

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 5, 1990 to May 20, 1991

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

In Senate Chamber
Wednesday
April 17, 1991

Bill "An Act Authorizing a Bond Issue in the Amount of \$2,000,000 for the Purpose of Fostering Agricultural Development in the State"
H.P. 1046 L.D. 1519

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.

Senate called to Order by the President.

Prayer by the Honorable David L. Carpenter of York.

SENATOR DAVID L. CARPENTER: Let us pray. God, grant us the serenity to accept the things we cannot change, the courage to change the things we can, and the wisdom to know the difference. Amen.

Bill "An Act to Provide Equitable Insurance Coverage for Mental Illness"
H.P. 1064 L.D. 1553

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

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

Reading of the Journal of Tuesday, April 16, 1991.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Maine State Retirement System Laws Relating to Military Service Credits"
H.P. 1047 L.D. 1520

Comes from the House referred to the Committee on **AGING, RETIREMENT AND VETERANS** and **ORDERED PRINTED**.

Which was referred to the Committee on **AGING, RETIREMENT AND VETERANS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Include Land Surveyors in the Lien Laws"
H.P. 1036 L.D. 1509

Bill "An Act to Amend the Unfair Trade Practices Act to Allow Consumers to Recover Damages"
H.P. 1057 L.D. 1546

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

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

Bill "An Act to Make Maine Milk Laws Conform to Federal Laws"
H.P. 1060 L.D. 1549

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

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

Bill "An Act to Provide for Discipline of Exceptional Students with Behavior Problems"
H.P. 1038 L.D. 1511

Bill "An Act to Amend the School Finance Laws"
H.P. 1055 L.D. 1544

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

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

Bill "An Act to Provide Tuition Assistance for Persons Seeking a Master's Degree in Social Work"
H.P. 1044 L.D. 1517

Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **EDUCATION**.

On motion by Senator **CLARK** of Cumberland, referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

Bill "An Act Relating to Best Practicable Treatment Determinations in Air Emission Licensing"
H.P. 1040 L.D. 1513

Bill "An Act to Supplement State Environmental Enforcement"
H.P. 1062 L.D. 1551

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

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

Bill "An Act to Compensate Landowners for Land Value Lost because of Wildlife Restrictions"
H.P. 1039 L.D. 1512

Comes from the House referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**.

On motion by Senator **CLARK** of Cumberland, referred to the Committee on **TAXATION** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

Off Record Remarks

Bill "An Act to Establish Priority for the Development of Community-based Nonprofit Housing at the Maine State Housing Authority"
H.P. 1063 L.D. 1552

Bill "An Act to Unify Housing Services"
H.P. 1067 L.D. 1556

Come from the House referred to the Committee on **HOUSING AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

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

Bill "An Act to Establish Interdepartmental Coordination and a Comprehensive Delivery System of Services for Persons who Have Sustained Traumatic Head Injury"
H.P. 1050 L.D. 1523

Bill "An Act to Extend the Certificate of Need Program to All Major Medical Equipment"
H.P. 1051 L.D. 1524

Bill "An Act to Penalize the Department of Human Services for Failing to Make Prompt Child Support Payments to Obligees"
H.P. 1054 L.D. 1543

Bill "An Act to Provide Training for Long-term Care Facilities Personnel"
H.P. 1056 L.D. 1545

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

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

Bill "An Act to Clarify the Scope of Review Obtainable by the State When the Defendant Has Appealed to the Law Court in a Criminal Case"
H.P. 1035 L.D. 1508

Bill "An Act to Limit the Liability of Nonprofit Food Providers Who Supply Meals and Other Food to Low-income and Homeless Persons"
H.P. 1041 L.D. 1514

Bill "An Act to Clarify Statutory Provisions Relating to Asset Forfeiture"
H.P. 1043 L.D. 1516

Bill "An Act to Correct Certain Errors and Inconsistencies in the Maine Revised Statutes, Title 17-A"
H.P. 1053 L.D. 1542

Bill "An Act to Amend the Maine Indian Claims Settlement Laws to Clarify Land Use in Indian Territory"
H.P. 1061 L.D. 1550

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 Provide That Workers' Compensation Claims Are Work Related"
H.P. 1065 L.D. 1554

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 Promote Efficient Enforcement and to Correct Inconsistencies in the Manufactured Housing Laws" (Emergency)
H.P. 1048 L.D. 1521

Bill "An Act Concerning Beano or Bingo"
H.P. 1049 L.D. 1522

Bill "An Act to Ensure Preservation of Burial Grounds"
H.P. 1058 L.D. 1547

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

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

Bill "An Act Concerning the Sale of Surplus State Property"
H.P. 1042 L.D. 1515

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of Constitutional Officers
H.P. 1045 L.D. 1518

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

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

Bill "An Act to Prevent Governmental Overvaluation of Property for Property Tax Purposes"
H.P. 1034 L.D. 1507

Bill "An Act to Provide a Local Option Income Tax to Municipalities"
H.P. 1037 L.D. 1510

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 Amend the Farm Truck Registration Laws"
H.P. 1033 L.D. 1506

Bill "An Act to Establish Title for Snowmobiles and All-terrain Vehicles"
H.P. 1066 L.D. 1555

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

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

Bill "An Act to Regulate Incineration Plants"
H.P. 1059 L.D. 1548

Comes 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.

**Pursuant to Resolves
COMMISSION ON MAINE'S FUTURE**

The **COMMISSION ON MAINE'S FUTURE**, pursuant to Resolve 1987, chapter 60, Resolve 1989, chapter 3 and Resolve 1989, chapter 72, ask leave to submit its findings and to report that the accompanying Resolve, to Create the Task Force on Life-long Learning and Educational Choice

H.P. 1069 L.D. 1558

Be referred to the Committee on **EDUCATION** for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve referred to the Committee on **EDUCATION** and **ORDERED PRINTED**, pursuant to Joint Rule 18.

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

The Resolve referred to the Committee on **EDUCATION** and **ORDERED PRINTED**, pursuant to Joint Rule 18, in concurrence.

**Pursuant to Resolves
COMMISSION ON MAINE'S FUTURE**

The **COMMISSION ON MAINE'S FUTURE**, pursuant to Resolve 1987, chapter 60, Resolve 1989, chapter 3 and Resolve 1989, chapter 72, ask leave to submit its findings and to report that the accompanying Bill "An Act to Provide for a Decennial Commission on Maine's Future"

H.P. 1068 L.D. 1557

Be referred to the Committee on **STATE AND LOCAL GOVERNMENT** for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**, pursuant to Joint Rule 18.

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

The Bill referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**, pursuant to Joint Rule 18, in concurrence.

**Pursuant to Resolves
COMMISSION ON MAINE'S FUTURE**

The **COMMISSION ON MAINE'S FUTURE**, pursuant to Resolve 1987, chapter 60, Resolve 1989, chapter 3 and Resolve 1989, chapter 72, ask leave to submit its findings and to report that the accompanying Resolve, to Create the Commission to Evaluate the Need for Changes in the Responsibilities of State, County and Local Government for the 21st Century

H.P. 1070 L.D. 1559

Be referred to the Committee on **STATE AND LOCAL GOVERNMENT** for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**, pursuant to Joint Rule 18.

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

The Resolve referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**, pursuant to Joint Rule 18, in concurrence.

**Pursuant to Resolves
COMMISSION ON MAINE'S FUTURE**

The **COMMISSION ON MAINE'S FUTURE**, pursuant to Resolve 1987, chapter 60, Resolve 1989, chapter 3 and Resolve 1989, chapter 72, ask leave to submit its findings and to report that the accompanying Bill "An Act to Institutionalize Strategic Planning in State Government"

H.P. 1071 L.D. 1560

Be referred to the Committee on **STATE AND LOCAL GOVERNMENT** for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**, pursuant to Joint Rule 18.

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

The Bill referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**, pursuant to Joint Rule 18, in concurrence.

Joint Order

The following Joint Order: H.P. 1052

ORDERED, the Senate concurring, that Joint Rule 15 be amended to read:

15. Reports of Bills from Committee.

1. Deadline for Reports. The Joint Standing Committees shall report out every bill which has been referred to them in the manner prescribed in these rules in accordance with deadlines established by the presiding officers.

2. Recommendation Required. The report of the committee shall include a recommendation of one of the following: Ought to Pass, Ought to Pass as Amended, Ought to Pass in New Draft, Ought Not to Pass, Unanimous Ought Not to Pass, Unanimous Leave to Withdraw, Ought to Pass, Ought to Pass as Amended, Ought to Pass in New Draft or Ought Not to Pass reports may be recommended by a plurality of the committee. When the committee recommendation is not unanimous a minority report or reports are required.

3. Unanimous Ought Not to Pass Report. When all 13 members of a Joint Standing Committee vote to report a bill Ought Not to Pass the bill shall, upon notification of both Houses, be placed in the legislative file and disposed of as provided in subsection 5 as prescribed herein.

4. Unanimous Leave to Withdraw. When the sponsor ~~and all cosponsors request~~ requests that the committee give Leave to Withdraw a bill and all 13 members of the Committee concur, the bill shall be reported Unanimous Leave to Withdraw and the bill shall be placed in the legislative file and disposed of as provided in subsection 5 as prescribed herein. Once a bill has had a public hearing, the committee may not report out a bill Unanimous Leave to Withdraw.

5. Two-thirds Required. When a bill or resolve is placed in the legislative file pursuant to subsection 3 or 4, no further action shall be taken following such disposition unless the bill or resolve is recalled for reconsideration by a vote of two-thirds of both Houses.

6. New Drafts. When the changes voted by the committee are major, the committee may elect to report the bill out Ought to Pass in New Draft with authorization of the presiding officers. When a plurality of the committee recommends this report, the chairs shall submit a request for authority to report the bill out in this fashion. When the committee recommendation is not unanimous, a minority report is required. New drafts printed pursuant to these rules shall include the legislative document number that the new bill replaces with the names of the original sponsor and cosponsors. The Secretary of the Senate and the Clerk of the House shall determine the number of copies which shall be printed of each new draft.

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

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

SENATE PAPERS

Bill "An Act to Guarantee Repairs under Service Contracts"

S.P. 589 L.D. 1561

Presented by Senator **CLEVELAND** of Androscoggin
Cosponsored by Representative **GURNEY** of Portland

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

Sent down for concurrence.

Bill "An Act Providing Nursing and Boarding Home Residents with a Right of Action for Violations of Their Resident Rights"

S.P. 590 L.D. 1562

Presented by Senator **CLARK** of Cumberland
Cosponsored by Senator **GAUVREAU** of Androscoggin,
Representative **FARNSWORTH** of Hallowell and
Representative **PENDLETON** of Scarborough

Bill "An Act to Reward and Encourage Foster Parent Training and Skilled Family Foster Care"

S.P. 592 L.D. 1564

Presented by Senator **BRANNIGAN** of Cumberland
Cosponsored by Representative **DUFFY** of Bangor

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

Sent down for concurrence.

Bill "An Act to Support Occupational Health Services"

S.P. 591 L.D. 1563

Presented by Senator **KANY** of Kennebec
Cosponsored by Senator **COLLINS** of Aroostook,
Senator **CONLEY** of Cumberland and Representative
GWADOSKY of Fairfield

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

Sent down for concurrence.

Bill "An Act to Amend the Northern Maine Regional Planning Commission, Inc. and the Northern Regional Planning Commission, Inc. Charter"

S.P. 593 L.D. 1565

Presented by Senator **COLLINS** of Aroostook
Cosponsored by Speaker **MARTIN** of Eagle Lake and
Senator **THERIAULT** of Aroostook

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

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **FISHERIES AND WILDLIFE** Bill "An Act to Allow the Department of Inland Fisheries and Wildlife to Determine the Number of Moose Licenses Issued Annually"
H.P. 730 L.D. 1034

From the Committee on **FISHERIES AND WILDLIFE** Bill "An Act to Provide Persons 70 Years or Older with Free Doe Permits"
H.P. 780 L.D. 1112

From the Committee on **TAXATION** Bill "An Act to Amend the Maine Endangered and Nongame Wildlife Fund"
H.P. 459 L.D. 650

From the Committee on **TAXATION** RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for a Uniform Property Tax
H.P. 741 L.D. 1045

From the Committee on **UTILITIES** Bill "An Act to Mandate the Continuance of Current Policies on Winter Utility Disconnections" (Emergency)
H.P. 4 L.D. 10

Leave to Withdraw

The following **Leave to Withdraw** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **AGING, RETIREMENT AND VETERANS** Bill "An Act to Amend the Provisions of the Maine State Retirement System Laws Relating to Benefits of Inactive Members Who Retire after Normal Retirement Age"
H.P. 687 L.D. 986

From the Committee on **FISHERIES AND WILDLIFE** Bill "An Act Regarding Bow Hunting"
H.P. 953 L.D. 1380

From the Committee on **HUMAN RESOURCES** Bill "An Act to Require State-funded Institutions and Food Programs to Provide Vegetarian Alternative Meals"
H.P. 638 L.D. 912

From the Committee on **LEGAL AFFAIRS** Bill "An Act to Amend the Laws Concerning Operating Under the Influence"
H.P. 784 L.D. 1116

From the Committee on **LEGAL AFFAIRS** Bill "An Act Concerning Liquor Sales to Lounges, Taverns and Restaurants"
H.P. 847 L.D. 1213

From the Committee on **MARINE RESOURCES** Bill "An Act to Amend the Dates for Scallop Fishing in the Damariscotta River"
H.P. 544 L.D. 781

Ought to Pass As Amended

The Committee on **AGING, RETIREMENT AND VETERANS** on Bill "An Act to Extend Coverage to Veterans' Stepchildren for Educational Assistance"
H.P. 335 L.D. 465

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-93)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-93)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-93) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Protect Insurance Consumers and Encourage Long-range Financial Planning"
H.P. 54 L.D. 75

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-105)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-105)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-105) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BANKING AND INSURANCE** on Bill "An Act Concerning the Payment of Interest on Mandatory Escrow Balances"

H.P. 363 L.D. 517

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-104)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-104)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-104) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION** on Bill "An Act to Provide Due Process in Employment Decisions Affecting Public School Principals"

H.P. 190 L.D. 283

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-108)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-108)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-108) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION** on Bill "An Act to Amend the Composition of the Board of Trustees of the Maine Technical College System"

H.P. 395 L.D. 569

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-100)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-100)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-100) **READ**.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ADOPTION** of Committee Amendment "A" (H-100), in concurrence.

The Committee on **HOUSING AND ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Maine Housing Authorities Act and the Affordable Housing Partnership Act of 1989"

H.P. 612 L.D. 872

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-96)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-96) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HUMAN RESOURCES** on Bill "An Act to Amend the Rules Dealing with Laundering Services for Cloth Diapers Used by Day Care Centers"

H.P. 619 L.D. 889

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-95)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-95)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-95) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Amend the Uniform Fraudulent Transfer Act"
H.P. 501 L.D. 695

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-103)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-103)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-103) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **MARINE RESOURCES** on Bill "An Act to Make Changes in the Quahog Tax Laws"
H.P. 164 L.D. 249

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-107)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-107)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-107) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Place the Deferred Compensation Plan Under the Direction of the Maine State Retirement System"
H.P. 202 L.D. 293

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-88)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-88)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-88) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Amend the School Bus Inspection Laws"
H.P. 216 L.D. 307

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-91)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-91) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Amend the Auctioneer Licensing Law Relating to the Sale of Motor Vehicles at Public Auction"
H.P. 389 L.D. 563

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-101)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-101)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-101) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act Relating to Violations Involving the Disregard of Red Flashing Lights on School Buses"
H.P. 443 L.D. 633

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-106)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-106)**.

Which Report was **READ**.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It is with some trepidation that I rise this evening regarding L.D. 633. But, I believe I must do so because I have major reservations about the Bill which has been reported out of the Committee on Transportation. I want to share with you some of those concerns.

L.D. 633 relates to imposing civil penalties for the civil infraction of disregarding flashing red lights on a stopped school bus. It is apparent from the deliberations on the Committee on Transportation that the violation involved here is a difficult one to establish. It is very difficult for school bus operators to sometimes identify individuals who violate our law and pass a stopped school bus. That is apparent in the methodology which the Committee is recommending to prosecute civil violations.

You will note that there is a proposed Committee Amendment "A" (H-106). Let me explain my understanding of what this amendment would do if enacted. The Committee amendment states, "Except as provided in Paragraph D, it is not a defense to a violation of this subsection that a registered owner was not operating the vehicle at the time of the violation". In other words, if you own a motor vehicle, and that motor vehicle is spotted passing a stopped school bus with flashing red lights on it, it is not a defense that you are not the operator of the motor vehicle, unless, Subsection D would authorize that defense. Now, Subsection D goes on as follows and states, "If the registered owner of the vehicle provides the investigating officer with the name and address of the person operating the vehicle at the time of the violation, and the person named admits to the investigating officer to operating the vehicle at the time of the violation, then the owner may not be found in violation of this subsection". My understanding of the language offered is as follows. If you own a motor vehicle, and your vehicle is spotted improperly passing a stopped school bus with flashing red lights, then you are not allowed to come to court and tell the judge, "Judge, I didn't commit this violation. I wasn't driving the car". That is not a defense unless you tell the investigating officer who the person was who was operating your car at that time, and if you are fortunate enough to have that person so-named admit to the police that he or she committed the infraction. Now, in the event you are unfortunate, and you name the person who you think was driving the vehicle, and that person chooses to have a court hearing to determine whether or not he or she committed the infraction, even if that person after trial is found to be guilty of the infraction, you have no defense, because the person did not immediately come forward to the police

officer and say, "I was the one driving the car, not Paul Gauvreau".

It seems to me that the language that we are being asked to approve contravenes our basic notions of due process. I always thought that I would not witness more bizarre behavior than that demonstrated by Don Zimmer when he managed the 1978 Boston Red Sox. But time has proven me wrong. In our society we presume that an individual charged with a criminal violation or a civil infraction is innocent until the state is able to prove beyond a reasonable doubt in criminal matters or in civil matters by pondering of the evidence that he or she, in fact, has committed the violation of law. But, if we were to adopt L.D. 633, the defendant in this civil proceeding would be presumed to have committed the violation, even if the defendant could produce to the state the individual who was driving the car, and in fact, committed the violation, the person would still not have a defense unless the actual wrong doer promptly admitted his or her guilt to the police. If the wrong doer insisted upon having a trial, even if the wrong doer is found guilty, you are still guilty under this law.

The Bill to me makes no sense. However, I do agree that the violation of passing a stopped school bus is a serious matter, and I do not mean to make light of the violation, it is a very serious matter. We all understand the importance of public safety. We all understand the importance for the children of our state. Therefore, I would like to see this Legislature take some positive action in this area, take action which would be consistent with due process rights of our people. I do not want to see this legislation killed, and therefore, Mr. President, I move that L.D. 633 and its accompanying papers be committed to the Joint Standing Committee on Legal Affairs for further consideration.

Senator **GAUVREAU** moved to **COMMIT** Bill and Accompanying Papers to the Committee on **LEGAL AFFAIRS** in **NON-CONCURRENCE**.

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Attorney's are known to be amongst other things, very concerned about precedents, and I need to tell you that as far back as I can find, Bills of that nature that covered this particular topic of school busses and violations of passing stopped school busses, always have been handled by the Transportation Committee. Just a few years ago, we had a similar Bill which increased the penalty for passing a school bus from \$50 to \$500. The Legislature did approve that Bill.

I have to admit that my good seatmate, the Senator from Androscoggin, Senator Gauvreau, has brought up some concern that the Committee as a whole had concern, also. It seemed like we were changing our views of due process, and that we had some problems with that. Initially, the problem was that the Bill made it a criminal violation if that should occur. The Committee would not go along with that, so we decided to make it a civil violation. And still, some of us had some concern. We wanted to know the constitutionality of such a thing. We checked with the Attorney General, and according to them it is okay. We checked with a Judge, and the

Judge, in his opinion, felt that this Bill should pass. We had a good Public Hearing on it, we had twelve people testify in favor of this Bill, and amongst those who did testify, we had a District Attorney, we had someone from the Association of Pupil Transportation, we had the Associate Commissioner from the Bureau of School Management, we had the President of Maine Association for Pupil Transportation, amongst others. We did not have one descending presentation against this Bill. I understand the due process, but you also have to understand that according to the testimony that was given the Committee, it is next to impossible to find a violator guilty, because, the person that is accused hires an attorney, and goes to court with an attorney, they will find them not guilty, apparently every time. I don't remember the exact number, but I think we have had something like two convictions over the last several years, because it is next to impossible.

I know that in some parts of the state this is very serious. Cars pass stopped school busses. They seem to disregard the warning signals. It is causing a lot of fear amongst parents, and it is also causing a lot of fear amongst the bus drivers because they are constantly concerned about this happening. I think that this Bill had a good Hearing, had a fair Hearing. The Committee deliberated on it, changed it, and made it more palatable, and I feel it would be a waste of everybody's time, and it would be breaking the all important precedent of the past. So I hope you will vote to keep this Bill on its way instead of resubmitting it to the Legal Affairs Committee.

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

Senator CONLEY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I do agree with at least a couple of comments that were made by the good Senator from Aroostook, Senator Theriault, in regards to how fruitless it would be to commit it to another Committee, particularly to the Legal Affairs Committee, since I see that the good Senator Mills from Oxford, happens to Chair that Committee, and sits on the Transportation Committee. I can't tell him how disappointed I am that he let this Bill get by. This Bill should not be referred to another Committee, and therefore, at this time I would move that this Bill and all of its accompanying papers be Indefinitely Postponed. We can debate that issue then, and we will go forward on whether or not it should be recommitted and take up that other issue later.

I would like to tell this Body why I guess referring it is somewhat better than recommitting it, perhaps, because there may be some other people who will take a closer look at this.

This is a very bad Bill. Senator Gauvreau has hinted at some of the constitutional principles which we still have in this state. One of them is innocent until proven guilty. There is a favorite saying among some of the shadier lawyers in some parts of the state, innocent until proven broke, and I can tell you that somebody would be fruitlessly spending their money if they went in to defend themselves against this type of charge if this Bill were to

pass. Literally, under this Bill, you are guilty until proven innocent. And I would urge members to take a look at the language of this amendment as presented to the Committee. Not only, and I just read it as Senator Gauvreau has raised it, will a mother have to pay for her son's speeding tickets after he is convicted, if this were to pass, and her son was driving the car, she would have to go in under the hot lights and give out his name, and if she didn't, she would not only have to pay the ticket, it would become her ticket, and she would have to do his time for suspension! This Bill would create some very serious problems for people in this state.

Now, Senator Theriault has said that only two people have actually gone to trial on school bus cases in this state. I don't know if that is accurate or not. I would suggest that many, many people have plead guilty to the charge if they have been charged with this and they actually committed the offense. And those statistics have not been reviewed by them. Let me say this to you, though, these are the most hotly contested cases of any types of cases that come before the courts. People feel strongly when they are charged with passing a school bus. People say, "The driver waved me on, I was by the bus when the lights went on", and they are average, every day people, and as he said yesterday in another debate, it is the little people who contest these types of tickets. One reason is because there is a very serious repercussion for the person if they are convicted of this particular offense. I hope you look at this carefully.

I have a list of people that he indicated came and testified for it. What a shock! District Attorney's want this Bill passed. It would make it so easy for them to convict people. And not too shocking, the Attorney General, police officers, and people from within the school system came and testified in favor of this Bill. Again, not one defendant, not one person who has had a bad situation involving these types of cases came forward. You will never hear from those people. And we are here to protect those people, people who are charged with the crimes, just like we are here to try and do things for the school bus drivers and the rest of those people. I would urge that you would urge the Senator's motion from Androscoggin. Thank you Mr. President.

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

Senator TITCOMB: Thank you Mr. President. Ladies and Gentlemen of the Senate. I certainly cannot stand before you as an attorney, because I have no such background, but I can speak as a parent and as a State Senator who has been approached by a number of my constituents, several of them, in fact, being those school bus drivers. I don't know where this Bill should go, but I would hope that this Body will consider that something substantial be done with the goals behind this Bill.

I had a story brought to me by a school bus driver in a neighboring town, from my home town, where he told a story of a vehicle that stopped behind his stopped school bus when he was letting students off to go to their homes at the end of the

day. His lights were flashing, his door was getting ready to open, and as it opened, something in the corner of his eye caught a flash of light, and he saw a vehicle coming up beside his stopped bus at an unknown speed, and as his student started to step out the opening doors, he grabbed her by the back of her hair, and that was the only thing that kept her from being hit by the vehicle that was rounding around his bus. It came so close when it came by that it scrapped the paint, and the vehicle then sped off in the distance, and the school bus driver followed it, got its number, identified it, later on had paint identified on the side of the vehicle, and there were no charges made, because they couldn't tell who was in the car driving.

Now, this issue may be a legal one, and it may send us into a quagmire on it, but I certainly hope that we don't let this issue die, because we have hundreds of children being transported every day on school busses. And frankly, I am very concerned about the young mother, or the older mother or father, that lets their child drive a car. But, I believe that mother or father has a responsibility when they give the keys to the child, when that child, sometimes quite a grown child, is going to be responsible for their behavior, when my children or your children get off the school bus. So, I don't know what the correct approach is going to be with this Bill. I just hope that it doesn't die.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I certainly see this as an interesting Bill that could create a lot of harmony in families. But, I just want to pose one question, because the good Senator from Cumberland, Senator Conley, and the good Senator from Androscoggin, Senator Gauvreau, has certainly brought up some very interesting points, and some very disturbing points, and I just have one question. Is it possible here for someone who has done nothing to break the law, to be found guilty of something? I just have to have an answer to that, and I think this will make it very clear with what I will do with this Bill.

THE PRESIDENT: The Senator from York, Senator Dutremble, has posed a question through the Chair to any Senator who would care to answer. The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The answer to the Senator from York, Senator Dutremble, is yes, and I will explain why. This is the fact why, the sole reason, that I rise to oppose the Bill in its present form. I certainly applaud the Committee and the Bill's sponsors for their intent in dealing with the serious problem of public safety.

This Bill basically presumes that an owner of a motor vehicle which is observed passing a stopped school bus with flashing red lights, the Bill presumes the owner of the vehicle, not the operator, but the owner to, in fact, have committed the civil infraction. There are some specific defenses that the owner can assert. One possible defense is the

owner can assert that another person was operating the vehicle at the time in question, and in the event that person comes forth and admits his or her operation to the investigating officer, then the language of the Bill says that may be a defense. However, aside from that, it is very possible that a person who is totally blameless would be presumed to have committed the civil violation and will be deemed to have committed the civil violation, because the statute basically shifts the burden of proof onto the owner of the vehicle. This is a serious legal question. Let me state the notion of due process should be held in the highest regard in this Body. It is enduring limitation on government into private lives. It is a notion which has devolved to us through the ages, and it is a true shield against excessive government action. There are many times when many good people sincerely believe for the best of purposes that government ought to act, and it is only through the intervention of the due process clause in our State Constitution and in our Federal Constitution, that unwarranted or excessive government action is restrained. It is truly the bull work of freedom in a free society, and that is the sole purpose for which I rise this evening. Thank you.

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

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Speaking as the individual Senator and a co-sponsor of this Bill, I am receptive of, and listening keenly to the concerns expressed by my colleagues in this Chamber. But I think it is also important that we recognize that the problem of Maine motorists, or not just Maine motorists passing school busses stopped to load or discharge students, is perhaps the greatest concerns to school bus drivers across the state. And I dare say, that if you have been listening, and have any communication with your local school community, this issue will come up.

I remember last fall after a day at school, journeying up to Augusta, and witnessing a regularly scheduled great yellow bus, a sixty-six passenger job, cruising down Route 201, lights flashing, slowing down, and then coming to a stop in the opposite direction, and witnessing a car crashing into the back of that stopped school bus. There I was, the witness. It happens. And it happens because of a host of reasons on behalf of the drivers of the vehicles. And it happens so much, and the convictions are so few, that in fact, according to testimony at the Public Hearing, there were only three hundred convicted in the State of Maine, and that is an average annual conviction rate. Wisconsin and fifteen other states in this country, have similar laws to this Bill, L.D. 633. And in Wisconsin, in the last annual reporting statistics, there were twelve thousand convictions.

And perhaps it's because of that of which is alleged by the good Senator from Androscoggin, Senator Gauvreau, which leads me to perhaps an unrelated tale that is certainly relevant with reference to due process. I think it was in the city of Lewiston that a car with a license plate, before I became involved in public office, was given a parking ticket. When I received the parking ticket for a

notice of nonpayment in the mail from the City of Lewiston, I went after school and journeyed to Lewiston, and I provided a witness, as well as proof that I was out of the state during the time that vehicle which I had left at home, locked, and the keys in the house, was ticketed in the City of Lewiston. I was told that contravening our basic notions of due process, that unless I wished to take this to court, I would have to pay the parking ticket. Well, obviously, in those days, before I was as assertive as I am now, but I don't know if it has changed that much, but I do know that the process of securing an attorney and so forth was prohibitively costly on my then budget. So I paid the Bill, and while that in no way relates to what is alleged here, I submit, that the identification of a violator is difficult at best when one considers the construction of a school bus, and that is what allows violators to continue to perpetrate with too much ease the laws of our state, which prohibit people from passing stopped school busses.

Time, and time, and time again, bus drivers are frustrated and thwarted in their efforts to provide as safe as an environment as possible for these little people who get on and get off the busses. Time, and time again, in my own county of Cumberland, District Attorney's write letters saying that they will no longer prosecute these when they are brought to their attention, for the ability of the school bus driver from his or her perch in the school bus, which is elevated from normal traffic, with little people in the bus, some of them even bigger than sixty-six passengers, looking at traffic approaching or stopping the bus, looking in the rear view mirrors to check the traffic coming from behind, and watching the little people get on and off of the bus, not to mention a couple fights that might be going on, and a few braids that might be being pulled. All of these factors combined to make an environment where they have literally tens of thousands of school busses being passed, and nothing is being done about it. And the law states that "Thou shall not pass stopped school busses".

Well, I am perfectly agreeable if I thought that this Bill could be resolved effectively, referred to the Committee on Legal Affairs. But, the Bill provides for only a civil violation, not a criminal violation, and it is presented here as an effort to address a chronic problem. There isn't one of you that served in either Chamber who hasn't had, or been aware that this measure has been before us in previous sessions. It has been addressed in numerable Committees, in every innovative and creative way that is available that can be devised, and this is the latest version of it. And yet, there are fifteen other states where it works effectively. I know that we have a responsibility to underscore, and reinforce, and protect due process. But, where is the emphasis on the victim when due process is not followed through? What about the potential and the actual cases of harm which have been endured, that might have been thwarted if Maine had been more vigorous in its enforcement of its current law as well as the Judicial System and the District Attorney System which is supposedly acting on behalf of protecting the public's health and safety? Are we going to continue to talk about it with good will? Would it be worth risking just one civil infraction if, in fact, one child was saved because one violator

was prosecuted? And the word got out across our state that finally there is some teeth in the law. Maybe a full set! A civil violation, I believe, is a mild reprimand for violating the law which says, "Thou shall not pass stopped school busses". And it occurs every single day, hundreds of times a day. If this isn't the vehicle, than I simply say, what is?

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise today because it was mentioned earlier how disappointed Senator Conley was that this Bill got by me on the Transportation Committee. I wanted to mention a few reasons why I ended up voting for the Bill that you see before you today.

When the Bill came in, it had a criminal count on it if you were caught passing a stopped school bus with red flashing lights going, if you were convicted of that, it would be considered a criminal act. I felt strongly that the people should not be denied due process and made to be considered a criminal act if they are considered to be passing school busses, and you are not exactly sure what person was driving that car. It is an issue that has been around in the Transportation Committee for the seven years that I have been on the Committee, and it is one that we have addressed over and over again to try and stop the problem. We have even increased the fine, we have done a lot of different things to try to make it so that it would not continue to happen. But it continually comes back to us that school busses are being passed.

Senator Dutremble of York asked whether or not somebody would be convicted of a crime for not having done anything, and the answer to that is "no", they would not. They would be convicted of a traffic violation, possibly, and I think that is an important point to make here. When you loan your vehicle to somebody, I think you have to realize you are doing so with the understanding that that vehicle is very important, and that it is something that can be used to cause harm onto others. I think if somebody goes by a passed school bus with flashing red lights on, and little children getting off, you have to stop and weigh that, and the fact that we haven't been able to come up with answers on that. I think the important thing here is the fact that it is a traffic violation, and we tried to write the Bill so that if you had a defense, and somebody else was driving your car, and you could prove that, or show us in any way, that you would be able to get off from having the traffic violation, we tried to do that and write that, and I think if we haven't written it clear enough so that it is clear for people, than I think we should try to amend it and make it clearer.

I hope that people will try to move this Bill along and we can amend it to make it do exactly what we are trying to do. I think it is an important thing, and I hope that nobody here thinks I take something like this very lightly, I don't. When you talk about school busses, and children getting off from school busses, it is a very important thing, and it is something that I take very importantly, and I hope that the people in this Body realize that I do, because I certainly do. Thank you very much.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have been listening very carefully to this debate, too. And I don't think I hear very much conflict here. I hear everyone agreeing that this is a very serious problem, and I hear everyone agreeing that we are all concerned about due process, and we should be concerned about due process. For me, as I read the Bill, I too, am concerned with Section D, Subsection 1, which is the part that would assume that someone is guilty until proven innocent, which I submit is not the American way. I submit to you that the best way to handle this, and I think the good Senator from Oxford, Senator Mills, has just echoed that, is that we should tinker with this Bill a little more until it is correct. I could, for instance, support this Bill if, under Section D, Subsection 1, we take care of the rather glaring problem that someone could be proven guilty without being guilty, and we just need to take that one step farther.

I am going to be supporting the good Senator from Androscoggin, Senator Gauvreau's motion to resubmit this Bill, and I urge you to do so, too. I don't think that the end justifies the means, or it shouldn't in this Body, and we seem to be so close in agreement. I think it just needs a little bit more work, and I urge you to let us do that work. 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. I rise today, happily I might add, to speak on the same side of an issue as the good Senator from Cumberland, Senator Clark, and also as a co-sponsor of this piece of legislation.

I was one of the original sponsors, and there have been many, because this Bill has been around ever since I have been in the Legislature, which has been eleven years now. I was happily the sponsor of the legislation that increased the penalty to a criminal penalty. When I was asked to be a co-sponsor of this particular piece of legislation, I was in agreement that if we made the agreements as suggested by the amendment, that we reduce this to a civil penalty.

I believe that everyone here is in agreement that what we have is a very serious problem. And despite changes of the law that have been made in the past, it continues to be a very serious problem, we can't seem to get to the root of the problem that exists. I don't believe by recommitting this Bill to another Committee we are going to solve that problem, either. But, because everyone seems so committed, I would suggest that we table this legislation for a day so it could be amended on the floor. Everyone knows what they would like to do, so it could be amended on the floor, it would not have to go through an already burdened Committee process. This Bill has had Public Hearing, it has received a lot of deliberation, not only in this year, but in past years. I think it would be a good opportunity for the lawyer's to get together and get the legal differences worked out so that us lay people can get

on with protecting the children of the State of Maine, and the school bus drivers who are extremely frustrated with this situation that continues to happen.

The situation that the Senator from Cumberland, Senator Titcomb, said, is just one, I have a notebook full of situations that are similar to the one that she told you about. It is a problem. It is a very sincere problem that we have, and I think if anyone is interested in a tabling motion, I think that is the way that we should go about this today.

On motion by Senator **CLARK** of Cumberland, Tabled Unassigned, pending the motion by Senator **GAUVREAU** of Androscoggin to **COMMIT** Bill and Accompanying Papers to the Committee on **LEGAL AFFAIRS** in **NON-CONCURRENCE**.

Off Record Remarks

Senator **GAUVREAU** of Androscoggin was granted unanimous consent to address the Senate off the Record.

The Committee on **TRANSPORTATION** on Bill "An Act to Exempt Municipal Vehicles from Overweight Penalties"

H.P. 444 L.D. 634

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-92)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-92)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-92) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION** on Bill "An Act to Revise the Composition of the Board of Trustees of the University of Maine System"

H.P. 251 L.D. 342

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

Signed:

Senators:

ESTES of York
BRAWN of Knox

Representatives:

CROWLEY of Stockton Springs
PFEIFFER of Brunswick
CAHILL of Mattawamkeag
NORTON of Winthrop
O'DEA of Orono
BARTH of Bethel
O'GARA of Westbrook
AULT of Wayne

The Minority of the same Committee on the same subject reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-76)**.

Signed:

Senator:

MCCORMICK of Kennebec

Representatives:

HANDY of Lewiston
OLIVER of Portland

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

Which Reports were **READ**.

Senator **ESTES** of York moved to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise today to urge you to vote against the Ought Not To Pass Report. The Committee on Education had a rousing discussion on this issue, and basically, heard from many members of the Board of Trustees, at least two or three, who heralded the input of the faculty representatives, the nonvoting faculty representatives of the Board of the University of Maine. I would like to pose a question. If the input of the faculty representatives, there are one from each campus currently, they do not vote, but their input is very important, so say the trustees, if the input is so important, then why not give one of them a vote? The only reason that the Board of Trustees could come up with for not giving them a vote is the potential conflict of interest regarding salary negotiations. That objection was easily taken care of, and is easily taken care of if you read the conflict of interest sections of the law. They would have to resign themselves from voting on anything that had to do with their salaries. Other than that, I say that their input is incredibly needed, and if you look at successful Boards of Directors, I am sure that many of you serve on Community Board of Directors, successful Boards, and the membership of those Boards reflect the community that they seek to serve, or the community that they seek to rule, and to mind, that means including a faculty

representative. They are the ones that have dedicated their lives to education, and their voice should be represented on the University of Maine Board of Trustees. I urge you to vote against the Ought Not to Pass Report. Thank you.

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

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise briefly in opposition to L.D. 342, and urge you to vote for the Majority Ought Not To Pass Report.

I would like to speak briefly, because I would like to make the following points to you. First of all, as originally drafted, it adds two faculty members to the Board of Trustees of the University of Maine System, along with one additional student member. The amendment which is reported Ought To Pass by the Minority on the Committee, adds one faculty member, and makes a provision for the selection of the faculty trustee. Both the original Bill and the proposed amendment suffer from the flaw of creating a conflict of interest on the Board of Trustees, since it is the Board that sets the salaries, benefits, and working conditions of the faculty. That is my chief objection of the Majority of the Committee that voted this Bill Ought Not to Pass.

Second, it is my view that this Bill is simply not needed. There is already an avenue in place for input through an advisory mechanism. The Board of Trustees already has a system by which it is advised of the views of the University of Maine faculty, and I am convinced that system is working. In short, this Bill creates a potential for a conflict of interest and is unnecessary. I would respectfully ask for a Division, and ask you to vote for the motion of the Majority Ought Not to Pass. Thank you.

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

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Board of Trustees of the University of Maine System today consists of fourteen individuals appointed by the Governor for a staggered five year term, along with the Commissioner of Education official and a student appointed for a two year term. The Board of Trustees is a governing Body. It means that under Maine Law, it has the full responsibilities of the University operations, including appointment of key administrators, the granting of tenure, and the approval of collective bargaining agreements.

I believe that this Bill and the Minority amended Report are inappropriate and unnecessary. It is inappropriate, because it would create the conflict that was alluded to by the good Senator from Knox, Senator Brawn, a conflict of interest for the faculty members appointed to the Board. Their salaries are set by the Board, through the collective bargaining process. The Trustees participate fully in the strategy proceedings of collective bargaining, and it would simply be inappropriate to have a member of the bargaining unit, affected by a contract sitting, on the management side of the table.

Things would be different if we did not have the collective bargaining, but since 1975, the Legislature decided to allow University faculty and staff to bargain collectively on wages, hours, and working conditions. Since the Legislature has chosen to give the faculty bargaining rights, I don't feel it is necessary to provide them with seats on the Board in order to protect their economic interest.

On the other hand, if the purpose of the legislation is to assure that the Trustees are exposed to faculty views on economic matters, I think this Bill is unnecessary. The Board itself has had a long standing practice since 1972 of working closely with representatives of faculty and students from each campus. These representatives, seven faculty, seven students, representing each of the campuses, participate fully in Committee meetings of the Board, and their views are conveyed to the full Board by the Committee shares. In addition, prior to every Board meeting, the Vice-Chair presides over an open forum for faculty and student representatives, in which they are free to discuss any issues that they wish with the Trustees, whether or not those issues are on the Board's agenda for that given day. A set of written guide lines spell out mutual responsibilities, and I believe the Trustees find that regular contact with faculty representatives from all of the system campuses gives them valuable insights into University activities. At the campus level, where collective bargaining matters are not an issue, faculties participate fully in institutional governments, particularly, in regard to academic matters. I would urge members of this Body to support the Majority Ought Not To Pass Report. Thank you.

Senator MCCORMICK of Kennebec requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator ESTES of York to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

A Division has been requested.

Will all of those in favor of the motion to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence, please rise in their places and remain standing until counted.

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

25 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator ESTES of York to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence, PREVAILED.

Divided Report

The Majority of the Committee on HOUSING AND ECONOMIC DEVELOPMENT on Bill "An Act to Repeal the Job Opportunity Zones Act"

H.P. 325 L.D. 455

Reported that the same Ought Not to Pass.

Signed:

Senators:

BRANNIGAN of Cumberland
DUTREMBLE of York

Representatives:

MELENDY of Rockland
BELL of Caribou
PLOURDE of Biddeford
SALISBURY of Ellsworth
LEBOWITZ of Bangor
KONTOS of Windham
HEESCHEN of Wilton
STEVENSON of Unity
KILKELLY of Wiscasset

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

Signed:

Representative:

GRAHAM of Houlton

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

Which Reports were READ.

The Majority OUGHT NOT TO PASS Report was ACCEPTED, in concurrence.

Divided Report

The Majority of the Committee on LEGAL AFFAIRS on Bill "An Act to Amend the Election Laws Dealing with Local Elections"

H.P. 224 L.D. 315

Reported that the same Ought to Pass As Amended by Committee Amendment "A" (H-86).

Signed:

Senators:

KANY of Kennebec
SUMMERS of Cumberland

Representatives:

LAWRENCE of Kittery
JALBERT of Lisbon
DAGGETT of Augusta
POULIN of Oakland
RICHARDSON of Portland
STEVENS of Sabattus
TUPPER of Orrington
BOWERS of Sherman

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

Signed:

Senator:

MILLS of Oxford

Representatives:

PLOURDE of Biddeford
HICHENS of Eliot

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-86)**.

Which Reports were **READ**.

The Majority **OUGHT TO PASS AS AMENDED** Report was **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-86) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Preserve Maine's Part-time Citizen Legislature by Making the Legislative Process More Efficient and Less Costly to Maine Taxpayers"

H.P. 124 L.D. 169

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

Signed:

Senators:

BERUBE of Androscoggin
BUSTIN of Kennebec
EMERSON of Penobscot

Representatives:

JOSEPH of Waterville
HEESCHEN of Wilton
LOOK of Jonesboro
ST. ONGE of Greene
SAVAGE of Union
WATERMAN of Buxton
GRAY of Sedgwick
KERR of Old Orchard Beach
LARRIVEE of Gorham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-90)**.

Signed:

Representative:

NASH of Camden

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

Which Reports were **READ**.

The Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act to Require Seat Belts in School Buses" H.P. 199 L.D. 290

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

Signed:

Senators:

THERIAULT of Aroostook
GOULD of Waldo

Representatives:

MACOMBER of South Portland
STROUT of Corinth
HUSSEY of Milo
BOUTILIER of Lewiston
SMALL of Bath
TAMMARO of Baileyville
RICKER of Lewiston
BAILEY of Farmington
HALE of Sanford
MARTIN of Van Buren

The Minority of the same Committee on the same subject reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-94)**.

Signed:

Senator:

MILLS of Oxford

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

Which Reports were **READ**.

On motion by Senator **THERIAULT** of Aroostook, the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**, in concurrence.

Senator **MILLS** of Oxford moved that the Senate **RECONSIDER** its action whereby it **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am sorry to take up your time now, I don't normally try to take out

twelve to one Reports, but I just wanted to very quickly speak on why I did so.

Seat belts have been a very big issue for me on the Transportation Committee since I have been there, and I am pleased to say that a lot has been done in this state on seat belts in the last few years. One of the items that has come before the Committee for many years has been seat belts on school busses, and it has been overwhelmingly defeated each time. I have had a lot of students, when I go around and speak to schools, ask me, "Why don't we have seat belts on school busses?" They don't understand since they have to wear a seat belt when they get into their own cars, or their parents cars, and it is a law that they have to wear them, why they don't have the opportunity to wear a seat belt on a school bus. A lot of the arguments that are raised are the fact that, what if you get in an accident, and the school bus turns over, and you have all the kids hanging upside down, or that they will use them as weapons, or they are not safe? A lot of those same arguments have been used over and over again for seat belt legislation, in general, on cars. It just seems to me the Bill as amended says, "Future school busses that are built after 1992, any school busses that are replaced by the Department of Education, would have to have seat belts in them". It does not require the students to wear them, it just says that they have a chance to wear a seat belt if they want to.

It is my hope by the time that my daughter is old enough to get on a school bus, that she will have the option of wearing a seat belt if she wants to or not. That is why I signed this out. Thank you.

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

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I understand where the good Senator from Oxford, Senator Mills, is coming from. I know that as a member of that Committee, he has been very concerned about safety, and has been an advocate for the use of seat belts. I think this is noteworthy and should be recognized.

On the surface, this sounds like a good idea. But, during the course of the Committee Hearing, it was shown to us that it really isn't a good idea. In Maine, the last student killed inside a school bus was twenty-six years ago in 1965. He was killed when struck by a piece of wood that fell off a truck. I am saying this to illustrate that our busses are constructed in a manner which is called "Compartment Wise", which is designed to protect the student in case of an accident. And apparently, this is working exceedingly well the way it is right now. During the course of the Hearing, there were two people that spoke in favor of this Bill. There was the sponsor of the Bill, and there was a police chief from one of our coastal towns. Some of the people that spoke against this Bill, I might say, for example, was a representative from the Department of Education. We had a representative from the Department of Human Services involved with the Division of Maternal and Child Health. They had determined through their own studies that this was not a wise thing to do. They had some suggestions, though, as to what we could do

to make it safer for the child, and these things included, for example, several 1977 busses or older, in fact, and 168 of those are still in our bus fleet in the State of Maine. These busses are not departmentalized. They are not quite as safe for our children. What they are saying is that we could take that \$2500 or so per bus that it would cost us to equip these vehicles, and buy new busses that are departmentalized. We thought that made sense. They suggested things like better driver training, program updates, and things of that nature, which we thought was reasonable, that could be done to enhance the safety. Different strobe lights to warn the traveling public. Better aids such as better mirrors, crossing gates, sensors, and things of that nature. With the Committee convinced almost unanimously that the suggestions provided the Committee were good ones, they further convinced the Committee that to install seat belts in busses was not a good idea. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **THERIAULT** of Aroostook to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

A Division has been requested.

Will all of those in favor of the motion to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, please rise in their places and remain standing until counted.

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

26 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **THERIAULT** of Aroostook to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Senate

Ought to Pass As Amended

Senator **GAUVREAU** for the Committee on **JUDICIARY** on Bill "An Act Relating to the Definition of Gross Sexual Assault under the Maine Criminal Code"
S.P. 274 L.D. 733

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (S-71).

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-71) **READ** and **ADOPTED**.

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 to Change the Title of the Commission on Safety in the Maine Workplace"
H.P. 100 L.D. 141

Bill "An Act to Amend Employment Practices Regarding Employee Personnel Files"
H.P. 267 L.D. 387

Bill "An Act to Increase the Fees for Local Registration of Motor Vehicles"
H.P. 470 L.D. 664

Bill "An Act to Clarify Certain Provisions of the Hospital Care Financing System and Provide for Systematic Consideration of Consumer Viewpoints by the Maine Health Care Finance Commission"
H.P. 550 L.D. 787

Bill "An Act to Clarify the Obligation of District Attorneys to Pay for Physical Examinations of Certain Crime Victims"
H.P. 621 L.D. 891

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

Bill "An Act to Amend the Wrongful Death Laws"
H.P. 572 L.D. 823

Which was **READ A SECOND TIME**.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I came across this Bill just last evening, and read it rather quickly, and I have some questions that I am sure that my worthy colleague from the Judiciary Committee will be able to respond to.

It seems to me that as a lay person and my limited knowledge of the law, that this does do something to the Tort Law, and I think all of you are aware that the Legislature has been concerned over the last several years of what is loosely identified as tort reform. In this particular instance, it seems to me that two years ago, as I recall, we provided a change in the punitive damage section that raised the cap level from \$50,000 to \$75,000. And if I read this correctly, that removes that cap. Now, as I further understand it, the ordinarily

compensatory damages include the economic damages, medical costs, wage loss, and also the non-economic damages, such as pain and suffering. This describes the other step, and it is punitive damages to which I understand it, a punishment of sorts in a civil affair. It seems to me that we are reversing the position that the Legislature took in our attempt to get some handle on the litigate society in which we live. Until we reduce the amount of litigation, and thereby, reduce the costs of such things as insurance coverage, it seems to me that this is exactly a reversal of that position which we held in the last Legislature. If I am mistaken, I am sure the Chairman of the Committee will rectify my misunderstanding, and perhaps, tell me where I have erred. Thank you Mr. President.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the comments from my good friend and colleague from Aroostook, Senator Collins, who has raised very legitimate and valid questions as to the wisdom of an enacting L.D. 823. Let me explain to you why I believe that the Senate should, in fact, grant second reading and engrossment to L.D. 823, which is a unanimous Report out of the Committee on Judiciary.

This Bill reported to amend part of the states probate code, dealing with wrongful death actions. Now, a wrongful death action is a civil action which can be filed in our courts by the estate of an individual who has died. It seeks under the provision set forth in our statute to allow the state to recover certain damages. Now that common law, that is, without statutes, there was no such right of an estate to cover. The theory being that when the individual died, life would not go on, and that there could be no claim brought on behalf of the individual. But, by statutes, we do allow these so-called wrongful death actions, so that the estate can bring an action to recover certain damages. Ordinarily, those damages are what we call compensatory damages. Actual damages, for example, for cost of a funeral, cost of medical bills which might have been incurred by the deceased prior to his or her demise.

Now, what L.D. 823 does, is allow the estate to file not just for compensatory damages, but for punitive damages. Let me explain the difference. Compensatory damages again are the most common type of damages in civil actions, which reimburse the estate for out of pocket expenses or costs that are actually incurred. Now punitive damages are very, very rarely imposed, and rightfully so. As the Senator from Aroostook, Senator Collins, has referred to the punitive damages, they are, in fact, punitive in nature, a civil penalty if you will. Therefore, the courts have posed a very, very high standard of proof before anyone is entitled to recover punitive damages. The party seeking to recover punitive damages must demonstrate by clear and convincing evidence, which is the highest standard in our civil law, that the defendants behavior was committed with a wanton and malicious disregard to the rights of the plaintiff. Only in those very, very narrow limited circumstances would punitive damages ever be available. As you recall, ordinarily in civil

actions, if the standard of proof is not clear and convincing, but more likely than not, if in the order of probability, an event was fifty-one percent likely to have occurred, than you would have met your burden of proof. However, that would not sustain the a claim for punitive damages, one would have to demonstrate by clear and convincing evidence that the actions of the defendant were committed with a wanton and malicious disregard for the rights of the plaintiff. So, it is a very, very conservative standard, a very difficult standard, frankly, one that is seldom met in our courts, and rightfully so.

Now, the Judiciary Committee members felt, I believe, that it was entirely inappropriate to amend our laws for the following reasons. Currently, if a person does, in fact, engage in truly a horrible case, for example, if a person had three or four six packs of beer, the person goes out driving, and carelessly runs red lights, runs stop signs, could care less, and runs over a person, if the person is injured severely, let's say paralyzed for life, the person who is injured, the plaintiff, can go to court and can recover damages for the lost value for his or her life, their lost wages, their medical bills, and also for punitive damages. If the person is fortunate enough to live, they can bring a claim on punitive damages. However, one of the true ironies and unfairnesses of our law, if the poor innocent victim is killed, and the behavior of the defendant is equally blameworthy, but if the defendant, if fortunate enough to have the poor victim die, then the defendant pays much less, because there is very limited claim for lost wages, there is a very limited claim for the ordinary type of compensatory damages, and there is no punitive damages. In this unique and somewhat freakish area of our law, it may sound totally absurd, but a defendant in a civil action is actually better off having the victim die than live. Therefore, the members of the Committee on Judiciary believe that it was appropriate to allow the courts in very narrow, and very limited circumstances, to award the estate of the decedent punitive damages if the facts of the case so warranted.

This is basically a very conservative Bill. I can provide the Senate with some history on this particular section of our law. The Senator from Aroostook, Senator Collins, is correct when he noted that we did amend this section two years ago. Until two years ago, there was a cap of \$50,000. Up until two years ago, an estate can bring a claim for a wrongful death with a statutory cap of \$50,000. However, there were decisions of courts that stated that not withstanding the statutory cap, a person who suffered severe emotional distress could be allowed to bring a separate action. For example, a spouse of a loved person could bring witness of a horrible car accident, and could witness his or her spouse severely injured or die, and under that circumstance, that person would be allowed to bring an action for what is called in the law emotional distress, over and above the statutory cap. Well, two years ago in the interest of court reform, and the interest of curbing a litigious society, we reimposed the cap. We said that what we meant by a cap was, we meant to include an action for emotional distress as well as compensatory damages. We slightly raised the cap to \$75,000. So that is the history of this section.

But the point I want to leave you with this evening, and I apologize for the length of my presentation, is that the Committee on Judiciary simply wants to provide basic parody. We want to allow the estate of the decedent under very appropriate circumstances to seek punitive damages. And again, I remind you that if the victim is seriously hurt or injured, the victim is entitled to seek punitive damages. But, if the victim should die, then there is no claim to punitive damages. We believe that is unfair, we believe that a true immorality that should be corrected. Thank you Mr. President.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I thank my worthy colleague, the Senator from Androscoggin, Senator Gauvreau, for his remarks and my education.

There are a couple of things that remain constant. However, he did indicate that punitive damages were a very rare thing, and certainly, not the norm. I think that there was a time when that was certainly true. I just happen to have a little matter that suggests that may no longer be true, and I refer to a study from the Roscoe Pound Foundation, where data was collected on punitive damages and product liability cases from 1965 to 1990. And during the sixties, there were very few cases, but the number then tripled every five years, with over half of the rewards occurring in the past five years. That seems to suggest to me that there is a substantial increase in this type of punitive damage. I am further reminded that punitive damages are not something that we can insure ourselves with, we can insure for the other compensatory damages, but we cannot punitive damages. And finally, it again seems to run against what we did two years ago, when we changed the cap, we moved it up, but we still kept a cap. This, it seems to me, removes it entirely, so that sky is the limit. Mr. President, I would ask for a Division on this vote.

Senator **COLLINS** of Aroostook requested a Division.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I recognize that the State Senate is a political institution, as we obviously deal with areas of policy, and we discuss in good faith our differences in terms of approaching policy matters. I am speaking to you as an attorney who has practiced law for sixteen years, as well as being a Senator from the City of Lewiston.

It is my considered legal opinion that punitive damages are very seldom appropriate and are very seldom awarded. In fact, a party seeking to receive punitive damages, must add the request for punitive damages along with the complaint, which is then filed in court, and the evidence produced to the court must be of a very high standard. Now, before the case goes to the jury, before the men and women of the jury sit down and deliberate on a verdict, the presiding justice must instruct the members of the jury on what the law is, and if the presiding justice

is of the opinion that the plaintiff has not produced sufficient information which would allow any jury to return a verdict that would produce punitive damages, the presiding justice will not instruct the members of the jury.

I believe the system is working well. The system has appropriate safe guards. I respect the concerns from my colleague from Aroostook, Senator Collins. In my opinion, it is not an accurate statement to assert that the sky is the limit in wrongful death actions. The fact remains that two years ago, we amended our wrongful death statute, we had slightly raised the cap, but it was a conservative action, because by raising the cap, we extended the umbrella on the cap to include not only actions for compensatory damages, but also, damages for emotional distress. It seems to me that this Bill is really one of fairness. Are we going to allow an estate the right in those very limited cases to seek punitive damages, when the behavior of the defendant is such a gross deviation from an accepted standard of behavior, that punitive damages are appropriate? Are we really going to allow the immorality in our law to exist, that a person can be severely maimed or hurt in an accident and receive punitive damages, but if the person should die, no action for punitive damages should follow. The law considers the punitive damages to be a civil penalty, to deter grossly inappropriate conduct by a defendant. That is precisely the reason that our policy does not allow a person to insure for punitive damages. We do not want a person, or a company, or an entity, to insure for civil liability flowing from gross deviation of inappropriate conduct. We want to deter that conduct. If we do not allow the deterrent effect of the law to apply, my concern is, that we might see more such instances of gross behavior. Thank you.

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

Senator CONLEY: Thank you Mr. President. Ladies and Gentlemen of the Senate. Briefly, I would just like to note that this is a unanimous Committee Report. I am no longer a member of this esteem Committee, but I consider the Judiciary Committee to be one of the best Committees in the Legislature. They give careful thought to all Bills that come before them. I am somewhat familiar with this section, and I have pulled out the Bill, now that Senator Gauvreau from Androscoggin has given his lengthy, yet very thorough explanation of what this Bill does. He is a lot fairer and up front, and probably, much more thorough than I could ever dream of being, and with all due respect, my colleague from Aroostook, Senator Collins, I can't help but notice some of our guests in the Chamber tonight who sit in back awaiting the outcome of the debate of this unanimous Committee Report. And I just would hope that those who work hard for their clients and the positions with which they come, and are also very well enabled to defend, would not try to steal the small morsel from the table that we are leaving for victims, the families of victims, who will benefit from this piece of legislation. I am hopeful that you will support Senator Gauvreau of Androscoggin. Thank you.

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

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. I am a little confused on this issue. Throughout the years I have served here, we have always had caps, and to hopefully lower somebody's cost. The good Senator from Androscoggin, Senator Gauvreau, made reference to the fact that there was no insurance, or it wasn't going to affect insurance costs. I would like to know if we change this law, whose insurance rates are going to go up, who is going to pay. We are changing the law, obviously, someone is to gain from this or we wouldn't be doing this. It has been said that the victims would gain, someone who died for whatever reason, obviously, someone is going to have to pay for that. Is it going to be the rate payers, is it going to be the taxpayers, is it going to be the people that have insurance, is it going to be someone selling their home to meet some legal obligation? I assume the cap is there to put some logical, reasonable amount of money that a victim's family could receive. I would like to know if we eliminate this cap, and for example, to follow with the example that was given by the good Senator from Androscoggin, Senator Gauvreau, who said that somebody might run over somebody and kill him, would that mean that somebody would be paying a million dollar settlement, a five million dollar settlement, if we don't have a cap on this, then who is going to pay? I hope that it can be answered in a brief way. Thank you.

THE PRESIDENT: The Senator from Franklin, Senator Webster, has posed a question through the Chair to any Senator who would care to answer. The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. I hereby offer my brief response to the question posed by the good Senator from Franklin, Senator Webster.

There will be no discernible impact upon insurance rates because punitive damages are not subject to insurance. If punitive damages are rewarded, they are paid by the defendant directly. There will be no impact upon insurance because our social policy, as often stated by our courts, is that punitive damages are not subject to insurance. That is to say, one cannot acquire against punitive damages.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED**, in concurrence.

A division has been requested.

Will all of those in favor of the motion of **PASSAGE TO BE ENGROSSED**, in concurrence, please rise in their places and remain standing until counted.

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

17 Senators having voted in the affirmative and 11 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act Concerning the Licensing of Organizations Operating Games of Chance or Beano"
H.P. 67 L.D. 95
(C "A" H-77)

Bill "An Act to Establish Standards of Financial Need for Grants under the Small Community Grants Program" (Emergency)
H.P. 99 L.D. 140
(C "A" H-61; H "A" H-87)

Bill "An Act to Expand the Blaine House Scholars Program to Assist in Teacher Certification"
H.P. 136 L.D. 196
(C "A" H-75)

Bill "An Act to Require Insurance Coverage for Reconstructive Breast Surgery for Women Who Have Had Mastectomies"
H.P. 230 L.D. 321
(C "A" H-84)

Bill "An Act to Clarify the Licensing Status of Acute Care Units at State Mental Health Institutes"
H.P. 391 L.D. 565
(C "A" H-82)

Bill "An Act to Prohibit Discrimination against Insureds over 65 Years of Age in Automobile Insurance Rates"
H.P. 497 L.D. 691
(C "A" H-85)

Bill "An Act to Amend the Laws Regarding State Assistance to Mass Transportation"
H.P. 517 L.D. 745
(C "A" H-79)

Bill "An Act to Repeal the Restriction on Investments in Loans Secured by First Mortgages on Real Estate by State-chartered Credit Unions"
H.P. 601 L.D. 861
(C "A" H-83)

Bill "An Act to Amend the Charter of the Berwick Sewer District" (Emergency)
H.P. 645 L.D. 919
(H "A" H-97)

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

Bill "An Act to Implement the Recommendations of the Travel Information Advisory Council Concerning Informational Signs"

H.P. 86 L.D. 121
(H "C" H-102; S "A" S-58 to C "A" H-72)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Ensure Access to Boards of Directors"
S.P. 38 L.D. 60
(C "A" S-67)

Bill "An Act to Exempt Certain Activities from the Site Location of Development Laws"
S.P. 62 L.D. 114
(C "A" S-64)

Bill "An Act to Amend the Special Archery Hunting Season Laws"
S.P. 63 L.D. 115
(C "A" S-65)

Bill "An Act to Require Each Person Licensed for the Practice of Funeral Service to Participate in Continuing Professional Education"
S.P. 227 L.D. 581
(C "A" S-66)

Bill "An Act to Clarify the Role of Law Enforcement Officers in the Investigation of Medical Examiner Cases"
S.P. 236 L.D. 627
(C "A" S-60)

Bill "An Act to Amend the Laws Concerning Removal or Destruction of Landmark Locations by State Departments"
S.P. 276 L.D. 735
(C "A" S-61)

Bill "An Act to Amend the Revised Maine Securities Act"
S.P. 297 L.D. 795
(C "A" S-68)

Bill "An Act to Authorize the Town of Brownville to Acquire the Assets and Liabilities of the Brownville Water District" (Emergency)
S.P. 355 L.D. 957
(C "A" S-69)

Which were **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 Define the Boundary between the Towns of Madison, Norridgewock and Skowhegan
S.P. 91 L.D. 176

An Act to Amend the Law Concerning the Court Appointed Special Advocate Advisory Panel
H.P. 196 L.D. 287

An Act Regarding the Filing of a Uniform Traffic Ticket and Complaint by Law Enforcement Officers
H.P. 208 L.D. 299
(C "A" H-56)

An Act to Amend the Laws Governing Disclosure of Information in Medical Support Recoupment and Child Support Cases
H.P. 302 L.D. 423
(C "A" H-51)

An Act to Abolish the Pheasant Stamp Program
H.P. 396 L.D. 570
(C "A" H-55)

An Act Requiring Motor Vehicle Operators to Furnish Their Date of Birth upon the Request of a Law Enforcement Officer
H.P. 414 L.D. 597
(C "A" H-54)

An Act to Amend the Maine Lemon Law
S.P. 315 L.D. 853

An Act to Amend the Warranty and Disclosure Requirements Applicable to Certain Sellers of Repossessed Vehicles
H.P. 600 L.D. 860

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 Student Incentive Scholarship Program
H.P. 200 L.D. 291
(C "A" H-53)

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

Emergency

An Act to Regulate Water Utilities
S.P. 19 L.D. 8
(C "A" S-31)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Strengthen the Operating-under-the-influence Laws
H.P. 32 L.D. 42

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

COMMUNICATIONS

The Following Communication:

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333**

April 16, 1991

Honorable Joy J. O'Brien
Secretary of the Senate
115th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted the Minority "Ought Not to Pass" Report of the Committee on Judiciary on Bill "An Act to Prevent Discrimination" (S.P. 175) (L.D. 430).

Sincerely,
S/Edwin H. Pert
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

COMMITTEE REPORTS

Senate

Ought Not to Pass

The following Ought Not to Pass Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator MATTHEWS for the Committee on BUSINESS LEGISLATION Bill "An Act Relating to Real Estate Broker Disclosure"
S.P. 390 L.D. 1067

Leave to Withdraw

The following Leave to Withdraw Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator TWITCHELL for the Committee on FISHERIES AND WILDLIFE Bill "An Act to Require Hunters to Wear Fluorescent Orange in all Hunting Seasons"
S.P. 363 L.D. 965

Ought to Pass As Amended

Senator MCCORMICK for the Committee on EDUCATION on Bill "An Act to Clarify the Certification of Correspondence Schools"
S.P. 340 L.D. 930

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-72).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-72) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

The Chair laid before the Senate the Table and Specially Assigned matter:

SENATE REPORTS - from the Committee on EDUCATION on Bill "An Act to Change the Process of Selecting the Commissioner of Education"
S.P. 51 L.D. 81

Majority - Ought to Pass As Amended by Committee Amendment "A" (S-56).

Minority - Ought Not to Pass.

Tabled - April 16, 1991, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, April 11, 1991, Reports READ.)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ACCEPTANCE OF EITHER REPORT.

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

SENATE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Repeal Legislative Salary and Benefit Increases Granted in 1989"
S.P. 157 L.D. 369

Majority - Ought Not to Pass

Minority - Ought to Pass As Amended by Committee Amendment "A" (S-62).

Tabled - April 16, 1991, by Senator CLARK of Cumberland.

Pending - Motion of Senator BERUBE of Androscoggin to ACCEPT the Majority OUGHT NOT TO PASS Report

(In Senate, April 16, 1991, Reports READ.)

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

Senator SUMMERS: Thank you Mr. President. Ladies and Gentlemen of the Senate. I stand in opposition to the motion before us, and urge that this Body oppose this motion. Ralph Waldo Emerson once said that, "Nothing astonishes people so much as

common sense". L.D. 369 is just that. It is common sense. Common sense that dictates that in tough, economic times, when money is in short supply, you don't spend what you don't have. It is that simple. Money in the State of Maine is quite definitely in short supply, and quite definitely, you should not be spending what we don't have. Almost everyone in Maine has been forced to bite the bullet this year. Every time I pick up a newspaper, it seems that I read about another massive layoff at a shipyard or a paper mill. State employees, they have made a sacrifice. Some of them laid off, or bumped, and those who remain are taking furlough days and deferring one week's pay. Although Legislative employees are not required to take furlough days, many have volunteered to do so.

Now it is our turn. We are faced with deciding between being part of the solution, or being part of the problem. In this Bill, I suggest that we do the former. This Bill sends a message to the people of Maine. A message that we as a group, not as Democrats or Republicans, but we as a group want to be heard loud and clear that we are all in this together. If the Legislature is going to make cuts in AFDC, educational funding, and pay for state employees, while accepting a \$1500 pay increase, what kind of message are we sending to the working families in Maine? What does it say to the waitress and gas station attendant who are struggling to pay the rent? Or the state employees who are trying to work unpaid furlough days into their already tight household budgets? How about the Sanford Firefighters whose local Union passed up a pay increase to help the town through it's budget crisis? And let's not forget the York County employees whose bipartisan legislative delegation voted not to give any of them raises this year?

Men and women of the Senate, I respectfully submit to you that leadership starts from the top. The Governor has given up part of his salary, it is the Legislature's turn to share in the fiscal burden. I respect each and every member of this Body, and I feel that during this session I have learned much. When not too long ago, testifying in favor of L.D. 1264, the good Senator from Cumberland, Senator Clark, referred to legislative responsibility, and how legislative action can have a negative impact on the taxpaying citizens of this state, and how at times the Legislature must correct itself. It is in that same spirit that I feel that each and everyone of us, each and every Legislator, must ask his or herself, is it fair, is it right, is it responsible, and is it in the best interest of the citizens of this state? Spending money we don't have while telling everyone else to tighten their belts is not in the best interest of the citizens of Maine.

You know, I commute to Augusta each day from my home in Scarborough, and as I have mentioned before, the good Senator from Androscoggin, Senator Gauvreau, it is during this daily routine that I listen to the radio, and consequently, find inspiration for some of my remarks before this Body. Well, today was no different. During my trip to Augusta, I heard a commercial for fax machines. And in this spot you hear a Politician giving a speech, and he tells his audience, "If I am elected President, I will make New York my number one priority". Next, thanks to a fax machine, you hear another politician, this one with a

southern drawl telling his audience, "If I am elected President, I will make Texas my number one priority". And as you might expect, other politicians from Hawaii to Florida, and so on down the line were tailoring the same faxed speech to their home states, changing their number one priority to suit their audiences. My point in telling you about this commercial, is that the general public believes, however unfairly, that politicians are double talkers, that they will say one thing and do just the opposite.

I ask you men and women of the Senate, to look beyond the State House, look to the citizens of this great state, and let this be the day when the Legislature lives up to the motto of the State of Maine, "Dirigo, I lead", and therefore, opposes the Majority Report. Mr. President, I request a Roll Call.

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

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. May I request that the Report be read to the Senate, please?

THE PRESIDENT: The Secretary will read the Report.

Which Report was **READ**.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Committee heard this Bill in a lengthy Hearing, a very good presentation by the sponsor. It was felt, however, that the salaries, going back to 1989, that is some two years back, first of all, those salaries are set by statute. We cannot vote ourselves a pay raise, and rightfully so. If this were a Bill to address pay raises that may be coming down the road for the next session, that would be a different story. We would have to obviously pay back what had been given to each Legislator since the beginning of January, because we are now in mid April, and there is not that much time in this legislative session. Also, those people who did seek office, knowing that they would be paid a certain stipend over a period of two years, the majority of the Committee felt that would not be right on our part, so that was the reason why we voted against passage of this Bill, and I would ask you to support the Ought Not To Pass Majority Report. 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. In response to the good Senator from Androscoggin, Senator Berube, and after talking to several Legislators regarding this issue, it was a concern that they would be forced to pay back monies already received. Taking that into account, I have had an amendment drafted

which would prorate this, and if it is this Body's desire, I will present that amendment pending this motion. Thank you.

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Speaking to you today as the Senator from Franklin County and a member of the Legislature for a number of years who has never voted to raise the Legislative salaries, and I may do that someday when I decide I do not want to serve here any longer, than probably I would look at raising salaries, because to be frank with you, I would never argue that Legislators in Maine make a lot of money. I have always felt strongly not to raise the Legislative salary since I have run for an election, because in essence, I would be voting myself a raise, because I never intend to run for office unless I plan on winning, and I am sure most of you feel the same way.

I am a co-sponsor of this Bill because I felt strongly that this Legislature needs to send a message to the citizens of the state, and I don't see us sending that message. I received at least fifty calls in the last month from state employees who live in my district. My sister lost her job, she went from a forty hour week and has taken a \$300 a month pay cut, because she happened to be one of the people that lost her job through the state, so I can relate on a personal basis, it hits very close to home. I have got factories in my district that have laid off a hundred different jobs in the immediate area of Farmington in the last six months, lost because of this economy. The taxpayers of this state are having a hard time meeting their expenses. Even though this Bill is only a token measure to show the citizens of the state that we agree with the Governor, who has taken a ten percent pay cut, agree that the Commissioner's have not taken raises, and many of them have taken cuts, we agree that when times are tough, even though we are Legislators and we are elected, that we are willing to take our share of cuts, too. The people of Maine are having a hard time paying their oil bills, thank goodness it has been warm. The people in my district are having a hard time paying their mortgages, and it is likely, I hope not, but it is highly likely that this Legislature might even decide to raise more taxes, and you will have to fight with some of us to do that, but it could very well happen. Before we can justify raising taxes, and increasing spending, you need to cut everywhere possible. I suggest that this is one area that we ought to at least, even though we all realize that if we use the good Senator from Cumberland, Senator Summers amendment, it is not going to amount to a lot of money.

And for those of you who don't know a whole lot about me, I have two young children, and I can assure you that this money is as important to me as it is to anybody here, but to be honest, I just feel that we have to send a message, a clear message to the public, the citizens of the state, that times are tough and we are willing to do our share. Thank you.

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

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. If it were 3:00 a.m. in the morning, I can remember standing here about that time when the recommendation came from the State Compensation Commission, totally disassociated with the Legislature, that resulted in our voting on what is currently the salary package for members of the 115th Maine Legislature.

I don't know if I am speaking as the Majority Leader this early evening, or I am speaking as the Senator from Senate District 26, but I sure am speaking, and I feel as though I am being placed in a political box, that we haven't heard from the Senator who signed this Bill out Ought Not To Pass, we have listened to a very deliberate, well organized remarks, including quotes of a Senator who sincerely, I hope, seeks to reduce the salary package afforded people who serve in this 115th, and subsequent Legislatures, until the issue is addressed again. And, I heard myself quoted on a totally different Bill, and not accurately, because I was referring to the development of state policy, and not salary. But, I would remind you that when we campaign for the Maine Legislature, and I am not at all ashamed of doing this, that people understand, people who need the salary compensation that they receive to survive, understand what it is that they would be receiving for compensation should they emerge victorious from their campaigns. And it is with that at least sense of security that many of them candidate for office, for if they were not assured of at least some fiscal reimbursement for their service, they would be precluded from even considering serving in public elected office.

I guess I would feel better if I didn't think that this Roll Call would be used against us in the upcoming election in the 116th Legislature in 1992, but I know better, because I have been around before. And I would simply say, that I find it interesting that those who may support the pending motion, need the compensation in order to pay their mortgages. That is me speaking, for if my salary were decreased, I would be unable to meet my maintenance obligations. There are those among us who serve here who must work for a living when we aren't in session. We have no spouse, are totally self sustaining, drive old cars with over a hundred and thirty-five thousand miles on them, not Cadillac's, are not financially secure, and find great fulfillment in public service, and recognize as does my colleague across the aisle, the Senator from Franklin, Senator Webster, that service in the Maine Legislature far from represents a road to financial security. For many of you, the salaries you receive is fun money. For me it means mortgage, car, electricity, and groceries, and there are some weeks that I can't secure certain prescribed drugs that I need of maintenance of myself, because I run out at the wrong time before our legislative expense checks come.

Now, if we were to do a survey of the cars that we drive, and compare it with the alleged financial status of those who vote in support, or oppose the pending motion, I think we would have a reasonably accurate reflection of the economic status and/or security of the people who serve in this Chamber. For the Record, as a freshman Legislator, I testified before the first State Compensation Committee, and

testified that even if the legislative salary were not increased, I would seek service in this Legislature. And that statement of long ago, now practically two decades, is the same today. For it not only represents financial sacrifice on my part to serve, it represents a financial sacrifice with reference to my stability and my security upon retirement. I only share this with you because I have done it so many times before. I am neither ashamed nor apologetic that I voted for every single pay raise the Compensation Committee has recommended to the Legislature, every single one of them! Because, I think all people, regardless of economic security, should have an opportunity to serve in this Chamber, or the other Chamber, and to find the same sense of fulfillment and service to the citizens of this state as I have been privileged to do.

So I stand before you at risk again, knowing that there is still another issue that will face me when I campaign for re-election in 1992. And if you interpret that as my intention to do so, you are right on target. I serve with pride. I earn my salary. I am neither apologetic nor am I a financial sacrifice. The people I serve, and the people in this state understand what it feels like in too many instances to not be financially secure. I, as a member of this Chamber, understand exactly how they feel, because that is how I live, day by day, week by week, month by month. And I support the pending motion to accept the Ought Not To Pass Report from the Committee on State and Local Government, for I believe that Report is the responsible Report. If we decrease here this evening the compensation that we receive, we are going to place at risk the ability of some of us to continue to serve, for they, too, have children, and spouses, and car payments, and insurance payments, and many of them have spouses who are not contributing to the financial maintenance because of the age of their children. Some of them have no spouses. Some of them have no spouses any more and that is why they are financially insecure.

Service in the Maine Legislature is not dependent on the compensation we receive, it never has been, and it never will be! We earn the money we receive, and the people of the State of Maine would have it no other way. Thank you Mr. President.

Off Record Remarks

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

Senator PEARSON: Thank you Mr. President. Ladies and Gentlemen of the Senate. Two, or three, or four years ago, I can't remember exactly when it was, the Bangor Daily News, on a front page article, covering all of their circulation area, published the expenses of a certain number of Legislators. I was one of them. Mine was the very lowest on the Bangor Daily News Chart. I hadn't gone anywhere, didn't want to go anywhere. I didn't serve on any interim Committees. But, what they did was, they said to me, they called me up and said, "Senator, we notice that you are very low on our Chart. We wonder if you

would comment about this Legislator from Aroostook County who is very high, who was a member of the other political Party". And I said, "Sure I will. I would love to. What I want to say to you is, that a Legislator from Aroostook County is just as entitled to access the State House as somebody from Augusta, and I would never question what they had for expenses. Never!" Guess what. They didn't publish that. Not at all. I just tell you that because I want you to know that I consider myself to be fair.

Last year, as the Senator from Penobscot, Senator Bost, could tell you, better than anybody else in this Chamber, except for myself, I was the victim of a campaign that was run against me that was in many ways very questionable. I was the Chairman of the Appropriations Committee, and that time the State Compensation Committee came before the Appropriations Committee with a recommendation. We trimmed off a lot of their recommendations, but we finally came up with a recommendation per their request for a pay increase. As the Chairman of that Committee, I defended it, in not too long of a speech, but just enough to make the point that I wanted to make. My opponent in the last race had part of that speech. It would go, dot, dot, dot, then a few words, dot, dot, dot, then a few more words, then dot, dot, dot, taken all out of context, totally out of context, and a chart that said, "This was Senator Pearson's pay increase that Senator Pearson voted for himself". It was a lie! And you know what? The people of Old Town knew it was a lie. I didn't vote myself a raise. We can't! Constitutionally we are not able to. What I am saying to you is, that I know exactly what is going on here. And I know you know, and you know I know. It is just plain raw politics. That's all it is, and what you will gain out of it is a Roll Call, and what you will lose out of it, is my respect.

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

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to suggest to the members of this Body, that the good Senator from Cumberland, Senator Clark, has disappointed me. She has missed the point completely. And I would also like to add that the good Senator from Penobscot, Senator Pearson, has his opinion, he is welcome to it, perhaps he knows something I don't. But, let me simply state as I said before, the economy in this state is gone, it is in terrible shape. I won't say what I wanted to say, but the economy in this state is in terrible, terrible, terrible shape.

Now, when the good Senator from Cumberland, Senator Clark, makes reference to the fact that she can't make a mortgage payment, or whatever she made, let me tell you something, ladies and gentlemen, my sister and her husband, and a lot of other people out there, the hundreds of unemployed people in this state, who are paying taxes, let's not forget, to pay the bills, to meet the budget expenses of this state, are having a hard time! The point, the very important point is, ladies and gentlemen, is that we need to send the right message. Now you can vote for this, or you can vote against this, you can do what you want. But, ladies and gentlemen of the Senate, I have never been so embarrassed to be here, to have someone suggest that the automobile I drive, which

happens to have 98,000 miles on it, has something to do with my ability to meet my expenses! It is embarrassing, it is unreasonable, and it is not be accepted by me in this Body! Ladies and gentlemen of the Senate, perhaps each of us has our own priorities on how we spend money. Let me tell you something right now, the fact that the good Senator from Cumberland, Senator Summers, happens to drive a used Cadillac, it is none of my business. It is none of your business! And to insinuate as has been done by the good Senator from Cumberland, Senator Clark, that somehow an automobile that we drive has something to do with our ability to meet our expenses is unfair and unacceptable, and I would expect an apology from that comment!

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Yesterday, I happened to write out two checks, one to the Internal Revenue Service, and one to the State. It hurt me very, very much. One reason why it hurt me very, very much, was that it was a substantial amount of money from my own meager resources. The reimbursement that we get, housing, meals, whatever is taxable income. Now, as a result from that, I, and many of you who live within the fifty mile limit of the Capitol, must report that as taxable income. This Bill would have us reimburse retroactively for the pay period, which is this year. It would have us reimburse for the tolls that you pay, when you commute, if you do, for the housing, for the meals, plus the salary. Now, this does not carry an emergency clause. If I read this correctly, and please correct me if I am wrong, this would not take affect until ninety days after we adjourn. Next October is when we would start repaying, we would be billed by the Taxation Department to reimburse to the General Fund those sums of money that we have expended, tolls, etc., and so I point this out to you.

And since everybody is making editorials, I drive a four cylinder car. And when I drive up, sometimes in the morning, I think when I am coming here of the people that I represent, and let it never be said that I have been a spend thrift with their money, and you very well know what I mean.

If this were a true, true savings for the taxpayers of my state, I would be the first one to join the Senator from Cumberland, Senator Summers. But, for the reasons I have explained, I hope that you would support the Ought Not To Pass Report. Thank you.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I was planning to ask a question of the good Senator from Cumberland, Senator Summers, regarding his position on his own salary increase should his Bill fail, but I understand that in talking with a number of my colleagues, that he has already clearly stated his position on this issue in a southern Maine newspaper several weeks ago. He may want to elaborate on his position and so state on the Record.

I guess rather than ask the Senator from Cumberland, Senator Summers, I will ask the Senator from Franklin, Senator Webster, if I may pose a question, Mr. President. If this Bill to rescind the legislative salary increases, which was enacted by the 114th Legislature, as he well knows, if it fails this evening, is the good Senator from Franklin, Senator Webster, making preparations to relinquish his own salary increase in order to provide the gesture to the public that he obviously feels so very, very strongly about?

THE PRESIDENT: The Senator from Penobscot, Senator Bost, has posed a question through the Chair to any Senator who cares to answer. The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. To respond briefly, it seems to me that this question was asked of me at the Hearing. And meaning no disrespect to any member of this Body, I simply told the members of the Committee at the time, that I felt, and still feel, that probably I am worth what I do here for the citizens of my District, I am worth as much as many, if not all of the members of this Legislature, and to be frank with you, in my opinion, I would be worth more than many. So, obviously, for that reason, once the good Senator from Penobscot, Senator Bost, and all the other members of the Legislature are willing to show that they are supportive of this, than I will suffer, and I can assure you, because I run a business, and I have gone from five employees to two, I can assure you, that this is as important to me as it is to you, but it is a matter of principle. The simple fact is, that the taxpayers everywhere, we can just put our heads in the sand and forget what is going on out there, but I am telling you ladies and gentlemen of the Senate, the taxpayers of this state are having a rough time, and we are isolated from it in the "Ivory Tower" here in Augusta, and evidently, don't realize what is going on. But, I am telling you that they are having a tough time out there, and we might as well vote for exempting yourself from the rest of the world. Because the real world out there is having trouble, and this Bill recognizes that we, the Legislators, realize the problems there, and we are willing to take our fair share along with everybody else.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair to the good Senator from Franklin, Senator Webster. Just for the Record, if he would state on the Record, the salary that Maine Legislators currently receive annually, and please make that an annual figure, because often when we read about it or hear about the salary, it is a biennial figure, so I ask that be done.

THE PRESIDENT: The Senator from Kennebec, Senator Kany, has posed a question through the Chair to any Senator who would care to answer. The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have heard this debate from time to time, actually, year, after year,

after year, and I always kind of wonder at it, because I find it interesting when I have conversations with my constituents about our salary level, they are surprised at how little we receive. I would also say that I am sure that each of us spends fifty hours a week on the average year round, and we are paid well under the minimum wage. I wish that the Senator from Franklin, Senator Webster, would now be willing to place on the Record exactly what that salary level is.

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

Senator **SUMMERS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Obviously, my remarks this evening have stirred some emotional response. First of all, I feel it necessary to respond to the good Senator from Androscoggin, Senator Berube, regarding my proposed amendment to this Bill. My proposed amendment, if it is presented, would first of all make the Bill an emergency, and it would also pro-rate the salary from the time this piece of legislation actually becomes law.

Secondly, I believe I prefaced my remarks with the fact that I respect each and every member of this Body, and I do. I present this piece of legislation in absolute sincerity. I am well aware of the difficulties of maintaining a household budget, believe me, I could use the \$1500. I have two young children, I have got day care and after school programs, car payments on a used car that has 98,000 miles on it that I purchased a year and a half ago. Insurance payments, mortgage payments, and every other kind of payment that you can think of, and I understand what it is like. I also work on the weekends when I am not here because it helps pay the bills. I don't doubt that each and everyone of us is worth the money they are paid. I don't think there is any question about that.

But, what remains before us, is the fact that we were sent here by the people who elected us to lead, and you can call it whatever you want, believe me, it has been called plenty of things, but it is responsible. You can't tell people one thing and do something else. I am confident that every member of this Body will vote his or her conscience, and that is really all I can ask for. But, I would like to say again, that this is an absolute sincerity. Thank you.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Thank you very much. I apologize for rising a second time on this issue. It troubles me, quite frankly, that I asked a question in earnest of the good Senator from Franklin, Senator Webster, and I really got a rather oblique response. I wish I had my pen in hand so that I could have written it down. It was very hard to follow the logic that Senator Webster offered us. He maintained that he was, and legitimately so, as an important member of this Body as anyone else, and certainly, I am not going to disagree with that. But, I am concerned that he as a member of leadership, irrespective of the fact that he is a member of this

Body, representing his district, would not lead by example on this issue. I guess I would ask the good Senator from Franklin, Senator Webster, if he would, in fact, lead by example, take the leadership role and help us focus.

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would just briefly respond to the good Senator from Penobscot, Senator Bost, that as I had stated before, I am in the same financial position, or perhaps worse than some of you, but I would be willing to follow the lead from you, the Senator from Penobscot, Senator Bost, that when you are willing to take the lead, I will follow.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to first inform the good Senator from Franklin, Senator Webster, that he will have a chance to follow, because I vote before he does, and he can follow my vote.

I think we have touched a couple of nerves here tonight. I really don't question the good Senator from Cumberland, Senator Summers motive in putting in this Bill, I think when he did it, he was very sincere. I just question whether or not being here for the first time, everything that had gone on, everything that was involved in being a State Legislator, and whether or not putting in the Bill at this particular time on this particular issue was right timing. I guess I say that for the following reasons. I think that whenever a person runs for the Legislature he is asked to make a lot of sacrifices in the first place. A lot of you have been here for a number of years. Most of us, I believe, work at some other job. To be here, we have to leave those jobs. And I think when we leave those jobs, we make a lot of sacrifices, monetary sacrifices, and I believe for some people it is in the thousands of dollars. It is in my case. So, we are already making sacrifices.

Obviously, we are not here for the money, any of us. But, it is just not a question about money when you are here in the Legislature. It is not just a sacrificing of losing money that you may lose because you lose your job, but it is everything else that is not associated with the type of job that may be nine to five, or eight to three. It is being here from seven o'clock to eight o'clock at night, sometimes it is being here from seven o'clock to three o'clock in the morning. It is driving a hundred and fifty miles, eighty miles a day. It is coming into the Legislature when your son is six years old and your daughter is two, and before you know it, he is twenty-one and she is seventeen. It is the sacrifice of all these things associated here with the pressures, the politics associated with being a Legislator. Sometimes we don't see these as sacrifices, but they really are sacrifices.

Do I think we deserve the salary we get? No. I think we deserve a lot more. As a matter of fact, if

I go to my constituents and tell them that I had an opportunity here to cut my salary, and I didn't do it, they would say, "Well, this just isn't right". And then they might question that. But then I think when I tell them how much I make, then they will question whether they will vote for me, not because I didn't vote for the cut in salary, but they are going to question my intelligence for working for that kind of money in the first place.

So, I think we all know where we are coming from. To the good Senator from Cumberland, Senator Summers, I really believe that this was not a political tool when you put it in, but I certainly think it has become one. But let me say in closing one thing, maybe there are some people that are going to sit here and vote to cut the salaries, and others are going to vote not to cut the salaries. Let me tell those of you that in my heart, when you vote to cut that, because I do believe it has become a political issue, when I vote to protect your salaries, I am, in fact, voting to protect your salaries, because you know that the majority of us are going to vote to keep it the way it is, you can sit back and say, "I voted to cut the Legislature, to cut their pay, and they didn't go along with it, but I voted to cut the Legislature". But then again, you don't turn your pay in, that I question. And I know the good Senator from Cumberland, Senator Summers, after a few questions were asked from a local newspaper, said he would turn in his salary even if this Bill didn't pass. I commend him for that, if he is going to do that. But, I would say to everybody in this Body, if you really believe that the sacrifices that you make, financially, family, if all of these sacrifices that you make are not worth the increase you got last year, than I think you should take the leadership roles, even if this Bill doesn't pass, to turn in that money to the Treasurer every two weeks. 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 feel very pulled on this issue. I feel my own family personal commitments, and frankly, I feel as if I have been put in that political box that has been made reference to. Lest anyone think that members of this Legislature have gone unscathed by this political climate, let me tell you, now that we are airing laundry, that for the last two years my husband, who is a builder, has been for the most part, unemployed. This big salary that we make, that frankly, many people sometimes think is similar to what they make down in Washington, that this salary of around \$8000 a year, is the primary income in my home. When I am pulled to be forced to make a decision as to whether or not I can afford to keep my lights on, I do understand what it is like, what other people in this state are going through. It is a very difficult situation that I am being put in, because if I vote to secure my family, than in turn, I will be voting as it has been said tonight, to be in disregard of the straights of what people in this state are in.

I will tell you, as Chair of Energy and Natural Resources, I do arrive here every single morning bright and early, and I leave here very late at

night. For five days a week, and in my spare time, I am volunteering in my community with just about every odd and sundry volunteer group that I can become involved in, and I don't think I am over paid. And I certainly don't think in any way that I am cheating the people of my district if I receive pay that has been voted to be paid toward Legislators. But, I must tell you that I feel very, very pulled, because I feel as if I go the responsible way, someone may paint me in a corner as being irresponsible, and I find that quite offensive.

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

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. There have been charges and counter charges, but I guess I must respond to a concern which I just heard articulated, and that is that there is at least one member of this Senate who has "bought the barn", so to speak. And the tactic has worked, and it hasn't for a long time. The tactic is, that a Senator stands and says, "You will be delaying this if you don't vote that way". So, if we vote with the Majority Report, and reject the potential cut in legislative compensation, you will be voting disregarding the fiscal and financial plight of the citizens of this state. You won't recognize what is going on out there, and you hold yourself in an "Ivory Tower", separate and distinct. What a bunch of bunk! Do you think that Legislators who have listened to the people of this state, eyeball to eyeball, person to person, through paid representatives, volunteers, and giving people, don't know what is going on? If you don't know what is going on, there is more wrong with this Legislature than the pay we receive! For I know of no group who are more sensitive, and aware, and responsive to the plight of our state economically than the Maine Legislature. But that doesn't mean that we have to subscribe to breaking a trust with those who candidated this time for this Legislature, as has occurred among state employees.

And we have forgotten one major feature, that Legislator's are taxpayers, too. In my other life I teach school. And teachers are paid through taxpayer generated funds. There have been more times than I care to be reminded, when some of my more assertive students say, "Well! My parents pay your salary"! And I say, "You are right! You are absolutely right". That is the first thing that slows them down. And I say, "And so do I pay my salary". "Well!" As I remember this young man saying to me, "I bet my father pays more taxes than you". And this happened to be a class in consumer mathematics. If ever an on sight program was made available, that was it. We were talking about mill rates, and that is what focused this little unit in math. We arranged immediately within that very day, a visit to the town office, where I had asked the tax assessor and his clerk to pull the tax records of all the parents in my class, including my property tax. And down we went, we had a presentation from the tax assessor, than I asked the question, granted it was loaded, "What if I wanted to find out how much Jane Jones down the road pays in taxes, could I"? And he said, "Yes, it is a matter of public record". So I said, "Let's find out how much the parents of these young people pay, are you interested"? The students were interested. So we had them all pulled out, and I

said to this young man, "Please notice how much I pay in property taxes in Freeport, Maine, and how much your parents pay". He said, "It is not right that it is available, we shouldn't be able to see this". I said, "It is a matter of public record".

So we finished that little facet in that unit, and we went around the corner to the Superintendent's Office. And I said, "Are you interested in learning how much your teachers earn, namely me"? And they said, "Yeah, I guess so". Well you know who really wanted to know, and I said, "Come on, let's go find out". So in the Superintendent's Office we went, and we hauled out upon request the salaries of the teachers of Freeport High School, and I only asked for mine. They used to be printed in the Town Report, they no longer are printed, but if people want them, they can go down and find out what they are. And I said, "This is what I make". So we went back into the Town Council Conference Room, using the black board, we did a consumer mathematics problem paying Mrs. Clark's teachers salary, based on the prorotation of the students in that class. And the following week we had another consumer math exercise in deductions, and how much the state pays, matching my contribution for retirement. That is an effort to make young people know the manner in which public funds are expended.

The citizens of this state and the members of this Legislature, and our most highly qualified, excellent, and dedicated staff, are all contributors to the function and operation of the Maine Legislature. We contribute our fair share in taxes, and we receive our reward for our efforts and our commitment and dedication in the form of compensation. The Legislature as an institution has been attacked consistently for too many recent years now. I submit to you that this is still another effort to round out the package, to fill in the corners. The Legislature has experienced enormous cuts in the last session of the 114th Legislature. It was the only agency of state to meet its percentage of cuts and exceeded it. The Legislature, as an institution will experience further cuts during this session, committing our fair share to addressing our fiscal shortfall, not only in this fiscal year, but in the upcoming biennium.

If I earned \$70,000, and had a home provided for me, and I mean this in no way as derision of the effort and the Governor to lead, I could sacrifice a week's pay, too. But that isn't my financial circumstances, nor is it a number of people who serve in this Chamber. So, I submit to you, that the salary that we receive, in response to the good Senator from Kennebec, Senator Kany, is as I understand it, \$10,500 for the First Regular Session. I want you to know that as a school teacher, I would earn more. Even as a school teacher, I have to add, but you wouldn't expect me to do otherwise. And in the Second Regular Session, our salary will be \$7,500, and for the salary and the income that we who live within the fifty mile perimeter, must claim as income. Unfortunately, that income is not subject to our contribution to the Maine State Retirement System. So, we get the double whammy, as has been eluded to.

But, we still continue to serve, we still present ourselves and our records, and our dedication to the people who elect us, and we do so with pride. Do not be mislead, you are not insensitive to the plight of the unemployed and the furloughed in our state. You are not insensitive to the strife that Maine's economy is experiencing if you vote for the pending motion, Majority Ought Not to Pass. You know that you are able to vote on this potential Roll Call whatever way you feel. Vote your conscience, vote what you know is right, but please, do not be afraid of voting for something because you fear the wrath of the taxpayer or your constituents back home. They know what you are doing. They know that you understand what is going on. And you are not completely disregarding the fiscal situation in our state by doing so. Do what you think is right, and whatever is right for you is how you will vote. It is not for me to judge. Thank you Mr. President.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I really do apologize for prolonging this debate, but as I listen to it, I remembered a piece of mail that I received recently, and I think it is pertinent to the subject, and I would like to read it into the Record. But, before I do, I would like to go on Record saying that I have four vehicles, and one of my cars is a 1987 Pontiac with a 104,000 miles. My husband has a pick-up truck, we have a Subaru with a 143,000, and I also have a 1973 MGB, which is my pride and joy. It is a toy, I bought it for myself, and I love it. I wouldn't give it up unless I had to because one of my children needed the money, or I needed it to raise my family on, but I don't think that is the situation.

I would also like to say that each and everyone of us here makes a sacrifice to be here, we know that, and I think generally speaking, most of our constituents realize that. But, I think each and everyone of us aside from the people that are new for the very first time, know what kind of a sacrifice that we make, rather it is financial or a personal sacrifice, because most of us have run more than once. We knew that when we were elected.

At this point, I would like to read a letter that I received. It says, "Dear Senator Cahill, I am writing to you to suggest that our state Legislators take action in a positive way in Augusta to help the financial crisis in our state, by offering to take at least a five percent cut in pay before deciding to legislate more taxes on the poor and middle class people of the State of Maine, who are already suffering from excessive taxation, unemployment, and poor medical benefits, resulting in poor medical care in many instances in the state. Teachers in part of the state have offered to take cuts in pay so that our children's education is not jeopardized because of the state budget crisis. Also, state workers have been requested to take several days off without pay, and many have already lost their jobs. I believe that an effort of this kind by our Legislators, is to help the people of the State of Maine, and would help immensely to increase the creditability and image of the people serving our State of Maine". And it is signed, sincerely, a constituent, Joan Bernard of Bowdoinham, Maine.

There has been a lot of accusations that this issue has been politically motivated. I hope that everyone here feels free to vote their conscience without intimidation, because that is what the process is all about. But, I believe that we also must listen to the people that elect us, and frankly, I have not had one letter from someone saying to take more money.

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

Senator **GILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I hadn't intended to speak this evening on this, but since a Roll Call has been asked for, I think it is only right to get up and tell you how I am going to vote, because I could sit here and vote with the Majority, which I intend to do, but I feel that I would reap the benefits of continuing to get my salary if I just sat here and voted. So, I thought I would like to get up and say a few words, because there are members of this Body who do rely on the salary that we are getting here, and if someone wanted to suggest that next year we might take a cut when we could make arrangements and prepare for that, that may be another whole story. But, when the salary that we are getting for some of us is needed to make ends meet, and those ends are not meeting, than I cannot afford to pay back anything. I would certainly have to go out and borrow to do that. I was just trying to figure, my taxes on my home are due May 1st, and then they are due again in six months, and I am worried about how I am going to come up with the money for that.

I could sit here very quietly, and very silently, and just decide that I am going to vote with the Majority here. But, I don't think that it is the right thing to do at this point in time. And as I say, that if someone suggested an amendment that we could look into in another year, or look into the next legislative session, than I would be more than willing to look at that then, because I could make my arrangements to suit the needs that I have to meet. I think we have spent a long time discussing this tonight, and I know people are heated on this issue, and I am standing, because I am heated on this issue. I know how I am going to vote. 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 think it has become very clear that the issue that we debate this evening has nothing to do with money. All of the money that we would save, if none of us were paid anything, would not even be noticed in our budget problems of this year. If we received not a dime, and it is such an honor for me to be here, if I could afford it, I would gladly serve without compensation, as many of us would.

But, that is not the issue here this evening. The issue here this evening has something to do with symbolism. Some kind of symbolism, that if we ask others to make sacrifices, that they take a reduction in salary, although they may be full time employees with other benefits and compensation, that somehow the Legislature ought to lead by making this symbolic gesture, somehow we make the lives of our

constituents better, that we have improved their lot in this state in a very difficult time.

I think it has become common and popular to lead by symbolism in this country, and I hope that we would not begin to do that in this great state. I have not come here to lead by symbolism. I have come here to spend this evening and the days of this Legislature to work on the heavy problems of this state. And therefore, I think to achieve the goals would be not to do it.

And I think there is a second issue here. It may be fine for us to stand here and talk about our particular salaries. But, this is a citizens Legislature. This is a Legislature where we ask the average men and women, those without particular means, to perhaps think about bringing their interests of their constituents at future times here. And yet, we look at a measure that may encumber their ability to do that in the future, for those people who come from modest backgrounds, to consider the possibility that they, too, might bring leadership to this great Body. I think that we perhaps ought to think about that before we vote on this.

And finally, let me just say, that rather than lead by symbolism, let us spend as much time, and I hope that those that present this Bill would do so, on the issues of education, and where we will find \$200 to \$250 million dollars to maintain the same level of education for our children. How we will stimulate this economy, improve the infrastructure, provide new jobs for those people who are going without, who recession is hitting the hardest. Those are the kinds of issues, I think, my constituency would ask that I serve here for, and that I spend my time and energy debating, and finding solutions and alternatives, not spending this enormous amount of time on whether or not we get \$1,500 more a year or not! Let's not be involved with symbolism. Let us spend our time and energy together in a bipartisan way to find the opportunities for education, employment, and housing, to meet the needs of the poorest and most disadvantaged in this state. And let us end this debate, let us do what we know is right.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I realize that this is the third time that I have risen this evening. I thought I would cut through some of the tension here tonight, and hopefully, I am the last speaker, if only for a moment to announce to members of this Senate, that the Majority Office received a call just moments ago from the good Senator from Penobscot, Senator Baldacci. He is on the way to the hospital, his wife is delivering their first child, and I might add that he pleaded that his wages not be cut now. Thank you.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. You were almost the last speaker, I guess I could have remained in my

seat, and probably hid behind the majority vote. I also have a car with a 100,000 miles, and in fact, I need a new car! I am probably one of the few here that actually is receiving money back in income tax from the state and the federal government this year.

We are a paid part time Legislature, but you perform full time work. I would feel probably a lot different about the Bill that my good friend and colleague, Senator Summers, of Cumberland, is trying to get us to vote for tonight if I was a full time employee and received full time wages. I figure it is approximately \$2.50 an hour, and to cut that, it seems now that the minimum wage is somewhere around \$4.25 an hour, it just seems that I certainly can't vote for it, and I am not going to try to hide behind the majority vote, it would be easy to slide through, never have anyone know that I was really in favor of the Majority Report. Thank you.

Senator **CLARK** of Cumberland moved to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

Senator **WEBSTER** of Franklin requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CLARK** of Cumberland to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

Will all of those in favor of the motion to **INDEFINITELY POSTPONE**, please rise in their places and remain standing until counted.

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

20 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **CLARK** of Cumberland to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **PREVAILED**.

Sent down for concurrence.

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

SENATE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Allowing Local Governments to Accept Federal and State Funds" (Emergency)

S.P. 151 L.D. 363

Report - Ought to Pass as Amended by Committee Amendment "A" (S-63).

Tabled - April 16, 1991, by Senator **BERUBE** of Androscoggin.

Pending - **ACCEPTANCE OF REPORT**

(In Senate, April 16, 1991, Report **READ**.)

Which Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-63) **READ**.

On motion by Senator **BERUBE** of Androscoggin, Senate Amendment "A" (S-74) to Committee Amendment "A" (S-63) **READ** and **ADOPTED**.

Committee Amendment "A" (S-63) as amended by Senate Amendment "A" (S-74) thereto, **ADOPTED**.

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

Off Record Remarks

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

On motion by Senator **CARPENTER** of York, **ADJOURNED** until Thursday, April 18, 1991, at 5:00 in the afternoon.