

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
38th Legislative Day
Thursday, April 18, 1991

Representative Michaud of East Millinocket assumed the Chair.

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

Prayer by Leader Carl Pabst, Local Spiritual Assembly of the Baha'ii Faith, Portland.

The Journal of Wednesday, April 17, 1991, was read and approved.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

**PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE**

Reported Pursuant to Public Law

Representative RYDELL for the Task Force to Evaluate and Revise the Maine Health Program, pursuant to Public Law 1991, chapter 9, Part X, section 8 ask leave to submit its findings and to report that the accompanying Bill "An Act to Implement the Initial Recommendations of the Task Force to Evaluate and Revise the Maine Health Program" (EMERGENCY) (H.P. 1106) (L.D. 1614) be referred to the Joint Standing Committee on **Appropriations and Financial Affairs** for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted.

Under suspension of the rules, without reference to any committee, the Bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

SENATE PAPERS

Bill "An Act to Guarantee Repairs under Service Contracts" (S.P. 589) (L.D. 1561)

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

Was referred to the Committee on **Business Legislation** in 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)

Bill "An Act to Reward and Encourage Foster Parent Training and Skilled Family Foster Care" (S.P. 592) (L.D. 1564)

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

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

Bill "An Act to Support Occupational Health Services" (S.P. 591) (L.D. 1563)

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

Was referred to the Committee on **Labor** in 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)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

Was referred to the Committee on **State and Local Government** in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on **Business Legislation** reporting "**Ought Not to Pass**" on Bill "An Act Relating to Real Estate Broker Disclosure" (S.P. 390) (L.D. 1067)

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

Unanimous Leave to Withdraw

Report of the Committee on **Fisheries and Wildlife** reporting "**Leave to Withdraw**" on Bill "An Act to Require Hunters to Wear Fluorescent Orange in all Hunting Seasons" (S.P. 363) (L.D. 965)

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

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought Not to Pass**" on Bill "An Act to Repeal Legislative Salary and Benefit Increases Granted in 1989" (S.P. 157) (L.D. 369)

Signed:

Senators: BUSTIN of Kennebec
BERUBE of Androscoggin

Representatives: NASH of Camden
HEESCHEN of Wilton
LOOK of Jonesboro

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

Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment
"A" (S-62) on same Bill.

Signed:

Senator: EMERSON of Penobscot

Came from the Senate with the Bill and
accompanying papers indefinitely postponed.

Reports were read.

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

The SPEAKER PRO TEM: The Chair recognizes the
Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends
and Colleagues of the House: I rise today as a
cosponsor of this bill and to urge you to oppose the
motion before you. This bill deserves our full
consideration and ultimate passage. The new
realities of our recession hit us every day. We have
passed a Supplemental Budget that forces the state
employees to take furloughs, to do with less than
they expected. We have sent others out into a dismal
job market, laid off, or positions eliminated.

Our response to state government, that is the
legislature, has been inadequate. We have eliminated
last year's legislative surplus from this year's
legislative budget. Friends and colleagues, with our
votes this year, we have demanded sacrifices from
full-time state employees that can depend only on
their state paycheck for a living. I hope this
evening we will demand no less from ourselves. I
know we all work hard as legislators, we have late
night meetings, early morning phone calls, time away
from the family, but we do not serve the public for
the public's payroll. I know of no member of this
body who ran for the office for the money involved.
We should and we must be compensated but our
compensation should reflect reality, unfolding
realities. A nine percent pay raise this year does
not reflect the realities of the people we serve. I
know of no one in my district receiving a nine
percent pay raise this year, particularly part-time
employees. They feel fortunate that they are still
employed. It is because people are earning less that
we have so much less in the state treasury. Every
extra dollar that we take from that treasury and put
in our own pockets will come out of the pockets of
the truly needy.

Friends and colleagues, we are being watched
tonight, watched not only as Representatives of the
people, but as public leaders. Our Governor has
voluntarily given back to the state more than 10
percent of his pay. It is time for us as a
legislature to step forward and claim our place of
public leadership next to the Governor by this act of
leadership. I urge you to join me and vote no on
this motion.

Mr. Speaker, I request the yeas and nays.

The SPEAKER PRO TEM: The Chair recognizes the
Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and
gentlemen of the House: The Governor's 10 percent
amounts to about half of my salary. If the Governor
is willing to give 50 percent of his salary back and
50 percent of his wife's salary back, maybe I will
consider this bill.

I would like to point out there is nothing, if
this bill fails, to prevent any member of this body
from doing exactly what the Governor did, making a
gift of a portion of his salary that he feels is
unacceptable to the state. I will be interested to
see how many people are able to do that of those who
vote against this report.

I would like to ask a question and the question
is addressed to the members of the Minority Party on
the "Ought Not to Pass" Report, why did they reject
this bill?

The SPEAKER PRO TEM: Representative Coles of
Harpswell has posed a question through the Chair to
any member who may respond if they so desire.

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the
Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Ladies and
Gentlemen of the House: I rise in opposition to the
committee opposition to the "Ought Not to Pass"
because of, not the amount of money involved, but for
the perception. I live in Augusta, I hear from state
employees daily and I am hearing today from state
employees who perceive this, not as a bill to
eliminate an increase that was already given, but as
an increase. That perception is the perception that
we live with and as legislators we must be as
concerned with appearances as well as the actual fact.

Additionally, I have looked at this bill and, if
we can defeat the motion, I am prepared to offer an
amendment to the "Ought to Pass" as amended Committee
Report whereby it would be further amended to delete
sections 2, 3, 4, 5, and 6. So, I believe that we
can, if we would, and I am only saying perspective
this bill does not affect what has already been given
or paid. We are talking about, according to the
bill, what occurs as of December 1, 1991 and what
happens in the future. The \$1,500 (approximately)
per person increase that is to take place on December
1, 1991 and again on December 1, 1992, I urge you to
defeat that increase, that under these circumstances,
state employees have had to take three days this
year, have had to have a pay lag. There is a budget
for them to take 20 days off next year. We have a \$1
billion shortfall. Private enterprise is even
suffering more.

Last night, I with other legislators, attended
the FAME dinner. We heard about businesses losing
their lines of credit, business failures. With most
private enterprises, you hear about layoffs and wage
freezes. I don't think it is wrong to ask us to do
any less.

The SPEAKER PRO TEM: The Chair recognizes the

Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, I would like to pose a question through the Chair.

Would someone care to refresh my memory as to what the Governor's salary is?

The SPEAKER PRO TEM: Representative Mahany of Easton has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: For the Record, the Governor receives in direct compensation \$70,000 a year.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: Very often, we refer to ourselves and think of ourselves as Representatives of those who live in our districts, but we also are regarded as leaders. We don't often think of ourselves that way, many of us don't, we think of ourselves as Representatives, but we are leaders and we are seen that way. While leadership has its privileges, while being a state Representative has its privileges, it has a certain amount of respect accorded to it and with the leadership comes a duty. That duty is to sacrifice in times of hard times. Ladies and gentlemen, those times are here now.

I strongly urge that we defeat the motion before us so we can go on and pass this bill in some form.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Joseph of Waterville 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. 34

YEA - Adams, Anderson, Anthony, Bailey, R.; Carroll, D.; Cathcart, Chonko, Clark, M.; Coles, Constantine, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hichens, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Look, Lord, Luther, Macomber, Mahany, Manning, Marsano, Martin, H.; Mayo, McHenry, Melendy, Merrill, Mitchell, J.; Morrison, Murphy, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Swazey, Tammaro, Townsend, Treat, Tupper, Vigue, Waterman, Wentworth.

NAY - Aikman, Ault, Bailey, H.; Barth, Bell, Bennett, Boutilier, Bowers, Butland, Cahill, M.; Carleton, Carroll, J.; Donnelly, Duplessis, Farren, Foss, Garland, Hanley, Hastings, Heino, Hepburn, Ketterer, Lebowitz, Libby, Lipman, MacBride, Marsh, Nash, Ott, Parent, Pendexter, Pendleton, Pfeiffer, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Tracy, Whitcomb.

ABSENT - Aliberti, Cashman, Clark, H.; Cote, Hoglund, Kutasi, McKeen, Michaud, Mitchell, E.; Stevens, P.; Stevenson, Strout, Tardy, The Speaker.

Yes, 93; No, 44; Absent, 14; Paired, 0; Excused, 0.

93 having voted in the affirmative and 44 in the negative with 14 being absent, the Majority "Ought

Not to Pass" Report was accepted. Sent up for concurrence.

Recalled from Legislative Files pursuant to Joint Order S.P. 563

Non-Concurrent Matter

Bill "An Act to Enhance the Protection of Children Who Have Been Removed from Their Homes" (H.P. 528) (L.D. 756)

In House, "Leave to Withdraw" Report of the Committee on Human Resources placed in the Legislative Files pursuant to Joint Rule 15 on April 1, 1991.

In Senate, "Leave to Withdraw" Report of the Committee on Human Resources placed in the Legislative Files pursuant to Joint Rule 15 on April 4, 1991.

Recalled from the Legislative Files pursuant to Joint Order S.P. 563.

Came from the Senate with the Bill and accompanying papers recommitted to the Committee on Human Resources in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Provide Tuition Assistance for Persons Seeking a Master's Degree in Social Work" (H.P. 1044) (L.D. 1517) which was referred to the Committee on Education in the House on April 16, 1991.

Came from the Senate referred to the Committee on Human Resources in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Compensate Landowners for Land Value Lost because of Wildlife Restrictions" (H.P. 1039) (L.D. 1512) which was referred to the Committee on Energy and Natural Resources in the House on April 16, 1991.

Came from the Senate referred to the Committee on Taxation in non-concurrence.

On motion of Representative Jacques of Waterville, the House voted to adhere.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

SENATE PAPER

The following Joint Order: (S.P. 600)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, April 22, 1991, at five o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

**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:

Business Legislation

Bill "An Act to Conform Chiropractic Licensing Laws to Other State Regulatory Board Laws" (EMERGENCY) (H.P. 1089) (L.D. 1589) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Senator CAHILL of Sagadahoc and Representative REED of Dexter) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Fisheries and Wildlife

Bill "An Act to Amend the Laws Governing the Moose Lottery" (H.P. 1088) (L.D. 1588) (Presented by Representative PAUL of Sanford) (Cosponsored by Senator THERIAULT of Aroostook, Representative CARROLL of Southwest Harbor, Representative CLARK of Millinocket and Representative NORTON of Winthrop)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Establish the Maine Volunteer Service Act" (H.P. 1090) (L.D. 1590) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Senator BUSTIN of Kennebec and Representative CARROLL of Gray)

Bill "An Act to Amend the Maine Health Security Act" (H.P. 1093) (L.D. 1593) (Presented by Representative STEVENS of Bangor) (Cosponsored by Representative KETTERER of Madison, Senator CONLEY of Cumberland and Representative OTT of York)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Improve the Maine Workers'

Compensation System" (H.P. 1094) (L.D. 1594) (Presented by Representative HASTINGS of Fryeburg) (Cosponsored by Representative WHITCOMB of Waldo, Senator BRAUN of Knox and Senator CAHILL of Sagadahoc)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act to Require Bottle Clubs and Licensees for the Sale of Liquor to Post a Notice Informing the Public of the Presence of a Person Employed to Preserve the Peace" (H.P. 1085) (L.D. 1585) (Presented by Representative TRACY of Rome) (Cosponsored by Representative POULIN of Oakland, Senator MILLS of Oxford and Representative LAWRENCE of Kittery)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Fund the Elderly Tax Deferral Program" (H.P. 1086) (L.D. 1586) (Presented by Representative HOGLUND of Portland) (Cosponsored by Representative ALIBERTI of Lewiston, Representative DORE of Auburn and Representative MAYO of Thomaston)

Bill "An Act to Require the Reporting of Income Tax Payments by Corporations" (H.P. 1091) (L.D. 1591) (Presented by Representative TREAT of Gardiner) (Cosponsored by Senator McCORMICK of Kennebec and Representative GEAN of Alfred)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act to Require Minimum Training Standards for Construction Flaggers" (H.P. 1087) (L.D. 1587) (Presented by Representative HALE of Sanford)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Increase the Annual Public Utilities Commission Regulatory Fund Assessment and Make Certain Other Changes" (EMERGENCY) (H.P. 1092) (L.D. 1592) (Presented by Representative CLARK of Millinocket) (Cosponsored by Senator CLEVELAND of Androscoggin, Senator CARPENTER of York and Representative AIKMAN of Poland) (Submitted by the Public Utilities Commission pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative FARREN from the Committee on Fisheries and Wildlife on Bill "An Act to Set Standards Relating to Importation Permits for Wildlife" (H.P. 456) (L.D. 647) reporting **"Ought Not to Pass"**

Representative FARREN from the Committee on Fisheries and Wildlife on Bill "An Act to Establish a Nonresident Property Owner Fishing License" (H.P. 833) (L.D. 1199) reporting **"Ought Not to Pass"**

Representative NADEAU from the Committee on Taxation on Bill "An Act to Establish a Severance Tax on Timber" (H.P. 759) (L.D. 1093) reporting **"Ought Not to Pass"**

Representative NADEAU from the Committee on Taxation on Bill "An Act to Defer Municipal Duties Related to the Homestead Exemption" (EMERGENCY) (H.P. 830) (L.D. 1196) reporting **"Ought Not to Pass"**

Representative NADEAU from the Committee on Taxation on Bill "An Act to Amend the Criteria for Assessment of Property Tax" (H.P. 891) (L.D. 1288) reporting **"Ought Not to Pass"**

Representative CLARK from the Committee on Utilities on Bill "An Act to Assist Municipal Solid Waste Energy Recovery Facilities" (H.P. 763) (L.D. 1097) reporting **"Ought Not to Pass"**

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 State and Local Government reporting **"Ought Not to Pass"** on Bill "An Act to Require State Audit and Review of Quasi-municipal Corporations Granted by State Charter" (H.P. 293) (L.D. 414)

Signed:

Senators: EMERSON of Penobscot
BUSTIN of Kennebec

Representatives: NASH of Camden
WATERMAN of Buxton
GRAY of Sedgwick
SAVAGE of Union
LOOK of Jonesboro
KERR of Old Orchard Beach

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-131) on same Bill.

Signed:

Senator: BERUBE of Androscoggin

Representatives: HEESCHEN of Wilton
ST. ONGE of Greene
JOSEPH of Waterville
LARRIVEE of Gorham

Reports were read.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Joseph. Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Minority "Ought to Pass" Report.

Yes, this is the Minority "Ought to Pass" Report but I believe that you deserve an explanation of why it is the Minority "Ought to Pass" Report. A piece of legislation was brought to the State and Local Government Committee, "An Act to Require State Audit and Review of Quasi-municipal Corporations Granted by State Charter" and the State and Local Government felt that we could use this as a vehicle to deal, not with any one quasi-municipal corporation but with all quasi-municipal corporations, who, indeed, use taxpayer dollars. Libraries are quasi-municipal corporations, the Housing Authority is a quasi-municipal corporation.

We understand that when the sponsor brought the bill in, he was concerned about water districts. We expanded his concern to all quasi-municipal corporations. In doing so, we discovered heavy intense lobbying by the Maine Water Utilities Association and we really could not understand the paranoia that was going on. What did happen as we addressed the issues, and I will tell you what this amendment does, we in no way were targeting water districts. The Amendment says that the state auditor will review and conduct audits of quasi-municipal corporations only if petitioned to do so. Those costs would be paid by the quasi-municipal corporations. An allocation of dedicated revenue and authorization for additional auditor positions to the Department of Audit will not be necessary because it was stated by the auditor that he felt he had adequate staff. In fact, to quote his words he thought, "This piece of legislation was a good idea."

This Amendment exempts quasi-municipal corporations that are currently subject to audit by other state and federal agencies from any additional audit. It also exempts quasi-municipal corporations with an annual budget of less than \$25,000. So, if you are a small library that has a budget of less than \$25,000, it would not be affected by this.

It further requires that the audits be completed by a licensed public accountant upon written petition by 25 consumers or members of that quasi-municipal corporation. We struggled with who, who would do this? We felt like saying consumers but not all of us are consumers of libraries or other quasi-municipal corporations, so we used the word members of quasi-municipal corporations. The state auditor would complete a review of the quasi-municipal's financial records and the state auditor would develop forms that must be submitted with a certified audit by the quasi-municipal corporation. That ladies and gentlemen of the Maine House is what we attempted to do. It is to just make

quasi-municipal corporations accountable for the taxpayer dollars that they currently spend. Yes, quasi-municipal corporations now file annual reports but they are not categorized or itemized or detailed to actually find out what goes under administrative costs. We have heard of abuses of tax monies being spent and we urge your support of this piece of legislation.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Orono, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Men and Women of the House: I would ask permission to pose a series of questions to the sponsor of this bill, Representative Duffy.

I have a series of five questions. The reason I want to ask these is that I represent three towns which have contractual agreement with the Bangor Water District and I want mostly to find out what the affect on my towns would be.

My first question is, how does this legislation potentially impact the Bangor Water District and their contractual agreement with the towns of Orono, Veazie and Eddington which rely upon that arrangement for their water supply? How would it affect the rates we pay for our water?

Second, this is a multi-faceted question -- who supports this bill? Has the Bangor City Council taken a position on the issue? What is the compelling need for the legislation? Is it a local concern of the Bangor area or who statewide has come forward to assert that this legislation is really needed?

Number three, could Representative Duffy please explain to the House exactly what are his specific complaints about the Bangor Water District for the Record? I am certain both he and I want to clear the air and resolve any conflicts for our constituents sake.

Number four, I understand that the other towns that I represent in this agreement do subsidize the rates that the Bangor people pay for their water and I wonder if the good Representative could tell us how much the City of Bangor's water rates are reduced by the payments from the other towns in the contract?

Last, would Representative Duffy share with the House, for those of us who aren't sure, what accountability measures are currently in place for quasi-municipal entities such as the Bangor Water District?

The SPEAKER PRO TEM: Representative Cathcart of Bangor has posed a series of questions through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I am sure that Representative Duffy as the prime sponsor of this bill will respond to the questions. Prior to his response, I urge you to remember my opening comment that the bill was brought to us by the prime sponsor of this bill, probably talking about water districts. However, I must make it clear to you that the committee dealt with this bill thinking of all quasi-municipal corporations. A quasi-municipal corporation -- if I can explain it at all are different taxpayer groups, cities, towns, municipalities who come together to form one unit and provide a service to those units. So, as Representative Duffy responds to those very parochial questions dealing with only a water district, I urge you to keep in mind we are talking

about accountability of all quasi-municipal corporations.

On motion of Representative Mayo of Thomaston, tabled pending the motion of Representative Joseph of Waterville that the House accept the Minority "Ought to Pass" Report and later today assigned.

The following item appearing on Supplement No. 3 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Implement the Initial Recommendations of the Task Force to Evaluate and Revise the Maine Health Program (H.P. 1106) (L.D. 1614)

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. 119 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

The Chair laid before the House the following matter: Majority Report (8) of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Require State Audit and Review of Quasi-municipal Corporations Granted by State Charter" (H.P. 293) (L.D. 414), Minority Report (5) of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-131) on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Joseph of Waterville that the House accept the Minority "Ought to Pass" Report and later today assigned.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Duffy.

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: I think if we went 30 seconds longer, I wouldn't remember the questions I was asked.

To respond to the good Representative from Orono, this bill has nothing to do with the Bangor Water District. This bill will not affect the Bangor Water District. I am sure it won't affect the water rates in Orono which are pretty good because we give them the water. I want to stress that I am really a critic of the Bangor Water District but what I learned going through the Charter of the Bangor Water District and other quasi-municipals was that there was very little accountability for those quasi-municipals when they are chartered underneath the special and private laws of the State of Maine. We give them protection by chartering them through the state (non-profit protection) and we also give them liability protection and an autonomy that we really haven't found any accountability for.

The essence of this bill simply was that when I went out to try to find out how many quasi-municipals there were in the State of Maine, which are recorded

and stored with the Secretary of State, they couldn't give us an answer. They really didn't know how many we had. I felt if we could at least get some accountability through auditing and the reason for the audit is that they also give them the non-profit status. Now, if a quasi-municipal actually does have a surplus, there is nothing to say they can't give it to the board of directors and increase the salaries of the officers of the administration. We don't know because there is nothing in the law that says that they have to be audited. There are quasi-municipals who do not have an agency that they have to report to.

The other part of this bill is that there will be a disclosure form that the average person in the State of Maine can understand so that it will give them a synopsis of the audit which is the other thing I couldn't do, I am not an accountant. So, I really couldn't break down the audit as delivered to the other state agencies. This will also give you a comparison sheet of the different quasi-municipals so you can compare them to get a feeling of how your quasi-municipal stands up, compared with others, and to know whether or not it is too high, whether your board of directors are getting expense money, whether your board of directors are, indeed, getting salaries.

Quasi-municipals — the intent was to serve the public and to serve the consumer. Without some accountability, I think that we are wrong to let that keep going.

What I do want to stress is that in any quasi-municipal that has either a state or federal agency, now that its audited to the PUC, that is not included in this bill. That is why that I say that any of your water districts, your Bangor-Hydro's, your CMP's or whatever, really aren't affected by this bill at all.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sedgwick, Representative Gray.

Representative GRAY: Mr. Speaker, Men and Women of the House: As a member of State and Local Government, I fought hard and long on this issue, as did most of the other committee members. I stand before you today to represent the Majority Report which was "Ought Not to Pass." Even though I believe there was, in essence, some good things about this bill and I believe in accountability, I believe it is too wide and questions were not answered.

I move that the Bill and all accompanying papers be indefinitely postponed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Orono, Representative O'Dea.

Representative O'DEA: Mr. Speaker, Men and Women of the House: I am sitting here looking at this bill and I was trying to put it in the proper perspective and I came across an editorial that ran in my favorite newspaper, the Bangor Daily News. It is dated 1991. I saved this editorial because it was the first one that I ever agreed with that appeared in that newspaper. I was sitting here looking at it and it was talking about a problem with an L.D. last session in the 114th that came up when the Representative from Bangor, Representative Duffy, went after the Bangor Water District. Then I thought back to the first run-in and, if you all think back to the issue of the Sunapee Char and the importance of preserving the Sunapee Char, that was another bill that was designed to go after the water district again. On the face of it, while this appears to be quite innocuous to me as a person who represents the town of Orono, it gives cause for some concern.

I went back and looked into what the requirements are for public utilities already and let me tell you that the public utilities aren't running around willy-nilly with no safeguards. Currently, each public utility is required to have an audit on an annual basis. The audit has to be conducted by a qualified, independent, public accountant in accordance with generally accepted procedures. The public utilities commission may order an additional audit as required or when they deem it necessary and appropriate. I would argue that the mechanisms are already in place to protect the consumers in this area.

I urge your support of the motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I rise as a cosponsor of this bill. I want you to know that this is not a Bangor Bill and it does not have to do with the Bangor Water District as far as I am concerned.

If you will look at the Amendment which goes with this Minority "Ought to Pass" Report, you will see that it very clearly, on line 29, states that this does not include, you are not subject to this bill if you are currently subject to audit and review by another state or federal agency including the PUC. That means that there will not be an audit or review of the Bangor Water District as a result of this bill.

The reason that I cosponsored this bill, am on the Minority Report, is because there are a number of quasi-municipal corporations in state and local government, we see them come to us all the time. I have dealt with several different quasi-municipal corporations which, in my opinion, are given a tremendous amount of protection and leniency by being given the same status that our towns have. They have the status which gives them tax exemption and gives them protection from liability. They do all of that without any standard of accountability. From quasi-municipal corporation to quasi-municipal corporation, there is some accountability depending upon who they report to but that accountability is not standard. The types of quasi-municipal corporations that I am talking about range all the way from sewer districts — it is proposed that we allow E-911 districts to form as quasi-municipal corporations. Regional waste systems are another excellent example of quasi-municipal corporations which are becoming entities larger than life, larger than the communities which spawned them and which do not (at this time) have any standard accountability.

So, I can assure you very strongly that that is what this bill is about, it is about the standard accountability for these quasi-municipals which we afford all of this protection.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I stand also as a cosponsor of this measure. I have nothing against the Bangor Water District, don't know anything about it, don't want to know anything about it. I will tell you that I have two quasi-municipal corporations in my district, one of them is the Eastport Port Authority. They do a fine job and I feel they are very accountable to the people they serve. We have another quasi-municipal organization in my district in the water company. It was mentioned that the PUC has oversight over these folks and that is true.

However, in the past couple of years, there has been a number of problems with that water district. It finally came to a head with the PUC holding hearings in Eastport, too little, too late. They had not paid a lot of their bills, they had gone into debt, they had spent money wrongly to the point where it meant a 70 percent increase in the rates of the people of Eastport area and in the district on their water bills in one year.

Nothing against the Bangor Water District — this is one more way for quasi-municipal organizations to have accountability to the people they serve, I see nothing wrong with that.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I am standing today talking on this bill because I represent Hampden which would be affected by this bill because we purchase our water at a good price and help subsidize some of the tax dollars for Bangor.

Last year, we had a bill in for the Sunapee Char and the ratepayers paid \$54,000 to deal with that bill which would have potentially cut off our water as well as Orono and Veazie because of a protected species. It came out to be, as a result of that study, that that was not a Sunapee Char but was, in fact, an Arctic Char also found in Long Pond in this state and did not fall as an endangered species. That is in the past.

I think as the result of that whole exercise, the Bangor Water District has invited local legislators to a series of meetings to basically give them an idea of what that particular corporation is doing and if there are any problems from the delegation, what could they do. They have also generated a newsletter that comes out on a regular basis. This one came out in the Spring of 1990 dealing with the Sunapee Char issue and the issue on what had to be done as far as the study and so forth, answering questions ratepayers might want to know about, how the water is being used, the rates, what will affect rates and so forth, a way of communicating with the taxpayers.

I read this bill and, as I read the bill, it says that 25 people, for whatever reason, can file a petition and request that the state auditor oversee what the elected council people, the select people that have been elected in that town, have the job to do already. Now we are overlaying state government to oversee our elected local officials to make sure that they are doing a good job. I believe I heard that this will not affect your taxes because we will then pass on the cost to the quasi-municipal corporations. Well, that is supported by tax dollars and I can guarantee you that, when the state audit process comes in and spends x-amount of dollars and they are not going to pay it under this bill, the local people's property taxes will pay it.

For that reason, I think that the accountability factor is there by the fact that as our local people that are not partisan by and large, as we are down here, which is reasonable because of the fact that we have a different mission — the fact of it is, if they take and look at those issues, they take and look at those quasi-municipal corporations, they are bound to make sure that they are accountable in spending their money correctly. I think that we should leave that responsibility with them, not with 25 people, that for whatever reason say that they are wrong.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: It has come to my attention that in the statutes, Section 38, Subsection 5823, we have a section called Annual Post-Audit which governs the auditing of municipalities and quasi-municipal corporations. It seems to me that the procedure already in place is adequate to accomplish what this bill is designed to accomplish without creating an unnecessary burden of work on the state auditor.

If you will permit me to read it — "Each municipality and quasi-municipal corporation shall have an annual post-audit made of its accounts covering the last complete fiscal year of the Department of Audit or by qualified public accountant elected by ballot engaged by its officers." It goes on to explain, "If the voters of a municipality or quasi-municipal corporation are dissatisfied, they may obtain a new post-audit by filing a petition with the state auditor. The petition must be signed by (a) at least ten percent if the population is under 10,000 or at least 1,000 voters with a population of 10,000 or over." It goes on to tell exactly what mechanism shall be in place.

For that reason, I believe the proposed legislation is unnecessary and I urge you to support the indefinite postponement.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Duffy.

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: Just to respond to the last speaker, I, too, saw that same clause in the law. It was presented to the State and Local Committee when we were doing this bill. The problem with that was that, although it required a post-audit, it never originally required or does require the original audit.

To answer the statement by the Representative from Hampden, if the Representative from Hampden looked at the review and audit of a quasi-municipality clause in this amendment, he would see that the review, by 25 people, was simply a review. If there was absolutely nothing wrong with the audit, then it wouldn't go any further. If there is something wrong, the state auditor sees through review that we, indeed, have good reason to do an audit for the protection of the people of the State of Maine and he will, therefore, make the audit.

This bill has nothing to do with the inner workings or the way any quasi-municipality does business, only if they do business illegally, frivolously or outside of what we say is good accounting practices. That is all this bill does, that and add on in the average citizen form so the average citizen can understand what the audit of his quasi-municipal is that does business.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion. I stated earlier in my comments that we are not dealing with only water districts.

I want to clarify one comment made by Representative Richards that directors are appointed by their chief executive of that municipality, so they are not elected by the public. I don't believe that there is enough accountability. I don't believe that anyone spending tax dollars should be in any way not accountable. We are not only talking about the

quasi-municipal corporations that we talked about, we are talking about public housing authorities, those kinds of people. They are providing services, yes, but they must be accountable. There has been no protection up to now.

I said in my comments earlier that the state auditor felt this was a good idea. He felt that, and I am quoting, "It would have a positive impact."

We are concerned about investments, we are concerned about contingency accounts, we are concerned about those kinds of monies that don't always show up in an audit. If you are talking about a PUC audit, then that is more of a review than an audit.

I urge you to give this bill an opportunity to work.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of Representative Gray of Sedgwick that L.D. 414 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Tracy of Rome requested a roll call vote.

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: Before we vote, I urge you to vote against the pending motion. I hope that we are not going to succumb to the intense lobbying by one of the quasi-municipal corporations that spent every hour with the State and Local Government (I thought he became the 14th member) as well as in the halls of this building.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support Representative Joseph's motion. I, too, have a quasi-municipal district and it is not the water district in my town. The trustees of this quasi-municipal is appointed by the Board of Selectmen. I realize that maybe this isn't it but I know you don't get any information out of those trustees. If you go down there and ask for anything, there is no information coming. People are becoming very frustrated with these quasi-municipal organizations and they are not elected people. I feel as though they should have to answer to someone. We are paying their wages and we are having a hard time in our town even to find out what wages they are paying to people, they don't even want to let the townspeople know anything. Therefore, I hope you defeat the motion of indefinitely postponing this bill.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of Representative Gray of Sedgwick that L.D. 414 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those

opposed will vote no.

ROLL CALL NO. 35

YEA - Aikman, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Cathcart, Coles, Constantine, Crowley, DiPietro, Donnelly, Dore, Duplessis, Farnsworth, Farren, Foss, Garland, Goodridge, Gray, Greenlaw, Gurney, Gwadosky, Hanley, Hastings, Heesch, Hepburn, Holt, Hussey, Jacques, Ketterer, Kilkelly, Kontos, LaPointe, Lawrence, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Marsh, Mayo, Melendy, Merrill, Mitchell, J.; Morrison, Nadeau, Nash, Norton, O'Dea, O'Gara, Ott, Paradis, P.; Parent, Pendexter, Pendleton, Pfeiffer, Pineau, Pines, Plourde, Poulin, Powers, Rand, Reed, G.; Reed, W.; Richards, Rotondi, Rydell, Salisbury, Savage, Simonds, Skoglund, Small, Stevens, A.; Stevenson, Swazey, Tammaro, Tracy, Tupper, Waterman, Whitcomb.

NAY - Bell, Boutilier, Cahill, M.; Carroll, D.; Chonko, Clark, M.; Cote, Daggett, Duffy, Dutremble, L.; Erwin, Farnum, Gean, Gould, R. A.; Graham, Hale, Handy, Heino, Hichborn, Hichens, Jalbert, Joseph, Kerr, Larrivee, Lemke, Luther, Macomber, Mahany, Manning, Martin, H.; McHenry, Murphy, Nutting, Oliver, Paradis, J.; Paul, Pouliot, Richardson, Ricker, Ruhlin, Saint Onge, Simpson, Spear, Townsend, Treat, Vigue, Wentworth.

ABSENT - Adams, Aliberti, Cashman, Clark, H.; Hoglund, Ketover, Kutasi, McKeen, Michaud, Mitchell, E.; Sheltra, Stevens, P.; Strout, Tardy, The Speaker.

Yes, 89; No, 47; Absent, 15; Paired, 0; Excused, 0.

89 having voted in the affirmative and 47 in the negative with 15 being absent, L.D. 414 and all accompanying papers were indefinitely postponed. Sent up for concurrence.

Divided Report

Later Today Assigned

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-132) on Bill "An Act Concerning Ice Fishing" (H.P. 485) (L.D. 679)

Signed:

Senators: TWITCHELL of Oxford
SUMMERS of Cumberland
MATTHEWS of Kennebec

Representatives: JACQUES of Waterville
DUFFY of Bangor
PAUL of Sanford
CARROLL of Southwest Harbor

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Representatives: CLARK of Millinocket
ROTONDI of Athens
TRACY of Rome
GREENLAW of Standish

FARREN of Cherryfield
SWAZEY of Bucksport

Reports were read.

On motion of Representative Mayo of Thomaston, tabled pending acceptance of either report and later today assigned.

Divided Report

Tabled and Assigned

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on RESOLUTION, Proposing an Amendment to the Constitution of Maine Requiring the Governor-elect to Receive More than 50% of the Votes Duly Cast (H.P. 319) (L.D. 449)

Signed:

Senators: BUSTIN of Kennebec
EMERSON of Penobscot
BERUBE of Androscoggin

Representatives: KERR of Old Orchard Beach
ST. ONGE of Greene
SAVAGE of Union
WATERMAN of Buxton
NASH of Camden
LARRIVEE of Gorham
LOOK of Jonesboro

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-130) on same Bill.

Signed:

Representatives: GRAY of Sedgwick
HEESCHEN of Wilton
JOSEPH of Waterville

Reports were read.

Representative Joseph of Waterville moved that the House accept the Minority "Ought to Pass" Report.

On further motion of the same Representative, tabled pending her motion that the House accept the Minority "Ought to Pass" Report and specially assigned for Monday, April 22, 1991.

CONSENT CALENDAR

First Day

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

(H.P. 724) (L.D. 1028) Bill "An Act to Clarify the Provisions for Temporary and Conditional Psychologists' Licenses" Committee on Business Legislation reporting "Ought to Pass"

(H.P. 361) (L.D. 515) Bill "An Act to Expand Consumer Membership on the Board of Osteopathic Examination and Registration" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-145)

(H.P. 440) (L.D. 623) Bill "An Act to Improve the Regulatory Operations of the Board of Licensing of Auctioneers" (EMERGENCY) Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-146)

(S.P. 38) (L.D. 60) Bill "An Act to Ensure Access to Boards of Directors" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-67)

(S.P. 62) (L.D. 114) Bill "An Act to Exempt Certain Activities from the Site Location of Development Laws" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-64)

(S.P. 63) (L.D. 115) Bill "An Act to Amend the Special Archery Hunting Season Laws" Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (S-65)

(S.P. 227) (L.D. 581) Bill "An Act to Require Each Person Licensed for the Practice of Funeral Service to Participate in Continuing Professional Education" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-66)

(S.P. 236) (L.D. 627) Bill "An Act to Clarify the Role of Law Enforcement Officers in the Investigation of Medical Examiner Cases" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-60)

(S.P. 276) (L.D. 735) Bill "An Act to Amend the Laws Concerning Removal or Destruction of Landmark Locations by State Departments" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-61)

(S.P. 297) (L.D. 795) Bill "An Act to Amend the Revised Maine Securities Act" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-68)

(S.P. 355) (L.D. 957) Bill "An Act to Authorize the Town of Brownville to Acquire the Assets and Liabilities of the Brownville Water District" (EMERGENCY) Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-69)

(H.P. 382) (L.D. 556) Bill "An Act to Improve Eye Care in the Schools" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-147)

(H.P. 405) (L.D. 588) Bill "An Act to Amend the Public Drinking Laws" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-148)

(H.P. 423) (L.D. 606) Bill "An Act to Clarify

Provisions Relating to the Bureau of Intergovernmental Drug Enforcement" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-149)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, April 22, 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:

(S.P. 104) (L.D. 191) Bill "An Act to Change the Term 'Handicap' in the Maine Human Rights Act" (C. "A" S-53)

(S.P. 131) (L.D. 233) Bill "An Act to Amend the Provisions Regarding the Uniform Traffic Ticket and Complaint" (C. "A" S-54)

(S.P. 146) (L.D. 358) Bill "An Act to Ensure Safe Removal of Underground Oil Storage Tanks" (C. "A" S-48)

(S.P. 160) (L.D. 372) Bill "An Act to Correct the Registration of the Thorncrag-Stanton and Woodbury Sanctuary with the Department of Inland Fisheries and Wildlife" (C. "A" S-50)

(S.P. 172) (L.D. 427) Bill "An Act Relating to Discrimination in Membership in Golf and Country Clubs" (C. "A" S-52)

(S.P. 280) (L.D. 739) Bill "An Act Regarding Moose and Antlerless Deer Permits for People Who Have Been Called to Active Duty" (C. "A" S-49)

(S.P. 321) (L.D. 877) Bill "An Act to Amend the Augusta Sanitary District Charter to Comply with Federal Sewerage Pretreatment Requirements" (EMERGENCY) (C. "A" S-51)

(S.P. 324) (L.D. 880) Bill "An Act to Provide for Notice of Termination of an Insurance Agency Appointment" (C. "A" S-57)

(H.P. 566) (L.D. 809) Bill "An Act to Amend Maine's Antitrust Laws" (C. "A" H-126)

(H.P. 158) (L.D. 243) Bill "An Act Regarding the Operation of the Superior Court" (C. "A" H-127)

(H.P. 722) (L.D. 1026) Bill "An Act to Alter the Mandate of the Maine Low-level Radioactive Waste Authority to Include Reduction of Low-level Radioactive Waste" (C. "A" H-128)

(H.P. 221) (L.D. 312) Bill "An Act to Clarify the Powers and Duties of the Department of Administration, through the Bureau of Purchases" (C. "A" H-129)

(H.P. 182) (L.D. 267) Bill "An Act to Prescribe

the Duties and Liabilities of Roller-skating Rink Operators and Persons Who Use Roller-skating Rinks" (C. "A" H-133)

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

(H.P. 546) (L.D. 783) Bill "An Act to Amend the Law Concerning the Maine High-Risk Insurance Organization" (C. "A" H-135)

On motion of Representative Erwin of Rumford, was removed from the Consent Calendar, Second Day.

Subsequently, the Committee Report was read and accepted, the Bill read once.

Committee Amendment "A" (H-135) was read by the Clerk.

On motion of Representative Erwin of Rumford, tabled pending adoption of Committee Amendment "A" and specially assigned for Monday, April 22, 1991.

(H.P. 465) (L.D. 659) Bill "An Act to Prohibit Family Exclusion Clauses in Automobile Insurance Policies" (C. "A" H-136)

(H.P. 408) (L.D. 591) Bill "An Act Restricting the Use of the Names of Maine Banks on Credit Cards" (C. "A" H-137)

(H.P. 786) (L.D. 1118) Bill "An Act to Require Casualty Insurers to Provide an Annual Valuation of Loss Reserves" (C. "A" H-138)

(H.P. 545) (L.D. 782) Bill "An Act to Correct Language in the Laws Governing Intensive Supervision" (C. "A" H-139)

(H.P. 464) (L.D. 658) Bill "An Act to Clarify the Lien Rights of Water Utilities" (C. "A" H-140)

(H.P. 772) (L.D. 1104) Bill "An Act to Address Staffing Inequities Resulting from the Implementation of the Maine Financial and Administrative Statewide Information System Pursuant to the Maine Sunset Act" (EMERGENCY)

(H.P. 743) (L.D. 1047) Bill "An Act to Amend and Add to Certain Provisions of Geographic-based Information Services"

(H.P. 564) (L.D. 807) Bill "An Act to Amend the Law Relating to Road Dust" (C. "A" H-141)

(H.P. 555) (L.D. 798) Bill "An Act to Amend the Power of Sale Foreclosure Laws" (C. "A" H-142)

(H.P. 355) (L.D. 485) Bill "An Act Concerning Destruction of Certain Court Records in Real Estate Matters" (C. "A" H-143)

(H.P. 169) (L.D. 254) Bill "An Act Regarding Court Deposits and Revenue Reporting" (C. "A" H-144)

(S.P. 251) (L.D. 709) Bill "An Act to Provide for Fiscal Year Accounting and Pretreatment Provisions for the Kennebec Sanitary Treatment District" (C. "A" S-46)

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

PASSED TO BE ENGROSSED

Bill "An Act to Increase Revenues to the General Fund by Streamlining Collection Methods for Use Taxes on Snowmobiles and All-terrain Vehicles Pursuant to the Maine Sunset Act" (EMERGENCY) (H.P. 283) (L.D. 404)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Concerning Nighttime Business Operation" (H.P. 142) (L.D. 212) (C. "A" H-134)

Bill "An Act to Permit Students to Take Tests for Credit for Certain Classes" (H.P. 556) (L.D. 799) (C. "A" H-115)

Bill "An Act Designed to Make the Use and Storage of Firearms Safer" (H.P. 59) (L.D. 87) (C. "B" H-123)

Were 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.

The following Joint Resolution was taken up out of order by unanimous consent:

ORDERS

On motion of Representative RUHLIN of Brewer, the following Joint Resolution: (H.P. 1095) (Cosponsors: Senator VOSE of Washington, Representative JACQUES of Waterville and Representative MITCHELL of Freeport)

JOINT RESOLUTION CONGRATULATING THE ATLANTIC STATES MARINE FISHERIES COMMISSION ON ITS 50TH ANNIVERSARY OF PROMOTING, CONSERVING AND MANAGING THE MARINE FISHERY RESOURCES OF THE ATLANTIC COASTAL STATES

WHEREAS, the Atlantic States Marine Fisheries Commission will hold its 50th Annual Meeting in Baltimore, Maryland, October 7 to October 11, 1991; and

WHEREAS, the Atlantic States Marine Fisheries

Commission has throughout its 50 years of existence faithfully executed its mission of promoting, conserving and managing the marine fishery resources of the Atlantic coastal states; and

WHEREAS, the Atlantic States Marine Fisheries Commission has throughout its existence promoted and encouraged the protection of coastal habitats so vital to the welfare of our valuable marine fishery resources; and

WHEREAS, the Atlantic States Marine Fisheries Commission has promoted and provided effective leadership in the development of interjurisdictional fishery resource management among its 15 member states; and

WHEREAS, the Atlantic States Marine Fisheries Commission has provided an effective voice for its 15 member states, including Maine, in testimony before the United States Congress and the Executive Branch of Government; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the First Regular Session recognize the Atlantic States Marine Fisheries Commission on the occasion of its 50th anniversary and commend the commission for a tradition of outstanding achievement; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Atlantic States Marine Fisheries Commission for presentation at its 50th annual meeting.

Was read and adopted and sent up for concurrence.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (H-112) - Committee on Agriculture on Bill "An Act Concerning the Restraint of Dogs That Pose a Public Risk" (H.P. 604) (L.D. 864)

TABLED - April 17, 1991 by Representative HUSSEY of Milo.

PENDING - Motion of same Representative to Accept the Majority "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I urge the House to accept the Minority "Ought to Pass" as amended Report.

This is an L.D. that I sponsored before the Agriculture Committee and I will briefly go over why I felt so strongly about it.

We, in Maine, are the only state in New England who allows a dog, following a dog attack, to be placed exactly in the same setting as before, as if

nothing had happened. We also, unlike the rest of the New England states, require the local animal control officer to have to go to court and get a court order to restrain a dog following an attack, if the owner refuses to.

In my district, I had a 10 year old girl that was bitten in the neck and missed the jugular vein by a quarter of an inch. The owner refused to restrain the animal. It took, because of delays in the court system, 22 days to get a court order after the attack because the owner refused to restrain the animal. In the meantime, much to my shock, I found this out since the public hearing, our animal welfare board in Maine told the local dog control officer to back off and leave the owner alone. It got to the point that I had a whole neighborhood of people that were going down to the school bus with baseball bats, etcetera, to protect their children from this animal.

The reason I think somebody didn't take it into their own hands and dispose of the animal was that no one was sure if the animal had had a rabies shot.

This Minority Report is crafted after a current law in Rhode Island and says that, if the owner refuses to restrain the animal after an attack, and there is only a fraction of people that would do this, but in this small fraction of cases, all this says is that the local law enforcement officer, which is the local control animal officer, can go get an ex parte order from the Justice of the Peace to quickly deal with the situation so you don't have this long, drawn-out affair involving the court system and also, because of the delay, placing other people and other children in harm's way.

I think this bill makes a very small change, it is tightly drafted and it will allow the local dog control officer to handle the situation as they do in the other New England states. It gets this antiquated section of law, Maine law, off the books. I would urge you to vote against the pending motion and then we could accept the Minority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: The issue of vicious dogs is not new to this House. It has been brought to your attention before and now you have a more concrete case of an actual near miss. Are we going to wait until some death occurs because of this? I urge you to vote against the pending motion and let's take action now before something like this happens.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't know how many of you realize what the current law is but in Title 7, Section 3952, it deals with dangerous dogs in immediate threat to the public. What it says is that if they feel that the dog is an immediate threat, then the sheriff or the animal control officer can take that dog. Okay? Upon failure to comply, the officer may apply to the District Court and they take possession of that dog at that time. So there is already a law on the books to take care of this.

They have a local problem in Representative Nutting's area of the state and they were slow in responding to that through the court system but the majority of the committee felt that we already had the law on the books that addresses this concern and I would urge you to go along with the majority of the committee.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I have to rise after my fellow committee member — the law that we do have in Maine works just fine if the owner does agree to restrain the animal following the attack. If the owner, as it did in this case and some other cases, refuses, at that point, you are thrown into the court system and all the owner has to do is file for an extension or whatever and you are talking days and weeks of delays. That is what we just finished going through.

Again, I would urge you to vote against the pending motion so we can go on to accept the Minority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I am on the Report with Representative Nutting. It just seems totally untenable to me and inexcusable that a dog which has bitten a child, viciously, and narrowly missed killing her could not be immediately restrained by any other of the various officers that are supposed to do that.

I don't really see this as a local problem because potentially it could hit anywhere because I think some way to resolve that problem and to restrain that dog expeditiously should be in place. I signed on with Representative Nutting and hope that you will vote against the pending motion.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of the Representative from Milo, Representative Hussey, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

34 having voted in the affirmative and 72 in the negative, the motion did not prevail.

Subsequently, the Minority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-112) was read and adopted and the Bill assigned for second reading Monday, April 22, 1991.

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

HOUSE DIVIDED REPORT - Majority (12) "Ought Not to Pass" - Minority (1) "Ought to Pass" as amended by Committee Amendment "A" (H-120) - Committee on Legal Affairs on Bill "An Act to Require Landlords to Pay Interest Earned on Security Deposits to Tenants" (H.P. 134) (L.D. 194)

TABLED - April 17, 1991 by Representative LAWRENCE of Kittery.

PENDING - Acceptance of Either Report.

On motion of Representative Lawrence of Kittery, retabled pending acceptance of either report and specially assigned for Monday, April 22, 1991.

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

An Act to Expand the Applicability of Certain Energy Standards (S.P. 149) (L.D. 361) (C. "A" S-34)
 TABLED - April 17, 1991 by Representative JACQUES of Waterville.
 PENDING - Passage to be Enacted. (Roll Call Requested)

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: There was a question asked yesterday of the fiscal impact of this bill. This bill was originally sponsored by Senator Bustin and what it did was it tried to tighten up the language dealing with energy standards on single-family owner-built homes. This new version of the bill does not add any more responsibility of fiscal impact than the old law did.

All this does is when the inspector may or may not be inspecting the particular new construction visits the site, it will make it clear that if you are having a contractor build you a home that he is not exempt from the energy standards and that will give that inspector a little more bite when he goes to the contractor to notify him that we do have a minimum amount of standards. As the fiscal note says, there is no way to determine the impact because, quite frankly, there has been very little enforcement of it now and there will be very little enforcement in the future. It just was an attempt to clarify and tighten up the language to allow the exemption for owner-built homes.

I hope that answers your questions.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I have to say that that didn't clear it up. The fiscal note is very explicit. It says it will expand the need for enforcement and it will require additional General Fund appropriations and if we do not have the state money behind that enforcement and assume that it will be put back on the local code enforcement officer, that sounds to me like an unfunded state mandate. I would ask if this is against the intent of the legislation we passed by the legislature last Spring?

The SPEAKER PRO TEM: The Representative from Yarmouth, Representative Foss, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I will repeat it again. This does not change the current law as far as requirements. What it does is it clarifies the exemption which, under current law, which is not being enforced, mandated to be enforced now — it just says that a single-family, owner-built home is exempt from this section. For the purpose of this section, an owner-built home means a residential building physically constructed by the person who owns and lives in the building. That clarifies that section. Right now there is no inspection. If this bill passes, there will be no inspection because it is done on a voluntary basis if the towns have enforcement officers that choose to go and inspect in their everyday inspections which they are required to

do for the plumbing code and electrical code. It would just have in their language the clarification of what owner-built exemption is.

The fiscal note — I can't understand it, the Department said they would like to be able to enforce this strenuously, the committee pointed out that there is no new money, we intend no new money to go to it and we want the program to continue as it has up until now. We just use this vehicle to, once again, clarify what owner-built exemption is....period.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I rise as a cosponsor of the original bill and I compliment the committee on the work that it did.

I had the privilege of accepting my Governor's request last Spring to serve on the Commission that he established under the advisory role of the State Advocate, Steve Ward. It was called "The Commission to Study the Energy Needs of Low-income Citizens." We had hearings throughout the state which I attended and one of the things that we found was that people would build their own homes, build them without energy efficiency standards, become unemployed or become elderly or become low-income and qualify for heating assistance and had these atrocious energy bills. They would receive a stipend for energy assistance and then go to the town for energy aid. It is a never ending process. If they have a home that has two thousand dollars worth of energy needs because it wasn't constructed correctly, according to the standards that are applicable today, we have to pay for that. They are not going to go without heat, they are not going to go cold. We need legislation like this.

When we talk about fiscal notes, there is a fiscal note to our town welfare offices and there is a fiscal note to the State of Maine's Home Energy Program and other fiscal notes available. We need this type of legislation. Homes that are going to be constructed, whether privately done or publicly bought, ought to have the highest energy standard efficiencies available today using our best technologies. Every dollar we spend on conservation means we probably don't have to have imported foreign oil here in New England. Eighty percent of the oil that we burn is imported foreign oil. We are inviting another Arab conflict by all the oil that we import so, for goodness sakes, let's vote for energy conservation.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: I would like to pose another question through the Chair.

A prior speaker mentioned that there is no enforcement, it is on the books but it is not a mandate — may I ask, is there a possibility that an owner could be fined for failure to meet the code if it is simply on our books with no enforcement?

The SPEAKER PRO TEM: The Representative from Yarmouth, Representative Foss, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I did not say that there was no enforcement, I said there is no mandatory

enforcement. Your building inspectors, plumbing inspectors are out there anyway. If they find a building that is being built, the owner is exempted from these standards. If it is a owner-built home, he is exempted. Exempted means that you don't have to build to the energy standards so I doubt if he would be fined for something he wasn't doing and is exempted from in the first place.

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 PRO TEM: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 36

YEA - Adams, Anderson, Anthony, Bailey, H.; Bailey, R.; Barth, Bell, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Erwin, Farnsworth, Farren, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Heino, Hepburn, Hichborn, Hichens, Holt, Hussey, Jacques, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lebowitz, Lemke, Lipman, Look, Lord, Luther, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, Melendy, Michaud, Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Salisbury, Savage, Simonds, Simpson, Skoglund, Spear, Stevenson, Swazey, Tamaro, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, Whitcomb.

NAY - Ault, Bennett, Bowers, Farnum, Foss, Garland, Greenlaw, Libby, MacBride, Merrill, Pendexter, Pendleton, Pines, Small, Stevens, A.

ABSENT - Aikman, Aliberti, Cashman, Clark, H.; Dutremble, L.; Hogle, Jalbert, Kutasi, Macomber, Marsano, McKeen, Mitchell, E.; Saint Onge, Sheltra, Stevens, P.; Strout, Tardy, Townsend, The Speaker.

Yes, 117; No, 15; Absent, 19; Paired, 0; Excused, 0.

117 having voted in the affirmative and 15 in the negative with 19 being absent, L.D. 361 was passed to be enacted, signed by the Speaker pro tem, and sent to the Senate.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-89) - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators and Members of the House of Representatives (H.P. 256) (L.D. 347)

TABLED - April 17, 1991 by Representative JOSEPH of Waterville.

PENDING - Motion of same Representative to Accept the Minority "Ought to Pass" as Amended Report:

On motion of Representative Joseph of Waterville, retabled pending the motion of the same Representative that the House accept the Minority "Ought to Pass" as Amended Report and specially assigned for Monday, April 22, 1991.

Representative Greenlaw of Standish was granted unanimous consent to address the House:

Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: In reference to the recent vote on L.D. 369, I wish to state on the Record that I am opposed to the Majority Report on the roll call. My vote was listed in error as yea.

At this point, Speaker Martin resumed the Chair.

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Representative McHenry of Madawaska, Adjourned at 6:37 p.m. until Monday, April 22, 1991, at five o'clock in the afternoon pursuant to Joint Order (S.P. 600).