

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 2, 1992 to May 18, 1993

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

In Senate Chamber
Tuesday
March 23, 1993

Senate called to Order by the President, Dennis L. Dutremble of York.

Prayer by Reverend Sally Poland of the United Methodist Church in Scarborough.

REVEREND SALLY POLAND: May we be in the spirit of prayer. Creative God we give you thanks for this glorious day and for all its promise, its challenge, its rewards. We rejoice in bright sunshine, in melting snow, in work to do and in the gifts and graces you have given us to do this work. We ask a special blessing on those through whom you work, both in this Chamber and in Committees. Guide them to see the needs of their constituents as the needs of your sons and daughters as well. As they make tough decisions in the allocations of limited resources for seemingly limitless needs, give them discernment. As they ponder justice for those who are not always able to advocate for themselves, the unborn, gays, lesbians, the chronically ill, and the elderly, give them compassion. In the inevitable presence of long days, short fuses and issues on which there seems to be no comfortable compromise give them stamina and, please Lord, a sense of humor as well. Help them to claim your promise to make all things new for themselves and for those they serve. Amen.

Reading of the Journal of Monday, March 22, 1993.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Clarify the Procedures by Which Fees Are Collected under the Petroleum Market Share Act" (Emergency)

S.P. 94 L.D. 248
(C "A" S-41)

In Senate, March 10, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-41).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-41) AS AMENDED BY HOUSE AMENDMENT "A" (H-71)** thereto, in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

Non-concurrent Matter

Bill "An Act to Establish a Part of the Boundary Between Enfield and Lowell"

S.P. 132 L.D. 423

In Senate, March 10, 1993, **PASSED TO BE ENGROSSED.**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-70)** in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

Non-concurrent Matter

Bill "An Act to Extend the Commission to Study the Future of Maine's Courts" (Emergency)

S.P. 303 L.D. 919

In Senate, March 16, 1993, **PASSED TO BE ENGROSSED.**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-66)** in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

House Papers

Bill "An Act to Adjust the Percentage of State Revenues Credited to the Local Government Fund to Replace the Loss of the Inventory Tax Reimbursement"

H.P. 720 L.D. 979

Comes from the House referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED.**

Which was referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Relating to Compulsory Insurance Limits for Hired Vehicles Used to Transport Passengers" (Emergency)
H.P. 728 L.D. 987

Comes from the House referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.

Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Allow the Commissioner of Conservation to Adopt Rules That Encourage Conservation of Shore Plants"
H.P. 710 L.D. 961

Bill "An Act to Establish a Moratorium on the Search for a Maine Site for Low-level Radioactive Waste Disposal, to Impose Additional Duties on the Low-level Radioactive Waste Authority and to Provide for a Review of the State's Role in the Storage and Disposal of Low-level Radioactive Waste" (Emergency)
H.P. 717 L.D. 968

Bill "An Act to Supplement Environmental Enforcement"
H.P. 731 L.D. 990

Come from the House referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning Amendments to the Laws Affecting the Finance Authority of Maine" (Emergency)
H.P. 716 L.D. 967

Comes from the House referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Preventing Trial Judges from Hearing Motions for a New Trial"
H.P. 707 L.D. 958

Bill "An Act to Allow for the Joint Filing for Divorce"
H.P. 715 L.D. 966

Bill "An Act to Exempt Owners of Shooting Ranges from any Civil or Criminal Action Relating to Noise Pollution"
H.P. 724 L.D. 983

Bill "An Act to Prohibit Persons from Allowing Youths to Use Illegal Drugs"
H.P. 729 L.D. 988

Come from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which were referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Repeal the Child Labor Laws"
H.P. 719 L.D. 970

Comes from the House referred to the Committee on **LABOR** and **ORDERED PRINTED**.

Which was referred to the Committee on **LABOR** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Correct the Boundary Description of the Town of Long Island"
H.P. 721 L.D. 980

Bill "An Act to Increase Reimbursement to the State Police for Services Provided to Federal Agencies"
H.P. 723 L.D. 982

Resolve, Approving the 1993 Draft and Arrangement of the Constitution of Maine Made by the Chief Justice of the Supreme Judicial Court and Providing for its Publication and Distribution (Emergency)
H.P. 726 L.D. 985

Bill "An Act to Limit to 5 Years Certain State Contracts"
H.P. 730 L.D. 989

Come from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Authorize Special Property Tax Districts"
H.P. 708 L.D. 959

Bill "An Act to Establish a Job Creation and Retention Tax Credit"
H.P. 711 L.D. 962

Bill "An Act to Promote the Use of Reusable Bags in the Purchase of Groceries"
H.P. 712 L.D. 963

Bill "An Act to Allow Municipalities to Collect Service Charges on Certain Properties Exempt from Property Taxes"
H.P. 713 L.D. 964

Bill "An Act to Facilitate the Identification of Mortgagees of Record in Certain Transactions"
H.P. 714 L.D. 965

Bill "An Act to Amend State Tax Increment Financing"
H.P. 718 L.D. 969

Bill "An Act to Improve the Circuit Breaker Program"
H.P. 722 L.D. 981

Bill "An Act Concerning Disbursement of Property Tax Relief Payments"
H.P. 725 L.D. 984

Bill "An Act to Expand Eligibility and to Assure that Payments Made Under the Maine Residents Property Tax Program are Applied to the Payment of Local Property Taxes"
H.P. 727 L.D. 986

Come from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Impose a Moratorium on Certain Sources of Energy until a State Energy Policy Is Adopted" (Emergency)
H.P. 709 L.D. 960

Come from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

Joint Orders

The following Joint Order: H.P. 732

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill or bills concerning supplemental appropriations or allocations for fiscal year 1992-93 to the House.

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

Which was **READ** and **PASSED**, in concurrence.

Off Record Remarks

Joint Resolution

The Following Joint Resolution: H.P. 706

JOINT RESOLUTION RECOGNIZING THE 50TH ANNIVERSARY OF THE MAINE STATE EMPLOYEES ASSOCIATION

WHEREAS, the Maine State Employees Association began when 200 employees of the State of Maine gathered in the House of Representatives on March 18, 1943 to establish a labor organization that would represent their interests before the Legislature; and

WHEREAS, throughout its history, the Maine State Employees Association has been a strong advocate on behalf of state workers and other public employees; and

WHEREAS, the Maine State Employees Association was a pioneer in gaining collective bargaining rights for workers in the executive and judicial branches of State Government; and

WHEREAS, the citizens of the State benefit daily from the hard work and conscientious service of Maine State Employee Association members; and

WHEREAS, March 18, 1993 marks the 50th anniversary of the founding of the Maine State Employees Association; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Sixteenth Legislature now assembled in the First Regular Session, take this occasion to recognize the Maine State Employees Association, a member of the Service Employees International Union

and the AFL-CIO, on its 50th anniversary and commend the union for its dedicated representation of public employees; and be it further

RESOLVED: That when the Legislature adjourns for the day, it does so in honor of the Maine State Employees Association, a member of the Service Employees International Union and the AFL-CIO; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President and Executive Director of the Maine State Employees Association.

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

Which was **READ** and **ADOPTED**, in concurrence.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 333

116TH MAINE LEGISLATURE

March 22, 1993

Senator Mark W. Lawrence
Rep. Paul F. Jacques
Chairpersons
Joint Standing Committee on Energy and Natural Resources
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Abbie McMillen of Harborside for appointment to the Facility Siting Board.

Pursuant to Title 38, MRSA Section 2152, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Which was **READ** and referred to the Committee on **ENERGY AND NATURAL RESOURCES**.

Sent down for concurrence.

SENATE PAPERS

Bill "An Act to Provide for the Issuance of Refunding Bonds of the State" (Emergency)
S.P. 330 L.D. 1006

Presented by Senator **CAREY** of Kennebec

Which was referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Provide Training for Activity Professionals"
S.P. 329 L.D. 1005

Presented by Senator **ESTY** of Cumberland
Cosponsored by Representative: **PENDLETON** of Scarborough

Which was referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Increase the Fee for Marriage Licenses"
S.P. 328 L.D. 1004

Presented by Senator **BEGLEY** of Lincoln

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Allow Reimbursement to Local Fire Departments by the Turnpike Authority of Maine"
S.P. 327 L.D. 1003

Presented by Senator **LAWRENCE** of York

Which was referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Enhance Competition in Electric Utilities"

S.P. 331 L.D. 1007

Presented by Senator **CARPENTER** of York
Cosponsored by Senators: **SUMMERS** of Cumberland,
VOSE of Washington, Representatives: **CARR** of
Sanford, **DONNELLY** of Presque Isle, **MORRISON** of
Bangor

Which was referred to the Committee on
UTILITIES and **ORDERED PRINTED.**

Sent down for concurrence.

Joint Resolution

On motion by Senator **SUMMERS** of Cumberland
(Cosponsored by Representative **DONNELLY** of Presque
Isle and Senators: **CAHILL** of Sagadahoc, **CARPENTER**
of York, **GOULD** of Waldo, **HALL** of Piscataquis,
HANLEY of Oxford, Representatives: **BENNETT** of
Norway, **HEINO** of Boothbay, **HUSSEY** of Milo, **JOY** of
Island Falls, **KNEELAND** of Easton, **LIBBY** of Buxton,
PENDEXTER of Scarborough, **REED** of Falmouth, **SMALL** of
Bath, **TUFTS** of Stockton Springs) (Approved for
Introduction by the Legislative Council pursuant to
Joint Rule 35) the following Joint Resolution:

S.P. 332

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REFUSE TO ENACT THE BUDGET RESOLUTION AND IMPLEMENTING LEGISLATION THAT WOULD IMPOSE A BRITISH THERMAL TAX

WE, your Memorialists, the Members of the One
Hundred and Sixteenth Legislature of the State of
Maine, now assembled in the First Regular Session,
most respectfully present and petition the Congress
of the United States, as follows:

WHEREAS, President Clinton has proposed to the
Congress a budget package that includes a budget
resolution that would require the imposition of a
broad-based energy tax based on the British Thermal
Unit equivalent of various energy sources; and

WHEREAS, the House of Representatives has
adopted such a budget resolution and the Senate is
about to consider such a budget resolution; and

WHEREAS, the Senate has narrowly rejected an
amendment that would have removed the so-called BTU
tax from the budget resolution and as the Congress
still retains the ability to amend the budget
resolution or to refuse to enact implementing
legislation to place the BTU tax in the Internal
Revenue Code; and

WHEREAS, the proposed BTU tax will have dramatic
and negative effects on the State and on the people
of the State, who are highly dependent on petroleum
fuels to provide heat for our homes and businesses
and fuel for our vehicles; and

WHEREAS, the BTU tax will inappropriately
discourage use of natural gas, a clean, efficient and
inexpensive fuel produced in the United States; and

WHEREAS, the BTU tax is especially regressive,
as most heating and vehicle fuel use is for necessary
heat and transportation and is not discretionary and
a disproportionate burden will fall upon those
citizens least able to afford these new burdens; and

WHEREAS, the proposed tax will have an
especially heavy and unfair impact on large states
with well distributed populations and centers of
commerce, such as our State, and as such unfair
impacts must be avoided as a matter of equity; now,
therefore, be it

RESOLVED: That We, your Memorialists,
respectfully recommend and urge the Congress of the
United States to finally reject any tax based on the
British Thermal Unit equivalent of various energy
sources and further urge the Congress to reject the
pending budget resolution that is premised on the
imposition of such a tax; and be it further

RESOLVED: That we petition the Congress to
reject any proposed implementing legislation to
impose such a tax and to refrain from burdening our
citizens with any new tax that has a disproportionate
impact on the poor or on any one region of the
country; and be it further

RESOLVED: That suitable copies of this Memorial,
duly authenticated by the Secretary of State, be
transmitted to the Honorable William J. Clinton,
President of the United States, to the President of
the Senate and the Speaker of the House of
Representatives of the Congress of the United States
and to each Member of the Maine Congressional
Delegation.

Which was READ.

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

Senator **SUMMERS:** Thank you Mr. President,
Ladies and Gentlemen of the Senate. As you can see
by item 4-3 on the calendar this is a Joint
Resolution memorializing the Congress not to enact
the BTU tax proposed by the Clinton Administration.
I feel that it should be the position of this
Legislature that we support clean, efficient, cheap
energy. This type of tax would have a devastating
affect on this State. It will hurt people in rural
areas, it will hurt people in urban areas, and I do
not believe that it will raise the revenues that have
been purported in the newspapers and by the
administration, therefore I urge this body to accept
this Resolution and lead by example on this issue.
Thank you.

Senator **ESTY** of Cumberland moved that Joint
Resolution be **INDEFINITELY POSTPONED.**

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

Senator **ESTY:** Thank you Mr. President, Ladies
and Gentlemen of the Senate. The week before last
the Legislative leadership, most of the Legislative
leadership, of the Maine Legislature went to
Washington. During those meetings we had an
opportunity to speak with Senator Mitchell regarding
this issue as well as many other issues. Let me tell
you that Senator Mitchell as well as Senator Cohen
are working very diligently regarding this issue and
working closely with the Clinton administration to

help resolve this issue in a way that treats Maine and all citizens of the United States fairly. It seems to me that at this point in time the worst thing that we can do in the State of Maine is worry about these kind of issues that are being dealt with in Washington when we have so many other great concerns that we can impact, frankly, in Augusta. The time now, it seems to me, is to focus on the issues that we can address and that we have the power to impact in this building without worrying about these kinds of issues. I, too, am concerned about this BTU tax, we have expressed our concern and I have great faith in Senator Cohen and Senator Mitchell in resolving the issue and working with our President to make this more fair. I would urge you all to support Indefinite Postponement of this Resolution. Let's stick to the business at hand in Maine. Thank you.

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

Senator SUMMERS: Thank you Mr. President, Ladies and Gentlemen of the Senate. I certainly rise in opposition to the motion of Indefinite Postponement. I'd like to just point out a few things regarding this particular issue. I happen to believe, unlike my good friend from Cumberland Senator Esty, that we should be focused on issues like these. If you look at our State, when we're looking at a billion dollar shortfall and a devastating impact that resolving that issue can have on the citizens of this State, that alone is mind boggling. When you're going into taxing home heating oil, taxing kerosene, taxing gasoline, taxing the energy used in manufacturing I think that can, without question, have a devastating impact on this State. I'd like to let you know there are a couple of elements to the BTU tax. First of all, last week in the House in Washington they passed a budget resolution which contains the expenditures and the taxes that are needed as outlined by the President. The second part of this would actually be the legislation that would be enacted by the IRS to put these taxes in place. Many of you know that this passed the House of Representatives and in the Senate they narrowly defeated an amendment that would have removed the BTU tax, it was a 53 to 47 vote. It was a very close vote, Senator Cohen is not in support of this tax and they worked very hard to offer an amendment.

In fact, let me give you a few facts about the BTU tax. Upon full implementation beginning in 1997 the tax rates will be as follows: on oil, 59.9¢ per million BTU, or about \$3.47 per barrel of crude oil, assessed at the refinery, at the inlet. Domestic benchmark crude oil is now selling for about \$18 to \$21 a barrel. Natural gas would be 25.7¢ per million, or 26.5¢ per MCF, I don't know what an MCF is but I'm assuming it's a cubic foot of natural gas, this would be assessed at the well head, it would represent a 15% increase in today's average well head price of \$1.75 per cubic foot. On coal, 25.7¢ per million BTU, or \$5.35 per ton of stern coal, collected at the mine mouth. The National Coal Association estimates that this tax would increase the average electric generator's fuel cost by about 17%. The administration predicts homeowners electric bills would increase by only 3%, there seems to be some sort of discrepancy there. Noting that the tax will raise \$71.44 billion over five years, from 1994 to 1998, the administration has been the marketing the tax as fair and helpful to our environment, reducing our dependence on foreign oil, compassionate in its nonapplication to those earning less than

\$30,000. Most importantly, it's having only a trivial impact on the middle class. Now the President has promised his BTU tax would add only about \$17.00 a month to energy costs to a family of four earning about \$40,000 a year, which is said to be a small price to pay to bring down the deficit, clean up the environment, and in effect, thumb our nose at OPEC.

The truth about this, I feel, is the BTU tax, when indexed for inflation, could cost about \$430 a year, that's \$35.83 a month, in constant dollars for a family of four earning \$40,000. It will unfairly penalize energy intensive states and industries. It would hurt exports, reduce the gross domestic product by \$38 billion and destroy between 610,000 and 700,000 jobs as estimated by the National Association of Manufacturers and the American Petroleum Institute. Whatever net revenues remain from the BTU tax collections, after accounting for decreased federal income taxes, increased federal spending and higher fuel costs more will be spent by Clinton's proposal by a \$42 billion expansion in food stamps and heat costs. In short, after 1997 the BTU tax and spending package will add to our deficit and not reduce it. I feel this is an inefficient revenue collector. According to the Treasury Department the BTU tax will collect about \$95 billion from the economy over the period from 1994 to 1998 and about \$22 million per year after. To this the Treasury has applied the standard discount rate of 25% to reflect the lower business income taxes resulting from additional deductions of the excise tax and higher costs of the goods and services. This Treasury calculation yields a net revenue of \$71.44 billion, however this 25% discount does not take into account dynamic economic effects of the BTU tax such as increased gross domestic product and increased federal spending, particularly in additional welfare benefits. I think that affects this State dramatically when you're looking at the heat assistance for those on welfare. This particular tax is going to devastate this State, I urge you to reject the Indefinite Postponement of this. I urge you to take a stand and Mr. President when the vote is taken I would request the Yeas and the Nays. Thank you.

Senator **SUMMERS** of Cumberland requested a Roll Call.

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

Senator CONLEY: Thank you Mr. President, Ladies and Gentlemen of the Senate. As always the good Senator from Cumberland is well prepared whenever he has a measure which appears on our calendar. I am truly impressed with the facts and figures which he has been able to share with the body today regarding the BTU tax and explaining exactly what a BTU is. Actually, to be honest with you, it's shocking to me after listening to the good Senator from Cumberland, it's obvious to me he knows more about this issue and probably more about the federal budget than most people around here know about our own budget. Really that's the reason for rising in reference to this matter. I think it is unfair to the President of this country to attack his budget piecemeal. If there is anything that we have learned out of these first few days in Washington, actually to get into this and to go down this road I realize how absurd it is to argue about the federal budget here in this chamber, but I think in fairness because the Resolution has been placed here we should think carefully before getting into a debate on the federal

budget and in particular about going after one piece of the many resolutions which have been brought before the various bodies in Washington. One message that has come out of Washington clearly is that gridlock has to end. If the budget process down there is representative of anything it is clear to me that they are listening to the people of this country and that everyone is going to have to sacrifice to get what is really the problem in this country under control, which is the federal deficit. I would note that the resolution before doesn't mention anything about that portion of the budget. Nor does it mention anything else about all of the other portions of the budget which make what they are trying to do in Washington meaningful. Which is looking at what is going on down there by way of a comprehensive package. That's why it's unfair that we take up this Resolution as an isolated piece and for the reasons that the good Majority Leader noted in his debate earlier we've got problems of our own we ought to get down to here, like a billion and a half dollar deficit that nobody really seems to want to talk about. I think we should join the Majority Leader and Indefinitely Postpone this measure. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I was concerned for a moment there that we were only recognizing Cumberland County but I'm glad to see Androscoggin County get an opportunity as well. I rise this morning to speak briefly to the efforts of Resolutions memorializing Congress to do anything. I haven't been here too long but I've been here long enough to know that these Resolutions memorializing Congress to do anything are close to worthless. Congress will do what it likes though we would have this esteemed self image of ourselves as all powerful in directing what the United States Congress will do. We ought to face reality. With the Senate of the State of Maine we have one opinion out of many opinions, this will be given the same weight as any other opinion. Any individual in this chamber or any other individual who wishes to express their opinion on this or any other issue can be just as effective and forceful if they do so as an individual or as a member of this Senate individually. Therefore I think it is not appropriate that we consider this memorialization or, frankly, any memorialization to Congress because they have no affect, they are done for other purposes. I speak not to the merits of this particular issue or any issue that comes forward to us as a memorialization to Congress. I will not support this resolution and you will see that I will support no resolution memorializing Congress to do anything on any subject no matter who sponsors it in this chamber this year. We must begin to focus on what we can affect in the tremendous agenda of the people's work of Maine that we have before us. We do not have the luxury any further to continue on with this kind of process as usual. I will not support this resolution or any resolution in this chamber this year and I hope that others will join me in that position. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Surprisingly enough we had this very debate that the good Senator from Androscoggin, Senator Cleveland, speaks of in the Legislative Council. We talked and we spent a fairly lengthy time discussing the importance and the

effectiveness of Joint Resolutions and we more or less came up with the same assessment that the good Senator from Androscoggin, Senator Cleveland, did, that perhaps these Joint Resolutions were not the most effective way to lobby Congress. However, we didn't make a policy on this and we did indeed allow for several Joint Resolutions to pass the Legislative Council. Until we make a policy regarding Joint Resolutions I don't think it's particularly fair that we pick and choose individual Senator's Resolutions, whether to support or not to support. As far as the merits of this particular issue, two weeks ago the joint leadership along with the Governor's Office and practically the entire Legislature met in the Civic Center and formed an Economic Growth Council, because I think we all agreed that we have a stake in the economy and how it is negatively impacting businesses in the State of Maine. One of the things that struck me, because you always here when you talk about why is there a negative business environment in the State of Maine, you always hear Workers' Compensation and you always hear overregulation. What we heard from both speakers that day, one from National Semi Conductor and the other from New Balance, was the cost of utilities, the overwhelming cost of utilities and how in Maine it costs them 40% more on their utility bills than it did in neighboring Massachusetts, who is not a prize to do business in either. I think for that reason alone we can support, in good conscience, this resolution and I appreciate the fact that leadership went down to Washington and spoke with our Congressional leaders, I think that's an appropriate thing for them to do, but I think this Joint Resolution goes one step further in letting our leaders know that the entire Senate, or at least a majority of the Senate, agrees that the BTU tax would put an unfair burden not only on the people, but on the businesses of the State of Maine and remind them, perhaps, that they do represent Maine in Washington. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If I can just make a few comments regarding this Joint Resolution. In response to my good friend from Cumberland, Senator Conley, as far as the State budget, fortunately we here in Maine in deciding exactly how our State budget is going to operate, we don't operate in a vacuum. In fact, we very much have to be cognizant of the actions taken at the Federal level. The only criticism I would have of this Joint Resolution is in paragraph four where it says "the proposed BTU tax will have dramatic and negative effects" because we are "highly dependent on petroleum fuels". I guess it's more appropriate instead of "highly dependent" to, in consideration of this Joint Resolution, exchange that to "disproportionately dependent". We here in Maine are not only highly dependent but disproportionately dependent on petroleum fuels in comparison to other states across the nation, and because of the action that is going to be taken at the Federal level, I think that it's very important that this Senate chamber take this action this morning. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I feel the need to go on just a little bit this morning. In response in particular to my good friend from Androscoggin who I have worked with on several issues and I hold in

high regard, but I do take issue because of the characterizations of the Joint Resolutions that face this body. I'd like to draw this body's attention to one Joint Resolution in particular that came during the 115th, I know many of you weren't here, but I think it's a fair comparison. That was the Joint Resolution memorializing the Congress and the President and informing them of our support of the troops in the Persian Gulf. What that did was show that we were unified, not only as a Legislature, but as a State behind the men and women who sacrificed and went to the Persian Gulf to serve our country. I see this as really no different. Like my good friend from Oxford, Senator Hanley, has just pointed out this State is heavily dependent on petroleum products, not only for home heating but for agricultural purposes. One of the things I wanted to point out just a few minutes ago is that as far as agriculture is concerned the entire agricultural sector is in for a price shock. According to the American Farm Bureau Federation the BTU energy tax will cost agriculture \$600 million a year. Now think about that the folks from Aroostook county and Washington county, \$600 million a year because their crop production is energy intensive and because there is significant transportation of products involved. In fact I think we debated an issue last year on the trucks that haul the potatoes around from the County. Certainly those trucks use an inordinate amount of petroleum products. Anyway, the agricultural industry in this State will be very hard hit and the Farm Bureau estimated that the BTU tax on a typical 430 acre farm could cost about \$800 a year, considering the gasoline, diesel fuel, the propane for the drying of grain, this energy tax will affect this State and we do not live in a vacuum, I don't think there is any question about that and we must stand on principle, we stood on principle before in this body and I don't see this as anything else but that, standing on principle and letting the Congress know our position. That's what we do as elected representatives of the people and I think that in all good conscience if we allow this to be Indefinitely Postponed then we give the eternal right to any member in this body or any Legislature to come thereafter to make a mockery of this entire process and I find it in absolutely incredibly poor taste to take this issue this lightly when it will affect every man, woman and child in this State in a negative fashion. Again, I urge you to vote against the Indefinite Postponement. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We, of all bodies, should not belittle the voice of anyone or anybody to a Legislative group. We are sending a message to an institution or an individual concerning us. By no means do I find that of little consequence. Thank you.

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

Senator **FOSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I did not come prepared to speak on this subject but I have listened intently to what has been said today and as a member of the Appropriations Committee we are cranking into our budget the cost of, if indeed this tax goes through. The thing I look upon resolutions are sort of like something I get from my city council, Dear Senator Foster we are very concerned about this part of the budget that affects our city, school funding,

signed by all. One part of the budget, not anything else but school funding. I listen to them when they write to me. In the spirit of bipartisanship I believe that something good can be done with a Resolution to Congress. I would ask that we table this, so that we get the proper language so that everyone is happy and that our delegation in turn knows that we are concerned, because I don't have the time, or none of you, to write letters to each and everyone of them telling of our concerns and I have not been able to go to Washington, nor do I want to. So in that spirit I would suggest that those that are for, those that are against, would sit down, put together something that would be pleasing to all sides. Thank you.

Senator **ESTY** of Cumberland moved to Table Unassigned, pending motion by the same Senator to **INDEFINITELY POSTPONE** (Roll Call Requested).

Senator **CAHILL** of Sagadahoc moved to Table 1 Legislative Day, pending the motion by Senator **ESTY** of Cumberland to **INDEFINITELY POSTPONE** (Roll Call Requested).

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

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **CAHILL** of Sagadahoc to Table 1 Legislative Day pending the motion by Senator **ESTY** of Cumberland to **INDEFINITELY POSTPONE** (Roll Call Requested).

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

ORDERS OF THE DAY

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

JOINT RESOLUTION - Memorializing the Congress of the United States to Refuse to Enact the Budget Resolution and Implementing Legislation that Would Impose a British Thermal Tax.

S.P. 332

Tabled - March 23, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **CAHILL** of Sagadahoc to Table 1 Legislative Day pending the motion by Senator **ESTY** of Cumberland to **INDEFINITELY POSTPONE** (Roll Call Requested)

(In Senate, March 23, 1993, **READ.**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending motion by same Senator to **INDEFINITELY POSTPONE** (Roll Call Requested).

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Correct Inconsistencies in the Shoreland Zoning Laws"

H.P. 428 L.D. 547

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

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

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

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Amend the Laws Concerning Beano and Games of Chance"

H.P. 128 L.D. 169

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-65)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-65)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-65) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **TRANSPORTATION** on Bill "An Act to Provide Greater Access to Private Roads during Emergencies"

H.P. 359 L.D. 462

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-63)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-63)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-63) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **TRANSPORTATION** on Bill "An Act to Extend the Deadline for Construction of Salt and Sand Storage Buildings"

H.P. 422 L.D. 541

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-62)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-62)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-62) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

SECOND READERS

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

House

Bill "An Act Regarding the Selection of Arbitrators in Labor Disputes"

H.P. 394 L.D. 507

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

House As Amended

Bill "An Act Regarding Motorized Wheelchairs"

H.P. 202 L.D. 264
(C "B" H-52)

Bill "An Act to Amend the Laws Regarding Motor Vehicle Air Conditioning"
H.P. 346 L.D. 449
(C "A" H-59)

Bill "An Act Allowing the Bureau of Labor Standards to Enter into Reciprocal Agreements in the Area of Employment Standards with Other States"
H.P. 363 L.D. 466
(C "A" H-58)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Senate

Bill "An Act to Ensure Geographically Appropriate Placement for Nursing Home Residents"
S.P. 87 L.D. 241

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

Sent down for concurrence.

Senate As Amended

Bill "An Act Prohibiting Political Activity by Members of the Workers' Compensation Board"
S.P. 19 L.D. 9
(C "A" S-37)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

ENACTORS

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

An Act to Amend the Requirements for Notice of Public Proceedings of the Public Utilities Commission
S.P. 38 L.D. 50
(C "A" S-36)

An Act to Establish the Boundary Between Enfield and Passadumkeag
S.P. 49 L.D. 71

An Act to Amend the Filing Requirements to Perfect a Security Interest in Consumer Goods
S.P. 53 L.D. 74
(C "A" S-35)

An Act to Utilize Local Enforcement Mechanisms for Land Use Violations
H.P. 73 L.D. 103
(H "A" H-39 to C "A" H-28)

An Act Relating to the Protection of Public Water Supplies
H.P. 91 L.D. 121
(C "A" H-37)

An Act to Amend the Archery Hunting Requirements
H.P. 93 L.D. 123
(C "A" H-36)

An Act to Prohibit the Board of Land Surveyors from Enacting Continuing Education Rules
S.P. 63 L.D. 125
(C "A" S-34)

An Act to Permit Professional Review Committees to Work with Impaired Physician Assistants
H.P. 103 L.D. 145
(C "A" H-33)

An Act to Revise the Grandfathering Provisions for Acupuncturists
H.P. 111 L.D. 153
(C "A" H-40)

An Act to Amend Certain Laws Affecting Waste Discharges by Quasi-municipal Agencies
S.P. 76 L.D. 177
(C "A" S-32)

An Act to Amend the Municipal Public Employees Labor Relations Laws
H.P. 165 L.D. 217
(H "A" H-38)

An Act to Allow Game Wardens to Receive Remuneration for Serving in Elected Municipal or County Positions
H.P. 174 L.D. 226

An Act to Repeal the Statutory Provisions Formerly Governing Unfunded State Mandates
H.P. 303 L.D. 391

An Act to Allow Young People to Accompany Their Parents When Voting
S.P. 136 L.D. 427

An Act to Allow Emergency Interruption of Telephone Service for Law Enforcement Purposes
H.P. 364 L.D. 467
(C "A" H-42)

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

An Act to Amend the Public Works Contractors' Surety Bond Law of 1971

H.P. 51 L.D. 67
(C "A" H-35)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Abolish the Board of Licensure of Railroad Personnel

S.P. 98 L.D. 251
(C "A" S-40)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Resolve

Resolve, to Require the Department of Education to Develop Education Guidelines for Public Schools
S.P. 40 L.D. 52
(C "A" S-42)

Resolve, Renaming Ames Cove of Friendship as Flood's Cove
H.P. 368 L.D. 471

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

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, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the Tabled and Later Assigned (3/22/93) matter:

SENATE REPORTS - from the Committee on LEGAL AFFAIRS on Resolve, to Allow Neal and Linda Chute to Bring an Action against the State

S.P. 17 L.D. 7

Majority - Ought Not to Pass

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-44)

Tabled - March 18, 1993, by Senator ESTY of Cumberland.

Pending - ACCEPTANCE of Either Report

(In Senate, March 15, 1993, Reports READ.)

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

Senator CAREY of Kennebec moved that the Senate ACCEPT the Minority OUGHT TO PASS AS AMENDED Report.

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

Senator TITCOMB: Thank you Mr. President, Ladies and Gentlemen of the Senate. I know that most of you have received a letter that I sent a couple of days ago and my communication was sent to you via a letter because I feel that the circumstances being discussed in that communication were of a personal nature and frankly was not something that I felt should be put on the record and I still feel that way. I shall support Senator Carey's motion and do so in as generic a form as possible. This issue has been debated from a couple of different perspectives. Clearly the money issue arises but this is clearly an issue that is not about money, it's a case that could hold the State liable for \$2800. Although we're under fiscal constraints right now I don't think that any of us could clearly see \$2800 as a major problem if the cause was just. I've also heard the argument that this is an issue of a can of worms, we hear that expression used a great deal and I agree with you. I think that this issue, in a sense, is about a can of worms and I think it's about setting a precedent. It's not a precedent that many folks have argued their case with that is going to hurt the State. I think it is a precedent that we set a very long time ago that the Departments of State Government were able to do pretty much what they chose to the citizens of this State and our precedent was that we would back them on it. In this case I think we need to turn that precedent around. All the time I hear complaints, not only within this chamber, but in other places about the Departments of State Government. The Department of Human Services acted inappropriately to a constituent, the Department of Environmental Protection violated the rights of our citizens back home and treated them unfairly. Again and again we hear this argument. But here we have before us an opportunity to look at a very blatant violation of fairness to a citizen of Maine to the tune of \$2800, which may not seem like much to the State of Maine, but to a family raising kids it's a good deal of money. I would state that we have a chance here to hold a Department of State Government accountable for an action that they took, they not only took, they authorized and they orchestrated and granted it turned out that that action that they enabled was a violation of a Court Order, but I have to ask myself, who should know that better than the enforcing agency that enabled it and they still enabled it.

Throughout this whole process until this went to court, the family involved did not have an attorney. They did not have legal council, they didn't feel that they needed it because again the agency that was enforcing the Court Order that they had was enabling this whole thing to happen. They did go to court. The mother in this case sued for money she felt she had coming and she won. The court case that was heard was clearly an opportunity for her to regain her money, it was not an opportunity for this family to make their case that the Department of Human Services had directed them, in violation of a Court Order, but nonetheless directed and enforced action that turned out to be illegal. My contention is we come up here every day, we represent our constituents. I represent 43,000 people, these people go against State Government and very, very seldom win. Usually it's like David and Goliath. This is one instance where it is not a great deal of money. To me it's the principle, at what point do we say enough is enough. At what point do we stop complaining about State Government and say it is time for us to look out for the little guy who has been mistreated by a Department of State Government and deserves his day in court? This does not give them any money, this gives them an opportunity to have their case heard and I think it's about time that we in this State, in our Agencies and Departments, need to be held as accountable as we hold the citizens of Maine when they do something that is inappropriate. I think it's time for the tables to turn, if we're going to be fair let's not just be fair to ourselves, let's be fair to the people back home. Thank you.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I hope you would oppose the motion of the good Chair of the Legal Affairs Committee and oppose this motion of accepting the Minority Report. I think some important facts have to be brought to light here. First of all the Chutes, the party in question, did indeed pursue this matter of child support but they pursued it through the wrong avenue. Mr. Chute sought to take it upon himself to change what the Court Order and the Divorce Decree stipulated in terms of child support. It's been suggested by Senator Titcomb of Cumberland that they had no legal council. In fact a long time friend, and this is clearly acknowledged by the Chutes, is their attorney and, in fact, had initiated proceedings to modify the Court Order with respect to child support. For some reason unknown to us, they decided to stop that proceeding. So let me just restate what the facts are, number one the Chutes did have legal council, number two, Mr. Chute did know full well that indeed in order to change the child support conditions he would have to go to a court and that would have to be ordered by a Judge. This did not happen. We can say that we have to hold State Government, and I believe we have to hold State Government responsible and those who act on its behalf but I think you have to draw the distinction between legal advice and the advice or suggestions of any state worker. The advice of a state worker in this case was that, look if you're going to take it upon yourself to modify what the court ordered I suggest that you put this money in a separate bank account because your ex-spouse could come back on you and should she come back on you to claim that money then you'll have it readily available. That's the crux of the situation. Mr. Chute took the advice, and I think sound advice. I think all of us would say that if we had an overpayment from the Internal

Revenue Service in terms of a tax refund, we would be well advised to take those monies and put them in an account and hold them in abeyance for a period of time just in case the IRS comes back. That way we won't get caught short. It's a simple case of what happened here with a Support Enforcement Officer of the Department of Human Services offering sound advice, not necessarily legal advice but sound advice as we would offer it to a friend or family member. I don't think that in this case the Support Enforcement worker needs to be held responsible for anything. The responsibility falls with Mr. Chute who knew full well, with legal council, that in order to change the conditions stipulated in the Divorce Decree with respect to child support that he had to go to a Judge to do that and, in fact, started those proceedings at one time but withdrew them on his own volition, not through any advice of anyone else. So I would urge you to oppose the motion before us today so that we can go on and accept the Majority Report from the Legal Affairs Committee. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This was a case where DHS was in fact the enforcement agency. This was a case where the mother stipulated to DHS she never wanted the son back, that he was not welcome in her home and he was not to return. It's because of that that the father went through the process with DHS, the Enforcement agency, to set up a trust fund so that the money would go to the child. I don't know how you people feel about child support but I've always felt that child support should be for the child. DHS in fact, did set up this trust, notified the gentleman's employer to garnish the wages to this account, when the account was paid up they notified the employer to stop garnishing the wages. He proceeded in what he thought was the way to go because DHS was the enforcement agency and I hope that you take that into consideration. Thank you.

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

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This has been pretty well debated. I also would like to remember to all the members that this was given a long and fair hearing in Legal Affairs. The decision did not come easy for its members and much discussion went on in all avenues. The majority of the Committee did oppose this and I was one of those. A couple of things, there had been an attorney involved as has already been mentioned. It was Mr. Chute's idea that he propose to DHS to take this money and put it in a checking account or a savings account. There's one question that never was answered that troubles me. The court had decided that if Mrs. Chute was to provide a home for the son who was in a home in Saco, then that was grounds for continuing the child support, whether we agree or disagree the court decided that issue. Then when the mother decided that she did not want to take the child back and he was ready to come back he had to remain in the place where he was, why the father did not take the son in I have no idea, that information was never given to us. So the money then was set up on his initiative. Obviously it was in violation of a court order and he had been to court once or twice over this child support issue so he knew full well the procedure that needed to be followed and he did keep it for a while and then ended up giving the money to his son once he became of age to purchase a motor vehicle and to set

up his own apartment. For me it's very clear, there was a mistake made, he should have hung onto the money a little longer until his wife had finished with the court proceedings with him and therefore, of course, when that occurred the money was gone. I want to urge you, I want to assure you that this was definitely given a lot of consideration and debate and the Majority Report is Ought Not to Pass and I would suggest and urge you to vote that way. Thank you.

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

Senator **TITCOMB:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm still going to do my best not to get into more personal details then have already been presented on this floor but there clearly are some errors that have been presented. One of them was presented to me yesterday in my Committee room and I became a little confused that what I had thought happened perhaps had not happened, so I called Mr. Chute yesterday to verify a few things. First of all, throughout this whole process, Mr. Chute did not have legal council. I have a number of friends who are attorneys and, frankly, whenever I'm dealing with a case just because they are a friend doesn't mean I access them to tell me what I should do every step along the way. Early on, after the divorce, there had been legal council, it was separate from this issue. It was to modify support, the point with this issue began was at the point when the custody mother said there is no place for you to come home to. Not only said that to the child and the father but to the Department of Human Services. When the first effort went forward to modify support many, many months before it was separate from this issue. This issue was a new event. Before DHS hadn't been involved in modification efforts of support, at this point DHS was the only one involved. The arrangement was made with DHS's overview, it was an issue that came out in conversations between Mr. Chute and the Department. One person specifically at that time within the Department, and they were brainstorming and what would be the best way to insure that the support money intended for the child would go to the child. They proposed giving it to the State, giving it to the place where he resided, but the decision was made that it should go directly to whom it was intended and that was the child. It went into an account, the Chute's did not, in any way, keep any proceeds from this money, they did not keep the money after the boy turned eighteen. The day that money left the bank it was turned over to the son with oversight by DHS. I do not want there to be any implication that the Chute's in any way were trying to keep the money for their own benefit, all the interest, all the proceeds, every payment to the dollar went to the child for whom it was intended. It was at the point where the mother then said, I want the money, I think I'm entitled to it. In spite of all of the other circumstances that she had no intention of bringing this child home, then or ever, at that point the Chute's retained an attorney because she was taking them to court to get the money. I checked with the Chute's yesterday to be sure that that was accurate. Thank you.

Senator **CAREY** of Kennebec requested that the Secretary read the Committee Reports.

Which Reports were Read.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CAREY** Of Kennebec, to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

10 Senators having voted in the affirmative and 23 Senators having voted in the negative, the motion of Senator **CAREY** of Kennebec, to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

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

Sent down for concurrence.

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

HOUSE REPORT - from the Committee on **TRANSPORTATION** on Bill "An Act Regarding Seating on a Motorcycle or Motor-driven Cycle" H.P. 356 L.D. 459

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-64)**.

Tabled - March 22, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Report

(In Senate, March 22, 1993, Report **READ**.)

(In House, March 18, 1993, Report **READ** and Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Report.

Off Record Remarks

Senator **CAHILL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **BERUBE** of Androscoggin, **ADJOURNED** until Thursday, March 25, 1993, at 10:00 in the morning.