

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fifteenth Legislature
OF THE
State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 5, 1990 to May 16, 1991

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
 FIRST REGULAR SESSION
 33rd Legislative Day
 Thursday, April 4, 1991

COLES of Harpswell
 ANDERSON of Woodland
 HOGLUND of Portland
 JACQUES of Waterville
 POWERS of Coplin Plantation
 MARSH of West Gardiner
 GOULD of Greenville

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Russell Chase, Vassalboro United Methodist Church.

The Journal of Monday, April 1, 1991, was read and approved.

SENATE PAPERS

Later Today Assigned

Bill "An Act to Protect Children from Illegal Tobacco Sales" (S.P. 506) (L.D. 1344)

Came from the Senate, referred to the Committee on **Business Legislation** and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on **Legal Affairs**.)

On motion of Representative Gwadosky of Fairfield, tabled pending reference in concurrence and later today assigned.

Unanimous Leave to Withdraw

Report of the Committee on **Energy and Natural Resources** reporting "**Leave to Withdraw**" on Bill "An Act to Ease Municipal Solid Waste Costs" (EMERGENCY) (S.P. 240) (L.D. 631)

Report of the Committee on **Judiciary** reporting "**Leave to Withdraw**" on Bill "An Act Regarding Harassment by Telephone" (S.P. 176) (L.D. 431)

Report of the Committee on **Judiciary** reporting "**Leave to Withdraw**" on Bill "An Act to Allow the Maine Human Rights Commission to Recover Litigation Costs" (S.P. 219) (L.D. 546)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Divided Report

Majority Report of the Committee on **Energy and Natural Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Prohibit the Use of All-terrain Vehicles in State Parks" (S.P. 166) (L.D. 378)

Signed:

Senators: TITCOMB of Cumberland
 BALDACCI of Penobscot
 LUDWIG of Aroostook

Representatives: LORD of Waterboro

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-35) on same Bill.

Signed:

Representatives: MITCHELL of Freeport
 SIMPSON of Casco

Came from the Senate with the Majority "**Ought Not to Pass**" Report read and accepted.

Reports were read.

Representative Jacques of Waterville moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: I urge you to vote against the Majority "Ought Not to Pass" Report so we may then accept the Minority "Ought to Pass" Report.

I wish to call your attention to this situation. This bill, if passed, would prohibit recreational use of All-terrain Vehicles from our existing state parks system.

I had a bill in last session which would have done this but that one lost and I think we have to look at this very carefully. It is not just a local concern but it is a statewide concern. The concern is that the public's expectations of the state parks system is one of nature and quiet enjoyment, not that of an amusement park.

There is widespread statewide support for this kind of restriction. It is not just Mount Blue State Park, it is not just the Mount Blue area, it is not just Weld, it is Wilton, Farmington, — not just that area but also Bethel, Skowhegan, and Canaan. I am talking about people who signed petitions and there were at least a couple of thousand names from (from the petitions that I looked at) over 120 towns across the state, Skowhegan, Canaan, Fairfield, Waterville, Augusta, Winthrop, Bangor, Orono, Rockland, Rockport, Camden, Bath, Brunswick, Portland, South Portland, Cape Elizabeth, Kennebunk, Saco, Old Orchard, York, Gray, New Gloucester, Lewiston, Auburn, Leeds, Harrison and South Paris. All across the state, people do not believe that ATV's have a place in our existing state park system.

This bill leaves open the possibility that a state park be developed in the future which would accommodate ATV's.

It is said that only Mount Blue is capable of handling the ATV's because of its size but the reality is that its size is its special characteristic and it provides a remote and quiet recreational opportunity.

It is alleged that there is no problem and there is really no demand for this. I feel very strongly that we shouldn't always accept the dictum that when mechanized recreation comes in conflict with

non-mechanized recreation, that mechanized recreation always wins.

I want to briefly call your attention to the study that supposedly is looking at the impact of this trail in Mount Blue State Park. It is a very flawed study according to people who have reviewed it who were wildlife biologists and so forth — they have a totally inadequate baseline, both in time and scope, an inadequate time of study to determine these conditions. The interim report of the "supposedly" objective researcher recommended to the Parks Division that they advertise this and get more use of this park. Now I think that is an inappropriate kind of recommendation for a "supposedly" objective report. I have been told that this report will not be useful to other states and other locations considering use of ATV's because of its very flawed nature.

Mr. Speaker, when the vote is taken, I would ask for the yeas and nays, please.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I want to urge you to vote no on the pending motion and share with you the reasons that I signed the Minority "Ought to Pass" Report.

This bill deals primarily with an ATV trail that was built in Mount Blue State Park a couple of years ago. It was built at a cost to the state of \$20,000. It is an ATV trail that was very controversial locally when the program was initially suggested but it was built nonetheless, despite a lot of local opposition.

In the public hearing for this bill, I asked the Director of the Bureau of Parks and Recreation how many people use this \$20,000 trail and he told me that it was in the hundreds. I asked him to be more specific and he wasn't. In the hundreds means to me that it was between the number of 100 and 999 people using this trail. Don't forget, this trail cost the taxpayers or the people of Maine \$20,000.

I talked to Representative Heeschen and he thinks the number was 135 people so if 135 people use a \$20,000 trail, the cost of the trail per use is about \$175 and that's a lot of money to spend just to ride around the state park once.

The argument was made in the committee that since the money was from the ATV Fund, it was only assessed to ATV users and it was all right to spend \$20,000 on a trail that only they were going to use because, after all, it was their money. But just because the money is in the ATV Fund doesn't mean that it isn't the people's money, it is the state's money and it should be spent wisely.

I think the time has come to stop a program that is not necessary and if we are going to continue a program, the program should demonstrate some substantial benefit to the people of Maine. We are facing tough times and we shouldn't have a \$20,000 program up there that is going to satisfy the needs of 135 people. I think it is pretty wasteful.

I also object to it because of, and we didn't discuss this objection in committee, it came to my attention yesterday when I reread my folder on the bill, and I was particularly offended to find a letter from the United States Department of Agriculture, U.S. Forest Service, Bethel District, urging us to keep the program in Maine. Then I learned from Representative Heeschen (and he has an article that he would share with any member of the

House) that they are not having any ATV trails on their land, the White Mountain National Forest, but the White Mountain National Forest thinks it is a great idea to have all the ATV's in our state parks. This program is wasteful and it doesn't make any sense — people ought to use it and I think the people are looking at us at this particular difficult time in our history to be responsible. A \$20,000 trail that a 135 people use or maybe 999, we can't seem to find out, is not responsible so I am going to vote no and I hope you vote no also.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I will try to get down to the facts of the whole situation here.

Clearly, \$20,000 is a lot of money but the main reason they spent \$20,000 is to answer all the concerns that everybody had about establishing an ATV trail on an experimental basis in the state park. The money came from the people's registrations on those ATV's and, had the trail not been built, it would not have benefited the taxpayers one single penny.

The trail is not completely in Mount Blue Park, the trail is on private landowners land and park land and was established as an experimental trail to determine if, indeed, we have a place for ATV's to be used in the State of Maine, then everybody should be willing to be cooperative on doing that. You can't ask the private landowners to do it if the State of Maine isn't willing to look into it.

After the study, and you can call it flawed or whatever you want, all the horror shows that were brought out of what would happen, didn't happen. The environment was not degraded. The animals were not spooked. As a matter of fact, they are considering using the same trail on off-season for bicycle riding and for horseback riding, which I think is fine.

There is a mentality going across the state and we are seeing it more and more that, if you don't like something, go to the legislature, and they will ban it, whether you are talking about vehicles on the lakes, jet skis on ponds or high-powered boats. The majority of the committee felt that if the park belongs to everyone, then everyone should be given an opportunity to enjoy that park in his or her way, not in our way, in his or her way.

If there are so few people using it, we have been assured that when it gets down to where there is not enough interest to even bother with the trail, the ATV's will be taken off the trail and then they will pursue horseback riding and bicycle riding on that same trail.

It is not just a simple matter of — did we spend the money wisely, we spent it because the people who opposed it originally made us spend it that way. At the last public hearing, there was one opponent and when I went down and asked the opponent, she said, "I'm against ATV's." She wasn't against ATV's in the park, she was just against ATV's and that is fine and dandy, but I don't think we should be stopping this program that has just started up, that is being supervised very adequately before they have a chance to try it out because ATV riders are here, they have to have a place to go and, if they can do so in a safe, sound (as far as the environment is concerned) manner, then I think we should do it. Once you start banning somebody that you don't like, it is going to

go on and on and on.

The park belongs to everyone and we should at least try to accommodate everyone to be able to use that park. We put it on the outside perimeter of the park, the center of the park is still undisturbed, quiet, peaceful, you can walk your dog or whatever you want — that's why the majority of the committee went along with what they did. We have a problem with banning someone because some particular person just doesn't like it.

I would urge you to go with the "Ought Not to Pass" Report. It is not the right way to answer this problem, let the situation go on and, if the problems arise that have not arisen to this point, Parks and Recreation will put an end to it and we won't have to.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Men and Women of the House: I remember this bill or parts of it in the last legislature when the good Representative from Kingfield, who spent a lot of times outdoors, spoke on it. I spend a lot of time outdoors and he said, "There is nothing wrong with ATV's, heck you can drive right by a mother hen and partridge sitting on her chicks and she won't even move." I said to myself, anybody who knows anything about partridge knows that a mother partridge wouldn't move or a male partridge wouldn't move if there were eggs or chicks to protect even if you ran right over them. But that is not the point, the point is, I really think that state parks are for peace and quiet and families to enjoy the beauty of nature. Most families don't have a lovely backyard with trees, trails, lakes and wildlife.

I would like to pose a question through the Chair to anyone on the Committee of Energy and Natural Resources to answer whether or not there is a penalty in this bill for going off the trail? I think that is an important aspect. In my district, people call me frequently about people riding ATV's through the marshes destroying what is left of the wild orchids and tearing up property and making a terrible noise. If the ATV's didn't make a noise, perhaps it might be a little different. The noise that we have to endure when we are trying to enjoy the peace and quiet of Maine's great outdoors is my big objection to this bill. I think we made a mistake in the first place to allow this experiment and I don't think we should compound it by making another mistake.

So I would please pose that question to anyone on the Energy and Natural Resources Committee to say whether or not there are penalties for barging off the trail?

The SPEAKER: The Representative from Bath, Representative Holt, has posed a question through the Chair to anyone on the Energy and Natural Resources Committee who may respond if they so desire.

The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Men and Women of the House: As I understand it, that was one of the things that the Parks and Recreation people were going to look at to see whether or not they were behaving themselves on the trails. As far as I can find out, they are behaving themselves very well and there are no people squawking about it. I don't know whether there is a penalty, I don't believe so, but according to what Herb Hartman said, if they started abusing the privilege, they would be stopped.

This trail was experimental, it cost

\$20,000..yes, but it is also a dual purpose trail for horses and bikes and I think if you are going to make use of the trail, let them use the ATV's. If we had a lot of complaints, that would be one thing, but in view of the fact that it is a dual purpose trail, the \$20,000 wasn't spent exactly for the ATV's and I would urge you to support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Men and Women of the House: I am sorry to bring this up at this late hour but I would like to respond to two points that the Representative from Waterville made.

He said if you can't get the state to do something, how can you ask the private landowners to do it? That really is the question here. If we believe that ATV's shouldn't be banned, then why are they banned in all the other state parks? It is an appeasement. By picking Mount Blue, I think it is really unfair. I have a state park near me, Sebago Lake State Park, and I was told that you couldn't have ATV's in Sebago Lake State Park, they wouldn't be compatible. Why are they any more compatible in the Weld area of Mount Blue?

You also heard that people didn't testify — well, there are hundreds of people who signed petitions to oppose this. This came before our committee last year and, as a member of that committee, I went along with the majority and said we will give it a try, we will see what happens. Well, the statistics that you heard Representative Mitchell give you lead you to believe that if the trail has not been used, the trail was created for another purpose, and I submit to you that that purpose was an attempt by the Department of Conservation to appease the private landowners, that they shouldn't cut off their private lands to public access. One of the issues in public access is, of course, the abuse of private lands and that is where you get down to the question of whether ATV's abuse private lands and I feel they do. I feel the place for ATV's is on their own private land. We don't ask public lands to support golf courses, why should we ask them to support an ATV trail? If you want to play golf, you go to a golf course and you pay the fee. An ATV trail system could be built very easily and the Department has the figures and the costs to do that. So I repeat, they are banned in all the state parks and when you vote, I hope you consider the feelings of the people of the Mount Blue area that don't want this in their park and for the people who need a place to go with their ATV's, they should go on private lands, their own private land.

The SPEAKER: The Chair recognizes the Representative from Woodland, Representative Anderson.

Representative ANDERSON: Mr. Speaker, Ladies and Gentlemen of the House: These are the same arguments we heard when snowmobiles first started. This was a trial test, it has worked out very well and there were several people who came and testified against the first time we had it around. The second time, there were two or three and this time there was only one lady, and like Representative Jacques said, she just wanted to ban ATV's and nothing else.

I hope you will vote with the majority.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heeschchen.

Representative HEESCHEN: Mr. Speaker, Members of the House: I would just like to remind you that, in addition to the \$20,000 cost to the construction of

the trail, there is the cost of salaries of our state employees with the Parks Department promoting this trail. That is not included in that. I think it is very inappropriate for them to promote this kind of recreation, to actually go out and promote it if there is not a demand for it, especially promoting in this day and age a fossil fuel using recreation. I think that is inappropriate and the promotion aspect of it leads me to another point.

Among that 100 to 200 number of riders was one very large group (we were told) of somewhere around 50 ATV riders who were specifically invited from across the state to promote the use of this. These were organized riders and apparently this bit of promotion didn't work and they are still not coming back and using it. That figure is bulked up by this specific invitation for the Department to try to sell this to people who don't really want to buy it.

I think that the report and the study will not answer our concerns. As I mentioned, it is a flawed study, it is not looking at the real problems, it is not prepared right, not worked out right. They won't find that there are problems because there hasn't been enough use to determine those problems. I think we ought to cut our losses and get out of it. It is simply an inappropriate use of our state parks.

I think it is a specious argument to say that we have to accommodate every interest in our state park system. As the good Representative from Waterville said, everyone should be able to enjoy the park in their own way — well, we do not permit, among other things, I suspect, drag racing which somebody probably enjoy very much. Neither do we permit drinking in our parks and I am sure there are some people who would like to be able to have a picnic with a little bit of wine in a park in a bucolic situation but that is not permitted. I could go on and I could probably come up with a number of other kinds of things that are not permitted in our state park system so it just doesn't hold water to argue that we have to accommodate everybody in the state parks.

As to the allegation that there is only one opponent and they were just against ATV's..period, I think, there again, it is a commentary on what people in the state are feeling and that is, there is no recourse when non-mechanized go up against mechanized, they don't have a chance. I think that as far as the people of the Weld area goes who are concerned about this — they feel and they felt a couple of years ago, that they had been had by the Department, that they had been had by the committee and, as it turned out, had been had by the legislature so perhaps they were just gun shy.

Again, I would urge you to vote no on the pending motion so that we may go on to accept the Minority "Ought to Pass" Report.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Jacques, that the House accept the Majority "Ought Not to Pass" Report.

Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 23

YEA - Aikman, Aliberti, Anderson, Barth, Bell, Boutilier, Bowers, Cahill, M.; Carroll, J.; Cashman, Chonko, Coles, Cote, Crowley, DiPietro, Donnelly, Duffy, Duplessis, Dutremble, L.; Erwin, Farnum, Farren, Foss, Garland, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hale, Hanley, Hastings, Heino, Hichens, Hogle, Hussey, Jacques, Jalbert, Joseph, Ketover, Ketterer, Kilkelly, Kutasi, Lebowitz, Libby, Look, Lord, Luther, MacBride, Macomber, Manning, Marsano, Marsh, Martin, H.; McHenry, Melendy, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Gara, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Saint Onge, Salisbury, Savage, Sheltra, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Vigue, Waterman, Whitcomb.

NAY - Adams, Ault, Butland, Carleton, Cathcart, Clark, M.; Constantine, Daggett, Farnsworth, Gean, Goodridge, Gray, Handy, Heesch, Hepburn, Holt, Kerr, Kontos, Larrivee, Lawrence, Lemke, Lipman, Mahany, Mayo, Mitchell, J.; O'Dea, Oliver, Pfeiffer, Rand, Richardson, Rydell, Simonds, Simpson, Skoglund, Treat, Tupper, Wentworth.

ABSENT - Anthony, Bailey, H.; Bailey, R.; Bennett, Carroll, D.; Clark, H.; Dore, Hichborn, LaPointe, McKeen, Merrill, Small, The Speaker.

Yes, 101; No, 37; Absent, 13; Paired, 0; Excused, 0.

101 having voted in the affirmative and 37 in the negative with 13 being absent, the Majority "Ought Not to Pass" Report was accepted in concurrence.

COMMUNICATIONS

The following Communication:

115TH MAINE LEGISLATURE

March 29, 1991

Hon. Edwin H. Pert
Clerk of the House
State House
Augusta, ME 04333

Dear Clerk Pert:

Pursuant to our authority under Chapter 9 of the Public Laws of 1991 we have appointed Mr. Roger Hare of W. Buxton and Mr. David Flanagan of Freeport to the Special Commission on Governmental Restructuring.

Please let one of us know if you have questions about these appointments.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Was read and ordered placed on file.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Banking and Insurance

Bill "An Act to Create a State Insurance Fund" (H.P. 988) (L.D. 1433) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by President PRAY of Penobscot, Representative MITCHELL of Vassalboro and Senator ESTY of Cumberland)

Bill "An Act to Amend the Law Regarding Assessment of Insurers and License Fees under the Insurance Law" (H.P. 989) (L.D. 1434) (Presented by Representative GARLAND of Bangor) (Cosponsored by Senator BRAUN of Knox, Senator THERIAULT of Aroostook and Representative PINEAU of Jay) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Business Legislation

Bill "An Act to Require Disclosure of the Per Therm Price of Propane Gas" (H.P. 971) (L.D. 1412) (Presented by Representative DiPIETRO of South Portland)

Bill "An Act to Provide for the Regulation of Massage Therapists" (H.P. 978) (L.D. 1421) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Senator CONLEY of Cumberland, Representative LAWRENCE of Kittery and Representative ADAMS of Portland)

Ordered Printed.
Sent up for Concurrence.

Later Today Assigned

Bill "An Act to Allow the Part-time Chaplain's Position at the Maine State Prison to Be a Job-sharing Position" (H.P. 979) (L.D. 1422) (Presented by Representative MELENDY of Rockland) (Cosponsored by Representative LARRIVEE of Gorham, Representative McKEEN of Windham and Representative MAYO of Thomaston)

(The Committee on Reference of Bills had suggested the Joint Select Committee on Corrections.)

On motion of Representative Mayo of Thomaston, tabled pending reference and later today assigned.

Education

Bill "An Act to Require a Driver Education Program Curriculum" (H.P. 984) (L.D. 1429) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Senator CLARK of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Provide Certain Municipalities with an Exception to the Waste Facility Siting Laws" (H.P. 973) (L.D. 1414) (Presented by Representative WENTWORTH of Arundel) (Cosponsored by Senator DUTREMBLE of York and Representative LORD of Waterboro)

Bill "An Act to Facilitate Recycling Programs for Aseptic Packages and Milk Cartons" (EMERGENCY) (H.P. 982) (L.D. 1427) (Presented by Representative MICHAUD of East Millinocket) (Cosponsored by Senator BUSTIN of Kennebec, Senator KANY of Kennebec and Representative ANDERSON of Woodland)

Bill "An Act to Establish and Implement the Maine Nonpoint Source Pollution Control Program" (H.P. 987) (L.D. 1432) (Presented by Representative MARSH of West Gardiner) (Cosponsored by Representative COLES of Harpswell and Senator TITCOMB of Cumberland) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Fisheries and Wildlife

Bill "An Act to Amend the Boundaries of the Back Bay Cove Sanctuary" (H.P. 974) (L.D. 1417) (Presented by Representative REED of Falmouth) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Human Resources

Bill "An Act to Establish a Special Housing Allowance for the Aid to Families with Dependent Children Program" (EMERGENCY) (H.P. 977) (L.D. 1420) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Representative STROUT of Corinth, Representative CHONKO of Topsham and Speaker MARTIN of Eagle Lake)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Require the Department of Human Services to Certify all Septic Systems on Bodies of Water Used for Drinking Water Supplies before Requiring Filtration Systems" (H.P. 986) (L.D. 1431) (Presented by Representative JACQUES of Waterville) (Cosponsored by Representative LORD of Waterboro)

(The Committee on Reference of Bills had suggested the Committee on **Human Resources**.)

On motion of Representative Manning of Portland, was referred to the Committee on **Energy and Natural Resources**, ordered printed and sent up for concurrence.

Judiciary

Bill "An Act to Prevent Financial Gain by Convicted Drug Offenders" (H.P. 969) (L.D. 1410) (Presented by Representative MELENDY of Rockland) (Cosponsored by Representative CARROLL of Gray, Representative JOSEPH of Waterville and Senator MILLS of Oxford) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Bill "An Act to Allow Disclosure of Litigation Information in Cases That Settle" (H.P. 985) (L.D. 1430) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representative JACQUES of Waterville, Representative DORE of Auburn and Representative STEVENS of Bangor)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Increase the Interest Paid on Workers' Compensation Awards" (H.P. 975) (L.D. 1418) (Presented by Representative MCHENRY of Madawaska) (Cosponsored by Representative MITCHELL of Vassalboro, Representative PINEAU of Jay and Senator ESTY of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act Concerning the Number of Signatures Required for County Office Elections" (H.P. 970) (L.D. 1411) (Presented by Representative LIPMAN of Augusta) (Cosponsored by Representative DUPLESSIS of Old Town)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Bill "An Act to Expand the Conflict of Interest Laws for Officers and Employees of the Maine State Housing Authority" (H.P. 981) (L.D. 1426) (Presented by Representative OLIVER of Portland) (Cosponsored by Representative GEAN of Alfred, Representative KILKELLY of Wiscasset and Representative ADAMS of Portland)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Restrict Unsolicited Computer-generated or Automated Telephone Calls" (H.P. 972) (L.D. 1413) (Presented by Representative SPEAR of Nobleboro) (Cosponsored by Senator SUMMERS of Cumberland, Representative RICHARDSON of Portland and Representative ADAMS of Portland)

Bill "An Act to Amend the Charter of the Gray Water District" (EMERGENCY) (H.P. 976) (L.D. 1419) (Presented by Representative CARROLL of Gray) (Cosponsored by Senator RICH of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Require Electric Utilities to Develop Proposals for Affordable Pricing for Low-income Residential Customers and for Financing Conversions from Electric Space Heat" (H.P. 983) (L.D. 1428) (Presented by Representative ADAMS of Portland) (Cosponsored by Representative TREAT of Gardiner, Representative CLARK of Millinocket and Senator CLEVELAND of Androscoggin)

Bill "An Act to Provide Affordable Electric Service for Low-income Citizens of the State" (H.P. 980) (L.D. 1425) (Presented by Representative OLIVER of Portland) (Cosponsored by Representative HOLT of Bath, Representative ADAMS of Portland and Senator CONLEY of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Reported Pursuant to Public Law

Representative MACOMBER for the Joint Standing Committee on Transportation, pursuant to Public Law 1989, chapter 707, section 5 ask leave to submit its findings and to report that the accompanying Bill "An Act to Clarify Use of Motor Vehicle Auxiliary Lights and Emergency Signals" (H.P. 990) (L.D. 1435) be referred to the Joint Standing Committee on **Transportation** for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on **Transportation**, ordered printed and sent up for concurrence.

The following items appearing on Supplement No. 2

were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Require All Watercraft Used on Inland Waters to Have Maine Registrations" (S.P. 533) (L.D. 1416)

Bill "An Act to Enhance the Trapping of Beaver" (S.P. 535) (L.D. 1424)

Came from the Senate, referred to the Committee on **Fisheries and Wildlife** and Ordered Printed.

Were referred to the Committee on **Fisheries and Wildlife** in concurrence.

Bill "An Act to Establish a System of Consumer Advocates for Persons with Severe and Prolonged Mental Illness" (S.P. 534) (L.D. 1423)

Came from the Senate, referred to the Committee on **Human Resources** and Ordered Printed.

Was referred to the Committee on **Human Resources** in concurrence.

Bill "An Act to Retain Legal Services for Debtors" (S.P. 531) (L.D. 1409)

Came from the Senate, referred to the Committee on **Judiciary** and Ordered Printed.

Was referred to the Committee on **Judiciary** in concurrence.

Bill "An Act Concerning Work-restricted Licenses" (S.P. 532) (L.D. 1415)

Resolve, to Name the Interstate Bridge over the Piscataqua River the "David H. Stevens Memorial Bridge" (S.P. 530) (L.D. 1408)

Came from the Senate, referred to the Committee on **Transportation** and Ordered Printed.

Were referred to the Committee on **Transportation** in concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative VIGUE from the Committee on **Business Legislation** on Bill "An Act Regarding the Improper Installation of Chimneys and Fireplaces" (H.P. 27) (L.D. 30) reporting **"Ought Not to Pass"**

Representative LAWRENCE from the Committee on **Legal Affairs** on Bill "An Act to Reimburse Philip Wolley for Litigation Expenses Incurred in Connection with His Termination and Reinstatement as a State

Employee" (H.P. 153) (L.D. 238) reporting **"Ought Not to Pass"**

Representative LAWRENCE from the Committee on **Legal Affairs** on Bill "An Act to Bring Conformity to the Application of Comprehensive Planning Ordinances" (H.P. 506) (L.D. 700) reporting **"Ought Not to Pass"**

Representative JACQUES from the Committee on **Energy and Natural Resources** on Bill "An Act to Allow Certain Lime Quarries to Be Used for Nontoxic Disposal Sites" (H.P. 624) (L.D. 894) reporting **"Ought Not to Pass"**

Representative PARADIS from the Committee on **Judiciary** on Bill "An Act Concerning Disclosure of the Names of Criminal Suspects" (H.P. 449) (L.D. 639) reporting **"Ought Not to Pass"**

Representative LAWRENCE from the Committee on **Legal Affairs** on Bill "An Act Relating to Credit Terms for Retail Liquor Licensees" (H.P. 539) (L.D. 776) reporting **"Ought Not to Pass"**

Representative LORD from the Committee on **Energy and Natural Resources** on Bill "An Act to Exempt Housing Developments of 6 Units or Less from the Natural Resource Protection Laws in Certain Situations" (H.P. 451) (L.D. 641) reporting **"Ought Not to Pass"**

Representative LORD from the Committee on **Energy and Natural Resources** on Bill "An Act to Encourage the Use of Water Conservation Devices" (H.P. 364) (L.D. 518) reporting **"Ought Not to Pass"**

Representative JACQUES from the Committee on **Energy and Natural Resources** on Bill "An Act to Compensate Landowners for Property Value Losses Due to Wetlands Regulation" (H.P. 626) (L.D. 896) reporting **"Ought Not to Pass"**

Representative CLARK from the Committee on **Utilities** on Bill "An Act to Require Certain Proposed Cogenerators to Obtain Review by and Approval of the Public Utilities Commission" (EMERGENCY) (H.P. 530) (L.D. 758) reporting **"Ought Not to Pass"**

Representative LAWRENCE from the Committee on **Legal Affairs** on Bill "An Act to Remove the State from the Liquor Business" (H.P. 185) (L.D. 270) reporting **"Ought Not to Pass"**

Representative LAWRENCE from the Committee on **Legal Affairs** on Bill "An Act Concerning the Signing of Marriage Certificates" (H.P. 468) (L.D. 662) reporting **"Ought Not to Pass"**

Representative ANTHONY from the Committee on **Judiciary** on Bill "An Act to Quiet Title to Unused Ancient Rights-of-way" (H.P. 342) (L.D. 472) reporting **"Ought Not to Pass"**

Representative ANTHONY from the Committee on **Judiciary** on Bill "An Act to Amend the Confidentiality of Records for the Department of Transportation" (H.P. 531) (L.D. 759) reporting **"Ought Not to Pass"**

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative OTT from the Committee on Judiciary on Bill "An Act to Allow a Limit on Fees for Service of Disclosure Subpoenas" (H.P. 262) (L.D. 382) reporting "Leave to Withdraw"

Representative CLARK from the Committee on Utilities on Bill "An Act to Amend the Charter of the Bangor Water District" (H.P. 527) (L.D. 755) reporting "Leave to Withdraw"

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Facilitate Economic Growth Compatible with the Maine Environment" (H.P. 434) (L.D. 617) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Representative COTE from the Committee on Judiciary on Bill "An Act to Recriminalize Intoxication" (H.P. 524) (L.D. 752) reporting "Leave to Withdraw"

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, with respect to item 6-18, I would move to substitute the bill for the Committee Report.

The SPEAKER: The Chair would advise the Representative that the motion is out of order.

Representative MARSANO: Mr. Speaker, could I call the Chair's attention to Page 244 of the Legislative process which says "that any member on a Unanimous "Leave to Withdraw" Report may take such action.

The SPEAKER: The Chair recommends that he read House Rule 16.

Representative MARSANO: I have read House Rule 16 too, Mr. Speaker, and I would ask that the matter be tabled in order that we could speak further to it.

The SPEAKER: The Chair has made the ruling.

Representative MARSANO: I would appeal the ruling of the Chair to the House, Mr. Speaker. The information on rules which we are provided reads and I quote, "A "Leave to Withdraw" Report offers any legislator the opportunity to substitute the Bill for the Committee Report on the floor of the House with approval of the majority of the members." That is the statement on which I rely. Mr. Speaker, I would respectfully request this bill be substituted because, although I was a sponsor I was never given the opportunity for a "Leave to Withdraw" and I notice that is part of the "Leave to Withdraw" rule. This bill was important to many members of my community who traveled over here and sat here for many hours during a very long afternoon of hearings and I would like to see this matter discussed. I

just suggest to the Chair that that is in the Legislative Procedure Manual that has been printed and distributed by this House, it is different from last year, and I would urge the Chair to please reconsider the ruling.

The SPEAKER: The Chair would advise the Representative from Belfast, Representative Marsano, that Joint Rule 15 deals with bills received in this body, this bill is not a House bill, it is a bill between the two bodies; therefore, it is not proper for a House Rule to overturn the Joint Rule.

The Chair will order a vote. The pending question is the ruling of the Chair. Those in favor of sustaining the Chair will vote yes; those opposed will vote no.

A vote of the House was taken.

83 having voted in the affirmative and 46 in the negative, the ruling of the Chair was sustained.

Subsequently, was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Representative LAWRENCE from the Committee on Legal Affairs on Bill "An Act Authorizing Sale of Liquor Outside of Exclusive Territory" (H.P. 410) (L.D. 593) reporting "Leave to Withdraw"

Representative TARDY from the Committee on Agriculture on Bill "An Act to Limit Domestic Waterfowl in Farm Ponds" (H.P. 467) (L.D. 661) reporting "Leave to Withdraw"

Representative MURPHY from the Committee on Taxation on Bill "An Act to Permit Counties to Promote Economic Development and Property Tax Relief Through a Dedicated Local Tax on Meals and Lodging" (H.P. 431) (L.D. 614) reporting "Leave to Withdraw"

Representative NADEAU from the Committee on Taxation on Bill "An Act to Change Eligibility Requirements for the Maine Residents Property Tax Program" (H.P. 488) (L.D. 682) reporting "Leave to Withdraw"

Representative NADEAU from the Committee on Taxation on Bill "An Act to Raise the Property Tax Exemption for Churches" (H.P. 416) (L.D. 599) reporting "Leave to Withdraw"

Representative MACOMBER from the Committee on Transportation on Bill "An Act to Protect the Safety of Motorcycle Passengers" (H.P. 368) (L.D. 522) reporting "Leave to Withdraw"

Representative FARREN from the Committee on Fisheries and Wildlife on Bill "An Act Regarding Deer Hunting" (H.P. 608) (L.D. 868) reporting "Leave to Withdraw"

Representative NADEAU from the Committee on Taxation on Bill "An Act Concerning the Property Tax Circuit Breaker" (H.P. 49) (L.D. 69) reporting "Leave to Withdraw"

Representative NADEAU from the Committee on Taxation on Bill "An Act to Exclude Public Pension Payments for People 62 Years of Age or Older from

Taxation" (H.P. 29) (L.D. 32) reporting **"Leave to Withdraw"**

Representative FARNSWORTH from the Committee on **Judiciary** on Bill "An Act to Protect Volunteers from Liability" (H.P. 340) (L.D. 470) reporting **"Leave to Withdraw"**

Representative PARADIS from the Committee on **Judiciary** on Bill "An Act to Limit the Liability of Sponsors of Equine Activities" (H.P. 41) (L.D. 57) reporting **"Leave to Withdraw"**

Representative PARADIS from the Committee on **Judiciary** on Bill "An Act Concerning Liability for Damage to Property as a Result of Shoplifting" (H.P. 466) (L.D. 660) reporting **"Leave to Withdraw"**

Representative PARADIS from the Committee on **Judiciary** on Bill "An Act to Provide for More Substantial Penalties for Assaults Against Certain Agents of the Department of Human Services" (H.P. 442) (L.D. 632) reporting **"Leave to Withdraw"**

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Legal Affairs** reporting **"Ought Not to Pass"** on Bill "An Act Concerning Municipal Clerk Office Hours on the Saturday Preceding a Statewide Election" (H.P. 386) (L.D. 560)

Signed:

Senators: MILLS of Oxford
KANY of Kennebec
SUMMERS of Cumberland

Representatives: LAWRENCE of Kittery
PLOURDE of Biddeford
DAGGETT of Augusta
POULIN of Oakland
RICHARDSON of Portland
TUPPER of Orrington
BOWERS of Sherman

Minority Report of the same Committee reporting **"Ought to Pass"** on same Bill.

Signed:

Representatives: JALBERT of Lisbon
STEVENS of Sabattus
HICHENS of Eliot

Reports were read.

Representative Lawrence of Kittery moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and

Gentlemen of the House: I would urge you to consider the legislation before us. We are requiring that municipalities be open Saturday before election day, regardless of their size. The municipalities do that, they pay their clerks to be there and then in the small towns, many times people don't show up. There were several clerks that came to me last year and asked to have this legislation submitted. One of the clerks said that in the times she has had office hours on Saturday, no one has ever shown up. Another clerk said that in the time she has had office hours on Saturday, one person showed up only because she felt sorry for the clerk because she had to sit there for four hours on Saturday.

In small communities, people have plenty of opportunities to submit absentee ballots. This is not necessary, it should be an option to communities of 2,500 or less.

I would appreciate this bill getting to second reading so I may offer an amendment which would specify that there should be 2,500 or fewer residents.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: Maine has one of the most open election laws in the country and what it has resulted in is, it has the highest voter turnout of any state in the country. One of these election laws is the election law that requires the municipalities to be open on the Saturday before the election to allow people who are unable to get to the town office during the week to get to the town office on the weekend.

This bill, if passed, would discriminate against people who are from small communities. If you are from a small community, you would not have the same access to be able to vote on the weekend as if you were from a large city and I hope you will support the Majority "Ought Not to Pass" Report and keep Maine's election laws open and very liberal to allow the maximum number of people in this state to vote.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: One thing should be brought out, it should be optional on the small towns. We have towns in this state that probably have no more than a few hundred people, the clerk is there, and nobody shows up. This is optional that small towns may elect to open.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: This is just a little bit of property tax relief for the small communities by not having to open on that day. Very few of them have anyone come in and sign up when they were forced to be open.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, Men and Women of the House: I rise this evening to support the "Ought Not to Pass" Report. The simple reason is that, as Representative Lawrence has already indicated, that we have made a real effort to get the vote out in the State of Maine and it is working. The bottom line is that in smaller communities, and I happen to represent one of those small communities, is that most of the people don't even worry when the town hall is open. I would also like to add that, in

many of these communities, it indicates to the citizens when they are open and that it makes the town hall available to them to either register or make out an absentee ballot.

I strongly urge you to support the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: The particular part emerged in committee discussions and that is to have consistency in our state. On that Saturday before election, we all know that enthusiasm builds as the Tuesday before election comes. I feel if there is consistency in the access to registration all across the state, then we would have a capacity for a wider dissemination and knowledge of how one can participate in our election system showing a democratic and open field of Maine politics. I think consistency would be lost if some towns could be open and others could not. We should, in fact, be asking the Secretary of State to further promote the Saturday before election time as a consistent time for, (generally speaking people who are not working on that day) all Mainers who would not want to participate on the Tuesday following to register to vote.

Finally, one other problem that is always a concern of our committee is that if we remove the Saturday consistency rule throughout the state, there would be a greater sense to put that off until election day and that would cause some difficulties too. So the consistency to me is critical in terms of communicating access and the ability to register, change of address and to make Mainers, wherever they are, feel they have access to the polls.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Hichens.

Representative HICHENS: Mr. Speaker, Members of the House: You have on your desks a list of all the towns that do not come under this local option provision. There are a great many of them and many of these towns, as has already been said, the clerk sits there all morning on Saturday and no one shows up. These people have that same opportunity on election day and these small towns wouldn't have all that congestion as the good Representative referred to so I will hope that you will support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I can speak from experience as my town has a population of about 1450. For the past two years, our office has been open, we pay the lady an hourly rate which is about \$10 an hour to sit there and not one soul, for the past two years, has ever come to the office.

This bill will allow the town officials the option and in these economic times, where we are trying to save money to give the people some tax relief, we need to look at this bill because this bill would help these small towns. Every little bit helps and I urge you to consider this.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I speak from experience on this too. I am going to say to you tonight...what's the

big deal whether we are open or not? What's the big deal? I go in there when they are open on Saturday before the election for nothing as the town clerk. I think there are a lot of towns that do that. So what if only two or three people come in? Those are two or three people I can handle when they vote absentee that might not be able to do it some other way.

The main objection as to why we are open on Saturday before the election is to allow some of those people who might not be able to vote election day. That is one reason. The other reason is that we allow them to come in and register. That helps us to get them registered so it doesn't take time away on election day. Granted years ago, we used to be open before we were required. Now all we have to do is the Primary and the General Election.

I say to you from experience of 17 years that this is no real big deal whether you are or not but I think you should have consistency. We ought to have all the towns do it but I don't think this is a big expense.

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Tupper.

Representative TUPPER: Mr. Speaker, Ladies and Gentlemen of the House: I strongly urge you to support the Majority Report.

The large voting record in the State of Maine, as the good Representative said, we won't be denying our people access to register.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: This bill is not an attempt to deny people access but it is a bill to allow municipalities to make some decisions, particularly small municipalities. It takes us more time to get around in the rural areas than it does in the urban area and it costs us more to do that. We don't always have hospitals in the rural areas like they do in urban areas. There are a lot of discriminatory issues and a lot of inconsistencies in the state. Small towns have different issues than the larger towns. This would not stop any town from being open on a Saturday, it would just allow them to make that decision based on their experience and what they feel they need to do. I think we ought to give them that opportunity. I urge you to support the Minority Report.

Representative Jalbert of Lisbon requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Kittery, Representative Lawrence, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 24

YEA - Adams, Ault, Bell, Boutilier, Cahill, M.;

Cashman, Cathcart, Coles, Cote, Crowley, Daggett, DiPietro, Donnelly, Duffy, Farnsworth, Farnum, Goodridge, Graham, Gray, Gurney, Gwadosky, Handy, Heeschen, Hoglund, Holt, Jacques, Joseph, Kerr, Ketover, Ketterer, Lawrence, Lemke, Look, Macomber, Mahany, Manning, Mayo, McHenry, McKeen, Melendy, Merrill, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Paul, Pendexter, Pendleton, Pfeiffer, Plourde, Poulin, Pouliot, Powers, Rand, Reed, W.; Richardson, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Stevens, P.; Strout, Swazey, Tammaro, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Aliberti, Anderson, Barth, Bowers, Butland, Carleton, Carroll, J.; Chonko, Clark, M.; Constantine, Duplessis, Dutremble, L.; Erwin, Farren, Foss, Garland, Gean, Gould, R. A.; Greenlaw, Hanley, Hastings, Heino, Hepburn, Hichens, Hussey, Jalbert, Kilkelly, Kontos, Kutasi, Larrivee, Lebowitz, Libby, Lipman, Lord, Luther, MacBride, Marsano, Marsh, Martin, H.; Morrison, Nash, Norton, Nutting, Parent, Pineau, Pines, Reed, G.; Richards, Ricker, Rotondi, Salisbury, Savage, Simpson, Skoglund, Spear, Stevens, A.; Stevenson, Tardy, Townsend, Whitcomb.

ABSENT - Anthony, Bailey, H.; Bailey, R.; Bennett, Carroll, D.; Clark, H.; Dore, Hale, Hichborn, LaPointe, O'Dea, Small.

Yes, 78; No, 61; Absent, 12; Paired, 0; Excused, 0.

78 having voted in the affirmative and 61 in the negative with 12 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S.P. 91) (L.D. 176) Bill "An Act to Define the Boundary between the Towns of Madison, Norridgewock and Skowhegan" Committee on **State and Local Government** reporting "Ought to Pass"

On motion of Representative Crowley of Stockton Springs, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the Bill read once and assigned for second reading Monday, April 8, 1991.

(S.P. 273) (L.D. 732) Bill "An Act Providing a Procedure for the Termination of the Degree-granting Authority of Educational Institutions" Committee on **Education** reporting "Ought to Pass"

On motion of Representative Crowley of Stockton Springs, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the bill read once and assigned for second reading Monday, April 8, 1991.

(S.P. 291) (L.D. 773) Bill "An Act to Provide Funding for Volunteer Literacy Services for Maine Citizens" (EMERGENCY) Committee on **Education** reporting "Ought to Pass"

(S.P. 315) (L.D. 853) Bill "An Act to Amend the Maine Lemon Law" Committee on **Business Legislation** reporting "Ought to Pass"

(S.P. 19) (L.D. 8) Bill "An Act to Regulate Water Utilities" (EMERGENCY) Committee on **Utilities** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-31)

(H.P. 99) (L.D. 140) Bill "An Act to Establish Standards of Financial Need for Grants under the Small Community Grants Program" (EMERGENCY) Committee on **Energy and Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-61)

(H.P. 113) (L.D. 156) Bill "An Act to Assist in the Cleanup of Contaminated Property" Committee on **Energy and Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-62)

(H.P. 450) (L.D. 640) Bill "An Act to Amend the Election Laws Relating to Ballot Counting" Committee on **Legal Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-65)

(H.P. 274) (L.D. 394) Bill "An Act to Amend the Charitable Solicitations Act" Committee on **Business Legislation** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-66)

(H.P. 383) (L.D. 557) Bill "An Act Concerning the Commission on Governmental Ethics and Election Practices" Committee on **Legal Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-67)

(H.P. 318) (L.D. 448) Bill "An Act Concerning Waste Management" (EMERGENCY) Committee on **Energy and Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-68)

(H.P. 379) (L.D. 553) Bill "An Act to Protect Stone Walls, Stone Impoundments and Timber Bridges of Historical Significance" Committee on **Energy and Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-69)

(H.P. 680) (L.D. 979) Bill "An Act Concerning the Town of Rumford Water District" Committee on **Utilities** reporting "Ought to Pass"

(H.P. 474) (L.D. 668) Resolve, to Direct the Department of Mental Health and Mental Retardation to Develop a Plan to Provide Appropriate Services for Severely Mentally Ill Persons Who Are Living in Homeless Shelters (EMERGENCY) Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-71)

(H.P. 404) (L.D. 587) Bill "An Act to Increase Support for Affordable Housing" Committee on **Taxation** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-70)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, April 8, 1991, under the listing of Second Day.

(H.P. 86) (L.D. 121) Bill "An Act to Implement the Recommendations of the Travel Information Advisory Council Concerning Informational Signs" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-72)

On motion of Representative Gurney of Portland, was removed from the Consent Calendar, First Day.

On motion of the same Representative, tabled pending acceptance of the Committee Report and specially assigned for Monday, April 8, 1991.

(H.P. 72) (L.D. 100) Bill "An Act to Eliminate the Requirement of Mediation in Certain Domestic Cases" Committee on Judiciary reporting "Ought to Pass"

There being no objections, the above item was ordered to appear on the Consent Calendar of Monday, April 8, 1991 under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 132) (L.D. 192) Bill "An Act Dealing with the Public Utilities Commission's Involvement in Contract Settlements" (EMERGENCY) (C. "A" H-57)

(H.P. 424) (L.D. 607) Bill "An Act Regarding Amber Lights on Snowplows and Sanding Equipment" (C. "A" H-59)

(H.P. 385) (L.D. 559) Resolve, to Name the Bridge Crossing the Sebasticook River in Benton the Benton Veterans' Memorial Bridge (C. "A" H-58)

No objections having been noted at the end of the Second Legislative Day, the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Provide Administrative Oversight of Organic Food Certification in Maine" (H.P. 422) (L.D. 605)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Representative Tardy of Palmyra offered House Amendment "A" (H-63) and moved its adoption.

House Amendment "A" (H-63) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Amend the Laws Pertaining to Car Dealerships" (H.P. 247) (L.D. 338) (C. "A" H-52)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act to Increase the Limit of Indebtedness of the Newport Water District from \$1,500,000 to \$3,500,000 (H.P. 306) (L.D. 436)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Extend the Reporting Deadline of the Maine Water Resources Management Board (H.P. 849) (L.D. 1215)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

(Reconsidered)

An Act to Amend the Real Estate Brokerage Laws (S.P. 64) (L.D. 116) (C. "A" S-27)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Sheltra of Biddeford, under suspension of the rules, the House reconsidered

its action whereby L.D. 116 was passed to be engrossed.

Representative Sheltra of Biddeford offered House Amendment "A" (H-64) and moved its adoption.

House Amendment "A" (H-64) was read by the Clerk and adopted.

The Bill was passed be engrossed as amended by Committee Amendment "A" (S-27) and House Amendment "A" (H-64) in non-concurrence and sent up for concurrence.

FINALLY PASSED

Resolve, to Rename Pickle Island to Woodie Wheaton Island (S.P. 284) (L.D. 766)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

ORDERS OF THE DAY

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Monday, April 1, 1991, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

Bill "An Act to Extend Confidential Status to Medical Data Assembled by Certain Health Care Providers" (H.P. 946) (L.D. 1368) (Committee on Judiciary suggested)
 TABLED - April 1, 1991 (Till Later Today) by Representative PARADIS of Augusta.
 PENDING - Reference.

On motion of Representative Paradis of Augusta, was referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

TABLE AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act to Amend the Salaries of the Knox County Commissioners and Officers" (EMERGENCY) (S.P. 501) (L.D. 1339)

- In Senate, Referred to Committee on State and Local Government.

TABLED - April 1, 1991 by Representative MELENDY of Rockland.

PENDING - Reference in concurrence.

On motion of Representative Melendy of Rockland, L.D. 1339 was indefinitely postponed in non-concurrence and sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

JOINT RESOLUTION RECOGNIZING THE ESTABLISHMENT OF CHILDREN'S CASTLE (S.P. 300)

-In House, Indefinitely Postponed on February 26, 1991.

-In Senate, Adhered to its former action whereby the Joint Resolution was adopted in non-concurrence.

TABLED - April 1, 1991 by Representative GWADOSKY of Fairfield.

PENDING - Further Consideration.

The SPEAKER: The Chair recognizes the Representative from Coplin Plantation, Representative Powers.

Representative POWERS: Mr. Speaker, I move that the House recede and concur.

I rise today in support of this Resolution and to say a few words about the project which is pretty close to my heart.

I never expected that this would be an item of debate so I ask you to please listen and then vote with your heart.

The project discussed in the item before us is called the Children's Castle. The theme and purpose of Children's Castle is to provide some of Maine's growing number of foster children with safe homes and a new life, safe homes when they are young, and most of all, when they need them, a start on a new life at the beginning of life when there is the most hope. We all know the needs faced by foster children. We can see it at home in our own towns. That need is real and so is this project.

Children's Castle is not just a dream, it has already raised \$150,000 in endowments and owns 400 acres of beautiful mountain land in Phillips and Avon, Maine. It has a Board of Directors of 22 able and public spirited citizens from all walks of life, from factory owners to former college presidents. The Franklin County Commissioners have endorsed this project and the State of Maine itself, in the 114th Legislature, funded \$30,000 in tuition money for last year in 1990.

Children's Castle has been seven years in the making and soon it will be full of buildings on a mountainside. We hope to have the project fully completed by next year, 1992. I believe that one day very soon it will be offering Maine's foster children another resource, another chance, one more opportunity in their young lives with sound, solid professional guidance.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to reiterate what I said to this body when I moved, several weeks ago now, that this body indefinitely postpone this and would ask you to vote against the pending motion.

My concern then and my concern now is that we are being asked to embark on a very dangerous precedent. We are being asked to lend our support to a project that is yet in its infancy, in spite of the fact that they have raised some money and in spite of the fact that it is incorporated. We are being asked to tell all of our constituents that we believe that this is a wonderful project, it is a well thought out project, it is a project that we endorse and that

they, therefore, should endorse.

Let me read into the Record part of a letter which I received on March 29th from the founder of Children's Castle because it really does get to the heart of my concern. The letter says, "The accompanying materials are puzzle pieces for fund-raising across Maine. Hopefully, you will see that they can be effective toward touching the hearts and loosening the purse strings of Maine philanthropists. A key puzzle piece to our fund-raising is the proposed Legislative Resolution." The letter goes on to say, "There is no doubt in my mind that passage of this Resolution will hasten from its quiet influence the private funding of Children's Castle."

Children's Castle, while it has a wonderful vision or has a vision that may be wonderful for the foster children of our state, is not yet licensed by the Department of Human Services and, therefore, has not even passed those hurdles. Yet, to vote for this Resolution will, in fact, give the message that we are on board with this project.

As I said before, five years from now, I may be back telling you that I think this is a wonderful project, but I do not believe that this is the time for us as a legislative body to pass something as significant and important as a Joint Resolution supporting this project, so I urge you ladies and gentlemen of the House, as I did some time ago, to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief, I know the afternoon has been long. For the reasons that the good Representative just spoke about, because the project is in its infancy and because I have to go to my constituency and say I endorse a project that I really have no control of, I have no design in, and the state hasn't licensed yet, I cannot support it at this time. I am not saying that I can't support it in the future, but with the information that I have, I feel very uncomfortable.

I am part of the delegation of Franklin County, I haven't lobbied this hard, but I just don't feel that the 115th should, in good faith, endorse this yet.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Education Committee in the 114th Legislature, I would like to clarify what my action was in approving the \$30,000 funding. The \$30,000 funding that was approved by the Education Committee was \$30,000 for a pilot project for an organization that would have six or more foster children and the state would pay the cost of educating those children so that that would not be a burden upon the community. The whole purpose of that was to support the concept of having group homes and not to have that a burden on towns so that the towns would then say, we can't afford to have this kind of facility within our boundaries because we would then have to pay for the cost of educating those children.

I still support the concept. The concept is also a pilot project, it is due to be reviewed next year and evaluated. At this point, there is not even a program to review, there is not even a program to evaluate.

I am concerned that in the letter it talks about last year's passage and funding of the Children's Castle school tuition bill. I did not vote for a Children's Castle school tuition bill. I voted for the concept that, if there were six foster children living in a home in a community, that the state ought to take responsibility for that education.

I have other concerns about this, concerns that I raised during the committee meeting and concerns that I have raised since then. Certainly in this state we cannot say that we are providing the absolute best opportunities for foster children, it is something that needs to be reviewed but before this body, representing 1.2 million people in the state, takes a stand on supporting and endorsing any kind of a program, we ought to know what we are buying and we don't know that right now. I think it is a dangerous precedent and I agree with Representative Clark, to have the good name of the State of Maine used as part of a portfolio for fund-raising concerns me greatly.

I would urge you to not support the passage of this Resolution.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I was part of the action which considered the paying of tuition for any student whose life has become, in a way, the responsibility of this state. I remember going back to the days when I was a superintendent of schools, when 32 children were moved into one small town where I happened to be presiding and I came to Augusta in a blind rush and panic to convince the people down here in, what was then the Department of Health and Welfare, that if funding didn't come, I didn't know how we could raise money in that small town to take care and serve 32 people. They reacted positively then and they rescued us. I have become more interested in the plight of these unfortunate children and I recognize this effort going on up north very much as a positive thing.

I am not endorsing the effort but I am endorsing the idea, it has been tried worldwide, you might say, and I would also like to note that they adapt themselves to the country in which these foster homes are located. They will not be a bastion of their own, operating outside the ideals or limits of what the United States stands for. Foster homes are desperately needed, so rather than being endorsing of this project, I am encouraging it. I can't encourage it more than helping with the fund-raising at this point so my best wishes go out to the Board of Directors who are making this tremendous effort. Tuition funding should be the obligation of the state and the more successful this venture is, the more good homes needy foster children will have.

So, I am merely encouraging this effort, I am not endorsing it. If we don't help it get off the ground, I fear it may never materialize and it is in that spirit in which I speak and I ask you to support this Resolution.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, support this Resolution and, in my opinion, a Resolution is not binding, it is just saying that we think this might be a good idea and we would hope that the people would try it.

I believe that the private sector out there can

help us solve some of our problems in the state and I believe this is one of the ways that they might be able to. We don't know yet but if they can go out and get the monies in the private sector to build the dream that I have read about and to take care of these foster children, I support it wholeheartedly.

The State of Maine, right now, is not taking care of their children in a manner that I think they should. Some of the foster homes which we have had to put children into, none of us would want to be brought up in or put our children in. They are doing it because they do not have a choice. This may give the state a choice, a place to put some of these children so they will not be sexually abused or some of the other problems that we have had in our foster homes. I am sure that each and every one of you knows of some of the horror stories that we have read about in the newspapers of sexually abused children who are under the guardianship of the State of Maine. That is a sad, sad situation.

I think these people have got a good idea, it is a pilot project, maybe it is just a beginning and if it doesn't work, it hasn't cost us any money or anything else. We are not giving our wholehearted support, we are just saying we like the concept and that we would like to see this done. I believe the private sector out there should have the opportunity and at least our verbal support that maybe they can do a good job.

The SPEAKER: The Chair recognizes the Representative from Alfred, Representative Gean.

Representative GEAN: Mr. Speaker, Men and Women of the House: I would like to encourage that you all defeat this Resolution based on the fact that this gives this private non-profit corporation an unfair advantage over every other non-profit corporation in this state that is vying for this very same pool of funds, be it from the private sector or from state agencies.

The second part of my objection to this comes with the question of how can we then expect the various state departments providing the regulatory and oversight functions through licensure to objectively evaluate a program applying of a license and funding which we have already approved?

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Coplin Plantation, Representative Powers, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

69 having voted in the affirmative and 45 in the negative, the motion to recede and concur did prevail.

The Chair laid before the House the following matter: Bill "An Act to Protect Children from Illegal Tobacco Sales" (S.P. 506) (L.D. 1344) which was tabled earlier in the day and later today assigned pending reference in concurrence.

On motion of Representative Gwadosky of Fairfield, retabled pending reference in concurrence and specially assigned for Monday, April 8, 1991.

The following appearing on Supplement No. 1 was

taken up out of order by unanimous consent:

SENATE PAPER

The following Joint Order: (S.P. 536)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, April 8, 1991, at five o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The SPEAKER: I would like to explain a couple of rules to the members of the House. If you will take your Joint Rule Book, I would ask you to turn to page 216 in the book which deals with Joint Rules, specifically with No. 3 and 4. It says specifically says that, once the committee has reported the bill out, then the bill is placed in the Legislative Files. Then the only way it can be retrieved is by a Joint Order of both Houses with two-thirds voting in the affirmative for withdrawing that bill from the files.

The reference that was made earlier by the Assistant Minority Floor Leader deals with (on page 240) the legislative process, which has nothing to do with rules. I apologize for its content, I didn't write it. It was prepared by someone else and myself and, obviously, they did not conform it after the rules were changed three years ago. That should have been rewritten but in the back of that book on page 240 is not rules, it has nothing to do with anything, it is simply a statement. I suppose it is whether or not it is following the law book or reading the newspaper and you know how much you can believe newspapers so if you would please return to page 216, you will find the content there.

Since that ruling, I want to make it clear that I now understand some of the confusion of the Representative from Belfast, Representative Marsano. It is my understanding that he was not asked whether or not he wanted a unanimous "Leave to Withdraw" and it is also my understanding that he did not present the bill nor go to the work sessions on the Committee on Judiciary.

If, in fact, a note had been made to the Chair that on page 216, Joint Rule 15, item 4 had been violated by the committee, I would have returned the bill to the committee. That, of course, was not made so I want to make it clear the basis of the ruling.

I would make one final point and I would hope that this point would forever be remembered — that it is extremely dangerous to play partisanship with rules because, at some point, the majority always has control and that is unfortunate, but that's the way it is.

Representative Crowley of Stockton Springs was granted unanimous consent to address the House:

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: On the Calendar today, #6-10, "Ought Not to Pass", L.D. 758, An Act to Require Certain Proposed Cogenerators to Obtain

Review by and Approval of the Public Utilities Commission, the reason we put this bill in was this organization was supposed to be a small power cogenerator and they are generating 180 megawatts of electricity. They have money coming out of their ears. They've got about \$2 billion to build seven plants and they have promised the people in the Bucksport area that they are going to spend \$300 million there so they can burn 1500 tons of coal per day, almost half a million tons a year, and this is going to be right on the beautiful Penobscot River.

I thought we could stop them if we put it through the Public Utilities Commission, then they would have to prove that the State of Maine needed the electricity and, therefore, it would have killed the plant but now I find out that we can't do that because they are cogenerators, they are supposed to be small power. In the book, it says that small power is 80 megawatts and this is 180 megawatts and I just want to go on Record as saying that the people of Hancock, Waldo and Washington County don't need this coal burner down there to burn coal for generating electricity for Boston, Massachusetts. We would much rather have it go down to Boston. You can't imagine the high-powered people that were objecting to this little bill here but, at any rate, I hope you keep your eye on this and I hope the Department of Environmental Protection will put these people where they belong.

At this point, Speaker Martin appointed Representative Michaud of East Millinocket to act as Speaker pro tem for Monday, April 8, 1991 and Thursday, April 11, 1991.

On motion of Representative Martin of Eagle Lake, Adjourned at 6:41 p.m. until Monday, April 8, 1991, at five o'clock in the afternoon pursuant to Joint Order (S.P. 536).
