

# 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 Ninth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

**January 3, 1979 to May 4, 1979**

STATE OF MAINE  
One Hundred and Ninth Legislature  
JOURNAL OF THE SENATE

March 19, 1979

Senate called to Order by the President.

Prayer by the Honorable Harold L. Silverman of Calais.

Senator SILVERMAN: Blessed art Thou O'Lord, King of the Universe, who gives us the ability to distinguish between good and evil; who gives us the ability to understand the motives of honesty and dishonesty, sincerity and insincerity, kindness versus selfishness.

Let us be capable to understand Your ways and control our greed, so we may do our small part, in gaining peace on earth, good will to mankind.

For Your truth is an everlasting truth and Your law is an everlasting law of truth. Amen.

Reading of the Journal of yesterday.

Senator Katz of Kennebec, 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 Pierce of Kennebec, Recessed until the sound of the Bell.

#### Recess

#### After Recess

The Senate called to Order by the President.

#### Papers from the House Joint Orders

An Expression of Legislative Sentiment recognizing that: The Indians of Skowhegan High School have won the Eastern Maine Class A Basketball Championship for the academic year 1978-79... (H. P. 1010)

Comes from the House, Read and Passed.

An Expression of Legislative Sentiment recognizing that: Miss Sue Leino of the Stearns High School Minutemen of Millinocket has reached the 1,032 scoring mark in her high school basketball career... (H. P. 1011)

Comes from the House, Read and Passed.

Which were Read and Passed, in concurrence.

#### House Papers

Bill, "An Act to Upgrade, Construct and Maintain Court Facilities. (H. P. 927) (L. D. 1167)

Comes from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

Bill, An Act to Clarify the Education Law. (H. P. 930) (L. D. 1168)

Comes from the House, referred to the Committee on Education and Ordered Printed.

Which was referred to the Committee on Education and Ordered Printed, in concurrence.

Bill, An Act to Encourage the Use of Solid Waste as a Fuel Source. (H. P. 921) (L. D. 1163)

Comes from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which was referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

Bill, An Act to Strengthen the Penalties for Operating Under the Influence. (H. P. 934) (L. D. 1166)

Bill, An Act Relating to Access, Copying and

Release of Medical Records. (H. P. 935) (L. D. 1165)

Comes 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 Allow Municipalities the Option of Charging Reasonable Service Charges on Certain Tax Exempt Property. (H. P. 982) (L. D. 1162)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

Which was referred to the Committee on Taxation and Ordered Printed, in concurrence.

Bill, An Act to Provide that a Person's Picture shall Appear on His Driver's License and to Provide for a Photographic Identification for Nondrivers. (H. P. 940) (L. D. 1164)

Comes from the House, referred to the Committee on Transportation and Ordered Printed.

Which was referred to the Committee on Transportation and Ordered Printed, in concurrence.

Study Report — Committee on Health and Institutional Services

The Committee on Health and Institutional Services to which was referred Study of the County Jail System, pursuant to H. P. 2168 of the 108th Legislature, have had the same under consideration and ask leave to report that the accompanying Bill, An Act to Provide Funds to County Jails to Enable them to Meet Mandated Standards. (Emergency) (H. P. 1012) (L. D. 1172) be referred to the Joint Select Committee on Correctional Institutions for public hearing and printed pursuant to Joint Rule 17.

Comes from the House, the Report Read and Accepted, and the Bill referred to the Joint Select Committee on Correctional Institutions.

Which Report was Read and Accepted, in concurrence, and the Bill referred to the Joint Select Committee on Correctional Institutions, in concurrence.

#### Communications

MAINE DEPARTMENT OF AGRICULTURE

March 6, 1979

To Members of the 109th Legislature:

I am submitting the attached report pursuant to PL 1977, chapter 643, directing me to "conduct a study of current and alternate procedures for electing and appointing grower members of the Maine Potato Commission."

Respectfully,

JOSEPH N. WILLIAMS

(H. P. 1013)

Comes from the House, Read and with accompanying report, Ordered Placed on file.

Which was Read and with accompanying report Ordered placed on file, in concurrence.

#### Senate Papers

Senator Pierce of Kennebec presented, Bill, An Act to Establish the Maine Title XX Social Services Act. (S. P. 422)

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Senator Clark of Cumberland presented, Bill, An Act to Revise the Fees for the Licensing of Psychologists. (S. P. 426)

Which was referred to the Committee on Business Legislation and Ordered printed.

Sent down for concurrence.

Senator Chapman of Sagadahoc presented, Bill, An Act to Remove the Continuing Jurisdiction of the Land Use Regulation Commission over Towns that have Adopted Zoning Ordinances. (S. P. 419)

Senator McBreairey of Aroostook presented, Bill, An Act to Clarify the Powers and Duties of the Office of Energy Resources. (S. P. 423)

Senator Clark of Cumberland presented, Bill, An Act to Comply with the Federal Air Quality Standards in the Areas where the Air Quality Does not Presently Meet the Federal Standards. (S. P. 425)

Which were referred to the Committee on Energy and Natural Resources and Ordered Printed.

Sent down for concurrence.

Senator Chapman of Sagadahoc presented, RESOLVE, Directing the Review of the Statutes Relating to Junkyards. (Emergency) (S. P. 420)

Senator O'Leary of Oxford presented, RESOLVE, Authorizing Aiden Redding, Victorian Villa, Maplewood Lodge, Mildred DeCoster, the Personal Care Boarding Home Association, Inc., et al, to Bring Civil Action against the State of Maine. (S. P. 424)

Which were referred to the Committee on Legal Affairs and Ordered Printed.

Sent down for concurrence.

Senator Collins of Knox presented, Bill, An Act to Permit Municipalities to Issue Bonds Under the Municipal Securities Approval Act for Water Supply System Projects. (S. P. 421)

Which was referred to the Committee on Public Utilities and Ordered Printed.

Sent down for concurrence.

Senator Pierce of Kennebec presented, Bill, An Act Concerning the State Claims Board. (S. P. 418)

Which was referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

#### Orders

An Expression of Legislative Sentiment recognizing that:

The Wildcats of Presque Isle have won the Eastern Maine Class A Basketball Championship for the academic year 1978-79 . . . (S. P. 416) is presented by Senator McBreairey of Aroostook, cosponsored by Representatives, MacBride of Presque Isle and Roop of Presque Isle.

An Expression of Legislative Sentiment recognizing that:

Rick Mansir, son of Mr. & Mrs. Richard Mansir, 20 Fairview Avenue, Randolph, at 145 lbs. has been the State Champion Wrestler for the past 2 years with a record of 30 wins - 0 losses for the academic year 1979 . . . (S. P. 417) is presented by Senator Chapman of Sagadahoc.

Which were Read and Passed.

Sent down for concurrence.

#### Committee Reports

##### House

#### Leave to Withdraw

The Committee on Agriculture on, Bill, "An Act to Amend the Maine Commercial Fertilizer Law." (H. P. 584) (L. D. 771)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Agriculture on, Bill, "An Act to Regulate the Distribution, Labeling and Sale of Agricultural Liming Materials." (H. P. 586) (L. D. 773)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Transportation on, Bill, "An Act to Exempt Trucks Hauling Bulk Milk and Feed from Certain Weight Limits on State, County and Municipal Roads." (Emergency) (H. P. 148) (L. D. 164)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Transportation on, Bill, "An Act to Remove the Requirement that Violations of Certain Truck Weight Statutes be Punished by a Mandatory Fine." (H. P. 534) (L. D. 655)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

#### Ought to Pass

The Committee on Judiciary on, Bill, "An Act Concerning the Release of Certain Information Furnished for the Filing of Liens for Support Payments." (H. P. 461) (L. D. 574)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Report was Read and Accepted, in concurrence and the Bill, Read Once and Tomorrow Assigned for Second Reading.

#### Ought to Pass — As Amended

The Committee on Education on, Bill, "An Act to Require Certification of Teachers in Bilingual Education Programs." (H. P. 122) (L. D. 130)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-96).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Report was Read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President. This Bill seems to require the certification of teachers who are involved in bilingual education, certification in the language they teach. The amendment seems to say that such certification is unnecessary during the transitional period.

I am not certain that what is left in the Bill after it is amended is much of a change from existing law. I wonder if somebody could reassure me on the subject?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate: What this Bill says is that if a teacher wants to help a student who can not understand the English Language, they can use French or whatever other language that student speaks, without being certified. A teacher does not have to be certified, however if there are programs, the school is conducting programs, bilingual programs, in a language other than English, then that teacher must be certified by the Department of Educational and Cultural Services. The Department of Educational and Cultural Services did back this Bill, so I cannot see that there is anything wrong with this.

There are programs going on right now up in the St. John Valley, where the students are taught an hour, an hour and a half in the French language and also taught their cultural background.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President. As I understand it if a teacher wishes to help a youngster who does not speak English and the teacher speaks, just to identify it, "St. John Valley French," as opposed to "Parisian French", this is agreeable. But if then a teacher turns around and starts to teach a cultural program that teacher has to be certified in French and presumably Parisian French?

The PRESIDENT: The chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate: The good Senator from Kennebec, is partially right and he is partially wrong.

The part that he is wrong is that the child does not have to be taught in Parisian French, no more than he has to be taught in the other languages which I think included Indian also.

This is to restore in the existing law, what was depleted last year, unintentionally I understand.

We held hearings almost in excess of 3½ hours relative to this one particular piece of Legislation. We had many different points of view, especially from the superintendents of schools in the Aroostook County area, the people who are involved in the transitional process, from French to English from the St. John's Valley. But all in all they were not really so concerned with the non-certified teachers, in the transitional period, as in good curriculum where the child is learning, not only the proper language French, English, Mexican, whatever it may be in the State of Maine; but also the proper grammar and pronunciation of the words, not only in the oral presentation but in the written presentation.

This bill really relates back to how it was previously, when this part of the Law was, as I understand from the sponsor, unintentionally deleted.

We are not going to have an increased cost of certified teachers in the State of Maine, that particular point was made quite clear, and I think that the State Board of Education was concerned with that particular factor also.

In my estimation there is no real hazard involved in this particular Bill, except that if a curriculum is being taught in the proper grammar, the proper pronunciation of the French language should it be French or it can be any other language in the bilingual area, then will it be done correctly? So that you do not have such a variation, various dialects that are being used by the people from various parts of the State of Maine.

I hope that you accept the report, Mr. President, and if there are any further questions I might answer relative to this long debated issue, before the Education Committee, I would be delighted to do so.

The Ought to Pass, as amended, Report of the Committee Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill as amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Education on, Bill, "An Act to Provide for a Student Member of the Board of Trustees of the University of Maine." (H. P. 155) (L. D. 194)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

TROTZKY of Penobscot  
GILL of Cumberland

Representatives:

LEWIS of Auburn  
GOWEN of Standish  
LEIGHTON of Harrison  
FENLASON of Danforth  
BIRT of East Millinocket

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-88).

Signed:

Sensor:

MINKOWSKY of Androscoggin

Representatives:

ROLDE of York  
CONNOLLY of Portland  
BEAULIEU of Portland  
LOCKE of Sebec  
DAVIS of Monmouth

Comes from the House, the Minority Report

Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-100), thereto.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President, I move that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

On Motion by Senator Katz, of Kennebec, Tabled for 1 Legislative Day, pending the Motion by the Senator from Penobscot, Senator Trotzky.

#### Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Permit the State Auditor to Report Certain Suspected Improper Transactions to the Attorney General's Office." (H. P. 196) (L. D. 245)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-91)

Signed:

Sensor:

SUTTON of Oxford

Representatives:

LANCASTER of Kittery  
LUND of Augusta  
MASTERTON of Cape Elizabeth  
REEVES of Pittston  
CONARY of Oakland  
BARRY of Fort Kent

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Sensors:

AULT of Kennebec  
MARTIN of Aroostook

Representatives:

KANY of Waterville  
BACHRACH of Brunswick  
DAMREN of Belgrade  
PARADIS of Augusta

Comes from the House, the Majority Report Read and Accepted, and the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: I move Acceptance of the Ought Not to Pass Report.

The Ought Not to Pass Report of the Committee Accepted in non-concurrence.

Sent down for concurrence.

#### Senate

The following Ought Not to Pass Reports shall be placed in the Legislative Files without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act Concerning Certificates of Contribution under the Maine Insurance Code." (S. P. 280) (L. D. 840)

Bill, "An Act Concerning Insurance Proceeds under the Maine Insurance Code." (S. P. 282) (L. D. 850)

#### Leave to Withdraw

Senator Redmond for the Committee on Fisheries and Wildlife on, Bill, "An Act Relating to Fishing Limits under the Inland Fisheries and Wildlife Statutes." (S. P. 165) (L. D. 374)

Reported that the same be granted Leave to Withdraw.

Senator Emerson for the Committee on Transportation on, Bill, "An Act to Restrict Railroad Companies from Operating Trains Through Selected Intersections in Municipalities During Peak Traffic Conditions." (S. P. 138) (L. D. 315)

Reported that the same be granted Leave to Withdraw.

Which reports were Read and Accepted.

Sent down for concurrence.

#### Ought to Pass

Senator Chapman for the Committee on Business Legislation on, Bill, "An Act Relating to Certificate of Deposits as it Applies to Survivors." (S. P. 192) (L. D. 459)

Reported that the same Ought to Pass.

Which Report was Read and Accepted and the Bill Read Once, and Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Require Restitution by a Criminal Offender to his Victim and to Require Payment of Prosecution and Court Costs." (S. P. 227) (L. D. 642)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox  
DEVOE of Penobscot  
TRAFTON of Androscoggin

Representatives:

HOBBINS of Saco  
SEWALL of Newcastle  
SILSBY of Ellsworth  
GRAY of Rockland  
JOYCE of Portland  
STETSON of Wiscasset  
SIMON of Lewiston

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Representatives:

LAFFIN of Westbrook  
CARRIER of Westbrook

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Silverman. Senator SILVERMAN: Mr. President and Ladies and Gentlemen of the Senate: I would like to speak on this Bill.

Although this Bill has an unfavorable report from the Judiciary Committee, maybe the Legislature thinks that the time has not come to work in the area of restitution toward criminal offenders.

I stand here again, as I stood here 2 weeks ago on the voting list and jury selection bill, and say to you as an independent, our present system of rehabilitation with the criminal element in Maine is not working. We have just had the high court justice come before you a week ago, and say you are going to spend \$40 million dollars to update your court system.

We have our institutions for rehabilitation bulging at the seams, which means how much more in millions of dollars? I tell you our system is not working, if the taxpayers of the State of Maine are going to be taxed out of their earnings, to continue a system where you are going to try to buy off crime, to pay off the criminal, you are going to eventually go broke.

This approach, of requiring restitution by a criminal offender to his victim and to the prosecution and the courts costs, has eventually got to come, because if you are a criminal mind, all you have to do is get a free lawyer, be housed in a free jail, and be on what some people may say gravy train of living off society while the victim is the one who suffers.

I would like to read the statement of fact:

The time has arrived when society can no longer afford the burdensome increases in taxes caused by an expensive system of criminal prosecutions and imprisonment. This bill is intended to place these costs on the shoulders of those responsible for the criminal acts. It also makes the convicted offenders responsible for paying the damages caused by their criminal acts and directly aiding their victims. The requirements of reimbursement of costs and restitution to victims will also tend to improve the sense of responsibility of the offenders.

Under our present system there is no sense of

responsibility, you can not live in a permissive society and be trained to be responsible, as long as you are not responsible you can harm the old and the weak; the young and the innocent.

As far as I am concerned it is a major approach and I will read on:

The principles of this bill have been long established in the Anglo-American judicial system. The payment of costs has only recently been repealed in Maine. The provisions on restitution are already a part of state law, though this bill strengthens a traditional judicial response to criminal activities.

About 3 to 4 years ago, when I was in the other body, we worked to have restitution be encouraged in Maine, at that time it passed, under the present Judicial Committee Chairman. It was put in as an encouragement not as a mandatory requirement. Two judges that I know are using it to some extent, the system of course is not.

I bring it to your attention and after you hear the opposition to this, of course, you are going to see that the cards are stacked against me, but I still say this, that the criminal mind, no matter in what society if allowed no responsibility toward his crime will continuously commit that crime.

Now you come out of the school of thought of we'll use verbal persuasion to change their thinking, it works with some, it does do nothing for others, and this is the fork in the road we are in. Unquestionably it is a disciplinary measure and disciplinary measures for criminals are not accepted today, in our social values. I hope we work in the direction of trying to rehabilitate with some form of discipline.

In talking to 2 on the Committee they will say, Senator Silverman, we agree with your concept, but it is impossible to administer. When you start with the concept and you vote it into being law, that is your policy, it is surprising how fast it can become administered.

When you start against the concept, then of course, it will fail if those who carry on in administrative policy are not led in that direction, with that I have made my speech on Restitution in Maine. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Senator O'LEARY: I move the Minority Ought to Pass Report. In my home town area, I have had a number of calls on this same thing. It was not too long ago that there were 3 habitual offenders picked up for 22 different burglaries. Through plea bargaining, they pleaded guilty to 3 cases and made restitution of \$1,800, when one of the burglaries that they committed was in excess of \$2,700. I ask you is that any kind of justice? How about the rest of these people that these offenses were committed against? What is there for them? Do you have any reason to believe that they should like our judicial system at all?

I think perhaps one of the things that we ought to do is go right on and go a little bit further in this and make sure that in the future we elect our Judges. I move the Minority Ought to Pass Report of the Committee.

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

Senator COLLINS: I request a Division and hope that the Senate will vote No. This Bill is a bill to get blood out of stone, blood out of turnips, we would all like to but we do not know how to.

The 108th Legislature rewrote all of the restitution provisions to make them just as strong as we know how to and we do not think that this Bill to make it all mandatory would ever work.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: Mr. President and Members of the Senate: Although I generally agree in principal with the good Senator from Washington, Senator Silverman. I think that we do have something presently on the books, I think

it can work effectively, as the good Senator from Knox, Senator Collins, you can not get Blood out of a Rock.

I think that there is a bigger question here, the last 3 or 4 sessions of this Legislature we have taken a very very strong turn to the right, in regards to crime in the State of Maine. During that same period of time there was a Chief Executive who urged us to move toward the right in regard to criminal prosecution, but yet was not willing to provide the dollars to provide for more additional Bricks and Mortar to build the institutions, or even keep them repaired.

I think if we are going to do that, the old philosophical phrase for every action there is a reaction, if we are going to demand mandatory sentencing, and there were many of us here, I think the good Senator from Knox, Senator Collins, was one of us who objected and told us of the problems that would come out of mandatory sentencing. We have now got to that crossroads, we are going to move in that direction we have got to provide more Bricks and Mortar.

One more question, I would like to ask the good Senator from Washington, if I remember correctly he was on the side supporting prostitution as a crime, my question would be, how do you get restitution from prostitution?

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: I would like to ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Oxford, Senator O'Leary, that the Senate Accept the Minority Ought to Pass Report of the Committee.

A Yes vote will be in favor of accepting the Ought to Pass Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Carpenter, Cote, Hichens, Minkowsky, O'Leary, Pray, Shute, Silverman, Sutton, Usher.

NAY—Ault, Clark, Collins, Conley, Devoe, Emerson, Farley, Gill, Huber, Katz, Lovell, Martin, McBrearty, Najarian, Perkins, Pierce, Redmond, Teague, Trafton, Trotzky.

ABSENT—Chapman, Danton.

A Roll Call was had.

10 Senators having voted in the affirmative and 20 Senators in the negative with 2 Senators being absent, the Motion to Accept the Ought to Pass Report, does not Prevail.

The Ought Not to Pass Report of the Committee, Accepted.

Sent down for concurrence.

#### Second Readers

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

#### House

Bill, "An Act Concerning Reissue of Inactive Snowmobile Registration Numbers." (H. P. 297) (L. D. 392)

Bill, "An Act Concerning Reissuance of Inactive Boat Registration Numbers." (H. P. 298) (L. D. 396)

Bill, "An Act to Clarify the Definition of Employer Under the Workers' Compensation Act." (H. P. 248) (L. D. 293)

Which were Read a Second Time and Passed to be Engrossed, in concurrence.

**House — As Amended**

Bill, "An Act to Provide that the Adoption of Rules by the State Controller are Consistent with the Maine Administrative Procedure Act." (H. P. 323) (L. D. 424)

Bill, "An Act Relating to Abatement Proceedings." (H. P. 181) (L. D. 209)

Which was Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

**Senate**

Bill, "An Act to Establish a Sign on the Maine Turnpike for Lost Valley." (S. P. 202) (L. D. 534)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

**Enactors**

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

An Act Relating to the Court of Probate of Aroostook County. (S. P. 144) (L. D. 320)

An Act Authorizing the Use of Nondeadly Disabling Chemicals for Self-defense and for Property Protection in Certain Circumstances. (H. P. 127) (L. D. 136)

An Act Concerning County Commissioners' Discretionary Powers Regarding Grants Placed in County Budgets. (H. P. 144) (L. D. 151)

Which were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

**Orders of the Day**

The President laid before the Senate the First Tabled, and specially assigned matter:

Bill, "An Act to Increase Penalties for Violation of the Statutes Concerning Minimum Wages." (S. P. 82) (L. D. 155)

Tabled—March 16, 1979 by Senator Pierce of Kennebec

Pending—Enactment

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President. I arise to oppose the Enactment of this Bill, as I understand the Legislation, it seeks to increase the penalties imposed on employers who violate the minimum wage law.

The figures that I have seen indicate very very clearly that the number of violations of the minimum wage law has been steadily decreasing. Major employers now know pretty much the implications of the minimum wage changes, they are up-to-date on what the Legislature does. Small employers, Mama and Papa Stores, frequently are not that up to date. It is my understanding that as they are told what the provisions are they will comply.

The use of a penalty is an important one for those who intentionally, and knowingly and willfully, violate the minimum wage statutes. This bill seeks to increase the penalty, and I would think that the burden of proof is on the shoulders of those who wish to increase the penalty to show that it would be a deterrent over and above what the present law does.

If the present law is working, if the number of violations is steadily decreasing, the purpose of this Bill escapes me, in opposing enactment of this Bill, I request a Division.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President and colleagues in the Senate. I would just like to remind the Senate that this was a unanimous Ought to Pass Report of the Committee on Labor.

One of the problems involved is that these penalties were set back when the minimum wage was much lower, as was pointed out to us and one of the reasons there hasn't been as many actions under it is because of the size of the penalty, and that is why it came out ought to pass.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate. It would appear to me, the purpose of this Bill is to make sure that the people do abide by the law. It seems to me that if they are going to violate the minimum wage law then they should be penalized.

I think the Chairman of the Labor Committee used excellent judgment, as well as the rest of the members of that Committee reporting this Bill out.

I think that is important enough that when the vote is taken, it be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President. The figures that I have in my possession show that the number of employees who have been involved in illegal payments of minimum wage has been declining from 1,237 in 1974, steadily until 1978 the number of employees involved was down to 288. It seems to me that the law and the penalties are working, and before we enact yet another bill there should be a demonstrative overwhelming need to pass another law.

In this particular case our statutes apparently are working, there will always be those who violate a State Law, sometimes in ignorance, sometimes through a lack of purity at heart, but to pass another law and say that we are going to up the penalties and we are going to cut that 288 down to 0, because of enactment of yet another law, another law, another law seems to me to be a spurious argument, this is a Bill that we can do without.

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

Senator CONLEY: Mr. President and Members of the Senate. I would just say that we are not passing another law, we are amending the present law, and if the present law is working that well, I just can't help but thinking if this amendment does pass, it will even work much better.

The PRESIDENT: The pending question before the Senate is the Enactment of L. D. 155.

A Yes vote will be in favor of Enactment of L. D. 155.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

**ROLL CALL**

YEA—Carpenter, Clark, Conley, Cote, Farley, Martin, Minkowsky, Najarian, O'Leary, Pray, Silverman, Sutton, Teague, Trafton, Usher, Sewall

NAY—Ault, Collins, Devoe, Emerson, Gill, Hichens, Huber, Katz, Lovell, McBreairey, Perkins, Pierce, Redmond, Shute, Trotzky

ABSENT—Chapman, Danton

A Roll Call was had.

16 Senators having voted in the affirmative and 15 Senators in the negative, with 2 Senators being absent, the Bill Passed to be Enacted.

Having been Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the Second Tabled, and specially assigned matter:

HOUSE REPORT—from the Committee on Aging, Retirement and Veterans — Bill, "An

Act to Permit Participating Local Districts of the Maine State Retirement System to Discontinue Special Retirement Benefits Prospectively." (H. P. 361) (L. D. 470) Ought to Pass

Tabled—March 16, 1979 by Senator Pierce of Kennebec.

Pending—Motion of Senator Pray of Penobscot to Indefinitely Postpone Bill and Papers.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request Leave of the Senate to Withdraw my motion to Indefinitely Postpone.

The PRESIDENT: Senator Pray, of Penobscot, now requests Leave of the Senate, to Withdraw his Motion to Indefinitely Postpone.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Ought to Pass Report of the Committee, Accepted, in concurrence.

The Bill Read Once, and the Bill Tomorrow Assigned for Second Reading.

The President laid before the Senate the Third Tabled and specially assigned matter:

HOUSE REPORT—from the Committee on Judiciary — Bill, "An Act Raising the Amount of the Homestead Exemption in Attachment and Bankruptcy Proceedings." (H. P. 419) (L. D. 532) Report "A" — Ought Not to Pass; Report "B" — Ought to Pass with Committee Amendment "A" (H-79); Report "C" — Ought to Pass

Tabled—March 16, 1979 by Senator Conley of Cumberland

Pending—Acceptance of a Report.

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

Senator COLLINS: I move that the Senate Accept Report "A", Ought Not to Pass.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate Accept the Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Clark

Senator CLARK: Thank you, Mr. President. Mr. President and Members of the Senate. This morning I would hope that you would not join the Chairman of the Joint Standing Committee on Judiciary, in voting to Accept the Ought Not to Pass Report. I have an amendment which I would like an opportunity to present before this body. The amendment is in your books and was printed on Friday.

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

Senator COLLINS: Mr. President. Even if the amendment that would be offered by the good Senator were before us, I would urge you not to accept the position that she would espouse.

This Bill ought not to be confused with Homestead Exemptions that have to do with taxes, this has nothing to do with taxes, this has to do with relative positions between creditors and debtors.

Last Legislature, the Judiciary Committee undertook to examine the whole area of exemptions, it has been a tradition of our law for nearly 200 years that certain very basic minimum items should be exempt from sheriffs sale on attachment when poor people are in trouble. Those things cover such items as a bed, a chair, and a stove, and a pig and a cow and a horse, and the whole range of basic necessity. For many years now we have included a family home to the value of certain dollars. For many years it was \$1,000, then it jumped to \$3,000 and in the 108th Legislature we increased the amount of the homestead exemption from \$3,000 to \$5,000.

The original bill sought to jump this to \$15,000, and an amendment offered to move that back to \$7,500, and the argument will be made that it ought to be that way because that is the Federal Bankruptcy Rule under the new Feder-

al Bankruptcy Law. But it is the case with many small debtor cases that there isn't even enough there to go into the Federal Bankruptcy Court, so the status of the State of Maine's own rules does have some bearing on how we ought to treat this question as a State of Maine question.

A few years back the Legislature amended the Homestead Exemption to include within Mobile Homes. I think that this was a good move, and in my part of the state, Mobile Homes provide the housing of a great many of our poor people. This is the only type of housing that they can afford to invest in, they do invest in it and I think that is a good thing, but anyone who builds up an equity in a Mobile Home, of \$5,000 has really done pretty well, and those people usually are not going to be in the case where the Sheriff is selling their equity to creditors.

The social policy that we decide here, is whether to try to help poor people by increasing their ability to have a home free from their creditors claims to a greater amount than now exists, and thereby throw the burden of the loss of that money on the taxpayers and the other consumers who do pay their bills.

If I could be convinced that a great many poor people needed this and that we would save a lot of general assistance payments, in our towns and cities by this policy I might be persuaded to accept the idea.

I have taken the trouble to look into the record of the use of this law in my county and this reflects an actual search of the Registry of Deeds, which is where all of these certificates have to be filed, in my county in the last fourteen years, there have been 4 certificates filed, in Lincoln County which I represent in part, in the last 10 years there have been 3 certificates filed.

Who filed those certificates? Well in my county I know who filed them. One was filed by a lawyer, who is one of our wealthiest citizens, one was filed by a felon who had committed a crime and knew that he was going to do several years in the state prison, and he thought that this would be a good way to protect his home equity while he was under raps. The other two were filed by people who had moved in from out of state where they had homestead exemptions and had found them useful, and I do not know what happened to those 2 people, but I did take the trouble to look up this situation.

Now the thing that concerns me is this, Pine Tree Legal exists to help poor people and they publish a circular that tells poor people what their exemptions are and the protections they have from demands of creditors and various types of attachments, yet in my area it is not the poor people who are taking advantage of these things, it is the wise guys, and the smart alecks. The kind that have had a college education and know how to write out their own certificates and file them in the Registry of Deeds without the help of a lawyer, or without the help of Pine Tree.

I am not very anxious to help that kind of person, get a bigger ripoff than they are now allowed. I think \$5,000 is enough equity to give people a minimum sustenance type of opportunity in their home.

In my area where a great many poor people live in mobile homes, the mobile homes that they live in are second hand, third hand, fourth hand, and you can buy one for under \$5,000, that provides you with the minimum shelter, place to live, it is not very fancy, but some of them are quite comfortable. I think that the present law affords those folks the opportunity that they deserve and I would not see a need to extend that opportunity further.

I would urge you to vote in favor of the ought not to pass report.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. I would simply like to concur with the com-

ments made by the Senator from Knox, Senator Collins, and it is also my recollection of the exemption statute, that if a person has a real estate mortgage, or if a person has what is called a security agreement covering borrowing that he has done on a trailer, that has been pledged for collateral, he has waived the exemption anyway. So the exemption would apply only to that value of the trailer or the home that was either not covered by the mortgage or not covered by the security agreement, so the benefit may well be illusory.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President and Members of the Senate. I have listened with interest to the remarks of the 2 Senators from the Committee on Judiciary and I would remind the members of this body that inflation and rapidly changing economic factors has severe impact on those who are less able to afford what we call the nice necessities of living.

It is my understanding that the present exemption of \$5,000 really doesn't remain intact, for those who find themselves in this severe financial crisis. As a matter of fact, it is further my understanding that approximately \$1,500 of those \$5,000 exemption dollars are consumed with the cost of temporary housing, food, and if you will clothing, which I do consider necessities.

The County of Cumberland has a gentleman for whom I have the greatest respect, his name is Jerrold S. Cope and he has addressed us all in a letter, which I believe has been distributed or at least I have a copy. He supports Report "B" which was reported out by a minority of the Committee on Judiciary. I would quote from his letter "it is appropriate to favorably consider the amendment which is contained in report 'B'," which I seek to amend this morning, "in order to reflect the impact of inflation and the rapidly changing economic factors, that have occurred since the enactment and last revision of the homestead exemption."

He goes on to say that by placing the equity of the homeowner beyond the reach of the attaching creditors that enables individuals to maintain the capacity to borrow monies, thus utilizing such equity to resolve financial problems through a second mortgage loan on their real estate or mobile home.

Many of us have had experience or know of constituents who have had experience in bankruptcy, relative to mobile homes and I would suggest to those who live in mobile homes are not exclusive. For it is the experience in my county, and in my district that those who have experience with bankruptcy are not exclusive mobile homes, it is those that are less financially secure than many others that do not live exclusively in mobile homes.

An exemption reflects a compromise that I seek to offer this morning between the much more generous exemption provisions of many western and southern states, and less generous provisions as is evidenced by the current Maine Statute. Thank you, Mr. President.

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

Senator CONLEY: Mr. President and Members of the Senate. I know that members of the Senate have been furnished with a printout with respect to various states particularly those in the mid west and some in the east with respect to what the law on their statutes presently reads.

I would just state that the uniform exemption act approved in 1976 by the National Conference of Commissioners of the uniform state laws, established a \$10,000 Homestead Exemption, and \$20,000 for multiple owners. Now it seems to me that the amendment that is being offered by the good Senator from Cumberland, Senator Clark, is a much needed compromise. I think those of us who own our homes, recognize the fact we could have our homes, revalued from month to month, under the present day in-

flationary rates and we just see it going out of the sky.

It seems to me that if some people are having difficulty and are forced to come under this law, that to increase the exemption under the Homestead Act another \$1,500. is certainly something that is reasonable, something that should be considered in a favorable manner.

I would like to point out another section of the statute, which is something that I believe the Senate should take into consideration. It is under Section 2, 14 MRSA, it reads: To the householder in the amount and if the figure as amended, it shall remain exempt from attachment and execution by any creditor for a period of one year. At the end of said period, if the amount is not reinvested in property which qualifies for a homestead exemption, the money shall become subject to attachment and execution.

The whole purpose of this Bill is to allow someone once they have been attached to be able to buy or be able to make some type of purchase for a dwelling. I ask you under today's market prices how could anyone with \$5,000, they certainly could not do it in my area, I do not believe, where the homes today are running anywhere in the average of \$30,000, I think that is the average median of a home, in the City of Portland, today as far as the property tax is concerned? So when we start talking about \$30,000 home and you start talking about the amount of money that one must put down to be able to purchase the dwelling, it seems to me that the amendment that is being offered by the good Senator from Cumberland, Senator Clark, would at least try to meet the down payment on that property. So I would hope that the Senate would give this some serious thought and support the compromise position of the good Senator.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that the Senate Accept Report "A", the Ought Not to Pass Report of the Committee.

The Chair will order a Division

Will all those Senators in favor of Accepting the Ought Not to Pass Report, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

6 Senators having voted in the affirmative and 20 Senators in the negative, the Motion to Accept the Ought Not to Pass Report does not prevail.

The Report "B" of the Committee, Ought to Pass as amended, Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President, is the Senate in possession of L. D. 523?

The PRESIDENT: The Chair would answer in the affirmative, Bill, "An Act to Create a State Compensation Commission" (H. P. 403) (L. D. 523) having been held at the Senator's request.

The Senator has the floor.

Senator TROTZKY: I move reconsideration of the Senate's action whereby it Adhered to Indefinitely Postponing this Bill.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, moves that the Senate reconsider its action whereby it Adhered, in reference to L. D. 523.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President, I reluctantly rise to oppose the motion made by the Senator from Penobscot, Senator Trotzky.

My view of this Bill is that it is an indirect



way of doing what the Legislature in its wisdom, is perfectly able to do itself. I can envision, were this Bill to pass, and the State Compensation Commission were created, it is entirely possible that the Commission could be beset by 100 or more individual Legislators who presumably would be the people most directly involved with various stories of why or why not the Legislative pay be raised.

I think the Legislature through its Committee System is perfectly capable of doing this, and for that reason I would ask the Senate to oppose the Motion made by the Senator from Penobscot, Senator Trotzky.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate. Setting Legislative salaries is a very controversial issue especially when it is done by the Legislature. We represent the people and are basically paid by the people, for the jobs that we do down here, in Augusta.

I would ask you to refer to an editorial in the Bangor Daily News, whereby the editors of the paper, stated that there is a basic conflict of interest when Legislators seek to resolve a question related to Law Makers pay. Considerations of the Legislative pay defy impartial internal resolution by the Legislature. They recommend that the Legislature provide for an independent public commission to make recommendations to the Legislature concerning Legislative salaries.

Now I believe that it was about 5 years ago or 6 years ago that the Legislature did set up an independent compensation commission, which made recommendations to the Legislature, which the previous Legislature followed.

I feel that this is the proper way to set Legislative salaries by having some impartial outside citizen body, make recommendations, these of course are not binding on the Legislature, but I feel that is the right way to go in terms of Legislative salaries.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President. I personally am going to be supporting a Legislative pay increase this session, for those Legislators who are here next time.

Comparisons with the Federal System are I think quite inappropriate. In the Federal System it is possible for a person to actually vote, if the Congress itself voted directly on these issues, it would be possible for a Legislator particularly a U.S. Senator to vote on a pay increase that would effect him for the next four years personally. That is not possible in the State of Maine, because none of us can legally benefit from any of our votes here in this session.

It is my understanding we have perhaps two or three bills before us, which would be a suitable vehicle for a Legislative pay increase.

I think philosophically I feel that the Legislature itself would only react to a compensation committee recommendation, and then go ahead and do that which it felt was appropriate.

On that basis I feel that a compensation commission for a state like Maine with a rather unsophisticated system is probably not nearly as appropriate as it is at the national level. On that basis although I shall support a pay increase, I would oppose the motion to reconsider our Adhere Motion.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Thank you, Mr. President and Members of the Senate. I hope that you do reconsider the Motion to Adhere on Indefinite Postponement. I think that you will have to agree that the creditability of the Legislature is not too high out there. That there is a lot of misinformation about what we do and what our salaries actually are. I know that many people think that I am getting as much money up here as a U.S. Senator. If I had to

pick a flaw in our constitution it is one that the Legislature establishes its own size, we establish the size of the Judiciary and the Executive Branch, but yet the constitutional framers left it up to us to establish our own size.

We establish the salaries of Judiciary and we establish the salary of the Governor, but it was left up to us to establish our own salaries. I think inherent in that is a suspicion on the part of the public, you know, whether we are just feathering our own nest or whether we really do deserve to have it.

Whether or not we went along with the commission's recommendation, and undoubtedly we would do something less than what they recommended as we did in the last one. It would lend some creditability to their recommendation and some creditability to whatever action we finally took.

So fine, we are all set for this time, but there are future Legislators down the road and I think that it would be well to have a commission in place, so that this would be addressed on a semi bi-annual basis.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you, Mr. President and Members of the Senate. At an earlier day when this issue came before us, I was going to be brave and speak. I decided that the better part of valor would be not to, because I was here back then. As a matter of fact I was a freshman member of the House of Representatives in the 106th Maine Legislature and I thought better as a freshman member of the 109th Maine Senate, to remain seated.

I, too, intend to support a pay increase for the Maine Legislators in this session, or whenever it comes before us, for I have done that consistently. I, too, would agree with the Majority Floorleader, Senator Katz, from Kennebec, in that it is the role of the Legislature and it has been traditional and historical to react to the recommendation of a Legislative Compensation Commission.

In February 1973, that was a long time ago, an order passed, whereby a Legislative Compensation Commission was created. It consisted of 9 public members, all residents of the State, chosen from the public at large without regard to political affiliation. It served and reported and I have here a copy of that report.

The Commission was Chaired by Robert A. G. Monks, of Cape Elizabeth, and it had among its members, some very impressive people. Dr. Richard E. Morgan, South Harpswell, who I guess was the Chair, I always thought Mr. Monks was. Mrs. Brooks Brown a former Legislator from Augusta, Joseph D'Alfonso, from Portland, Floyd Harding from Presque Isle, Mrs. Mark Knowles of Winthrop Center, Mrs. Willard Linscott of Brewer, Robert A. G. Monks, of Cape Elizabeth, who I have mentioned earlier, Mrs. Robert Robinson, of Orono, and Mrs. Philip E. Tukey of Bangor.

The Commission recommendation is as follows: Our recommendation that the members of the Maine House and Senate receive a salary of \$5,000 for the regular session and \$2,500 for the special session. These salaries will be paid in installments as at present. The present \$25 per diem for attendance at committee meetings out of session should be retained. I would share copies of this report for members of this body who would be interested in reviewing it.

What I am trying to say, is that I agree that the Maine Legislature will react to a recommendation from a public commission but I further agree with my colleague from the County of Cumberland, Senator Najarian, that public officials, particularly elected public officials, are not held in particularly high regard by our citizens and constituents in the State of Maine, unfortunately, that a public commission would do much to remove a taint of self interest, an alleged taint, but nonetheless a taint. I would hope this morning that we would positively consider the Motion to Reconsider.

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

Senator CONLEY: Mr. President would the Secretary please read the report on the jacket.

The Report was Read.

Senator CONLEY: I can think of no argument as to why this Bill should not pass. I certainly can see no reasons why this bill should at least get to the Appropriations Table where it could be considered with all the other mundane L. D.'s at the end of the session.

For us to strike it down today, when as both the good Senators from Cumberland, Senator Najarian and Senator Clark have spoken so emphatically about what public opinion is of the Legislature itself.

I serve on another body, as most of you know, whereby that Council the City of Portland establishes its own salaries those salaries must be done, increased if they are going to be increased, prior to the next election. I could serve 1 year on the City Council and come the first week or the second week of November, the second meeting in November and could make a motion, could move, put an order on the agenda; where the salaries would be increased on the first meeting of the new council to take effect immediately.

The Legislature did that, they changed the charter of the City of Portland, back many years ago to allow them to do that, because they thought that it was senseless for us or the City of Portland to be coming to Augusta, to make a salary change for the municipal officers of the City of Portland.

The buck stops here, when it comes to legislative salaries. The buck stops here when it comes to increasing the salaries of the Judiciary or the Chief Executive or the Attorney General or the Constitutional Officers. We are the ones who oversee that.

I think the good Senator from Cumberland, Senator Najarian has very clearly pointed out that we set our own salaries. We are subject to criticism from Fort Kent to Kittery, because of the type of action we do take.

When we establish a commission it is generally one of bipartisanship and it is done very, very thoroughly. I think Bob Monks who was the Chairman of this last commission and the members of that commission did a very, very fine job, perhaps too good a job, because the Legislature did not follow their recommendations until in fact I am not even sure if the Bill that the good Senator from Knox, Senator Collins and I are sponsoring in this session.

But I think that at least it gives some emphasis and creditability to the fact that such a commission could be established and could make its recommendations to the Legislature, and say look, public hearings were held on this around the State. They have looked in and done some research with respect to other Legislatures and I for one am a little bit hesitant about going out to Kansas or Missouri to see what they are paying, but on the other hand I think that we have acted fairly diligently within the State House over the last several years with respect to any type of salary increase.

I think again it makes good common sense to have somebody outside, at least submitting a report to us, with their general feelings after a period of study has gone on, and to allow us then to entertain that. So again I would support the good Senator from Penobscot, Senator Trotzky, and would urge the Senate to Reconsider its actions.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President. I would just like to pose a question through the Chair to anyone who might care to answer. Does anyone know what the study commission that was set up previously, what the cost of that commission was?



The PRESIDENT: The Senator from Kennebec, Senator Pierce, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President. In answer to the question from the good Senator from Kennebec, Senator Pierce. The allocation or the order had at that time a price tag of \$5,000. I think to address this situation and to really address that question, in light of how much money we would want to put on to it, is as the Senator from Cumberland, Senator Conley, pointed out at least let's pass this along and we more than likely will sit on the appropriations committee, we can then evaluate the priority of spending such a sum of money.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President. I would just like to bring to the attention of the members of the Senate, that on page two of the Bill, second paragraph if any of you want to look at it. It says that "Prior to reporting as required in the first paragraph, and subsequent to giving public notice, the commission shall hold a public hearing on the report."

Now is that public hearing going to be held in Portland, or is it going to be held in Augusta, Bangor, Presque Isle, Machias, where? I submit to this Senate that the fiscal note would appear to be woefully inadequate on this Bill.

If 6 years ago the fiscal note that was attached to the Bill was \$5,000. I have not had a chance to look at the L.D. or the report of the Legislature, that created that Commission; but it seems incomprehensible that the same people in this Senate who are proposing that we adopt this Bill are saying that the Legislature lacks creditability, what are some of those same people going to say, if the Senate of the Legislature, in the 110th accepts or I should say next year accepts the report?

I can see editors from all over the State saying that the Legislature did not dare to face this themselves, instead they pushed it aside and dressed it up, with a state wide commission, and under the guise of accepting a commission report, did what they did not dare to do in the first place.

I submit to you, Members of the Senate, if we want to address the question of Legislative salaries, we are perfectly able and capable to do it right here in the Halls of this Legislature. All this Bill provides for is number 1 giving public notice. 2. holding a public hearing. One public hearing, no matter where you hold that hearing, people from all over the rest of the State are going to say, I should have been given a chance, it should have been made easier for me to come to attend the hearing instead of having to drive to Augusta, to drive to Portland, to drive to Bangor.

If we are going to keep our creditability, Members of the Senate, in my opinion, defeating this Bill will help to do it, because we will be subject to all kinds of criticism that we did not dare to do what we should have done and that is consider the question of Legislative Salaries right here in the Hall of this Legislature.

Who's testimony is going to be given greater favor, is it going to be lay people, who are not serving in the Legislature, or is it going to be Members of the House and Members of the Senate who might come to testify? These are some of the mischievous items that in my opinion, would be raised by passing this Bill. Members of the Senate, I urge you again, to defeat the good Senator's Motion from Penobscot. Thank you.

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

Senator CONLEY: Mr. President and Members of the Senate. There is nothing like a good lively debate on a Monday morning at 5 minutes after 1 in the afternoon.

I would submit that quite to the contrary, the

remarks made by the good Senator from Penobscot, Senator Devoe that the people of this State are going to think that we swept this under the rug, and that we want to control Legislative Salaries, by not allowing any input from the public, and quite to the contrary again that we pass Joint Order, after Joint Order, after Joint Order, in studies, the end of this session, I am sure that perhaps 90% of them that are out, there is one hearing held here in Augusta, in some cold damp dark room secluded somewhere on the bottom floors.

I would submit that if you really feel that you are in touch with the people of this State, you would examine the remarks made by the good Senator from Penobscot, Senator Devoe.

I for one can not, can not Ladies and Gentlemen of this Senate, think for one brief moment, why the public of this State should be denied an opportunity to come before an independent body of non-politicians, if you so select, to discuss such an issue that is important to some members of this Legislature.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: Mr. President and Members of the Senate. I, too, was a member of the Legislature when the report given by the good Senator from Cumberland, Senator Clark was read earlier today.

At that time the recommendation was \$7,500 and if you read deeper into the report I think that it said that if the Legislature did itself reduce the size of the House Legislature reform which was the package that was given to this commission. I think that the recommendation for our salary was raised even a little bit more.

It seems to me that they were recommending \$7,500 6 years ago, obviously the Legislature, certainly I would assume on political grounds, refused to accept that level. I do not believe that the attitude of politicians, those who want to partake and plan on running again are going to jeopardize their creditability with the public, by going much higher than they did, and probably not much higher than the 7% or the 14% over the two year period.

I would suggest that there is probably a waste of taxpayers money, a commission of this kind, the one before us, I said the good Senator from Cumberland, pointed out we did not pay much attention to that.

It was not looked upon very well by the public, as I remember correctly and it was still pretty hard to convince them and even with this we are going to have the same problem. They all think that we make \$25,000 a year here, no matter what we do you are not going to change their minds. I would hope that you would vote against the pending motion, and when another Bill comes up as the good Senator from Kennebec, Senator Katz, says I think that we can act on it intelligently and I for one do plan on voting for a pay raise. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: I would just like to make two quick responses to the remarks of the good Senator from Penobscot, Senator Devoe.

One is that I know that the press in my area of the State, have already endorsed the concept of a commission, so I do not think that they would criticise us for establishing it. Secondly that the commission before was composed of 9 members and no one knows whether they had any lapsed balances, it could be that they did not spend all of their money, and this commission is only going to be composed of 5 members.

I just came across their final recommendation, which was "Whatever differences exist within the Commission on the question of moving immediately to annual full-time salaries, there is no doubt on anyone's part that the

legislative compensation picture in Maine will need regular review in the future.

Given this need, and given the extreme embarrassment always involved in the Legislature's affirmatively acting to give its successor Legislature a substantial pay raise, it is recommended that the Constitution of the State be amended to provide for a Compensation Commission.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Trotzky that the Senate reconsider its action whereby it voted to Adhere.

The Chair will order a Division.

Will all those Senators in favor of the Motion to Reconsider, please rise in their places to be counted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President I request that the vote be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Trotzky that the Senate Reconsider its Action whereby it Adhered.

A Yes vote will be in favor of reconsideration.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Ault, Carpenter, Clark, Conley, Martin, Minkowsky, Najarian, O'Leary, Pray, Sutton, Trafton, Trotzky, Usher.

NAY—Collins, Cote, Devoe, Emerson, Farley, Gill, Katz, Lovell, McBreairey, Perkins, Pierce, Redmond, Shute, Silverman, Teague.

ABSENT — Chapman, Danton, Hichens, Huber.

A Roll Call was had.

13 Senators having voted in the affirmative and 15 Senators voting in the negative, with 4 Senators being absent, the Motion to Reconsider does not Prevail.

On Motion by Senator Pierce of Kennebec, Adjourned until 10 o'clock tomorrow morning.