENOIT, KIEFFER, MACKINNON, MICHAUD, MITCHELL, RUHLIN

9 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 6 Senators being absent, the motion by Senator **BENNETT** of Oxford to **RECEDE, FAILED**.

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

Senator **HARRIMAN**: Thank you Mr. President. Good evening ladies and gentlemen of the Senate. I just want to state for you, Mr. President, and the rest of my colleagues here, that as we come to the waning hours of this session and the proposed budget for the remaining year and two months of this biennial budget is put together. I have yet to see in any of the proposals the funding necessary to implement this Bill. Thank you, Mr. President.

The Chair ordered a Division. 21 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **INSIST, PREVAILED**.

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.

On motion by Senator **FERGUSON** of Oxford, **ADJOURNED**, until Friday, April 14, 2000, at 9:00 in the morning.